



WPI SEXUAL MISCONDUCT POLICY¹

INTERIM POLICY

I. Policy Statement

WPI is committed to maintaining a learning and working environment that is free from sexual misconduct, remedying the effects of such misconduct when it occurs, and preventing its re-occurrence. The prohibition of sexual misconduct applies to everyone at WPI, including all faculty members (including academic administrators), staff members (including non-academic administrators), students, trustees, alumni and all visitors to the WPI campus.²

II. Scope

This Policy applies whenever sexual misconduct occurs: a) on WPI property; or b) off WPI property if: i) the sexual misconduct was in connection with a WPI or WPI-recognized program or activity; or ii) the sexual misconduct may have the effect of creating a hostile environment for a member of the WPI community.

Effective August 14, 2020, this Policy only governs WPI's response to allegations of sexual misconduct that fall outside of the definition of "sexual harassment" mandated by the Title IX Final Rule, 85 Fed. Reg. 30026, published May 19, 2020 and effective August 14, 2020. Reports and complaints of sexual misconduct that fall within the Final Rule's definition of "sexual harassment" shall be governed by WPI's Interim Title IX Policy.

III. Definitions

a. Sexual Misconduct

"Sexual misconduct" is prohibited under this Policy. Sexual misconduct is a broad term that includes sexual harassment, sexual assault, sexual exploitation, gender motivated stalking, relationship abuse, engaging in certain inappropriate relationships, and retaliation against a person reporting sexual misconduct or participating in any investigation or proceeding related to this policy, all as defined below. This definition of sexual misconduct includes sexual assault (e.g. rape, fondling, incest, or statutory rape) as defined by the Clery Act, a federal law on campus safety and security. Sexual misconduct can occur between individuals who know each other, individuals who do not know each other, individuals who have an established relationship, and individuals who have previously engaged in consensual sexual activity. Sexual misconduct can be committed by persons of any gender identity, and it can

¹ Revised effective August 14, 2020. This Policy supersedes all WPI policies dealing with Sexual Misconduct including the "Sexual Misconduct Policy" in the Student Responsibilities and Code of Conduct, the "Sexual Harassment Policy" in the WPI Employee Benefits and Policies Manual, and the "Sexual Harassment Policy" in the Faculty Handbook.

² Probationary staff, part-time employees, visitors, and employees subject to a letter of appointment or a collective bargaining agreement may be subject to a different disciplinary process in accordance with applicable policies and terms of their appointment.



occur between people of the same or different sex. Use of alcohol or other drugs will not excuse any behavior that violates this policy.

1. Sexual Harassment

Sexual Harassment is unwelcome conduct of a sexual nature, including sexual advances, requests for sexual favors, or other verbal, nonverbal, or physical conduct of a sexual nature, when:

Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic standing;

Submission to or rejection of such conduct by an individual is used as the basis for significant employment decisions (such as advancement, performance evaluation, or work schedule) or academic decisions (such as grading or letters of recommendation) affecting that individual;

The conduct is sufficiently severe or pervasive that a reasonable person would consider it intimidating, hostile, or abusive and it adversely affects an individual's educational, work, or living environment.

A partial list of examples of conduct that might be deemed to constitute sexual harassment if sufficiently severe or pervasive include:

Examples of verbal sexual harassment may include unwelcome conduct such as sexual flirtation, advances or propositions or requests for sexual activity or dates; asking about someone else's sexual activities, fantasies, preferences, or history; discussing one's own sexual activities, fantasies, preferences, or history; verbal abuse of a sexual nature; suggestive comments; sexually explicit jokes; turning discussions at work or in the academic environment to sexual topics.

Examples of nonverbal sexual harassment may include unwelcome conduct such as displaying sexual objects, pictures, or other images; invading a person's personal body space, such as standing closer than appropriate or necessary or hovering; displaying or wearing objects or items of clothing which express sexually offensive content; making sexual gestures with hands or body movements; looking at a person in a sexually suggestive or intimidating manner; or delivering unwanted letters, gifts, or other items of a sexual nature.

2. Sexual Assault

Sexual assault is any intentional sexual contact or activity that occurs without the consent of any individual involved.

3. Sexual Exploitation

Sexual Exploitation is purposefully taking sexual advantage of another person without consent. Examples of sexual exploitation include:

- Sexual voyeurism, such as watching a person undressing, using the bathroom or engaged in sexual activity without the consent of the person observed.
- Taking pictures or video or an audio recording of another person engaging in sexual activity or exceeding the boundaries of consent (such as allowing another

person to hide in a closet and observe sexual activity or disseminating sexual pictures without the photographed person's consent).

- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) without informing the other person of the infection.
- Administering alcohol or drugs (such as "date rape" drugs) to another person without their knowledge or consent.

4. *Gender-motivated Stalking*

Stalking is defined as a pattern of actions or course of conduct directed at a specific person over time that would cause a reasonable person to feel fear. This policy covers those instances where the stalking of a person is motivated by the person's real or perceived gender, sex, or sexual orientation. For the purposes of this definition, "course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

Stalking can take many forms. Examples include, but are not limited to, two or more instances of the following conduct (that also meet the definition of stalking above): following a person; appearing at a person's home, class or work; continuing to contact a person after receiving requests not to; leaving written messages, objects, or unwanted gifts; vandalizing a person's property; photographing a person; and other threatening, intimidating, or intrusive conduct. Stalking may also involve the use of electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices (often referred to as cyber-stalking). Such conduct may include, but is not limited to, non-consensual communication, telephone calls, voice messages, emails, texts, letters, notes, gifts, or any other communication that are repeated and undesired.

5. *Relationship Abuse*

Relationship abuse is defined as behavior that serves to exercise control and power in an intimate relationship. The behaviors can be physical, sexual, psychological, verbal and/or emotional. Relationship abuse can occur between current or former intimate partners who have dated, lived together, have a child together, currently reside together on or off campus, or who have otherwise connected through a past or existing relationship. It can occur in opposite-sex and same-sex relationships.

Examples of relationship abuse include but are not limited to: attempting to cause or causing bodily injury by hitting, slapping, punching, hair pulling, kicking, sexual assault and/or other forms of unwanted physical contact that cause harm; knowingly restricting the movements of another person; isolating or confining a person for a period of time; controlling or monitoring behavior; being verbally and/or emotionally abusive; and exhibiting extreme possessiveness or jealousy.

6. *Sexual or Romantic Relationships in the Workplace or Academic Environment*



With undergraduate students. Except in rare and unusual circumstances involving preexisting relationships, sexual and romantic relationships between WPI employees³ and undergraduate students are inappropriate and are prohibited.

With graduate students. Implicit in the area of professionalism is the recognition by those in positions of authority that in relationships with graduate students there is always an element of power and consent to a romantic relationship that may not be valid where either person in the relationship has direct or indirect power or control over any aspect of the other person's academic or employment environment. Therefore, sexual and romantic relationships between employees and graduate students are prohibited where there is a supervisory relationship between the employee and the graduate student.

With supervisees. It is incumbent upon members of the WPI community to refrain from abusing, and seeming to abuse, the power with which they are entrusted, because relationships between supervisors (including TA's and RA's) and supervisees are fundamentally asymmetric in nature, may be the product of subtle or not-so-subtle coercion, or may lead to favoritism for the subordinate. If a student employee (i.e. TA, RA, PLA, undergraduate student assistant, or work-study student) is assigned to a course and has a preexisting sexual or romantic relationship with one of the enrolled students, he or she is obligated to inform the instructor of the course so that alternative arrangements can be made.

7. Retaliation

Retaliation means any materially adverse action or threat taken or made against an individual, including through third parties and/or legal counsel, for making a report of misconduct or participating in any investigation or proceeding related to this policy. Retaliation includes threatening, intimidating, harassing, or any other conduct that would discourage a reasonable person from engaging in activity protected under this policy, such as seeking services, receiving interim protective measures and accommodations, and/or reporting misconduct. Retaliation includes maliciously and purposefully interfering with, threatening, or damaging the academic and/or professional career of another individual before, during or after the investigation and resolution of a report of misconduct under this policy in response to and/or on account of the report of misconduct. This provision only applies to reports made or information provided in good faith, even if the facts alleged in the report are determined not to be accurate.

b. Consent

1. What is consent?

Consent is the positive, unambiguous, and voluntary agreement to engage in specific sexual activity throughout a sexual encounter. Consent must be an informed, deliberate and voluntary decision to engage in mutually acceptable sexual activity. It is the responsibility of the person who initiates sexual activity to make sure consent is

³ The term "employees" in this context does not include students who are employed by the University (e.g. TAs, RAs, PLAs, undergraduate Student Assistants, and work-study students).



received from any other person(s) involved. WPI recognizes that there are a wide variety of sexual interactions, that there is no single way to communicate consent, and that context matters. At all times, each party is free to choose where, when, and how they participate in sexual activity. Accordingly, when evaluating whether sexual activity was consensual, WPI will consider the entirety of the sexual interaction and the relevant circumstances.

Consent is active not passive. Individuals should be able to clearly articulate why and how they believed they received consent and what they considered to be indications of consent as they engaged in sexual activity. Consent must be received for each sexual act. It is important to remember:

- Consent to one sexual act does not constitute or imply consent to another act.
- Previous consent does not imply consent to future sexual activity.
- Consent cannot be assumed based on the parties' relationship or sexual history.
- Consent can be withdrawn at any time before or during sexual activity.

2. *What is Not Consent?*

Consent may not be inferred from silence, passivity or a lack of objection. The absence of a negative response, such as silence or a failure to resist, does not equal consent. Some behaviors and comments that do not indicate affirmative consent include but are not limited to:

- "I don't know"
- "Maybe"
- A head shake
- Lack of objection
- Not fighting back
- A verbal "no" that may sound indecisive or insincere

3. *Consent Can Never Be Given By:*

- Someone who is incapacitated. It is a violation of this Policy to engage in sexual activity with a person who an individual knew or should have known was incapacitated. A person can be incapacitated through the use of drugs, alcohol or any other intoxicating substance, medications or when they are unconscious, asleep or otherwise unaware that sexual activity is occurring.
- Someone under the legal age of consent. The legal age of consent in the Commonwealth of Massachusetts is sixteen (16).
- Someone who is mentally disabled or cognitively impaired. It is a violation of this Policy to engage in sexual activity with a person whose mental disability or cognitive impairment renders them incapable of giving consent and the disability/impairment is known or should have been known to the non-disabled sexual partner.

4. *Consent and the Use of Alcohol or Drugs:*

The use of alcohol or drugs does not relieve an individual of the obligation to obtain consent before initiating and/or engaging in sexual activity.



IV. Policy

Obligations of Employees to Report Sexual Misconduct

a. Responsible Employees

1. All employees (except Confidential Resource Advisors; identified below) who learn of a violation of this Policy involving students are required to immediately report such information to the Title IX Coordinator or a Deputy Coordinator.
2. All supervisors (except Confidential Resource Advisors) who learn of a violation of this Policy are required to immediately report such information to the Title IX Coordinator or Deputy Coordinator.
3. Employees will receive regular training in their duty to report sexual misconduct.

b. Confidential Resource Advisors

The following employees, who will receive regular training, may serve as confidential advisors for students and are not required to report violations of this Policy:

1. Employees of Student Health Services.
2. Employees of the Student Development and Counseling Center.
3. A chaplain or religious advisor working at WPI.
4. WPI Ombudspersons and any other individual with appropriate training who is specifically appointed by WPI for the purpose of serving as a confidential resource advisor.

Resources Available in Cases of Sexual Misconduct

Anyone who has experienced sexual misconduct or is aware of someone who may have been the victim of sexual misconduct is strongly encouraged to report such misconduct and to take advantage of resources available on campus and in the community.

a. Reporting Sexual Misconduct Immediately After a Sexual Assault

If you or someone you know has recently been assaulted:

- Go to a safe place as soon as you can.
- In an emergency, call campus police at 508-831-5555, or 5555 from a campus phone or via a blue light phone on campus. If it is not an emergency, then call the WPI Police Department at 508-831-5433.
- Seek medical attention. The WPI Student Development and Counseling Center offers counseling appointments to all students. The Emergency Room at UMass Medical Center offers services and support for people who have experienced sexual assault. WPI Police can provide students with an escort to the hospital.
- Try to preserve all physical evidence.
- If you are the victim of a sexual assault, try not to wash your face or hands, bathe, brush your teeth, drink or eat, douche, or change clothes if you can avoid it. If you do change



your clothes, put all clothing you were wearing at the time of the assault in individual paper bags (not plastic). It is important to preserve as much evidence as possible should you later decide to press criminal charges.

b. Reporting Sexual Misconduct to the Title IX Coordinator and or Deputy Title IX Coordinators

The Title IX Coordinator plays an integral role in carrying out the University’s commitment to provide a positive learning, teaching and working environment free from sexual misconduct and discrimination. Any student, faculty member, or staff member who has concerns about sexual misconduct is encouraged to seek the assistance of those listed below. They will provide information on resources for assistance and options to address concerns. Those options may vary depending on the nature of the situation, whether the individuals involved are students, faculty, or staff members, the wishes of the individuals involved regarding confidentiality, and whether the individuals involved prefer to proceed formally or informally.

During business hours, anyone who has experienced sexual misconduct or is aware of someone who may have been the victim of sexual misconduct may contact the Title IX Coordinator or any Deputy Title IX Coordinator. Contact information for the Title IX Coordinator and Deputy Coordinators can be found [HERE](#).

c. Reporting Sexual Misconduct Anonymously

If you are concerned about a visitor, student, faculty, or staff member who may have experienced or committed conduct prohibited by this Policy, you may report the situation anonymously by clicking [HERE](#). In that case, you will not be contacted and will remain anonymous. If you wish, you may include your contact information, so we may contact you if we have additional questions.

NOTE: This is not a system to use for emergencies. In case of an emergency, regardless of time of day, in which someone’s well-being is in jeopardy, please contact Campus Police at +1-508-831-5555.

Initial Steps and Investigation of Reports of Sexual Misconduct

a. Initial Steps

All reports of alleged sexual misconduct will be referred to the Title IX Coordinator. Within five business days of receiving such a report, the Title IX Coordinator or their designee⁴ will take several initial steps. These initial steps will include, but are not limited to, the following:

1. Encouraging the person who has allegedly experienced sexual misconduct (the “Complainant”)⁵ to meet with the Title IX Coordinator to discuss the nature and circumstances of the reported conduct. If the person who has reported the alleged sexual misconduct is not the person who has experienced the sexual misconduct, then

⁴ As necessary and appropriate, the Title IX Coordinator may designate a Deputy Title IX Coordinator or another qualified person to assume the Title IX Coordinator’s responsibilities under this Policy.

⁵ Throughout this Policy, the term “Complainant” refers to the person who experienced sexual misconduct regardless of who reported the misconduct.



- the person who has made the report should have the opportunity to meet with the Title IX Coordinator to discuss the nature and circumstances of the reported conduct.
2. Notifying the Complainant about their rights and options under this Sexual Misconduct Policy, including the right to report and the right to decline to report the matter to campus police and/or to local law enforcement, the options for reporting to WPI, and the availability of medical treatment, counseling, and other resources, both on and off campus.
 3. Meeting with the person who has allegedly committed sexual misconduct (the “Respondent”) to explain the allegation and to get their version of events, and providing that person with the option and adequate opportunity to provide a written response to the allegations. The Respondent should be notified about their rights under this Sexual Misconduct Policy, and about the availability of counseling and other on- and off-campus resources.
 4. If the Complainant requests that the process not move forward, the Title IX Coordinator will weigh that request against WPI’s obligation to address any risk of harm to the Complainant or other individuals in the community, and the nature of the incident or conduct at issue. If, following the receipt of an alleged violation of this Policy, the person who allegedly experienced sexual misconduct declines to participate in the investigation or resolution process or requests that the process not proceed, the Title IX Coordinator may decide to close the investigation or choose to continue the process without the person’s participation.
 5. Assessing the reported conduct to determine whether the circumstances warrant appropriate interim measures including, but not limited to, no-contact orders, interim suspension of a student, deadline extensions, reassignment of housing, or placing an employee on paid leave prior to completing an investigation. Failure to comply with an interim measure may lead to additional disciplinary action.
 6. Assessing whether the behavior alleged constitutes a violation of this Policy and is sufficiently credible and specific so that potential evidence of such misconduct may be identified. If the Title IX Coordinator determines that the reported conduct would not trigger this Policy, they will advise both the Complainant and the Respondent in writing, and based on the information gathered may also refer the reported conduct to the appropriate administrator or department for handling consistent with any other applicable policy. If the Title IX Coordinator determines that the reported conduct does fall under this Policy, then the case will proceed to the Investigation Phase, as described below.

b. The Investigation Phase

1. *Notice of an Investigation:* If it is determined that an investigation is required, the Title IX Coordinator will send a written notice to the Complainant (or “party”) and to the Respondent (or “party”) (collectively, the “parties”). The notice will include a sufficiently detailed description of the allegations, the portions of this Policy that are alleged to have been violated, and any interim measures in place about which either



party should be made aware. This written notice does not constitute a finding or a determination of responsibility.

The notice will also state that if either party requires any kind of accommodation due to disability pursuant to the ADA or Section 504 of the Rehabilitation Act, it is the responsibility of that party to make the Title IX Coordinator aware of the need for an accommodation. The Title IX Coordinator will work with each of the parties and as applicable, Office of Accessibility Services (for students) and/or the 504 Coordinator (for employees) to ensure that appropriate accommodations are available.

2. *Information about Advisors:* Each party may have a single advisor present during any investigative proceeding, including any related meeting, interview, or hearing. Any person may serve as an advisor, including an attorney. Each party must provide the name and contact information of their advisor to the Title IX Coordinator within five business days of receiving notice of an investigation. Advisors may communicate with their advisee but may not speak or otherwise communicate on behalf of a party. Advisors are subject to the same confidentiality obligations applicable to others in attendance.
3. *Designation of Role of the Investigator:* The Title IX Coordinator shall designate at least one unbiased, qualified investigator(s)⁶ to conduct a prompt, fair, and impartial investigation of the reported conduct and prepare a report of investigative findings (the "Investigative Report").⁷ More than one investigator may be designated or the investigation may be conducted by the Title IX Coordinator. Investigator(s) need not be employees of WPI. The Title IX Coordinator will provide each of the parties with the name of the Investigator(s). As soon as possible, but no later than three (3) calendar days after delivery of the identity of the Investigator(s), the parties should inform the Title IX Coordinator (in writing) of any potential conflicts of interest about the selected Investigator(s). The Title IX Coordinator will consider the nature of the potential conflict and determine if a change is necessary.⁸ The Title IX Coordinator's decision (in appropriate collaboration with the Secretary of the Faculty, as described in footnote 9) regarding any conflicts regarding the investigator(s) is final.
4. *Nature of the Investigation:* The investigation will include separate interviews with the Complainant (unless that person chooses not to participate in the investigation), the Respondent, and any witnesses whom the Investigator(s) believe will provide

⁶ The investigator shall be deemed "qualified" if the individual has received training in conducting Title IX investigations and has the requisite professional experience to conduct the investigation.

⁷ If the Respondent is a faculty member, the Title IX Coordinator will collaborate with the Secretary of the Faculty, in appointing the Investigator and in rendering a decision regarding any potential conflicts of interest involving the investigator.

⁸ If the Respondent is a faculty member, the Title IX Coordinator will collaborate with the Secretary of the Faculty in making a decision about whether or not to disqualify an Investigator when the faculty member objects based on a potential conflict of interest. If a party raises an objection based on a potential conflict of interest involving the Title IX Coordinator serving as investigator, the role of the Title IX Coordinator in deciding about whether a conflict exists, and whether another investigator should be designated, will be assumed by the President.



necessary and relevant information. The investigation will include the review of documentation or other items relevant to the reported conduct.

5. *Identification of Potential Witnesses and Documentation:* The parties will have the opportunity to provide the Investigator(s) with written notice of the names and contact information of potential witnesses with whom they would like the Investigator(s) to speak together with a brief explanation of how the persons, documents, and/or items are relevant to the reported conduct. The parties may also provide the Investigator(s) with any documentation or other items or questions they would like to be considered or posed to any witness or the other party. The Investigator(s) will exercise discretion in determining what information and questions to consider and which potential witnesses will be interviewed.
6. *Participation in the Investigation:* Participation in the process (by providing information to the Investigator(s), responding to questions from the Investigator(s), responding to information provided by a party or a witness, etc.) is not required, but the Investigation will proceed even if a party or witness declines to participate. During the investigation, the parties will have an equal opportunity to participate. If a party initially declines but then later in the Investigation decides to participate, the Investigator(s) may consider that timing when determining the credibility of the information/evidence offered and the weight to give that information/evidence.
7. *Investigation Prohibitions:* The Investigator(s) will not gather or consider information related to either party's sexual history with other persons except as relevant to the alleged violation, as determined in the sole discretion of the Investigator(s).
8. *Coordination with Law Enforcement:* The Investigator or designee may contact any law enforcement agency that is conducting its own investigation to inform them that a WPI investigation is also in progress; to ascertain the status of the criminal investigation; and to determine the extent to which any evidence collected by law enforcement may be available to WPI in its investigation. At the request of law enforcement, the Investigator may delay the investigation temporarily while an external law enforcement agency is gathering evidence. The Investigator will generally resume the investigation when notified that law enforcement has completed the evidence-gathering stage of its criminal investigation.

c. Optional Informal Resolution Procedure

At any time prior to convening a Judicial Panel (defined below), a Party may contact the Title IX Coordinator to request an informal resolution of a complaint. All parties and the Title IX Coordinator must agree to informal resolution for this option to be used. If the Title IX Coordinator determines that informal resolution is appropriate, the Title IX Coordinator will attempt to reach a resolution. The allegation will be deemed resolved when the parties expressly agree to an outcome that is acceptable to them and is approved by the Title IX Coordinator in consultation with other appropriate administrators.

Procedures Following the Investigative Phase of a Title IX Investigation



- a. **The Investigative Report.** After the Investigation Phase, the Investigator(s) will deliver an Investigative Report to the Title IX Coordinator. The Investigative Report should include a description of the alleged sexual misconduct, and a summary of the information presented during the Investigation Phase including a section where the Investigator(s) point out relevant consistencies or inconsistencies (if any) between different sources of information. The Investigative Report will not include a recommendation or a determination as to whether a party has violated the Sexual Misconduct Policy or what sanctions may be appropriate. These determinations will be made by the Judicial Panel, as described below.
- b. **Review by the Parties.** Within five (5) business days of receiving the Investigative Report, the Title IX Coordinator will provide each party with a copy of the Investigative Report. Each party will have an opportunity to submit written comments to the Title IX Coordinator about the Investigative Report within five (5) business days of receiving the report. The time to submit written comments may be extended if the Title IX Coordinator concludes, in his/her sole discretion, that additional time is warranted. After reviewing the submissions, if any, from the parties, the Title IX Coordinator may determine that additional investigation is required, in which case the Investigator will supplement the Investigative Report and submit a final Investigative Report to the Title IX Coordinator. Any submissions made by either party, as well as any other documentation deemed relevant by the Investigator(s), will be attached to the Investigative Report. Within three (3) business days of receiving the final Investigative Report, the Title IX Coordinator will provide each party with a copy of the final Investigative Report.
- c. **Convening the Judicial Panel.** The Title IX Coordinator will convene a five-member Judicial Panel (the "Judicial Panel") from a previously established pool of WPI faculty members elected by the Faculty to the Campus Hearing Board, staff members and students trained to decide sexual misconduct cases. The process for selecting staff members and students for the pool and the training process for all members of the pool is set by the Title IX Coordinator in collaboration with the Dean of Students Office, the Secretary of the Faculty, and the Human Resources Department. Students will only serve on panels where the Respondent is a student. If the Respondent is a student, the Judicial Panel should include a student member unless either party elects not to have a student serve on the Judicial Panel. If the Respondent is a faculty member, the Judicial Panel should include at least three faculty members. If the Respondent is a staff member, the Judicial Panel should include at least three staff members. The Title IX Coordinator will provide the parties with the names of the persons assigned as the Judicial Panel members for their case. As soon as possible, but no later than three (3) business days after delivery of the identity of the assigned Judicial Panel members, the parties should inform the Title IX Coordinator in writing of any conflicts of interest regarding the members assigned to the Judicial Panel. If a conflict of interest is raised regarding any of the individuals assigned to the Judicial Panel, the Title IX Coordinator will consider the nature of the conflict and determine if different individuals should be assigned to the Judicial Panel. The Title IX Coordinator should consult with other WPI personnel (and shall collaborate with the Secretary of the Faculty in the case of any conflict of interest raised by a faculty member who is a party in the case or with respect to a proposed Judicial Panel member who is a faculty member) to assess any conflicts of interest. The Title IX Coordinator's decision (in appropriate collaboration with the Secretary of the Faculty)



regarding any conflicts is final. The Title IX Coordinator will then submit the Investigative Report to the Judicial Panel members who will set a schedule for the Judicial Panel to convene a hearing or hearings.

d. Training Members of the Judicial Panel

Proper training is a vital aspect of the integrity of the judicial process. Therefore, all members of the Judicial Panel shall receive appropriate orientation and training, in keeping with applicable law and national best practices. Training and orientation shall be overseen and approved by the Title IX Coordinator.

e. Role and Responsibilities of the Judicial Panel. The Judicial Panel will obtain the Investigative Report from the Title IX Coordinator and convene to review the Investigative Report. The Judicial Panel, in its discretion, may request the Investigator(s) to attend a Judicial Panel meeting and answer questions. The Judicial Panel, in its discretion, may request the Investigator(s) to conduct additional investigation on specific points. The Judicial Panel must request the parties that participated in the investigation to appear and answer questions posed by the Judicial Panel. In addition, the Judicial Panel, in its discretion, may request to speak with any individual identified in the Investigative Report as well as any other individual with relevant information including individuals identified by the parties.

In general, a Complainant, witness, or Respondent who had the opportunity to participate during the Investigation but elected not to participate will not be permitted to participate verbally in the hearing or submit documents prior to the hearing. The Judicial Panel may permit a Complainant, witness, or Respondent who did not participate in the Investigation to participate in the hearing upon a showing of good cause. Exceptions of this nature are expected to be rare. The possibility of a law enforcement investigation or criminal court proceedings will generally not be considered good cause for an exception. In general, documents that have not been submitted during the Investigation may not be presented to the Judicial Panel, although the Judicial Panel may permit documents to be submitted that were not part of the Investigation upon a showing of good cause. The Judicial Panel may, however, consider the fact that the documents were not provided during the Investigation when determining the credibility of the information/evidence offered and the weight to give that evidence.

The Judicial Panel will decide by majority vote whether the Respondent is responsible for violating the Sexual Misconduct Policy, whether sanctions are appropriate and, if so, what those sanctions shall be. The Judicial Panel should state the basis for such decisions in a document maintained with records relating to the case.

e. Standard of Proof. All findings and determinations of responsibility and sanctions will be made using a preponderance of the evidence standard. This standard requires the determination of whether it is more likely than not that a fact exists or a violation of the Sexual Misconduct Policy occurred.

f. Rights of the Parties. Throughout the process, the parties shall have:

- the presumption of innocence;



- the opportunity to present evidence and respond to allegations of sexual misconduct;
- the opportunity to present a defense; and
- the opportunity to offer witnesses to be interviewed by the Investigator and questioned by the Judicial Panel. Neither party will be permitted to question or cross-examine the other party during any hearing held by the Judicial Panel.

g. **Sanctions.** A finding of responsibility for Sexual Misconduct can result in a wide range of sanctions, depending on the circumstances of a particular case. When the Respondent is a student, examples of sanctions include community service, counseling, probation, suspension from residence hall, suspension from the university for one or more terms, expulsion from WPI. When the Respondent is a staff member or a faculty member, examples of sanctions include community service, counseling, probation, reassignment of duties, suspension with pay, suspension without pay, and termination of employment at WPI. In deciding an appropriate sanction, the Judicial Panel shall consider the following factors:

- the nature and circumstances of the misconduct;
- the impact of the misconduct on the person who experienced Sexual Misconduct;
- the disciplinary history of the Respondent;
- any other mitigating or aggravating circumstances in order to reach a fair and appropriate resolution in each case.

Notification of Decision

Upon reaching a determination of responsibility by majority vote, the Judicial Panel will provide a written notification of its decision to the Title IX Coordinator. The written notification will consist of a statement of the allegations, the Judicial Panel’s factual findings, a decision as to whether the Respondent committed Sexual Misconduct, any sanction, and the rationale for these decisions. This written document shall be maintained with records relating to the case.

The Title IX Coordinator will forward to the parties simultaneously (i) the Judicial Panel’s written notification described above; and (ii) the procedures for either party to appeal. The Title IX Coordinator will also inform other WPI officials as necessary and appropriate.

Appeals⁹

All appeals (in Section “a” below) and special appeals (in Section “b” below) should be delivered to the Title IX Coordinator who will transmit the appeal to the appropriate Appellate Officer.

a. Appeals Available to Either Party

Within seven (7) business days following the delivery of the notice of the Judicial Panel’s determination of responsibility and sanction, either Party may appeal the decision and/or sanction to the appropriate Appellate Officer. If the Respondent is a student, the Appellate Officer is the Vice President for Student Affairs. If the Respondent is a faculty member, the Appellate Officer is the Provost (unless the Respondent is a full-time faculty member who the Judicial Panel has determined should be dismissed or suspended, in which case Section

⁹All Appellate Officers, including the President and Board Chair, will receive Title IX training.



b. below applies). If the Respondent is a staff member, the Appellate Officer is the Vice President for Talent/Chief Diversity Officer.

If potential bias or conflict of interest is raised by either party regarding the Appellate Officer, the President will consider the nature of the potential bias or conflict (and, before deciding the matter, shall collaborate on the matter with the Secretary of the Faculty in the case of any conflict of interest raised by a party who is a faculty member) to assess any conflicts of interest and determine if a different individual should be assigned the role of Appellate Officer. The Appellate Officer shall not be involved in the appeal until the President has resolved any questions of conflict of interest.

The party submitting the appeal must set forth in detail the grounds for appeal and must identify or attach all materials to be considered in the appeal process. The Title IX Coordinator will provide a copy of the appeal submitted by one party to the other party, and the other party may submit any additional materials that they wish to have considered in the appeal process within seven (7) business days of receipt of the appeal.

Within 14 business days after receiving an appeal (including additional materials, if any), the Appellate Officer will decide the merits of the appeal. In deciding the appeal, the Appellate Officer should review evidence considered by the Judicial Panel and may also consult with the Investigator(s), the Judicial Panel, or any other individual that the Appellate Officer deems appropriate.¹⁰ In a case where the Appellate Officer overturns a decision of the Judicial Panel, the Appellate Officer shall first consult with the Investigator(s), the Judicial Panel, and any other individual that the Appellate Officer deems appropriate.

Sanctions may be imposed, in full or in part, while an appeal is pending.

The decisions concerning responsibility and sanction, if any, and reasoning of the Appellate Officer(s) will be provided in a written document and will be final, except for circumstances that permit a Special Appeal, as described below. The written document shall be maintained with records relating to the case.

The Appellate Officer will forward the written document to the Title IX Coordinator, and the Title IX Coordinator will inform the parties simultaneously of the outcome of the appeal by forwarding to them the Appellate Officer's written document.

b. Special Appeals with respect to a Respondent who is a Full-Time Faculty Member Involving a Recommended Sanction of Dismissal or Suspension

The following appeal process applies in two cases:

1. As the sole method of appeal of a determination by a Judicial Panel that a Respondent who is a full-time faculty member should be dismissed or suspended; and

¹⁰ Because the President may have a role in the appellate process involving full time faculty members facing suspension or dismissal, the appellate officer shall not communicate with the President regarding a full-time faculty member's appeal.



2. As an appeal of a determination by the Appellate Officer that a Respondent who is a full-time faculty member should be dismissed or suspended when that determination was made on appeal of a Judicial Panel's decision not to impose such sanctions on the Respondent.

Such appeals appeal will be subject to the following procedure:

The Respondent may appeal (both the finding of responsibility and the sanction) to the President within fourteen days after the Title IX Coordinator notifies the Respondent of the imposition of the sanction by the Judicial Panel or within fourteen days after the Appellate Officer imposes a sanction of suspension or dismissal on the first appeal. The appeal to the President should state why the Respondent believes the determination of responsibility and/or the sanctions were inappropriate. The appeal must also set forth in detail the grounds for appeal and must identify or attach all materials to be considered in the appeal process. The Title IX Coordinator will provide a copy of the appeal to the Complainant (if that person has not declined to participate in the investigative and judicial case). The Complainant may submit a response to the Title IX Coordinator within five days of receiving a copy of the appeal. The Title IX Coordinator will forward that response to the President.

Before the President decides the appeal, the President should consult with the previous Appellate Officer (if there were one) and the Secretary of the Faculty. The President should issue a decision within thirty days of receiving the appeal. If the decision will take longer than thirty days, the President should inform the parties of the additional time necessary to render a decision. The decisions concerning responsibility and sanction, if any, and reasoning of the President will be provided in a written document. The written document shall be maintained with records relating to the case.

The President will forward the written document to the Title IX Coordinator, and the Title IX Coordinator will inform the parties simultaneously of the outcome of the appeal by forwarding to them the President's written document.

If the President decides to impose a sanction of dismissal or suspension, the Respondent may appeal the sanction to the Board of Trustees within fourteen days after the Respondent is notified of the President's decision. If the Respondent appeals to the Board, the Chair of the Board, in collaboration with the Secretary of the Faculty, shall appoint a committee of five faculty members who will make a recommendation regarding the sanction imposed. The faculty committee will have access to all written reports and materials relevant to the case. The faculty committee will summarize the basis for its recommendation in a written report to the Board Chair within thirty days. The Board Chair should issue a written decision within thirty days of receiving the faculty committee's report. If the decision will take longer than thirty days, the Board Chair should inform the parties of the additional time necessary to render a decision. The decision and reasoning of the Board Chair will be provided in a written document. The written document shall be maintained with records relating to the case. The Board Chair will forward the written decision document to the Title IX Coordinator, and the Title IX Coordinator will inform the parties simultaneously of the outcome of the appeal by forwarding to them the Board Chair's written document.

The Board Chair's decision shall be final.



Timeframe for Completing the Investigation and Disciplinary Process

WPI will endeavor to complete the investigation and disciplinary Judicial Panel process, if any, within sixty (60) days of the delivery of the written notice of investigation to the parties. This period does not include the time for any appeal. Timeframes set forth in this Policy may be extended for good cause. WPI's overarching goal is that the process should be prompt, fair, and impartial.

Additional Matters

- a. **No Conflicts of Interest.** To the maximum extent practicable, steps should be taken to ensure an impartial and unbiased process, including participation of persons (including investigators) who: (1) have sufficient qualifications and training to carry out a thorough evaluation of the relevant information; and (2) have no unresolved personal, professional, or financial conflicts of interest with those involved with the inquiry or investigation that could affect their ability to be objective reviewers.

In cases where the Title IX Coordinator has a conflict of interest, a Deputy Title IX Coordinator appointed by the President will serve in the Title IX Coordinator's role. In cases where the Appellate Officer has a conflict of interest, the President shall appoint another Appellate Officer. In cases where allegations of Sexual Misconduct have been brought against the Title IX Coordinator, the Vice President for Talent/Chief Diversity Officer, the Provost, or the President, then the process outlined in this policy will be adjusted accordingly to avoid any conflicts of interest. Except in cases involving the President, the President shall resolve any questions of bias or conflict of interest. The President's decision on such questions shall be final.

- b. **Duty of Honesty.** Any person who knowingly makes a false statement – either explicitly or by omission – in connection with any part of the process will be subject to separate disciplinary action. A false or unfounded report of misconduct determined by WPI to have been made in bad faith and dishonesty is a serious offense. Such offenses will themselves be investigated under the appropriate WPI policy and may lead to disciplinary action, up to and including termination of employment or other affiliation with WPI. A report made in good faith is not considered false merely because the evidence does not ultimately support the allegation of violation of the Policy.
- c. **Good Faith Participation by the Parties and Witnesses.** The investigation is a neutral fact-gathering process. Although participation in the process (providing information to the Investigator(s), responding to questions from the Investigator(s), responding to information provided by a party or a witness, etc.) is not required, the Complainant, the Respondent, and all witnesses are expected to participate in good faith in the process set forth in this Policy, and they may be required by WPI to attend meetings related to the process. Any person who knowingly interferes with the reporting, investigation, or resolution of matters under this Policy may be subject to separate and/or additional disciplinary action.
- d. **Duties of Promptness and Care.** Proceedings concerning Sexual Misconduct often raise difficult issues for those making the allegations, for those who are the subject of the



allegations, and for those responsible for reviewing the allegations. Review of the allegations should therefore be conducted promptly and with care and sensitivity.

- e. **Duty of Confidentiality.** The University will administer any complaint of sexual misconduct using the process described in this Policy while providing the utmost degree of privacy and confidentiality possible under the circumstances of each matter and as permitted by law. All participants in the review process under this Policy are expected to maintain confidentiality to protect the privacy of all involved, to the extent possible and as permitted by law. Participants should keep in mind the affect that allegations can have on reputations, even if the allegations are not sustained by the proceedings. Thus, only those people with a need to know should be informed of a complaint. Any participant in the process set forth in this Policy who violates their duty of confidentiality may be subject to discipline under the appropriate WPI policy.
- f. **Recording the Proceedings.** The parties are not permitted to make video, audio, or other electronic, photographic, or digital recordings of any meetings or proceedings held under the Sexual Misconduct Policy or these procedures or the Investigative Phase. The Title IX Coordinator may make exceptions to this prohibition in limited circumstances if he or she concludes, in his or her sole discretion, that a recording is warranted, and upon written request of the party seeking the recording that explains the need for the recording.
- g. **Record Keeping.** The Title IX Coordinator should receive and maintain all records relating to proceedings under this Policy including all notices to and from the parties, all reports of Investigators, all decisions by a Judicial Panel, all appeals by the parties, and all decisions by Appellate Officers and others involved in the appeals process under this Policy.
- h. **Special Measures.** If there is no finding of Sexual Misconduct, the University should make reasonable and practical efforts as appropriate to restore the reputation of the Respondent. Any such concerns by the Respondent should be directed to the Title IX Coordinator for follow up with other administrators as appropriate.
- i. **Information about Title IX.** Such information, including about filing a complaint with the Department of Education related to this Policy, may be obtained from the Office for Civil Rights at the United States Department of Education, 400 Maryland Avenue, SW Washington, DC 20202-1100; 800-421-3481 TDD: 800-877-8339; OCR@ed.gov.
- j. More information about Title IX at WPI may be found at <https://www.wpi.edu/offices/title-ix>.
- k. **Evaluation.** The Title IX Coordinator shall annually evaluate the effectiveness of the Policy with respect to meeting the needs of Complainants and Respondents during the process.

V. Questions

If you have any questions regarding this policy, please contact the Title IX Coordinator at jstewartTitleIX@wpi.edu or the Office of the General Counsel at OGC@wpi.edu.



* * *

Policy Sponsor: Title IX Coordinator; General Counsel

Responsible Department: Title IX Office; Office of the General Counsel

Effective Date (i.e., date of Presidential Approval): August 14, 2020

Revision Date: August 14, 2020