



## **Title IX & Sexual Misconduct Policy**<sup>1</sup>

### **\*\*INTERIM POLICY\*\***

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<sup>1</sup> Revised effective August 1, 2021. This Policy supersedes all prior WPI policies dealing with Sexual Misconduct including the interim “Title IX Policy” and the interim “Sexual Misconduct Policy” dated August 14, 2020 and the “Sexual Harassment Policy” in the Faculty Handbook.



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## **I. Policy Statement and Overview**<sup>2</sup>

WPI is committed to maintaining a learning and working environment that is free from Sexual Misconduct, promptly and equitably remedying the effects of such Sexual Misconduct when it occurs and preventing its recurrence.

Through this Title IX & Sexual Misconduct Policy, WPI complies with applicable federal and state anti-discrimination laws, including but not limited to Title IX (which prohibits discrimination on the basis of sex in education programs and activities), Title VII (which prohibits unlawful discrimination in employment, including based on sex), Mass. Gen. Laws chapters 151B and 151C (the state laws that prohibit unlawful discrimination in employment and education based on sex), Massachusetts' "An Act Relative To Sexual Violence On Higher Education Campuses (the state law that requires colleges to respond to sexual violence).

## **II. Scope**

WPI's prohibition on Sexual Misconduct applies to everyone at WPI, including all faculty members (including academic administrators), staff members (including non-academic administrators), students, trustees, alumni, applicants for admission or employment, and all visitors to the WPI campus.

The requirements and protections of this Policy apply equally regardless of sex, gender, sexual orientation, gender identity or expression, or other protected classes under federal or state law. All requirements and protections are equitably provided to individuals regardless their status as a Complainant, a Respondent, or a witness.

This Policy covers Title IX Sexual Misconduct, as defined below, that occurs against a person in the United States and within the context of a WPI Education Program or Activity. This Policy also covers Non-Title IX Sexual Misconduct, as defined below, that occurs either on-campus and off-campus.

## **III. Organization of this Policy**

Sections I-III provide introductory information about this Policy:

- Policy Statement and Overview
- Scope
- Organization of this Policy

Section IV provides relevant definitions, including definitions of prohibited conduct.

Sections V-VI describe the initial steps to take upon an incident of prohibited Sexual Misconduct:

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<sup>2</sup> Capitalized terms have the definitions set forth in Section IV, unless otherwise defined in this Policy.



- Reporting Sexual Misconduct
- Initial Non-Investigatory Steps

Sections VII and VIII describe WPI’s investigatory, hearing, and appeals processes for Title IX Sexual Misconduct and Non-Title IX Sexual Misconduct:

- Grievance Process for Title IX Sexual Misconduct
- Grievance Process for Non-Title IX Sexual Misconduct

#### IV. Definitions

##### *A. Prohibited Conduct*

**Sexual Misconduct** means misconduct prohibited by Title IX (“Title IX Sexual Misconduct”) and misconduct prohibited by other applicable federal non-discrimination laws, Massachusetts laws, and WPI policy (“Non-Title IX Sexual Misconduct”).

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, and it can occur between people of the same or different sex, gender, sexual orientation, or gender identity or expression.

**Title IX Sexual Misconduct** means specific misconduct based on sex, gender, sexual orientation, gender identity or expression that is prohibited by Title IX. Title IX Sexual Misconduct only includes sexual misconduct that occurred against a person in the United States, on or after August 14, 2020, and within the context of a WPI Education Program or Activity.

Title IX Sexual Misconduct includes only the following forms of misconduct, as defined by Title IX:

1. **Quid Pro Quo Sexual Harassment** means a WPI employee conditioning the provision of an aid, benefit, or service of WPI on a person’s participation in unwelcome sexual conduct.
2. **Hostile Environment Sexual Harassment** means unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to WPI’s education program or activity.
3. **Sexual Assault**, as defined in the Clery Act and the FBI’s National Incident-Based Reporting System, means the following **Forcible Sex Offenses** and **Nonforcible Sex Offenses**.
  - a. **Forcible Sex Offenses** means any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent, and includes:



- i. **Forcible Rape**, which means sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
    - ii. **Forcible Sodomy**, which means oral or anal sexual intercourse with another person, including instances where the victim is unable to give consent because of their age or because of their temporary or permanent mental or physical incapacity.
    - iii. **Sexual Assault with an Object**, which means to use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person without the consent of the victim, including instances where the victim is unable to give consent because of their age or because of their temporary or permanent mental or physical incapacity.
    - iv. **Forcible Fondling**, which means the touching of the private body parts of another person for purpose of sexual gratification, without the consent of the victim, including instances where the victim is unable to give consent because of their age or because of their temporary or permanent mental or physical incapacity.
  - b. **Nonforcible Sex Offenses** means unlawful, nonforcible sexual intercourse and includes:
    - i. **Incest**, which means nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
    - ii. **Statutory Rape**, which means nonforcible sexual intercourse with a person who is under the statutory age of consent.
4. **Dating Violence**, as defined in the Violence Against Women Act, means violence committed by a person who is/has been in a social relationship of a romantic or intimate nature with the Complainant; and where the existence of such a relationship shall be determined based on a consideration of (a) the length of the relationship; (b) the type of relationship; and (c) the frequency of interaction between the persons involved in the relationship.
5. **Domestic Violence**, as defined in the Violence Against Women Act, means felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other



person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

6. **Stalking**, as defined in the Violence Against Women Act, means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for their safety or the safety of others; or (b) suffer substantial emotional distress.

**Non-Title IX Sexual Misconduct** means misconduct that does not fall under the definition of Title IX Sexual Misconduct and is based on sex, gender, sexual orientation, gender identity or expression that is prohibited by other applicable federal non-discrimination laws, Massachusetts law, or WPI policy, including sexual violence (e.g., sexual assault, or relationship violence (dating and domestic)); sexual harassment; sexual exploitation; stalking; other forms of violence or harassment based on gender, sexual orientation, or gender identity or expression; and inappropriate relationships in the workplace or academic environment.

Non-Title IX Sexual Misconduct includes sexual misconduct regardless of where it occurred or when it occurred. Off-campus conduct falls under this definition if (i) the conduct was in connection with a WPI or WPI-recognized program or activity, or (ii) the conduct may have the effect of creating a hostile environment at WPI or for a member of the WPI community.

WPI and/or applicable law prohibit the following forms of actual or attempted Non-Title IX Sexual Misconduct, as defined below:

1. **Sexual Violence** is a broad term that includes sexual assault and relationship violence (dating violence and domestic violence).
  - a. **Sexual Assault** means any intentional sexual contact or activity that occurs without the consent of the other person. This definition includes, but is not limited to, **forcible rape, forcible sodomy, assault with an object, forcible fondling, incest, and statutory rape** defined under Title IX.
  - b. **Relationship Violence** means physical, sexual, psychological, verbal and/or emotional behavior that serves to exercise control and power in an intimate relationship. This definition includes, but is not limited to, **dating violence and domestic violence** defined under Title IX. Relationship violence 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 heterosexual, same sex, or any other type of relationship.
2. **Sexual Harassment** means 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:
  - a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic standing; or
  - b. Submission to or rejection of such conduct by an individual is used as the basis for



- c. employment decisions or academic decisions affecting that individual; or
- c. The conduct has the purpose or effect of unreasonably interfering with an individual's work or a student's ability to participate in or benefit from the University's educational program, if, for example, the conduct is sufficiently severe, pervasive, or persistent that it creates an intimidating, hostile, or offensive working, learning, or living environment under both an objective (i.e., a reasonable person's view) and subjective (i.e., the complainant's view) standard.

This is a broad term that includes also includes **quid pro quo sexual harassment** and **hostile environment sexual harassment** defined under Title IX.

3. **Sexual Exploitation** means purposefully taking or attempting to take sexual advantage of another person for the benefit of anyone other than that person, without that person's consent. Examples of sexual exploitation include, but are not limited to, prostituting another person; recording or distributing images (video, photograph, digital) or audio of another person's sexual activity, intimate body parts, or nakedness without that person's consent; viewing another person's sexual activity, intimate body parts, or nakedness without that person's consent for the purpose of sexual gratification; engaging in sexual activity with another person while knowingly infected with a sexually transmitted disease or infection without informing the other person; and administering alcohol or drugs to another person without that person's consent for the purpose of sexual gratification.
4. **Stalking** means engaging in a course of conduct directed at a specific person over time that would cause a reasonable person to (a) fear for their safety or the safety of others; or (b) suffer substantial emotional distress. This policy covers stalking that is motivated by the person's real or perceived sex, gender, sexual orientation, or gender identity or expression . For purposes of this policy, "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.
5. **Violence or harassment based on gender, sexual orientation, or gender identity or expression** means violence or unwelcome conduct directed at a person due to their gender, sexual orientation, or gender identity or expression when:
  - a. Submission to such violence or is made either explicitly or implicitly a term or condition of an individual's employment or academic standing; or
  - b. Submission to or rejection of such violence or conduct by an individual is used as the basis for employment decisions or academic decisions affecting that individual; or
  - c. The violence or conduct has the purpose or effect of unreasonably interfering with an individual's work or a student's ability to participate in or benefit from the University's educational program, if, for example, the conduct is sufficiently severe, pervasive, or persistent that it creates an intimidating, hostile, or offensive working, learning, or living environment under both an objective (i.e., a reasonable person's view) and subjective (i.e., the complainant's view) standard.



- 6. Inappropriate Relationships** means sexual or romantic relationships in the workplace or academic environment at WPI that are prohibited by this policy. WPI prohibits the following sexual or romantic relationships because they are fundamentally asymmetric in nature, may be the product of subtle or not-so-subtle coercion, or may lead to favoritism for the subordinate.
- a. Sexual or romantic relationships between WPI employees and undergraduate students are prohibited, except in rare and unusual circumstances involving preexisting relationships.
  - b. Sexual or romantic relationships between WPI employees and graduate students are prohibited where there is a supervisory relationship between the employee and the graduate student.
  - c. Sexual or romantic relationships between a supervisor and a supervisee are prohibited. If a student employee (e.g., 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, they are obligated to inform the instructor of the course so that alternative arrangements can be made.

## **Retaliation**

Under this policy, and applicable federal and Massachusetts state law, neither WPI nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX or this policy.

Retaliation includes, intimidation, threats, coercion, or discrimination, including charges against an individual for conduct violations that do not involve sex discrimination or sexual misconduct, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or complaint of sex discrimination or sexual misconduct for the purpose of interfering with any right or privilege secured by Title IX or this policy.

Retaliation does not include charging an individual with a conduct violation for making a materially false statement in bad faith under this Policy; provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

WPI will not charge a Complainant with a conduct violation for their actions that arise out of the same facts or circumstances as a report or their formal complaint of Sexual Misconduct unless the report or formal complaint was made in bad faith or the conduct violation was egregious, including but not limited to action(s) that place the health and safety of another person at risk.

Allegations of retaliation related to this Policy will be resolved pursuant to this Policy.



## ***B. Other Definitions***

**Complainant** means the person alleged to be the victim of Sexual Misconduct. While anyone may report Sexual Misconduct, the term “Complainant” refers to the person who experienced the alleged Sexual Misconduct.

**Consent** means the positive, clear, unambiguous, and ongoing voluntary agreement to engage in a specific activity. At all times, each party is free to choose where, when, and how they participate in an activity. Consent can be withdrawn at any time before or during the activity.

Consent must be an informed, deliberate, and voluntary decision to engage in mutually acceptable activity. Consent can be given by words or actions if those words or actions create clear mutually understandable permission regarding the scope of the activity.

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.

Consent can never be given by someone who is mentally or physically incapacitated so that they cannot understand the fact, nature, or extent of the activity. Incapacitation includes, but is not limited to, incapacitation due to a temporary or permanent mental or physical disability; incapacitation due to alcohol, drugs, medications, or any other intoxicating substance; or when someone is unconscious, asleep, or otherwise unaware that the activity is occurring. If there is a question about whether someone consented to sexual activity after consuming an intoxicating substance, the University will consider whether the party reasonably should have known about the impact of the intoxicating substance on the other party’s ability to consent. A party’s use of an intoxicating substance themselves does not relieve the party of the obligation to obtain consent before initiating and/or engaging in the activity.

Consent can never be given by someone under the legal age of consent. The legal age of consent in Massachusetts is sixteen (16) years old.

It is the responsibility of the person who initiates the activity to make sure consent is received from any other person(s) involved. Consent must be received for each activity. Consent to one activity does not constitute or imply consent to another activity. Past consent to an activity does not imply ongoing future consent to an activity. Consent cannot be assumed based on the parties’ relationship or prior history.

There is no single way to communicate consent and context matters. When evaluating whether the activity was consensual, WPI will consider the entirety of the activity and all known relevant circumstances pertaining to the activity. Individuals should be able to clearly articulate why and how they believed they received consent and what they considered to be indications of that consent as they engaged in the activity.

**Relevant** evidence and questions mean any evidence or questions that tend to make an allegation of Sexual Misconduct more or less likely to be true.



Relevant evidence and questions do not include the following types of evidence and questions, which are deemed irrelevant and not allowed:

- a. Evidence and questions about the Complainant's sexual predisposition or prior sexual behavior unless they are offered to prove that someone other than the Respondent committed the alleged Sexual Misconduct, or they concern specific incidents of the Complainant's prior sexual behavior with the Respondent and are offered to prove consent.
- b. Evidence and questions that constitute, or seek disclosure of, information protected under legally recognized privilege, unless the person holding the privilege has waived it.
- c. Any party's medical, psychological, and similar records unless the party has given voluntary, written consent.
- d. Any party's disclosures to their WPI Confidential Resource Advisor, as defined below, unless the party has given voluntary, written consent.

**Respondent** means the person reported to be the perpetrator of alleged conduct that could constitute Sexual Misconduct.

**WPI Education Program or Activity** means locations, events, or circumstances over which WPI exercises substantial control over both the Respondent and the context in which the Sexual Misconduct occurs and any building owned or controlled by a student organization that is officially recognized by WPI. For example: (a) buildings or other locations that are part of the WPI's operations, including remote learning platforms; (b) off-campus settings if WPI exercised substantial control over the Respondent and the context in which the alleged Sexual Misconduct occurred (e.g., WPI-sponsored travel in the context of a student project, student activity, or athletics); or (c) off-campus buildings owned or controlled by officially-recognized WPI student organizations, such as a building owned by a recognized fraternity or sorority.

## V. Reporting Sexual Misconduct

Anyone who has experienced Sexual Misconduct or is aware of someone who may have experienced Sexual Misconduct is strongly encouraged to report such misconduct to WPI and to access the resources available on campus and in the community.

Any WPI community member who has concerns about Sexual Misconduct is encouraged to seek the assistance of those listed below, who can provide information on resources and options under this Policy.

### *A. Reporting Sexual Misconduct in an Emergency*

- Go to a safe place as soon as you can.
- Call the WPI Police Department at 508-831-5555, or 5555 from a campus phone or via a blue light phone on campus; or call 911 if you are off campus. If it is not an emergency, then call the WPI Police Department at 508-831-5433.



- Seek medical attention, if needed.
  - [Student Health Services](#) (for WPI students only): Phone 508-831-5520, [healthcenter@wpi.edu](mailto:healthcenter@wpi.edu)
  - The emergency room at [UMass Medical Center](#) offers services and support for people who have experienced Sexual Misconduct and provides Sexual Assault Nurse Examiner (SANE) services. The WPI Police can provide students with an escort to the hospital.
- Seek counseling services, if needed.
  - [Student Development & Counseling Center](#) (for WPI students only): Phone 508-831-5540, [sdcc@wpi.edu](mailto:sdcc@wpi.edu)
  - [Pathways for Change Rape Crisis Center](#): Phone 800-870-5905 (24/7 hotline)
- Try to preserve all physical evidence.
  - If you have been physically assaulted, 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 or report the Sexual Misconduct under this Policy.

### ***B. Reporting Sexual Misconduct to the Title IX Office***

Anyone who has experienced Sexual Misconduct or is aware of someone who may have experienced Sexual Misconduct is encouraged to contact the Title IX Office.

You can report Sexual Misconduct to the Title IX Office in person, by mail, by telephone, by email, or anonymously.

Contact information for the Title IX Coordinator and Deputy Coordinators can be found [HERE](#).

Title IX Coordinator:	Jonathan Stewart
Office:	Rm 234 Campus Center
Phone:	508-831-6514
Email:	<a href="mailto:jstewartTitleIX@wpi.edu">jstewartTitleIX@wpi.edu</a>
Address:	100 Institute Road Worcester, Massachusetts 01609

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.

### ***C. Reporting Sexual Misconduct Anonymously***

You can also report Sexual Misconduct to WPI anonymously [HERE](#). WPI's response to any anonymous reports may be limited unless you include your contact information. If you do not provide any contact information, WPI will not contact you and you will remain anonymous.



NOTE: WPI's anonymous reporting form is not for emergencies. In case of an emergency, please call the WPI Police Department at 508-831-5555, or 5555 from a campus phone or via a blue light phone on campus; call 911 if you are off campus.

#### ***D. Reporting Sexual Misconduct to a WPI Employee***

You can report Sexual Misconduct to a WPI employee. However, WPI employees may not be confidential resources, unless they are identified in Section V.E. below.

All WPI employees (except the 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 Office. See Section V.B. for contact information for the Title IX Office.

All supervisors (except the Confidential Resource Advisors identified below) who learn of a violation of this Policy **involving employees** are required to immediately report such information to the Title IX Office. See Section V.B. for contact information for the Title IX Office.

#### ***E. Reporting Sexual Misconduct Confidentially***

You can report Sexual Misconduct to one of WPI's trained confidential resource providers (known at WPI as "Confidential Resource Advisors" (CRA)) or the other WPI and local confidential resources identified below. CRAs and confidential resources will not make reports to the Title IX Office and will maintain confidentiality.

**Confidential Resource Advisors (CRAs)** are WPI employees (not pastoral counselors, professional counselors, or therapists) who have received special training to be a confidential source of support for WPI community members. A list of current CRAs at WPI is located [HERE](#).

Speaking with a CRA means that no report will be made to the Title IX Office or the WPI Police Department, unless required by law. Reporting to a CRA is not considered notice to WPI that Sexual Misconduct has allegedly occurred.

CRAs can provide information on reporting options and the effects of each reporting option; the grievance processes under this Policy; counseling and medical services available at WPI and in the local community; and the legal process carried out through local law enforcement and a WPI community member's rights and WPI's responsibilities with respect to no-contact orders and legal protective orders. CRAs may assist a WPI community member in contacting or reporting to the Title IX Office or law enforcement, if requested by the WPI community member. CRAs can provide information on supportive measures at WPI may also assist the Title IX Office in arranging supportive measures for a WPI community member if requested. A CRA can continue to be a source of support throughout the process and can serve as your advisor during the grievance process if you and the CRA agree.



Any party involved in a Sexual Misconduct incident can speak with a CRA, but CRAs may not provide services to adverse parties. WPI will not discipline, penalize, or otherwise retaliate against a CRA for representing the interest of the party they are assisting.

Communications with a CRA are confidential and CRAs must ensure that confidentiality is maintained, unless otherwise required by law. Specifically:

- CRAs will not disclose confidential information without the prior written consent of the party who shared that information; provided, however that the CRA may be cross-examined if the CRA testifies at the hearing under this Policy or in court after being given written consent to do so by the party.
- Communications with CRAs will not be subject to discovery and will be inadmissible in the grievance process under this Policy or in court without the prior written consent of the party who shared that information.

**Other confidential resources include:**

- [Student Development & Counseling Center](#) (for WPI students only): Phone 508-831-5540, [sdcc@wpi.edu](mailto:sdcc@wpi.edu)
- [Student Health Services](#) (for WPI students only): Phone 508-831-5520, [healthcenter@wpi.edu](mailto:healthcenter@wpi.edu)
- [WPI Collegiate Religious Center's Religious Advisors](#)
- [WPI Ombudspersons](#): [ombuds@wpi.edu](mailto:ombuds@wpi.edu)
- [Pathways for Change Rape Crisis Center](#): Phone 800-870-5905 (24/7 hotline)
- [YWCA Daybreak](#): Phone 508-755-9030 (24/7 hotline)

***F. Reporting Sexual Misconduct to Law Enforcement***

If you experience Sexual Misconduct, you may, but are not required to, report to the [WPI Police Department](#) (508-831-5555 for emergencies; 508-831-5433 for non-emergencies), the [Worcester Police Department](#), the [Massachusetts State Police](#), and/or the local law enforcement agency or District Attorney's office where the Sexual Misconduct occurred.

This Policy and the criminal justice system work independently from one another. Confidential Resource Advisors, confidential resources, the Title IX Office, and the WPI Police Department can explain how to report Sexual Misconduct to law enforcement, but they cannot provide legal advice. The Title IX Coordinator can assist individuals in setting up meetings with the WPI Police Department.

In addition, there are many community resources that can also support you in the process of reporting Sexual Misconduct to law enforcement, pursuing an external civil or criminal process, and/or seeking a court-issued protective order. [Pathways for Change](#) and [YWCA Daybreak](#) both offer free services, including legal advice.

If a Complainant receives a court-issued protective order under state or federal law, the Complainant should contact the [WPI Police Department](#) (508-831-5555 for emergencies; 508-



831-5433 for non-emergencies) to ensure that WPI can support the Complainant effectively at WPI, including how the Complainant can report alleged violations of the court-issued protective order to the WPI Police Department or the relevant local law enforcement agency.

### ***G. Government Resources***

These government resources may provide additional assistance if you would like to file an external complaint or for inquiries regarding the application of Title IX and its implementing regulations and the application Massachusetts state law at WPI.

#### [U.S. Department of Education, Office for Civil Rights](#)

Region I – Boston Office  
5 Post Office Square, 8th Floor  
Boston, MA 02109-3921  
617-289-0111

#### [U.S. Department of Justice, Office on Violence Against Women](#)

Office on Violence Against Women (OVW)  
145 N Street, NE, Suite 10W.121  
Washington, DC 20530  
202-307-6026

#### [U.S. Equal Employment Opportunity Commission \(EEOC\)](#)

Boston Area Office  
JFK Federal Building  
15 New Sudbury Street, Room 475  
Boston, MA 02203  
800-669-400

#### [Massachusetts Commission Against Discrimination \(MCAD\)](#)

Worcester Office  
484 Main Street, Room 320  
Worcester, MA 01608  
508-453-9630

#### [Massachusetts Board of Higher Education \(BHE\)](#)

One Ashburton Place, Room 1401  
Boston, MA 02108  
617-994-6950

## **VI. Initial Non-Investigatory Steps**

All reports of alleged Sexual Misconduct made to the Title IX Office (including anonymous reports) and all reports to a WPI employee (other than Confidential Resource Advisors or other confidential resources) will be referred to the Title IX Coordinator.



### *A. Initial Outreach and Meeting with the Complainant*

Within five (5) business days of receiving a report of alleged Sexual Misconduct, the Title IX Coordinator (or their designee) will take several initial steps, including, but not limited to, the following:

- Provide information for the WPI Police Department to assess whether WPI must issue a timely warning or emergency notification to the WPI community pursuant to the Clery Act, which may require WPI to release the Complainant's identity in limited circumstances.
- Notify the Complainant that they have received a report of alleged Sexual Misconduct and encourage the Complainant to meet with the Title IX Coordinator to discuss the nature and circumstances of the reported conduct and their rights and options under this Policy.
  - If the person who reported the alleged Sexual Misconduct is not the Complainant, then the Title IX Coordinator may also encourage the person who reported the alleged Sexual Misconduct to meet with the Title IX Coordinator to discuss the nature and circumstances of the reported conduct.
- Notify the Complainant about their rights and options under this Policy, including but not limited to:
  - The Complainant's options under this Policy, including the process for filing a formal complaint.

The explanation of the Complainant's options under this Policy will also include an informal discussion about which definition of prohibited conduct may apply to the reported conduct and whether WPI's Grievance Process for Title IX Sexual Misconduct (Section VII) or WPI's Grievance Process for Non-Title IX Sexual Misconduct (Section VIII) would apply.

- The availability of medical treatment and other resources, both on and off-campus.
- The Complainant's right to report the matter to law enforcement, including the WPI Police Department, the Worcester Police Department, and the Massachusetts State Police, receive assistance from WPI in making any such report, and seek a court-issued protective order or WPI no-contact order. Nothing in this Policy prevents a Complainant from seeking the assistance of state or local law enforcement alongside this process.
- Discuss the availability of supportive measures for the Complainant, consider the Complainant's wishes with respect to supportive measures, and provide supportive



measures if requested.

- Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a formal complaint under this Policy or where no formal complaint been filed.
- Supportive measures at WPI may include:
  - No-contact orders
  - Deadline extensions
  - Reassignment of housing
  - Health services through [Student Health Services](#) (for WPI students only, phone 508-831-5520, [healthcenter@wpi.edu](mailto:healthcenter@wpi.edu)) or the emergency room at [UMass Medical Center](#).
  - Counseling through the [Student Development & Counseling Center](#) (for WPI students only, phone 508-831-5540, [sdcc@wpi.edu](mailto:sdcc@wpi.edu)) or [Pathways for Change Rape Crisis Center](#) (24/7 hotline: 800-870-5905)
  - Modifications of work or class schedules
  - Campus escort services
  - Changes in work locations
  - Leaves of absence
  - Increased security and monitoring of certain areas of the campus
- Supportive measures are designed to restore or preserve access to WPI's Education Programs and Activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or WPI's educational environment or deter Sexual Misconduct.
- Supportive measures can be requested by the Complainant or the Respondent at any time and may be reviewed at any time upon request by either party or in the determination of the Title IX Coordinator.
- WPI will maintain the confidentiality of any supportive measures provided to the Complainant or the Respondent, to the extent that maintaining such confidentiality will not impact WPI's ability to provide the supportive measures.

### ***B. Filing a Formal Complaint***

The Complainant or the Title IX Coordinator must submit a formal complaint to the Title IX Office to move forward with the informal resolution process (under Section VI(C)(3) of this Policy) or the formal grievance process (under Sections VII or VIII of this Policy). Formal complaints may be submitted to the Title IX Office in person, by mail, or by email.

The Complainant may submit their formal complaint on the form provided by the Title IX



Office or by providing the Title IX Office with a signed, written document alleging Sexual Misconduct against a Respondent, describing the facts alleged about the Sexual Misconduct, and requesting that the Title IX Office initiate the grievance process under this Policy.

If the Complainant does not wish to file a formal complaint, the Title IX Coordinator will weigh the Complainant's preference against WPI's obligation to address any risk of harm to the Complainant or other individuals in the WPI community and the nature of alleged Sexual Misconduct at issue. The Title IX Coordinator may determine that it is necessary to override the Complainant's preference and submit a signed a formal complaint. If this occurs, the Complainant may choose whether they wish to participate in the grievance process.

### ***C. Outcomes of a Formal Complaint***

WPI endeavors to complete the grievance process under this Policy within 120 days after the Complainant submits a formal complaint to the Title IX Office. This period does not include the time for any appeal.<sup>3</sup>

Within ten (10) business days after the Title IX Office receives a formal complaint, the Title IX Coordinator will determine whether the formal complaint (or any specific allegation within a formal complaint) must or should be dismissed and issue a Notice of Dismissal, or whether the formal complaint (or any specific allegation within a formal complaint) must be opened and issue a Notice of Allegations.

#### **1. Dismissal of a Formal Complaint**

WPI may dismiss a formal complaint (or any specific allegation within a formal complaint) if the Title IX Coordinator determines that one of the mandatory or discretionary dismissal bases described below applies. A formal complaint or specific allegation may be dismissed at any time during the formal grievance process.

Upon dismissal, the Title IX Coordinator will promptly send written Notice of Dismissal simultaneously to the Complainant and Respondent by email. This notice of dismissal will include the basis for the dismissal and whether the Title IX Coordinator is referring the formal complaint or any specific allegation therein to another WPI conduct process.

Either party may appeal a dismissal by following the appeals process in the applicable formal grievance process under Sections VII or VIII of this Policy.

##### **a. Mandatory Dismissal Bases**

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<sup>3</sup> This period (or any applicable timeframe in this policy) may be delayed or extended for good cause shown including but not limited to the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. If a timeframe is delayed or extended, the Title IX Coordinator will provide written notice to the Complainant and the Respondent of the delay and extension and the reasons for the action.



WPI must dismiss a formal complaint if:

- The alleged conduct, if true, would not constitute Sexual Misconduct under this Policy.
- The alleged Title IX Sexual Misconduct, if true, occurred (i) against a person who was not in the United States; (ii) prior to August 14, 2020; or (iii) outside of the context of a WPI Education Program or Activity. Please note that formal complaints dismissed on this basis may be considered for resolution under WPI's Grievance Process for Non-Title IX Sexual Misconduct (Section VIII).<sup>4</sup>

#### **b. Discretionary Dismissal Bases**

WPI may dismiss a formal complaint if:

- The Complainant notifies the Title IX Coordinator in writing that they would like to withdraw their formal complaint or any specific allegation within their formal complaint.
- The Complainant declines to participate in the grievance process after filing a formal complaint.
- The Respondent is no longer enrolled at or employed by WPI. In this case, the Complainant will be provided the option to re-file their formal complaint if the Respondent returns to WPI.
- If specific circumstances prevent WPI from gathering evidence sufficient to reach a determination regarding the formal complaint or any specific allegation therein.

For each applicable discretionary dismissal basis, the Title IX Coordinator will weigh the parties' preferences against WPI's obligation to address any risk of harm to the Complainant or other individuals in the WPI community and the nature of alleged Sexual Misconduct at issue. The Title IX Coordinator may determine in their sole discretion not to dismiss a formal complaint on a discretionary basis. If this occurs, the parties may choose whether they wish to participate in the grievance process.

## **2. Notice of the Allegations**

If WPI does not dismiss a formal complaint, the Title IX Coordinator will provide a written Notice of Allegations to the Complainant and the Respondent<sup>5</sup> by email.

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<sup>4</sup> Alleged Title IX Sexual Misconduct dismissed for any of these reasons may constitute Non-Title IX Sexual Misconduct under this Policy.

<sup>5</sup> For purposes of the Notice of Allegations and the formal grievance processes described in Sections VII and VIII, WPI may consolidate formal complaints where the alleged Sexual Misconduct arises out of the same facts or circumstances, even if such formal complaints are against more than one Respondent, by more than one Complainant against a Respondent(s), or by one party against the other party.



The Notice of Allegations will include the following:

- A copy of this Policy, including a hyperlink to this Policy and the Title IX Office webpage.
- A description of the alleged Sexual Misconduct and the corresponding definitions of prohibited conduct in this Policy that are alleged to have been violated, including, if known:
  - The names of the Complainant(s) and the Respondent(s);
  - The date(s), time(s) and location(s) of the alleged Sexual Misconduct; and
  - Sufficient details of the alleged Sexual Misconduct.
- An explanation of the grievance process that applies to the definition(s) of prohibited conduct in this Policy that are alleged to have been violated.
- Any allegations that have been dismissed pursuant to Section VI(C)(1), above.
- Any supportive measures about which either party should be made aware.
- The Respondent is presumed not responsible for the alleged Sexual Misconduct and that a determination regarding responsibility is only made at the conclusion of the applicable grievance process under this Policy.
- The Respondent and the Complainant will have the opportunity to present evidence and respond to the allegations.
- The Respondent and the Complainant may have a personal advisor of their choice, who may be, but is not required to be, an attorney.
- The Respondent and the Complainant will be provided equal opportunities to inspect and review evidence obtained during the investigation that is directly related to the investigation prior to the conclusion of the investigation.
- Information regarding the duties of honesty, good faith participation, promptness and care, and confidentiality described in Section IX and required by all participants in the grievance process under this Policy.
- The process by which the Respondent or the Complainant may request disability accommodations from Talent & Inclusion (for employees) or the Office of Accessibility Services (for students).

WPI will provide sufficient time for the parties to review the Notice of Allegations before initiating the informal resolution process (under Section VI(C)(3) of this Policy) or the applicable formal grievance process under Sections VII or VIII of this Policy.

If WPI decides to investigate additional allegations about the Complainant or Respondent that were not included in the initial Notice of Allegations, WPI will notify the parties of the additional allegations by email.

### **3. Informal Resolution Process**

The Complainant or Respondent may contact the Title IX Coordinator and request to engage in the informal resolution process at any time after the filing of a formal complaint but prior to a determination of responsibility following a hearing.



The Complainant and the Respondent, and the Title IX Coordinator, must agree to engage in the informal resolution process for this option to be used. The informal resolution process is not available to resolve a formal complaint that an employee respondent allegedly engaged in Sexual Misconduct with a student complainant.

If the Title IX Coordinator determines that the informal resolution process is appropriate, the Title IX Coordinator will attempt to reach an informal resolution with the parties within thirty (30) business days. This period may be delayed or extended for good cause shown.

The Title IX Coordinator will provide both parties with written notice of the start of the informal resolution process that includes the allegations, the requirements of WPI's informal resolution process, circumstances that preclude the parties from resuming the formal grievance process under this Policy (such as failure by a party to negotiate in good faith), any consequences resulting from participating in the informal resolution process, and any records that will be maintained or could be shared following the informal resolution process.

The informal resolution process is voluntary, and the written consent of both parties is required. At any time prior to expressly agreeing to a written resolution, either party has the right to withdraw from the informal resolution process and resume the applicable formal grievance process under this Policy.

The formal complaint will be deemed resolved when the Complainant and Respondent expressly agree to a written resolution that is acceptable to them and is approved by the Title IX Coordinator in consultation with other appropriate WPI administrators.

#### ***D. Temporary Measures***

Before or after the submission of a formal complaint, WPI has the authority to take the following temporary actions:

##### **1. Emergency Removal**

WPI may remove a Respondent from WPI on an emergency basis, if WPI (1) undertakes an individualized safety and risk analysis and (2) determines that an immediate threat to the physical health or safety of any student or other individual arising from the alleged Sexual Misconduct justifies the Respondent's removal.

If the Title IX Coordinator determines that an emergency removal is justified, the Title IX Coordinator will provide the Respondent with a Notice of Emergency Removal and an opportunity to challenge the decision immediately by appealing to the President. The Respondent's emergency removal will not be stayed pending the outcome of any appeal.

A Respondent's failure to comply with this temporary measure may lead to additional disciplinary action.



## 2. Administrative Leave

WPI may place a non-student employee Respondent on administrative leave at any time following the submission of a formal complaint. A Respondent's failure to comply with this temporary measure may lead to additional disciplinary action.

## VII. Grievance Process for Title IX Sexual Misconduct

Following the Notice of Allegations described in Section VI(C)(2), any formal complaint that contains allegations of **Title IX Sexual Misconduct** brought by a Complainant who is currently participating in or attempting to participate in a WPI Education Program or Activity will be referred to the grievance process described under this Section VII.<sup>6</sup>

The Grievance Process for Title IX Sexual Misconduct includes the following steps:

- Formal Investigation
- Review of Evidence and Completion of the Investigation Report
- Hearing
- Decision
- Appeal (if requested by either party)

All parties in the Grievance Process for Title IX Sexual Misconduct are expected to comply with the duties of honesty, good faith participation, promptness and care, and confidentiality (described in Section IX) during this grievance process.

### *A. Personal Advisors*

The Complainant and Respondent may have a personal advisor of their choice present during any step of this grievance process, including any meeting, interview, or hearing. Any individual may serve as a personal advisor, including an attorney.

Each party must provide the name and contact information of their personal advisor to the Title IX Coordinator within five (5) business days of receiving the Notice of Allegations.

During this grievance process personal advisors may communicate with their advisee but may not speak or otherwise communicate on behalf of a party. The exception to this is if a personal advisor is attending the hearing and conducting cross-examination of any witnesses.

Personal advisors are subject to the same duties of honesty, good faith participation, promptness and care, and confidentiality as the parties.

### *B. Formal Investigation*

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<sup>6</sup> If a formal complaint contains allegations of both Title IX Sexual Misconduct and Non-Title IX Sexual Misconduct, WPI will apply the Title IX Grievance Process described in Section VII to all allegations in the formal complaint.



WPI hires trained outside (non-WPI) investigators to conduct a fair and impartial formal investigation of the alleged Title IX Sexual Misconduct detailed in the Notice of Allegations.

The investigation will consist of:

- The investigator interviewing the Complainant, the Respondent, and any witnesses that the investigator believes will provide relevant factual information regarding the alleged Title IX Sexual Misconduct.
- The investigator reviewing documentation or other items, including but not limited to photographs, video evidence, and phone records, relevant to the alleged Title IX Sexual Misconduct.
- The investigator will not review evidence related to either party's prior sexual history with other persons except as relevant to the alleged Title IX Sexual Misconduct.

The outcome of the investigation is the investigator's Investigation Report that details the investigator's factual findings and is submitted as evidence in the hearing.

### **1. Selection of the Investigator**

The Title IX Coordinator will select an unbiased, qualified investigator(s) to conduct the investigation and write the Investigation Report.

The Title IX Coordinator will provide the Complainant and the Respondent with the name of the assigned investigator(s) in writing (by email) and the Complainant and Respondent will have three (3) business days to inform the Title IX Coordinator of any potential biases or conflicts of interest with the assigned investigator.

If a party identifies a potential bias or conflict of interest, the Title IX Coordinator will consider the nature of the potential bias or conflict, collaborate with the parties and their advisors as needed, and determine if such bias or conflict can be mitigated. In all reasonable cases of biases or conflicts of interest, as determined by the Title IX Coordinator, the Title IX Coordinator must select a new investigator. The Title IX Coordinator's decision on any bias or conflict of interest is final.

### **2. Participation in the Investigation**

During the investigation, the Complainant and the Respondent will have an equal opportunity to participate, and the investigation will proceed even if a Complainant, Respondent, or any witness declines to participate. The investigator will provide the Complainant, Respondent, and any witnesses written notice of the date, time, location, participants, and purpose of interviews with sufficient time to prepare.

The Complainant and the Respondent may provide the investigator with the names of potential witnesses (including fact and expert witnesses) with whom they would like the investigator to interview. Such written notice should include the potential witness's name, contact information,



and a brief explanation of how the witness is relevant to the alleged Title IX Sexual Misconduct. The investigator retains discretion to determine which witnesses to interview during the investigation.

The Complainant and the Respondent may also provide the investigator with any documentation or other items or written questions they would like to be considered or posed to any witness or the other party. The investigator retains discretion to determine which what documentation, items, or questions to consider during the investigation.

If a Complainant or Respondent initially declines to participate in the investigation, but then later in the investigation decides to participate, the investigator may consider that timing when determining the credibility of the evidence offered by that party and the weight to give that evidence.

### **3. Coordination with Law Enforcement During an Investigation**

The investigator may contact any law enforcement agency that is conducting its own investigation into the alleged Title IX Sexual Misconduct 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 the investigator during the investigation.

At the request of law enforcement, the Title IX Coordinator may delay the Grievance Process for Title IX Sexual Misconduct temporarily while an external law enforcement agency is gathering evidence. The Grievance Process for Title IX Sexual Misconduct will generally resume when the Title IX Coordinator is notified that law enforcement has completed the evidence-gathering stage of its investigation.

#### ***C. Review of Evidence and Completion of the Investigation Report***

##### **1. Draft Investigation Report**

The investigator will deliver a written, draft Investigation Report to the Title IX Coordinator for inspection and review by the Complainant and the Respondent.

The Investigation Report is not intended to catalog all evidence obtained by the investigator, but to provide the investigator's factual findings. The Investigation Report includes description of the alleged Title IX Sexual Misconduct detailed in the Notice of Allegations and a summary of the evidence presented during the investigation. The Investigation Report should include a section where the investigator points out relevant consistencies or inconsistencies (if any) in the evidence.

The Investigation Report will only include relevant evidence, including inculpatory and exculpatory evidence. However, all evidence obtained by the investigator will be provided to the Title IX Coordinator with the case file, including but not limited to interview statements, documentation, photographs, video evidence, and phone records.



The Investigation Report will not include any findings or recommendations on whether the Respondent violated the Policy or what sanctions may be appropriate. These determinations will be made by the Judicial Panel following the hearing.

## **2. Inspection and Review of the Draft Investigation Report and Evidence**

The purpose of the inspection and review process is to allow the Complainant and the Respondent equal opportunity to review and meaningfully respond to the evidence prior to conclusion of the investigation and the completion of the final Investigation Report.

Within five (5) business days of receiving the draft Investigation Report, the Title IX Coordinator will provide the Complainant and the Respondent with a copy (by email) and send a written notice regarding the opportunity for the Complainant and Respondent (and their advisors) to inspect and review the evidence collected by the investigator that is directly related to the allegations under investigation. This evidence will include (a) evidence that is relevant to the allegations, even if the University does not intend to rely upon the evidence in reaching a determination regarding responsibility, and (b) inculpatory or exculpatory evidence that is directly related to the allegations, whether obtained from a party or other source.

The Complainant and the Respondent will have ten (10) business days after receiving the draft Investigation Report to inspect and review the draft Investigation Report and submit written comments. This time to submit written comments may be extended if the Title IX Coordinator concludes, in their sole discretion, that additional time is warranted.

After reviewing the written responses of the Complainant and Respondent, if any, the Title IX Coordinator may determine that additional investigation is required. If additional investigation is required, the investigator will continue their investigation and provide an updated draft of the Investigation Report, and the parties will have an additional opportunity to inspect and review any evidence obtained during the additional investigation and submit a written response to the revised draft Investigation Report.

If no additional investigation is required, the Investigator will consider the parties' written comments and finalize the Investigation Report. The investigator will submit the final Investigation Report to the Title IX Coordinator, attaching the written responses to the draft Investigation Report submitted by the Complainant and the Respondent (if any).

All evidence made available to each party for inspection and review prior to the completion of the final Investigation Report will be made available for use by the parties at the hearing, including during questioning of parties and witnesses.

## **3. Final Investigation Report**

Within three (3) business days of receiving the final Investigation Report, and at least ten (10) business days prior to the hearing, the Title IX Coordinator will provide the Complainant and



the Respondent with the final Investigation Report, attaching the written responses to the draft Investigation Report submitted by the Complainant and the Respondent (if any).

The final Investigation Report, any written responses submitted by the parties to the draft Investigation Report, and all evidence collected by the investigator during the investigation will be available at the hearing, including for purposes of cross-examination.

#### ***D. Hearing***

Following the investigation, the Title IX Coordinator will convene a fair and impartial formal hearing to review the relevant evidence and determine whether the Respondent's alleged Title IX Sexual Misconduct violated this Policy.

##### **1. The Judicial Panel & Hearing Officer**

The Title IX Coordinator is responsible for convening a three-member Judicial Panel and appointing a Hearing Officer to preside over the hearing as the decision makers. Neither the Title IX Coordinator nor the investigator will serve on the Judicial Panel or as the Hearing Officer.

The Judicial Panel's three members consist of three (3) faculty and/or staff members selected from a previously established pool of WPI faculty and staff members trained to hear complaints under this Policy. The Hearing Officer is an outside attorney who will be trained on this Policy and will be responsible administering the hearing, answering procedural questions during the Judicial Panel's deliberations and drafting the Determination Letter. The Hearing Officer will not participate in deliberations or vote on the Judicial Panel's decision on responsibility and sanctions.

The Judicial Panel and the Hearing Officer are expected to comply with the duties of honesty, good faith participation, promptness and care, and confidentiality during this grievance process. In addition, no member of the Judicial Panel nor the Hearing Officer may have a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.

The Title IX Coordinator will provide the Complainant and the Respondent with the names of the Judicial Panel members and the Hearing Officer in writing at least ten (10) business days prior to the hearing.

Complainant and Respondent will have three (3) business days to inform the Title IX Coordinator of any potential biases or conflicts of interest with the assigned Judicial Panel members or the Hearing Officer. If a party identifies a conflict of interest, the Title IX Coordinator will consider the nature of the potential bias or conflict, collaborate with the parties and their advisors as needed, and determine if such bias or conflict can be mitigated. In all reasonable cases of biases or conflicts of interest, as determined by the Title IX Coordinator, the Title IX Coordinator must select a new Judicial Panel Member or Hearing Officer (as applicable). The Title IX Coordinator's decision on any bias or conflict of interest is final.



## **2. Notice of the Hearing**

The Title IX Coordinator will schedule the date(s) for the hearing in consultation with all parties, the members of the Judicial Panel, and the Hearing Officer.

The hearing may be conducted with all parties physically present in the same location, or, at WPI's discretion, any participant may appear at the hearing virtually through Zoom or other similar technology. This technology will enable all participants to simultaneously see and hear each other during the hearing.

In the Notice of the Hearing, the Title IX Coordinator will provide the information on the date, time, and location of the hearing, the participants in the hearing, the rights of the parties during the hearing, the purpose of the hearing, and the hearing procedures, as detailed below.

## **3. Participants in the Hearing**

Hearings are not public, and the only individuals permitted to participate in the hearing are the Complainant and the Respondent, their respective Hearing Advisors, the Judicial Panel, the Hearing Officer, the witnesses called by the Judicial Panel, and the Title IX Coordinator.

WPI requires all participants in the hearing to maintain appropriate decorum throughout the hearing. Participants at the live hearing are expected to abide by the directions and determinations of the Judicial Panel and the Hearing Officer, maintain civility, and avoid emotional outbursts and raised voices. Repeated violations of appropriate decorum will result in a break in the hearing, the length of which will be determined by the Hearing Officer.

### **The Complainant and Respondent**

- The Complainant and the Respondent cannot waive their right to a hearing, but a hearing may proceed in the absence of the Complainant and/or the Respondent.
- If the Complainant or Respondent does not submit to cross-examination by the other party or does not attend the hearing, the Judicial Panel cannot rely on any prior statements made by that party in reaching a determination regarding responsibility.
- A party may never personally conduct cross-examination during the hearing. Any questions a party may have of the other party must be asked by their Hearing Advisor.
- The Judicial Panel will not draw any inference from a party's absence from the hearing or refusal to submit to cross-examination.

### **The Hearing Advisors**

- The Complainant and the Respondent may each have a Hearing Advisor of their choice. The Hearing Advisor is responsible for conducting cross-examination on behalf of their advisee and is provided in addition to the party's personal advisor of their choice.



- If the Complainant or the Respondent does not have a Hearing Advisor, WPI will select a trained Hearing Advisor to conduct cross-examination without fee or charge to that party. WPI is not required to, nor will WPI hire an attorney to be a Hearing Advisor for any party.
- The Complainant and the Respondent will be required to notify the Title IX Coordinator in writing of the name of their Hearing Advisor no later than five (5) business days prior to the hearing.
- If the Complainant or the Respondent does not attend the hearing, their Hearing Advisor may appear and conduct cross-examination on their behalf. If neither the party nor their Hearing Advisor appear at the hearing, WPI will provide a trained Hearing Advisor to appear on behalf of the non-appearing party. WPI is not required to, nor will WPI hire an attorney to be a Hearing Advisor for any party.
- Hearing Advisors are expected to comply with the duties of honesty, good faith participation, promptness and care, and confidentiality during this grievance process. In addition, Hearing Advisors are expected to ask relevant questions of the parties and any witnesses during the hearing in a respectful and non-abusive manner.
- The WPI reserves the right to appoint a different Hearing Advisor to conduct cross-examination on behalf of a party after a Hearing Advisor's repeated violations of appropriate decorum or other rules related to the conduct of the hearing.

#### **Witnesses, including fact and expert witnesses**

- The Judicial Panel, the Complainant, and the Respondent are responsible for notifying the Title IX Coordinator in writing of the names of their witnesses no later than five (5) business days prior to the hearing.
- A witness who had the opportunity to participate during the Investigation but elected not to participate will not be permitted to participate in the hearing, unless for good cause shown as determined by the Title IX Coordinator.
- The Judicial Panel, the Complainant, and the Respondent are responsible for the attendance of their witnesses at the hearing. Witnesses cannot be compelled to participate in the hearing and are protected from retaliation.
- If a witness does not submit to cross-examination or does not attend the hearing, the Judicial Panel cannot rely on any prior statements made by that witness in reaching a determination regarding responsibility.
- Witnesses are expected to comply with the duties of honesty, good faith participation, promptness and care, and confidentiality during this grievance process.



### **Judicial Panel & Hearing Officer**

- The 3-member Judicial Panel and the Hearing Officer preside over the hearing as the decision makers.
- The Hearing Officer is an outside attorney who is responsible administering the hearing, answering procedural questions during the Judicial Panel's deliberations, and drafting the Determination Letter. The Hearing Officer will not participate in deliberations or vote on the Judicial Panel's decision on responsibility and sanctions.
- The Judicial Panel is responsible for determining responsibility and sanctions.
- The Title IX Coordinator will provide the Judicial Panel and the Hearing Officer with the final Investigation Report, any written responses to the draft Investigation Report submitted by the Complainant and the Respondent (if any), and all evidence collected by the investigator during the investigation at least ten (10) business days prior to the hearing.
- The Judicial Panel may request to hear testimony from any witness with relevant information including, the parties, the investigator, individuals identified by the parties, and individuals identified in the Investigation Report.

### **4. Procedures for the Hearing**

For all hearings conducted under the Grievance Process for Title IX Sexual Misconduct, the procedure will be as follows:

- The Hearing Officer will open the hearing and establish the rules and expectations for the hearing.
- The Parties will each be given the opportunity to provide opening statements.
- The Judicial Panel will ask questions of the Complainant, Respondent, and witnesses.
- The Hearing Advisors will be given the opportunity for live cross-examination of the Complainant, Respondent, and witnesses.
  - During this live-cross examination the Hearing Advisor will ask the Complainant, Respondent, and witnesses relevant questions and follow-up questions directly, orally, and in real time, including questions that challenge credibility.
  - Before any cross-examination question is answered, the Hearing Officer will determine if the question is relevant and explain any decision to exclude a question as not relevant.
    - Cross-examination questions that are duplicative of those already asked may be deemed irrelevant if they have been asked and answered.
  - During the cross-examination, the Judicial Panel will have the authority to pause cross-examination at any time to ask the Judicial Panel's own follow up questions and enforce decorum in the hearing
  - If a Hearing Advisor chooses not to cross-examine a party or a witness, the party choosing to not cross-examine will affirmatively waive cross-examination in an oral statement to the Judicial Panel and Hearing Officer.



- Upon the conclusion of cross-examination, the Parties will each be given the opportunity to provide closing statements.
- The Judicial Panel will be provided a final opportunity to ask questions of the Complainant and Respondent before the hearing concludes.

The hearing will be recorded through an audio recording, audiovisual recording, or a transcript, as applicable. That recording or transcript will be made available to the parties for inspection and review after the signing of a non-disclosure agreement. The parties are not permitted to make any personal video, audio, or other electronic, photographic, or digital recordings of any meetings or proceedings held under this Policy.

### *E. Determining Responsibility and Sanctions*

After the hearing concludes, the Judicial Panel will decide by majority vote and based on a preponderance of the evidence<sup>7</sup> whether the Respondent is responsible for the alleged Title IX Sexual Misconduct.

If the Judicial Panel finds the Respondent responsible, they will decide by a majority vote whether sanctions are appropriate and what those sanctions will be, and whether any remedies will be provided by WPI to the Complainant and what those remedies will be.

#### **1. Evaluating Testimony and Evidence**

Throughout the hearing and during deliberations following the hearing, the Judicial Panel will evaluate the relevance, credibility, and the weight of the evidence.

##### **Relevance**

As defined in Section IV(B), **relevant** evidence and questions mean any evidence or questions that tend to make an allegation of Sexual Misconduct more or less likely to be true.

##### **Credibility**

Credibility judgments should rest on the demeanor of the party or witness, the plausibility of their testimony, the consistency of their testimony, and its reliability in light of corroborating or conflicting testimony or evidence. Credibility judgments should not rest on whether a party or witness's testimony is non-linear or incomplete, or if the party or witness is displaying stress or anxiety.

The Judicial Panel will not draw inferences regarding a party or witness' credibility based on the party or witness' status as a Complainant, Respondent, or witness, nor shall it base its judgments in stereotypes about how a party or witness would or should act under the circumstances.

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<sup>7</sup> The preponderance of the evidence standard means that the conclusion is based on facts that are more likely true than not.



## Weight of Evidence

The Judicial Panel will afford the highest weight to relevant documentary evidence and first-hand testimony of the Complainant, the Respondent, and witnesses regarding their own memory of specific facts that occurred. A party or witnesses' testimony regarding third-party knowledge of the facts at issue is allowed but will generally be accorded lower weight by the Judicial Panel.

Expert and character witnesses and polygraph evidence are allowed but will generally be accorded lower weight by the Judicial Panel if the evidence is not fact-based or directed to the specific facts that occurred during the incident.

## 2. Sanctions and Remedies Available

If the Judicial Panel finds the Respondent responsible for the alleged Title IX Sexual Misconduct, the Respondent may be subject to a wide range of sanctions, depending on the circumstances of a particular case.

- When the Respondent is a student, sanctions include community service, counseling, probation, suspension from residence hall, suspension from the university for one or more terms, and expulsion from WPI.

When the Respondent is a staff or faculty member, sanctions include community service, counseling, probation, reassignment of duties, suspension with pay, suspension without pay, and termination of employment at WPI.

In deciding a fair and appropriate sanction, the Judicial Panel will consider the following factors:

- The nature and circumstances of the misconduct; and
- The impact of the Title IX Sexual Misconduct on the Complainant; and
- The Respondent's prior disciplinary history at WPI; and
- Other mitigating or aggravating circumstances.

If the Judicial Panel finds the Respondent responsible, the Judicial Panel may also consider wide range of remedies for the Complainant designed to restore or preserve equal access to WPI's Education Program or Activity. Remedies may include, but are not limited to, the examples of supportive measures described above.

## 3. Determination Letter

Upon reaching a determination on responsibility and sanctions, the Judicial Panel will provide a written Determination Letter to the Title IX Coordinator.

The Determination Letter will be drafted by the Hearing Officer and approved by a majority of the voting members of the Judicial Panel. The Determination Letter must include the following information:



- Identification of the allegations in the Notice of Allegations.
- A description of the procedural steps taken – formal complaint, notifications to the parties, investigation (e.g., interviews with the parties and witnesses, site visits, methods used to gather other evidence), and hearing held.
- Findings of fact supporting the determination.
- Conclusions regarding which provisions of this Policy the Respondent has or has not violated.
- For each allegation:
  - The determination of responsibility and rationale for such determination; and
  - The sanctions imposed on the Respondent and the rationale for such sanctions; and
  - The remedies designed to restore and preserve equal access to WPI’s Education Programs and Activities for the Complainant and the rationale for such remedies.
- WPI’s appeal process.

Within seven (7) business days after the hearing concludes, the Title IX Coordinator will issue the Determination Letter to the Complainant and the Respondent simultaneously in writing (by email) and inform other WPI officials as necessary and appropriate. This period may be delayed or extended for good cause shown.

If the Judicial Panel finds that the Respondent is responsible, the Title IX Coordinator is responsible for implementing any sanctions imposed on the Respondent and remedies provided to the Complainant. Any sanctions in the Determination Letter will become effective after the time period for an appeal has expired.

If the Judicial Panel finds that the Respondent is not responsible, WPI should make reasonable and practical efforts as appropriate to restore the reputation of the Respondent. Any concerns by the Respondent should be directed to the Title IX Coordinator for follow up with other administrators as appropriate.

#### ***F. Appeals***

WPI provides both the Complainant and the Respondent to opportunity to appeal the dismissal of a formal complaint (under Section VI(C)(1)) and the Determination Letter (including the decision on responsibility and/or sanctions). All appeals (Section F(1)) and special appeals (Section F(2)) must be delivered to the Title IX Coordinator who will transmit the appeal 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 whom the Judicial Panel has determined should be dismissed or suspended and the special appeals process described in Section F(2), below is applied). If the Respondent is a staff member, the Appellate Officer is the Vice President for Talent & Inclusion.



The Appellate Officer will be free of conflict of interest and bias, and will not serve as investigator, Title IX Coordinator, or Judicial Panelist in the same matter. If a party identifies a potential bias or conflict of interest, the Title IX Coordinator will consider the nature of the potential bias or conflict, collaborate with the parties and their advisors as needed, and determine if such bias or conflict can be mitigated. In all reasonable cases of biases or conflicts of interest, as determined by the Title IX Coordinator, the Title IX Coordinator must select a different Appellate Officer. The Title IX Coordinator's decision on any bias or conflict of interest is final. The Appellate Officer will not be involved in the appeal until the Title IX Coordinator has resolved any questions of conflict of interest.

### **1. Appeals Available to Complainant and Respondent**

Within seven (7) business days following the delivery of the Determination Letter, the Complainant and/or the Respondent may appeal the Determination Letter (including the decision on responsibility and/or sanctions) or any dismissal of an allegation to the Appellate Officer on the following grounds, including but not limited to:

- Procedural irregularity that affected the outcome of the matter (i.e., a failure to follow this Policy); or
- New, relevant evidence that was not reasonably available at the time of the dismissal or determination that could affect the outcome of the matter; or
- The Title IX Coordinator, investigator(s), or Judicial Panel had a conflict of interest or bias for or against an individual party, or for or against complainants or respondents in general, that affected the outcome of the matter; or
- The sanction(s) imposed by the Judicial Panel varies significantly from the range of sanctions appropriate to the violation of this Policy.

The party submitting the appeal must set forth in detail the grounds for appeal and must identify or attach all materials to be considered during the appeal. The Title IX Coordinator will provide a copy of the appeal and materials to the other party, and the other party will have seven (7) business days to submit their response and to identify or attach all materials it wishes to be considered during the appeal. The Title IX Coordinator will forward all this information to the Appellate Officer.

The submission of an appeal stays any sanctions for the pendency of an appeal. Supportive measures remain available during the pendency of the appeal.

Within fourteen (14) business days after receiving an appeal and the other party's response to the appeal (if any), the Appellate Officer will decide the merits of the appeal. In deciding the appeal, the Appellate Officer should review the 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.<sup>8</sup> If the Appellate Officer decides to overturn the Judicial Panel's decision on responsibility and/or sanctions, the Appellate Officer must consult with the

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<sup>8</sup> 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.



Investigator(s) and the Judicial Panel.

The Appellate Officer will provide an Appeal Determination Letter to the Title IX Coordinator that includes the rationale for the appeal determination and the Title IX Coordinator will issue the Appeal Determination Letter to the Complainant and the Respondent simultaneously in writing (by email) and inform other WPI officials as necessary and appropriate.

## **2. Special Appeals – Respondent who is a Full-Time Faculty Member Facing a Sanction of Dismissal or Suspension**

Special appeal procedures apply in the following circumstances:

- As the only method to appeal a determination that a Respondent who is a full-time faculty member should be dismissed or suspended; or
- 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 under Section F(1) but the Judicial Panel did not impose such sanction on the Respondent.

Special appeals will be subject to the following procedure:

The Respondent or Complainant may appeal the Determination Letter (including the decision on responsibility or sanctions) or the decision from an appeal under Section F(1) above to the President within fourteen (14) days following the delivery of the Determination Letter or the Appeal Determination, as applicable.

The appeal should be submitted to the Title IX Coordinator and should state why the appealing party believes the Determination Letter (including the decision on responsibility or sanctions) or the decision from an appeal under Section F(1) above was inappropriate. The appealing party must set forth in detail the grounds for appeal and must identify or attach all materials to be considered during the appeal. The Title IX Coordinator will provide a copy of the appeal and materials to the other party, and the other party will have seven (7) business days to submit their response and to identify or attach all materials it wishes to be considered during the appeal. The Title IX Coordinator will forward all this information to the President.

Before the President decides the appeal, the President should consult with the previous Appellate Officer (if there was one) and the Secretary of the Faculty. The President should issue a decision within thirty (30) days of receiving the appeal. If the decision will take longer than thirty (30) days, the President should inform the parties of the additional time necessary to render a decision.

The President will provide an Appeal Determination Letter to the Title IX Coordinator that includes the rationale for the appeal determination and the Title IX Coordinator will issue the Appeal Determination Letter to the Complainant and the Respondent simultaneously in writing (by email) and inform other WPI officials as necessary and appropriate.



If the President decides to impose a sanction of dismissal or suspension, the Respondent or the Complainant may further appeal the sanction to the Board of Trustees within fourteen (14) days following receipt of the President's Appeal Determination Letter.

The further appeal should be submitted to the Title IX Coordinator and should state why the appealing party believes the sanction imposed in the President's Determination Letter was inappropriate. The appealing party must set forth in detail the grounds for appeal and must identify or attach all materials to be considered during the appeal. The Title IX Coordinator will provide a copy of the appeal and materials to the other party, and the other party will have five (5) business days to submit their response and to identify or attach all materials it wishes to be considered during the appeal. The Title IX Coordinator will forward all this information to the Chair of the Board of Trustees.

If the Respondent or the Complainant submits a further appeal, the Chair of the Board, in collaboration with the Secretary of the Faculty, shall appoint a committee of five (5) 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 (30) days.

The Board Chair should issue a written decision within thirty (30) days of receiving the faculty committee's report. If the decision will take longer than thirty (30) days, the Board Chair should inform the parties of the additional time necessary to render a decision.

The Board Chair will provide a Further Appeal Determination Letter to the Title IX Coordinator that includes the rationale for the appeal determination and the Title IX Coordinator will issue the Further Appeal Determination Letter to the Complainant and the Respondent simultaneously in writing (by email) and inform other WPI officials as necessary and appropriate.

The Board Chair's decision will be final.

### **VIII. Grievance Process for Non-Title IX Sexual Misconduct**

Following the Notice of Allegations described in Section VI(C)(2), any formal complaint that contains allegations of **Non-Title IX Sexual Misconduct** brought by a Complainant will be referred to the grievance process described under this Section VII.<sup>9</sup>

The Grievance Process for Non-Title IX Sexual Misconduct includes the following steps:

- Formal Investigation
- Review of Evidence and Completion of the Investigation Report

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<sup>9</sup> If a formal complaint contains allegations of both Title IX Sexual Misconduct and Non-Title IX Sexual Misconduct, WPI will apply the Title IX Grievance Process described in Section VII to all allegations in the formal complaint.



- Hearing
- Decision
- Appeal (if requested by either party)

All parties in the Grievance Process for Non-Title IX Sexual Misconduct are expected to comply with the duties of honesty, good faith participation, promptness and care, and confidentiality (described in Section IX) during this grievance process.

#### ***A. Personal Advisors***

The Complainant and Respondent may have a personal advisor of their choice present during any step of this grievance process, including any meeting, interview, or hearing. Any individual may serve as a personal advisor, including an attorney.

Each party must provide the name and contact information of their personal advisor to the Title IX Coordinator within five (5) business days of receiving the Notice of Allegations.

During this grievance process personal advisors may communicate with their advisee but may not speak or otherwise communicate on behalf of a party. In addition, personal advisors during this Grievance Process for Non-Title IX Sexual Misconduct may not directly cross-examine any witnesses at the hearing.

Personal advisors are subject to the same duties of honesty, good faith participation, promptness and care, and confidentiality as the parties.

#### ***B. Formal Investigation***

WPI hires trained outside (non-WPI) investigators to conduct a fair and impartial formal investigation of the alleged Non-Title IX Sexual Misconduct detailed in the Notice of Allegations.

The investigation will consist of:

- The investigator interviewing the Complainant, the Respondent, and any witnesses that the investigator believes will provide relevant factual information regarding the alleged Non-Title IX Sexual Misconduct.
- The investigator reviewing documentation or other items, including but not limited to photographs, video evidence, and phone records, relevant to the alleged Non-Title IX Sexual Misconduct.
- The investigator will not review evidence related to either party's prior sexual history with other persons except as relevant to the alleged Non-Title IX Sexual Misconduct.

The outcome of the investigation is the investigator's Investigation Report that details the investigator's factual findings and is submitted as evidence in the hearing.



## **1. Selection of the Investigator**

The Title IX Coordinator will select an unbiased, qualified investigator(s) to conduct the investigation and write the Investigation Report.

The Title IX Coordinator will provide the Complainant and the Respondent with the name of the assigned investigator(s) in writing (by email) and the Complainant and Respondent will have three (3) business days to inform the Title IX Coordinator of any potential biases or conflicts of interest with the assigned investigator.

If a party identifies a bias or conflict of interest, the Title IX Coordinator will consider the nature of the potential bias or conflict, collaborate with the parties and their advisors as needed, and determine if such bias or conflict can be mitigated. In all reasonable cases of biases or conflicts of interest, as determined by the Title IX Coordinator, the Title IX Coordinator must select a new investigator. The Title IX Coordinator's decision on any bias or conflict of interest is final.

## **2. Participation in the Investigation**

During the investigation, the Complainant and the Respondent will have an equal opportunity to participate, and the investigation will proceed even if a Complainant, Respondent, or any witness declines to participate. The investigator will provide the Complainant, Respondent, and any witnesses written notice of the date, time, location, participants, and purpose of interviews with sufficient time to prepare.

The Complainant and the Respondent may provide the investigator with the names of potential witnesses (including fact and expert witnesses) with whom they would like the investigator to interview. Such written notice should include the potential witness's name, contact information, and a brief explanation of how the witness is relevant to the alleged Non-Title IX Sexual Misconduct. The investigator retains discretion to determine which witnesses to interview during the investigation.

The Complainant and the Respondent may also provide the investigator with any documentation or other items or written questions they would like to be considered or posed to any witness or the other party. The investigator retains discretion to determine which what documentation, items, or questions to consider during the investigation.

If a Complainant or Respondent initially declines to participate in the investigation, but then later in the investigation decides to participate, the investigator may consider that timing when determining the credibility of the evidence offered by that party and the weight to give that evidence.

## **3. Coordination with Law Enforcement During an Investigation**

The investigator may contact any law enforcement agency that is conducting its own investigation into the alleged Title IX Sexual Misconduct 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 the investigator during the investigation.

At the request of law enforcement, the Title IX Coordinator may delay the Grievance Process for Non-Title IX Sexual Misconduct temporarily while an external law enforcement agency is gathering evidence. The Grievance Process for Non-Title IX Sexual Misconduct will generally resume when the Title IX Coordinator is notified that law enforcement has completed the evidence-gathering stage of its investigation.

### ***C. Review of Evidence and Completion of the Investigation Report***

#### **1. Draft Investigation Report**

The investigator will deliver a written, draft Investigation Report to the Title IX Coordinator for inspection and review by the Complainant and the Respondent.

The Investigation Report is not intended to catalog all evidence obtained by the investigator, but to provide the investigator's factual findings. The Investigation Report includes description of the alleged Non-Title IX Sexual Misconduct detailed in the Notice of Allegations and a summary of the evidence presented during the investigation. The Investigation Report should include a section where the investigator points out relevant consistencies or inconsistencies (if any) in the evidence.

The Investigation Report will only include relevant evidence, including inculpatory and exculpatory evidence. However, all evidence obtained by the investigator will be provided to the Title IX Coordinator with the case file, including but not limited to interview statements, documentation, photographs, video evidence, and phone records.

The Investigation Report will not include any findings or recommendations on whether the Respondent violated the Policy or what sanctions may be appropriate. These determinations will be made by the Judicial Panel following the hearing.

#### **2. Inspection and Review of the Draft Investigation Report and Evidence**

The purpose of the inspection and review process is to allow the Complainant and the Respondent equal opportunity to review and meaningfully respond to the evidence prior to conclusion of the investigation and the completion of the final Investigation Report.

Within five (5) business days of receiving the draft Investigation Report, the Title IX Coordinator will provide the Complainant and the Respondent with a copy (by email) and send a written notice regarding the opportunity for the Complainant and Respondent (and their advisors) to inspect and review the evidence collected by the investigator that is directly related to the allegations under investigation. This evidence will include (a) evidence that is relevant to the allegations, even if the University does not intend to rely upon the evidence in reaching a determination regarding responsibility, and (b) inculpatory or exculpatory evidence that is



directly related to the allegations, whether obtained from a party or other source.

The Complainant and the Respondent will have ten (10) business days after receiving the draft Investigation Report to inspect and review the draft Investigation Report and submit written comments. This time to submit written comments may be extended if the Title IX Coordinator concludes, in their sole discretion, that additional time is warranted.

After reviewing the written responses of the Complainant and Respondent, if any, the Title IX Coordinator may determine that additional investigation is required. If additional investigation is required, the investigator will continue their investigation and before submitting the final Investigation Report to the Title IX Coordinator, attaching the written responses to the draft Investigation Report submitted by the Complainant and the Respondent (if any).

If no additional investigation is required, the Investigator will consider the parties' written comments and finalize the Investigation Report. The investigator will submit the final Investigation Report to the Title IX Coordinator, attaching the written responses to the draft Investigation Report submitted by the Complainant and the Respondent (if any).

All evidence made available to each party for inspection and review prior to the completion of the final Investigation Report will be made available for use by the parties at the hearing, including during questioning of parties and witnesses.

### **3. Final Investigation Report**

Within three (3) business days of receiving the final Investigation Report, and at least ten (10) business days prior to the hearing, the Title IX Coordinator will provide the Complainant and the Respondent with the final Investigation Report, attaching the written responses to the draft Investigation Report submitted by the Complainant and the Respondent (if any).

The final Investigation Report, any written responses submitted by the parties to the draft Investigation Report, and all evidence collected by the investigator during the investigation will be available at the hearing.

#### ***D. Hearing***

Following the investigation, the Title IX Coordinator will convene a fair and impartial formal hearing to review the relevant evidence and determine whether the Respondent's alleged Non-Title IX Sexual Misconduct violated this Policy.

#### **1. The Judicial Panel & Hearing Officer**

The Title IX Coordinator is responsible for convening a three-member Judicial Panel and appointing a Hearing Officer to preside over the hearing as the decision makers. Neither the Title IX Coordinator nor the investigator will serve on the Judicial Panel or as the Hearing Officer.



The Judicial Panel's three members consist of three (3) faculty and/or staff members selected from a previously established pool of WPI faculty and staff members trained to hear complaints under this Policy. The Hearing Officer is an outside attorney who will be trained on this Policy and will be responsible for administering the hearing, answering procedural questions during the Judicial Panel's deliberations, and drafting the Determination Letter. The Hearing Officer will not participate in deliberations or vote on the Judicial Panel's decision on responsibility and sanctions.

The Judicial Panel and the Hearing Officer are expected to comply with the duties of honesty, good faith participation, promptness and care, and confidentiality during this grievance process. In addition, no member of the Judicial Panel nor the Hearing Officer may have a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.

The Title IX Coordinator will provide the Complainant and the Respondent with the names of the Judicial Panel members and the Hearing Officer in writing at least ten (10) business days prior to the hearing.

Complainant and Respondent will have three (3) business days to inform the Title IX Coordinator of any potential biases or conflicts of interest with the assigned Judicial Panel members or the Hearing Officer. If a party identifies a bias or conflict of interest, the Title IX Coordinator will consider the nature of the potential bias or conflict, collaborate with the parties and their advisors as needed, and determine if such bias or conflict can be mitigated. In all reasonable cases of biases or conflicts of interest, as determined by the Title IX Coordinator, the Title IX Coordinator must select a new Judicial Panel Member or Hearing Officer (as applicable). The Title IX Coordinator's decision on any bias or conflict of interest is final.

## **2. Notice of the Hearing**

The Title IX Coordinator will schedule the date(s) for the hearing in consultation with all parties, the members of the Judicial Panel, and the Hearing Officer.

The hearing may be conducted with all parties physically present in the same location, or, at WPI's discretion, any participant may appear at the hearing virtually through Zoom or other similar technology. This technology will enable all participants to simultaneously see and hear each other during the hearing.

In the Notice of the Hearing, the Title IX Coordinator will provide the information on the date, time, and location of the hearing, the participants in the hearing, the rights of the parties during the hearing, the purpose of the hearing, and the hearing procedures, as detailed below.

## **3. Participants in the Hearing**

Hearings are not public, and the only individuals permitted to participate in the hearing are the Complainant and the Respondent, their respective Hearing Advisors, the Judicial Panel, the



Hearing Officer, the witnesses called by the Judicial Panel, and the Title IX Coordinator.

WPI requires all participants in the hearing to maintain appropriate decorum throughout the hearing. Participants at the live hearing are expected to abide by the directions and determinations of the Judicial Panel and the Hearing Officer, maintain civility, and avoid emotional outbursts and raised voices. Repeated violations of appropriate decorum will result in a break in the hearing, the length of which will be determined by the Hearing Officer.

### **The Complainant and Respondent**

- The Complainant and the Respondent are encouraged to attend the hearing, but a hearing may proceed in the absence of the Complainant and/or the Respondent. The Judicial Panel will not draw any inference from a party's absence from the hearing or refusal to submit to answer questions at the hearing.
- A party may never personally conduct cross-examination during the hearing, themselves or through their Hearing Advisor. Any questions a party may have of the other party must be directed in writing through the Judicial Panel.
- general, documents that have not been submitted during the investigation may not be presented at the hearing, although the Hearing Officer may permit documents to be submitted that were not part of the investigation upon a showing of good cause. The possibility of a law enforcement investigation or criminal court proceedings will generally not be considered good cause for an exception. 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 Hearing Advisors**

- The Complainant and the Respondent may each have a Hearing Advisor of their choice. The parties will be required to notify the Title IX Coordinator in writing of the name of their Hearing Advisor no later than five (5) business days prior to the hearing.
- Hearing Advisors may communicate with their advisee but may not speak or otherwise communicate on behalf of a party. In addition, Hearing Advisors during this Grievance Process for Non-Title IX Sexual Misconduct may not directly cross-examine any witnesses at the hearing.
- Hearing Advisors are expected to comply with the duties of honesty, good faith participation, promptness and care, and confidentiality during this grievance process.

### **Witnesses, including fact and expert witnesses**

- The Judicial Panel, the Complainant, and the Respondent are responsible for notifying the Title IX Coordinator in writing of the names of their witnesses no later than five (5) business days prior to the hearing.



- A witness who had the opportunity to participate during the Investigation but elected not to participate will not be permitted to participate in the hearing, unless for good cause shown as determined by the Title IX Coordinator.
- The Judicial Panel, the Complainant, and the Respondent are responsible for the attendance of their witnesses at the hearing. Witnesses cannot be compelled to participate in the hearing and are protected from retaliation.
- Witnesses are expected to comply with the duties of honesty, good faith participation, promptness and care, and confidentiality during this grievance process.

### **Judicial Panel**

- The 3-member Judicial Panel and the Hearing Officer preside over the hearing as the decision makers.
- The Hearing Officer is an outside attorney who is responsible administering the hearing, answering procedural questions during the Judicial Panel's deliberations, and drafting the Determination Letter. The Hearing Officer will not participate in deliberations or vote on the Judicial Panel's decision on responsibility and sanctions.
- The Judicial Panel is responsible for determining responsibility and sanctions.
- The Title IX Coordinator will provide the Judicial Panel and the Hearing Officer with the final Investigation Report, any written responses to the draft Investigation Report submitted by the Complainant and the Respondent (if any), and all evidence collected by the investigator during the investigation at least ten (10) business days prior to the hearing.
- The Judicial Panel may request to hear testimony from any witness with relevant information including, the parties, the investigator, individuals identified by the parties, and individuals identified in the Investigation Report.

## **4. Procedures for the Hearing**

For all hearings conducted under the Grievance Process for Non-Title IX Sexual Misconduct, the procedure will be as follows:

- The Hearing Officer will open the hearing and establish the rules and expectations for the hearing.
- The Parties will each be given the opportunity to provide opening statements.
- The Judicial Panel will ask questions of the Complainant, Respondent, and witnesses.
- The Complainant and the Respondent will be given the opportunity to question each other and any witnesses by asking questions in writing through the Judicial Panel.
  - Before the Judicial Panel relays any question to the party or witness, the Hearing Officer will determine if the question is relevant and explain any decision to exclude a question as not relevant.



- Questions that are duplicative of those already asked may be deemed irrelevant if they have been asked and answered.
- During this questioning, the Judicial Panel will have the authority to pause questioning at any time to ask the Judicial Panel's own follow up questions and enforce decorum in the hearing.
- Upon the conclusion of questioning, the Parties will each be given the opportunity to provide closing statements.
- The Judicial Panel will be provided a final opportunity to ask questions of the Complainant and Respondent before the hearing concludes.

The hearing will be recorded through an audio recording, audiovisual recording, or a transcript, as applicable. That recording or transcript will be made available to the parties for inspection and review after the signing of a non-disclosure agreement. The parties are not permitted to make any personal video, audio, or other electronic, photographic, or digital recordings of any meetings or proceedings held under this Policy.

### *E. Determining Responsibility and Sanctions*

After the hearing concludes, the Judicial Panel will decide by majority vote and based on a preponderance of the evidence<sup>10</sup> whether the Respondent is responsible for the alleged Title IX Sexual Misconduct.

If the Judicial Panel finds the Respondent responsible, they will decide by a majority vote whether sanctions are appropriate and what those sanctions will be, and whether any remedies will be provided by WPI to the Complainant and what those remedies will be.

#### **1. Evaluating Testimony and Evidence**

Throughout the hearing and during deliberations following the hearing, the Judicial Panel will evaluate the relevance, credibility, and the weight of the evidence.

##### **Relevance**

As defined in Section IV(B), **relevant** evidence and questions mean any evidence or questions that tend to make an allegation of Sexual Misconduct more or less likely to be true.

##### **Credibility**

Credibility judgments should rest on the demeanor of the party or witness, the plausibility of their testimony, the consistency of their testimony, and its reliability in light of corroborating or conflicting testimony or evidence. Credibility judgments should not rest on whether a party or witness's testimony is non-linear or incomplete, or if the party or witness is displaying stress or anxiety.

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<sup>10</sup> The preponderance of the evidence standard means that the conclusion is based on facts that are more likely true than not.



The Judicial Panel will not draw inferences regarding a party or witness' credibility based on the party or witness' status as a Complainant, Respondent, or witness, nor shall it base its judgments in stereotypes about how a party or witness would or should act under the circumstances.

## **Weight of Evidence**

The Judicial Panel will afford the highest weight to relevant documentary evidence and first-hand testimony of the Complainant, the Respondent, and witnesses regarding their own memory of specific facts that occurred. A party or witnesses' testimony regarding third-party knowledge of the facts at issue is allowed but will generally be accorded lower weight by the Judicial Panel.

Expert and character witnesses and polygraph evidence are allowed but will generally be accorded lower weight by the Judicial Panel if the evidence is not fact-based or directed to the specific facts that occurred during the incident.

## **2. Sanctions**

If the Judicial Panel finds the Respondent responsible for the alleged Title IX Sexual Misconduct, the Respondent may be subject to a wide range of sanctions, depending on the circumstances of a particular case.

- When the Respondent is a student, sanctions include community service, counseling, probation, suspension from residence hall, suspension from the university for one or more terms, and expulsion from WPI.
- When the Respondent is a staff or faculty member, sanctions include community service, counseling, probation, reassignment of duties, suspension with pay, suspension without pay, and termination of employment at WPI.

In deciding a fair and appropriate sanction, the Judicial Panel will consider the following factors:

- The nature and circumstances of the misconduct; and
- The impact of the Title IX Sexual Misconduct on the Complainant; and
- The Respondent's prior disciplinary history at WPI; and
- Other mitigating or aggravating circumstances.

## **3. Determination Letter**

Upon reaching a determination on responsibility and sanctions, the Judicial Panel will provide a written Determination Letter to the Title IX Coordinator.

The Determination Letter will be drafted by the Hearing Officer and approved by a majority of the voting members of the Judicial Panel. The Determination Letter must include the following information:



- Identification of the allegations in the Notice of Allegations.
- A description of the procedural steps taken – formal complaint, notifications to the parties, investigation (e.g., interviews with the parties and witnesses, site visits, methods used to gather other evidence), and hearing held.
- Findings of fact supporting the determination.
- Conclusions regarding which provisions of this Policy the Respondent has or has not violated.
- For each allegation:
  - The determination of responsibility and rationale for such determination; and
  - The sanctions imposed on the Respondent and the rationale for such sanctions.
- WPI's appeal process.

Within seven (7) business days after the hearing concludes, the Title IX Coordinator will issue the Determination Letter to the Complainant and the Respondent simultaneously in writing (by email) and inform other WPI officials as necessary and appropriate. This period may be delayed or extended for good cause shown.

If the Judicial Panel finds that the Respondent is responsible, the Title IX Coordinator is responsible for implementing any sanctions imposed on the Respondent. Any sanctions in the Determination Letter will become effective after the time period for an appeal has expired.

If the Judicial Panel finds that the Respondent is not responsible, WPI should make reasonable and practical efforts as appropriate to restore the reputation of the Respondent. Any concerns by the Respondent should be directed to the Title IX Coordinator for follow up with other administrators as appropriate.

### *F. Appeals*

WPI provides both the Complainant and the Respondent to opportunity to appeal the dismissal of a formal complaint (under Section VI(C)(1)) and the Determination Letter (including the decision on responsibility and/or sanctions). All appeals (Section F(1)) and special appeals (Section F(2)) must be delivered to the Title IX Coordinator who will transmit the appeal 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 whom the Judicial Panel has determined should be dismissed or suspended and the special appeals process described in Section F(2), below is applied). If the Respondent is a staff member, the Appellate Officer is the Vice President for Talent & Inclusion.

The Appellate Officer will be free of conflict of interest and bias, and will not serve as investigator, Title IX Coordinator, or Judicial Panelist in the same matter. If a party identifies a bias or conflict of interest, the Title IX Coordinator will consider the nature of the potential conflict, collaborate with the parties and their advisors as needed, and determine if such bias or



conflict can be mitigated. In all reasonable cases of biases or conflicts of interest, as determined by the Title IX Coordinator, the Title IX Coordinator must select a different Appellate Officer. The Title IX Coordinator's decision on any bias or conflict of interest is final. The Appellate Officer will not be involved in the appeal until the Title IX Coordinator has resolved any questions of bias or conflict of interest.

## **1. Appeals Available to Complainant and Respondent**

Within seven (7) business days following the delivery of the Determination Letter, the Complainant and/or the Respondent may appeal the Determination Letter (including the decision on responsibility and/or sanctions) or any dismissal of an allegation to the Appellate Officer on the following grounds, including but not limited to:

- Procedural irregularity that affected the outcome of the matter (i.e., a failure to follow this Policy); or
- New, relevant evidence that was not reasonably available at the time of the dismissal or determination that could affect the outcome of the matter; or
- The Title IX Coordinator, investigator(s), or Judicial Panel had a conflict of interest or bias for or against an individual party, or for or against complainants or respondents in general, that affected the outcome of the matter; or
- The sanction(s) imposed by the Judicial Panel varies significantly from the range of sanctions appropriate to the violation of this Policy.

The party submitting the appeal must set forth in detail the grounds for appeal and must identify or attach all materials to be considered during the appeal. The Title IX Coordinator will provide a copy of the appeal and materials to the other party, and the other party will have seven (7) business days to submit their response and to identify or attach all materials it wishes to be considered during the appeal. The Title IX Coordinator will forward all this information to the Appellate Officer.

The submission of an appeal stays any sanctions for the pendency of an appeal. Supportive measures remain available during the pendency of the appeal.

Within fourteen (14) business days after receiving an appeal and the other party's response to the appeal (if any), the Appellate Officer will decide the merits of the appeal. In deciding the appeal, the Appellate Officer should review the 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.<sup>11</sup> If the Appellate Officer decides to overturn the Judicial Panel's decision on responsibility and/or sanctions, the Appellate Officer must consult with the Investigator(s) and the Judicial Panel.

The Appellate Officer will provide an Appeal Determination Letter to the Title IX Coordinator that includes the rationale for the appeal determination and the Title IX Coordinator will issue

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<sup>11</sup> 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.



the Appeal Determination Letter to the Complainant and the Respondent simultaneously in writing (by email) and inform other WPI officials as necessary and appropriate.

## **2. Special Appeals – Respondent who is a Full-Time Faculty Member Facing a Sanction of Dismissal or Suspension**

Special appeal procedures apply in the following circumstances:

- As the only method to appeal a determination that a Respondent who is a full-time faculty member should be dismissed or suspended; or
- 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 under Section F(1) but the Judicial Panel did not impose such sanction on the Respondent.

Special appeals will be subject to the following procedure:

The Respondent or Complainant may appeal the Determination Letter (including the decision on responsibility or sanctions) or the decision from an appeal under Section F(1) above to the President within fourteen (14) days following the delivery of the Determination Letter or the Appeal Determination, as applicable.

The appeal should be submitted to the Title IX Coordinator and should state why the appealing party believes Determination Letter (including the decision on responsibility or sanctions) or the decision from an appeal under Section F(1) above was inappropriate. The appealing party must set forth in detail the grounds for appeal and must identify or attach all materials to be considered during the appeal. The Title IX Coordinator will provide a copy of the appeal and materials to the other party, and the other party will have seven (7) business days to submit their response and to identify or attach all materials it wishes to be considered during the appeal. The Title IX Coordinator will forward all this information to the President.

Before the President decides the appeal, the President should consult with the previous Appellate Officer (if there was one) and the Secretary of the Faculty. The President should issue a decision within thirty (30) days of receiving the appeal. If the decision will take longer than thirty (30) days, the President should inform the parties of the additional time necessary to render a decision.

The President will provide an Appeal Determination Letter to the Title IX Coordinator that includes the rationale for the appeal determination and the Title IX Coordinator will issue the Appeal Determination Letter to the Complainant and the Respondent simultaneously in writing (by email) and inform other WPI officials as necessary and appropriate.

If the President decides to impose a sanction of dismissal or suspension, the Respondent or the Complainant may further appeal the sanction to the Board of Trustees within fourteen (14) days following receipt of the President's Appeal Determination Letter.



The further appeal should be submitted to the Title IX Coordinator and should state why the appealing party believes the sanction imposed in the President's Determination Letter was inappropriate. The appealing party must set forth in detail the grounds for appeal and must identify or attach all materials to be considered during the appeal. The Title IX Coordinator will provide a copy of the appeal and materials to the other party, and the other party will have five (5) business days to submit their response and to identify or attach all materials it wishes to be considered during the appeal. The Title IX Coordinator will forward all this information to the Chair of the Board of Trustees.

If the Respondent or the Complainant submits a further appeal, the Chair of the Board, in collaboration with the Secretary of the Faculty, shall appoint a committee of five (5) 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 (30) days.

The Board Chair should issue a written decision within thirty (30) days of receiving the faculty committee's report. If the decision will take longer than thirty (30) days, the Board Chair should inform the parties of the additional time necessary to render a decision.

The Board Chair will provide a Further Appeal Determination Letter to the Title IX Coordinator that includes the rationale for the appeal determination and the Title IX Coordinator will issue the Further Appeal Determination Letter to the Complainant and the Respondent simultaneously in writing (by email) and inform other WPI officials as necessary and appropriate.

The Board Chair's decision will be final.

## **IX. Duties of the Parties**

### ***A. Duty of Honesty***

Any person who knowingly makes a false statement or knowingly submits false information – either explicitly or by omission – in connection with any part of this Policy will be subject to separate disciplinary action. A false or unfounded report or formal complaint under this Policy determined by WPI to have been made in bad faith is a serious offense that will itself 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 or formal complaint made in good faith is not considered false merely because the evidence does not ultimately support the allegation of violation of this Policy.

### ***B. Good Faith Participation***

The investigation and hearing are a neutral fact-gathering process. Although participation in the process (providing information to and responding to questions from the investigator, responding



to information provided by a party or a witness, participating in the hearing, 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, hearing or resolution of matters under this Policy may be subject to separate and/or additional disciplinary action.

### *C. 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.

### *D. Duty of Confidentiality*

WPI will administer any report or formal 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.

WPI will keep the identity of any individual who has made a report or formal complaint of Sexual Misconduct confidential, including the identity of any individual who has made a report under this Policy, any Complainant, any Respondent, and any witness, except as permitted by the FERPA, the Clery Act, or as required by law, or to carry out the purposes of applicable federal or state law, including the conduct of any investigation, hearing, or judicial proceeding under this Policy.

All participants 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 effect that allegations can have on reputations, even if the allegations are not sustained by the proceedings. WPI advises that only those people with a need to know about a report or formal complaint should be informed of a complaint, but permits the Complainant and the Respondent to discuss the allegations and gather and present relevant evidence.

Any participant in this Policy who violates their duty of confidentiality may be subject to discipline under the appropriate WPI policy.

## **X. Other Matters**

### *A. Training on this Policy*

The Title IX Office is responsible for ensuring that the Title IX Coordinator, investigators, Judicial Panel, and Appellate Officers are trained annually on this Policy, procedures for handling Sexual Misconduct reports and formal complaints, the investigatory and hearing procedures under this Policy, protecting the safety and rights of the WPI community, and the



requirements of applicable federal and Massachusetts law. WPI makes these training materials available on its [website](#), as required by Title IX.

The Title IX Office is also responsible for recruiting and training Confidential Resource Advisors (“CRAs”) in the awareness and prevention of Sexual Misconduct and in trauma-informed response.

The Title IX Office is also responsible for providing training to students and employees, as required by applicable law.

### ***B. Evaluation of this Policy***

The Title IX Coordinator shall annually evaluate the effectiveness of this Policy with respect to meeting the needs of Complainants and Respondents. WPI annually transmits this Policy annually to students and employees by email on or prior to August 20.

### ***C. Record Keeping***

The Title IX Coordinator will maintain all records relating to proceedings under this Policy for a period of seven (7) years, including all notices to and from the parties, all Investigation Reports, all Determination Letters, any recording of the hearing, all appeals by the parties, all Appeal Determination Letters and Further Appeal Determination Letters, any informal resolutions and the results therefrom, and any actions – including any supportive measures – taken in response to a report or formal complaint of Sexual Misconduct.

The Title IX Coordinator will maintain all records under this Policy in accordance with Title IX and WPI’s obligations under other applicable laws.

### ***D. Questions***

If you have any questions regarding this policy, please contact the Title IX Office at [jstewartTitleIX@wpi.edu](mailto:jstewartTitleIX@wpi.edu).

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**Policy Sponsor:** Title IX Coordinator

**Responsible Department:** Title IX Office

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

**Revision Date:** August 1, 2021