



WPI

Spring 2023

Deputy Title IX Training

Overview of Training Today

Title IX & Sexual Misconduct Policy Overview

- Prohibited Conduct
- Grievance Process for Title IX Sexual Misconduct compared to the Grievance Process for Non-Title IX Sexual Misconduct

Your Role

Key Resources

- [WPI's Title IX & Sexual Misconduct Policy](#), updated 8/2021
- **Trainings** – online training and in-person (Zoom) trainings. Training material on the Title IX Office [website](#).
- **Hearing Guidelines and Hearing Script** – to be provided prior to the hearing and reviewed during meeting with Hearing Officer
- **Questions?** Contact:
 - Title IX Coordinator Stan Horton
 - Title IX Investigator Ryan Duval

Duties of the Parties and Participants

- **Duty of Honesty**

- Prohibits false statements or the submission of false information explicitly or by omission

- **Good Faith Participation**

- Investigation and hearing are neutral fact-gathering processes
- Prohibits knowingly interfering with the process

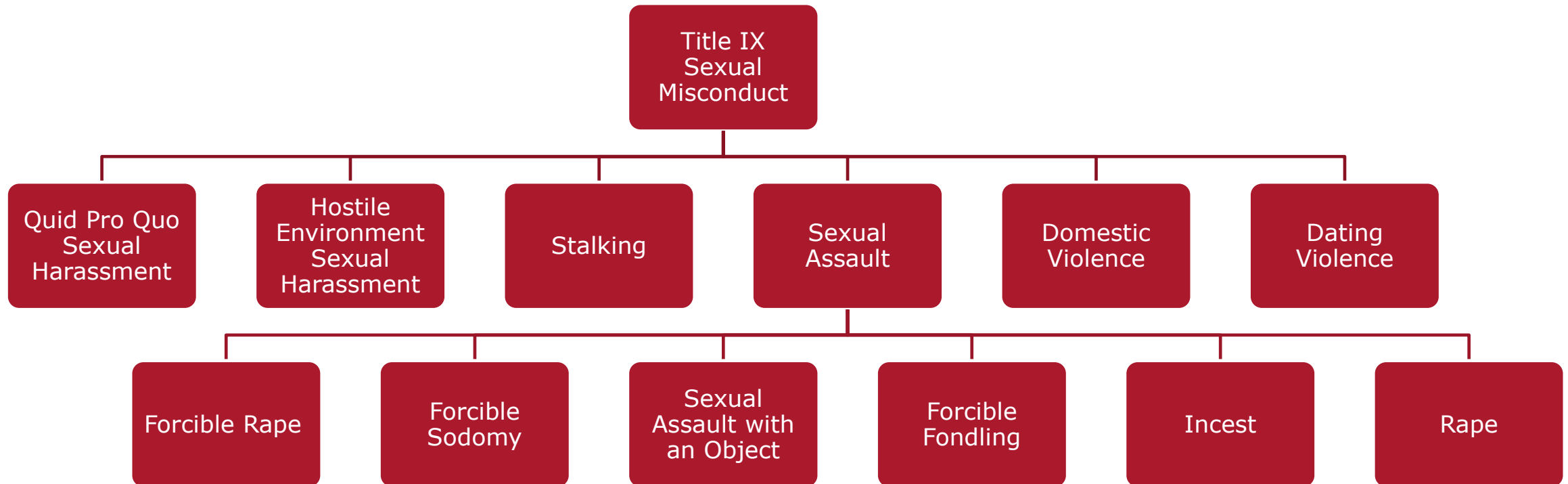
- **Duties of Promptness and Care**

- Review of the allegations should be conducted promptly and with care and sensitivity

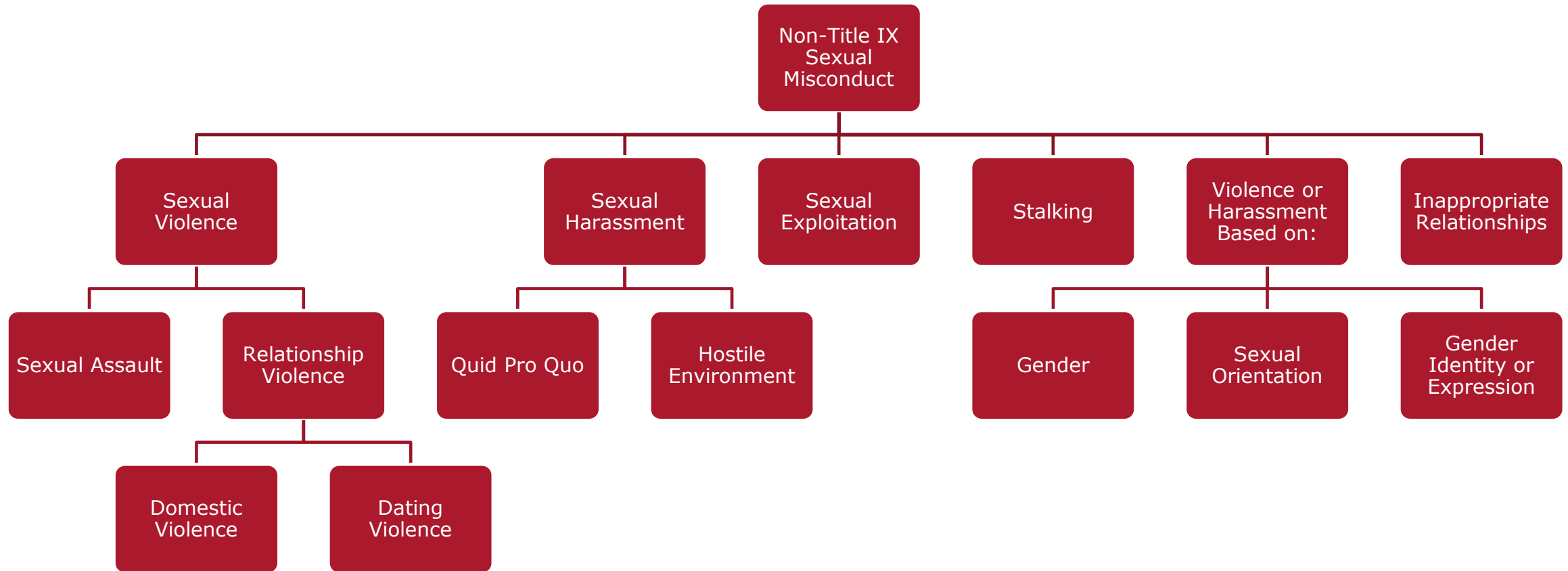
- **Duty of Confidentiality**

- Maintain confidentiality to protect the privacy of all involved. Only inform those who need to know.

Prohibited Conduct – Title IX



Prohibited Conduct – Non-Title IX



Consent

- **Positive, clear, unambiguous, ongoing and voluntary consent**
- Cannot be given if mentally or physically incapacitated
 - Disability
 - Incapacitation due to alcohol, drugs, medications, other intoxicating substance
 - When someone is unconscious, asleep, or otherwise unaware
- Legal age of consent is 16
- Consent must be received for each activity
 - Consent to one activity does not mean consent to another activity
 - Past consent does not mean ongoing future consent
- **Consider entire activity and all known relevant circumstances pertaining to the activity**

Grievance Process

- **Before the Grievance Process**

- The incident
- A report and formal complaint filed with the Title IX Office
 - Some allegations may be dismissed
- Consideration of supportive measures for the parties
- Potentially an informal resolution process that didn't work out

- **Grievance Process**

- Formal investigation – *Investigator + Parties and Witnesses*
- Review of evidence and completion of investigation report – *Investigator + Parties and Witnesses*
- **Hearing** – *Judicial Panel & Hearing Officer + Parties and Witnesses*
- **Decision** – *Judicial Panel*
- Appeal – *Parties + Appellate Officer*



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Deputy Title IX Role

Staff Deputy Title IX Coordinator

- You are designated as the Staff Deputy Coordinator
 - Send students to Emily Perlow
 - Send Faculty to Debora Jackson
- Talk staff about reporting options
 - Supervisor
 - Title IX Office
 - Talent and Inclusion
- May need to assist if Title IX Office is conflicted out

Role Continued

- **Help to educate**
 - **What is a hostile environment?**
 - **Severe, Pervasive and Objectively Offensive**
 - **When does it become a 'Title IX' issue**

Working with Title IX Office

- Formal resolution process (This would be coordinated by TIX Coordinator)
- Information resolution process
 - No contact orders
 - Educational components
 - Staff action plans

Differences Between the Grievance Processes

Title IX Sexual Misconduct

- A party must have a Hearing Advisor at the hearing; WPI will appoint one if needed
- Cross-examination is conducted “live” by the Hearing Advisor

Non-Title IX Sexual Misconduct

- A party may have a Hearing Advisor. Hearing advisors may not speak at the hearing.
- Neither a party nor their Hearing Advisor may conduct cross-examination. They ask questions through the Judicial Panel.

The Decision

- **Responsibility**

- Decision by majority vote; based on the preponderance of the evidence

- **Sanctions**

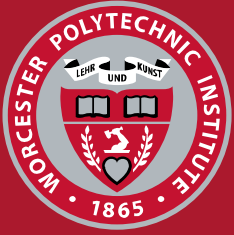
- Consider: nature and circumstances of the misconduct, impact on the Complainant, prior disciplinary history at WPI, other mitigating or aggravating circumstances

- 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.

- **Remedies for Complainant** to restore or preserve access to WPI's Education Program or Activity

Determination Letter

- Drafted by the Hearing Officer
- Approved by a majority of the Judicial Panel
- Issued within 7 days of the hearing
- **Very detailed**, as it must describe all the procedural steps taken, findings of fact, determinations and rationales, and sanctions and remedies



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Judicial Panel Training

**Skills: Questioning Witnesses/
Parties & Weighing Evidence**

Types of Evidence

- Evidence presented **before the hearing**:
 - The final Investigation Report and responses from the parties
 - All evidence collected by the Investigator
- Evidence presented **at the hearing**:
 - Opening statements from the parties
 - Testimony from the parties and witnesses
 - Closing statements from the parties
- What is not evidence?
 - Evidence not presented as part of the hearing process or that is not in the final Investigation Report/evidence from the investigation
 - Your own opinions

Important Concepts

- **Relevant evidence and questions** – any evidence or questions that tend to make an allegation of Sexual Misconduct more or less likely to be true
 - Not Relevant:
 1. 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.
 2. Evidence and questions that constitute, or seek disclosure of, information protected under legally recognized privilege, unless the person holding the privilege has waived it.
 3. Any party's medical, psychological, and similar records unless the party has given voluntary, written consent.
 4. Any party's disclosures to their WPI Confidential Resource Advisor, as defined below, unless the party has given voluntary, written consent.
- **Credibility** – demeanor of the parties/witnesses, plausibility of testimony, consistency of testimony, reliability in light of corroborating or conflicting testimony or evidence
 - No stereotypes
 - A party may be absent from the hearing or refuse to answer questions – no inferences

Initial Concepts

- **Weight of Evidence**
 - **Higher weight:** relevant documentary evidence and first-hand testimony
 - Third-party knowledge allowed, but generally lower weight
 - Expert and character witnesses; polygraph evidence allowed, but generally lower weight if not fact-based or directed towards specific facts that occurred
- **Preponderance of the Evidence** – conclusion is based on facts that are more likely true than not

Weighing Evidence During Deliberations

- Your decision must be supported by the evidence and witness testimony – what evidence was compelling or not?
- When looking at the evidence, consider:
 - Relevance
 - Certainties – Areas where witness agree
 - Contradictions – Areas where witnesses disagree. Is there corroborating evidence?
 - Credibility – Inconsistent statements, evasive or forthcoming, contradictory evidence?
 - Inferences – Conclusions drawn based on the certainties and contradictions



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Judicial Panel Training

Case Studies

Case Study 1

Staff member reports that they have been harassed by their supervisor. The staff member reports that on several occasions, the supervisor has asked the employee out for a drink. The staff member has rejected the offer and has now been ignored by the supervisor.

What information do you need?

What would rise to the level of hostile environment?

Case Study 2

- Staff member reports that they accidentally connected with a student on Tinder. The student reached out to them and asked them out on a date. The staff member, knowing that they cannot date a student as part of the Title IX policy told the student no to the date and that they should not be talking about a relationship ever again. The student then takes a screen shot of the staff members Tinder profile and blasts in on discord and states that they hooked up with the staff member several times. The staff member strictly denies that happening.