



Equal Opportunity and Non-Discrimination Policy and Procedures

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CONTENTS

Equal Opportunity and Non-Discrimination Policy and Procedures 3

Introduction..... 3

Policy Administrators 3

Confidentiality Versus Privacy 4

Scope..... 4

Protected Class Harassment or Discrimination..... 5

University Response to Complaints of Protected Class Harassment or Discrimination..... 5

Track One Grievance Procedures 5

Policy Definitions-Sex Discrimination 6

Prohibited Conduct-Sex Discrimination 10

Reporting to The Title IX Coordinator 14

University Response to a Report of Sex Discrimination 17

University Response to a Complaint of Sex Discrimination 20

Investigations of Sex Discrimination..... 21

Formal Grievance Procedures..... 22

Track Two – Grievance Procedures for Sex Discrimination 23

Track Three-Grievance Procedures for Sex-Based Harassment Involving a Student Complainant or Respondent..... 23

Standard of Evidence 24

Written Determination 24

Sanctions and Remedies 25

Appeals 26

Policy Information 26

Appendix A: On and Off-Campus Resources..... 28

Appendix B: Pregnancy Or Related Conditions: Rights and Options 35

Appendix C: Grievance Procedures Visual Aid 38

EQUAL OPPORTUNITY AND NON-DISCRIMINATION POLICY AND PROCEDURES

INTRODUCTION

Wilmington University (“the University” or “the institution”) prohibits harassment and discrimination on the basis of race, color, religion, national origin, ethnicity, disability, veteran and military status, genetic information, age, or any other characteristic protected by law (together, “Protected Class Harassment or Discrimination.”) The University also prohibits harassment or discrimination on the basis of basis of sex, including biological sex, sex characteristics, gender, gender identity or expression, sexual orientation, pregnancy or related conditions, parenting or family responsibility status, and veteran, military or marital status, (together, “prohibited conduct”). This prohibition on discrimination extends to the University’s employment practices, including recruitment, advertising, job application procedures, hiring, firing, layoffs, training, promotion, transfer, compensation, job assignments, benefits, and/or other terms, conditions, or privileges of employment. This prohibition also extends to the entire student experience at Wilmington University, including all University activities associated with student recruitment, admissions, financial aid, athletics, the administration of discipline, in the classroom, and all other parts of the University’s education program and associated activities. The University's good faith efforts and this policy are designed to maintain this commitment.

This policy prohibits protected class harassment and discrimination, which falls under the jurisdiction of Title VII of the Civil Rights Act of 1964 (“Title VII”), Title VI of the Civil Rights Act of 1964 (“Title VI”), and Title IX of the Education Amendments of 1972 (“Title IX”). This policy and applicable procedures also contain certain rights, options, and procedures required by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”) and applicable state law.

Definitions of what constitutes Protected Class Harassment or Discrimination and Prohibited Conduct are defined in this policy and will be responded to and resolved promptly through the included resolution procedures. Additionally, the University prohibits retaliation against any individual(s) who, in good faith (holding a genuine belief in the truth of one’s allegations), complain of discrimination or harassment prohibited by this policy or who participates in any form of resolution into such reports (“Prohibited Retaliatory Conduct”).

Nothing in this policy shall affect the right of an individual to file a complaint with external law enforcement agencies, if applicable. A complaint may be filed concurrently with external law enforcement agencies and the institution without jeopardizing an individual’s rights to an administrative investigation or other process.

POLICY ADMINISTRATORS

The Title IX Coordinator is responsible for preventing sex discrimination and is the official that the University has charged with responding to complaints of Prohibited Conduct (sex discrimination) made under this policy. As defined in this policy, “sex discrimination” means harassment or discrimination on the basis of sex.

The Human Resources Department (“HR”) is responsible for enforcing and responding to employee as the respondent complaints of Protected Class Harassment or Discrimination, which is all other complaints of protected class harassment and discrimination made under this policy on behalf of the University. Student Conduct is responsible for enforcing and responding to student as the respondent complaints of Protected Class Harassment or Discrimination, which is all other complaints of protected class harassment and

discrimination made under this policy on behalf of the University. **“All other complaints” means all protected classes other than sex.**

CONFIDENTIALITY VERSUS PRIVACY

The University has no confidential employees. All employees are private but not confidential.

Privacy and confidentiality issues are essential in this policy and may affect individuals differently. Privacy and confidentiality are related but distinct terms. “Confidentiality” refers to the circumstances under which information will or will not be disclosed to others. “Privacy” refers to the discretion the University will exercise in the course of any investigation or disciplinary processes under this policy.

Requests for confidentiality or anonymous reporting may limit the University’s ability to conduct an investigation or resolve an allegation using the University’s disciplinary proceedings.

Individuals involved in investigations or disciplinary proceedings under this policy are encouraged to exercise discretion in sharing information to safeguard the integrity of the process and to avoid the appearance of retaliation. While discretion regarding the process is important, complainants and respondents are not restricted from discussing and sharing information with others who may support or assist them in presenting their case.

In some circumstances, the reporting responsibilities of University employees, or the University’s responsibility to investigate, may conflict with the preferences of the Complainant and/or Respondent concerning privacy and confidentiality. Therefore, all individuals are encouraged to familiarize themselves with their options and responsibilities and use confidential resources, if applicable, to determine their preferred course of action.

Medical and counseling records are privileged and confidential documents that the Parties will not be required to disclose. If one Party chooses to provide written consent regarding the disclosure, all Parties will have access to those records.

The University has an obligation to make reasonable efforts to investigate and address complaints or reports of violations of this policy. In all such proceedings, the University will consider the Parties' privacy to the extent possible.

In cases involving students, the Title IX Coordinator may notify other University employees of the existence of the complaint to oversee compliance with this policy and address any concerns related to educational and University-sponsored events. While not bound by confidentiality, these individuals will be discreet and respect the privacy of those involved in the process.

SCOPE

This policy governs the conduct of University students, faculty, staff, and third parties (e.g., non-members of the University community, such as applicants, volunteers, vendors, alumni/ae, trustees, visitors, or residents). Third parties may be protected by and subject to this policy depending on their relationship with the University. A third party may make a report or complaint of an alleged violation of this policy by a member of the University community. A third party may also be permanently banned from the University or subject to other restrictions for failing to comply with this policy.

This policy applies to conduct that occurs within the University’s premises, including land, buildings, facilities, and other property in the possession of, owned, used, or controlled by the University, either solely or in conjunction with another entity. This includes the University’s computing and networking resources,

whether accessed on the University’s physical property or remotely. Online and social media conduct may violate this policy if it meets the definition of Prohibited Conduct and may also violate other University policies, including the University Computer Use Policy¹.

This policy applies to conduct not on the University’s premises associated with a University-sponsored program or activity, such as travel, athletic games, or internship programs. For purposes of responding to allegations of sex discrimination, the University may apply this policy to any off-campus conduct that contributes to a hostile environment on campus or within the educational setting. The Human Resources Department and/or Title IX Coordinator or their designees will reasonably determine when an alleged off-campus incident falls within the jurisdiction of this policy. All aspects of this policy will be carried out in a fair and impartial manner and without conflict of interest or bias.

PROTECTED CLASS HARASSMENT OR DISCRIMINATION²

“Protected Class Harassment or Discrimination” is unfair treatment or harassment that occurs because of your race, color, religion, national origin, ethnicity, disability, age (age 40 or older), veteran or military status, genetic information, or other protected class, other than sex, as identified in this policy. While sex is a protected class, Prohibited Conduct “on the basis of sex” constitutes “sex discrimination,” which is specifically defined below. Track One is the grievance procedure to resolve complaints of protected class harassment or discrimination.

UNIVERSITY RESPONSE TO COMPLAINTS OF PROTECTED CLASS HARASSMENT OR DISCRIMINATION

TRACK ONE GRIEVANCE PROCEDURES

Employees: An employee who believes they have been subjected to, or witnessed, harassment or discriminated on the basis of a protected class (except sex³) covered under this policy should immediately report the incident to their manager or supervisor or to the manager or supervisor of the employee who engaged in the inappropriate conduct. Employees should report harassment as soon as it happens and are encouraged to do so promptly. If the employee believes their manager or supervisor is the source of the harassment or is reluctant to speak with their manager, they should promptly report the conduct to Human Resources.

Human Resources will respond to the report in a manner consistent with applicable law. Violations will be addressed under the University’s progressive discipline policy outlined in the Employee Handbook.

Employees may also file external complaints with the following:

Equal Employment Opportunity Commission

1-800-669-4000 / info@eeoc.gov

<http://eeoc.gov/>

¹ The Computer Use Policy is linked in this document, however, may also be accessed by visiting <https://www.wilmu.edu/studentaffairs/computer-use-policy.aspx>.

² Complaints of sex discrimination will be resolved using Track Two or Track Three grievance procedures depending on the type of complaints and the status of the parties as employees or students of the University.

³ Response to complaints of harassment or discrimination on the basis of sex will be resolved using Track Two or Three depending on the type of behavior and the status of the people involved (employees versus students.)

New Castle County:
Delaware Department of Labor
Office of Anti-Discrimination
4425 N. Market Street, 3rd Fl.
Wilmington, DE 19802
(302) 761-8200

Kent/Sussex Counties:
Delaware Department of Labor
Office of Anti-Discrimination
Blue Hen Corporate Center 655 S. Bay Road, Suite 2H, Dover, DE 19901

Students: A student who believes they have been subjected to, or witnessed, harassment or discrimination based on the basis of a protected class (except sex⁴) covered under this policy should immediately report the incident to the Title IX Coordinator. Students should report harassment as soon as it happens and are encouraged to do so promptly.

Upon reporting, the Title IX Coordinator will determine the appropriate office to refer the report to depending on what was reported, who was involved in the incident, and when and where the incident was reported to have occurred.

POLICY DEFINITIONS-SEX DISCRIMINATION

Admission

Admission means selection for part-time, full-time, transfer, exchange, or any other enrollment, membership, or matriculation in or at an education program or activity operated by Wilmington University.

Advisor of Choice

For resolutions of a) sex-based harassment complaints involving students or b) employee reports involving dating violence, domestic violence, sexual assault, or stalking, the parties may be accompanied to any meeting or proceeding by an advisor of their choice. An advisor of choice is any individual who provides the complainant or respondent support, guidance, or advice and is not also a witness in the case. The advisor may not participate in the meetings or speak on behalf of the party except as outlined in this policy. Wilmington University will not limit the choice of advisor but may remove an advisor that violates the University's established rules of decorum. An advisor should be chosen whose schedule allows attendance at the scheduled dates and times because delays typically will not be permitted due to the scheduling conflicts of an advisor. An employee may serve as an advisor but is not required to do so, even if requested.

Appeal Officer

"Appeal officer" means the person or persons that will make the determination on any appeal submitted under this policy, including appeals of dismissals and determinations of responsibility. The appeal officer may be an employee or a contracted service provider.

Complaint

A "complaint" is a verbal or written request for the University to initiate grievance procedures.

⁴ Response to complaints of harassment or discrimination on the basis of sex will be resolved using Track Two or Three depending on the type of behavior and the status of the people involved (employees versus students.)

Complainant

“Complainant” means (1) A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination as defined by this policy or (2) A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under this policy and who was participating or attempting to participate in the institution’s education program or activity at the time of the alleged sex discrimination.

Decision-maker

“Decision-maker” is the person or persons that will determine responsibility at the conclusion of a formal resolution process under this policy. The decision-maker may be an employee or a contracted service provider.

Employee

An “employee” includes people who work full-time, part-time, seasonally or temporarily, or a college work-study; Individuals assigned to the University or individuals assigned to other sites who provide a service (for example, an intern in an on-campus department; and volunteers, in some cases, like a volunteer coach). When someone is both a student and an employee, the institution will evaluate whether or not the alleged incident occurred in the context of their employment or could have reasonably been perceived to have occurred in the context of their employment. If it did not, the student employee will be treated as a “student” for purposes of this policy.

Employees must participate as a witness in or otherwise assist with an investigation, proceeding, or hearing under this policy. Nothing in this policy should be construed to compel an employee complainant or respondent to participate.

Formal Resolution

“Formal Resolution” means using the applicable formal resolution procedure to resolve a complaint of Prohibited Conduct as defined by this policy.

Informal Resolution

“Informal Resolution” means that the institution and the parties have decided to resolve one or more allegations of Prohibited Conduct as defined in this policy in lieu of the applicable formal resolution procedure. Informal Resolution may be offered by the Title IX Coordinator upon receiving a report or at any point after receiving a complaint. The institution may decline to offer informal resolution for some or all of the allegations in a particular complaint. The parties must agree to engage in informal resolution, or the complaint(s) will proceed under the formal resolution process. Informal Resolution may be terminated by the institution or either/both parties at any point prior to the signing of the Informal Resolution Agreement. Once the Informal Resolution Agreement is signed by the institution and both parties, the matter is considered concluded and may not be referred to the formal resolution process. There is no right to appeal. Sanctions and remedies are permitted to be included in informal resolution agreements.

Informal Resolution Facilitator

“Informal Resolution Facilitator” is an individual designated by the institution to resolve complaints in lieu of using the formal resolution procedure. The facilitator for the informal resolution process is not the same person as the investigator or the decision-maker.

Institution

“Institution,” as used in this policy, means Wilmington University.

Investigator

The “investigator” is the person or persons assigned to investigate a complaint. The investigator may be an employee or a contracted service provider.

Outcome

An “Outcome” is the result of the formal resolution process whereby it is determined that a violation of this policy did or did not occur.

Party

“Party” means either the complainant(s) or respondent(s) in an investigation or proceeding relating to a report of alleged Prohibited Conduct. A respondent becomes a “party” to the action upon receipt of notice of the complaint.

Pregnancy or Related Conditions

“Pregnancy or Related Conditions” means the following: (1) Pregnancy, childbirth, termination of pregnancy, or lactation; (2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or (3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

Report

A “report” is an oral or written disclosure to the Title IX Coordinator of Prohibited Conduct. Any person may report an allegation of Prohibited Conduct defined by this policy. Reports may be made by the person who experienced the behavior or by a third party, including, but not limited to, a friend, family member, attorney, staff member, or professor.

Respondent

“Respondent” means a person alleged to have violated the University’s prohibition on sex discrimination. A respondent is presumed not responsible for alleged conduct until a determination of whether sex discrimination occurred is made at the conclusion of a resolution process outlined in this policy. When a sex discrimination complaint alleges that a University policy or practice discriminates on the basis of sex, the University is not considered a respondent as it relates to the respondent’s rights in this policy.

Retaliation

“Retaliation” means intimidation, threats, coercion, or discrimination against any person by the institution, a student, or an employee or other person authorized by the institution to provide aid, benefit, or service under the institution’s education program or activity for the purpose of interfering with any right or privilege secured by Title IX or this policy, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy, including in an informal resolution process. For complaints of sex discrimination, allegations of retaliation will be resolved using Track Two. All other complaints of protected characteristics retaliation will be resolved using Track One.

Relevant

“Relevant” means related to the allegations of sex discrimination under investigation as part of the grievance procedures associated with this policy. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred. Evidence is relevant when it may assist a decision-maker in determining whether the alleged sex discrimination occurred.

Remedies

“Remedies” means measures provided, as appropriate, to a complainant or any other person the institution identifies as having had equal access to the institution’s education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person’s access to the institution’s education program or activity after an institution determines that sex discrimination occurred.

Sanctions

When a complaint of sex discrimination, as defined by this policy, is resolved through formal or informal resolution, the respondent’s letter of determination could include both outcomes and sanctions. The outcome, as defined in this policy, is the determination as to whether or not, using the preponderance of the evidence standard, that this policy was violated. If the policy was found to have been violated, a sanction may be assigned. Sanctions are individually developed based on the circumstances of each individual complaint and, for students, are intended to be educational in nature. Sanctions are determined based on several factors, including the nature of the incident and the respondent’s conduct history. Sanctions are different for employee respondents versus student respondents. For students, sanctions may include educational courses, counseling, reflection papers, educational projects, or community restitution or service. Egregious or repeated misconduct could result in an elevated administrative sanction such as probation, suspension, and/or expulsion. For employees, violations of this policy could result in a sanction/discipline from a verbal warning up to termination of the respondent employee’s employment.

Student

A “Student” is a person who has gained admission to the institution.

Student with a Disability

A student with a disability means a student who is an individual with a disability as defined in the Rehabilitation Act of 1973, as amended, 29 U.S.C. 705(9)(B), (20)(B), or a child with a disability as defined in the Individuals with Disabilities Education Act, 20 U.S.C. 1401(3).

Title IX Coordinator

The “Title IX Coordinator” is responsible for overseeing the University’s response to reports of sex discrimination and to ensure compliance with Title IX, including oversight of all recordkeeping and training. The Title IX Coordinator is also responsible for coordinating the effective implementation of supportive measures and remedies. The Title IX Coordinator may delegate responsibilities under this policy to a Deputy Title IX Coordinator or other designee, who will be appropriately trained per the requirements of Title IX. For purposes of this policy, any reference to the Title IX Coordinator should be read as the “Title IX Coordinator, Deputy Title IX Coordinator, or other designee.”

Title IX Personnel

“Title IX personnel” means all individuals responsible for responding to reports of sex discrimination, implementing the grievance procedures in this policy, hearing challenges to removals, or having the authority to modify or terminate supportive measures. All Title IX personnel shall receive annual training as required by Title IX, Clery, and applicable state law. Without limitation, persons under this description include Title IX Coordinator(s), investigators, decision-makers, appeal officers, and informal resolution facilitators with any responsibilities outlined herein. Title IX Personnel will not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

Witness

“Witness” means any individual with direct knowledge of an incident or other information relevant to the allegation. Character witnesses are not considered relevant, and expert witnesses are considered only at the investigator's or decision-maker's discretion.

PROHIBITED CONDUCT-SEX DISCRIMINATION

Sex Discrimination

“Sex Discrimination” means conduct on the basis of sex, which excludes from participation, denies benefits to, or otherwise differently treats persons in a way that limits or denies their ability to participate in the educational program or activity except as permitted by federal or state law.

For purposes of this policy, the following definitions constitute conduct to be “on the basis of sex” which includes conduct on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Attempts to commit any Prohibited Conduct are prohibited and will be considered the same as completed acts.

All of the following acts of Prohibited Conduct are acts of sex-based harassment.

Hostile Environment Harassment

“Hostile Environment Harassment” means unwelcome sex-based⁵ conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from the education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- (i) The degree to which the conduct affected the complainant’s ability to access the University’s education program or activity
- (ii) The type, frequency, and duration of the conduct
- (iii) The parties’ ages, roles within the University’s education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct

⁵ “Sex-based” means based on biological sex as well as based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

- (iv) The location of the conduct and the context in which the conduct occurred, and
- (v) Other sex-based harassment in the University’s education program or activity.

Quid Pro Quo Harassment

“Quid Pro Quo Harassment” means when an employee, agent, or other person authorized by the University to provide an aid, benefit, or service under the University’s education program or activity explicitly or impliedly conditioning the provision of such aid, benefit, or service on a person’s participation in unwelcome sexual conduct.

Sexual Assault—Non-Consensual Sexual Penetration

“Non-consensual sexual penetration” means the penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

Sexual Assault—Non-Consensual Sexual Contact

“Non-consensual Sexual Contact” means the touching of the breasts, buttocks, or groin of another person for the purpose of sexual gratification without the consent of the victim.

Sexual Assault—Incest

“Incest” is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. In Delaware, this includes sexual contact between persons who are siblings, parents, and children, including stepparents, stepchildren, and adopted persons, as well as aunts/uncles with nieces/nephews and between grandparents and grandchildren.⁶

Sexual Assault—Statutory Rape

“Statutory Rape” is sexual intercourse with a person who is under the statutory age of consent, which in Delaware is 16 years of age.

Dating Violence

“Dating Violence” is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes but is not limited to, sexual or physical abuse or the threat of such abuse.⁷

Domestic Violence

“Domestic Violence” means felony or misdemeanor crimes committed by a person who (A) is a current or former spouse or intimate partner of the victim under Delaware or New Jersey laws (depending on where

⁶ See Delaware Code Title 11 and Criminal Procedure § 766.

⁷ Delaware has no separate statute for dating violence, but a definition for “teen dating violence: Delaware Criminal Code defines Dating Violence in the School Teen Dating Violence and Sexual Assault Act, Title 14, Section 4112E(a)(2) as: “Teen dating violence”. — As used in this section, “teen dating violence” means assaultive, threatening or controlling behavior, including stalking as defined in § 1312 of Title 11, that 1 person uses against another person in order to gain or maintain power or control in a current or past relationship. The behavior can occur in both heterosexual and same sex relationships, and in serious or casual relationships.

the incident is reported to have occurred) or a person similarly situated to a spouse of the victim; (B) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; (C) shares a child in common with the victim or (D) commits acts against a youth or adult victim who is protected from those acts under Delaware or New Jersey family or domestic violence laws (depending on the state in which the act is reported to have occurred).

Domestic violence⁸, as defined by Title IX, is considered relationship violence and must be “on the basis of sex.” For purposes of this policy, Domestic Violence does not include acts that meet the definition of domestic violence under Delaware and New Jersey laws that are based solely on cohabitation (e.g., roommates) or family relationship (e.g., parent/child). While non-relationship violence would not be addressed using this policy, it could still be counted for purposes of Clery Act reporting and may be addressed under other University policies or grievance procedures. If you need information on how to obtain a Protection from Abuse Order in the State of Delaware, please visit <https://courts.delaware.gov/family/pfa/index.aspx>. If you need information on how to obtain a Protection from Abuse Order in New Jersey, visit <https://www.njsp.org/division/operations/domestic-violence-info.shtml>

Stalking

“Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person’s safety or the safety of others or suffer substantial emotional distress.

For this definition:

Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.

A reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Retaliation

“Retaliation” means intimidation, threats, coercion, or discrimination against any person by the University, a student, an employee, or University-authorized person to interfere with any right or privilege under this policy or because the person has reported information made a complaint, testified, assisted, or participated or refused to participate in any manner in an informal resolution process or grievance procedures under this policy. Nothing in this definition precludes the University from requiring an employee or other University-authorized person to participate as a witness in or otherwise assist with an investigation, proceeding, or hearing under this policy. For complaints of sex discrimination, allegations of retaliation will be resolved

⁸ Delaware Criminal Code does not delineate Domestic Violence as a specific statute but defines such acts for the appropriate jurisdiction for prosecutorial action: 'Domestic violence' means abuse perpetrated by one member against another member of the following protected classes: Family, as that term is defined in 10 Del. C, §901(9), regardless, however, of state of residence of the parties; Former spouses, a man and a woman cohabitating together with or without a child of either or both, or a man and a woman living separate and apart with a child in common.

using Track Two. All other complaints of protected characteristics retaliation will be resolved using Track One.

Definition of Consent

“Consent” is voluntary, informed, un-coerced agreement through words and/or actions freely given, which a reasonable person would interpret as a willingness to participate in mutually agreed-upon sexual acts. Consensual sexual activity happens when each partner willingly and affirmatively chooses to participate.

Indications that consent is not present include:

- When physical force is used, or there is a reasonable belief of the threat of physical force, including when one person overcomes the physical limitations of another person
- When coercion is present, coercion means the improper use of pressure to compel another individual to initiate or continue sexual activity against the individual’s will. Coercion may include intimidation, manipulation, and/or extortion. Words or conduct may constitute coercion if they wrongfully impair another individual’s freedom of will and ability to choose whether to engage in sexual activity
- When a person is incapable of making an intentional decision to participate in a sexual act, which could include instances in which the person is in a state of incapacitation, which could be permanent or temporary. Evaluations of capacity will be viewed in hindsight using a reasonable person standard.

Important points regarding consent include:

- Consent to one act does not constitute consent to another act
- Consent on a prior occasion does not constitute consent on a subsequent occasion
- The existence of a prior or current relationship does not, in itself, constitute consent.
- Consent can be withdrawn or modified at any time
- Consent is not implicit in a person’s manner of dress
- Accepting a meal, a gift, or an invitation for a date does not imply or constitute consent
- A person’s lack of verbal or physical resistance or submission resulting from the use or threat of force does not constitute consent
- Silence and passivity do not necessarily constitute consent
- Initiation by someone who a reasonable person knows or should have known to be deemed incapacitated is not consent
- A person’s consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another

A person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent due to circumstances, including, without limitation, when a person is incapacitated or not of legal age.

A person who is asleep or unconscious is considered incapacitated and unable to consent. Additionally, a person may be incapacitated due to a temporary or permanent mental or physical disability.

In the context of this policy, incapacitation is the state in which a person’s perception or judgment is so impaired that they lack the cognitive capacity to make or act on conscious decisions. The use of drugs or alcohol can cause incapacitation, which is a state beyond mere intoxication. An individual who is incapacitated is unable to consent to sexual activity. Engaging in sexual activity with an individual who is

incapacitated (and therefore unable to consent), where a person knows or ought reasonably to have understood that the individual is incapacitated, constitutes sex-based harassment and is a violation of this Policy.

REPORTING TO THE TITLE IX COORDINATOR

Any individual who may have been subjected to Prohibited Conduct as defined in this policy should contact the Title IX Coordinator. Additionally, the Title IX Coordinator will be informed of all reports of potential violations of this policy received by employees who are mandated to report under this policy or by federal or state law.

The Title IX Coordinator may be contacted by telephone, email, or in person using the contact information below.

Title IX Coordinator
<p>Linda Van Drie Andrzejewski, Ed. D. 47 Reads Way, New Castle, DE 19720 302-356-6754 linda.m.andrzejewski@wilmu.edu</p>

Reporting to University Safety and/or Local Law Enforcement

Any student or employee who has experienced domestic violence, dating violence, sexual assault, or stalking may report the incident to University Safety or local law enforcement. Individuals are encouraged to contact University Safety or local law enforcement and seek medical treatment as soon as possible following an incident that poses a threat to safety or physical well-being or following a potential criminal offense. Individuals also have the right to decline to notify law enforcement authorities. A report to law enforcement is not a complaint for purposes of Wilmington University’s grievance procedures.

At an individual’s request, the Title IX Coordinator will assist a person who has been impacted by domestic violence, dating violence, sexual assault, or stalking in contacting University Safety or local law enforcement, including facilitating law enforcement to come to campus to take the report.

Immediate Help	
Call 911	
If the incident is not an emergency, please contact the police department's non-emergency number where the incident occurred. If you aren’t sure which police department has jurisdiction, contact University Safety for assistance.	
University Safety (Sworn Constables)	
University Location	Safety/Security Telephone Number
New Castle Campus	302-325-3333
Wilson Graduate Center	
Dover Site	

Athletics Complex Brandywine Campus	
Georgetown	302-259-6241
Rowan College at Burlington County- Mount Laurel	856-222-9311 ext. 2100
Rowan College at Burlington County- Pemberton	609-894-9311 ext. 1100
Cumberland County College	856-200-4706
Rowan College at Gloucester County	856-464-5207 ext. 4444

The University may issue a directive called a “No Contact Order” that limits contact between the parties within the educational program or activities. A complainant interested in a no-contact order at the University may contact the Title IX Coordinator.

An Order of Protection may be sought through the court system, and a campus representative may assist a complainant in obtaining an order upon request. Students and employees with an Order of Protection issued through the courts should provide that to University Safety for enforcement on campus.

Prohibited Conduct under this policy may also constitute state and local law violations. University officials are required to document specific reports for Clery Act reporting purposes. No personally identifiable information (PII) about the complainant exists in publicly available recordkeeping.

Responsible Employees

Every University employee must report conduct that could constitute sex discrimination under this policy and are considered “Responsible Employees.”⁹ They must report it to the institution’s Title IX Coordinator promptly.

Additionally, all employees must report to the Title IX Coordinator the name and specific information reported to them by a student who has informed them of their pregnancy. The employee shall notify the pregnant student that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student’s equal access to the University’s education program or activity.

Delaware state law requires Responsible Employees of higher education institutions to additionally aid victims who wish to report incidents of sexual assault perpetrated by or against a student to law enforcement authorities or University Safety officials serving the institution. Responsible Employees are also responsible for informing victims of their rights under the Victims’ Bill of Rights in Chapter 11 and available confidential medical, counseling, and advocacy services. University Safety constables shall make reasonable efforts to ensure a victim’s privacy when contacting them. They must inform the victim of their rights under the Victims’ Bill of Rights and available confidential medical, counseling, and advocacy services. A report to a faculty or staff member of the University does not result in a complaint to initiate an

⁹ Delaware H.B. utilizes the term “Responsible Employee” when referring to employees who have a duty to report incidents of sexual misconduct. Although that term is no longer used by the U.S. Department of Education for purposes of Title IX compliance, Wilmington is deferring to the state terminology to meet compliance with both laws.

investigation or informal or formal resolution processes; however, the reporting of that information by the Responsible Employee to the institution's Title IX Coordinator is required by Delaware law.

Delaware has both civil and criminal laws to protect children from abuse and neglect. All University employees are mandatory reporters of Child Abuse under Chapter 9 of Title 16 of the Delaware Code. All suspected child abuse and neglect must be reported¹⁰ to the 24-hour Division of Family Services (DFS) Child Abuse and Neglect Report line at 1-800-292-9582. You may also call any Law Enforcement Agency or 911, but not instead of contacting DFS. You are not required to provide proof. Anyone who makes a good faith report based on reasonable grounds is immune from prosecution. DFS provides information to the community on identifying signs of abuse, which may be accessed [here](#). This means that all employees must immediately report whenever they suspect that a child has been abused or neglected. Reports may also be made online at the [Delaware Division of Family Services Reporter Portal](#).

Reporting to a Confidential Employee

No offices on campus are designated as Confidential. Therefore, an individual who is not prepared to make a report or may be unsure how to label what happened but still seeks information and support is strongly encouraged to contact an off-campus confidential resource. Please see Appendix A for more details.

Reporting to the U.S. Department of Education

All University community members may also contact the Office for Civil Rights (a division of the United States Department of Education) to file a complaint about the University's compliance with this policy and applicable grievance procedures.

U.S. Department of Education: Office for Civil Rights
<p style="text-align: center;">Headquarters 400 Maryland Avenue, SW, Washington, DC 20202-1100 Customer Service Hotline #: 800-421-3481 Facsimile: 202-453-6012 TTY#: 800-877-8339 Email: OCR@ed.gov Web: http://www.ed.gov/ocr</p>
<p style="text-align: center;">Philadelphia Office U.S. Department of Education The Wanamaker Building 100 Penn Square East, Suite 515 Philadelphia, PA 19107-3323 Telephone: (215) 656-8541 Facsimile: (215) 656-8605</p>

Reporting Anonymously and Online

An individual may report an incident via an anonymous online reporting form. The online form will not be considered a complaint that would trigger a full investigation. An online report cannot result in

electronic communication of resources or outreach from the Title IX Coordinator unless a Complainant is identified. For emergency assistance, please dial 9-1-1.

Title IX Incident Reporting Form
<https://www.wilmu.edu/titleix/filing-of-compliant.aspx>

UNIVERSITY RESPONSE TO A REPORT OF SEX DISCRIMINATION

Upon receiving a report alleging Prohibited Conduct, the Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures, provide a written explanation of rights and options, and explain to the complainant their options, including informal resolution processes and applicable grievance procedures.

If the complainant is unknown, the Title IX Coordinator will provide the above-referenced information to the initial reporter.

Supportive Measures

Upon receipt of a report alleging Prohibited Conduct, the University will provide reasonable and appropriate supportive measures. Supportive measures mean individualized services as appropriate, without fee or charge, which do not unreasonably burden a party and that are not for punitive or disciplinary reasons. Such measures are designed to restore or preserve equal access to the University's educational program or activity, to protect the safety of all parties or the University's academic environment, and to provide support during any grievance procedures or informal resolution process. Supportive measures may be modified or terminated as needed.

Supportive measures may include:

- Counseling
- Extensions of deadlines and other course-related adjustments
- Campus escort services
- Increased security and monitoring of certain areas of the campus
- Restrictions on contact applied to one or more parties
- Leaves of absence
- Changes in class, work, housing, transportation, or extracurricular activity
- Training and education programs related to sex-based harassment
- Any other remedy that can be used to achieve the goals of this policy

The complainant or respondent may request supportive measures from the Title IX Coordinator. A party may also seek a modification or termination of a supportive measure applicable to them if circumstances change materially. Requests to challenge a supportive measure, including a supportive measure that was provided, denied, modified, or terminated, should be sent to the Title IX Coordinator. The Title IX Coordinator will assign a trained employee unaffiliated with the matter who will hear the challenge. The

party has five (5) business days from the date the measure was denied, modified, terminated, or provided to lodge their challenge regarding the supportive measure.

The institution must make such accommodations or provide such protective measures if they are reasonably available, regardless of whether the complainant chooses to report the crime to law enforcement or file a complaint under this policy.

See Appendix A for a full list of resources on and off campus.

Interim Removal

In connection with this policy, an interim removal may be imposed in circumstances where the Title IX Coordinator or designee has determined that an imminent and serious threat to the health or safety of a complainant or any students, employees, or other persons arising from the allegations of sex discrimination exists. An interim removal may be an interim suspension or any necessary restriction before resolving the matter. Before imposing an interim removal, the University will undertake an individualized safety and risk analysis.

In all such cases, the respondent may challenge the decision after the interim removal has been imposed. The respondent will have five (5) business days from the interim removal notification letter to submit a written challenge to the assigned staff member to review the challenge.

The University may place an employee respondent on administrative leave pending the resolution of the complaint.

Informal Resolution

An informal resolution is a voluntary option for the resolution of reports of sex discrimination. Such resolutions may include a mutual agreement of responsibility and sanctions, mediation, or other conflict resolution methods offered by the University.

The Title IX Coordinator will determine, based on the totality of the circumstances, whether an informal resolution process is appropriate given the facts and participants. If appropriate, the Title IX Coordinator may offer an informal resolution as an option to the parties with or without a complaint and at any time before a determination of responsibility. Before proceeding, the Title IX Coordinator will obtain written voluntary consent from the complainant and the respondent.

Before initiation of an informal resolution process, the institution will provide the parties written notice that explains:

- a) The allegations;
- b) The requirements of the informal resolution process;
- c) Before agreeing to a resolution, any party has the right to withdraw from the informal resolution process and initiate or resume applicable grievance procedures.
- d) The parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming grievance procedures arising from the same allegations.
- e) The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties and

- f) What information will the University maintain and whether and how will the information be disclosed in any applicable grievance procedures if such grievance procedures are initiated or resumed if an informal resolution process is not.

The Title IX Coordinator will assign a person as the informal resolution facilitator who would not be the investigator or decision-maker in the assigned case. Any party may withdraw from the informal resolution process before agreeing to the resolution. The parties may be referred to the applicable grievance procedures in such an instance.

Potential terms that may be included in an informal resolution agreement include but are not limited to restrictions on contact and restrictions on the respondent's participation in one or more programs or activities or attendance at specific events, including restrictions that the institution could have imposed as remedies or disciplinary sanctions had the institution determined after the formal grievance process that sex discrimination occurred.

Once the parties agree to the resolution, the resolution is final, and there is no appeal. The resolution is provided to both parties simultaneously in writing.

Title IX-Initiated Complaints

The Title IX Coordinator will take appropriate, prompt, and effective steps to ensure that sex discrimination does not continue or recur within the educational setting. This may include utilizing the University's grievance procedures.

Without a complaint or resolution through an informal process, the Title IX Coordinator will determine whether to initiate a complaint. To make this fact-specific determination, the Title IX Coordinator will consider, at a minimum, the following factors:

- 1) The complainant's request not to proceed with the initiation of a complaint
- 2) The complainant's reasonable safety concerns regarding the initiation of a complaint
- 3) The risk that additional acts of sex discrimination would occur if a complaint were not initiated
- 4) The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence
- 5) The age and relationship of the parties, including whether the respondent is an employee
- 6) The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals
- 7) The availability of evidence to assist a decision-maker in determining whether sex discrimination occurred and
- 8) Whether the University could end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures.

If the Title IX Coordinator determines that a complaint should be initiated against the complainant's wishes, the Title IX Coordinator will inform the complainant before initiating the applicable grievance procedures. The Title IX Coordinator will also appropriately address reasonable concerns about the complainant's safety or the safety of others, including by providing supportive measures. A complainant retains standing as a complainant even in cases where the Title IX Coordinator initiates the complaint.

UNIVERSITY RESPONSE TO A COMPLAINT OF SEX DISCRIMINATION

All formal grievance procedures involve an investigation followed by a determination of responsibility by a decision-maker. The University utilizes different grievance procedures based on the alleged behaviors and the parties' status to evaluate the allegations and assess the credibility of the parties and witnesses.

A complaint must be initiated to commence a University grievance procedure.

Typically, the Title IX Coordinator will determine whether to investigate or dismiss a sex discrimination complaint within five (5) business days of receiving it.

Notice of Allegation

Before the start of the investigation, the Title IX Coordinator will provide notice of the allegation(s) of Prohibited Conduct, including sufficient information known at the time. Sufficient information includes the parties' identities, the conduct alleged to constitute sex discrimination, and the dates and locations of the alleged incident(s). The parties will receive notification of additional allegations or changes to the allegations as appropriate. The notice of allegation will also contain a statement that retaliation is prohibited and that the parties are entitled to an equal opportunity to access the relevant evidence.

For complaints of sex-based harassment involving student complainants or student respondents, the notice of allegation will be in writing. It will also include a presumption of not being responsible and the right to an advisor of their choice.

Throughout the grievance procedures, the Title IX Coordinator will provide notice of the date, time, location, participants, and purpose of any meetings or proceedings to a party whose participation is invited or expected.

Dismissals

If it is determined that the conduct, even if proven, would not constitute sex discrimination as defined in this policy, the complaint may be dismissed or referred to another University department for review. A complaint may also be dismissed if the University cannot identify the respondent after taking reasonable steps to do so or if the respondent is not a student, employee, or otherwise participating in the University's educational programs or activities. A complaint may also be dismissed if a complainant notifies the Title IX Coordinator in writing that the complainant wants to withdraw any or all allegations in a complaint.

The Title IX Coordinator will decide whether to dismiss a complaint based on the stated goals of this policy to address conduct that may constitute sex discrimination.

Upon dismissal, the University will promptly notify the complainant of the basis of the dismissal. If the dismissal occurs after the respondent has received notice of the allegations, the University will also inform the respondent of the dismissal. A party may appeal any dismissal using the appeal process outlined in this policy.

When a dismissal is appealed, both parties will receive a reasonable and equal opportunity to make a statement supporting or challenging the outcome.

Even if a complaint is dismissed, the Title IX Coordinator may take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur and will continue to offer supportive measures as appropriate.

Consolidations

The Title IX Coordinator can consolidate multiple complaints or reports into a single investigation if evidence relevant to one incident might be relevant to the others.

If a case involves alleged violations of other University policies, the Title IX Coordinator will determine which grievance procedures to use in consultation with other University administrators.

Participation

The University expects all employees of the University community to cooperate fully with any resolution processes, except when they are a complainant or respondent. An employee who is also a complainant or respondent may choose whether or not to participate when they are a party to the complaint.

It is understood that there may be circumstances in which student parties wish to limit their participation. Students retain this right and will not be subject to adverse University actions, although the University may be obligated to investigate despite a reluctant or non-participatory party.

If a party chooses not to participate in an investigation, the University process will continue concerning the alleged complaint. The decision-maker will not draw any adverse inference from a party's silence or stated desire not to participate.

Amnesty

To encourage reports of sex discrimination prohibited under this policy, the University may offer leniency concerning other violations that may become known due to such reports, depending on the circumstances involved. This includes instances of underage drinking or possession or use of a controlled substance, which is revealed in the course of such a report. The Title IX Coordinator will determine on behalf of the University whether amnesty should apply considering factors such as egregiousness and risk of harm to others. Use of alcohol or drugs, however, is never a defense to violating this policy.

Time Frames

There may be circumstances that require the extension of timeframes for good cause. The University will notify the parties in writing of any extension of the timeframes and the reason for the extension. The University will not, however, wait for the conclusion of any other internal or external resolution process, including criminal proceedings, to begin its investigation.

INVESTIGATIONS OF SEX DISCRIMINATION

Assignment to an Investigator

The Title IX Coordinator will assign one or more investigators to the case. The Title IX Coordinator may also serve as an investigator.

Investigation

Wilmington University will provide for adequate, reliable, and impartial investigations of complaints. The burden is on the University to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred. During the investigation, the parties will have an equal opportunity to present fact witnesses and other relevant and admissible inculpatory and exculpatory evidence.

For purposes of this policy, "evidence" refers only to relevant evidence that is not otherwise impermissible, including oral and written evidence from fact witnesses. Evidence is relevant when it may aid a decision-

maker in determining whether the alleged sex discrimination occurred. The investigator will review all evidence gathered through the investigation and determine what evidence is relevant. The following types of evidence and questions seeking that evidence are impermissible and will not be accessed or considered except by the University to determine whether one of the exceptions listed below applies:

- a) Evidence protected under a privilege recognized by federal or state law or evidence provided to a confidential employee unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality.
- b) A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness unless the institution obtains that party's or witness's voluntary, written consent for use in its grievance procedures.
- c) Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude a determination that sex-based harassment occurred.

Parties should present evidence during the investigation; the investigator will not consider information that is otherwise available but not provided in a timely manner.

The University will take reasonable steps to protect the privacy of the parties and witnesses during the investigation; however, the University will not restrict the ability of either party to obtain and present evidence, identify witnesses, consult with support resources, or otherwise prepare for participating in the grievance procedures.

Credibility determinations will not be based on a person's status as a complainant, respondent, or witness. A respondent is presumed not responsible for alleged sex discrimination until a determination is made at the conclusion of a grievance procedure.

At the conclusion of the investigation, the parties and their advisors, if applicable, will receive equal access to all relevant and permissible evidence and an opportunity to respond to the evidence per the applicable grievance procedures. The parties and advisors are prohibited from unauthorized disclosure of information and evidence obtained solely through the grievance procedures.

The investigator will seek to complete the investigation within 45 business days after receipt of the complaint.

FORMAL GRIEVANCE PROCEDURES

Assignment to a Decision-maker and Grievance Procedure

The Title IX Coordinator will assign one or more decision-makers to the complaint. The Title IX Coordinator or investigator may serve as a decision-maker when permitted under this policy. A party will be given an opportunity to request the removal and replacement of a decision-maker based on bias or conflict of interest. Any request for a change in a decision-maker must be accompanied by supporting

information. The decision to grant such a request is at the sole discretion of the Title IX Coordinator or assigned staff member.

The University utilizes two grievance procedures described below. The decision-maker is responsible for following the assigned procedures and maintaining an orderly, fair, impartial, and respectful process. All University meetings are closed to the public.

The grievance procedure that will be utilized will depend on the nature of the complaint and whether or not the complaint involves students as the complainant or respondent.

TRACK TWO – GRIEVANCE PROCEDURES FOR SEX DISCRIMINATION

Track Two is the grievance procedure for resolving complaints of sex discrimination other than sex-based harassment involving student complainants or student respondents. It will also be used to resolve complaints of retaliation.

Following the investigation, the complainant and respondent will be provided with an accurate description of the evidence. A party may also request access to the evidence, which will be provided equitably to both parties in a manner determined by the Title IX Coordinator. Following the review, the parties will be given an equal opportunity to respond to the evidence or the description of the evidence. The decisionmaker will consider the evidence and any responses when making a determination.

The decision-maker may pose additional questions to the parties or witnesses in writing or individually in person if needed to adequately assess credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination.

For complaints of sexual assault, dating violence, domestic violence, and stalking, the complainant and respondent both have the right to an advisor of their choice.

A party may also request access to the relevant and permissible evidence, which will be provided equitably to both parties as determined by the Title IX Coordinator.

Determinations under Track Two may not be appealed.

TRACK THREE-GRIEVANCE PROCEDURES FOR SEX-BASED HARASSMENT INVOLVING A STUDENT COMPLAINANT OR RESPONDENT

Track Three is the grievance procedure for resolving complaints of sex-based harassment involving a student complainant or a student respondent.

Wilmington University will provide a process that enables the decision-maker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is a) both in dispute and b) relevant to evaluating one or more allegations of sex-based harassment.

Questioning of the parties and witnesses for proposing and asking relevant and not otherwise impermissible questions and follow-up questions must take place consistent with the following provisions before determining whether sex-based harassment occurred. The decision-maker for the complaint will:

1. Conduct individual meetings with a party or witness

2. Allow each party to propose such questions that the party wants asking of any party or witness and have those questions asked by the decision-maker during one or more individual meetings, including follow-up meetings, with a party or witness
3. Provide each party with an audio or audiovisual recording or transcript with enough time for the party to have a reasonable opportunity to propose follow-up questions.

The complainant and respondent have the right to an advisor of their choice.

A party may also request access to the relevant and permissible evidence, which will be provided equitably to both parties as determined by the Title IX Coordinator.

Upon the completion of the investigation, the investigator will accurately summarize the evidence in an investigative report, which will be shared with the parties.

The decision-maker will notify the parties in writing of the meeting date, time, and location. Meetings will be held virtually, and the decision-maker will meet with each party and witness separately.

The parties may submit a written response to the investigative report no later than seven (7) business days after receiving the report. The parties may include relevant questions to be asked of the other party or witnesses in their response. Those questions and any questions requested during the individual meetings are limited to those assessing credibility and relevant questions and follow-up questions that have not previously been asked and answered in the final investigative report. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred. The decision-maker will determine whether the question is relevant and explain any decision to exclude a question as irrelevant.

The University will make a recording. All other recordings are prohibited.

STANDARD OF EVIDENCE

In all grievance procedures, the decision-maker shall use a preponderance of the evidence standard to determine whether the alleged policy violation occurred. The preponderance of the evidence means a standard of proof in which the totality of the evidence offered in support of a fact is greater or more convincing than the evidence presented in opposition to it. Given the totality of information, the version of events is more likely than not. The preponderance of the evidence is understood to require more than 50 percent certainty to determine responsibility for a policy violation (51% or greater).

WRITTEN DETERMINATION

In all Track Two and Track Three grievance procedures, the complainant and respondent will simultaneously receive a written determination of whether Prohibited Conduct occurred. The determination will typically be provided within five (5) business days of the date of the hearing or the last meeting.

The written determination letter will include the following:

- the allegations constituting sexual harassment
- a description of the procedural steps taken during the resolution process
- findings of fact supporting the determination
- conclusions regarding the application of the policy to the facts

- a statement and rationale for the result of each allegation, including findings, sanctions, remedies, and
- options for appeal for Track Three outcomes.

The determination of responsibility becomes final either on notification of the appeal's results or the date on which an appeal would no longer be considered timely. For complaints of sexual assault, dating violence, domestic violence, and stalking, a written determination letter will also be provided whenever a result changes, including when a result becomes final.

SANCTIONS AND REMEDIES

Sanctions are consequences imposed on a respondent following a determination that Prohibited Conduct occurred. Sanctions provide educational opportunities and accountability while reducing the likelihood of future Prohibited Conduct. Sanctions may include administrative, academic, and restorative components. However, some conduct is so egregious or damaging to the educational environment that it requires more serious sanctions, including suspension or dismissal.

Remedies are measures provided, as appropriate, to a complainant or any other person identified as having had equal access to the education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the University's education program or activity after a determination that sex discrimination occurred.

Such remedies may include supportive measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent.

If there is a finding of responsibility for a policy violation, the decision-maker will determine sanctions and remedies.

Sanctions for students include but are not limited to:

- a. Permanent dismissal from the University. Note: When students who have been suspended or dismissed from the University later return, credits they have earned from courses completed at other institutions of higher learning while under suspension or dismissal must be approved by the Academic Review Committee before they can be transferred to Wilmington University.
- b. Dismissal from the University with permission to reapply after a specified period. A precedent for readmission may be established in conjunction with such a dismissal.
- c. Suspension from the University for a specified period. Any suspension may be followed by a probationary period, including restrictions or forfeiture of privileges.
- d. A delay is when a degree is to be conferred upon the student.
- e. A determination that the student is not entitled to have their degree conferred
- f. Disciplinary probation with or without loss of designated privileges for a specified period.
- g. Restricted privileges include removal from elective or appointed office and/or ineligibility to represent the University.
- h. Mandatory training.
- i. Letter of warning regarding conduct.
- j. No contact directive.

Sanctions for employees include but are not limited to:

- a. Disciplinary probation with or without loss of designated privileges for a specified period
- b. Mandatory training

- c. No contact directive
- d. Mandated attendance in educational program or referral to another provider
- e. Written or verbal warning
- f. Suspension
- g. Demotion
- h. Dismissal-Separation from employment

APPEALS

Appeals are an option for any dismissal of a complaint or determinations of Track Three complaints of sex-based harassment involving a student complainant or a student respondent. A complainant or respondent may file a written appeal with the Title IX Coordinator. All appeals will be referred to an appeal officer.

The appeal must be on one or more of the following bases:

- a) Procedural irregularity that would change the outcome.
- b) New evidence that would change the outcome and that was not reasonably available when the determination of whether sex-based harassment occurred or dismissal was made.
- c) The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against complainants, respondents, or the individual complainant or respondent that would change the outcome.

The appeal officer will not have served as an investigator or decision-maker for the same complaint. The deadline for filing a written appeal is three (3) business days from the date of the written determination.

If either party files an appeal, the Title IX Coordinator will notify the other party in writing and allow both parties to submit a written statement.

The purpose of an appeal is not to initiate a review of substantive issues. The level of sanction is not grounds for an appeal. Based on the process under appeal and the ground, the appeal officer may decide to uphold the original determination or to return the case for additional proceedings or other action.

Both parties will be notified simultaneously in writing of the outcome of the appeal and the rationale for each result.

POLICY INFORMATION

Recordkeeping and Annual Reports

The University will keep for at least seven years the following:

- a) For each complaint of sex discrimination, records documenting the informal resolution process or the grievance procedures and the resulting outcome
- b) All information regarding any action taken, including supportive measures and a rationale for why a complaint was not filed. If a complainant was not provided supportive measures, a rationale must be provided as to why supportive measures were not provided
- c) All materials used to provide training which may be made available upon request for inspection by members of the public.

Generally, information from a student's conduct file is not released without the student's written consent. However, certain information may be provided to individuals within or outside the University with a

legitimate legal or educational interest in obtaining it. Please refer to the University’s privacy policy and the federal Family Educational Rights and Privacy Act of 1974 (FERPA).

Personnel files are the property of the University and will not be shared without a subpoena.

Disability Accommodations and Interpretive Services

A “student with a disability” means a student who is an individual with a disability as defined in the Rehabilitation Act of 1973, as amended, 29 U.S.C. 705(9)(B), (20)(B). The University Office of Student Accessibility determines reasonable and appropriate accommodations and auxiliary aides for access and participation in University sponsored classes, services, and programs. Students with a documented disability who desire an accommodation regarding this policy must request an accommodation with the Office of Student Accessibility and inform the Title IX Coordinator that such a request has been made. The Office of Student Accessibility will decide after consultation with the Title IX Coordinator. The appropriate parties will be notified per the Accessibility Office’s procedures.

Employees with a disability who desire an accommodation regarding this policy must request an accommodation with Human Resources.

Students or employees who require interpretive services should request translation services from the Title IX Coordinator.

Students:

Student Accessibility Services
320 Dupont Hwy.
Pratt Student Center
New Castle, DE 19720
302-356-6937

<https://www.wilmu.edu/accessibility/index.aspx>

Employees:

Human Resources
47 Reads Way
New Castle, DE 19720
302-356-6774
humanresources@wilmu.edu

Revision and Interpretation

The Title IX Coordinator maintains the policy and was most recently approved by the University on August 1, 2024. It covers conduct alleged to have occurred on August 1, 2024, or after. Conduct that reasonably could constitute sex discrimination before this date will be addressed using the policy definitions and grievance procedures at the time of the incident or using this policy if no applicable policy was in place.

The University reserves the right to review and update the policy per changing legal requirements and Wilmington University's specific needs.

Any questions regarding the policy interpretations shall be referred to Human Resources or the Title IX Coordinator. The appropriate University administrator’s determination is final.

APPENDIX A: ON AND OFF-CAMPUS RESOURCES

Any individual may also access resources located in the local community. These organizations can provide crisis intervention services, counseling, medical attention, and assistance in interfacing with the criminal justice system. If accessing these resources, individuals are encouraged to clarify whether the resources are confidential.

On-Campus Resources

No offices on campus are designated as Confidential Resources. Therefore, an individual who is not prepared to make a report or may be unsure how to label what happened but still seeks information and support is strongly encouraged to contact an off-campus confidential resource.

Other campus resources that may be helpful (Private but not confidential)

Counseling *None available on campus	Delaware	Delaware Help Line – Dial 211 - 1-800-560-3372 – text 898-211 or www.delaware211.org
Health *None available on campus	Delaware	Delaware Help Line – Dial 211 - 1-800-560-3372 – text 898-211 or www.delaware211.org
Mental Health *None available on campus	Delaware New Jersey	Delaware Help Line – Dial 211 - 1-800-560-3372 – text 898-211 or www.delaware211.org New Jersey Help Line – Dial 211 or 1-877-652-1148 – text 898-211 or www.nj211.org
Victim Advocacy *None available on campus	Delaware New Jersey	Delaware Help Line – Dial 211 - 1-800-560-3372 – text 898-211 or www.delaware211.org New Jersey Help Line – Dial 211 or 1-877-652-1148 – text 898-211 or www.nj211.org
Legal Assistance *None available on campus	Delaware New Jersey	Delaware Help Line – Dial 211 - 1-800-560-3372 – text 898-211 or www.delaware211.org New Jersey Help Line – Dial 211 or 1-877-652-1148 – text 898-211 or www.nj211.org
Visa & Immigration Assistance	International Affairs	David Ciamaricone, Director International Affairs 302-327-4809
Financial Aid	Financial Aid Department	Nicole McDaniel-Smith, Director of Financial Aid 302-356-6982
Title IX Coordinator	Administrative and Legal Affairs	Dr. Linda Van Drie Andrzejewski, Executive Director of Title IX, Clery, and Regulatory Affairs 302-356-6754 or (302)983-6866 (cell)
Department of University Safety	University Safety Administrative Office	Tom Logan, University Safety Manager, (302) 356-6704

Off-Campus Resources

Forensic Medical Exams and Physical Health Services

After an incident of sexual assault or domestic violence, the victim should strongly consider seeking medical attention as soon as possible at the closest emergency room. In various states in the United States, evidence may be collected even if you choose not to make a report to law enforcement. In all states, victims may seek medical treatment for sexual assault without any associated financial obligation, regardless of their reporting decision.

In circumstances of sexual assault, if a complainant does not opt for forensic evidence collection, health care providers can still treat injuries and take steps to address concerns of pregnancy and/or sexually transmitted infection. It is important that a survivor of sexual assault not bathe, douche, smoke, change clothing, or clean the bed/linen/area where they were assaulted within 120 hours after the incident occurred so that evidence may be preserved. Complainants of sexual assault, domestic violence, dating violence, or stalking are also encouraged to preserve evidence by saving text messages, instant messages, social networking pages, and other communications and keeping pictures, logs, or other copies of documents, if any exist that may be useful to University investigators, University Safety personnel, or local police.

In the chart on the following pages, please find the contact information for the hospitals closest to each campus and an indication of whether the hospital offers Sexual Assault Nurse Examiner/Forensic Nurse Examiners (SANE/FNE nurse) services. SANE/FNE nurses are trained medical professionals who are sensitive and specialize in the care of crime victims. SANE/FNE nurses can collect forensic evidence from the bodies of victims of sexual and domestic assault. They also routinely work with law enforcement to preserve the evidence and may testify in court. If you have difficulty locating the closest hospital with evidence-collecting capabilities, contact 9-1-1 and ask for help locating a hospital with a SANE or FNE nurse. You may also contact the National Sexual Assault Hotline at 800-656-HOPE (4673) or visit the Rape, Abuse, and Incest National Network at www.RAINN.org.

State	Hospital	Address	Telephone Number	State
<p>Delaware</p> <p>Victims in DE may apply to the DE Victim’s Compensation Assistance Program for financial assistance by calling 302-255-1770</p>	Christiana Care	4755 Ogletown-Stanton Road, Newark, DE 19718	302-733-1000	Yes*** Forensic Nurse Examiners are on site, 302-733-4799, police involvement not required***
	Bayhealth Medical System – Kent General Hospital	640 South State Street Dover, Delaware 19901	302-674-4700	Yes*** Forensic Nurse Examiners are on site. Police involvement not required***

	Bayhealth Medical System – Milford Memorial Hospital	100 Wellness Way Milford, Delaware 19963	302-422-3311	Yes*** Forensic Nurse Examiners are on site. Police involvement not required*** Please ask to connect to Kent General Hospital.
	Beebe Medical Center	424 Savannah Rd. Lewes, DE 19958	302-645-3300	Yes*** Forensic Nurse Examiners are on site. Police involvement not required***
New Jersey	Virtua Memorial Hospital, Mt. Holly	175 Madison Ave., Mt. Holly, NJ 08060	609-914-6000	Yes*** Forensic Nurse Examiners are on site. Police involvement not required***
	Virtua Marlton	90 Brick Rd. Marlton, NJ 08053	856-355-6000	Yes*** Forensic Nurse Examiners are on site. Police involvement not required***
	Virtua Willingboro	218 A Sunset Rd. Willingboro, NJ	609-835-2900	Yes*** Forensic Nurse Examiners are on site. Police involvement not required***
	Capital Health at Deborah Heart and Lung Center Emergency Dept., Browns Mills	200 Trenton Rd. Browns Mills, NJ 08015	(609) 735-2950	Yes*** Forensic Nurse Examiners are on site, police involvement not required***
	Cooper Health Systems, Camden	1 Cooper Plaza, Camden, NJ 08103	856-342-2541	Yes*** Forensic Nurse Examiners are on site. Police involvement not required***
	Jefferson Stratford Hospital	18 E. Laurel Rd. Stratford, NJ 08084	856-346-6000	Yes*** Forensic Nurse Examiners are on site. Police involvement not required***
	Our Lady of Lourdes Medical Center, Camden	1600 Haddon Ave., Camden, NJ 08103	856-757-3500	Yes*** Forensic Nurse Examiners are on site. Police involvement not required***

	Virtua Hospital, Voorhees	100 Bowman Drive Voorhees, NJ 08043	856-247-3000	Yes*** Forensic Nurse Examiners are on site. Police involvement not required***
	Inspira Medical Center, Vineland	1505 W. Sherman Ave. Vineland, NJ 08360	856-641-8000	Yes*** Forensic Nurse Examiners are on site, police involvement not required***
	Inspira Medical Center, Woodbury	509 N. Broad St., Woodbury, NJ 08096	856-845-0100	Yes*** Forensic Nurse Examiners are on site, police involvement not required***
	Jefferson Washington Township Hospital	435 Hurffville- Cross Keys Rd. Turnersville, NJ 08012	856-582-2500	Yes*** Forensic Nurse Examiners are on site, police involvement not required***

Additional Off-Campus Resources/Supports

Counseling	Delaware New Jersey	Delaware Help Line – Dial 211 - 1-800-560-3372 – text 898-211 or www.delaware211.org New Jersey Help Line – Dial 211 or 1-877-652-1148 – text 898-211 or www.nj211.org
Health	Delaware New Jersey	Delaware Help Line – Dial 211 - 1-800-560-3372 – text 898-211 or www.delaware211.org New Jersey Help Line – Dial 211 or 1-877-652-1148 – text 898-211 or www.nj211.org
Mental Health	Delaware New Jersey	Delaware Help Line – Dial 211 - 1-800-560-3372 – text 898-211 or www.delaware211.org New Jersey Help Line – Dial 211 or 1-877-652-1148 – text 898-211 or www.nj211.org
Victim Advocacy	Delaware New Jersey	Delaware Help Line – Dial 211 - 1-800-560-3372 – text 898-211 or www.delaware211.org New Jersey Help Line – Dial 211 or 1-877-652-1148 – text 898-211 or www.nj211.org

Legal Assistance	Delaware Maryland New Jersey	Delaware Help Line – Dial 211 - 1-800-560-3372 – text 898-211 or www.delaware211.org New Jersey Help Line – Dial 211 or 1-877-652-1148 – text 898-211 or www.nj211.org
Visa & Immigration Assistance	International Affairs	David Ciamaricone, Director International Affairs 302-327-4809
Financial Aid	Financial Aid Department	Nicole McDaniel-Smith, Director of Financial Aid 302-356-6982
Title IX Coordinator	Human Resources Department	Dr. Linda Van Drie Andrzejewski, Executive Director of Title IX, Clery, and Regulatory Affairs 302-356-6754 or (302)983-6866 (cell)
Department of University Safety	University Safety Administrative Office	Tom Logan, University Safety Manager (302) 356-6704
Battered Women’s Shelter	Delaware Milford Georgetown New Jersey	Turning Point at People’s Place 302-424-2420 The Safe Program 302-422-8058 Domestic Advocacy Center 302-856-5843 People’s Place II 302-422-8033 Abriendo (for Spanish Speaking Survivors) 302-745- 9874 Salem County Women’s Services 609-935-6655 Center for Family Services 1-877-922-2377 Real House Inc. 973-746-8400 Providence House 856-824-0599
Child, Inc. Domestic Violence Crisis Hotline	Delaware	Domestic Violence Crisis Hotline (including emergency shelters) 302-762-8989
Rape Crisis	Delaware New Jersey	Dial 211 or 1-800-560-3372 or Contact Life Line 1-800-262-9800 New Jersey Domestic Violence Hotline 1-800-572-7233
Prosecuting Attorney’s Office	Delaware New Jersey	Attorney.General@State.DE.US 302-577-8500 www.state.nj.us/lps/ 609-292-4925
Department of Education Office of Civil Rights	Philadelphia Office	Office of Civil Rights U.S. Department of Education The Wanamaker Building 100 Penn Square East, Suite 515 Philadelphia, PA 19107-3323 215-656-8451

Battered Women's Shelter	New Jersey	Salem County Women's Services 856-935-6655 Center for Family Services 1-877-922-2377 Real House Inc. 973-746-2400 Providence House 856-824-0599
Child, Inc. Domestic Violence Crisis Hotline	Delaware	Domestic Violence Crisis Hotline (including emergency shelters) 302-762-6110 – New Castle 302-678-3886 – Northern Kent 302-422-8058 – Kent and Sussex
Rape Crisis (Victim Advocacy)	Delaware New Jersey	Dial 211 or 1-800-560-3372 or Contact Life Line 800-262-9800 New Jersey Domestic Violence Hotline 1-800-572-7233
Visa/ Immigration Services	Delaware	Catholic Charities, Diocese of Wilmington 302-655-9624 Community Legal Aid 302-575-0660- Wilmington 302-674-8500-Dover 302-856-0038—Georgetown Delaware Alliance for Community Advancement 302-656-8200 La Esperanza (Georgetown) 302-854-9262
Visa/ Immigration Services	New Jersey	Camden Center for Law and Social Justice 856-583-2950 Casa Esperanza 732-748-1111 Catholic Charities (Camden) 856-342-4161
Prosecuting Attorney's Office (Legal Assistance)	Delaware New Jersey	www.attorneygeneral.delaware.gov/ 302-577-8500 www.state.nj.us/lps/ 609-292-4925

Department of Education Office for Civil Rights	Philadelphia Office	Office for Civil Rights U.S. Department of Education The Wanamaker Building 100 Penn Square East, Suite 515 Philadelphia, PA 19107-3323 215-656-8451
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APPENDIX B: PREGNANCY OR RELATED CONDITIONS: RIGHTS AND OPTIONS

Wilmington University is committed to creating and maintaining a community free from discrimination, including discrimination on the basis of sex, as mandated by Title IX of the Education Amendments of 1972. Sex discrimination, which can include discrimination based on a student's current, potential, or past pregnancy or related conditions, is prohibited and illegal. Wilmington University provides this information to ensure the protection and equal treatment of pregnant or students with related conditions. *Employees are also protected from pregnancy or related conditions in their employment. Specific protections for employees may be found in the Employee Handbook.*

Wilmington University will treat pregnancy or related conditions in the same manner and under the same policies as any other temporary medical conditions concerning any medical or hospital benefit, service, plan, or policy the University administers, operates, offers, or participates in concerning students admitted to the University's education program or activity.

The following is a summary of rights and options available to students who are pregnant or who have a condition that has arisen from pregnancy. Complaints regarding discrimination¹¹ on the basis of pregnancy or related conditions for students and employees will be resolved using Track Two of the grievance procedures contained in the University's Equal Opportunity and Non-Discrimination Policy and Procedures.

Self-Identification and Employee Reporting

Students, or a person who has a legal right to act on behalf of the student, may self-identify their pregnancy¹² or pregnancy-related condition to the Title IX Coordinator using the contact information listed in this policy to receive modifications. Students are strongly encouraged to self-report so that the student and the Title IX Coordinator can work together throughout the student's pregnancy to ensure that reasonable modifications are made and evolved as necessary based on the needs of the student.

All employees must report to the Title IX Coordinator the name and specific information reported to them by a student who has informed them of their pregnancy. The employee shall inform the pregnant student that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to the University's education program or activity.

Reasonable Modifications

Pregnant students have the right to access the educational program and associated activities regardless of their status as pregnant and, as such, will be provided with reasonable modifications if requested. Each reasonable modification must be based on the student's individualized needs. The Title IX Coordinator must consult with the student to determine what modifications are required. A modification that Wilmington University can demonstrate would fundamentally alter the nature of our education program or activity is not a reasonable modification.

The student can accept or decline each reasonable modification the Title IX Coordinator offers. If a student accepts an offered reasonable modification, the Title IX Coordinator will implement it.

¹¹ If a pregnant or related conditions student is harassed on the basis of pregnancy, then that complaint will be resolved using Track Three grievance procedures. All employee complaints regardless of harassment or discrimination will be resolved using Track Two of the grievance procedures contained in this policy.

¹² Employees should self-report to HR.

Reasonable modifications may include, but are not limited to, breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom; intermittent absences to attend medical appointments; access to online or homebound education; changes in schedule or course sequence; extensions of time for coursework and rescheduling of tests and examinations; allowing a student to sit or stand, or carry or keep water nearby; counseling; changes in physical space or supplies (for example, access to a larger desk or a footrest); elevator access; or other changes to policies, practices, or procedures.

Comparable treatment to other temporary medical conditions

Wilmington University shall treat pregnancy or related conditions in the same manner and under the same policies as any other temporary medical conditions concerning any medical or hospital benefit, service, plan, or policy the University administers, operates, offers, or participates in concerning students admitted to the University's education program or activity.

Voluntary access to separate and comparable portion of program or activity

Wilmington University will allow the student to voluntarily access any separate and comparable portion of the University's education program or activity if such a comparable portion of the program or activity is available.

Voluntary leaves of absence

Wilmington University will allow the student to voluntarily take a leave of absence from the University's education program or activity to cover, at minimum, the period deemed medically necessary by the student's licensed healthcare provider. When the student returns to the University's education program or activity, the student will be reinstated to the academic status and, as practicable, the extracurricular status that the student held when the voluntary leave began.

Certification to participate

The University will not require a student who is pregnant or has related conditions to provide certification from a healthcare provider or any other person that the student is physically able to participate in the University's class, program, or extracurricular activity unless:

- (i) The certified level of physical ability or health is necessary for participation in the class, program, or extracurricular activity;
- (ii) The University requires such certification of all students participating in the class, program, or extracurricular activity; and
- (iii) The information obtained is not used as a basis for discrimination prohibited by law.

Lactation space

The University has a lactation space, which is a space other than a bathroom, which is clean, shielded from view, free from intrusion from others, and may be used by a student for expressing breast milk or breastfeeding as needed. Information regarding the lactation space may be found on the Title IX website. Students may also contact the Title IX Coordinator for more information on lactation.

Limitation on supporting documentation

Wilmington University will not require supporting documentation unless the documentation is necessary and reasonable for the University to determine the reasonable modifications to make or whether to take additional specific actions. Examples of situations when requiring supporting documentation is not necessary and reasonable include, but are not limited to, when the student's need for a specific action is obvious, such as when a pregnant student needs a larger uniform; when the student has previously provided the University with sufficient supporting documentation; when the reasonable modification because of pregnancy or related conditions at issue is allowing a student to carry or keep water nearby and drink, use a larger desk, sit or stand, or take breaks to eat, drink, or use the restroom; when the student has lactation needs; or when the specific action is available to students for reasons other than pregnancy or related conditions without submitting supporting documentation.

Prohibition on Retaliation

Faculty, staff, and other Wilmington University employees are prohibited from interfering with a student taking leave, seeking reasonable modifications, or exercising their rights under this Policy. Faculty, staff, and other University employees are prohibited from retaliating against a student for exercising the rights articulated by this Policy, including imposing or threatening to impose adverse educational or other outcomes because a student requests leave or modifications, files a complaint, or otherwise exercise their rights under the Policy.

APPENDIX C: GRIEVANCE PROCEDURES VISUAL AID

