

Title IX

20 U.S.C § 1681 & 34 C.F.R. Part 106 (1972)

“No person in the United States shall, on the basis of sex/gender, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance.”

Mandatory Reporting

WKU Policy 0.2070

- Mandatory reporting is expected of all WKU employees (part-time, full-time, temporary, intermittent, etc.). These employees must report information they have about alleged or possible sexual misconduct/assault involving student-to-student concerns to the Office of Student Conduct and concerns involving, but not limited to, employee-to-student, employee-to-employee, and student-to-employee to the office of Equal Employment Opportunity/Affirmative Action/University ADA Services (EEO), **within 24 hours** of receiving such information.
- Employees who are statutorily prohibited from reporting, such as licensed health-care professionals, are exempt from these reporting requirements.

Syllabi Statement:

“Western Kentucky University (WKU) is committed to supporting faculty, staff and students by upholding WKU’s Title IX Discrimination, Harassment and Sexual Misconduct Policy (#0.2070) at <https://wku.edu/eoo/documents/titleix/wkutitleixpolicyandgrievanceprocedure.pdf>. Under this policy, discrimination, harassment and/or sexual misconduct based on sex/gender are prohibited. If you experience an incident of sex/gender-based discrimination, harassment and/or sexual misconduct, you are encouraged to report it to the Title IX Coordinator, Andrea Anderson, 270-745-5398 or Title IX Investigators, Michael Crowe, 270-745-5429 or Joshua Hayes, 270-745-5121.

Please note that while you may report an incident of sex-gender based discrimination, harassment and/or sexual misconduct to a faculty member, WKU faculty are “Responsible Employees” of the University and **MUST** report what you share to WKU’s Title IX Coordinator or Title IX Investigator. If you would like to speak with someone who may be able to afford you confidentiality, you may contact WKU’s Counseling and Testing Center at 270-745-3159.”

James is Dead...

<https://www.youtube.com/watch?v=Op14XhETfBw>

WKU Title IX Resources

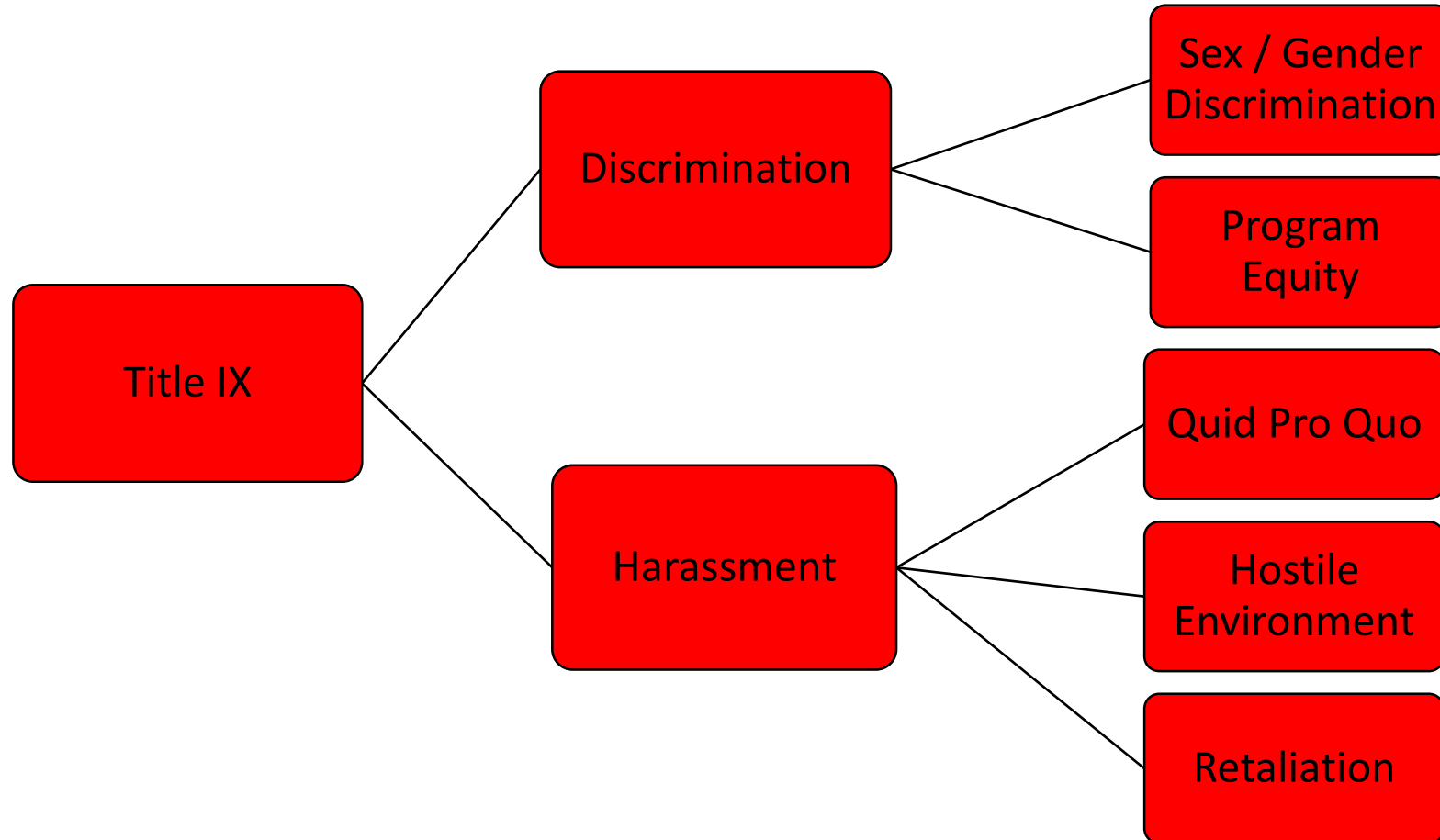
Title IX Resources

https://www.wku.edu/eoo/#wku_content

Title IX Coordinator and Deputies

<https://www.wku.edu/eoo/titleix/coordinatordeputies.php>

Title IX: Discrimination v. Harassment



Pregnant Students—Covered by Title IX?

- We are required to treat pregnant students the same way as students with any other temporary disability.
- If you do not require a doctor's note for a student who missed class due to a car accident or illness, you cannot require a pregnant student to provide this documentation.
- Attendance policies:
 - Cannot dock grades/penalize a student for missing class related to pregnancy/childbirth.
- Good communication is key!
- What should you do? Extend deadlines, allow makeup assignments, offer online course completion options, use technology, assign alternate but comparable assignments, or give the student an incomplete.

Statistics—United Educators (2017)

- 94% of victims were women
- 54% of victims were first year students
- 96% involved acquaintances
- 33% involved incapacitation
- 29% involved physical force
- 18% involved failed consent
- 13% involved coercion

Sexual Harassment:

- Defined as **unwelcome conduct of a sexual nature** or that is sex or gender-based where:
 - Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by a person having power or authority over another when submission to such sexual conduct is made either explicitly or implicitly a term or condition of employment or participation in a university course, program or activity. This form of harassment is **known as quid pro quo harassment**; or
 - The conduct creates a hostile environment; or
 - The conduct results in retaliation.

What is a hostile environment?

Created when sexual harassment is:

- (1) **Objectively offensive** such that it interferes with, denies, or limits someone's ability to participate in or benefit from WKU employment or participation in a course, program or activity; **and**
- (2) **Severe; or**
- (3) **Persistent or pervasive**

WKU's Sexual Misconduct/Assault Policy

Definition: Sexual Misconduct / Assault

Sexual misconduct/assault is defined as actual or attempted sexual contact with another person without that person's consent. Sexual assault includes, but is not limited to, the following:

1. **Intentional and unwelcome touching**, coercing, or an attempt to coerce, and forcing;
2. Involvement in **any sexual contact when the victim is unable to consent**;
3. **Forcing another individual to touch a person's intimate parts** (defined as genital area, groin, inner thigh, buttocks, or breasts);
4. **Sexual intercourse without consent**, including acts commonly referred to as "rape".

Definition: Consent

Consent is:

1. Clear, and

2. Knowing, and

3. Voluntary

-words or actions

-that give permission for specific sexual activity

Consent...continued.

- Consent is active.
- Silence, in and of itself, cannot be interpreted as consent.
- Consent can be given by words or actions, as long as those words or actions create mutually understandable permission re: willingness to engage in and specifics of sexual activity.
- Consent to any one form of sexual activity cannot automatically imply consent to future sexual acts.
- Consent can be withdrawn as long as that withdrawal is clearly communicated.
- In order to give consent, one must be of legal age.

Definition: Incapacity

Incapacity refers to a state in which a person cannot legally give consent

1. Asleep or unconscious
2. Person is incapacitated because of alcohol or drugs
3. Persons who are under the age of 16 in Kentucky
4. Person has a mental or physical condition which prevents his or her ability to consent

Phone video

- <https://www.youtube.com/watch?v=laMtr-rUEmY>

Definition: Relationship Violence

Relationship violence is abuse or violence between partners or former partners involving one or more of the following elements:

1. Battering that causes bodily injury;
2. Purposely or knowingly causing reasonable apprehension of bodily injury;
3. Emotional abuse creating apprehension of bodily injury or property damage;
4. Repeated telephonic, electronic or other forms of communication – anonymously or directly – made with the intent to intimidate, terrify, harass, or threaten.

Definitions: Stalking

Stalking includes repeatedly following, harassing, threatening, or intimidating another by telephone, mail, electronic communication, social media, or any other action, device, or method that purposely or knowingly causes substantial emotional distress or reasonable fear of bodily injury or death.

Definition: Sexual Exploitation

Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for anyone's advantage or benefit other than the person being exploited, and that behavior does not otherwise constitute one of the preceding sexual misconduct offenses. Examples of behavior that could rise to the level of sexual exploitation include, but are not limited to, the following:

1. Prostituting another person;
2. Non-consensual visual (ex. Video, photograph, etc.) or audio-recording of sexual activity;
3. Non-consensual distribution of photos, other images, or information of an individual's sexual activity, intimate body parts, or nakedness, with the intent to or having the effect of embarrassing an individual who is the subject of such images or information;
4. Engaging in or facilitating non-consensual voyeurism.

Definition: Retaliation

Retaliation is action taken by an accused individual or third party against any person because that person opposed any practices forbidden under this policy, or because that person filed a complaint, testified, assisted, or participated in any manner in an investigation or proceeding under this policy. Retaliation including intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual's complaint or participation in an investigation

Top Ten Things to Know about WKU's Title IX Process

- (1) The Title IX process protects you as employees.
- (2) It's prompt, often completed within 60 days.
- (3) Procedural protections offer the full measure of fairness (or due process) afforded by law.
- (4) The Title IX process is independent, rendering an objective determination and remedies.
- (5) It's confidential and investigators are very careful about safeguarding professional reputations.
- (6) All Title IX investigators are trained and certified in Title IX compliance.
- (7) A wide range of interim measures are available to protect you, upon request.
- (8) WKU's policy offers broad protection from retaliation, and we take it very seriously.
- (9) Serious sanctions are imposed for serious misconduct.
- (10) We respect you, and you'll feel that respect in how we treat you throughout the process.

It's Illogical: The Art Gallery

<https://www.youtube.com/watch?v=3uvXexYjitI>