



UN 101: Let's Talk about Title IX and Consent

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General Counsel and
Interim Title IX Coordinator
September 15, 2020

www.muw.edu/titleix

MUW Non- Discrimination Policy

MUW is committed to providing an environment that is **free from discrimination and harassment** based upon race, color, ethnicity, national origin, sex, pregnancy, religion, disability, age, sexual orientation, gender identity, genetic information, veteran status or any other status protected by state or federal law.

37 Words Changed Everything

YouTube Video No. 1

<https://www.youtube.com/watch?v=5kNG78T9N5c>

Important Case Law

| FRANKLIN v GWINNETT COUNTY PUBLIC SCHOOLS (1992) | GEBSER V. LAGO VISTA SCHOOL DISTRICT (1998) | DAVIS v. MONROE COUNTY BOARD OF EDUCATION (1999) |
|---|---|--|
| Meet Christine Franklin | Meet Alida Gebser | Meet Lashonda Davis |
| <p>Subjected to harassment and sexual assault by her high school teacher.</p> <p>Outcome: Held individuals may recover monetary relief under Title IX for the first time.</p> | <p>Same as Christine.</p> <p>Outcome: Defined what (is not) Actual Notice</p> | <p>Student-on-student harassment and sexual assault.</p> <p>Outcome: Provided standard for when conduct qualifies for sexual harassment (severe, pervasive and objectively offensive).</p> |

Two Types of Sexual Harassment and...

- Quid Pro Quo
- Hostile Environment:
Unwelcome conduct that is severe, pervasive and objectively offensive

Title IX also covers:
Sexual Assault
Dating Violence
Domestic Violence
Sex Based Stalking

quid pro quo

[/,kwɪd prəʊ 'kwəʊ]

Derivation - Latin

A favour granted in return for something, reciprocity

Title IX Deputies

| | |
|---|---|
| Dr. David Brooking Student Success Center | Ms. Vic Jones Library |
| Ms. Ashley Chisolm Legal Studies | Dr. Irene Pintado Health Education |
| Ms. Melanie Freeman Office of University Counsel | Ms. Laura Quinn Human Resources |
| Ms. Jess Harpole Student Affairs | Mr. Daniel Talley Athletics |
| Dr. Chrystal Hodges Education | Dr. Kim Whitehead Honors College/English and Religious Studies |

What happens when there is a report?

- Complainant will be contacted by the Title IX Coordinator or one of the Title IX Deputies.
- Complainant will be informed of the Title IX policy and processes available to you if you *choose* to file a formal complaint.
- Complainant will be provided with supportive measures.

Supportive Measures

- Supportive Measures are “non-disciplinary, non-punitive individualized services offered before or after the filing of a formal complaint or where no formal complaint has been filed”
- Separate of independent response track from the investigation/adjudication function.
- **NON-PUNITIVE**: may not unreasonably burden the other party
- Examples

Formal Complaint (not the same thing as a report)

- Must be a written document that contains the complainant's "physical or digital signature or otherwise indicates that the complainant is the person filing the formal complaint and asking the University to take action.
- Notice is sent to the accused party (Respondent) of allegations with details.
 - Prior to any initial interview
 - Presumption of innocence

Rights of Parties

- Receive a copy of the University's Title IX Grievance Process.
- May choose an advisor of their choice and will be provided with a Pre-Hearing Process Advisor (Title IX Deputy).
- Notified that student code of conduct prohibits making false statements or statements.
- Informed of evidence gathered.

What happens with a formal grievance process?

1. The University will conduct an impartial investigation.
2. Both parties will be able to review the Final Investigative Report and provide a response.
3. An independent panel will conduct a live hearing to determine responsibility and discipline.
4. The parties' advisors **MUST** be the ones to cross examine witnesses.
5. Both parties have the right to appeal.

INFORMAL RESOLUTION

- “At any time prior to reaching a determination regarding responsibility [the institution] may facilitate an informal resolution process such as mediation,” provided
 - The institution provides the parties with written notice disclosing the allegations, the requirements of any informal resolution process including whether and how it may preclude resuming a formal complaint
 - Must be VOLUNTARY by both parties
- Informal resolution may not be required of any party. If either party does not wish to proceed, the formal investigation must continue.
- Informal resolution MAY NOT OCCUR in matters where an employee is accused of harassing a student.

Website

www.muw.edu/titleix



What is Consent?

- **Consent:** An informed, freely given agreement, communicated by clearly understandable words or actions, to participate in each form of sexual activity.

General guidelines about consent:

1. It cannot be inferred from silence, passivity or lack of resistance.
2. A current or previous sexual relationship is not sufficient to consent, and consent to one form of sexual activity does not imply to other forms of sexual activity.
3. When consent is requested verbally, absence of any explicit verbal response constitutes lack of consent. A verbal “no” is not consent, even if it sounds insecure or indecisive.

More general guidelines about consent...

5. No consent when there is threat of force or violence or if coerced, intimidated.
6. Consent may be withdrawn at any time.
7. A person incapacitated by alcohol or drug consumption, or who is unconscious or asleep, or otherwise physically or mentally impaired, is incapable of giving consent.
8. A person who is below the legal age of consent is incapable of giving consent.

Another Way to Think About Consent: Simple as Tea

You Tube Video No. 2

<https://www.youtube.com/watch?v=fGoWLWS4-kU>



Contact

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Title IX Deputies listed at

www.muw.edu/titleix/deputies