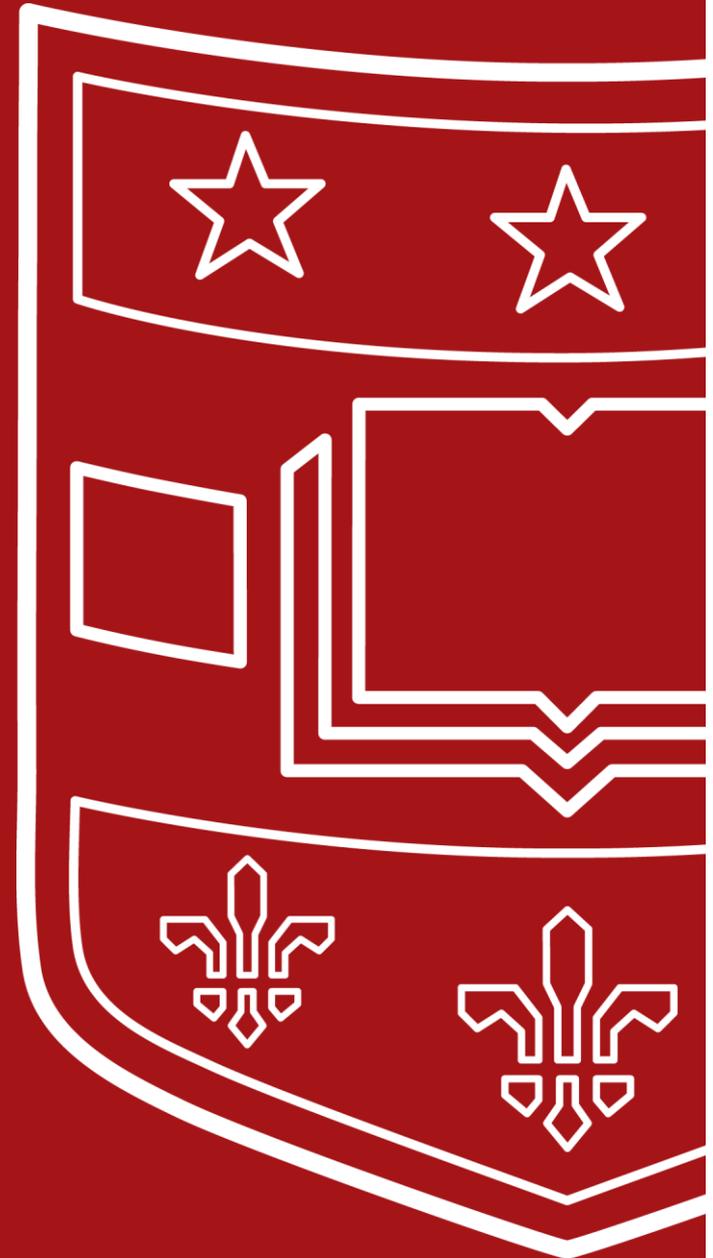


# Maintaining a Safe and Respectful Learning, Living and Working Environment at WU

Fall 2017



# Law and Policies



- Title IX
- WU Policy on Discrimination and Harassment
- WU Student Conduct Code

# Title IX



Federal law which protects students, employees and third parties from sex discrimination, including harassment and violence, in a school's education programs and activities, including all "academic, educational, extracurricular, athletic, and other programs of the school, whether those programs take place in a school's facilities, on a school bus, at a class or training program, or sponsored by the school at another location, or elsewhere."

# WU policies



- [Policy on Discrimination and Harassment](#)
- [Student Conduct Code](#)
- [Non-Discrimination Statement](#)

# Definition of sexual harassment



Any unwelcome sexual advances or other nonconsensual conduct of a sexual nature, when:

- submission to or rejection of such conduct is used as the basis or threatened basis for employment decisions or for academic evaluation, grades or advancement; or
- such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance and creating an abusive, hostile or intimidating work or academic environment.

# Definition of sexual violence



A form of sexual harassment, which includes physical sexual acts perpetrated against a person's will or where it would be apparent to a reasonable observer that a person is incapable of giving consent due to the victim's use of drugs and/or alcohol or due to an intellectual or other disability.

# WU Student Conduct Code



- Prohibits sexual contact with any member of the University community or visitor to the University without that person's consent, including, but not limited to, rape and other forms of sexual assault.

# Other Definitions



- Consent
- Domestic Violence
- Dating Violence
- Stalking



# Consent defined

**Consent consists of mutually understandable words and/or actions which indicate that an individual has freely chosen to engage in sexual activity.**

In the absence of such words and/or actions, consent does not exist. Consent may not be inferred from silence, passivity, lack of physical resistance, or lack of verbal refusal alone.



## Consent defined (cont'd)

**Consent to engage in sexual activity must be knowing and voluntary.**

For example, sexual activity is not knowing and voluntary and therefore not consensual when any participant is physically forced, passed out, asleep, unconscious or beaten.

# Consent defined (cont'd)



Sexual activity is also not knowing and voluntary and therefore not consensual if it is the result of coercion. A person's words or conduct amount to coercion if they eliminate the other person's ability to choose whether or not to engage in sexual activity.

Examples of coercion could include the following, so long as the conduct rises to a level that eliminates the other person's ability to choose whether to engage in sexual activity: threats (express or implied) of substantial emotional or psychological harm or any physical harm, confinement, or other similar conduct.



## Consent defined (cont'd)

Consent to engage in sexual activity must exist from the beginning to end of each instance of sexual activity, and for each form of sexual contact.

Consent may be withdrawn by either party at any time.

# Consent defined (cont'd)



An individual who is incapacitated is unable to give consent. In such circumstances, the Respondent will be held responsible if the Respondent either knew or a reasonable person in the same position would have known that the other party was incapacitated and therefore could not consent to the sexual activity.

Incapacitation is the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically helpless due to a medical condition or the voluntary or involuntary consumption of drugs and/or alcohol, or the individual is unconscious, asleep or otherwise unaware that the sexual activity is occurring.

# Domestic violence



A felony or misdemeanor crime of violence committed—

- (A) By a current or former spouse or intimate partner of the victim;
- (B) By a person with whom the victim shares a child in common;
- (C) By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
- (D) By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or
- (E) By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.



# Dating violence

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

- 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.
- Dating violence does not include acts covered under the definition of domestic violence.



# Stalking

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 the purposes of 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.
- '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.

# WU Obligations and Procedures



- Duty of WU
- Obligations of “responsible employees”
- Confidentiality
- Formal procedures

# Duty of WU upon notice



- Under Title IX, once a school has notice of possible sexual harassment of students (whether by employees, other students or third parties), “it should take immediate and appropriate steps to **investigate** or otherwise determine what occurred **and take prompt and effective steps** reasonably calculated to end any harassment, eliminate a hostile environment if one has been created, and prevent harassment from occurring again.”
- WU has obligation to investigate *regardless* of whether a complaint is filed
- **Bottom line: Duty to stop it, prevent recurrence, and remedy effects of harassment on victim student and WU community.**

# What does this mean?



- School has notice if a “responsible employee” knew or in exercise of reasonable care, should have known, about the harassment.
- “Responsible employee” is any employee:
  - with authority to take action to redress the harassment; or
  - who has the duty to report to appropriate school officials sexual harassment or other misconduct by students or employees; or
  - who a student could reasonably believe has this authority or responsibility.

# So what does that have to do with me?



- If you are an employee and you learn information about harassment being directed toward or committed by a member of our community in your capacity as an employee, you may be a “responsible employee.”
- In addition, under our Discrimination and Harassment Policy, **any** University employee who becomes aware of instances or allegations of sexual harassment by or against a person under their supervisory authority must report it to those charged with responding to such allegations and reports: the appropriate dean, director or department head or other similar administrator or to the Title IX Coordinator.



# What are my obligations?

- If you are a “responsible employee,” report the information you know in a timely manner to your supervisor or the Title IX Coordinator.
- If you are not a “responsible employee,” you are still encouraged to report.
- Provide students, colleagues with resources.
- Do NOT guarantee confidentiality.
- Do NOT take matters into your own hands and investigate on your own.



# Confidentiality

- The University will strive to protect, to the greatest extent possible, the confidentiality of persons reporting harassment and of those accused of harassment.
- You should discuss confidentiality standards and inform person who is confiding in you that if they insist on confidentiality, WU's ability to respond may be limited.
- University has to weigh a student's request for confidentiality in the context of its responsibility to provide a safe and nondiscriminatory environment for all students.

# WU formal complaint procedures



## *Complaints against students or student groups:*

- University Student Conduct Code
- University Sexual Assault Investigation Board (USAIB)

## *Complaints against faculty:*

- Discrimination and Harassment Grievance Committee

## *Complaints against staff:*

- Addressed through Human Resources

**NOTE:** There are informal procedures available, depending on the type of conduct at issue. Read the policy.

# Resources



- Supporting a reporting party
- Confidential Resources
- Reporting Resources

# Talking about these topics



- **Use empathetic listening:**
  - Thank you for sharing this with me.
  - I'm sorry you're going through this.
  - Let me help you get to the right place.
  - I will only share this information to :
    - Make sure you get the support and resources needed, and
    - Put you in contact with university personnel who will explain your options on and off campus
- **You can direct them to confidential resources.**

# Confidential resources



- **Kim Webb, [Director of Relationship and Sexual Violence Prevention \(RSVP\) Center](#) - (314) 935-8761 (through SARAH or WUPD after hours)**
- **[Student Health Services](#) (in person or online):**
  - Danforth Campus - (314) 935-6666
  - Medical School - (314) 362-3523
- **[SARAH](#) (Sexual Assault and Rape Anonymous Helpline) – (314) 935-8080**
- **[SHS Anonymous Report Form](#) (online)**
- **[WUPD Silent Witness Form](#) (online)**

# Reporting resources



## Non-confidential

- **WUPD** (314) 935-5555 or **Local Police (911)**
- **Jessica Kennedy**, Director, Title IX Office & Title IX Coordinator (314) 935-3118

*While the University strongly encourages victims to report to the University and the police, we understand that some students will ask that their name not be disclosed to the alleged perpetrator or that the school not proceed with a formal investigation or disciplinary action. The University will seriously consider these requests and, except in limited circumstances, will honor the student's wishes.*

# Online training



- The topics and resources in this presentation are also covered in the Think About It training. You will receive an email with a link to complete the interactive training, which includes skills building and an examination of these issues in work and educational settings.

# Questions?



Jessica W. Kennedy

Director, Title IX Office & Title IX Coordinator

(314) 935-3118

[jwkennedy@wustl.edu](mailto:jwkennedy@wustl.edu)