Who Am I?

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Director, Non-Discrimination Compliance

Equal Opportunity
Affirmative Action
Title IX Coordinator
Sexual Violence Training

- While the majority of this presentation addresses legal requirements and legal definitions related to sexual violence and sexual misconduct, by virtue of the subject matter some of the material may, based upon one’s personal life experiences, trigger disquieting emotions. Participants need to feel comfortable leaving the presentation if they so desire. Please also note the following resources:

Employees: LIFESCOPE (Employee Assistance Program)
800 828-6025

Students: Counseling Center, 413 572-5790
Overview of Policy
This training is intended to comply with requirements of:

- Title IX of the Education Amendments of 1972;
- the reauthorized Violence Against Women Act;
- the Jeanne Clery Act;
- guidance documents on Title IX issued by the Department of Education’s Office for Civil Rights;
- the White House Task Force to Protect Students from Sexual Assault and
- the state of Massachusetts Board of Higher Education’s Sexual Violence Policy to become effective March 15, 2015
Sexual Violence Policy Training

• Sexual Violence and Sexual Misconduct Webpage

Please refer to the university’s Sexual Violence and Sexual Misconduct webpage:

http://www.westfield.ma.edu/sexual-violence

for a complete descriptions of definitions, contact information, reporting guidelines and resources for victims of sexual misconduct.
Sexual Assault on Campuses

- 20% of women and 6% of men are targets of attempted or completed sexual assault in college
  
- Less than 5% of men account for 90%-95% of campus rapes; but those 5% commit an average of 6 rapes, as well as other assaults

- 75%-90% of sexual assaults are perpetrated by a non-stranger

- Less than 5% of sexual assaults are reported

- Most people tell the truth. A study of 136 sexual assault cases in Boston found false report rate of 5.9%.

- The majority of perpetrators remain undetected. They are not caught.
Title IX

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

Title IX of the Higher Education Amendments of 1972
Title IX Prohibits

- Sex-Based Discrimination
- Sexual Harassment
- Rape
- Sexual Assault
- All Forms of Sexual Violence
Title IX Applies

TO EVERYONE
female, male and gender non-conforming
students, faculty, staff, visitors, and, if there is an
impact on access to educational programs or
activities, third parties

BOTH ON AND OFF CAMPUS

TO EVERYTHING
academics, residence life, sports, co-curricular programs, social activities,
field trips, study abroad, etc.
What Does Title IX Require?

Once a school has **NOTICE** of possible sexual harassment or violence, it **MUST**: take immediate and appropriate steps to **INVESTIGATE** what occurred; and **take prompt and effective action to** **END** the harassment, **REMEDY** its effects, and **PREVENT** it from occurring again.
When Does the University Have Notice?

An Individual Files A Complaint (Internally Or Externally)

An Individual Makes A Report To The Title IX Coordinator Or EO Officer

An Individual Makes A Report To A Responsible Employee

A Responsible Employee Witnesses Sexual Harassment Or Violence

A Responsible Employee Receives Indirect Notice From Sources Such As Another Employee, News Reports, Media Reports, Or Online Postings

Where Harassment Is Widespread, Openly Visible, or Well-known On Campus
What Are Prompt and Effective Actions to End the Conduct, Remedy Its Effects, and Prevent It from Occurring Again?

Interim Measures to Ensure The Victim’s Safety

- Temporary suspension of the accused from residence halls or campus
- No contact orders
- Separating the accused and the victim in living/work spaces
- Academic adjustments
- Counseling
- Escorts

Complaint Investigations and Resolutions

Discipline/Sanctions

Prevention and Awareness Training
WSU’S Legal Obligation To Respond

The State Universities have revised their **Equal Opportunity Plan (EO Plan)** to expand the prohibition against discrimination, discriminatory harassment and retaliation to include the prohibition of all forms of:

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<thead>
<tr>
<th>Sexual Harassment</th>
<th>Sexual Violence</th>
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<td>Gender-Based Harassment</td>
<td>Rape and Statutory Rape</td>
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<td>Domestic Violence</td>
<td>Sexual Exploitation</td>
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<td>Dating Violence</td>
<td>Incest</td>
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<td>Stalking</td>
<td>Retaliation</td>
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Sexual Violence Policy Training

Definitions:

Affirmative Consent
Consent is an understandable exchange of affirmative words or actions, which indicate a willingness by all parties to participate in mutually agreed upon sexual activity. Silence, previous sexual relationships or experiences, and/or a current relationship may not, in themselves, be taken to imply consent.

Incapacitation
An individual who is incapacitated by alcohol and/or drugs, both voluntarily or involuntarily consumed, may not give consent.
Sexual Harassment

Unwelcome conduct of a sexual nature is prohibited when:

• submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment or education; and/or

• submission to, or rejection of, such conduct by an individual is used as a basis for academic or employment decisions affecting that individual; and/or

• such conduct has the purpose or effect of substantially interfering with an individual’s academic or professional performance or creating a sexually intimidating, hostile, or offensive employment, educational, or living environment.
Gender-Based Harassment

Unwelcome conduct of a nonsexual nature based on a person’s actual or perceived sex, including conduct based on gender identity, gender expression, and nonconformity with gender stereotypes, is prohibited when:

• submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment or education; and/or
• submission to, or rejection of, such conduct by an individual is used as a basis for academic or employment decisions affecting that individual; and/or
• such conduct has the purpose or effect of substantially interfering with an individual’s academic or professional performance or creating an intimidating, hostile, or offensive employment, educational, or living environment based on gender.
Domestic and Dating Violence

Domestic and dating violence are acts of abusive or coercive behavior (physical, sexual, financial, verbal and/or emotional) used by a perpetrator to gain or exercise control over another, including any behaviors that intimidate, manipulate, humiliate, isolate, frighten, threaten, blame, hurt, injure, or wound someone. Domestic and dating violence can occur in relationships between persons of any gender.

- Domestic violence is such behavior directed against a current or former spouse, family member (blood, step, adoptive or foster), person with whom a child is shared, or cohabitant (possibly a roommate).

- Dating violence is such behavior directed against another person in a social relationship of a romantic or intimate nature, and where the existence of such a relationship is determined based on a consideration of the length and type of relationship and frequency of interaction between the persons involved.
Stalking

Engaging in a course of harassing, threatening, or unwanted behavior that would cause a reasonable person to suffer substantial emotional distress or fear for their safety or the safety of others.

Stalking may occur in a range of formats including, but not limited to, in-person conduct, writings, texting, voicemail, email, social media, following someone with a global position system (GPS), and video/audio recording.
Sexual Violence

As defined by OCR, sexual violence “refers to physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent (e.g., due to the [person’s] age or use of drugs or alcohol, or because an intellectual or other disability prevents the [person] from having the capacity to give consent).
Rape and Statutory Rape

• Rape is the penetration, no matter how slight, of (1) the vagina or anus of a person by any body part of another person or by an object, or (2) the mouth of a person by a sex organ of another person, without that person’s consent. Rape is also the performance of oral sex or anal sex on another person without that person’s consent.

• Statutory rape is sexual intercourse with a person who is under the statutory age of consent, which is 16 in Massachusetts.
Sexual Exploitation and Incest

• Sexual exploitation is taking sexual advantage of another person for one’s own benefit or the benefit of anyone other than that person without that person’s consent.

• Incest is sexual intercourse between persons who are related to each other and whose marriage would be prohibited by law.
Retaliation

The Universities prohibit retaliation against any person for making an internal or external complaint of prohibited conduct, for assisting in making a complaint, for resisting or openly opposing such conduct, or for otherwise using or participating in the investigation process.

Prohibited retaliation includes: threats; intimidation; reprisals; harassment or misconduct; slander and libel; and adverse actions related to employment or education.

Retaliation can be committed by individuals or groups, including friends, relatives or other associates of the accused.

Retaliation, even in the absence of proven prohibited conduct in an underlying complaint, is a violation that is just as serious as the main offense.
Reporting Options

Making No Report

Confidential Options

Non-Confidential Options
Victims have the right not to make a report to anyone.

But the Universities strongly encourage victims to seek medical attention, counseling and support.

Victims are always welcome to make a report at a later date, but delays in reporting tend to weaken the evidence necessary to determine whether the accused is found responsible for engaging in prohibited conduct.
Confidential Reporting Options

Clergy or Pastoral Counselors, Licensed Medical or Health Care Providers

The Employee Assistance Program (EAP)

Anonymous Reporting
Non-Confidential Reporting Options

### Campus Reporting
- T9C, EO Officer, Campus Police, HR, Dean of Students or Student Conduct
- Other Responsible Employees

### Criminal Reporting
- Campus or Local Police

Victims are never required to report to the police. If the victim chooses to report criminally, the University will assist.

### Governmental Reporting
- US DOE/OCR
- US DOJ/OVW
- MCAD
What Does All of This Have to Do with ME? Why am I Sitting Here?
You Are a Responsible Employee

Certain employees are **required to report** incidents of sexual and gender-based harassment, sexual violence, domestic violence, dating violence and stalking to the T9C.

Responsible Employees or “REs” are:

- those with supervisory responsibilities or the authority to address or remediate misconduct, *or*
- those whom students might reasonably believe have such supervisory responsibility or authority.
Sexual Violence Policy Training

Reporting

Title IX Coordinator,
  - Larry Johnson, President’s Office

Deputy Title IX Coordinators,
  - Sue LaMontagne, Dean of Students
  - Evie Soucie, Assistant Director of Human Resources (Employees)

Evening On Call
  - Jon Conlogue, Executive Director, Residential Life
  - Jessica Hufnagle, Assistant Director, Residential Life
  - Josh Hettrick, Assistant Director, Residential Life
  - Valerie Trembley, Orientation Coordinator
  - Jennifer Gould, Assistant Director of Residential Life
Who Are the REs at the Universities?

- Members of the Boards of Trustees
- The President and Vice Presidents
- Assist./Assoc. Vice Presidents
- Title IX Coordinator/Deputy Coordinators
- EO Officer
- Campus Police
- Institutional Security Officers
- Director and Assist./Assoc. Director of Human Resources
- Departmental Directors and Assist./Assoc. Directors
- Residence Life Staff (including RDs and RAs)
- Athletic Coaches, Assistant Coaches and Athletics Administrators
- Studio Managers
- Lab Managers
- Deans and Assistant/Associate Deans
- Academic Department Chairs
- Academic and Non-Academic Program Directors/Coordinators
- Faculty/Staff Leading or Chaperoning Travel or Overnight Trips
- Faculty/Staff Advisors to Student Organizations
What is an RE’s Job?

To promptly place incidents of sexual and gender-based harassment, sexual violence, dating and domestic violence, stalking and related retaliation into the hands of the University personnel with the experience and training necessary to handle them.
A Victim’s Expectations of an RE

When a victim tells an RE about an incident, he or she has the right to expect the University to

take immediate and appropriate steps to investigate what happened, and

resolve the matter promptly and equitably
As a Responsible Employee

YOU HAVE A DUTY TO REPORT TO THE TITLE IX COORDINATOR

YOU HAVE A DUTY TO INFORM VICTIMS
What is an RE’s Duty to Inform?

Before a person “reveals information that s/he may wish to keep confidential,” an RE should make every effort to ensure that the victim understands:

1. the RE’s **obligation to report to the T9C** (names and relevant facts such as the date, time, and location)

2. the option to **request** that the University maintain confidentiality/make no investigation, which the University will consider; and

3. the option to **report the incident confidentially** by speaking to Counseling, Health Services, Clergy/Pastoral Counselors, EAP).

4. Inform the victim that she or he is entitled to **support services**

5. Inform the victim that the University prohibits **retaliation**
What If a Victim Requests Confidentiality or No Investigation?

1. If the victim wants to tell the RE what happened, but also maintain confidentiality or ask that no investigation occur, the RE should tell the victim that the University will consider the request, but cannot guarantee that the University will be able to honor it.

2. In reporting the details of the incident to the T9C, the RE must inform the Coordinator of the victim’s request for confidentiality and/or no investigation.
How Does the University Evaluate a Victim’s Request for Confidentiality or No Investigation?

In consultation with Campus Police and other personnel as necessary, the T9C will evaluate a request for confidentiality or no investigation or no discipline by considering a range of factors, such as whether:

- there have been other similar complaints about the same accused;
- the accused has a history of arrests or records indicating a history of violence;
- the accused threatened any further violence against the victim or others;
- the misconduct was committed by multiple alleged perpetrators;
- the act was perpetrated with a weapon;
- the victim is a minor;
- there appears to be a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.
What is an RE’s Duty to Report?

- Responsible Employees MUST immediately report incidents of sexual violence, sexual or gender-based harassment, domestic violence, dating violence, stalking and/or retaliation that are reported to them, which they observe, or which they learn about to the T9C.
## What Must be Included in the Report?

An RE must report all known details about the alleged incident, including:

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<th>Details</th>
<th>Information</th>
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<tr>
<td>the RE’s name, position and contact information</td>
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<tr>
<td>the date, time and location of incident</td>
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<tr>
<td>the date the incident was reported to the RE</td>
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<tr>
<td>the name and contact information of the victim or other party who reported the incident</td>
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<tr>
<td>the name and contact information of the accused (if known)</td>
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<tr>
<td>a description of the incident (as much factual detail as possible; names of witnesses, if available)</td>
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<td>whether complainant has requested confidentiality</td>
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<td>whether other offices are involved (has the victim reported the incident to anyone else on campus, to the police, or to an outside agency?)</td>
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<td>how the RE left the matter with the victim</td>
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An RE is obligated to inform the Title IX Coordinator and ONLY the Title IX Coordinator.

The information shared by the victim is confidential and should not be disclosed to anyone else on campus.

An RE should not share information with law enforcement without the victim’s consent or unless the victim has also reported the incident to law enforcement.
What Does the University Do with the Report?

The T9C will determine whether **further action** is necessary in order to ensure the safety of the victim and the community.

If the T9C determines that additional action is necessary, the victim will be informed and protected from any **retaliation**.

The T9C or a designee will **contact the victim** to answer any questions, discuss support options and address any safety concerns.

The T9C will ensure that appropriate **interim measures** are implemented.

A victim’s **personal information** will be shared only as necessary, and consistently with state and federal law:

- with investigators, witnesses, and the accused;
- with other University officials to provide interim measures or victim accommodations; or
- when required to be disclosed by law.
A Note about Minors on Campus

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<th>When ANY employee has reasonable cause to believe that a child 17 or younger is suffering from sexual abuse on campus or on campus owned or controlled property, the employee must contact Campus Police.</th>
<th>An employee may also directly contact law enforcement or DCF in cases of suspected abuse or neglect.</th>
</tr>
</thead>
<tbody>
<tr>
<td>If an employee has reasonable cause to believe that an elderly or disabled person is suffering injury from abuse on campus or on University owned or controlled property, the employee must contact Campus Police.</td>
<td>Campus Police, who, in consultation with other officials, shall contact the Department of Children and Families (“DCF”) and/or outside law enforcement.</td>
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