



Title IX: Frequently Asked Questions

Below represents the most commonly asked questions regarding the College's Title IX policy and practices.

ABOUT TITLE IX

Isn't Title IX just a federal law mandating equality in athletics?

Title IX was originally created in 1972 to provide gender equity in athletics. In the 2011, Title IX was expanded to include sexual harassment, sexual assault, rape and gender-based stalking, intimate partner violence, retaliation and bully/hazing.

Who is responsible for enforcing Title IX?

Institutions are responsible for complying with federal laws. The Office of Civil Rights (OCR) of the U.S. Department of Education enforces Title IX. OCR has the authority to develop policy on the regulations it enforces.

What is the purpose of the Title IX Process?

The purpose of Title IX (Policy #108) is to determine:

- Whether or not prohibited conduct occurred
- Whether there is an ongoing risk of harm from the prohibited conduct and if so what steps are necessary to prevent recurrence
- Whether accommodations for the Complainant need to be put in place to readdress, the effects of the prohibited conduct
- Whether accommodations or safety measures should be put in place to ensure the safety of the College Community
- Whether an investigation is warranted by the Title IX Office
- Whether any changes to policies, practices or training should be considered or implemented.

Does Title IX always start an external criminal/legal process?

The student can always report sexual misconduct to local police and/or pursue criminal charges. It should be understood pursuing criminal charges is a separate process from a Title IX investigation process. The student can choose to pursue both at the same time.

What are my rights as a Complainant?

All parties involved will be treated equitably. The complainant has a right:

- To be treated with respect by College officials
- Access to campus support resources (such as counseling and mental health services and health services)

- To have an advisor of their choice attend all interviews, meetings and proceedings throughout the Investigation Process
- An equal opportunity, or chance to present a list of potential witnesses and provide evidence
- To be free from retaliation
- To have complaints heard in a manner that is substantially the same as the process outlined in policy #108
- To be informed of the finding, rationale and sanction (if applicable) of the complaint in writing.
- To report the matter to law enforcement (if applicable) and to have assistance in making a report to law enforcement
- Equal opportunity to appeal the findings and sanction

Additional Rights for Student Complainants:

- To receive advance notice of the investigation and notice of a Formal Resolution Hearing
- To request reasonable housing, living and other accommodations and remedies consistent with the policy
- To receive amnesty for minor student misconduct that is related to the incident, at the discretion of the appropriate Administrative Officer
- To request a no contact directive/order between the parties
- During the Appeal Process you have a right:
 - To have copies of all important and relevant documentary evidence and any investigative report at least two business days prior to the hearing

Additional Rights for Faculty/Staff Complainants in the Appeals Panel Process:

- To receive notice of the hearing
- To have the names of witnesses that may participate in the hearing at least two days prior to the hearing
- To have copies of all pertinent documentary evidence and any investigative report at least two business days prior to the hearing

What are my rights if I have been accused of committing a Title IX offense?

All parties involved will be treated equitably. The Accused has a right:

- To be treated with respect by College officials
- To access campus support resources (such as counseling and mental health services and health services), unless suspended from campus pending the completion of the process
- To have an advisor of their choice attend all meetings and proceedings throughout the Investigation process
- An equal opportunity, or chance, to present a list of potential witnesses and provide evidence
- To receive notice of the policies that the Accused has been charged with violating
- To have complaints heard in a manner that is substantially the same as the process outlined in policy #108
- To be informed of the finding, rationale and sanction of the complaint in writing
- Equal opportunity to appeal the findings and sanction

Additional Rights for Student Accused:
Notice of an Appeals Panel Hearing

- During the Formal Investigation process students have a right:
 - To have the names of witnesses that may participate in the hearing at least two days prior to the hearing
 - To have copies of all of all important and relevant documentary evidence and any investigative report at least two business days prior to the hearing
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Additional Rights for Faculty/Staff Accused in the Hearing Panel Resolution Process:

- To receive notice of the hearing
- To have the names of witnesses that may participate in the hearing at least two business days prior to the hearing
- To have copies of all pertinent documentary evidence and any investigative report at least two business days prior to the hearing
- To have present an advisor during the hearing and to consult with such Advisor during the hearing

PRIVACY CONCERNS

Will the information about a complaint remain confidential?

The College will maintain the privacy of all parties to a complaint, except when it interferes with the College's obligation to fully investigate the allegations. Information shared will be tightly controlled on a need-to-know basis. Sharing of information and/or written materials to persons not involved in the complaint procedure is not permitted. Violations of the privacy of the Complainant or Respondent may lead to conduct action by the College.

Upon completion of a Title IX investigation, all parties will be informed of the outcome. Certain College Administrators are informed of the outcome within the bounds of student privacy.

The *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act)* requires postsecondary institutions to disclose campus crime statistics and security information. *The Violence Against Women Reauthorization Act of 2013* require institutions to disclose statistics related to dating violence, domestic violence, sexual assault and stalking. These statistical reports do not include personally identifiable information.

What if the Complainant requests confidentiality?

If a Complainant requests to remain confidential, the College will give serious consideration to the request. Only in rare circumstances will the College proceed to a Title IX investigation against the wishes of the complainant. Generally, the College will seek to honor the request of a Complainant not to proceed to a Title IX investigation and to remain confidential. The Title IX Coordinator will consider a number of factors in deciding whether the request can be honored, including age of the Complainant, whether there is evidence of a pattern of misconduct, severity of the misconduct, and whether there is a safety risk to the Complainant or the Campus Community. Should the College, in weighing such factors, determine to proceed, the College will make sure that the Complainant is offered support throughout the process. The Complainant will not be required to participate in the process as a prerequisite of the College proceeding.

Will my parents be told?

The Title IX Office will not contact the parents of anyone involved in a Title IX investigation. Further, if a parent contacts the Title IX Office, we will not speak to them about a Title IX matter without the permission of the student involved. Your parents will only learn of a Title IX incident if you choose to tell them.

Whether you are the Complainant or Respondent, the College's primary relationship is to the student and not to the parent. However, in the event of a major medical, disciplinary or academic jeopardy situation, students are strongly encouraged to inform their parents. College officials will directly inform parents when requested to do so by a student. In a life-threatening situation or if the Complainant and/or Respondent has signed the Family Educational Rights and Privacy Act (FERPA) permission form at Registration, which allows such communication with the parents and/or other permissible third party, the College will contact them.

What are the reporting obligations of the College Faculty, Staff and residential staff?

All College employees, including faculty, staff and residential staff (RD/RA), are considered mandatory reporters and must report all Title IX related concerns to the Title IX Coordinator. The Counseling Center, Health Center and Campus Pastor's offices are considered confidential. These offices are not mandatory reporters.

Can I make a report anonymously?

Any individual may make an anonymous report concerning a Title IX violation. An individual may report the incident without disclosing his/her name, identifying the Respondent or requesting any action. The level of information shared and made available about the incident or the individuals involved will impact the College's ability to respond.

The College strongly encourages an individual to find a friend, family member or College advocate to report their concerns regarding a Title IX violation.

REPORTING A TITLE IX INCIDENT

Will I get in trouble if I was drinking or doing drugs when I was sexually assaulted?

The College's primary concern is the health and safety of its students. When conducting an investigation of an alleged Title IX violation, the focus will be on addressing the Title IX violation. The Title IX policy contains an amnesty provision regarding possible alcohol or drug violations, meaning any information involving alcohol or drug use will not be utilized for discipline purposes.

Who can a student contact if he or she has been accused of a Title IX prohibited conduct?

A student who has been accused of a Title IX violation can contact the Title IX Coordinator. Confidential support is also available from the College's Counseling Center or Pastor's office.

Is there a time limit for making a report?

There is no time limit for making a report. The College encourages reporting an incident as soon as possible in order to maximize our ability to respond promptly and effectively. The College does not; however, limit the time frame for reporting. If the respondent is no longer a student, the College may not be able to take action against the Respondent, but it will still seek to meet its Title IX obligation to take steps to end the harassment, prevent its recurrence, and address its effects, when appropriate.

Can an International student file a complaint?

Yes, International students have the same rights and protections as all other students.

Are there penalties for making false accusations?

False reporting is a serious offense subject to appropriate disciplinary action ranging from probation up to and including expulsion or termination.

I am a student worker and I am aware of an incident of sex discrimination. When I became aware of the incident, I was not acting in the capacity of my employment. Do I have to report?

If you were not acting in the role of your employment at the time you became aware of the incident, you are not mandated to report it. However, as a college community member, you are strongly encouraged to report any incident of sex discrimination of which you become aware.

Will I be retaliated against if I report a Title IX incident?

It is unlawful for any person to retaliate against an individual who reports a Title IX incident. The College takes this very seriously and will investigate and take action against any person found to have retaliated against a reporting party.

IS IT SEXUAL ASSAULT?**What should I do if I am uncertain about what happened, or whether it constitutes sexual assault?**

If you believe you have experienced sexual misconduct or sexual assault, but are unsure, you should contact the Title IX Office. They can help you define and clarify the event(s) and advise you of your options.

Who can a student contact to request one or more safety measures and/or accommodations be put in place?

A student may contact the Dean of Students or the Title IX Coordinator to request safety measures and/or accommodations.

What safety measures and accommodations are available to a student when he or she reports a Title IX related incident?

Upon a report of a Title IX concern, the College will work with the Reporting Party to put interim measures in place, if needed, to ensure a safe, hostile free environment for the student. Following an investigation, and if

a determination that prohibited conduct occurred, more permanent accommodations and safety measures may be implemented. Accommodations and safety measures could include:

- Housing accommodations
- Counseling services
- Academic accommodations
- Escort services
- No Contact requirements
- Removal from campus community
- Other appropriate actions as necessary

DEFINITIONS

What is consent?

Consent should be:

- Informed: a person has an understanding of what is being asked of them
- Voluntary: the choice by a person to participate or no participate is present and respected
- Active: actions, both verbal and non-verbal, demonstrate agreement of both parties
- Words and Actions: individuals should use clear words and actions. No mean no. Stop means stop.

A person cannot LEGALLY give consent if:

- A person is impaired, incapacitated, or unconscious from voluntary or involuntary drug or alcohol use
- A person has a physical or mental disability that prevents him or her from understanding what is happening.

What is sexual harassment?

Any unwelcome sexual advance, request for sexual favors or other unwelcome verbal or physical conduct of a sexual nature. In addition, any type of harassment is unacceptable and will not be tolerated on College campus such as gender, race, religion or sexual orientation.

What is stalking?

Stalking, on the basis of sex or gender, is following or engaging in a course of conduct with no legitimate purpose that puts another person reasonably in fear for his or her safety or would cause a reasonable person under the circumstances to be frightened, intimidated or emotionally distressed.

What is dating/intimate partner violence?

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

What is non-consensual sexual contact?

Is any sexual touching (referring to breast, genitals and buttocks, including disrobing or exposure), however slight, with any object, by a man or woman upon a man or woman without effective consent, by force or threat of force (this includes the use of coercion, threat of retaliation, or rendering someone incapable of consent) or when that individual is incapacitated.

What is dating violence?

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the person against whom the violent act is/acts are committed.

What is amnesty?

A bystander acting in good faith or a Reporting Individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking or sexual assault to College officials or law enforcement will not be subject to the College's code of conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking or sexual assault.

NCAA

Who is responsible for enforcing Title IX?

Institutions are responsible for complying with federal laws. The Office of Civil Rights (OCR) of the U.S. Department of Education enforces Title IX. OCR has the authority to develop policy on the regulations it enforces. In regard to athletic programs, OCR developed an Intercollegiate Athletics Policy Interpretation that was issued December 11, 1979. The 1979 Policy Interpretation remains current policy. On April 2, 1990, OCR issued an athletics policy document called "Title IX Athletics Investigator's Manual" that has assisted athletic departments with enforcement and compliance issues with Title IX. Anyone may file an OCR complaint, and the identity of the party who files the complaint will be kept confidential.

How is Title IX applied to athletics?

Athletic programs are considered educational programs and activities. There are three basic parts of Title IX that apply to athletics.

- Participation: Title IX requires that women and men be provided equitable opportunities to participate in sports. Title IX does not require institutions to offer identical sports but an equal opportunity to play.
- Scholarships: Title IX requires that female and male student-athletes receive athletics scholarship dollars proportional to their participation
- Other benefits: Title IX requires that equal treatment of female and male student-athletes in the provisions of: (A) equipment and supplies; (B) scheduling of games and practice times; (C) travel and daily allowance/per diem; (D) access to tutoring; (E) coaching; (F) locker rooms, practice and competitive facilities; (G) medical and training facilities and services; (H) housing and dining facilities and services; (I) publicity and promotions; (J) support services and (K) recruitment of student-athletes.

Does Title IX apply only to women?

Title IX applies to both women and men. The law requires educational institutions maintain policies, practices and programs that do not discriminate against anyone on the basis of gender. Elimination of discrimination against women has received more attention because females historically have faced greater gender restrictions and barriers in education. However, Title IX has also benefited men. A continued effort to achieve educational equity has benefited all students by moving toward creation of institutional environments where all students may learn and achieve the highest standards.

Does Title IX require that equal dollars be spent on men's and women's sports?

No. The only provision that requires the same dollars be spent proportional to participation is scholarships. Otherwise, male and female student-athletes must receive equitable "treatment" and "benefits".

Does Title IX require identical athletics programs for male and females?

Title IX does not require identical athletics programs for males and females. Rather, Title IX requires the athletics programs meet the interests and abilities of each gender. Under Title IX, one team is not compared to the same team in each sport. OCR examines the total afforded to male student-athletes and the total afforded to female student-athletes and whether each program meets the standards of equal treatment. Title IX does not require each team receive exactly the same services and supplies. Rather, Title IX requires that men's and women's programs receive the same level of service, facilities, supplies and etc. Variations within the men's and women's programs are allowed, as long as the variations are justified.

Is there someone at my institution who would know about Title IX?

Compliance with Title IX is a shared responsibility of the entire institution. Title IX mandates that institutions who receive federal funds designate at least one employee as a Title IX Coordinator to oversee compliance efforts. In addition, students may find the following individuals on campus are good resources: Senior Woman Administrator, Director of Athletics.

PREVENTION AND AWARENESS

What is bystander intervention?

Bystander intervention is a safe and positive course of action that may be carried out by an individual to prevent harm or intervene where there is a risk or an act of violence. Any student, faculty or staff employee can positively intervene into a situation.

As a campus community we all need to stay involved by continuing to learn, think and be aware of our surroundings. The campus community should feel free to share ideas and work actively together to support a safe, respectful campus.

RESOURCES

Who can a student contact if he or she wants to discuss a Title IX related incident?

See the Title IX resource sheet for identified individuals on and off campus.

How can a College Community member make a complaint to the Office of Civil Rights (OCR) or the Department of Education when a community member believes that Roberts Wesleyan College has not followed the Title IX process?

For more information on your rights to submit a Title IX complaint, see the information here on the Office for Civil Rights (OCR) website.

MISCELLANEOUS

Where can I learn more about the Title IX Process?

You can learn more about the Title IX process by reading Administrative Policy #108 or by contacting the Title IX Coordinator at 585-594-6222.

FOR EMPLOYEES

As an employee do I need to know about Title IX and sexual misconduct?

Yes, it is important to be aware of these issues. Title IX of the federal Higher Education Amendment of 1972 prohibits discrimination on the basis of sex in any education program or activity receiving federal financial aid. Title IX applies to both students and employees. Sexual assault, sexual misconduct and sexual harassment are forms of sex discrimination prohibited by Title IX.

Who is considered a mandatory/obligated reporter and what are the expectations as such?

Mandatory reporters are faculty and staff. Mandatory reporters must report Title IX complaints to the Title IX Coordinator. The only exceptions are the Campus Pastor's Office, Health Center and the Counseling center. These departments are considered a confidential resources.

Does Title IX cover employee complaints of sexual misconduct against a student?

Yes, if an employee reports sexual misconduct against a student, the College must act on the report and notify the employee of options and resources available for support. The College will notify the student, conduct an investigation and take appropriate steps.

Does Title IX cover employee complaints of sexual misconduct against another employee?

The primary federal law addressing sexual misconduct/harassment claims by one employee against another is Title VII rather than Title IX. While both statutes prohibit sexual misconduct/harassment at an educational

institution, the statutes have different administrative requirements and are overseen by different federal agencies. Any employee that has a complaint of sexual misconduct/harassment against another employee should report the complaint to his or her supervisor or to the Executive Director of Human Resources.

If an employee (complainant) reports sexual misconduct or harassment by another employee, can the complainant remain confidential?

When a report of sexual misconduct/harassment is made to the Title IX Coordinator or the Executive Director of Human Resources, the College has a legal duty to follow up on the report to determine whether sexual misconduct occurred and if so, to take appropriate action to ensure that the sexual misconduct/harassment ends. An Investigator will conduct an initial assessment regarding, among other things, the nature of the report, the safety of the individual and of the broader campus community, and the complainant's expressed preference for resolution. While an employee may request confidentiality the College will weigh the request with the College's obligation to provide a safe, non-discriminatory environment, in some instances it may not be possible to provide complete confidentiality to the employee.

If an employee reports the incident to a confidential resource, the confidential resource will not take any action and will maintain the employee's confidentiality, but will advise the employee of their options.

Can accommodations be made for employees if an allegation of sexual misconduct is reported and the two employees work closely together?

Interim measures may be taken while an investigation is pending to ensure that no sexual misconduct/harassment continues while the investigation is ongoing. If an investigation results in a finding of sexual misconduct, the College will work with the Department and the individuals to come up with potential accommodations to ensure that the sexual misconduct/harassment does not reoccur. In some cases temporary no contact orders, schedule changes or space changes may be an option. Other types of accommodations may be considered depending on the circumstances of the situation.

I believe my supervisor is harassing me based on continual comments of a sexual nature. Who do I report this to in order to have the behavior stop?

You can contact Human Resources or you may also contact the Title IX Coordinator for assistance.

What is retaliation? As an employee, what should I do if I report and then believe the respondent is retaliating?

Retaliation against an employee for filing a complaint in good faith is prohibited. Any acts of reprisal, intimidation, discrimination or harassment for coming forward with a complaint could be considered retaliation. If you believe that retaliation may have occurred, you should report your concern immediately to, your supervisor, Human Resources or the Title IX Coordinator.

What should I do as an employee if a co-worker or student complains to me that he/she is being sexually harassed?

First and foremost listen without judgment, offer support and connect the individual with resources such as Human Resources or the Title IX Coordinator. If needed, walk with the individual to ensure they find the right office.

What should I do as an employee if I witnessed sexual harassment on campus or in my department?

If you are a witness to inappropriate behavior, determine whether you can immediately intervene and speak up (bystander intervention). If it is not appropriate or safe for you to do so, you should report what you witnessed to your supervisor, Human Resources or the Title IX Coordinator.

I am an employee and someone filed a sexual harassment complaint against me, what should I do?

It may be helpful to speak with the Title IX Coordinator. Cooperate fully with any investigation and provide the investigator with any information that you believe is relevant to a determination and/or resolution of the complaint. It may be helpful to review Administrative Policy #108 on Sexual Misconduct and Title IX Compliance Policy.