



# *Equal Opportunity, Harassment and Nondiscrimination Policy*



# Contents

<b>Introduction.....</b>	<b>3</b>
<b>Policy on Nondiscrimination.....</b>	<b>3</b>
<b>Policy on Disability Discrimination and Accommodation.....</b>	<b>4</b>
<b>Policy on Harassment .....</b>	<b>7</b>
<b>List of Prohibited Conduct .....</b>	<b>7</b>
<b>Reporting Incidents .....</b>	<b>12</b>
<b>Informal and Formal Grievance Processes and Title IX Grievance Process .....</b>	<b>19</b>
Informal Grievance Process .....	24
Formal Grievance (Resolution) Process.....	26
Title IX Grievance (Resolution) Process .....	30





## **Introduction**

Walla Walla University strives to serve Jesus Christ and seeks to enroll and hire individuals who have decided to live according to biblical standards. The mission of Walla Walla University is to foster the unique gifts of every individual within this Christian community of faith and discovery. Committed to excellence in thought, the university seeks to impart a broad knowledge of the arts, sciences, and professions by careful instruction and open inquiry at both the undergraduate and graduate levels in a globally engaged community nourished by Seventh-Day Adventist tradition. To advance this mission and its core value of celebrating and sharpening the best of who we are and what God has called us to be, Walla Walla University is committed to providing a respectful, safe, and healthy environment for all its students, employees, and guests. This policy must be viewed through the lens of the teachings of the Seventh-Day Adventist Church, mission of Walla Walla University, the Employee Handbook and the Governance Handbook.

## **Policy on Nondiscrimination**

Walla Walla University adheres to all federal and state civil rights laws and regulations prohibiting discrimination in public and private universities of higher education (Title IX of the Education Amendments of 1972, Title VI and Title VII of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973). While Walla Walla University is a religiously qualified equal opportunity employer recruiting faculty and staff with attention to their active membership in the Seventh-Day Adventist Church, Walla Walla University does not discriminate whether explicitly or implicitly against any employee, applicant for employment, student, or applicant for admission on the basis of race, color, national origin, sex, age, honorably discharged veteran or military status, pregnant or parenting statuses, the presence of neuro diverse abilities (sensory, mental, or physical abilities), or service animal by a person with a disability.

### **Religious Exemption**

Walla Walla University reserves its constitutional, statutory, and common law rights as a religious institution and employer to give preference in employment and admissions according to the religious values of our institution as defined in the employee and student handbooks, as protected but not limited to 42 USC Sections 2000e-1, 2000e-2, sec 6-15 of Federal Executive Order 11246; 41 CFR Sections 60-1.5(5); 20 USC Sec 1681 (a)(3), 34 CFR Sections 106.12 (a) and (b), 106.21, 106.31, 106.39, 106.40, 106.51, 106.57; Washington State RCW 50.44.045 and the First Amendment to the United States Constitution. The university believes that Title IX regulations are subject to constitutional guarantees against unreasonable entanglement with or infringements on the religious teachings

and practices of the Seventh-day Adventist Church. The University claims a religious exception from the provisions of Title IX set forth in 34 CFR Sections 106.12 (a) and (b), 106.21, 106.31, 106.39, 106.40, 106.51, and 106.57, insofar as they conflict with church teachings and practices of morality, deportment, and appearance.

The University is committed to administering its policies and procedures in a manner that is fair and impartial and that treats all persons with inherent dignity and respect. When the University determines that a violation of this Policy has occurred, any such discrimination will be promptly and fairly addressed and remedied by Walla Walla University according to the resolution process outlined within this policy.

# ***Policy on Disability Discrimination and Accommodation***

Walla Walla University is committed to full compliance with the Americans With Disabilities Act of 1990 (ADA), as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against qualified persons with disabilities, as well as other federal and state laws and regulations pertaining to individuals with disabilities. The ADA protects individuals with a disability, which is defined by the ADA as a physical or mental impairment that substantially limits one or more major life activities,

a person who has a history or record of such impairment, or a person who is perceived by others as having an impairment.

A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking, or caring for oneself. The ADA does not specifically name the impairments that are covered.

## ***Qualified Individual with a Disability***

A person is considered to be a qualified individual under the ADA if they (a) meet all legitimate skill, experience, education or other requirements of the employment position that they hold or seek (b) are able (with or without accommodations) to perform the essential functions of an academic program, activity or job, with respect to students, have attributes (apart from any disability) and academic ability which qualify them for admission to Walla Walla University; (c) are able to utilize reasonable accommodations in a manner which allows the individual to perform the essential functions of the academic program, activity or job without

imposing a direct threat to the health and safety of themselves or others.

The Disability Support Services Coordinator designated as the ADA/504 Coordinator, is responsible for overseeing efforts to comply with these disability laws. The Title IX Team is tasked with responding to grievances and conducting investigations of any allegation of noncompliance or discrimination based on disability. Grievances related to disability status and/or accommodations for both students and employees will be addressed using the procedures below.

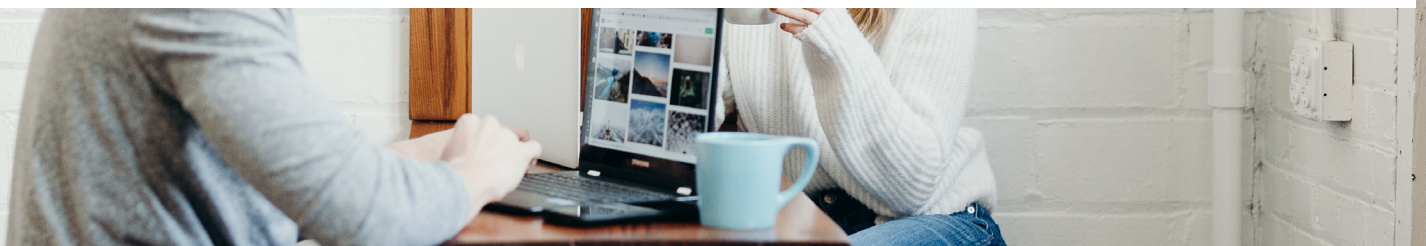
## ***Students with Disabilities***

All accommodations are made on a case-by-case basis. A student requesting any accommodation(s) should first contact Disability Support Services, who coordinates services for students with disabilities. Disability Support Services reviews documentation provided by the student and, in consultation with the student, determines which accommodations are appropriate to the student's particular needs and all campus programs.

## ***Employees with Disabilities***

Pursuant to the ADA, Walla Walla University will provide reasonable accommodation(s) to all quali-

fied employees with known disabilities when their disability affects the performance of their essential job functions, except when doing so would be unduly disruptive or would result in undue hardship to Walla Walla University. Reasonable accommodation is a modification or an adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to participate in the application process or to perform essential job functions. Reasonable accommodation also includes adjustments to assure that a qualified individual with a disability has rights and privileges in employment equal to those of nondisabled employees.





An employee with a disability is responsible for submitting a request for an accommodation to the Title IX Team and provide necessary documentation. The Title IX Team will work with the employee's supervisor to identify which essential functions of the position are affected by the employee's disability and what reasonable accommodations could enable the employee to perform those duties. Reasonable accommodations are based on the particular facts of each case.

To submit a complaint relating to disability discrimination or accommodation, refer to and follow the grievance procedure as outlined in this document.

An employee with a disability is responsible for submitting a request for an accommodation to the Title IX Team and provide necessary documentation. The Title IX Team will work with the employee's supervisor to identify which essential functions of the position are affected by the employee's disability and what reasonable accommodations could enable the employee to perform those duties. Reasonable accommodations are based on the particular facts of each case.

To submit a complaint relating to disability discrimination or accommodation, refer to and follow the grievance procedure as outlined in this document.

## **Glossary**

*Respondent* is defined as the alleged perpetrator of harassment, discrimination or otherwise prohibited behavior under this policy.

*Complainant* is defined as the person who alleges being a victim of conducted that could constitute prohibited behavior

*Prohibited Conduct* is defined in this policy as behaviors or actions that violate the Walla Walla University Equal Opportunity, Harassment and Nondiscrimination Policy.

## **Scope and Jurisdiction of the Policy**

The core purpose of this policy is the prohibition of discrimination. Sometimes, discrimination involves exclusion from activities, such as admission, athletics, or employment advancement. Sometimes,

discrimination takes the form of harassment. When there is a violation of this policy, the allegations are subject to resolution using Walla Walla University's grievance process found within this document.

This policy applies to conduct that takes place on the Walla Walla University campuses or on property owned or controlled by the University and at University-sponsored events. It may also apply to off-campus and to online conduct when the Title IX Team determines that the conduct affects a substantial Walla Walla University interest. Regardless of where the conduct occurred, the University will address all allegations to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus program or activity. A substantial University interests include, but are not limited to:

- a) Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
- b) Any situation in which it appears that the respondent may present a danger or threat to the health or safety of self or others;
- c) Any situation that significantly impinges upon the rights, property, or achievements of others or significantly breaches the peace and/or causes social disorder; and/or
- d) Any situation that is detrimental to the educational interests of the University.

When the respondent is a member of the Walla Walla University community, the grievance process is applicable regardless of the status of the complainant, who may or may not be a member of the University community. This community includes, but is not limited to, students, student organizations, faculty, administrators, staff, guests, visitors and invitees. This Policy may be applied to incidents, to patterns, and/or to the climate, all of which may be addressed and investigated in accordance with this policy.



## **Title IX Team**

The Title IX Team also serves to support the University's Title IX Coordinator and is responsible for overseeing implementation of this policy as well as assessing reports of prohibited conduct to determine the actions the University will take in response to each report. The Title IX Team seeks to ensure a prompt, thorough, consistent, fair and equitable process for individuals involved while also safeguarding the well-being of the University community as a whole.

The Title IX Team and Title IX Coordinator for Walla Walla University. Can be reached at [titleix@wallawalla.edu](mailto:titleix@wallawalla.edu) or 509-527-2259. To reach her after hours or in an emergency, please contact Campus Security at 509-527-2222.

The responsibilities of the Title IX Team include:

- Oversight and implementation of the Equal Opportunity, Anti-Harassment and Nondiscrimination policy including investigation and adjudication procedures.
- Ensure all members of the investigation and adjudication teams are trained in issues specific to discriminatory harassment.
- Coordinate trainings for Walla Walla University community on issues of discrimination and harassment.

- Conducting an initial assessment of reports to determine whether alleged conduct would be classified as Prohibited Conduct under this Policy;
- Overseeing intake and supportive measures for individuals who report Prohibited Conduct;
- Overseeing the comprehensive, accurate, and equitable provision of relevant information on University policies, practices, and resources to the complainant and, in the event of investigations, respondent;
- Coordinating and overseeing data collection and reporting in compliance with relevant federal and state statutes, regulations, and guidance.

## **CORE Team**

The Nondiscrimination COordinated REsponse (CORE) Team is comprised of individuals who each represent an Official with Authority (OWA) which is an employee of Walla Walla University explicitly vested with the responsibility to implement corrective measures for harassment, discrimination and/or retaliation. The CORE Team seeks to ensure a prompt, thorough, consistent, fair and equitable process for the individuals involved while also safeguarding the well-being of the University community as a whole.



## ***The responsibilities of the CORE Team include:***

- Conducting an initial assessment of reports to determine whether alleged conduct would be classified as Prohibited Conduct under this Policy;
- Determining whether the University should investigate an alleged incident. In most cases, if a Complainant requests that the University not investigate and adjudicate a matter, the CORE Team will honor that request unless doing so would compromise the safety and well-being of the Complainant or the University community.
- Implementing supportive measures or remedies.
- Take Informal Grievance Process steps and bring the report back to the Equity, Diversity and Inclusion Specialist.
- Evaluating whether and how the University will proceed under University policy in a manner that provides a prompt, thorough, fair and equitable process for the individuals involved;
- Determining whether communication with the Walla Walla University community is necessary when a report of hate crime, sexual assault or other Prohibited Conduct is received in consultation with University Relations.
- Recommending improvements to this Policy's protocols in light of the experiences of Complainants and Respondents.

## ***Policy on Harassment***

In keeping with its commitment to maintaining an environment that is free of unlawful discrimination and with its legal obligations, Walla Walla University maintains a policy prohibiting unlawful harassment. Harassment is unwelcome, hostile, or inappropriate conduct directed toward an individual based on an individual's characteristic(s). Such conduct may violate this policy if it (1) has the purpose or effect of creating an intimidating, hostile, or offensive working, living, or learning environment for the affected individual, or (2) substantially interferes with that individual's working, living, or learning environment (also known as a "hostile environment"). Walla Walla University prohibits harassment of any kind and will act to remedy all

forms of harassment, particularly those that rise to the level of creating a hostile environment

Walla Walla University's harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive subject matters protected by academic freedom. The sections below describe the specific forms of legally prohibited harassment that are also prohibited conduct under University policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of Walla Walla University policy, though remedies may be offered to those impacted.

## ***List of Prohibited Conduct***

### ***Cyberstalking and Cyber-Harassment***

In Washington, Oregon and Montana, depending on the circumstances, cyberstalking and cyber-harassment can constitute misdemeanors or felonies (RCW 9.61.260; ORS 166.065; HB 0284). These behaviors would also typically violate Walla Walla University's Equal Opportunity, Harassment and Nondiscrimination Policy.

Any online postings or other electronic communication including cyber-bullying, cyberstalking, cyber-harassment, etc., occurring completely outside of the University's control (e.g. not on Walla Walla University networks, websites, or between University email accounts) will only be subject to this policy when such online conduct can be shown to cause a substantial on-campus

disruption. Otherwise, such communications are considered speech protected by the 1st Amendment. Remedies for such conduct will be provided, but protected speech will not be subjected to discipline.

Examples of cyber-stalking, cyber-harassment and cyber-bullying include, but is not limited to

- Harsh text messages or emails using lewd, lascivious, indecent, or obscene words, images, or language
- Rumors sent by email or posted on social networking sites
- Embarrassing pictures, videos, websites or fake profiles
- Threatening via electronic communication to inflict injury on the person or property

Off-campus discriminatory or harassing speech by employees, whether online or in person, may be regulated by the University as relating to the representation of Walla Walla University.

### ***Hate Crime and Bias Incident***

A hate crime is a bias motivated crime against a person or property. The perpetrator chooses the victim based on their bias towards a victim's real or perceived race, religion, gender, ethnicity, national origin, sexual orientation, gender identity and disability. Examples of criminal acts that may be hate crimes include: assault, sexual assault, battery, misdemeanor theft, criminal trespass to residence, misdemeanor criminal damage to property, criminal trespass to vehicle, mob action, disorderly conduct, or harassment in person, by telephone or through electronic communications.

### ***Hazing***

Hazing, defined as an act which endangers the mental or physical health or safety of a student, or which destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued

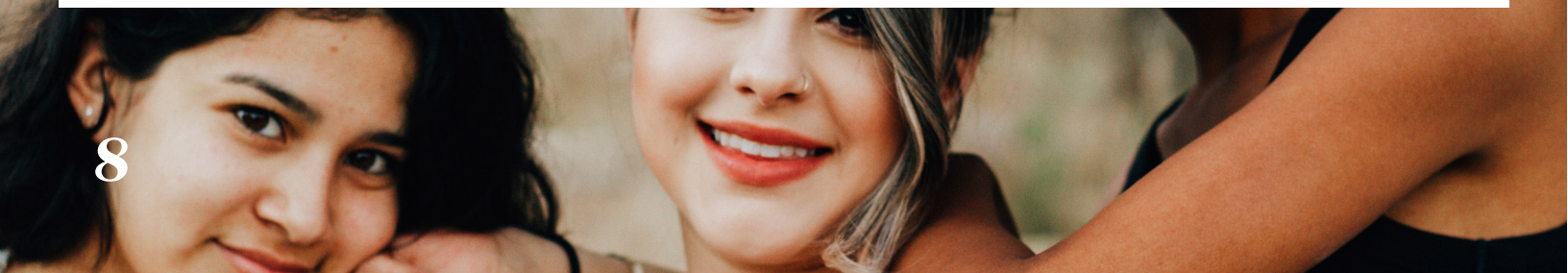
membership in, a group or organization. The express or implied consent of the victim will not be a defense. Apathy or acquiescence in the presence of hazing are not neutral acts; they are violations of this rule.

### ***Discriminatory Harassment***

Harassing behavior based upon an individual's legally protected status or identifying characteristic is Prohibited Conduct. Harassment includes verbal, physical, electronic, or other conduct directed at an individual that substantially interferes with the individual's participation in a University program or activity, including a student's educational environment and a staff or faculty member's work environment, even if not based on a legally protected status.

Examples of discriminatory harassment include, but are not limited to:

- Repeated insults, humor, jokes, and/or stories that belittle or demean an individual's or group's identifying characteristic, as well as physical conduct or verbal innuendo because of one's identifying characteristic, which creates an intimidating, hostile, or offensive environment;
- Repeated unwelcome comments of a discriminatory nature about an individual's legally protected status or identifying characteristic;
- A pattern of conduct in class, in the workplace, or in the general campus environment that a reasonable person would identify as creating a discriminatory atmosphere; that is, an atmosphere that demeans or oppresses people simply by virtue of their identifying characteristic(s).
- Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. Additional forms of discrimination related to sex are addressed later in this document.





## Sex Discrimination

Sex discrimination is any distinction, preference, or detriment to an individual that is based upon the individual's sex. Prohibited Conduct motivated by sex discrimination excludes an individual from participation in, denies the individual benefits of, treats the individual differently or otherwise adversely affects a term or condition of an individual's participation in a Walla Walla University program or activity based on the individual's sex.

Sexual Harassment is *Prohibited Conduct* and as an umbrella category under sex discrimination, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking and is defined as:

Conduct on the basis of sex/gender, or that is sexual that satisfies one or more of the following:

### 1. Quid Pro Quo

Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or educational experience.

### 2. Sexual Harassment

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature determined by a reasonable person to be so severe and pervasive, and objectively offensive, that it effectively denies a person equal access to the University's program or activity.

### 3. Sexual Assault

Sexual intercourse or sexual contact with another person by forcible compulsion and/or without consent. Forcible compulsion may be committed by means such as physical power, coercion, or incapacitation. Acts of sexual assault include rape, oral, or anal intercourse, and other sexual acts not involving intercourse to which participants are not both consenting. Absence of protest is not consent.

## 4. Dating Violence / Domestic Violence

When controlling, abusive, or aggressive behaviors are used by one person to gain power over the other in cohabitating or romantic relationships that are mixed or same sex. Controlling, abusive, or aggressive behaviors can include physical violence, threat of physical violence, emotional, mental, or sexual abuse or a combination of these.

\*To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

## 5. Stalking

A course of conduct that occurs when one individual repeatedly directs unwanted or obsessive attention towards another on the basis of sex and would cause a reasonable person to fear for the person's safety or safety of others or suffer substantial emotional distress.

A course of conduct means two or more acts, including but not limited to unnecessary or unusual repeated visual or physical proximity to an individual, nonconsensual communication, verbal, written, or implied threats, persistent patterns of leaving unwanted gifts, damaging or threatening to damage property, lying in wait and/or monitoring, defamation of character, harassment via internet or telephone, spreading rumors, or a combination of these.

A reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.

Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.



As used in the offenses listed above, the following definitions and understandings apply:

### **FORCE**

The use of physical violence and/or imposing on someone physically to gain sexual access. Force includes threats, intimidation, and coercion that overcome resistance or produce consent. The presence of force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.

### **INCAPACITATION**

A state where an individual cannot make a rational or reasonable decision because they lack the ability or information to understand the sexual interaction to the fullest extent. Incapacitation can result from mental or physical disabilities, drug or alcohol use, physical restraints, “date-rape” drugs, or anything that effects the individual’s ability to make a clear and informed decision. Incapacitation occurs anytime sexual activity takes place where the alleged victim does not understand the “who, what, when, where, why, and how.” Even if a person gives consent while incapacitated, the consent is invalid.

### **COERCION**

Unreasonable pressure for sexual activity.

### **CONSENT**

An active giving of permission to engage in activity. Consent is clear, knowing, and voluntary. Consent may be given through words or actions. Silence or absence of protest is not to be interpreted as consent. Previous history does not imply consent for future activity. Likewise, consent to one activity does not imply consent to another. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity

with another. Consent can be withdrawn at any time. Consent cannot be given under pressure, force, threats, intimidation, coercion, or while incapacitated due to influence of alcohol and/or drugs. In order to give consent one must be of legal age and not incapacitated mentally or physically.

### **HOSTILE ENVIRONMENT**

When such conduct is sufficiently severe, pervasive and persistent so as to alter the conditions of, or have the effect of substantially interfering with, an individual’s educational opportunity or an employee’s work environment by creating an intimidating, hostile, or offensive environment.

## ***Other Examples of Sex Discrimination/ Sexual Misconduct***

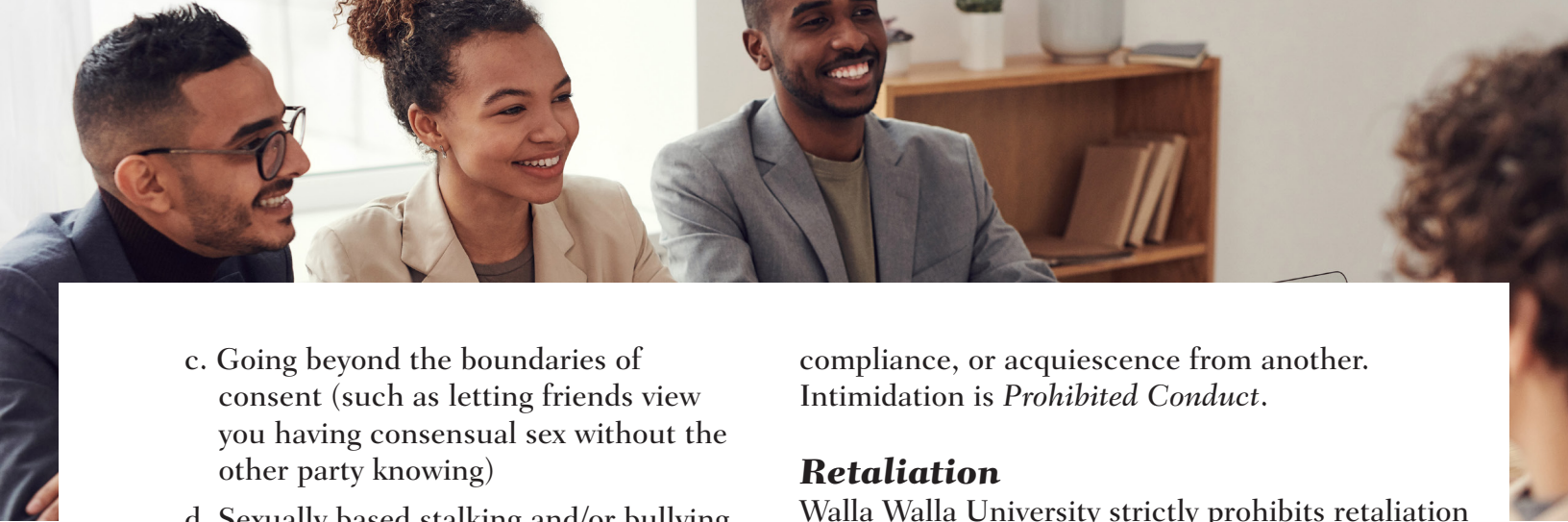
In addition to the forms of sexual harassment described above, which are covered by Title IX, Walla Walla University additionally prohibits the following offenses as forms of sex discrimination that may be within or outside of Title IX when the act is based upon the Complainant’s actual or perceived membership in a protected class.

### **A. Sexual Exploitation**

When a person takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses. Examples of sexual exploitation include:

- a. Invasion of sexual privacy
- b. Non-consensual video or audiotaping of a sexual nature





- c. Going beyond the boundaries of consent (such as letting friends view you having consensual sex without the other party knowing)
- d. Sexually based stalking and/or bullying
- e. Sharing audio or video content of a sexual nature without consent
- f. Engaging in voyeurism
- g. Knowingly transmitting an STI or HIV to another person

#### **B. More:**

- a. Treating an employee or job applicant adversely because of gender in decisions involving hiring, promotion, and job assignments;
- b. Treating a prospective or enrolled student adversely because of sex in decisions involving admissions, financial aid or scholarships, grades, academic assignments, or campus housing decisions;
- c. Denying or limiting volunteers or visitors from participating in programs or activities because of their sex.

### **Bullying**

Bullying is repeated and/or severe mistreatment by words or actions that are intended to shame, embarrass, humiliate, degrade, demean, intimidate, and/or threaten an individual or group. Bullying can take a variety of forms that may include behaviors that are physical, verbal, nonverbal, direct or indirect, and may take place face-to-face, via written communications, or by electronic means.

### **Intimidation**

Intimidation is the act of using coercion, instilling fear, or making threats to induce submission,

compliance, or acquiescence from another. Intimidation is *Prohibited Conduct*.

### **Retaliation**

Walla Walla University strictly prohibits retaliation against individuals who report *Prohibited Conduct* or against individuals who assist in an investigation or adjudication of a report of *Prohibited Conduct*. Encouraging or assisting others to engage in retaliation also violates this policy.

Retaliation means any materially adverse words, actions or threats against an individual who engages in a protected activity that would discourage a reasonable person from engaging in such protected activity. Protected activity includes:

- a) reporting of prohibited conduct;
- b) participation in an investigation or adjudication of reported prohibited conduct; or
- c) opposition to policies, practices or actions that the individual reasonably believes are in violation of this Policy.

Retaliatory acts may include, but are not limited to: adverse changes in employment status or opportunities; adverse academic action; adverse changes to academic, educational and extra- curricular opportunities; harassment or intimidation; acts or comments intended to embarrass the individual; or seeking out or attempting to discover the parties and witnesses involved in a report for the purpose of influencing their participation or statements.

Retaliation may be found even when an underlying report of *Prohibited Conduct* made in good faith was not substantiated. Retaliation may be committed by any of the parties or witnesses in a University resolution process, their friends or representatives, or any other individuals.

Retaliatory conduct by community members and third parties is prohibited regardless of whether it occurs on or off campus, in person, or through social media, e-mail, or other forms of communication.

### ***Mandated Reporting***

All Walla Walla University employees (faculty, staff, administrators) are expected to report actual or suspected discrimination or harassment to the Title IX Team as soon as appropriate, though there are some limited exceptions (see Reporting to Confidential Resources for the listed exceptions). If a Complainant expects formal action in response to their allegations, reporting to any Mandated

Reporter can connect them with resources to report crimes and/or policy violations, and these employees will pass reports to the Title IX Team (and/or police, if desired by the Complainant), who will take action when an incident is reported to them.

## ***Reporting Incidents***

Walla Walla is committed to providing reporting options through multiple avenues which are broadly accessible to all members of the Walla Walla University community. Reports may be made by completing the University's on-line reporting form, which is automatically delivered to the Title IX Team, or by directly contacting another member of the CORE Team in person, by telephone, or by e-mail or by reporting to any Walla Walla University faculty, staff or administrator. Reports may be made anonymously; however, depending upon the information provided in a report, the University may be limited in its ability to respond. Individuals who report harassment or discrimination incidents have the right to access their description of the incident as

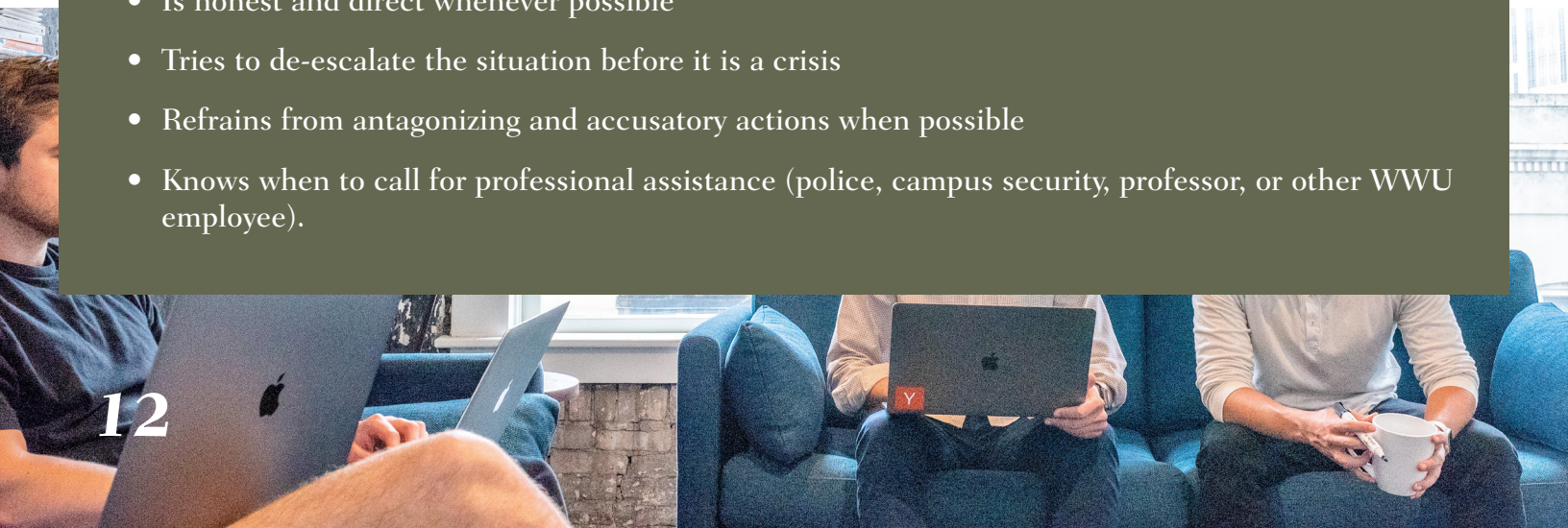
it was reported to the University. To request access to this information, the individual should contact the Title IX Team.

### ***Bystander Responsibilities***

Walla Walla University encourages members of its community to intervene in situations of harassment and discrimination within their remit of good will and/or responsibility. Being an active bystander does not mean that you should risk your personal safety, or that you need to become a vigilante. There are a range of actions that are appropriate, depending on you and the risky situation at hand. Remember, if you are ever worried for the immediate safety of yourself or others, you can decide to leave the situation and seek outside help.

## ***The Ideal Bystander:***

- Is honest and direct whenever possible
- Tries to de-escalate the situation before it is a crisis
- Refrains from antagonizing and accusatory actions when possible
- Knows when to call for professional assistance (police, campus security, professor, or other WWU employee).





Employees witnessing or receiving a complaint of harassment or discrimination are mandated to pursue a remedy. That remedy always involves an action that is within an employee's scope of responsibility, whether the action is addressing the issue directly or reporting the complaint to the Title IX Team.

### **Reporting to the Title IX Team**

File a complaint with, or give verbal notice to the Title IX Team. The Title IX Team provides information and assistance to all parties involved in reports of prohibited discriminatory conduct under this policy. Such a report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address.

Following receipt of a report the Title IX Team will confer with the Complainant on the following topic if appropriate:

- a) Assess the Complainant's safety and well-being and identify available support and assistance;
- b) Inform the Complainant of the right to seek medical treatment and explain the importance of obtaining and preserving forensic and other evidence;
- c) Inform the Complainant of the right to contact law enforcement, decline to contact law enforcement, and/or seek a protective order;
- d) Inform the Complainant about resources available at the University and in the community, the right to seek appropriate and available remedial and protective measures, and how to request those resources and measures;
- e) Inform the Complainant of the right to seek Informal Grievance Process (when available) or to initiate an investigation under the Formal Grievance Process, seek to obtain the Complainant's consent to initiate the Formal Grievance Process and discuss with the Complainant any concerns or barriers to

participating in the Grievance Process.

- f) Explain the University's prohibition against retaliation and that the University will take prompt action in response to any act of retaliation.

### **Reporting to another member of the CORE Team**

Individuals may choose any member of the CORE Team as the most appropriate person to receive their report. Members of the CORE Team are mandated reporters. The Title IX Team is notified of all reports received by any member of the team to enable them to fulfill their responsibilities.

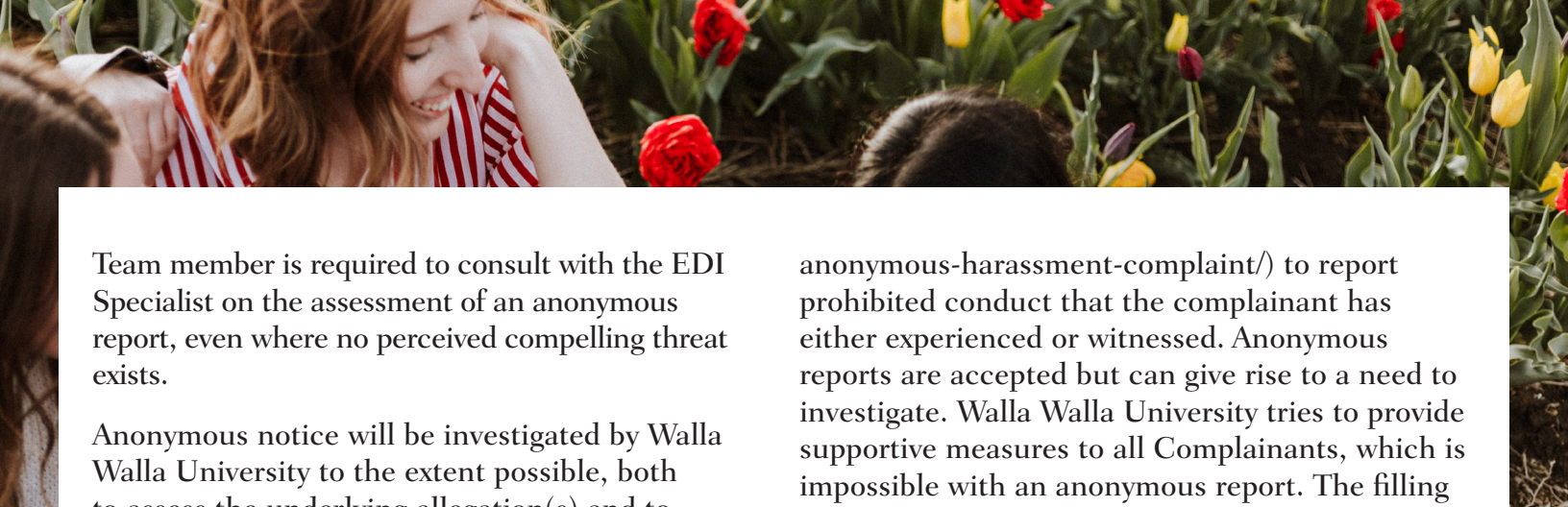
### **Reporting to Confidential Resources**

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with:

- On-campus licensed professional counselors and staff
- On-campus health service providers and staff
- On-campus members of the clergy/chaplains working within the scope of their
- licensure or ordination
- Off-campus (non-employees):
  - o Licensed professional counselors and other medical providers
  - o Local rape crisis counselors
  - o Domestic violence resources
  - o Local or state assistance agencies
  - o Clergy/Chaplains
  - o Attorneys

### **Anonymous Notice to Employee or CORE Team Member**

If a Complainant has requested that an employee or CORE Team member maintain the Complainant's anonymity, the employee or CORE Member will do so unless they reasonably believe that a compelling threat to health or safety, of the Complainant or others, could exist. The employee or CORE



Team member is required to consult with the EDI Specialist on the assessment of an anonymous report, even where no perceived compelling threat exists.

Anonymous notice will be investigated by Walla Walla University to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures or remedies can be provided.

It is however important to note that anonymous notice typically limits the University's ability to investigate, respond, and provide remedies, depending on what information is shared.

### **Remote Reporting (Can be Anonymous)**

The University maintains an online reporting form (<https://www.wallawalla.edu/resources/human-resources-payroll/employee-resources/handbook-policies/discrimination-and-harassment/>

anonymous-harassment-complaint/) to report prohibited conduct that the complainant has either experienced or witnessed. Anonymous reports are accepted but can give rise to a need to investigate. Walla Walla University tries to provide supportive measures to all Complainants, which is impossible with an anonymous report. The filing of an anonymous report will only initiate a formal response if the Title IX Team CORE Team deems there is a compelling threat to health and/or safety, otherwise the Complainant is largely in control and should not fear a loss of privacy by making a report that allows the University to discuss and/or provide supportive measures.

### **Reporting to Law Enforcement**

Individuals are strongly encouraged to first call 911 for imminent threats then notify Walla Walla University's Campus Security Office of instances of prohibited conduct.

## **Issuing crime alerts/ timely warnings**

To achieve a safe and secure campus environment, all members of the campus community are encouraged to promptly report any suspicious or criminal activity observed directly to Campus Security at 509-527-2222 and the University Place Police Department.

Parties reporting crimes such as murder, sexual assault, robbery, burglary, domestic violence, dating violence, and/or stalking should be aware that the University must issue timely warning for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

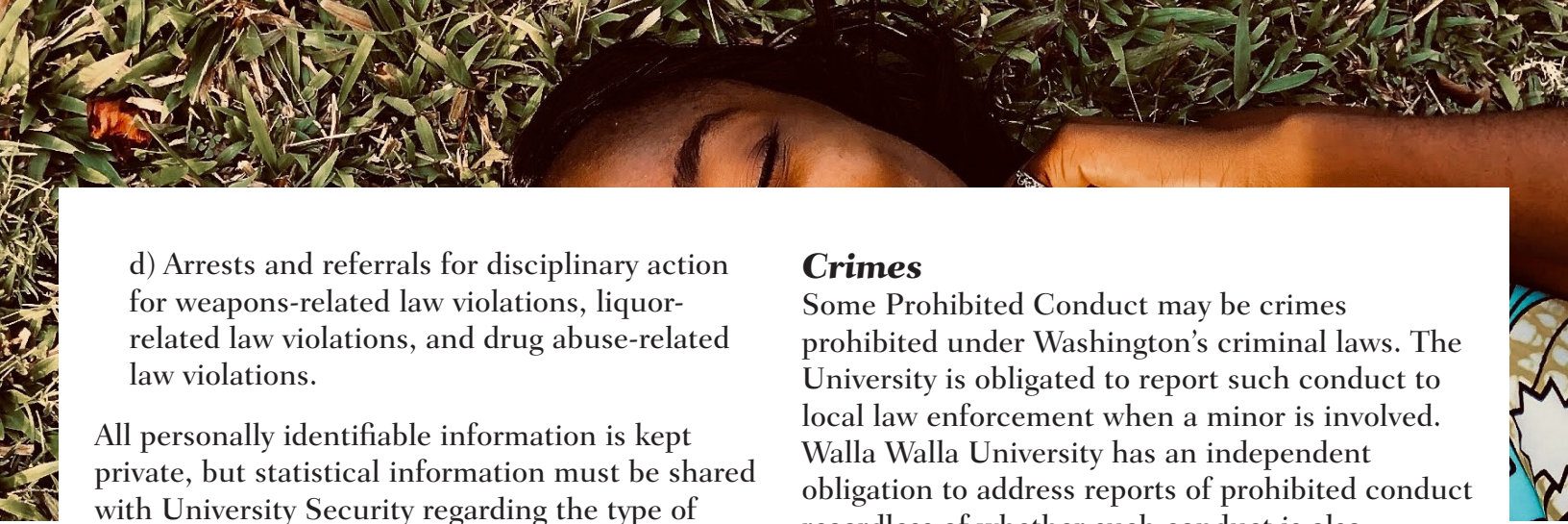
Walla Walla University will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions considering the potential danger.

### **Federal Statistical Reporting Obligations**

Certain campus officials – those deemed Campus Security Authorities – have a duty to report the following for federal statistical reporting purposes (Clery Act):

- a) All “primary crimes,” which include homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson;
- b) Hate crimes, which include any bias-motivated primary crime as well as any bias motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property;
- c) VAWA-based crimes, which include sexual assault, domestic violence, dating violence, and stalking; and





d) Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violations.

All personally identifiable information is kept private, but statistical information must be shared with University Security regarding the type of incident and its general location (on or off-campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log.

## **Crimes**

Some Prohibited Conduct may be crimes prohibited under Washington’s criminal laws. The University is obligated to report such conduct to local law enforcement when a minor is involved. Walla Walla University has an independent obligation to address reports of prohibited conduct regardless of whether such conduct is also reported to the police.

## **Assessment and Assistance in Response to Reports**

### **Protocols for report evaluation**

#### **1. Commitment to privacy**

The University will respect and safeguard the privacy of individuals who report Prohibited Conduct and the privacy of all other individuals involved in the process. Consistent with the University’s need to carefully assess allegations of Prohibited Conduct, information will be shared with University officials who have a “need to know” in order to assist in the review of a report and the determination of appropriate responses. For matters that are reviewed under the Formal Grievance Process, information will also be shared as part of the investigation and adjudication process as is required by law and as is deemed necessary for conducting a fair, impartial and thorough investigation.

#### **2. Amnesty Provision Waiver of charges for drug/alcohol violations**

When a Walla Walla University student, employee or guest, reports prohibited conduct, the University’s main priority is to protect the safety and well-being of the members of our community. In order to do so, we need individuals who report prohibited conduct

and those who participate in investigations into such reports to be honest and candid about the circumstance surrounding the report. We do not want concerns about the University’s alcohol and illicit drugs policy to cause individuals to either avoid reporting or to provide incomplete or inaccurate information during an investigation into such a report. Therefore, individuals who report prohibited conduct and individuals who participate as a party or witness in an investigation into allegations of prohibited conduct will not be disciplined by the University for any violation of its Student Code of Conduct or Employee Handbook.

#### **3. Evaluation of Requests for confidentiality and/or non-action**

Upon receiving a report of prohibited conduct, the University strives to take prompt and appropriate measures to eliminate misconduct, prevent its recurrence and remedy its effects. In so doing, the University strives to honor requests that the University keep the matter confidential and/or not pursue disciplinary action through a Grievance Process.

In the vast majority of cases, the University will



honor a Complainant's decision on whether and when to initiate an investigation under the University's Grievance Process. While Walla Walla University strives to honor all such requests, in some cases the University may determine that overriding risk factors warrant proceeding with the Grievance Process. This assessment will be performed by the Title IX Team and the risk factors reviewed will include:

1. Whether the accused individual has prior arrests, is the subject of prior reports and/or reports related to any form of prohibited conduct, or has any known history of violent behavior;
2. Whether the accused individual has a history of failing to comply with any no-contact directive imposed by the University, and/or any judicial protective order/harassment restraining order;
3. Whether the accused individual has threatened to commit violence or any form of prohibited discriminatory conduct;
4. Whether the Prohibited conduct involved multiple accused individuals;
5. Whether the Prohibited conduct involved physical violence (e.g., hitting, punching, slapping, kicking, restraining, choking and brandishing or using any weapon);
6. Whether the report reveals a pattern of Prohibited conduct (e.g., by an individual or a particular group or organization, around a particular recurring event or activity, or at a particular location);
7. Whether the Prohibited conduct was facilitated through the use of drugs or intoxicants;
8. Whether the Prohibited conduct occurred while the Complainant was unconscious, physically helpless or unaware that the Prohibited discriminatory conduct was occurring;

9. Whether the Complainant is (or was at the time of the Prohibited conduct) a minor (under 18); and/or

10. Whether any other aggravating circumstances or signs of predatory behavior are present.

If a Complainant asks the University not to disclose the Complainant's name or other identifiable information during an investigation, or the Complainant requests that no investigation be conducted at all, the University will evaluate the request in the context of its responsibility to provide a safe and nondiscriminatory environment for all community members. If the University decides that it has an obligation to initiate a Formal Grievance Process regarding the alleged policy violation, it will notify the Complainant before proceeding.

When an allegation involves a university employee, the report will be evaluated in consultation with the Director of Human Resources. Preliminary inquiries and investigations are conducted in consultation with the appropriate university departments and personnel.

### ***Supportive Measures for Parties***

Supportive measures are initiated by the University based upon the information gathered during the report or made available to the University thereafter. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to the Walla Walla University's education program or activity. Such measures will vary based on the particular facts and circumstances, including but not limited to the specific need expressed by the complainant, the age of the parties involved, the severity or pervasiveness of the allegations, any continuing effects on the complainant, whether the complainant and the respondent share the same residence hall or job location, and whether other measures have been taken to protect the



complainant and the respondent. The University will implement measures in a way that does not unreasonably burden the other party.

The Title IX Team promptly makes supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, the University will inform the Complainant, in writing, that they may file a formal complaint either at that time or in the future, if they have not done so already. The Title IX Team works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.

The range of supportive measures can include, but are not limited to:

1. Referral to counseling, medical, and/or other healthcare services and assistance in setting up initial appointments on and off campus.
2. Referral to community-based service providers
3. Measures for avoiding contact with other involved parties such as a University imposed “no-contact order
4. Prohibiting an individual from being on campus or at University events.
5. Providing security escorts to assure safe movement between classes and activities.
6. Rescheduling of exams or assignments.
7. Providing alternative course completion options.
8. Providing other academic support services, such as tutoring.
9. Changing a student’s class schedule as needed.
10. Changing an employee’s work schedule or job assignment.
11. Changing campus housing arrangements

and assistance with housing relocation.

12. Limiting access to certain University residence halls, facilities or activities pending resolution of the matter.

13. Voluntary leave of absence.

14. University -imposed leave, suspension or separation for individuals accused of committing prohibited discriminatory conduct where there is a credible threat of serious disruption to the University’s operations or a danger to the Walla Walla community.

15. Any other measure deemed appropriate for fostering a more comfortable and safe educational and living environment.

Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.

Please note the University does not issue harassment restraining orders or orders for protection, but one can be obtained through making an application to the Walla Walla County Court. Paperwork to petition the court for an order for protection or harassment restraining order is available on-line here ([https://www.co.wallawalla.wa.us/government/district\\_court/petition\\_for\\_protection\\_orders.php](https://www.co.wallawalla.wa.us/government/district_court/petition_for_protection_orders.php)) or the College Place Police Department. These forms may be submitted to the Walla Walla County Clerk at 315 West Main Street, Walla Walla, WA 99362 during business hours.

An order for protection and/or harassment restraining order can be enforced by contacting local law enforcement. Walla Walla is committed to ensuring that any such order issued by a court is fully upheld on the University’s campus and at any Walla Walla-sponsored event.

The Title IX Team retains the discretion to initiate and/or modify any supportive measures based on all available information. A party may challenge supportive measures, or failure to impose supportive measures or take other actions, by



contacting the Title IX Team to address any concerns.

### **Emergency Removal**

The University can act to remove a student respondent entirely or partially from their education program, activities, student employment, and up to presence on campus, on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. A risk analysis is performed by the EDI Specialist in conjunction with the CORE Team and/or the Behavioral Intervention Team.

In all cases in which an emergency removal is imposed, the student will be given notice of the action and the option to request to meet with the Title IX Team prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested [in a timely manner], objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Team determines it is equitable to do so. This section also applies to any restrictions that a coach or athletic administrator may place on a student-athlete arising from allegations related to this policy. There is no appeal process for emergency removal decisions.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Team for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Team has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion.

The University will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to: removing a student from a residence hall, temporarily re-assigning an employee, restricting a student's or employee's access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, authorizing an administrative leave, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

At the discretion of the Title IX Team alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

Where the Respondent is an employee, existing provisions for interim action are applicable.





## **Informal and Formal Grievance Processes and Title IX Grievance Process**

Walla Walla University is committed to providing a safe and non-discriminatory environment for all students, staff, faculty and other members of our campus community. The University provides both an informal and a formal resolution process when the preliminary inquiry shows that reasonable cause exists.

- **Informal Grievance Process** – typically used for less serious offenses and only when the parties agree to Informal Grievance Process or the respondent is willing to accept responsibility for a violation. Note that according to Federal mandate, this option is not available in allegations that an employee sexually harassed a student.
- **Formal Grievance Process** – involves a formal investigation by which typically two (2) investigators uncover pertinent information related to the claim. The investigators then compile all the investigation materials into a report and make a determination of responsible or not responsible. Following the investigation and the determination, the case is closed (subject to appeal at the discretion of the University).
- **Title IX Grievance Process** – is the process to address conduct that falls under sex discrimination and which also complies with the requirements of the Title IX Regulations. The Title IX Grievance Process involves a formal investigation which is then followed by cross-examination at a live hearing before neutral, impartial decision-makers, (subject to appeal at the discretion of the University) from which a final determination is made.

Under both the Formal Grievance Process and the Title IX Grievance Process, the burden of

proof is on the University to conduct an adequate, complete, reliable and impartial process to determine whether it is more likely than not the respondent engaged in Prohibited Conduct. Remedies to restore those impacted will be implemented upon a finding of policy violation.

### **Reservation of flexibility**

The procedures set forth in the Equal Opportunity, Harassment and Nondiscrimination Policy reflect Walla Walla University's desire to respond to reports in good faith and in a manner that promotes fairness, impartiality and prompt resolution for all parties. The University recognizes that each case is unique and that circumstances may arise which require the University to reserve flexibility in responding to the particular circumstances.

Where it is not possible or practical to follow the procedures provided in these Resolution Processes, or for some other reason the University deems it preferable to utilize a different process, the University reserves the right to modify the procedure or to take other administrative action as it deems appropriate under the circumstances.

### **1. Initial Assessment**

Following receipt of notice or a complaint of an alleged violation of this Policy, the Title IX Team engages in an initial assessment, typically within one to five business days. The steps in an initial assessment/response can include the following:

- The Title IX Team seeking to determine if the person impacted wishes to make a formal complaint, and will assist them to do so, if desired. If they do not wish to do so, the Title IX Coordinator determines whether to initiate a complaint because a violence risk assessment indicates a compelling threat to health and/or safety.

- The Title IX Team assessing the sufficiency of a formal complaint if one has been received and working with the Complainant to make sure it is correctly completed.
- Offering supportive measures to the Complainant.
- The Title IX Team working with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an Informal Grievance Process, or a Formal Grievance Process. If a Formal Grievance Process is preferred, the EDI Specialist determines if the Prohibited Conduct alleged falls within the scope of Title IX:

If it does, the Title IX Team will initiate the Title IX Grievance Process, directing the investigation to address:

- an incident, and/or
- a pattern of alleged Prohibited Conduct, and/or
- a culture/climate issue, based on the nature of the complaint.
- If it does not, the Title IX Team determines that Title IX does not apply (and will “dismiss” the Title IX aspect of the complaint, if any), then assesses which policies may apply, and will refer the matter for resolution under the Formal Grievance Process. Please note that dismissing a complaint under Title IX is solely a procedural requirement under Title IX and does not limit Walla Walla University’s authority to address a complaint with an appropriate process and remedies.
- In many cases, the Title IX Team may determine that a Violence Risk Assessment (VRA) should be conducted as part of

the initial assessment. The VRA aids in determinations and/or identifications of predatory conduct, interim suspension of a Respondent who is a threat to health/safety as well as whether a Timely Warning/Trespass Order is needed.

As used in the responses listed above, the following definition applies:

## **FORMAL COMPLAINT**

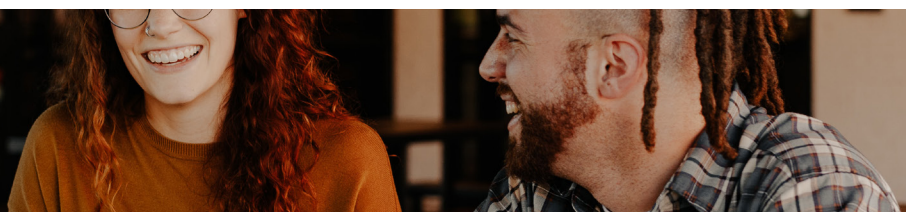
A Formal Complaint means a document or electronic submission (such as email or through an online portal provided by the University for reporting purposes) submitted or signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requests that the University investigate the allegation(s).

If notice is submitted in a form that does not meet this standard, the Title IX Team will contact the Complainant to ensure that it is filed correctly.

## ***Dismissal (Mandatory and Discretionary)***

The University must dismiss a Title IX aspect of a formal complaint (these dismissal requirements are mandated by the 2020 Title IX Regulations 34 CFR §106.45), or any allegations therein if, at any time during the investigation or hearing, it is determined that:

- 1) The conduct alleged in the formal complaint would not constitute sexual harassment as defined above, even if proved; and/or
- 2) The conduct did not occur in an educational program or activity controlled by the Walla Walla University (including buildings or property controlled by recognized student organizations), and/or the University does not have control of the Respondent; and/or



- 3) The conduct did not occur against a person in the United States; and/or
- 4) At the time of filing a formal complaint, a complainant is not participating in or attempting to participate in the education program or activity of the University.

The University may dismiss a formal complaint or any allegations (whether Title IX related or not) therein if, at any time during the investigation or hearing:

- 1) A Complainant notifies the Equity, Diversity and Inclusion Specialist in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; or
- 2) The Respondent is no longer enrolled in or employed by the University; or
- 3) Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
- 4) At any point during the initial assessment or formal investigation, if the Title IX Coordinator determines that reasonable cause does not support the conclusion that policy has been violated, the process will end, and the parties will be notified.
- 5) The Complainant may request that the Title IX Coordinator review the reasonable cause determination and/or re-open the investigation. This decision lies in the sole discretion of the Title IX Coordinator, but the request is usually only granted in extraordinary circumstances.

## 2. Counterclaims

Counterclaims determined to have been reported

in good faith will be processed using the grievance procedures below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur.


Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Equity, Diversity and Inclusion Specialist. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

## 3. Right to an Advisor

Both the Complainant and the Respondent have the right to be assisted by an advisor of their choice and are required to have an advisor during the hearing. Both parties and advisors must understand and observe the following protocols:

- a. The advisor may be a friend, mentor, family member, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process.
- b. The advisor should not be a potential witness in the case.
- c. Participation is contingent upon returning the signed privacy agreement issued by the Title IX Team or investigator.
- d. Under U.S. Department of Education regulations under Title IX, a form of indirect questioning is required during the hearing as part of the Title IX Grievance Process, but must be conducted by the parties' Advisors. The parties are not permitted to directly question each other or any witnesses. If a party does not have an Advisor for a hearing, the University will appoint a trained Advisor for the limited purpose of conducting any questioning of the other party and witnesses. A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor.





**e.** The University cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, the University is not obligated to provide an attorney.

**f.** The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Advisors may confer with their advisee, but they may not speak on behalf of their advisee or otherwise actively participate in the process.

**g.** The advisor may accompany their advisee to all meetings relating to the resolution process but may not appear in lieu of their advisee.

**h.** While advisors may assist their advisee in drafting written communications to the University, they may not directly or indirectly communicate with the Title IX Team, the investigator, adjudicator, witness, or the Executive Appellate Committee.

**i.** Advisors may not interrupt or otherwise delay the resolution process. Walla Walla University reserves the right to move forward with its process in order to ensure a prompt completion of the process. The University will strive to accommodate advisors' schedules; however, the process may need to move forward even if an advisor is unavailable.

**j.** With the permission of their advisee, advisors will be provided access to the same investigation materials and evidence that is available to their advisee. This information frequently includes student records and other confidential and highly sensitive information. Advisors' access to such information is conditioned upon their agreement to

maintain the confidentiality of these records except when disclosure is legally authorized. Advisors may only discuss information disclosed through the investigation process with their advisee. For example, if a party's advisor is an attorney, the attorney may not share any information obtained during the investigation process with other attorneys or staff associated with the attorney.

**k.** Violations of confidentiality or other forms of interference with the resolution procedure by the advisor may result in disqualification of an advisor.


**l.** The University generally expects an Advisor to adjust their schedule to allow them to attend meetings when planned, but may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

**m.** A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout.

**n.** The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be secured.

**o.** The University reserves the right to disclose information about the identity of one party's advisor to the other party in a Resolution Process.

**p.** Any Advisor who oversteps their role as defined by this policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented.



Subsequently, the Title IX Team will determine how to address the Advisor's non-compliance and future role.

#### **4. General Provision for all resolution processes**

##### **A. Commitment to fair treatment of all parties**

Walla Walla University seeks to ensure that all reporting parties and responding parties involved in any Grievance Process are treated with dignity and respect. The University strives to provide a process that is prompt, fair and impartial. The Respondent involved in this process should never be treated in a manner that suggests that they were at fault for, or that they should have done something differently to avoid, the reported prohibited conduct. If parties have any concerns about the manner in which they are being treated throughout a Grievance Process, they should report such concerns to the Title IX Team.

##### **B. Right to continue campus activities**

Both the Complainant and Respondent have the right to continue their work-related and/or student related campus activities without interference unless otherwise warranted.

##### **C. Process for avoiding conflicts of interest**

If a Complainant or Respondent has any concern that any individual acting for the University under the Grievance Process has a conflict of interest, such concern should be reported to the Title IX Team after receiving the notice of the Identity of the individual(s) assigned to the matter. The Title IX Team will review the concern and take appropriate steps to ensure that no conflicts of interest exists on the part of anyone investigating or resolving a report under this Grievance Process. If the Title IX Team has a conflict of

interest with respect to a resolution process, the CORE Team shall appoint an alternate person to oversee adherence to this Policy with respect to the specific report at issue. If the CORE Team is a party to the report or has a conflict of interest with respect to a report, the University's President or the President's designee shall ensure that the University puts in place appropriate safeguards under the circumstances to ensure that the University promptly and equitably responds to the report, including, but not limited to, appointment of alternate individuals to oversee the Resolution Process.

##### **D. Disabilities Accommodations in the Resolution Process**

Walla Walla University is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the resolution process.

Any student needing such accommodations or support should contact the Director of Disability Services who will review the request and, in consultation with the person requesting the accommodation. Employees should make their request to the Title IX Team to determine which accommodations are appropriate and necessary for full participation.

##### **E. Response to non-participation and silence**

A party to a Grievance Process may at any time decline to provide information or otherwise participate in this Grievance Process. If a party decides not the resolution process, the University will proceed with the process and make a determination based upon the information available. Silence in response to an allegation will not necessarily be viewed as an admission of the allegation,



but may leave allegations unrefuted.

### **F. Resolution Process Pool**

The resolution processes rely on a pool of officials (“Pool”) to carry out the process. Members of the Pool are announced on the University website. The list of members and a description of the Pool can be found at. Members of the Pool are trained annually in all aspects of the resolution process and can serve in any of the following roles, at the direction of the Title IX Team:

- To provide sensitive intake for and initial advice pertaining to the allegations
- To act as optional process Advisors to the parties
- To investigate allegations
- To serve as a Decision-maker
- To serve on an Appeal Panel

Pool members receive annual training including a review of University policies and procedures as well as applicable federal and state laws and regulations so that they are able to appropriately address allegations, provide accurate information to members of the community, protect safety, and promote accountability.

## **Informal Grievance Process**

The Informal Grievance Process can include four different approaches:

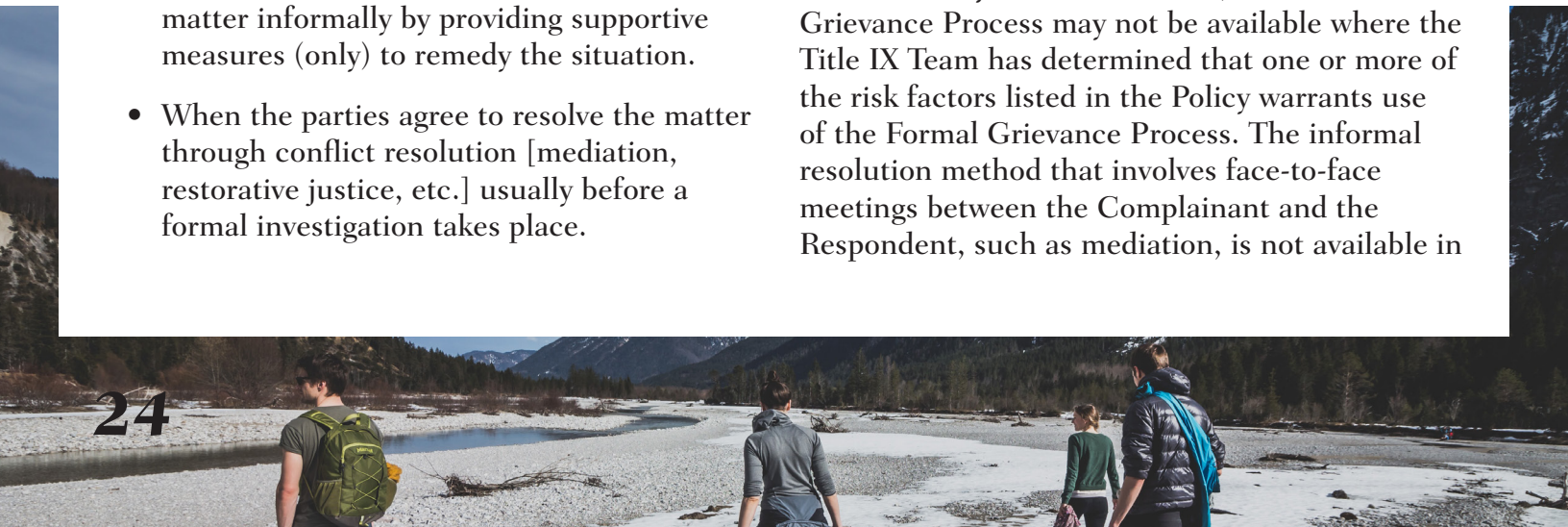
- When the Title IX Team can resolve the matter informally by providing supportive measures (only) to remedy the situation.
- When the parties agree to resolve the matter through conflict resolution [mediation, restorative justice, etc.] usually before a formal investigation takes place.

- When the Respondent accepts responsibility for violating policy and responsive actions are promptly implemented in order to effectively stop the harassment or discrimination, usually pre-investigation.
- When the Respondent accepts responsibility for violating policy, and accepts a sanction to end the grievance process, usually post-investigation.

It is not necessary to pursue the Informal Grievance Process first in order to pursue the Formal Grievance Process, and any party participating in the Informal Grievance Process can stop the process at any time and request the Formal Grievance Process.

To initiate the Informal Grievance Process, a Complainant needs to submit a formal complaint, as defined above. A Respondent who wishes to initiate the Informal Grievance Process should contact the Title IX Team Prior to implementing the Informal Grievance Process, the University will provide the parties with written notice of the reported misconduct and the intention to resolve informally.

Participation in the Informal Grievance Process is completely voluntary. The University will not require a Complainant or Respondent to engage in the Informal Grievance Process; will not compel the Complainant or the Respondent to interact directly with each other; and will allow a Complainant or Respondent to withdraw from the Informal Grievance Process at any time. The University may decline a request for the Informal Grievance Process in any particular case and may terminate an ongoing Informal Grievance Process at any time. In addition, the Informal Grievance Process may not be available where the Title IX Team has determined that one or more of the risk factors listed in the Policy warrants use of the Formal Grievance Process. The informal resolution method that involves face-to-face meetings between the Complainant and the Respondent, such as mediation, is not available in





some cases. The agreement to participate in the Informal Grievance Process and any resolution reached is subject to the agreement of the Title IX Team, the Complainant and the Respondent.

## **Conflict Resolution**

Conflict Resolution is an informal resolution process, such as mediation or restorative practices, by which a mutually-agreed upon resolution of an allegation is reached. It may be used for less serious, yet inappropriate conduct and is encouraged as an alternative to the Formal Resolution process to resolve conflicts. The parties must consent to the use of Conflict Resolution.

Additionally, the Title IX Team determines if Conflict Resolution is appropriate based on the willingness of the parties, the nature of the conduct at issue, and the amenableness of the conduct to Conflict Resolution. In a Conflict Resolution meeting, a trained administrator or third-party facilitates a dialogue with the parties to an effective resolution, if possible.

The Title IX Team maintains records of any resolution that is reached, and failure to abide by the accord may result in appropriate responsive/disciplinary actions.

Conflict Resolution is not the primary resolution mechanism used to address reports of violent conduct of any kind or in other cases of serious violations of policy, though it may be made available after the Formal Grievance Process is completed, should the parties and the Title IX Team believe that it could be beneficial. Conflict Resolution is not used as a stand-alone resolution in some cases.

## **Respondent Admits Responsibility for Alleged Violations**

The respondent may admit responsibility for all or part of the alleged policy violations

at any point during the resolution process. If the respondent admits responsibility for all alleged misconduct, the Title IX Team renders the determination that the respondent is in violation of University policy and determines appropriate sanctions and/or responsive actions in coordination with other appropriate administrators.

The appropriate sanction or responsive actions are promptly implemented in order to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the reporting party and the community.

If the respondent only admits to part of the alleged policy violations, then the Title IX Team finds the respondent in violation for the admitted violations, and the contested allegations will be resolved using Formal Resolution. Any applicable sanctions will be issued upon completion of the Formal Resolution process.

## **Negotiated Resolution**

The Title IX Team, with the consent of the parties, may negotiate and implement an agreement to resolve the allegations that satisfies all parties and the University.



## **Formal Grievance (Resolution) Process**

Circumstances prompting the initiation of a formal resolution process include:

- a. A Complainant reports prohibited conduct and requests, at any time, that the University proceed with an investigation and adjudication under this Formal Process;
- b. Attempts to resolve a reported incident of prohibited conduct through the Informal Grievance Process are unsuccessful and the complainant decides to initiate the Formal Grievance Process; or
- c. In reviewing the nature of the report of prohibited conduct, the Title IX Team determines, based upon a review of the totality of the circumstances and guided by a consideration of the risk factors, that investigation of the reported conduct is necessary to protect the health and safety of the Reporting Party and/or other members of the Walla Walla community.

Walla Walla University believes in and provides a fundamentally fair process for allegations of prohibited conduct by engaging in an investigative model that is thorough, reliable, and impartial. A fair process is created by ensuring that both parties are:

- Given comprehensive notice of all allegations,
- Provided an opportunity to present and respond to all evidence and witnesses throughout the investigative process, and
- Provided notice of the outcome of the investigation and any subsequent sanctions and/or remedies.

Either party may choose not to participate in the investigation. However, the investigation will proceed as necessary and the findings will be based on all available evidence. The non-participating party will retain all rights in the process, but no appeals may then be based on the failure of the non-participating party to provide information which was available at the time of the investigation.

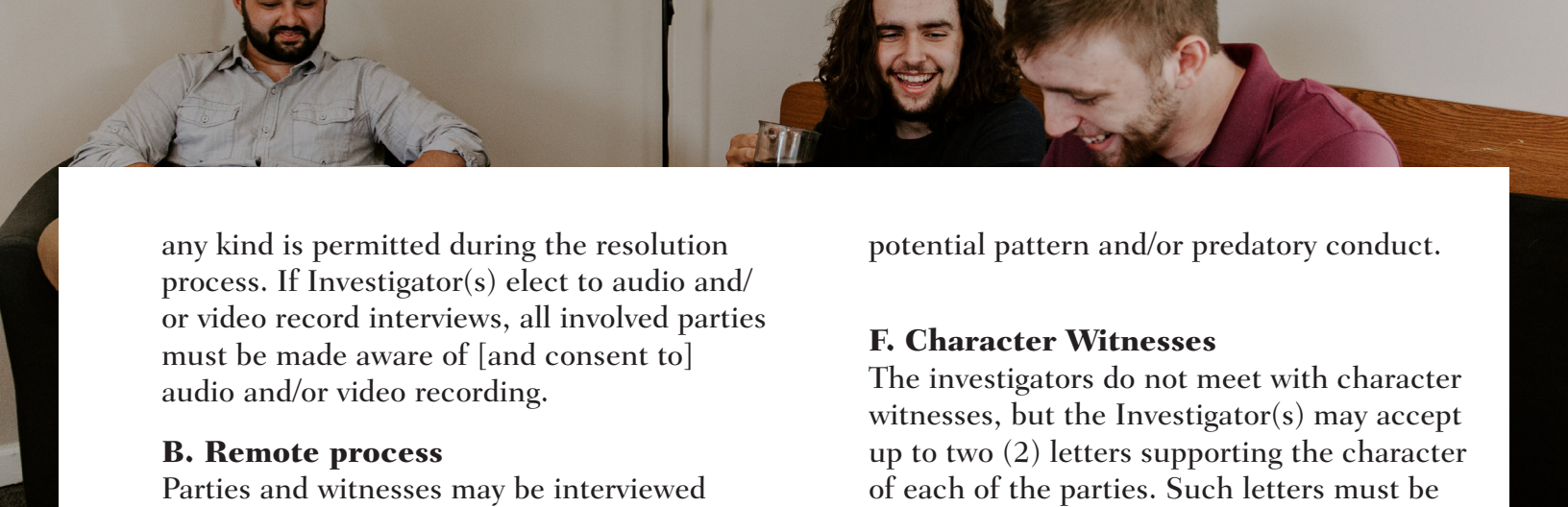
For all investigative procedures, the team of investigators assigned by the Title IX Team will interview the reporting party, the responding party, and any witnesses. They will evaluate and weigh the available evidence, and review the investigation with the Title IX Team, who will determine if the investigation material represents a thorough, reliable, and impartial investigation. All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to fully review and respond to all evidence, on the record.

The investigative team will then write a report based on the factual evidence gathered and analyze the evidence to determine, by preponderance of the evidence (“more likely than not”), whether the responding party is responsible for the alleged policy violation(s). If the responding party is found responsible, the investigation will also include a recommended range of sanctions that will stop the behavior, prevent its recurrence, and remedy the situation for the reporting party and the community.

### **ADDITIONAL DETAILS OF THE INVESTIGATIVE PROCESS**

#### **A. Recording**

No unauthorized audio or video recording of



any kind is permitted during the resolution process. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of [and consent to] audio and/or video recording.

### **B. Remote process**

Parties and witnesses may be interviewed remotely by phone, video conferencing, or similar technologies if the Investigators determine that timeliness or efficiency dictates a need for remote interviewing.

### **C. Evidence**

Any evidence that is relevant and credible may be considered, including an individual's prior misconduct history as well as evidence indicating a pattern of misconduct. The process should exclude irrelevant or immaterial evidence and may disregard evidence lacking in credibility or that is improperly prejudicial.

### **D. History/Patterns**

Unless the Title IX Team determines it is appropriate, the investigation and the finding do not consider: (1) incidents not directly related to the possible violation, unless they evidence a pattern; (2) the sexual history of the parties (though there may be a limited exception made with regard to the sexual history between the parties); or (3) the character of the parties.

### **E. Previous Allegations/Violations**

While previous conduct violations by the Respondent are not generally admissible as information supporting the current allegation, the Investigator(s) may supply the Title IX Team with information about previous good faith allegations and/or findings, when that information suggests

potential pattern and/or predatory conduct.

### **F. Character Witnesses**

The investigators do not meet with character witnesses, but the Investigator(s) may accept up to two (2) letters supporting the character of each of the parties. Such letters must be provided to the Investigator(s) prior to the report being finalized; otherwise, the parties have waived their right to provide such letters.

## **POST-INVESTIGATION REVIEW**

The Title IX Team will review the investigative report, along with all information from the investigative file including, but not limited to, witness statements, communications, documents, and other evidence to verify that the investigation was thorough, reliable, and impartial.

If the Title IX Team believes additional investigative measures are needed, they will send the investigative file back to the investigators for further work.

If the Title IX Team determines that the investigation was conducted in a thorough, reliable, and impartial manner consistent with the University's policies and procedures, they will send the investigative file to the Civil Rights Committee, for a determination of sanction(s).

## **NOTICE OF OUTCOME**

The Title IX Team will communicate with each party separately to share the findings of the investigation. Either party may request that the investigators walk each party through the investigation in detail, including what they learned from each party, from the witnesses, and from the evidence provided, and will outline the process they used to weigh all the materials (statements, evidence, etc.), their analysis, their final findings,



and the recommended range of sanctions.

If the Respondent is found not responsible, the case is closed. Either party may appeal this decision.

If the Respondent is found responsible, both parties will have two (2) business days to review the investigative summary and prepare their final statement. Their final written statement will be added to the investigative file presented to the Civil Rights Committee for determination of sanctions.

## **POSSIBLE SANCTIONS**

Student sanctions may include:

- Suspended conduct probation. Under suspended conduct probation, any further violation could result in conduct probation or a more severe penalty.
- Conduct probation. Conduct probation may prohibit student participation in campus activities, such as extra-curricular activities, public performances, public office in student organizations, or participation in commencement or other official ceremonies. If the student does not comply with the terms of conduct probation, other sanctions may apply.
- Suspension from the University, with reinstatement dependent upon the fulfillment of stipulated conditions.
- Dismissal from the University.
- Sanctions may also include written warnings, mandatory participation in educational programs, restitution, or other actions appropriate to the offense.

Employee sanctions may include:

- Oral or written reprimand
- Transfers to a different area or other work restrictions

- Required training
- Demotion or reduction in pay
- Probation, restitution, or other actions appropriate to the offense
- Separation from the University

## **DETERMINING SANCTIONS**

The names of the Complainant, Respondent, and any witnesses will be redacted from the report sent to the Civil Rights Committee, but relevant power and departmental relationships will be noted in the report.

The Civil Rights Committee will review the investigative report along with the recommended range of sanctions and all information from the investigative file including, but not limited to, witness statements, communications, documents, and other evidence to verify that the investigation was thorough, reliable, and impartial, and consistent with the University's policies and procedures.

If the responding party has filed counter charges against the reporting party, the Civil Rights Committee should review both investigative reports simultaneously. If the Civil Rights Committee believes additional investigative measures are needed, they will send the investigative file back to the investigators for further work.

The Civil Rights Committee will determine the appropriate sanction(s), based on the range recommended by the investigators.

Once the sanction has been finalized, the parties will be notified of the outcome in writing within three (3) working days.

## **Appeal Process**

### **REASONS FOR APPEAL**

Either the Complainant or the Respondent may make an appeal request following the



final determination of the case after the parties review the report. Each party is granted one (1) opportunity for appeal. Appeals should be submitted to the Vice President for Student Life and Mission in writing within three (3) business days of notification of outcome.

Appeals are not to be considered as “seeking a second opinion.” Rather they are intended to allow the University to reconsider elements that may have impacted the original decision sufficiently to impact the outcome of that decision.

Appeal requests may be made on the following grounds:

- Procedural errors or bias existed in the hearing that were sufficient enough to deny a fair hearing process and/or
- Admission of new material or evidence that is not merely repetitive and was not reasonably available at the time of the initial hearing, that could affect the outcome of the matter.

Appeal requests based solely on a person’s disagreement with the outcome of the investigation or a sanction decision does not meet the criteria for an appeal.

A request for an appeal does not necessarily mean that one will be granted.

All sanctions imposed, including but not limited to suspension, termination, removal from campus, or continued no-contact directives, will be in effect during the appeal process.

### **APPEALS PANEL**

The Appeals Panel is comprised of, Vice President for Student Life and Mission; Vice President for University Relations and Advancement; Associate Vice President of Academic Administration; and, Assistant to the President for Diversity. The Vice President for Student Life and Mission will chair the committee and is a non-voting member.

### **APPEALS DETERMINATION**

When any party requests an appeal, the Appeals Panel Chair will share, in writing, the appeal request with the other party(ies), who may file a response within three (3) business days and/or bring their own appeal on separate grounds. If new grounds are raised, the original appealing party will be permitted to submit a written response to these new grounds within three (3) business days. These responses or appeal requests will be shared with each party.

The Appeals Panel Chair will review the appeal request(s) and will decide within seven (7) business days if the appeal will be heard. This decision will be communicated to both parties in writing. If an appeal request is granted, the notice shall include the date, time, and location of the appeal hearing. Both parties will be notified at least 48 hours prior to the scheduled hearing.

### **APPEALS PANEL HEARING PROCEDURE**

Where the Appeals Panels finds that one of the grounds above is met by at least one party, additional principles governing the hearing of appeals will include the following:

- Decisions by the appeals panel are to be deferential to the original decision, making changes to the finding only where there is clear error and to the sanction only if there is a compelling justification to do so.
- Appeals are not intended to be full re-hearings (de novo) of the allegation. In most cases, appeals are confined to a review of the written documentation or record of the investigation, and pertinent documentation regarding the grounds for appeal. An appeal is not an opportunity for appeals panelists to substitute their judgment for that of the original investigators merely because they disagree with the finding and/or sanctions.
- Appeals granted based on new evidence should normally be remanded to the investigators for reconsideration. Other



appeals may be remanded at the discretion of the Appeals Panel Chair or, in limited circumstances, heard by the Appeals Panel.

- The Appeals Panel will hear a statement from the appellant and ask any relevant questions, review the investigative report, question the investigators, review any new information, and call in any witnesses to questions. The appellee has the option to separately make a statement verbally or in writing.
- The Appeals Panel will confer with the Civil Rights Committee and render a written decision on the appeal to all parties within three (3) business days of the resolution of the appeal.
- Where appeals result in no change to the

finding or sanction, that decision is final. Where an appeal results in a new finding or sanction, that finding or sanction can be appealed one final time on the grounds listed above, and in accordance with these procedures.

- In cases where the appeal results in reinstatement to the University or resumption of privileges, all reasonable attempts will be made to restore the respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

This is the final appeal process and no other policy, handbook or document supersedes this appeal process.

## ***Title IX Grievance (Resolution) Process***

### ***Circumstances prompting the initiation of a Title IX Grievance Process***

1. A Complainant reports prohibited conduct that constitutes sexual harassment as described above and
2. The conduct occurred in an educational program or activity controlled by Walla Walla University (including buildings or property controlled by recognized student organizations), and/or the University does not have control of the Respondent; and/or
3. The conduct occurred against a person in the United States; and/or
4. At the time of filing a formal complaint, a complainant is participating in or attempting to participate in the education program or activity of the University.

### ***Notice of Investigation:***

The Title IX Coordinator will provide written notice of the investigation and allegations (the “NOIA”) to the Respondent upon commencement of the Title IX Grievance Process. The NOIA is also copied to the Complainant. Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.

### ***Appointment of Investigators:***

Once the decision to commence a formal investigation is made, the Title IX Coordinator appoints Pool members to conduct the investigation (typically using a team of two Investigators), usually within two (2) business days of determining that an investigation should proceed.





### **Investigation Timeline:**

Walla Walla University will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation. Investigations are completed expeditiously, normally within thirty (30) business days, though some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

### **Steps in the Investigation Process:**

Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary.

The Investigator(s) typically take(s) the following steps (not necessarily in this order):

- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and meetings
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of the other party and witnesses, and document in the

report which questions were asked, with a rationale for any changes or omissions

- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included. The Investigator(s) gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report.
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the University does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten days.
- The Investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) should document all rationales for any changes made after the review and comment period

### **ADDITIONAL DETAILS OF THE INVESTIGATIVE PROCESS**

#### **Recording**

No unauthorized audio or video recording of any

kind is permitted during the resolution process. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of [and consent to] audio and/or video recording.

### **Remote process**

Parties and witnesses may be interviewed remotely by phone, video conferencing, or similar technologies if the Investigator(s) or Decision-maker determine that timeliness or efficiency dictates a need for remote interviewing.

### **Evidence**

Any evidence that is relevant and credible may be considered, including an individual's prior misconduct history as well as evidence indicating a pattern of misconduct. The process should exclude irrelevant or immaterial evidence and may disregard evidence lacking in credibility or that is improperly prejudicial.

### **History/Patterns**

Unless the Title IX Team determines it is appropriate, the investigation and the finding do not consider: (1) incidents not directly related to the possible violation, unless they evidence a pattern; (2) the sexual history of the parties (though there may be a limited exception made with regard to the sexual history between the parties); or (3) the character of the parties.

### **Previous Allegations/Violations**

While previous conduct violations by the Respondent are not generally admissible as information supporting the current allegation, the Investigator(s) may supply the Title IX Team with information about previous good faith allegations and/or findings, when that information suggests potential pattern and/or predatory conduct.

### **Character Witnesses**

The investigators do not meet with character witnesses, but the Investigator(s) may accept up to two (2) letters supporting the character of each of the parties. Such letters must be provided to the

Investigator(s) prior to the report being finalized; otherwise, the parties have waived their right to provide such letters.

### **Referral for Live Hearing**

Provided that the complaint is not resolved through informal resolution, once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing.

The hearing cannot be less than ten (10) business days from the conclusion of the investigation – when the final investigation report is transmitted to the parties and the Decision-maker—unless all parties and the Decision-maker agree to an expedited timeline.

The Decision-maker(s) will not have had any previous involvement with the investigation. The Title IX Coordinator may elect to have an alternate from the Pool sit in throughout the hearing process in the event that a substitute is needed for any reason.

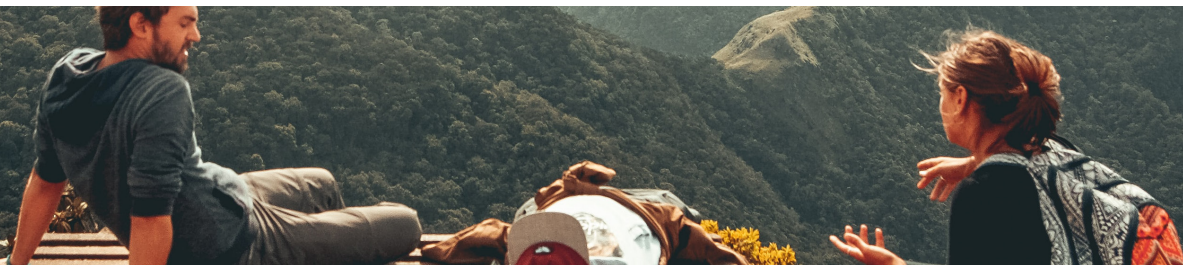
### **Hearing Decision-Maker**

Walla Walla University will designate a single Decision-maker or up to a three-member panel from the Pool, at the discretion of the Title IX Coordinator. The single Decision-maker will also Chair the hearing. With a panel, one of the members will be appointed as Chair by the Title IX Coordinator.

The Decision-maker(s) will not have had any previous involvement with the investigation.

Those who have served as Investigators will be witnesses in the hearing and therefore may not serve as Decision-makers. Those who are serving as Advisors for any party may not serve as Decision-makers in that matter.

The Title IX Coordinator may not serve as a Decision-maker or Chair in the matter but may serve as an administrative facilitator of the hearing





if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this role. The hearing will convene at a time determined by the Chair or designee.

### ***Evidentiary Considerations in the Hearing***

Any evidence that the Decision-maker(s) determine(s) is relevant and credible may be considered. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process, and is not shared until then.

The parties may each submit a written impact statement prior to the hearing for the consideration of the Decision-maker(s) at the sanction stage of the process when a determination of responsibility is reached.

After post-hearing deliberation, the Decision-maker renders a determination based on [the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

### ***Notice of Hearing***

No less than ten (10) business days prior to the hearing, the Title IX Coordinator or the Chair will send notice of the hearing to the parties. The notice will contain details of the date, time and location of the hearing as well as information regarding how the hearing will be recorded as well as information on obtaining an advisor, if one has not already been secured. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the University and remain within the 60-90 business day goal for resolution.

In these cases, if the Respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including any appeal). A student facing charges under this Policy is not in good standing to graduate.


### ***Pre-Hearing Preparation***

The Chair or hearing facilitator after any necessary consultation with the parties, Investigator(s) and/or Title IX Coordinator, will provide the names of persons who will be participating in the hearing, all pertinent documentary evidence, and the final investigation report to the parties at least ten (10) business days prior to the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s) [or have proffered a written statement or answered written questions], unless all parties and the Chair assent to the witness's participation in the hearing. The same holds for any evidence that is first offered at the hearing.







If the parties and Chair do not assent to the admission of evidence newly offered at the hearing, the Chair may delay the hearing and instruct that the investigation needs to be reopened to consider that evidence.

The parties will be given a list of the names of the Decision-maker(s) at least five (5) business days in advance of the hearing. All objections to any Decision-maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than one day prior to the hearing. Decision-makers will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

The Title IX Coordinator will give the Decision-maker(s) a list of the names of all parties, witnesses, and Advisors at least five (5) business days in advance of the hearing. Any Decision-maker who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors in advance of the hearing. If a Decision-maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

During the ten (10) business day period prior to the hearing, the parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the Chair at the pre-hearing meeting or at the hearing and will be exchanged between each party by the Chair.

### **Hearing Procedures**

At the hearing, the Decision-maker(s) has the authority to hear and make determinations on all allegations of sex discrimination, harassment,

and/or retaliation and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the sex discrimination, harassment, and/or retaliation, even though those collateral allegations may not specifically fall within the policy on Equal Opportunity, Harassment, and Nondiscrimination.

Participants at the hearing will include the Chair, any additional panelists, the hearing facilitator, the Investigator(s) who conducted the investigation, the parties (or three (3) organizational representatives when an organization is the Respondent), Advisors to the parties, any called witnesses, the Title IX Coordinator, and anyone providing authorized accommodations or assistive services.

The Chair will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The Chair will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Decision-maker(s) and the parties and the witnesses will then be excused.

### **Joint Hearings**

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy violation.



## ***The Order of the Hearing***

1. The Chair explains the procedures and introduces the participants. According to the hearing script. At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process are managed by a non-voting hearing facilitator appointed by the Title IX Coordinator.
2. The Investigator(s) will then present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Decision-maker(s) and the parties (through their Advisors). The Investigator(s) will be present during the entire hearing process, but not during deliberations.

Neither the parties nor the Decision-maker(s) should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and the Investigators, Advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Chair will direct that it be disregarded.

3. Once the Investigator(s) present their report and are questioned, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Chair. The parties and witnesses will submit to questioning by the Decision-maker(s) and then by the parties through their Advisors (“cross-examination”).

All questions are subject to a relevance determination by the Chair. The Chair will

limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Chair has final say on all questions and determinations of relevance. The Chair may consult with legal counsel on any questions of admissibility. The Chair may ask Advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the Advisors on relevance once the Chair has ruled on a question.

## ***Recording Hearings***

Hearings (but not deliberations) are recorded by the University for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted. The Decision-maker(s), the parties, their Advisors, and appropriate administrators of the University will be permitted to listen to the recording in a controlled environment determined by the Title IX Coordinator.

## ***Deliberation, Decision Making and Standard of Proof***

The Decision-maker(s) will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. If a panel is used, a simple majority vote is required to determine the finding. The preponderance of the evidence standard of proof is used.

When there is a finding of responsibility on one or more of the allegations, the Decision-maker(s) may then consider the previously submitted party impact statements in determining appropriate sanction(s).

The Chair will then prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its

determination, the evidence not relied upon in its determination, credibility assessments, and any sanctions or recommendations.

### **Notice of Outcome**

Using the deliberation statement, the Title IX Coordinator will work with the Chair to prepare a Notice of Outcome. The Title IX Coordinator will then share the letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors within 7 business days of receiving the Decision-maker(s)' deliberation statement. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will also include information on when the results are considered by the University to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

### **Sanctions:**

#### ***Student sanctions may include:***

- Suspended conduct probation. Under suspended conduct probation, any further violation could result in conduct probation or a more severe penalty.
- Conduct probation. Conduct probation may prohibit student participation in campus activities, such as extra-curricular activities, public performances, public office in student organizations, or participation in commencement or other official ceremonies. If the student does not comply with the terms of conduct probation, other sanctions may apply.
- Suspension from the University, with reinstatement dependent upon the fulfillment of stipulated conditions.
- Dismissal from the University.

- Sanctions may also include written warnings, mandatory participation in educational programs, restitution, or other actions appropriate to the offense.

#### ***Employee sanctions may include:***

- Oral or written reprimand
- Transfers to a different area or other work restrictions
- Required training
- Demotion or reduction in pay
- Probation, restitution, or other actions appropriate to the offense
- Separation from the University

### **Withdrawal or Resignation While Charge Pending**

#### ***Students:***

If a student has an allegation pending for violation of the Policy on Equal Opportunity, Harassment, and Nondiscrimination, the University may place a hold on a student's ability to graduate and/or to receive an official transcript/diploma.

Should a student decide to not participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from Walla Walla University, the resolution process ends, as the University no longer has disciplinary jurisdiction over the withdrawn student.

However, the University will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation. The student who withdraws or leaves while the process is pending may not return to Walla Walla University.





Such exclusion applies to all campuses of the University. A hold will be placed on their ability to be readmitted. They may also be barred from Walla Walla University property and/or events.

If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the resolution process may continue remotely and that student is not permitted to return to Walla Walla University unless and until all sanctions have been satisfied.

### **Employee:**

Should an employee Respondent resign with unresolved allegations pending, the resolution process ends, as the University no longer has disciplinary jurisdiction over the resigned employee.

However, Walla Walla University will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or discrimination.

The employee who resigns with unresolved allegations pending is not eligible for rehire with Walla Walla University or any campus of the University, and the records retained by the Title IX Coordinator will reflect that status.

All University responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

## **Appeal Process**

Either the Complainant or the Respondent may make an appeal request following the final determination of the case. Each party is granted one (1) opportunity for appeal but it must be submitted in writing to the Title IX Coordinator within 3 business days of the delivery of the Notice of Outcome.

A single Appeal Decision-maker will be chosen from the Pool and will chair the appeal. The appeal Decision-maker will not have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process. The Request for Appeal will be forwarded to the Appeal Chair for consideration to determine if the request meets the grounds for appeal (a Review for Standing).

Appeals are not to be considered as “seeking a second opinion.” Rather they are intended to allow the University to reconsider elements that may have impacted the original decision sufficiently to impact the outcome of that decision.

Appeal requests may be made on the following grounds:

- Procedural errors or bias existed in the hearing that were sufficient enough to deny a fair hearing process and/or
- Admission of new material or evidence that is not merely repetitive and was not reasonably available at the time of the initial hearing, that could affect the outcome of the matter.

Appeal requests based solely on a person’s disagreement with the outcome of the investigation or a sanction decision does not meet the criteria for an appeal.

A request for an appeal does not necessarily mean that one will be granted. If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the Appeal Chair and the parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Chair will notify the other party(ies) and their Advisors, the Title IX Coordinator, and, when





appropriate, the Investigators and/or the original Decision-maker(s).

The other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker(s) will be mailed, emailed, and/or provided a hard copy of the request with the approved grounds and then be given 3 business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Chair to all parties for review and comment.

The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed to determine if it meets the grounds in this Policy by the Appeal Chair and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Investigator(s) and/or original Decision-maker(s), as necessary, who will submit their responses in 3 business days, which will be circulated for review and comment by all parties.

A Notice of Appeal Outcome will be sent to all parties including the decision on each approved ground and rationale for each decision.

## **Ombudsman**

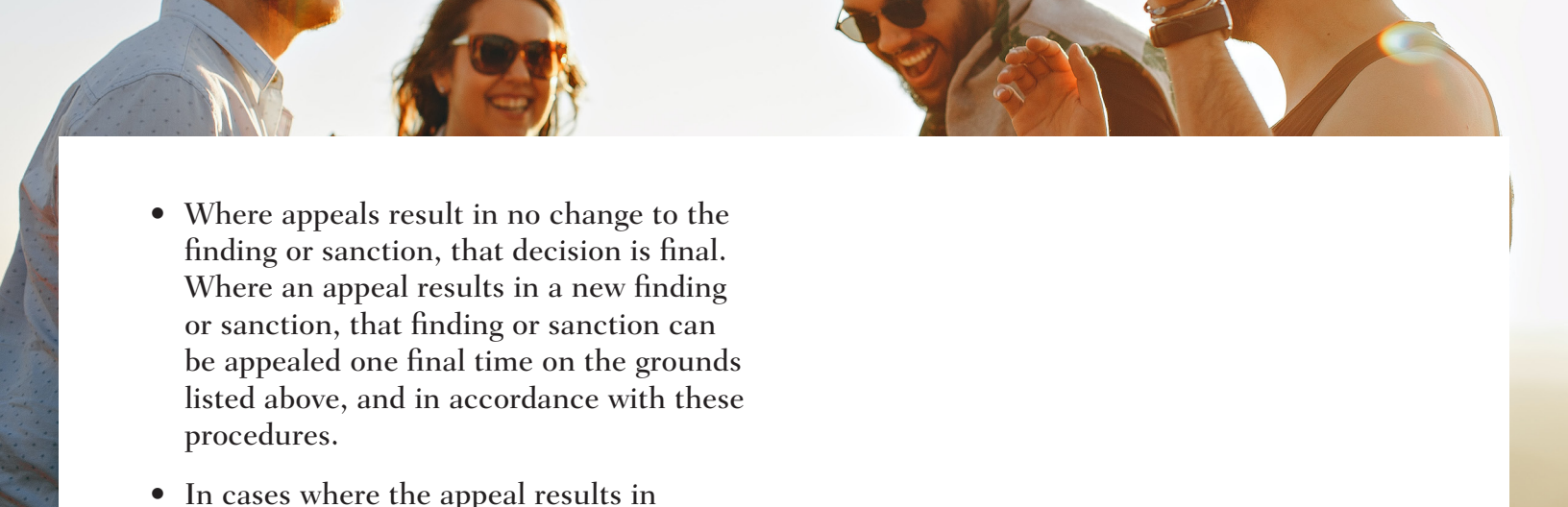
The ombudsman is a designated neutral or impartial dispute resolution practitioner whose major function is to provide confidential and informal assistance to constituents of the Walla Walla University community. While the university ombudsman is not the appeals officer for the WWU Equal Opportunity, Harassment and Nondiscrimination Policy you may refer to the ombudsman for informal conflict resolution outside of this policy.

## **APPEALS PANEL HEARING PROCEDURE**

Where the Appeals Panels finds that one of

the grounds above is met by at least one party, additional principles governing the hearing of appeals will include the following:

- Decisions by the appeals panel are to be deferential to the original decision, making changes to the finding only where there is clear error and to the sanction only if there is a compelling justification to do so.
- Appeals are not intended to be full re-hearings (de novo) of the allegation. In most cases, appeals are confined to a review of the written documentation or record of the investigation, and pertinent documentation regarding the grounds for appeal. An appeal is not an opportunity for appeals panelists to substitute their judgment for that of the original investigators merely because they disagree with the finding and/or sanctions.
- Appeals granted based on new evidence should normally be remanded to the investigators for reconsideration. Other appeals may be remanded at the discretion of the Executive Appellate Committee Chair or, in limited circumstances, heard by the Executive Appellate Committee.
- The Appeals Panel will hear a statement from the appellant and ask any relevant questions, review the investigative report, question the investigators, review any new information, and call in any witnesses to questions. The appellee has the option to separately make a statement verbally or in writing.
- The Appeals Panel will confer with the appellate committee and render a written decision on the appeal to all parties within three (3) business days of the resolution of the appeal.

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- Where appeals result in no change to the finding or sanction, that decision is final. Where an appeal results in a new finding or sanction, that finding or sanction can be appealed one final time on the grounds listed above, and in accordance with these procedures.
  - In cases where the appeal results in reinstatement to the University or resumption of privileges, all reasonable attempts will be made to restore the respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

This is the final appeal process and no other policy, handbook or document supersedes this appeal process.

All sanctions imposed, including but not limited to suspension, termination, removal from campus, or continued no-contact directives, will be in effect during the appeal process.

Walla Walla University may still place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions included separation.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the University and may be noted on a student's official transcript.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.



