

# University of Wisconsin-Whitewater

## *Title IX Awareness & Reporting Training for Supervisors*

### **Presenter:**

Vicki Schreiber, Ph.D. - Title IX Coordinator



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# Learning Outcomes

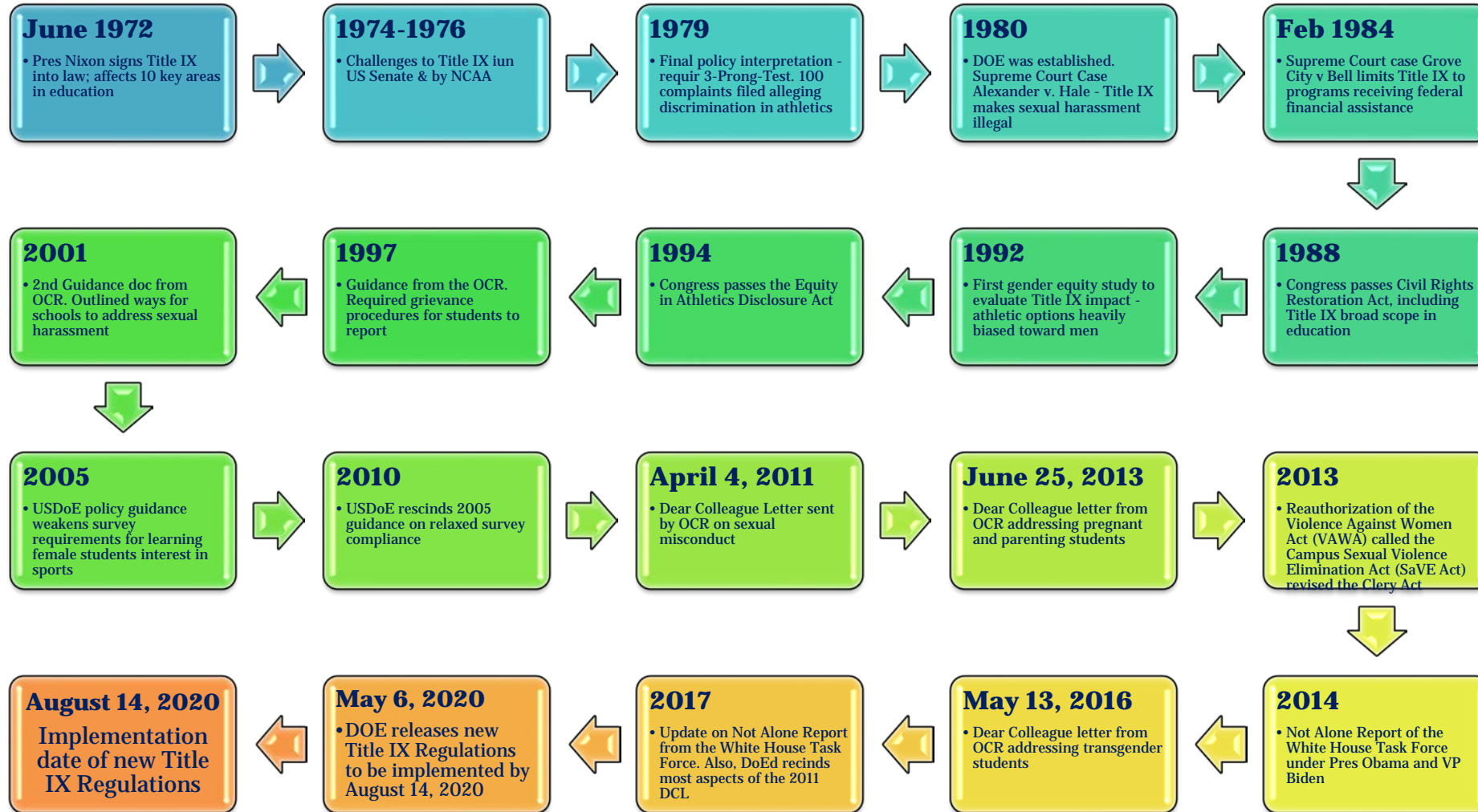
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By the end of this training we hope you have a better understanding of ...

1. Title IX regulations and requirements as it relates to sexual misconduct on a college campus
2. University of Wisconsin Whitewater policies as it relates to sexual misconduct on University property and off
3. University of Wisconsin System requirements for employee reporting issues related to sexual misconduct
4. Definitions related to Title IX and Clery Act reporting
5. How to respond to a student or employee who may have been involved in sexual misconduct
6. How to report alleged sexual misconduct
7. The process of how Title IX complaints are handled on the campus at UWW

# Title IX Timeline

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



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# Ripped from the Headlines - Media Attention

Former Penn State defensive coordinator Gerald "Jerry" Sandusky was found guilty of sexual abuse, convicted of 45 out of 48 counts on Friday, June 22, 2012. He was accused of sexually abusing 10 boys over a 15-year period.



Everyone Believed  
Larry Nassar The  
predatory trainer  
may have just taken  
down USA  
Gymnastics. How  
did he deceive so  
many for so long?

By Kerry Hawley



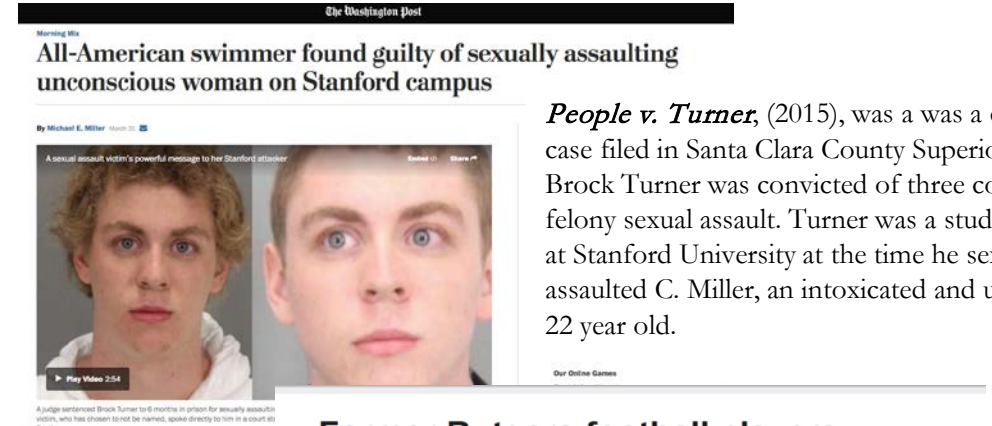
By the fall of 2018, 499 known victims of Larry Nassar “broke their silence.” Over the course of 20 years, women and girls reported to their parents, coaches, University police, city police, USA Gymnastics. The story is that of a system of trust impermeable to common sense. “If this is a story of institutional failure, it is also a story of astonishing individual ingenuity.” – K. Hawley



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# Ripped from the Headlines - Media Attention



*People v. Turner*, (2015), was a criminal case filed in Santa Clara County Superior Court. Brock Turner was convicted of three counts of felony sexual assault. Turner was a student athlete at Stanford University at the time he sexually assaulted C. Miller, an intoxicated and unconscious 22 year old.

## Former Rutgers football players accused of sexual assault

Associated Press Nov 22, 2016

NEW BRUNSWICK, N.J. -- A Rutgers University student is alleging in a lawsuit that she was sexually assaulted by two Rutgers football players during her freshman year last fall.

The complaint says Marques Ford and John Bowers sexually assaulted the

## FSU Pays \$950,000 To Woman Who Accused Jameis Winston Of Sexual Assault

January 25, 2016 · 4:42 PM ET

LAURA WAGNER



# Definitions – Sex Discrimination

- Treating someone unfavorably because of that person's sex, sexual orientation or gender identity. (This includes pregnant and parenting students and employees)
- Sex discrimination in the workplace becomes unlawful when it involves different treatment based on sex that negatively affects the “terms or conditions of employment.”
  - “Terms or conditions of employment” include things like employment status (being hired or fired); your job position or duties; your work schedule, shift, or job location; your pay rate or salary; and advancement and training opportunities.

As an employee, this is also related to Title VII of the Civil Rights Act of 1964 – This prohibits sex discrimination in terms and conditions of employment



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# Definitions – Sexual Harassment

- **Sexual harassment” means conduct on the basis of sex that satisfies one or more of the following:**
  - An employee of the institution conditions the provision of an aid, benefit, or service of the institution directly or indirectly on an individual’s participation in unwelcome sexual conduct;
  - Unwelcome conduct of a sexual nature directed towards a student, an employee, or a person participating in a program or activity of the university that, when using the legal “reasonable person” standard is so severe, pervasive, and objectively offensive that it effectively denies the person equal access to the institution’s education program or activity.

UW System definition found at:

<https://www.wisconsin.edu/regents/policies/sexual-violence-and-sexual-harassment/>



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# Definitions – Title IX Misconduct

- **A report considered Title IX Misconduct when**
  - a formal complaint ...is either filed by a complainant or signed by the Title IX Coordinator and the alleged conduct meets the definition of sexual harassment, sexual assault, dating violence, domestic violence, or stalking
  - occurred within a university “education program or activity”
  - occurred against the complainant while in the United States; and
  - the complainant is participating in or attempting to participate in a university education program or activity at the time they file the formal complaint.
- **Title IX misconduct cases will follow procedures as detailed in Chs. UWS 4.11-24 (faculty), UWS 11.13-26 (academic staff), UWS 17.16-21 (students), and Appendix C (university employees other than faculty or academic staff).**





# Definitions - Sexual Assault

- “Sexual assault” means an offense that meets the definition of rape, fondling, incest, or statutory rape as defined below. [20 U.S.C. 1092(f)(6)(A)(v), 34 CFR 668.46(a).]
  - Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of the complainant, without the consent of the complainant.
  - Fondling: The touching of the private body parts of the complainant for the purpose of sexual gratification, without the consent of the complainant, including instances where the complainant is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.
  - Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law (See s. 944.06, Stats.)
  - Statutory Rape: Sexual intercourse with a complainant who is under the statutory age of consent (See s. 948.02, Stats.)

UW System Policy located at

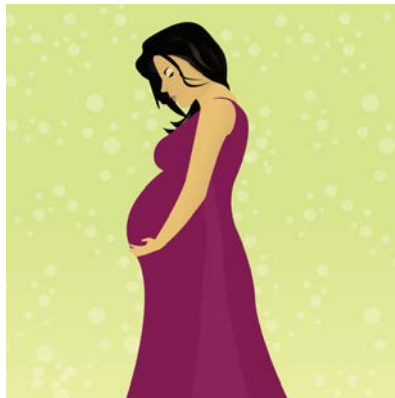
<https://www.wisconsin.edu/regents/policies/sexual-violence-and-sexual-harassment/>



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# Pregnant and Parenting

- Title IX prohibits discrimination based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions. It also prohibits a school from applying any rule related to a student's parental, family, or marital status that treats students differently based on their sex.



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# When is the University Liable?

- Quid Pro Quo (supervisor/employee)
  - a favor or advantage granted or expected in return for something
- Hostile Environment
  - workplace in which unwelcome comments or conduct based on gender, race, nationality, religion, disability, sexual orientation, age, or other legally protected characteristics unreasonably interfere with an employee's work performance or create an intimidating or offensive work environment for the employee

## Liability when

- University fails to take remedial action;
- Failure to use the policy/process to address the alleged harassment.



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# When are you personally liable?

- If you are the *harasser*.
  - Civil and Criminal – If you are the harasser (and the matter is adjudicated) and the victim/complainant sues/prosecutor files a criminal complaint
  - Employment – may be subject to discipline up to and including termination
- If you are a *supervisor of a harasser*.
  - Usually no personal liability will attach. Will be indemnified by state if acting in scope of employment. It is important to follow the processes in place by the Institution.

# Intent versus Impact

## INTENT VS IMPACT

In 2014, Bombay High Court ruled:

*“Even if you keep your hand on the shoulder of a woman, it is for the lady to comment on the nature of the touch, whether it was friendly, brotherly or fatherly.”*

In other words, only a woman/girl can decide the nature of the touch; it is not the intent, but is the perception and impact which determines whether or not an act is sexual harassment.



“In the end what does the intent of our action really matter if our actions have the impact of furthering the marginalization or oppression of those around us?”

- Jamie Utt

Please note: the statement made in the above picture states woman/girl. This is intended to mean “person who is being touched”, regardless of sex or gender.)

Information retrieved from <https://everydayfeminism.com/2013/07/intentions-dont-really-matter/>



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# Complaint Process - Employees

When an employee believes they have been sexually harassed:

- Informal Resolution:
  - Inform immediate supervisor, member of administration, or Office of Human Resources
- Formal Complaint:
  - Filed with Office of Human Resources & Diversity to use applicable policies/processes
- External Complaint:
  - EEOC/OCR complaints may be filed



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# Complaint Process - Students

When a student believes they have been a subject of sexual misconduct:

- The student may disclose to a “responsible employee”. A responsible employee is any person who the student thinks or reasonably would think the employee can do something about it. Therefore we define all UW employees as “Responsible Employees”
- Formal Complaint:
  - Student may file a formal complaint with the Dean of Students Office or the Title IX Coordinator or Human Resources
- External Complaint:
  - Office of Civil Rights



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# A Supervisor's Obligations

- Supervisors may find out about sexual harassment in a variety of ways
- If a report of sexual harassment comes to your attention:
  - Take the report seriously; do not dismiss it or speculate
  - Contact OHRD or Title IX Coordinator immediately
  - Do not attempt to investigate the complaint yourself
  - Be supportive of both parties – remain neutral
- Harassment claims can take a serious toll on the morale of an office setting or a team



# Child Abuse/Neglect, Clery Act, Sexual Misconduct – How to Respond

	Child Abuse or Neglect (Exec. Order 54)	Particular Crimes on Campus Geography (Clery Act)	Sexual Assault & Sexual Harassment involving a student	Sexual Violence or Sexual Harassment (Title IX involving students and employees)
Who Reports	All UW System employees (no exceptions) <a href="#">See Policy</a>	UW-Whitewater employees identified as Campus Security Authorities (CSAs) based on criteria provided by the US Dept. of Education. CSAs are notified of their status.	All UW-Whitewater employees (exceptions are for confidential reporters such as a health care provider, counselors and advocates)	All UW-Whitewater employees (exceptions are for confidential reporters such as a health care provider, counselors and advocates)
What to Report	Any incident or threat of child abuse or neglect with reasonable cause to believe the abuse or neglect has occurred or will occur	Crimes involving: Murder, Robbery, Sex Offenses, Aggravated Assault, Burglary, Motor Vehicle Theft, Arson and Arrest on UW-W campus, owned or controlled property [adjacent property], or owned and controlled by a student organization.	Any employee who may witness or receive a direct report of:  Sexual Assault, Sexual Harassment, Stalking, Dating and/or Domestic Violence	A violation of the UW- Whitewater Sexual Violence and Sexual Harassment Policy (i.e. gender discrimination, sexual harassment, sexual assault, dating/domestic violence, stalking, related retaliation)
How to Report	Contact your <a href="#">local child Protective Services</a> or law enforcement agency  If suspected offender is an employee of UW- Whitewater, also notify the Human Resources and Diversity office.	<a href="#">Clery Act Crime [CSA] Reporting Form</a>  Contact <a href="#">Campus Police</a>	Sexual Misconduct Reporting Form <a href="#">UW-W Campus</a> / <a href="#">UW- Rock Campus</a> OR Contact Dean of Students Office OR Title IX Coordinator with questions	Sexual Misconduct Reporting Form <a href="#">UW-W Campus</a> / <a href="#">UW- Rock Campus</a> OR Contact Human Resources OR Contact the Title IX Coordinator
More Information	<a href="#">UWPD: Reporting Child Abuse &amp; Neglect website</a> and <a href="#">Mandated Reporter Training</a>	<a href="#">Current Clery Report</a>	<a href="#">Chapter UWS 17</a> UWW Sexual Violence & Harassment Policy <a href="#">State Statute 36.11(22)</a>	UW-Whitewater Sexual Violence and Sexual Harassment Policy



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# How to file a report:

**NOTE:** If you are an employee, you are **REQUIRED** to report what you know to:

## Internal Contacts:

- Office of Human Resources and Diversity
- Title IX Coordinator
- Immediate Supervisor
- Dean of Students Office (if a student)

## External Reporting Options for Complainants (optional):

- Office for Civil Rights, Department of Education
- Equal Employment Opportunity Commission
- UW System Office of Human Resources



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# How to file a report - Forms:

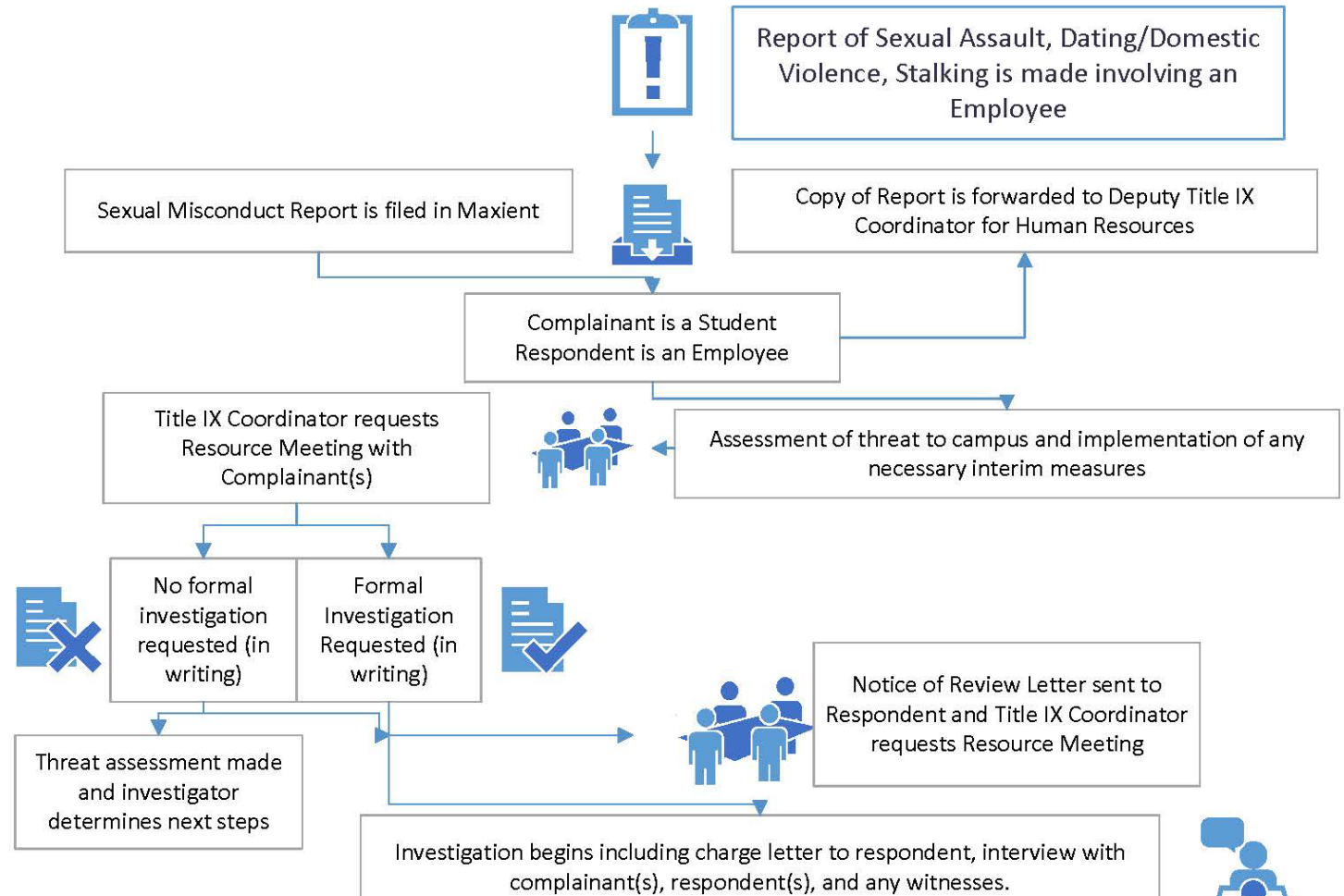
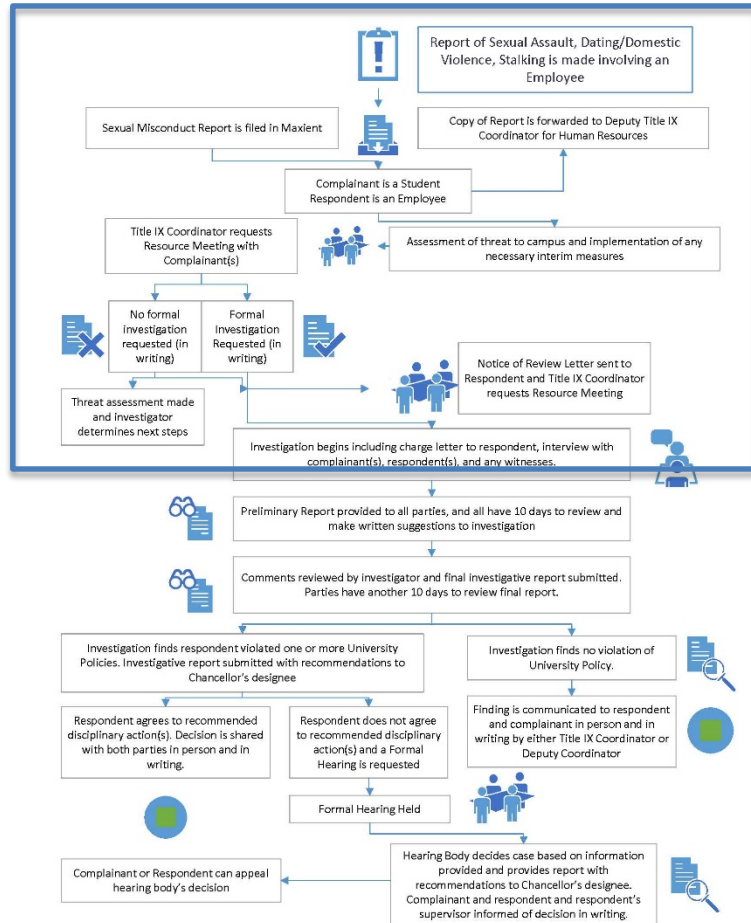
- Sexual Misconduct Reporting Form
- CARE Team Report Form
- Hate and Bias Reporting Form
- Student Organization Misconduct/Hazing Reporting Form
- Clery Act Crime Reporting Form
- Policy 136 Disclosure Reporting Form

<https://www.uww.edu/dean-of-students/reporting-forms>

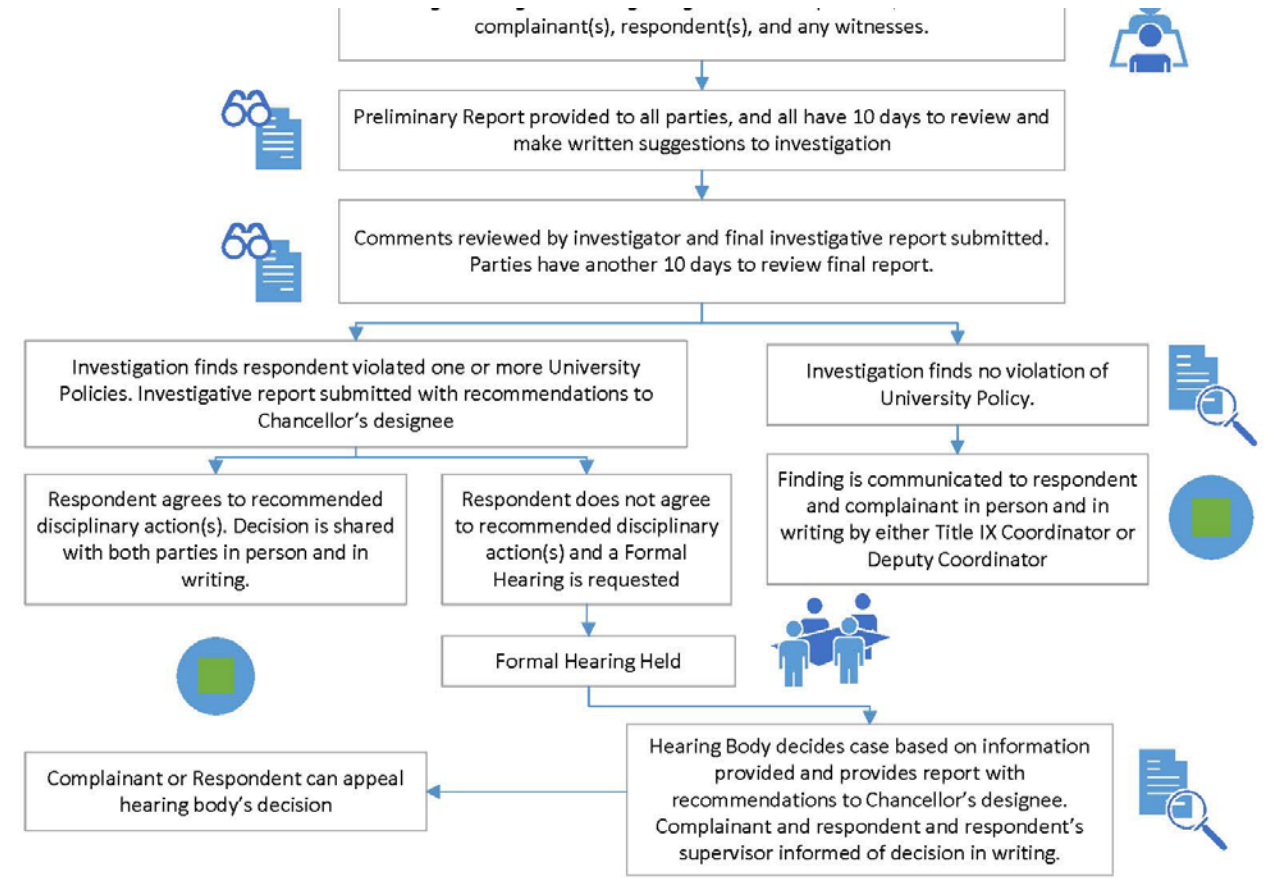
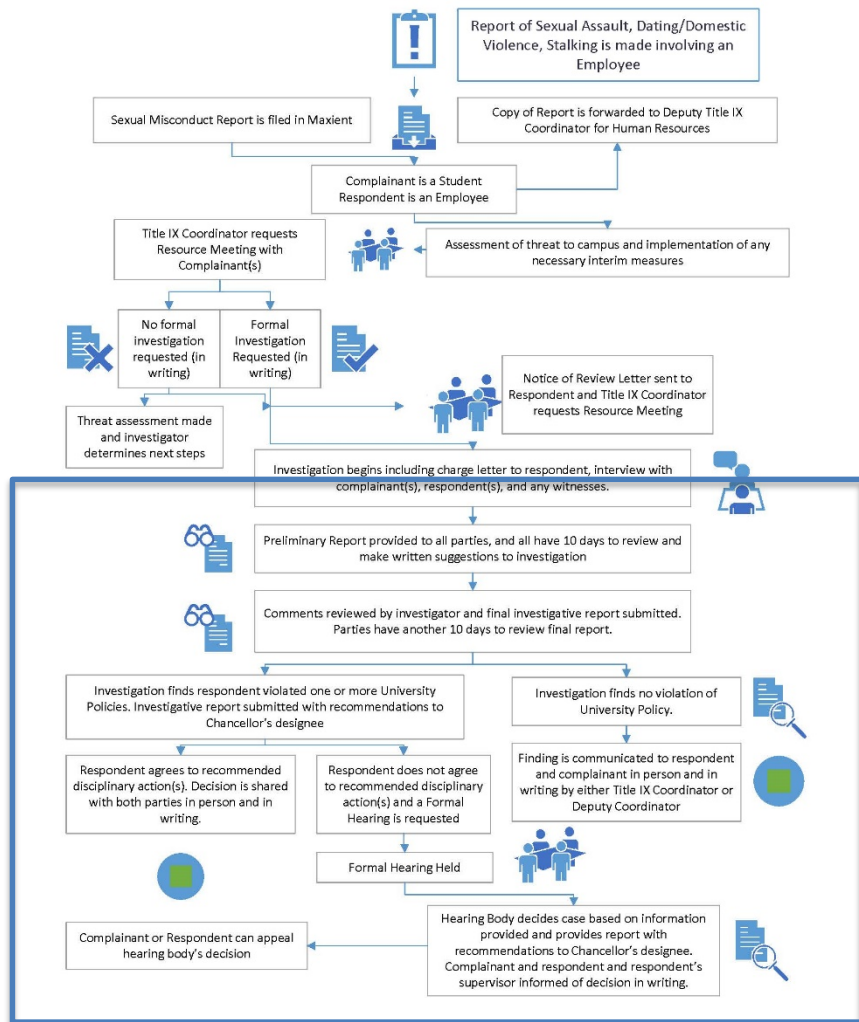


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# Grievance Process



# Grievance Process



# Retaliation Prohibited

Retaliation is prohibited under both state and federal law

- Unlawful to take adverse action against a person for engaging in “protected activity”
- Protected activity includes:
  - Filing a complaint,
  - Participating in an investigation,
  - Simply opposing discrimination

**Even the perception of retaliation can create a negative environment, so take this seriously!!**

# References

- Title IX of the Education Amendments of 1972
- University of Wisconsin – Chapter 36
- University of Wisconsin Board of Regents Policy 14-2
- University of Wisconsin-Whitewater Policy
- U.S.C. Criminal Code Title 18 – Crimes and Criminal Procedure
- <https://www.cnn.com/2013/10/28/us/penn-state-scandal-fast-facts/index.html>
- <https://www.thecut.com/2018/11/how-did-larry-nassar-deceive-so-many-for-so-long.html>
- <https://www.npr.org/sections/thetwo-way/2016/01/25/464332250/fsu-pays-950-000-to-woman-who-accused-jameis-winston-of-sexual-assault>
- [https://www.espn.com/college-football/story/\\_/id/18110981/former-rutgers-scarlet-knight-football-players-accused-sexual-assault](https://www.espn.com/college-football/story/_/id/18110981/former-rutgers-scarlet-knight-football-players-accused-sexual-assault)
- <https://www.washingtonpost.com/news/morning-mix/wp/2016/03/31/all-american-swimmer-found-guilty-of-sexually-assaulting-unconscious-woman-on-stanford-campus/>
- <http://www.papermags.com/05012006-4.aspx>
- <https://badgerherald.com/features/2018/09/11/following-sexual-assault-allegations-against-uw-football-player-public-response-mirrors-a-troubling-trend/>
- <https://deadspin.com/new-jameis-winston-details-emerge-convicted-ex-vanderb-1827067998>
- <https://www.tennessean.com/story/news/crime/2016/07/05/tennessee-settles-sexual-assault-suit-248-million/86708442/>
- <https://www.womenssportsfoundation.org/advocate/title-ix-issues/>



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# Questions/Comments

- Websites:
  - <https://www.uww.edu/dean-of-students/sexual-assault>
  - <https://www.uww.edu/dean-of-students/reporting-forms>

## TITLE



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