

# WVSU Title IX Athletic Presentation

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# **Training Objectives**

**Overview of Title IX**

**Reporting**

**Consent**

**3-Ds of Bystander Intervention**

**Transfer Students**

**Practical Concerns/ Q and A**

**Student Support**

# What Is Title IX?

- Title IX is a federal civil rights law that prohibits discrimination on the basis of sex with respect to schools that receive financial assistance from the U.S. Department of Education (US-DOE)
- Title IX applies to WVSU, as well as any other school that accepts federal financial assistance
- Title IX protects against sexual harassment in the educational environment, gender based harassment, inequitable funding in Athletics based on sex, sexual harassment in the workplace, sexual assault, dating/domestic violence, stalking, or any other discrimination or harassment based on sex
- Title IX is enforced by the US-DOE's Office for Civil Rights (OCR). 2020 Final Rule was completed in May 6, 2020 and went into effect August 14, 2020.
- Each University covered by Title IX is required to have a Title IX Coordinator to ensure its compliance with Title IX

Note: Title IX prohibits sexual violence as a form of sexual harassment.

Read full Title policy/procedure at: [West Virginia State University - West Virginia State University Title IX \(wvstateu.edu\)](https://www.wvstateu.edu/title-ix). Read NCAA Campus Sexual Violence Policy at:



# What Should Be Reported?

- You should absolutely report anything that remotely resembles sexual misconduct
- It is the responsibility of the proper University Officials to determine if a particular set of facts equate to sexual violence, based on the investigation

Which of these would you report?

- I had sex on Saturday night that I wasn't "100 percent" comfortable with.
- I blacked out at a party and woke up naked next to someone I have never met before. I am not sure what happened or how I got there.
- A person kept pressuring me to have sex last night and I eventually did although I didn't want to.

**NOTE:** It is important to remember that in some instances a student may not say I was raped or sexually assaulted; rather, he or she may describe a situation that they were uncomfortable with. Be mindful that students may not necessarily always use the "buzz words".

# I. Who Should I Report The Information To?

- TIX Coordinator
- TIX Deputy Coordinator for Athletics
- Athletic Director or Designee
- Responsible Employee (all WVSU employees)
- Mandatory Reporters are required to report the facts and circumstances that led them to suspect that a child has been abused or neglected.  
[Mandatory Reporters of Child Abuse and Neglect \(childwelfare.gov\)](http://childwelfare.gov)
- Officials with Authority (OWA)(employees explicitly vested with the responsibility to implement corrective measures for sexual harassment and/or retaliation on behalf of the Recipient)
- Campus Security Authority (CSA)

# II. Who Should I Report The Information To?

- If a student reports an incident of sexual violence to you, a report should be made to your AD and the Athletic Title IX Deputy Coordinator (TIXDC) as quickly as possible.
- You should provide any relevant details that you have (i.e., name of student(s) involved, location of incident, if physical violence was allegedly used, etc.)
- Once this information has been communicated, you have fulfilled your responsibility to report incidents of sexual violence
- Once the Title IX Coordinator receives the report, the appropriate University officials will be involved to examine the report
- The University only expects you to report what you have been told; you do not need to independently investigate, or otherwise attempt to resolve the complaint

# When Should the Report Be Made?

- Reporting parties should adhere to the specific reporting timeframe as given by AD/TIXDC
- The Report should be made as soon as possible.
- The sooner the information is communicated, the swifter the action is that can be taken
- Lapses in report times can cause evidence to be lost/destroyed, memories to fade, and stall interim measures that may be put in place

# Why Do I Have to Report?

- It is the right thing to do
- Required by Title IX
- Required by University Policy; WVSU BOG Policy 14
- Required as part of job duties and as a Responsible Employee



# What Happens If I Don't Report?

- A student could be subjected to an unsafe learning environment
- WVSU could be in noncompliance with Title IX (which could ultimately cost WVSU its federal funding from the US-DOE)
- WVSU could be subjected to major legal liability
- Possible employment sanctions

**Note:** If a University employee does not report information of a possible sexual assault, or any other type of sexual misconduct, and the student is under the age of 18, the University **WILL** face a fine of **ONE MILLION DOLLARS PER OCCURANCE OF NON-REPORTING.**

# Consent

- Consent. An informed, affirmative, conscious, voluntary, and mutual agreement to engage in sexual activity. You might also hear the term Affirmative Consent.
- Consent is the responsibility of each person involved in the sexual activity to ensure that they have Affirmative Consent of the other participant(s) to engage in the sexual activity.
- Lack of protest or resistance does not mean consent
- Silence does not mean consent.
- Affirmative Consent can be withdrawn or revoked at any time.
- Affirmative Consent cannot be given by a person who is incapacitated.
- A person with a medical or mental Disability may also lack the capacity to give consent.
- Sexual activity with a minor (under 18 years old) is never consensual because a minor is considered incapable of giving legal consent due to age. What is the West Virginia Age of Consent?
- The West Virginia Age of Consent is **16 years old**. In the United States, the [age of consent](#) is the minimum age at which an individual is considered legally old enough to consent to participation in sexual activity. Individuals aged 15 or younger in West Virginia are not legally able to consent to sexual activity, and such activity may result in prosecution for [statutory rape](#). West Virginia statutory rape law is violated when a person has consensual sexual intercourse with an individual under age 16, so long as the offender is more than 4 years older and not married to the victim.

[Making Sense of Affirmative Consent, Title IX, VAWA and Clery - Campus Safety \(campussafetymagazine.com\)](http://campussafetymagazine.com)

# 5 Ds of Bystander Intervention

1. **Distract:** A subtle creative way to intervene. The **goal** is simply to derail the incident by interrupting it. The **idea** is to ignore the person who is harassing and engage directly with the person who is being harassed.
2. **Delegate** by asking for assistance, for a resource, or for help from a third party.
3. **Document** by checking to see if you can be helpful in recording an incident as it happens to someone, but there are a number of things to keep in mind to **safely and responsibly document harassment**.
4. **Direct** your response to harassment by naming what is happening or by confronting the person who is harassing; **note - this tactic can be risky**
5. **Delay** when can't act in the moment and you can still make a difference for the person who has been harassed by checking in on them after the fact:

# Transfer Student Athletes

- Serious misconduct
- Family Educational Rights and Privacy Act (FERPA) Consent Form

The Family Educational Rights and Privacy Act (FERPA) is a federal law that affords parents the right to have access to their children's education records, the right to seek to have the records amended, and the right to have some control over the disclosure of personally identifiable information from the education records. When a student turns 18 years old, or enters a postsecondary institution at any age, the rights under FERPA transfer from the parents to the student ("eligible student"). The FERPA statute is found at 20 U.S.C. § 1232g and the FERPA regulations are found at 34 CFR Part 99.

# I. Practical Concerns - First

## **Contact:** How do I speak to someone at 2am Saturday morning who may have been assaulted?

- Don't be judgmental!
- Listen closely and attentively. (Avoid "Why" questions)
- Protect the individual's privacy by not sharing the conversation with others
- Acknowledge how the individual is feeling and ask if there is anything that you can do for them in the immediacy
- Encourage the individual to preserve any evidence
- Explain you will need to inform a University official so that the Student can be protected
- Inform the Student of available resources

# II. Practical Concerns: The Student does not want the information reported, what do I do?

As a fellow student, you are often the closest potential reporters to residential students, so you have access to more information and trust. But you must tread lightly when it comes to reporting. Since you are mandated to report incidents, it is better for students to know that what they say is not confidential up front, but that it will be handled discreetly

# III. Practical Concerns: Can I tell the Student that the information is confidential?

- If a student comes to you, it is best to let them know at the start of the conversation that you are a mandatory reporter and that you are required to report any incident of sexual misconduct
- If they would like to speak with someone confidentially, WVSU's on-campus confidential resources include the Counseling and Accessibility Services at 125 Sullivan Hall, East

# I. What Happens After the Report is Received by the Title IX Coordinator?

- The Title IX Coordinator will contact the Student for a meeting to discuss the complaint, inform them of their rights, discuss available options, and hear how they want to proceed and assist them in seeking/receiving assistance from the appropriate University resources
- If needed, the Title IX Coordinator will work in conjunction with the appropriate person (housing, academic affairs, etc.) to take interim measures if necessary. Such measures could include but are not limited to: changes to housing arrangements, course schedules, No Contact Order (NCO), interim suspension, changes in exam times, etc.



## II. What Happens After the Report is Received by the Title IX Coordinator

- A Title IX Investigation is started. The extent of the investigation is determined by the Complainant's level of participation
- The investigation includes: witness interviews, review of police reports (if applicable), text messages, emails, video surveillance (if applicable), etc. The Reporting Party might be involved at some point if it is felt they can provide relevant information
- Investigation determines by the “preponderance of the evidence” whether ***there is or is not*** sufficient evidence of sexual misconduct
- Possible sanctions will be issued if there is sufficient evidence of sexual misconduct

# Vignette

You were at a party where you and a friend spent most of the night talking. You go with the friend to their room and the two of you start kissing. They want to have sex but you don't.

You tell them no several times, but they continue. You feel like you can't get away.

You think the best way out of this situation is to just let them continue. You stop resisting and ask that they use a condom.

Immediately after having sex you leave. You start to blame yourself. You think you could have tried harder to fend them off.

You could have shouted and someone might have helped. but because they were a friend, you didn't want to cause a scene.

# QUESTION

**QUESTION:** I do not believe what the student is saying and thus I do not want to “get anyone in trouble”. In fact, I think the allegation is ridiculous. Do I still have to report?

# ANSWER

**ANSWER:** ABSOLUTELY! Regardless of what you think about the merits of an allegation you **MUST** report it to the Title IX Coordinator. It is the responsibility of appropriate University officials to determine the merits of allegations of sexual misconduct. Report the matter to the Title IX Coordinator and let the appropriate officials do their job. A subsequent investigation can assist in determining the merits of an allegation and whether a sanction is required.

# QUESTION

**QUESTION:** Sexual Assault is a crime. Shouldn't I report it to local police instead of the University?

# ANSWER

**ANSWER:** A report can be made to law enforcement. All reports should be made to the Title IX Coordinator even if made to law enforcement. The Title IX Coordinator will inform the student of their right to file a criminal complaint. It is important to note that the University is required to respond when it receives information (i.e., put on notice) about a possible sexual assault. While students have the option to file a police report they sometimes elect not to do so. The University can implement supportive measures such as a No Contact Order, referral to counseling, course accommodations even when no formal complaint is filed.

# Supportive

## Communicate these points:

I'm sorry that this situation has happened | It is not your fault | You are not alone

- **Be calm.** If you are in crisis, the victim or survivor may feel the need to take care of you rather than themselves. Be aware of the importance of separating your own experiences and emotions from them
- **Be informed.** Learn about the services available on campus and in the community and be able to assist them in connecting to resources
- **Listen.** Being a good listener means being non-judgmental and non-blaming. Try not to be intrusive
- If they choose to report to law enforcement or the university, support them in those choices
- Understand that it is normal for the person to experience a wide range of emotions and reactions

# Unsupportive

- Blame them
- Question their role in the situation
- Tell them what you would have done in that situation
- Tell them how to feel or how you think they should feel
- Tell them what to do, but rather inform them of the available resources



# Unsure



Contact

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[carolyn.stuart@wvstateu.edu](mailto:carolyn.stuart@wvstateu.edu)

[titleixcoordinator2@wvstateu.edu](mailto:titleixcoordinator2@wvstateu.edu)

304-204-4069

304-533-5392 (After Hours)

# Resources

## On Campus Resources

**TIXC – 304-204-4018 or 24-Hour Number - 304 533-5392**

**WVSUPD – 24-Hour Number - 304 766-3181**

**WVSU Counseling Services – 304-766-3168**

## Off Campus Resources

**Rape Education, Advocacy, Counseling and Healing (REACH) - (Confidential) 24-Hour Number 1-800-656-HOPE (4673)**

**CAMC Women's and Children's Hospital (Confidential) – 304- 388-2550**

**YWCA Resolve Family Abuse Program (Confidential) 24-hour Domestic Violence Crisis Lines:**

**Charleston calling area: (304) 340-3549 or Toll-free: 1-800-681-8663**



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**STAY SAFE!**  
**Have a Great Semester!**