



## Faculty Senate Task Force on Sexual and Gender-Based Violence: Final Report, May 2020

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# Faculty Senate Task Force on Sexual and Gender-Based Violence: Final Report

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Special thanks to Donnetrice Allison, Jess Bonnan-White, Emari DiGiorgio, Heather McGovern, Manish Madan, Ameer Shah, Zori Kalibatseva and Carra Hood, all of whom offered significant time and support to the Task Force.

The Faculty Senate convened the Task Force on Sexual and Gender-Based Violence in Fall 2018, under the leadership of President Donnetrice Allison, to update and build upon the work of the Faculty **Teaching Circle** on Sexual and Gender-Based Violence that had met from 2014-2016. The Faculty Senate Task Force was renewed in May 2019 and served for a second year under President Laura Zucconi. Throughout the remainder of this report, “Task Force” refers to the Faculty Senate TF on SGBV.

## Faculty Senate Task Force Charge (September 2018)

1. Review and update the white paper produced by the Sexual and Gender-Based Violence Teaching Circle titled, *A Current State of Affairs Regarding Sexual Violence Initiatives at Stockton University* (2015).
2. Review the recent Student Campus Climate Survey report.
3. Conduct additional research on the reporting and investigation of incidents of sexual assault and sexual violence at Stockton, both qualitative and quantitative data.
4. Research practices of similar institutions in size and demography.
5. Research the logistics of developing a centralized hotline at Stockton to address student safety concerns.
6. Develop recommendations for best practices in handling incidents of sexual assault and sexual violence on campus.

## Addendum (September 27, 2018)

7. Follow up with students who presented a list of demands at the September 2018 meeting of the Stockton Board of Trustees, and on President Kesselman’s promise that the students’ demands would be met, including the centralized hotline.

## Activities

The Faculty Senate Task Force consisted of representatives from all schools, the Wellness Center, Care and Community Standards (formerly Student Rights and Responsibilities), Public Safety, Intercollegiate Sports, and the campus Clery officer. We held regular meetings as a Task Force and dozens of additional meetings with Academic Affairs, Student Senate, Greek Life, Pride Alliance, WGS Center, Institutional Review Board, Bias Response Team, Political Engagement Project, Diversity Council, Service-Learning, Student Affairs, the Office of the Provost, and the Office of the President. Task Force members also met individually and with groups of student activists, student journalists, survivors, faculty and staff members.

The tasks assigned to the Task Force were ambitious and the work grew exponentially as we progressed. It became clear we needed to join forces across the university and take on gender-based violence in a comprehensive manner from multiple standpoints. After two years, the Faculty Senate Task Force now concludes its work and passes the baton to two new bodies we have helped to create in partnership with student activists, the Student Senate, the Office of the President and Student Affairs:

- The **Presidential Task Force on Gender-Based Violence**, formed in Fall 2019 as recommended by the Faculty Senate. The Presidential Task Force (PTF) on GBV exists to facilitate collaboration among students, faculty, staff and administration at all levels to more fully understand and improve campus climate, culture, sexual assault prevention and response as they affect all members of Stockton's diverse community (see mission in Appendices). The PTF is currently co-chaired by SOBL Dean Marissa Levy and Professor/COUN Director Sara Martino. The PTF's charge is to:
  - Review effectiveness of current institutional practices as well as best practices at similar institutions
  - Use evidence-based research to recommend changes to existing University procedures
  - As state and federal laws and regulations evolve, make recommendations for implementation at Stockton
  - Examine existing programmatic initiatives and integrate training on gender-based violence
  - Recommend strategies for communicating changes to policies, procedures, and practices to the University community
  
- The **Campus Leadership Team (CLT)**, formed in Spring 2020 under the leadership of Vice President for Student Affairs Chris Catching. As recommended by the Faculty Senate in May 2019, VP Catching successfully secured Stockton's membership in the **NASPA CORE Collective**, a cohort of U.S. college and university campuses committed to undertake a two-year, comprehensive process to assess and improve sexual assault prevention and response across all facets of university life, in collaboration with community partners such as Avanzar (more detail below). The CORE evaluation process has been somewhat delayed by COVID-19 and the long-awaited release of new federal Title IX regulations,

but the CLT is working actively to complete its assigned tasks within the revised timeframe. The **Pillars** of the CORE Evaluation and Collective Cohort program are:

- Survivor Support with options on reporting
- Clear policies on misconduct, investigation, adjudication, sanctions
- Multitiered education for the entire campus
- Public disclosure of statistics
- Schoolwide mobilization with student groups and leaders
- Ongoing self-assessment

## Recommendations

The Faculty Senate Task Force on Sexual and Gender-Based Violence recommends that the university should:

- Maintain the active engagement of the **Presidential Task Force** on Gender-Based Violence for the foreseeable future, beyond completion of the CORE Collective process, with ongoing collaboration and input by students, faculty, staff, administrators and other segments of the Stockton community. Through its work we recommend that the PTF proactively seek out voices of the Stockton community in its full diversity, with consideration for racial-ethnic, cultural, religious, gender and sexual identities, community members with disabilities, and the full range of ages and life stages represented among us, including student leaders, anti-violence activists and survivors within the student body, faculty and staff. We further recommend that the PTF be as publicly transparent as possible about its goals, process, findings and recommendations.
- Ensure completion of the **CORE Evaluation** in a conscientious, transparent and timely manner, led by the **Campus Leadership Team**, with involvement by the PTF and a diverse representation of students, faculty, staff, administrators, alumni, Stockton families and others as appropriate to each Pillar/Section of the evaluation. In particular we echo the NASPA CORE's recommendation that the CLT take "a unified and honest approach to this assessment; when answering questions involving whether something is written **clearly**, please remember that is subjective and if anyone on your team feels that something **could be clarified** you should default to that response" (CORE Evaluation 5e p. 6).
- Fully participate in the NASPA **CORE Collective Cohort** program and implement all recommended changes to policy, programming and practice in their entirety. Full financial and personnel support for this effort is crucial and must take top priority.
- Ensure that **students have meaningful input** in creation and evaluation of policies and programs on an ongoing basis, especially student survivors of violence and harassment, student anti-violence activists representing diverse groups, and student leaders including Student Senate representatives. Further, ensure that students are encouraged

to participate fully in governance processes related to sexual assault and prevention, and that they are compensated accordingly.

- Ensure that **faculty and staff have meaningful input** in creation of policies and programs on an ongoing basis, especially faculty and staff with related expertise and experience in evidence-based practice, and that faculty nominated by Women's, Gender and Sexuality Studies (WGSS) are among those who participate in governance processes related to sexual assault and prevention. Faculty, staff, and administrators must work collaboratively going forward, in partnership with students, in order to learn from one another's perspectives, experience and resources for preventing and responding to harassment and violence in the Stockton context. The Presidential Task Force and Campus Leadership Team are important mechanisms for building relationships and trust across the university – imperative building blocks of positive campus climate, campus consent culture, violence prevention and community well-being.
- **Update Stockton's website and outreach materials** based on student input, CORE recommendations, and best practice models from other institutions to make information about crisis response immediately available to students, staff and faculty who have experienced harassment or violence, or who are supporting peers in crisis. Prioritize clear communication, survivor agency, and reducing barriers to seeking support and reporting victimization, especially for members of the Stockton community who are marginalized, including people of color, immigrant communities, LGBTQ+ people and those with disabilities. It is vital to reduce barriers to seeking information and supportive services, and to minimize the risk of re-traumatizing survivors. It is imperative that an individual(s) be appointed to updating and managing all forms of communication including the website to ensure that they are current. It is recommended that this responsibility be folded into the appropriate department. Moreover, a small ongoing task force representing faculty, staff and students should be consulted on all changes – potentially the PTF or one of its committees.
- **Expand peer advocacy** for students, staff, and faculty of diverse backgrounds, with the goal to reduce barriers to accessing relevant information, seeking support from trusted sources, and reporting harassment and violence, and seeking redress. Since peers are regularly the first contact to whom survivors reach out, increase peer education, training and prevention programming throughout the university community. Clarify and expand the role of student Osprey advocates, particularly in relation to the campus hotline. Avanzar may be a key resource in this respect.
- Implement and require faculty-led **education and training on violence prevention and response for all university faculty**. Online faculty training has not proven sufficient. Past recommendations by the Teaching Circle and Task Force to include sexual assault prevention and response training in Fall Faculty Conference have repeatedly been positively received but not implemented. For example, there was general agreement at the Spring 2019 Faculty Assembly meeting that faculty training at FFC and beyond are

high priorities, especially to address concerns from the Care and Community Standards Office about Title IX and faculty responses to students who have been traumatized by gendered, sexualized and racial violence, the very real health effects, and student needs for and rights to accommodations. The need for faculty education and training is further supported by research on Stockton employee awareness of sexual violence (Marino, Cottingham and Button 2016). However, when it comes to scheduling FFC presenters, faculty training on the specific topics of assault prevention, response and student accommodations has yet to be prioritized in this venue. Summer faculty institutes and SFT workshops would reach smaller numbers of faculty but are also good opportunities for faculty training.

- Proactively develop programs and implement best practices to **promote a positive campus climate, confront rape culture, and create consent culture**, rather than reactively responding to sexual violence after it reaches a crisis level or threatens the lives and well-being of students and other campus community members. As a recent Stockton graduate put it in a meeting with the university President and Task Force members, we need to collectively build a campus culture in which we can better understand and support one another, “Osprey to Osprey.” For clarity and to maintain trust and integrity of joint efforts to reduce and respond to sexual harassment and violence, we strongly recommend reserving the term “Culture of Respect” for the CORE Evaluation and Collective Cohort effort, and changing the name of Stockton’s broader Student Affairs campaign, including mass emails, to something else (see further rationale under “Research,” below).
- Develop policies and procedures that emulate **evidence-based best practice for both violence prevention and response**, particularly in light of emerging changes to federal guidelines that may endanger survivors and constrain their ability and/or willingness to seek support and to report crimes of harassment and violence. New Title IX regulations released in May 2020 already face widespread critique and legal challenges based on concerns that they do not reflect evidence-based research and best practice. Our university President Harvey Kesselman has a history of state and national leadership on gender-based violence and crime on campus (Kesselman 1995). In that spirit Stockton should not limit itself to the minimum standards required by the new regulations; instead university policies and practices should rely upon the most rigorous evidence-based scholarship and a firm commitment to protect members of the Stockton community from violence, and to respond effectively when they are harmed.

## Research

### Campus Climate for Students: Reports

Data on campus climate for students and student experiences of harassment, violence and institutional response are available from the reports below. Building upon what the Task Force has learned, the Campus Leadership Team and Presidential Task Force have the opportunity to

delve into these and other resources for detailed information on student experiences and needs as members of the Stockton community with the right to pursue their educational goals free from discrimination, harassment and violence (Stockton Title IX Resource Guide).

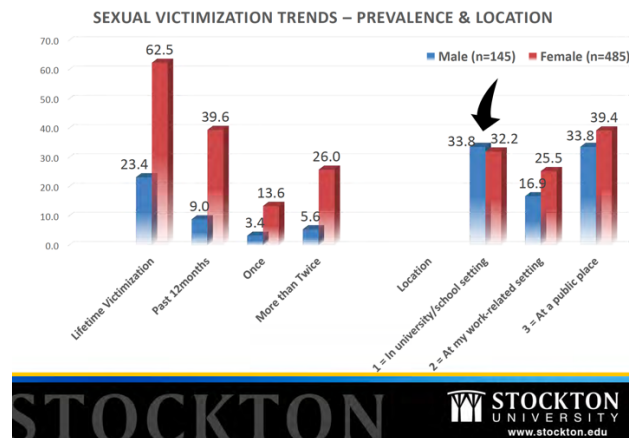
- Shah, A. P., Gu, Y. and Allison, D. (2018). Student Perspectives on Diversity at Stockton University: Findings from the 2018 Campus Climate Survey, pp. 1-73. [https://go.stockton.edu/announcements/Stockton\\_Student\\_Climate\\_Survey\\_Report\\_Final.pdf](https://go.stockton.edu/announcements/Stockton_Student_Climate_Survey_Report_Final.pdf)
- Shah, A.P & Gu, Y. (2020). A mixed-methods approach to identifying sexual assault concerns on a university campus, Journal of Aggression, Maltreatment & Trauma, DOI: [10.1080/10926771.2020.1734707](https://doi.org/10.1080/10926771.2020.1734707)

ABSTRACT

This study employed a mixed-methods approach to identify the prevalence and nature of sexual assaults at a mid-size public university. An online anonymous survey with multiple-choice and open-ended questions invited all 8770 students to participate. Among the 2511 survey responses (28.6% response rate), **178 (7.1%) students reported experience with unwanted physical sexual conduct (including sexual assault and harassment) at this campus in the past 4 years.** The victims reported strong reactions to the incidents, largely embarrassment, anger, worry, self-blame, fear, ignoring the issue but continuing to be affected by it, and avoidance of the perpetrators. There were some gender differences in terms of the prevalence rate, victim reactions, and impact of the sexual assault. Victim responses, police data, and Clery annual reports were analyzed. Triangulation of findings helped to **identify policy gaps and provided clear directions for institutional strategies to improve victim support, education, policy enforcement, and continuous monitoring of the issue. Low incident reporting rate and low satisfaction level of the resolution after reporting suggest an urgent need to improve the reporting process and wider institutional effort.**

- Madan, Manish. 2019. Sexual Victimization among College Students: What Can We Do? Presentation to Stockton University Leadership Council, Sept. 2019.

Sample slide:





- Student Honors Research Projects and Independent Studies at Stockton University, supervised by Dr. Deeanna Button, CRIM/WGSS:
  - Impact of Trauma Exposure on Negative Outcomes (Spring 2016) with Catherine Marino
  - Sexual Assault and Academic Outcomes (AY 2015-2016) with Brianna Cottingham

In addition to the above reports, data are available from meetings and focus groups conducted with Stockton students. Task Force members met with student activists, survivors, and students, including student journalists, some of whom were threatened or harassed by administration for reporting, speaking or conducting research on sexual violence at Stockton.

#### Student Focus Groups

In April 2019, two sections of GAH 2358: Women, Gender and Sexuality utilized the required activism project to conduct focus groups with 130 Stockton students in 24 small groups, diverse in terms of race/ethnicity and gender presentation, about their knowledge of campus safety. Although time and cost did not permit thorough line-by-line transcript analysis, student research teams who conducted the focus groups presented preliminary analyses identifying the following themes:

- Students were by and large unaware that a 24-hour crisis hotline existed at all at Stockton.
- Students were generally unaware of what a SANE nurse is, or what “SANE” means.
- Students said that information provided on the university website and app (pertaining to sexual assault resources, response and reporting) was unclear.
- Resident students expressed the sense that campus police are there primarily to monitor traffic (particularly speed limits) and parking. There was a perceived lack of police presence on campus after dark and on weekends. Multiple students expressed strongly that they were unsafe walking home alone at night, both during the week and on the weekends. Students reported that the Dark Path continues to be a persistent concern.
- Students wanted the university to use accurate terms to describe assault, and were especially offended by the use of the term “fondling” in October 2018 emails from the Director of Campus Public Safety describing an incident of sexual assault that happened in Big Blue (the Rec Center). We understand that it is a legal term, but nonetheless students want such attacks to be acknowledged as such.
- Students expressed related concerns about the general openness of the campus to the public -- specifically, that the Big Blue and I-Wing Gyms, in practice, are accessible to the

public, with no security. In addition, multiple students expressed fear and anger that white supremacists had been able to post flyers on Stockton’s campus with little to no consequence in Fall 2017.

### Campus Climate for Employees

Data on campus climate for employees, and their experiences of harassment, violence and institutional response are available from the reports below. Building upon what the Task Force has learned, the Campus Leadership Team and Presidential Task Force have the opportunity to delve into these and other resources for detailed information on employee experiences and needs as members of the Stockton community with the right to work in an environment free from discrimination, harassment and violence (Stockton Title IX Resource Guide).

- Allison, D., Kalibatseva, Z., & Tyrrell, B. J. (2017). Stockton University Campus Climate Survey Report. Stockton University.

Among survey findings: over **41% of employee respondents** reported that they had personally experienced exclusionary, intimidating, offensive or hostile behavior at Stockton within the past year, with 19% reporting that it had interfered with their work:

*Table A- 1: Q4.8 - Within the past year, have you personally experienced any exclusionary (e.g., shunned, ignored), intimidating, offensive, and/or hostile (bullied, harassing) behavior at Stockton?*

	Valid	No	<u>Yes, but it did not interfere with my ability to work or learn</u>	<u>Yes, and it interfered with my ability to work or learn</u>
Q4.8 - Within the past year, have you personally experienced any exclusionary (e.g., shunned, ignored), intimidating, offensive, and/or hostile (bullied, harassing) behavior at Stockton?	470	277 (59%)	106 (23%)	87 (19%)

- Allison, D., DiGiorgio, E., Erbaugh, E., Holton, A., & Sinanan, A. Recruitment and Retention of Faculty of Color, Presentation at Women in Academia Conference, with Survey Results, Stockton University, May 2018.

### Similar institutions

Task Force members researched sexual assault resources at peer institutions, including Delaware State, Fairleigh Dickinson, Kean, Monmouth, Montclair, NJIT, Ramapo, Rider, Rowan, Rutgers, Seton Hall, and St. Joseph’s, beginning with information dissemination via campus websites and models of emergency response and support for students. Brief reports are included in the appendices. In general, it was found that many of the peer institutions engaged in a concerted effort to define, inform and reduce sexual assaults and violence on their respective college campuses. Several had developed their own initiatives (e.g. “I’m Afraid” at Montclair and “Red Zone” at Rider) to elevate awareness, build clarity and alter behavior. It was also evident that others, like Stockton, were in the early stages of doing so. Research conducted by the Task Force may be supplemented by further information from CORE, PTF or CLT on models for peer advocacy, how marginalized groups (students of color, LGBTQ+, cultural and religious groups, etc.) are served by peer institutions, and other issues.

### Recommendations Based on Analysis of Web Searches

Below is an excerpt of Task Force research and recommendations regarding peer institutions' resources and websites (complete report in appendices). Here, the issue of resources for Sexual Assault at six comparable institutions to Stockton University was investigated by entering the words "sexual assault" in the home page search bar. The analysis includes a general description of the first result page and a more detailed description of the search results visible without scrolling down the page (approximately the first five search results).

- None of the [six] university websites reviewed here provided a banner at the top of the search results with emergency contact or 24-hour services in case of sexual assault. It may be a good idea to make this information easily accessible for people in distress after a sexual assault by appearing in a banner at the top of the search result.
- The best search results use the words "sexual assault" or related terms (e.g., sexual harassment, sexual violence) in the headline of the search result. This made the search result identifiable as relevant. A common problem was that sexual assault resources were found under the headline Title IX, which may not be relevant/comprehensible to many people, particularly those in crisis.
- The best search results were those labeled as being related to sexual assault and having relevant sexual assault information when followed. This reduces the need to keep screening to find the relevant information.
- The best search results place results with emergency contact, 24-hour services and other resources higher up in the list; the best position being the first position. This shortens the work and screening time to find emergency information and other services.
- A typical problem in the search results is that emergency and non-emergency information is provided together, and it comes up mixed in the search results. This information should be classified as emergency and non-emergency and prioritized differently in the search result so emergency information always comes up first, then non-emergency information.

### Centralized Hotline

Stockton now has a 24-hour "Advocacy hotline" coordinated by the Women's, Gender, and Sexuality Center (please note that the WGS CENTER is separate and distinct from Women's, Gender, and Sexuality STUDIES), at (609) 849-8473. Along with the hotline, VP Catching announced the following changes in an October 2018 email to the campus:

- Approval to search for an Assistant Director of the Women's Gender and Sexuality Center to expand support for survivors of sexual violence.
- Increased funding for Green Dot Bystander Intervention training for members of the Stockton community.
- A 24-hour Stockton Sexual Assault Hotline that will provide a 24-hour, 7-day per week emergency assistance for Stockton community members.
- Bystander intervention initiatives to strengthen partnerships among college men to promote positive masculinities and prevent sexual violence.
- Stockton University Violence Intervention and Prevention network (VIP), a community of faculty, staff and student leaders who will provide visible support and outreach to members of the Stockton community regarding sexual violence education and support.
- Increased funding for the Women's Gender and Sexuality Center for educational outreach programming.
- Launch of a new Stockton Sexual Violence Prevention and Support App for all students that will provide web-based Title IX education and training.
- New space for the Women's Gender and Sexuality Center that will include a location for confidential advocacy and support and location for programming (Fall 2019).

Student activists and the Task Force responded to these and other announcements and events – see below.

## Precipitating Crisis

Beginning in June 2018, a series of nine individual lawsuits were brought by Stockton students against the university, claiming institutional negligence and violations of institutional Title IX obligations in response to student reports of campus sexual violence (Hernandez 2020, Kesselman 2018).

- Six of the lawsuits also named Pi Kappa Phi, the fraternity associated with an unaffiliated off-campus chapter, where students said they were targeted at off-campus parties.
- Three of the suits named a former Stockton student who was criminally charged, indicted, pled guilty as part of a negotiated agreement, and was sentenced to five years probation (Bilinski 2020, Lowe 2020).
- Baker-Tilly conducted an internal audit for the university pertaining to the suits, for which several members of the Task Force were interviewed, but the university declined to make the results of the audit available to the Faculty Senate.

- The university paid \$290,000 to settle the claims in March 2020. The state Attorney General's office handled the cases and declined comment on the settlement agreements.

### Faculty Response

As the lawsuits began to mount in Summer 2018, WGSS faculty members began meeting and communicating with the university community via emails and face-to-face meetings about how to proactively prevent and respond to sexual violence in light of the emerging crisis.

Recommendations for faculty and campus response included, but were not limited to:

- Involve WGSS and other university faculty with expertise in the area of sexual violence, including Sociology and Criminal Justice faculty, in campus prevention efforts and response to sexual violence.
- Speak directly to students, especially and most urgently at first-year student orientation, about the dangers of campus sexual assault, especially the risk associated with attending parties hosted by "unaffiliated" fraternities or off-campus groups. These include "PiKapp" -- a group of young men formerly associated with the national fraternity Pi Kappa Phi, who, in 2010, lost their chapter affiliation with Stockton's campus and therefore with the national fraternity. WGSS faculty had learned in 2016 that Stockton Greek Life and student conduct staff were well aware of the unaffiliated group's existence, knew where they lived and hosted parties, and had kept in communication with them since their dis-affiliation.

WGSS coordinator Deborah Gussman submitted a public letter in August 2018 to the university President offering several recommendations, signed by numerous faculty members within and beyond WGSS. It was warmly received, and multiple WGSS faculty attended first-year student orientation in the hopes of becoming actively involved in the programming to implement what had been discussed. However, faculty were troubled by a number of aspects of the orientation sessions:

- Faculty were invited to sit in the audience rather than to speak or participate in the sexual assault prevention sessions at orientation.
- Information about unaffiliated fraternities and "red zone" parties was scant and fleeting. Faculty verified with students that they did not glean from it pertinent information on the risk of attending off-campus parties hosted by unaffiliated fraternities/groups.
- The Title IX officer told students, in multiple orientation sessions (paraphrasing), "if you are drunk enough that you do not know your own name, who you are, where you are, or who you're with, you can still, legally, consent to sexual activity, and therefore, it would not be rape." This contradicted best practices for sexual violence prevention and

response, but more important, appeared incompatible with New Jersey state adherence to the standards of affirmative consent, or “only Yes means yes,” which state that: “...institutions of higher education must adopt the affirmative consent standard,” and that being under the influence removes capacity to consent.

<https://www.njsp.org/division/operations/sexual-violence-info.shtml>

WGSS faculty found this misinformation shocking, damaging to Stockton’s fledgling consent culture, and detrimental for our most vulnerable students in their first weeks on campus.

### Student Activism

In September 2018, Stockton Students Against Rape Culture brought the following list of demands to the Board of Trustees Meeting:

1. We demand advocacy for sexual assault victims during the reporting process, and we demand a transparent reporting process that is visible to victims via Stockton’s webpage.
2. We demand a serious increase in resources for the Women’s, Gender, & Sexuality Center, including but not limited to: Its own dedicated space separate from the counseling center; proportional funding to fund programming and other necessary resources for student; and additional human resources including an assistant director. The Atlantic City campus was put up in a very short time yet the Women’s, Gender, & Sexuality Center, which was approved in 2014, has yet to have its own safe space. This needs to change.
3. We demand a 24-hour rape crisis hotline, manned by multiple trained faculty, staff and student volunteers. We demand it be posted to the front of Stockton’s webpage, immediately.
4. We demand multiple Green Dot/Osprey Advocacy trainings throughout the year, at convenient times for students--not the sole one we currently have, on spring break, which is inconvenient for nearly every student, and which works to keep sexual assault a serious problem for the Stockton community.
5. We demand an immediate, explicit, and unequivocal condemnation by the university of white supremacy in all its form, beginning with a statement against the white supremacist flyers distributed on campus in fall 2017. As intersectional feminists, we know that racism and sexism are inextricably linked, and we stand with our fellow students of color who were harmed both by those flyers, and by Stockton’s failure to condemn them.

In May 2019 the students returned for a second time to sit in protest at the BOT meeting, participated in the public comment portion of the meeting, and spoke with President Kesselman and BOT members afterward. In response to SSARC’s earlier call for students to voice their concerns to the Board, there was a significant police presence at the May BOT meeting that the students and others found chilling.

BOT meeting minutes referencing students' participation in meetings:

- September 2018: <https://stockton.edu/board-of-trustees/documents/9.26.18AppMins.pdf>
- May 2019: <https://stockton.edu/board-of-trustees/documents/050119ApprovedMinutes.pdf>

Press coverage and photos of students at May 2019 BOT meeting (Bilinski, 2019):  
[https://www.pressofatlanticcity.com/education/stockton-students-protest-board-meeting-after-sex-assault-lawsuits/article\\_e98a5ef9-c812-58e6-a54a-f246e72845c4.html](https://www.pressofatlanticcity.com/education/stockton-students-protest-board-meeting-after-sex-assault-lawsuits/article_e98a5ef9-c812-58e6-a54a-f246e72845c4.html)

[https://www.pressofatlanticcity.com/stockton-protest/image\\_583d19ba-9c79-54b0-8191-d7e13a983340.html](https://www.pressofatlanticcity.com/stockton-protest/image_583d19ba-9c79-54b0-8191-d7e13a983340.html)

At the May 2019 Board of Trustees meeting, SSARC members presented comments to the BOT and asked for a meeting with President Kesselman to discuss the demands. In August 2019 President Kesselman held a "listening session" with SSARC representatives, Profs. Erbaugh and Gussman, and Executive VP Susan Davenport, to discuss these demands and ways to move forward.

Subsequent to this meeting, SSARC updated their list in AY 2019-20 in order to acknowledge demands that had been addressed by the administration and to amplify **additional student concerns, as follows:**

#### Our Concerns and Recommendations

1. Follow and implement Culture of Respect as originally created by NASPA
2. Allow Osprey Advocates to answer the hotline
  - a. Discussed and in progress (since Aug. 2019)
3. The WGSC should consult with the WGSS program coordinator and faculty experts when selecting WGSS representatives for hiring, programming and other relevant committees.
4. Students should be a part of the hiring process for WGSC employees: **essential** to include minority student groups including but not limited to those who center on race, religion, culture, gender, disability, etc. (for example: Pride Alliance, Women's Coalition, United Black Student Society)
  - a. discussed, agreed, said they would try to work on it (since Aug. 2019)
5. Welcome Week Orientation on Sexual Assault
  1. Require that reporting/ Title IX information be included in all syllabi; encourage professors to explain how to report to students
  2. Professor Button could be a great resource
  3. Student Orientation Topic: Get Educated on Sexual Assault (besides Title IX)
    - i. What to expect if you choose to report: secondary victimization (friends/family members & the criminal justice system)
    - ii. Healing & Coping

- iii. Systematic oppression
  4. Discussed, agreed, no progress (since Aug. 2019)
6. Discussed possible idea of **creating a required class/seminar on empathic and moral thinking**
  - a. Topic/Discussion ideas: sexual assault, social issues, such as gender privileges and bias, LGBTQ issues, disability issues, mainly use this portion of the class to discuss life experiences of these minority groups. Could potentially have guest speakers.
7. We recommend adding a hold to student's accounts if they do not complete the Title IX training module
8. We recommend more on-campus resources for the Atlantic City campus
  1. discussed, agreed, said they will work on having a physical space
  2. Have a branch of the Wellness Center full time at the Atlantic City Campus
9. \*\*\*Create an additional tab of "campus resources," or "student resources." (non-academic resources)
  - a. What we should be able to find under this tab:
    - i. WGSC
    - ii. Reporting Hotline (as well as under WGSC, but here too for easier find.)
    - iii. Culture of Respect
    - iv. Health Services
    - v. Planned Parenthood
    - vi. ???
10. \*\*\*We demand there to be a clear way to report an assault
  - a. In order to find it currently: Stockton main page to Campus Life to Health, Wellness, and Safety Information to WGSC under "wellness center." Or go to crime reporting.
  - b. Where should it be located? Maybe propose WGSC tab more on the surface on the website. (don't go through health, wellness & safety – have its own tab)
    - i. They have something along the lines of campus life, but maybe add its own tab of "student resources." and it can range between academics, etc.
    - ii. [image of tabs on website]
    - iii. discussed, said it can be worked on but need administrators to be part of discussion)
11. Osprey Advocacy training should be held more often, at convenient times, with proper advertisement
  - a. discussed, said they will look into it
12. Destigmatize and amplify sexual assault survivors and activists including students, faculty, staff



### The Culture of Respect – NASPA and Stockton

In Fall 2018 the Provost's office announced that the institution would be adopting a NASPA program called The Culture of Respect, whose stated aim was to end sexual violence on campus. WGSS faculty who reviewed the program were impressed with its thoroughness and comprehensive nature.

In September 2018, administration, in conjunction with Student Affairs and as part of their Culture of Respect affiliation, told students, staff, and faculty that there would be a Town Hall Culture of Respect "kick-off." However, rather than an actual town hall proceeding, there was a series of informal presentations by panelists about existing offices, services and efforts, and their respective prior work experience/credentials most of which had nothing to do with sexual violence, structural racism, sexism, or homophobia. Students were instructed to submit questions, but only two student questions were taken. Later, we were told that the institution had adopted "its own Culture of Respect" that was "broader" than the NASPA one, when we asked why in fact the NASPA one had not been adopted, despite our having been told by the Provost that it would be.

As reported to the Faculty Senate at its 2019 May retreat, we feel strongly, speaking on behalf of faculty experts on conditions of gendered and sexualized violence, including the roles that structural racism and homophobia play in that violence, that the NASPA CORE/Collective represents real, evidence-informed advances toward ending sexual violence. Conversely, in our view, Stockton's "broader" program of the same name has done little toward that end, and has, in fact, angered and disappointed students and faculty alike, particularly students of color, LGBTQ+ and trans students, students who have survived sexual, gendered, and racialized violence, and many other campus community members who recognize that these are daily institutionalized realities, and not one-off events. In particular we are critical of the deployment of the term/concept of "civility," which is problematic at best, victim-blaming at worst, and counterproductive for creating a truly respectful culture and climate on campus. We have therefore recommended reserving the term "Culture of Respect" for the CORE Evaluation and Collective Cohort effort, and abandoning the term for the broader Student Affairs campaign including mass emails.

### Revision of Title IX Regulations

After a long wait, new federal Title IX regulations have been released in May 2020 as this report "goes to press" (summary in Appendix). Already the revised regulations face widespread critique and legal challenges based on concerns that they do not reflect evidence-based research and best practices, may endanger survivors, limit reporting and constrain university response (Anderson 2020). The Diversity & Inclusion Office is working to its utmost to keep the university community updated and to help the institution make necessary adaptations as more becomes known about the university's new Title IX obligations.

## Appendix (following)

### Task Force documents

- Charge
- Senate Resolution (Sept. 2019)
- Student focus groups questions
- Reports on other institutions

### NASPA CORE documents

- Campus Evaluation Overview
- Annotated list of Stockton Title IX Resources for CORE Evaluation
- Collective Overview

Title IX Final Rule Summary, U.S. Dept. of Education (May 2020)

## References

### Reports:

Allison, D., Kalibatseva, Z., & Tyrrell, B. J. (2017). Stockton University Campus Climate Survey Report. Stockton University.

Summary: <https://stockton.edu/diversity/documents/2016stocktonclimatesurveysummary.pdf>

Madan, M. 2019. Sexual Victimization among College Students: What Can We Do? Presentation to Stockton University Leadership Council, Sept. 2019.

Marino, C., Cottingham, B., & Button, D.M. (2017). Do university employees know what to do? Employee knowledge of sexual assault policies and procedures. Paper presented at the annual meetings of the Academy of Criminal Justice Sciences, Kansas City, MO.

O'Hanlon, E. with Erbaugh, E. and Von Joeden-Forgey, E. (2015). A Current State of Affairs Regarding Sexual Violence Initiatives at Stockton University: A Report from the Sexual and Gender-Based Violence Teaching Circle.

Shah, A. P., Gu, Y. and Allison, D. (2018). Student Perspectives on Diversity at Stockton University: Findings from the 2018 Campus Climate Survey, pp. 1-73.

[https://go.stockton.edu/announcements/Stockton\\_Student\\_Climate\\_Survey\\_Report\\_Final.pdf](https://go.stockton.edu/announcements/Stockton_Student_Climate_Survey_Report_Final.pdf)

Shah, A.P. and Gu, Y. (2020) A mixed-methods approach to identifying sexual assault concerns on a university campus, *Journal of Aggression, Maltreatment & Trauma*, DOI: [10.1080/10926771.2020.1734707](https://doi.org/10.1080/10926771.2020.1734707)

Additional References:

Anderson, G. 2020. U.S. publishes new regulations on campus sexual assault. Inside Higher Ed, May 7. <https://www.insidehighered.com/news/2020/05/07/education-department-releases-final-title-ix-regulations>

Bilinski, M. 2020. Wildwood man gets probation in Stockton criminal contact case. Press of Atlantic City, Feb. 13. [https://www.pressofatlanticcity.com/news/local/wildwood-man-gets-probation-in-stockton-criminal-sexual-contact-case/article\\_2013ec22-d4a9-5adb-98e9-2356d1e98408.html](https://www.pressofatlanticcity.com/news/local/wildwood-man-gets-probation-in-stockton-criminal-sexual-contact-case/article_2013ec22-d4a9-5adb-98e9-2356d1e98408.html)

Hernandez, Joe (2020). "Stockton University will pay \$290K to settle lawsuits over sexual assaults on and off campus." WHY, March 6. <https://why.org/articles/stockton-university-will-pay-290k-to-settle-lawsuits-over-sexual-assaults-on-and-off-campus/>

Kesselman, H. (1995). *A response to serious crime on college and university campuses*. Doctoral dissertation, Widener University.

Kesselman, H. 2018. President's Statement to the Stockton Community on Lawsuits: <https://stockton.edu/news/2018/university-statement-litigation-assault.html>

Lowe, C. 2020. Wildwood man pleads guilty in Stockton criminal contact case. Press of Atlantic City, Jan. 16. [https://www.pressofatlanticcity.com/news/crime/wildwood-man-pleads-guilty-in-stockton-criminal-sexual-contact-case/article\\_63f5d4d2-028b-59a0-9f1a-06f2759d1efe.html](https://www.pressofatlanticcity.com/news/crime/wildwood-man-pleads-guilty-in-stockton-criminal-sexual-contact-case/article_63f5d4d2-028b-59a0-9f1a-06f2759d1efe.html)

Board of Trustees meetings:

Meeting minutes referencing students' participation in BOT meetings

- September 2018  
<https://stockton.edu/board-of-trustees/documents/9.26.18AppMins.pdf>
- May 2019  
<https://stockton.edu/board-of-trustees/documents/050119ApprovedMinutes.pdf>

Press coverage and photos of student protestors at May 2019 BOT meeting (Bilinski, 2019):

[https://www.pressofatlanticcity.com/education/stockton-students-protest-board-meeting-after-sex-assault-lawsuits/article\\_e98a5ef9-c812-58e6-a54a-f246e72845c4.html](https://www.pressofatlanticcity.com/education/stockton-students-protest-board-meeting-after-sex-assault-lawsuits/article_e98a5ef9-c812-58e6-a54a-f246e72845c4.html)

[https://www.pressofatlanticcity.com/stockton-protest/image\\_583d19ba-9c79-54b0-8191-d7e13a983340.html](https://www.pressofatlanticcity.com/stockton-protest/image_583d19ba-9c79-54b0-8191-d7e13a983340.html)

## Task Force on Sexual and Gender-Based Violence

### CHARGE:

1. Review and update the white paper produced by the Sexual and Gender-Based Violence Teaching Circle titled, *A Current State of Affairs Regarding Sexual Violence Initiatives at Stockton University*.
2. Review the recent Student Campus Climate Survey report, which will be posted in the Stockton Go Portal.
3. Conduct additional research on the reporting and investigation of incidents of sexual assault and sexual violence at Stockton, both qualitative and quantitative data.
4. Research practices of similar institutions in size and demography.
5. Research the logistics of developing a centralized hotline at Stockton to address student safety concerns.
6. Develop recommendations for best practices in handling incidents of sexual assault and sexual violence on campus.

### According to the Constitution of the Faculty Senate:

The term “task force” means a Committee charged by the Senate or Executive Committee to carry out a specific task that will typically take at least a year. Either the Senate or the Executive Committee may create new task forces. Task forces shall be automatically dissolved at the end of the academic year in which they were created, unless specifically continued by the Senate or the Executive Committee. Task forces shall report in writing to the Senate at the end of their work or by a date established by the Senate.

Betsy Erbaugh – co-chair      SOBL

Elisa Forgey – co-chair      GENS

### Faculty/Staff Representatives:

Deeanna Button	SOBL	Meg White	EDUC
Maya Lewis	SOBL	Jonathan Johnson	Office of Community Wellness & Health Education
Deb Gussman	ARHU	Stacey Rose	Office of Student Rights & Responsibilities
Luis I. Garcia	HLTH	Adrian Wiggins	Campus Public Safety
Jennifer Barr	BUSN	Eileen Conran-Folks	Kramer Hall, Hammonton
Margaret E. Lewis	NAMS	Linda Yost	Intercollegiate Sports

**Subject:** Task Force on Sexual and Gender-Based Violence  
**Date:** Thursday, September 27, 2018 at 10:00:22 AM Eastern Daylight Time  
**From:** Allison, Donnetrice  
**To:** Erbaugh, Elizabeth B., Forgey, Elisa, Button, Deeanna, White, Meg, Lewis, Maya, Johnson, Jonathan L., Gussman, Deborah, Rose, Stacey, Garcia, Luis, Wiggins, Adrian, Barr, Jennifer, Conran-Folks, Eileen, Lewis, Margaret, Yost, Linda  
**CC:** Allison, Donnetrice  
**Attachments:** image001.gif

Good morning task force members.

I just wanted to reach out and notify those of you who may not have been present at the Board of Trustees Meeting yesterday that a group of very courageous students protested and presented the board with a list of demands. One of those demands included the implementation of a sexual assault hotline. They were assured by Harvey and the Board Chair that their demands would be addressed. Given that this falls in line with your charge, I am asking that you follow-up up on this, and if possible, get a copy of the students' list of demands. Moreover, follow-up on the promise that their demands would be addressed. I believe Harvey scheduled a time to meet with the students. If you happen to know any of the students who participated, please reach out to them. Thank you for agreeing to serve. Donni

Donnetrice Allison, Ph.D.  
President of the Faculty Senate  
Professor and Coordinator of Africana Studies  
Professor of Communication Studies  
Stockton University  
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**Editor of:** *Black Women's Portrayals on Reality Television: The New Sapphire*

## **Resolution on Gender Violence**

Whereas the Task Force on Sexual and Gender-Based Violence continues its study based on the charge of Sept. 2018, several points necessitate the following resolutions be made before the completion of the final report. The Faculty Senate endorses the following recommendations by the Task Force:

- 1) for the university to undertake the full NASPA audit (“CORE Evaluation”) and an institutional membership in the NASPA Culture of Respect Collective program; and
- 2) for the creation of a Presidential Task Force on Gender-Based Violence that includes representation from the Faculty Senate.

WIA Conference Focus Group Questions (For Interviewers)

- 1. How familiar are you with the resources provided by the Wellness Center and the Women's, Gender and Sexuality Center (WGSC)?**
- 2. How well do you believe Stockton is protecting student safety?**
- 3. Do you believe Stockton is promoting a positive campus culture and a safe environment?**
- 4. Do you see a difference between student safety on the Galloway and Atlantic City campuses? If so, can you specify what that difference is?**
- 5. Do you believe Stockton is providing adequate education or training for students, staff, and faculty about campus violence prevention and response?**
- 6. Are you aware of the process for reporting a crime on Stockton's campus?**
- 7. What would you like your faculty, staff and student senators to know about campus safety?**
- 8. What are possible solutions to violence on campus, including interpersonal violence?**
- 9. What would you have Stockton do about these issues?**
- 10. What questions do you have?**

Researched 6 schools considered directly competitive to Stockton (typed “sexual assault” in search bar on home page) and found:

**Fairleigh Dickinson:** definition link followed by the “it’s on us pledge” (national sexual assault prevention and awareness campaign) link – members of the Student Athletic Advisory Committee are leading the charge and pledge to:

“To RECOGNIZE that non-consensual sex is sexual assault. To IDENTIFY situations in which sexual assault may occur. To INTERVENE in situations where consent has not or cannot be given. To CREATE an environment in which sexual assault is unacceptable and survivors are supported.”

Third link directs to an article that Fairleigh Dickinson is leading a grant-funded study in conjunction with the University of Arizona and other institutions of higher education, selected by the US Department of Justice.

**Kean:** the first 4 links were a general definition, examples of sexual assault/misconduct/violence, and a victim’s bill of rights, and policy. Further down there was a link to a resource guide for students.

**Monmouth:** the first link directed the user to a definition of sexual misconduct and information on policies (the latter was much more detailed in the fourth link and included procedures). The second and third links were myths and facts about sexual assault and the campus sexual assault victim’s bill of rights, respectively.

**Montclair:** 3 links appeared in bright red and included sexual assault response team, gender-based conduct policy and procedures and sexual harassment resolution. Further down the page there were links to a definition, the university’s sexual assault response team, counseling and Title IX. There is also a link to an “I’m Afraid” initiative and web page which provides information about escort programs, peer support groups, self-defense training and suicide prevention.

**NJIT:** several links are provided on a very crisp web page about sexual assault response (residence life and counseling), bill of rights, policy, nine fast facts about sexual assault and Title IX (followed by 2 additional links related to Title IX) and code of student conduct.

**Ramapo:** the initial link is about sexual assault information and reporting options. Additional links reference a revised (as of 11/18/04) campus sexual assault victim’s bill of rights, sexual assault on college campuses, a review of education and prevention programs related to sexual assault, sexual assault resources and a women’s center.



## Research of Sexual Assault in Institutions of Higher Education

The issue of resources for Sexual Assault in comparable institutions to Stockton University was researched by entering the words “sexual assault” in the home page search bar. The analysis includes a general description of the first result page and a more detailed description of the search results visible without scrolling down the page (approximately the first five search results).

**Rider University** – The first result page offered 15 results. Either the headline for each search result or the description of the search results included the words “sexual assault”. The themes of the search results ranged from sexual assault prevention program to events (e.g., fraternity educational event) related to the issue of sexual assault. The fifth search result was “Resources” and it took 3 clicks to get to the information about “what to do if you are sexually assaulted”. It provided a nine points list of things one could do if sexually assaulted, which seems useful to prepare, but perhaps difficult to evaluate during a crisis.

Headline of First Five Search Results:

1. 'Red Zone' initiative at Rider raises awareness of sexual assault risk
2. Alcohol/Drug & Sexual Assault Prevention Education Program
3. Sexual Assault – *a non-functional slide show about sexual assault*
4. Sexual Assault – *a non-functional slide show about sexual assault*
5. Resources – *a list of links to resources such as alcohol, pregnancy and sexual assault*

**Rowan University** – The first result page offered 10 results. All the results seemed related to sexual assault, either stating so in the headline of the result or by including the words in the description of the result. Following the link for the first search result provided a big red button that students can click to report “sexual misconduct”. The tenth search result provided the emergency phone numbers (i.e., Campus Police), along with other community services in Gloucester County.

Headline of First Five Search Results:

1. For Victims of Intimate Partner Violence and/or Sexual Assault ...
2. Haven Sexual Assault Prevention | Office of Equity and Diversity ...
3. Student Sexual Misconduct and Harassment Policy - University ...
4. Sexual Violence Prevention | Rowan University – *provides a tiny link for immediate help, but the link takes you to a pdf about “what to do when you or a friend has been sexually assaulted”.*
5. Facts about Power-Based Personal Violence and Sexual Violence ...

**Rutgers University** – The first result page produced 20 results; eight of them were visible without having to scroll down. All the entries seemed relevant and included the words “sexual assault” or variants such as “sexual violence” and “sexual harassment”. While all the results were relevant to the issue, the fourth one was the first link to provide a crisis phone number; however, the headline of the link did not make this clear. Most of the links provided information about the issue such as statistics, how to recognize the problem, anti-sexual violence programs and other resources.

Headline of First Five Search Results:

1. Sexual Assault – Violence Prevention and Victim Assistance
2. Student Policy on Sexual Harassment, Sexual Violence ...
3. Understanding and Responding to Campus Sexual Assault ...
4. End Sexual Violence – Rutgers University | Division of Student ...
5. NJ to host sexual assault forums on college campuses this fall

**Seton Hall** – The result page produced 11 entries; only the first three were visible without scrolling down. Most of the results included the words “sexual assault” or variants of the term (e.g., “sexual harassment”). The sixth entry provided emergency phone numbers and contact information for other resources; weekend and after hour access to counseling services and to the Dean of Student is made through Campus Police. The headline of the link (i.e., “What to Do if Sexually Assaulted - Seton Hall University”) did not make clear emergency phone can be found by following the link.

Headline of First Five Search Results:

1. Title IX
2. Sexual Assault and Violence Information and Prevention - Seton ...
3. Policy Against Sexual Misconduct, Sexual Harassment and Retaliation
4. STUDENT SEXUAL MISCONDUCT POLICY I. INTRODUCTION: As ...
5. What is Sexual Violence? - Seton Hall University

**St. Joseph’s** – The result page produced 10 results. Most results, but not all, were clearly related to sexual assault. The headline for the first result entry was clearly labeled as the “Philadelphia Sexual Assault Responses Center”; however, when one follows the link it only provides the address of the center and the phone number and other contact information is missing. The rest of the top result entries dealt with announcements and programs related to sexual assault prevention, but the information did not seem useful to access services. Further down the list of results, one could find information about what to do if sexually assaulted (sixth entry), where to get medical attention (eighth entry) and how to recognize sexual misconduct (tenth entry).

Headline of First Five Search Results:

1. Philadelphia Sexual Assault Response Center | Community ...
2. You're Not Alone. There is help available at SJU. | Sexual ...
3. Saint Joseph's University Receives \$300,000 Department of Justice ...
4. The Federal Campus Sexual Assault Victims' Bill of Rights | Sexual ...
5. Saint Joseph's University Sexual Misconduct Policy: Policy ...

**Delaware State University** – The result page resulted on ten results items; the first six search results were visible without scrolling down. Most of the results were clearly related to sexual assault. The first search result, “Sexual Assault Resource Options”, takes you to a list of resources, including medical, advocacy and emergency resources. The following five search results address several other sexual assault issues such as policies, prevention programs and counseling services.

Headline of First Five Search Results:

1. Sexual Assault Resource Options
2. Sexual Misconduct, Harassment & Sex Discrimination
3. Sexual Assault Protocol
4. DSU Participates in United Against Sexual Assault Day
5. Start By Believing

### **Recommendations Based on Analysis of Searches**

1. None of the university website reviewed here provided a banner at the top of the search results with emergency contact or 24-hour services in case of sexual assault. It may be a good idea to make this information easily accessible for people in distress after a sexual assault by appearing in a banner at the top of the search result.
2. The best search results use the words “sexual assault” or related terms (e.g., sexual harassment, sexual violence) in the headline of the search result. This made the search result identifiable as relevant. A common problem was that sexual assault resources were found under the headline Title XIX, which may not be relevant to many people.
3. The best search results were those labeled as being related sexual assault (point 2) and having relevant sexual assault information when followed. This reduces the need to keep screening to find the relevant information.

4. The best search results place results with emergency contact, 24-hour services and other resources higher up in the list; the best position being the first position. This shortens the work and screening time to find emergency information and other services.
5. A typical problem in the search results is that emergency and non-emergency information is provided together, and it comes up mixed in the search results. This information should be classified as emergency and non-emergency and prioritized differently in the search result so emergency information always comes up first, then non-emergency information.

# Culture of Respect CORE EVALUATION

5<sup>th</sup> Edition, updated: *March 2020*

## About the CORE Evaluation

This survey is designed to assess your institution's efforts to prevent and respond to campus sexual violence. It will cover practices and policies mandated by federal law as well as those recommended by experts in the field. Keep in mind not all the elements in the assessment will be possible or necessary or recommended for your campus. Questions on this assessment should not be implicitly understood as Culture of Respect recommendations. Survey questions are included to encourage you to think holistically about responding to and preventing sexual violence, and also to allow your institution to document gaps and strengths in its current strategy.

This assessment will use the phrase **sexual violence** as an umbrella term that encompasses any non-consensual sexual contact, including sexual harassment, sexual exploitation, sexual assault, rape, domestic violence, dating violence, and stalking. The purpose of grouping these behaviors under one umbrella term is to acknowledge that all are connected. Though the mechanisms for addressing some of these crimes inside the umbrella of sexual violence may be distinct, any effort to address them should acknowledge how they are interrelated. In thinking about how it applies to your campus community, it is important to remember that students, faculty, staff, and community members may experience or perpetrate violence.

The questions in this assessment are organized around the six pillars of the Culture of Respect Engagement Blueprint (CORE Blueprint):

- **Survivor support** with options on reporting;
- **Clear policies** on misconduct, investigations, adjudications, and sanctions;
- **Multitiered education** for the entire campus;
- **Public disclosure** of statistics;
- **Schoolwide mobilization** with student groups and leaders; and
- **Ongoing self-assessment**.

## A Note on Laws and Guidance

The CORE Evaluation covers recommended practices for addressing campus sexual violence, based on research, expert guidance, and promising practices. It is grounded in the legal, political, and social framework specific to institutions of higher education in the United States. For respondents outside the U.S., this survey will still be helpful in examining and learning about the range of practices currently being implemented at U.S. institutions. Respondents from outside the U.S. should try to answer each item thinking through the spirit of the question while recognizing that



U.S.-specific guidance and nomenclature (e.g. "**Title IX coordinator/officer**") may not specifically apply to their institution.

Although the survey asks about areas that intersect with U.S. federal and state law, this instrument does not exhaustively examine all state and federal laws and should not replace other efforts to confirm state or federal compliance. Additionally, this edition of the survey was updated in March 2019, after the Department of Education issued interim Title IX guidance in September 2017 and its notice of proposed rulemaking for a new rule on Title IX and sexual violence in November 2018. It should be noted that the proposed rule introduced in November 2018 does not constitute federal guidance; as the title suggests, it is a proposal on which the public was asked to comment and does not change existing guidance from the Department. Once a new rule is finalized, institutions of higher education should consult the Federal Register and the Department of Education to ensure they are meeting any new standards. Additionally, institutions in the United States should keep in mind that there are a constellation of state laws related to sexual violence on campus. Programs and policies related to these laws may or may not be covered in this assessment.

## **Definitions of Key Words and Phrases**

These defined words and phrases will be italicized throughout this assessment.

***Acute medical response.*** Acute medical care for survivors of sexual violence should include: identification and treatment of any physical injuries; a forensic evidence exam; STI and HIV baseline and follow-up testing; post-exposure prophylaxis (PEP) to prevent HIV infection; comprehensive pregnancy counseling, including provision of emergency contraception; and, referral to advocacy and counseling services.

***Amnesty policy.*** A policy that assures students coming forward to report sexual violence (either as a survivor or a bystander) will not be found responsible of violating other parts of the student code of conduct, namely for any violations of the institution's drug and alcohol policy.

***Annual Security Report (ASR).*** The Clery Act requires institutions to publish a report each year that contains at least three years of campus crime data, including but not limited to offenses that constitute sexual violence.

***Bystander.*** A third party who witnesses or becomes aware of sexual misconduct, and may choose to intervene or submit a report.

***Bystander intervention.*** Strategies for intervening in a situation when someone is at risk for emotional or physical harm. Comprehensive bystander intervention strategies include tactics for preventing both victimization and perpetration.

***Campus climate survey.*** A widely used term for a survey conducted to assess: prevalence of sexual violence on campus; community knowledge of campus resources; and, confidence in campus grievance processes. Most climate surveys also ask for feedback from students on services and prevention efforts. *Note:* The Bureau of Justice Statistics (BJS) found that using the word "climate" was misleading because many students thought it would be a survey about climate change or the weather. Campuses should consider using alternative titles. BJS entitled their survey the "college experiences survey."

### **What You Will Need** (from CORE Evaluation p. 6)

This survey is long, and it will ask about many aspects of your institution's efforts to prevent and respond to sexual violence. To be best prepared to answer these questions, you should have these resources at your disposal:

- A copy of your institution's policies related to sexual misconduct
  - Title IX: <https://stockton.edu/diversity/title-ix/index.html>
  - Sexual Misconduct: <https://www.stockton.edu/diversity/title-ix/misconduct.html>
  - Discrimination policy & procedures (For employees and students): <https://stockton.edu/diversity/policys.html>
  - Student policy prohibiting sexual misconduct/discrimination: <https://stockton.edu/policy-procedure/documents/policies/I-120.pdf>
  - Student procedure prohibiting sexual misconduct/discrimination: <https://stockton.edu/policy-procedure/documents/procedures/1200.pdf>

#### ALL STOCKTON POLICIES & PROCEDURES:

<https://www.stockton.edu/policy-procedure/index.html>

- Student handbook (or code of conduct)
  - Student Handbook (2020, see also “Supplement” and “Sanctions”) <http://online.fliphtml5.com/ivrx/wgpz/#p=1>
  - Student code of conduct: <https://stockton.edu/care-cs/code-of-conduct.html>
  - Student Affairs Impact Report 2019 (see p. 9): <http://online.fliphtml5.com/ivrx/vncm/>
- Employee guide (“This is an electronic guide replacing the printed version of the employee handbook.”)  
<https://www.stockton.edu/human-resources/new-hires.html>
- last Annual Security Report  
[https://stockton.edu/police/documents/crime-stats/2019 Annual Report.pdf](https://stockton.edu/police/documents/crime-stats/2019%20Annual%20Report.pdf)
- last annual report (if applicable)  
<https://stockton.edu/annualreport/2019/index.html>

- Data collected about sexual violence on your campus, including
  - any campus climate survey results
    - Student Climate survey (go portal):  
[https://go.stockton.edu/announcements/Stockton Student Climate Survey Report Final.pdf](https://go.stockton.edu/announcements/Stockton_Student_Climate_Survey_Report_Final.pdf)
      - (Manish Madan's report)
      - (Deeanna Button & students' report)
    - Faculty/Staff Climate report (go portal):  
[https://go.stockton.edu/employee/Climate Survey Report Final.pdf](https://go.stockton.edu/employee/Climate_Survey_Report_Final.pdf)
  - assessment results from a third party such as EverFi Sexual Assault Diagnostic Inventory (SADI)
  - results of any related audit
- An electronic device with Internet access, to assess the accessibility of information about campus programs and services on your institution's website
- Training curricula used for any sexual violence training for employees
- An overview of primary prevention and awareness programming administered to students
- Any written investigations, adjudications, and sanctions protocols
- Any active Memorandum of Understanding (MOUs) with local organizations that provide care and support to survivors of sexual violence
- An overview of services available at the student health center and in the local community
  - <https://stockton.edu/wellness-center/>



- An overview of relevant email communications to campus stakeholders (e.g., updates to sexual violence policies, notices of upcoming events, alerts about changes to policy, etc.)
  - Title IX Non-discrimination Notice sent by email 2/3/20
  - Culture of Respect emails
  - “Red Zone” information; “is sexual assault during college still an issue?” [https://www.stockton.edu/diversity/title-ix/documents/the\\_red\\_zone.pdf](https://www.stockton.edu/diversity/title-ix/documents/the_red_zone.pdf)
  
- A unified and honest approach to this assessment; when answering questions involving whether something is written **clearly**, please remember that is subjective and if anyone on your team feels that something **could be clarified** you should default to that response

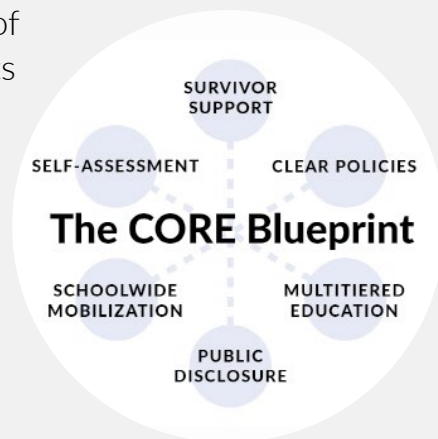
# Culture of Respect COLLECTIVE

The Culture of Respect Collective is an ambitious two-year program that brings together institutions of higher education who are dedicated to ending campus sexual violence and guides them through a rigorous process of self-assessment and targeted organizational change.

Participating schools rely on an expert-developed public health framework, cross campus collaboration, and professional development to make targeted organizational change.

## Program Benefits

- Access to the signature CORE Blueprint framework and CORE Evaluation self-assessment survey
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- Campus site visit from NASPA staff
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**Application deadline:** Friday, November 1, 2019  
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# Culture of Respect COLLECTIVE

Collective institutions are working together to transform the culture around sexual violence.

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**Institutions completed or progressed on 85% of their targeted organizational goals\***

85% of participants reported using the **CORE Blueprint framework** significantly advanced their institution's strategy for addressing sexual violence\*

Participants built knowledge and skills by attending **15 webinars** and **10 peer-led discussions\***

76% of participants said the program **spurred new collaborations across departments\***

**Over 100 diverse institutions have participated from across North America**

\*Evaluation data from Cohort 1 schools who completed the two-year program

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Ending Campus Sexual Violence  
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## Summary of Major Provisions of the Department of Education’s Title IX Final Rule

Issue	The Title IX Final Rule: Addressing Sexual Harassment in Schools
<p><i>1. Notice to the School, College, University (“Schools”): Actual Knowledge</i></p>	<p>The Final Rule requires a K-12 school to respond whenever <i>any</i> employee has notice of sexual harassment, including allegations of sexual harassment. Many State laws also require all K-12 employees to be mandatory reporters of child abuse. For postsecondary institutions, the Final Rule allows the institution to choose whether to have mandatory reporting for all employees, or to designate some employees to be confidential resources for college students to discuss sexual harassment without automatically triggering a report to the Title IX office.</p> <p>For all schools, notice to a Title IX Coordinator, or to an official with authority to institute corrective measures on the recipient’s behalf, charges a school with actual knowledge and triggers the school’s response obligations.</p>
<p><i>2. Definition of Sexual Harassment for Title IX Purposes</i></p>	<p>The Final Rule defines sexual harassment broadly to include any of three types of misconduct on the basis of sex, all of which jeopardize the equal access to education that Title IX is designed to protect: Any instance of <i>quid pro quo</i> harassment by a school’s employee; any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access; any instance of sexual assault (as defined in the Clery Act), dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).</p> <p>- The Final Rule prohibits sex-based misconduct in a manner consistent with the First Amendment. <i>Quid pro quo</i> harassment and Clery Act/VAWA offenses are <u>not</u> evaluated for severity, pervasiveness, offensiveness, or denial of equal educational access, because such misconduct is sufficiently serious to deprive a person of equal access.</p> <p>- The Final Rule uses the Supreme Court’s <i>Davis</i> definition (<i>severe and pervasive and objectively offensive</i> conduct, effectively denying a person equal educational access) as one of the three categories of sexual harassment, so that where unwelcome sex-based conduct consists of speech or expressive conduct, schools balance Title IX enforcement with respect for free speech and academic freedom.</p> <p>- The Final Rule uses the Supreme Court’s Title IX-specific definition rather than the Supreme Court’s Title VII workplace standard (<i>severe or pervasive</i> conduct creating a hostile work environment). First Amendment concerns differ in educational environments and workplace environments, and the Title IX definition provides First Amendment protections appropriate for educational institutions where students are learning, and employees are teaching. Students, teachers, faculty, and others should enjoy free speech and academic freedom protections, even when speech or expression is offensive.</p>

## Summary of Major Provisions of the Department of Education’s Title IX Final Rule

<p><i>3. Sexual Harassment Occurring in a School’s “Education Program or Activity” and “in the United States”</i></p>	<p>The Title IX statute applies to persons in the United States with respect to education programs or activities that receive Federal financial assistance. Under the Final Rule, schools must respond when sexual harassment occurs in the school’s education program or activity, against a person in the United States.</p> <ul style="list-style-type: none"> <li>- The Title IX statute and existing regulations contain broad definitions of a school’s “program or activity” and the Department will continue to look to these definitions for the scope of a school’s education program or activity. Education program or activity includes locations, events, or circumstances over which the school exercised substantial control over both the respondent and the context in which the sexual harassment occurred, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution (such as a fraternity or sorority house).</li> <li>- Title IX applies to all of a school’s education programs or activities, whether such programs or activities occur on-campus or off-campus. A school may address sexual harassment affecting its students or employees that falls outside Title IX’s jurisdiction in any manner the school chooses, including providing supportive measures or pursuing discipline.</li> </ul>
<p><i>4. Accessible Reporting to Title IX Coordinator</i></p>	<p>The Final Rule expands a school’s obligations to ensure its educational community knows how to report to the Title IX Coordinator.</p> <ul style="list-style-type: none"> <li>- The employee designated by a recipient to coordinate its efforts to comply with Title IX responsibilities must be referred to as the “Title IX Coordinator.”</li> <li>- Instead of notifying only students and employees of the Title IX Coordinator’s contact information, the school must also notify applicants for admission and employment, parents or legal guardians of elementary and secondary school students, and all unions, of the name or title, office address, e-mail address, and telephone number of the Title IX Coordinator.</li> <li>- Schools must prominently display on their websites the required contact information for the Title IX Coordinator.</li> <li>- Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by e-mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report.</li> <li>- Such a report may be made at any time, including during non-business hours, by using the telephone number or e-mail address, or by mail to the office address, listed for the Title IX Coordinator.</li> </ul>
<p><i>5. School’s Mandatory Response Obligations: The Deliberate Indifference Standard</i></p>	<p>Schools must respond promptly to Title IX sexual harassment in a manner that is not deliberately indifferent, which means a response that is not clearly unreasonable in light of the known circumstances. Schools have the following mandatory response obligations:</p> <ul style="list-style-type: none"> <li>- Schools must offer supportive measures to the person alleged to be the victim (referred to as the “complainant”).</li> </ul>

## Summary of Major Provisions of the Department of Education’s Title IX Final Rule

	<ul style="list-style-type: none"> <li>- The Title IX Coordinator must promptly contact the complainant confidentially to discuss the availability of supportive measures, consider the complainant’s wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.</li> <li>- Schools must follow a grievance process that complies with the Final Rule before the imposition of any disciplinary sanctions or other actions that are not supportive measures, against a respondent.</li> <li>- Schools must not restrict rights protected under the U.S. Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment, when complying with Title IX.</li> <li>- The Final Rule requires a school to investigate sexual harassment allegations in any formal complaint, which can be filed by a complainant, or signed by a Title IX Coordinator.</li> <li>- The Final Rule affirms that a complainant’s wishes with respect to whether the school investigates should be respected unless the Title IX Coordinator determines that signing a formal complaint to initiate an investigation over the wishes of the complainant is not clearly unreasonable in light of the known circumstances.</li> <li>- If the allegations in a formal complaint do not meet the definition of sexual harassment in the Final Rule, or did not occur in the school’s education program or activity against a person in the United States, the Final Rule clarifies that the school must dismiss such allegations <i>for purposes of Title IX</i> but may still address the allegations in any manner the school deems appropriate under the school’s own code of conduct.</li> </ul>
<p>6. School’s Mandatory Response Obligations:  <i>Defining</i>  <i>“Complainant,”</i>  <i>“Respondent,”</i>  <i>“Formal Complaint,”</i>  <i>“Supportive Measures”</i></p>	<p>When responding to sexual harassment (e.g., by offering supportive measures to a complainant and refraining from disciplining a respondent without following a Title IX grievance process, which includes investigating formal complaints of sexual harassment), the Final Rule provides clear definitions of complainant, respondent, formal complaint, and supportive measures so that recipients, students, and employees clearly understand how a school must respond to sexual harassment incidents in a way that supports the alleged victim and treats both parties fairly.</p> <p>The Final Rule defines “complainant” as an individual <i>who is alleged to be the victim</i> of conduct that could constitute sexual harassment.</p> <ul style="list-style-type: none"> <li>- This clarifies that any third party as well as the complainant may report sexual harassment.</li> <li>- While parents and guardians do not become complainants (or respondents), the Final Rule expressly recognizes the legal rights of parents and guardians to act on behalf of parties (including by filing formal complaints) in Title IX matters.</li> </ul> <p>The Final Rule defines “respondent” as an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.</p>

## Summary of Major Provisions of the Department of Education’s Title IX Final Rule

	<p>The Final Rule defines “formal complaint” as a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the school investigate the allegation of sexual harassment and states:</p> <ul style="list-style-type: none"> <li>- At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the school with which the formal complaint is filed.</li> <li>- A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator under the Final Rule, and by any additional method designated by the school.</li> <li>- The phrase “document filed by a complainant” means a document or electronic submission (such as by e-mail or through an online portal provided for this purpose by the school) that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.</li> <li>- Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or a party during a grievance process, and must comply with requirements for Title IX personnel to be free from conflicts and bias.</li> </ul> <p>The Final Rule defines “supportive measures” as individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment.</p> <ul style="list-style-type: none"> <li>- The Final Rule evaluates a school’s selection of supportive measures and remedies based on what is not clearly unreasonable in light of the known circumstances, and does not second guess a school’s disciplinary decisions, but requires the school to offer supportive measures, and provide remedies to a complainant whenever a respondent is found responsible.</li> </ul>
<p>7. <i>Grievance Process, General Requirements</i></p>	<p>The Final Rule prescribes a consistent, transparent grievance process for resolving formal complaints of sexual harassment. Aside from hearings (see Issue #9 below), the grievance process prescribed by the Final Rule applies to all schools equally including K-12 schools and postsecondary institutions. The Final Rule states that a school’s grievance process must:</p> <ul style="list-style-type: none"> <li>- Treat complainants equitably by providing remedies any time a respondent is found responsible, and treat respondents equitably by not imposing disciplinary sanctions without following the grievance process prescribed in the Final Rule.</li> <li>- Remedies, which are required to be provided to a complainant when a respondent is found responsible, must be designed to maintain the complainant’s equal access to education and may include the same individualized services described in the Final Rule as supportive measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent.</li> <li>- Require objective evaluation of all relevant evidence, inculpatory and exculpatory, and avoid credibility determinations based on a person’s status as a complainant, respondent, or witness.</li> </ul>

## Summary of Major Provisions of the Department of Education's Title IX Final Rule

- Require Title IX personnel (Title IX Coordinators, investigators, decision-makers, people who facilitate any informal resolution process) to be free from conflicts of interest or bias for or against complainants or respondents.
- Training of Title IX personnel must include training on the definition of sexual harassment in the Final Rule, the scope of the school's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.
- A school must ensure that decision-makers receive training on any technology to be used at a live hearing.
- A school's decision-makers and investigators must receive training on issues of relevance, including how to apply the rape shield protections provided only for complainants.
- Include a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
- Recipients must post materials used to train Title IX personnel on their websites, if any, or make materials available for members of the public to inspect.
- Include reasonably prompt time frames for conclusion of the grievance process, including appeals and informal resolutions, with allowance for short-term, good cause delays or extensions of the time frames.
- Describe the range, or list, the possible remedies a school may provide a complainant and disciplinary sanctions a school might impose on a respondent, following determinations of responsibility.
- State whether the school has chosen to use the preponderance of the evidence standard, or the clear and convincing evidence standard, for all formal complaints of sexual harassment (including where employees and faculty are respondents).
- Describe the school's appeal procedures, and the range of supportive measures available to complainants and respondents.
- A school's grievance process must not use, rely on, or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.
- Any provisions, rules, or practices other than those required by the Final Rule that a school adopts as part of its grievance process for handling formal complaints of sexual harassment, must apply equally to both parties.



## Summary of Major Provisions of the Department of Education’s Title IX Final Rule

<p><i>8. Investigations</i></p>	<p>The Final Rule states that the school must investigate the allegations in any formal complaint and send written notice to both parties (complainants and respondents) of the allegations upon receipt of a formal complaint. During the grievance process and when investigating:</p> <ul style="list-style-type: none"> <li>- The burden of gathering evidence and burden of proof must remain on schools, not on the parties.</li> <li>- Schools must provide equal opportunity for the parties to present fact and expert witnesses and other inculpatory and exculpatory evidence.</li> <li>- Schools must not restrict the ability of the parties to discuss the allegations or gather evidence (e.g., no “gag orders”).</li> <li>- Parties must have the same opportunity to select an advisor of the party’s choice who may be, but need not be, an attorney.</li> <li>- Schools must send written notice of any investigative interviews, meetings, or hearings.</li> <li>- Schools must send the parties, and their advisors, evidence directly related to the allegations, in electronic format or hard copy, with at least 10 days for the parties to inspect, review, and respond to the evidence.</li> <li>- Schools must send the parties, and their advisors, an investigative report that fairly summarizes relevant evidence, in electronic format or hard copy, with at least 10 days for the parties to respond.</li> <li>- Schools must dismiss allegations of conduct that do not meet the Final Rule’s definition of sexual harassment or did not occur in a school’s education program or activity against a person in the U.S. Such dismissal is only for Title IX purposes and does not preclude the school from addressing the conduct in any manner the school deems appropriate.</li> <li>- Schools may, in their discretion, dismiss a formal complaint or allegations therein if the complainant informs the Title IX Coordinator in writing that the complainant desires to withdraw the formal complaint or allegations therein, if the respondent is no longer enrolled or employed by the school, or if specific circumstances prevent the school from gathering sufficient evidence to reach a determination.</li> <li>- Schools must give the parties written notice of a dismissal (mandatory or discretionary) and the reasons for the dismissal.</li> <li>- Schools may, in their discretion, consolidate formal complaints where the allegations arise out of the same facts.</li> <li>- The Final Rule protects the privacy of a party’s medical, psychological, and similar treatment records by stating that schools cannot access or use such records unless the school obtains the party’s voluntary, written consent to do so.</li> </ul>
<p><i>9. Hearings:</i></p>	<p>The Final Rule adds provisions to the “live hearing with cross-examination” requirement for postsecondary institutions and clarifies that hearings are optional for K-12 schools (and any other recipient that is not a postsecondary institution).</p>

## Summary of Major Provisions of the Department of Education’s Title IX Final Rule

<p>(a) <i>Live Hearings &amp; Cross-Examination (for Postsecondary Institutions)</i></p>	<p>(a) For postsecondary institutions, the school’s grievance process must provide for a live hearing:</p> <ul style="list-style-type: none"> <li>- At the live hearing, the decision-maker(s) must permit each party’s advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.</li> <li>- Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party’s advisor of choice and never by a party personally.</li> <li>- At the request of either party, the recipient must provide for the entire live hearing (including cross-examination) to occur with the parties located in separate rooms with technology enabling the parties to see and hear each other.</li> <li>- Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker must first determine whether the question is relevant and explain to the party’s advisor asking cross-examination questions any decision to exclude a question as not relevant.</li> <li>- If a party does not have an advisor present at the live hearing, the school must provide, without fee or charge to that party, an advisor of the school’s choice who may be, but is not required to be, an attorney to conduct cross-examination on behalf of that party.</li> <li>- If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party’s or witness’s absence from the live hearing or refusal to answer cross-examination or other questions.</li> <li>- Live hearings may be conducted with all parties physically present in the same geographic location or, at the school’s discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually.</li> <li>- Schools must create an audio or audiovisual recording, or transcript, of any live hearing.</li> </ul>
<p>(b) <i>Hearings are Optional, Written Questions Required (for K-12 Schools)</i></p>	<p>(b) For recipients that are K-12 schools, and other recipients that are not postsecondary institutions, the recipient’s grievance process may, <i>but need not</i>, provide for a hearing:</p> <ul style="list-style-type: none"> <li>- With or without a hearing, after the school has sent the investigative report to the parties and before reaching a determination regarding responsibility, the decision-maker(s) must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party.</li> </ul>
<p>(c) <i>Rape Shield Protections for Complainants</i></p>	<p>(c) The Final Rule provides rape shield protections for complainants (as to all recipients whether postsecondary institutions, K-12 schools, or others), deeming irrelevant questions and evidence about a complainant’s prior sexual behavior unless offered to prove that someone other than the respondent committed the alleged misconduct or offered to prove consent.</p>

## Summary of Major Provisions of the Department of Education’s Title IX Final Rule

<p><i>10. Standard of Evidence &amp; Written Determination</i></p>	<p>The Final Rule requires the school’s grievance process to state whether the standard of evidence to determine responsibility is the preponderance of the evidence standard or the clear and convincing evidence standard. The Final Rule makes each school’s grievance process consistent by requiring each school to apply the same standard of evidence for all formal complaints of sexual harassment whether the respondent is a student or an employee (including faculty member).</p> <ul style="list-style-type: none"> <li>- The decision-maker (who cannot be the same person as the Title IX Coordinator or the investigator) must issue a written determination regarding responsibility with findings of fact, conclusions about whether the alleged conduct occurred, rationale for the result as to each allegation, any disciplinary sanctions imposed on the respondent, and whether remedies will be provided to the complainant.</li> <li>- The written determination must be sent simultaneously to the parties along with information about how to file an appeal.</li> </ul>
<p><i>11. Appeals</i></p>	<p>The Final Rule states that a school must offer both parties an appeal from a determination regarding responsibility, and from a school’s dismissal of a formal complaint or any allegations therein, on the following bases: procedural irregularity that affected the outcome of the matter, newly discovered evidence that could affect the outcome of the matter, and/or Title IX personnel had a conflict of interest or bias, that affected the outcome of the matter.</p> <ul style="list-style-type: none"> <li>- A school may offer an appeal equally to both parties on additional bases.</li> </ul>
<p><i>12. Informal Resolution</i></p>	<p>The Final Rule allows a school, in its discretion, to choose to offer and facilitate informal resolution options, such as mediation or restorative justice, so long as both parties give voluntary, informed, written consent to attempt informal resolution. Any person who facilitates an informal resolution must be well trained. The Final Rule adds:</p> <ul style="list-style-type: none"> <li>- A school may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to a formal investigation and adjudication of formal complaints of sexual harassment. Similarly, a school may not require the parties to participate in an informal resolution process and may not offer an informal resolution process unless a formal complaint is filed.</li> <li>- At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.</li> <li>- Schools must not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.</li> </ul>

## Summary of Major Provisions of the Department of Education's Title IX Final Rule

<p><i>13. Retaliation Prohibited</i></p>	<p>The Final Rule expressly prohibits retaliation.</p> <ul style="list-style-type: none"><li>- Charging an individual with code of conduct violations that do not involve sexual harassment, but arise out of the same facts or circumstances as a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX constitutes retaliation.</li><li>- The school must keep confidential the identity of complainants, respondents, and witnesses, except as may be permitted by FERPA, as required by law, or as necessary to carry out a Title IX proceeding.</li><li>- Complaints alleging retaliation may be filed according to a school's prompt and equitable grievance procedures.</li><li>- The exercise of rights protected under the First Amendment does not constitute retaliation.</li><li>- Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a Title IX grievance proceeding does not constitute retaliation; however, a determination regarding responsibility, alone, is not sufficient to conclude that any party made a bad faith materially false statement.</li></ul>
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