

Faculty Orientation

Title IX

August 23, 2022

Title IX Coordinators

Employees:

Karla Smith

Director of Human Resources and Title IX Coordinator

O'Connell Room 214

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Students:

Annette Walstad

Dean of Students and Title IX Coordinator

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Mandatory Reporting

- ALL EMPLOYEES, including RAs, Peer Ministers and Volunteers are required to report any known or suspected incident of sexual harassment, including:
- Sexual Assault
- Dating or Domestic Violence
- Stalking
- Sexual Exploitation

Jurisdiction

Carroll's obligation to offer supportive measures arises upon notice of allegations of sexual harassment to Title IX Coordinator

Obligation to investigate under Title IX arises when:

- A person who is seeking to or is participating in a college program or activity files a signed, formal complaint
- Must involve conduct that occurred in a college program or activity that occurs in the U.S.

Must dismiss any complaint that does not meet the jurisdictional requirements. If no jurisdiction under Title IX, Carroll may address allegations under Carroll student codes of conduct, nondiscrimination policy or other applicable policies

Definition of Sexual Harassment

- Sexual harassment is identified as a form of sex discrimination
- Must be so severe, pervasive and objectively offensive that it denies equal access to Carroll program or activity
- Definition of sexual harassment includes the Violence Against Women Act (VAWA) crimes
 - Sexual Assault
 - Dating Violence
 - Domestic Violence
 - Stalking

Sexual Harassment (cont.)

- CONDUCT that...
 1. occurs within a Carroll Program or Activity located in the United States,
 1. affects an individual participating or attempting to participate in a Carroll Program or Activity at the time the Formal Complaint is filed
 1. is based on sex, gender identity, gender expression, or sexual orientation; and
 1. satisfies the elements of Quid Pro Quo Conduct (something for something), Hostile Environment (severe, pervasive, & objectively offensive), Sexual Assault, Domestic Violence, Dating Violence, Stalking, or Sexual Exploitation

Reporting Process

- Title IX Coordinator determines jurisdiction
- Title IX Coordinator determines if there is an immediate health or safety risk to campus which would require immediate action
- If no immediate threat, Title IX Coordinator reaches out (usually via email) to the party who was reported to have experienced the behavior
- The Complainant can decide to proceed or not to proceed with a formal complaint

Options for Reporting

Without a signed formal complaint:

- Receive the contact from the Title IX Coordinator and take no action
- Receive Supportive Measures and take no further action

With a signed formal complaint:

- Informal Resolution (not always appropriate)
- Formal Investigation

Investigation Process

- Supportive measures must be provided to all Complainants whether they wish to proceed to investigation or not
- Complainants who wish to proceed to investigation must file a signed Formal Complaint
- Both parties are provided written notice of allegations, equal opportunity to select an advisor and equal opportunity to review evidence and the Investigative Report
- Presumption that Respondent is not responsible (presumption of innocence)
- Decision maker may not be investigator or Title IX Coordinator

Supportive & Protective Measures

- Reasonable measures designed to restore or preserve equal access to Carroll programs and activities without unreasonably burdening the other party, including measures designed to protect the safety of the parties or the campus environment or to prevent or deter sexual harassment
 - Safety Measures (escort, change of housing, safety planning)
 - Support Measures (referrals to campus/community resources)
 - Academic Assistance (extensions, additional tutoring)

Informal Resolution

- Requires a signed Formal Complaint by Complainant
- Must be voluntary
- If parties and Title IX Coordinator agree in writing, Title IX Coordinator or designee may facilitate an informal resolution process
- Informal resolution process may be determined for each case
- Either party may withdraw and continue with an investigation before final resolution

Live Hearing Process

- Investigators gather evidence, interview witnesses and prepare Investigative Report. Parties are provided access to evidence collected and report and may submit written responses
- Decision maker is appointed by Title IX Coordinator to preside over live hearing (may be virtual or in person) and make a determination as to whether there has been a violation of the Title IX Policy
- Parties and witnesses present testimony and are subject to cross examination by each party's Advisor. If the party does not have an Advisor, Carroll will provide one

Live Hearing - Investigation

- All questions will be ruled on for relevance by Decision Maker before witness may answer
- If a party or any witness fails to submit to cross examination, information provided by that party or witness may be considered by Decision Maker in reaching a determination.
- Decision Maker will issue a final written determination which will include sanctions if a violation has occurred
- Both parties may appeal if they have grounds for appeal as specified in the Title IX Policy
- Title IX Coordinator appoints a single Appeal Decision Maker who will issue a final written decision on the appeal

Retaliation

Retaliation means any adverse employment or educational action, including efforts to intimidate, threaten, coerce, or discriminate against any individual

for the purpose of interfering with any right or privilege secured by Title IX or this the Title IX Policy, or

because the individual made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and the Title IX Grievance Procedures.

Retaliation is prohibited by the Title IX Policy

Contacting Law Enforcement

- No Complainant is required to make a police report or participate in a criminal case unless they wish to do so
- Carroll may not contact police unless the Complainant wishes to file a police report
- Complainant's privacy is protected by FERPA

Proposed Changes in 2023

- Prohibit discrimination based on sex to include stereotypes, pregnancy, sexual orientation and gender identity
- Prohibit sex-based harassment – unwelcome sex-based conduct
- Protect pregnant students/employees with pregnancy related conditions
- Requirement for schools to take prompt and effective action to end sex discrimination in their education program/activities

Proposed Changes in 2023

- Requirement for schools to respond with a fair and reliable process that includes trained, unbiased decision makers
- Protect LGBTQI+ students from discrimination based on sexual orientation, gender identity and sex characteristics
- Provide supportive measures to complainant and respondent related to sex discrimination, not only sexual harassment
- Clarify and confirm protection against retaliation
- Share non-discrimination policies with students and employees

Investigator Training

Current Faculty Members - Investigators

- Maria Brosnan
- Alan Hansen
- Doreen Kutufam
- Beth Sheafor

Investigator Training

- Leslie Taylor
- October 18th in the afternoon
- Time: TBD

Questions