

Sexual Misconduct, Interpersonal Violence & Title IX Responsibilities

Standards of Conduct

Interim EWU Policy 402-01

Authority: EWU Board of Trustees

Effective: August 1, 2024

Proponent: President's Office; Vice President for Business & Finance

Purpose: This policy describes university standards for sex-based harassment, sexual assault, domestic violence, dating violence, stalking, and retaliation involving members of the university community. It also establishes procedures for handling complaints of sexual misconduct or interpersonal violence and responsibilities for Title IX compliance.

History: This policy revises EWU Policy 402-01, dated December 11, 2020. It was approved by the Board of Trustees on December 9, 2022. A housekeeping edit to a position title was made on March 10, 2023. Emergency edits were approved by the President effective August 1, 2024, to comply with new Title IX regulations.

Applicability: This policy applies to all members of the university community, including employees, students, visitors, program participants, volunteers, or contractors. Complaints against students for violations of this policy are handled in accordance with the procedures contained in the Student Conduct Code, WAC 172-121.

CONTENTS

Chapter 1 – Introduction

Chapter 2 – Reporting

Chapter 3 – Complaint & Investigative Procedures

Chapter 4 – Responsibilities

Chapter 5 – Violations & Sanctions

Chapter 6 – External Complaints

Chapter 7 – Resources & References

CHAPTER 1 – INTRODUCTION

1-1. General

Eastern Washington University will not tolerate any form of sexual misconduct, sex-based harassment, sexual assault, domestic or dating violence, stalking or retaliation, and will take appropriate action against a university employee, student, visitor, volunteer, or contractor who violates any part of this policy. Enforcement of this policy is subject to constitutional protections related to freedom of speech, association, and the press.

1-2. Goal

As a public institution of higher education, the university has a special responsibility to create and maintain an academic environment that promotes freedom of inquiry and expression while protecting the rights, opportunities, and welfare of employees, students, program participants, visitors, volunteers, and contractors.

The goal of this policy is to promote an environment that is free of sexual misconduct and interpersonal violence. In accordance with Title IX of the Education Amendments of 1972, EWU does not exclude individuals from participating in, deny benefits to, or discriminate against individuals on the basis of sex in any university program or activity. Sexual misconduct and interpersonal violence, as defined below, are forms of sex discrimination.

To facilitate this goal, the university retains authority to discipline or take other appropriate action for any conduct that is deemed unacceptable or inappropriate, regardless

of whether the conduct rises to the level of unlawful sexual misconduct or interpersonal violence.

1-3. Scope

All persons, including students, employees, program participants, visitors, volunteers, and contractors are required to comply with this policy while on campus or participating in university programs or activities. EWU students and employees are also required to comply with this policy while conducting university business, participating in university activities, or using university resources. Students and employees are also responsible for violations of this policy off-campus or outside of a university program or activity when the conduct in question has an impact on the person's duties or responsibilities as a university student or employee.

Complaints against students for violations of this policy are handled in accordance with the procedures contained in WAC 172-125, Discrimination and Title IX Violations by Students. If the student also serves as an employee, following a determination of responsibility under WAC 172-125, the matter will be referred back to the student employee's supervisor to determine whether or not disciplinary action is appropriate from an employment perspective.

Complaints against other members of the university community, including employees, program participants, visitors, volunteers, and contractors are handled under this policy.

1-4. Definitions

Complainant. The person who has been subjected to sexual misconduct or interpersonal violence. The Title IX Coordinator may also file a complaint on behalf of the university.

Interpersonal Violence. For purposes of this policy, the term “interpersonal violence” refers to domestic violence, dating violence, stalking, and retaliation arising from one of these forms of misconduct. These terms are defined below in chapter 5.

Investigator. Person designated by the university to review and, if appropriate, investigate allegations of violations of this policy.

Respondent. A person who is alleged to have violated this policy.

Sexual Misconduct. For purposes of this policy, the term “sexual misconduct” includes sex-based harassment, sexual assault, and other forms of sexual misconduct as defined in chapter 5.

CHAPTER 2 – REPORTING

Individuals who believe they have been subjected to sexual misconduct or interpersonal violence are encouraged to report such incidents to the university and seek advice and assistance as soon as possible. There is not a mandatory timeline for filing a complaint.

Incidents may be reported to one of the reporting options listed below. These entities also serve as resources for advice and assistance. Individuals may pursue a complaint through the university investigatory and disciplinary process by notifying the Title IX Coordinator. Individuals also have the option of pursuing a criminal complaint by contacting the university police or local law enforcement. Complainants may pursue both a criminal complaint and an administrative complaint consecutively or concurrently.

Except for licensed professionals at Counseling and Wellness Services (CWS) and complainants, all university employees who become aware of an incident or complaint that may be a violation of this policy involving a student, employee, program participant, visitor, volunteer, or contractor must report it to the Title IX Coordinator within 24 hours of becoming aware of the matter.

Employees must report complaints regardless of the person reporting the incident’s desire for the matter to remain confidential and regardless of whether a report is made with campus or local law enforcement. Mandatory reporting is not required when a person discloses sexual

misconduct during a public awareness event, such as “Take Back the Night.” Employees who are uncertain as to whether or not a disclosure is subject to mandatory reporting should contact the Title IX Coordinator.

Mandatory reporting helps the university to respond effectively and prevent a hostile educational and work environment. However, EWU has not designated all employees as officials who have authority to institute corrective measures on behalf of the university.

2-1. Reporting Options

a. Report Online

(1) Via e-mail to: titleix@ewu.edu

(2) Online at: www.ewu.edu/titleix

b. Report via telephone or in-person

Title IX Coordinator
211 Tawanka Hall
(509) 359-6724

c. Report to Law Enforcement

University Police
Red Barn
Emergency: Dial 911
Office: (509) 359-6300

Cheney Police
215 “G” Street
Cheney, WA
Emergency: Dial 911
Crime Check: (509) 535-9233

d. Anonymous Reporting

Individuals who have been subjected to sexual misconduct or interpersonal violence have the option to report anonymously. However, anonymous reports may affect or prevent EWU from conducting an investigation. Confidentiality may be requested but may not always be possible based on the circumstances of a particular case. Confidentiality is addressed below in section 3-5.

The following are anonymous reporting options:

Anonymous report to the Title IX Coordinator:
www.ewu.edu/titleix

University Police Anonymous TIP LINE at 509-359-4286

University Police Confidential Reporting Form:
<https://inside.ewu.edu/police/report-a-crime/>

2-2. Confidential Resources

Students may also seek advice and assistance on a confidential basis from Counseling and Wellness Services (CWS) – (509) 359-2366

For a list of additional confidential resources for students and employees, please see chapter 7 below.

2-3. Reporting Deadlines

Mandatory reporters are required to report within 24 hours of becoming aware of an incident.

All individuals are encouraged to report as soon as possible.

2-4. Good Faith

Complaints must be made in good faith. Knowingly making a false or frivolous allegation may be considered an act of misconduct. Knowingly furnishing false information during the investigative and disciplinary process is also prohibited.

2-5. Amnesty for Certain Student Conduct Charges

The university encourages students to report incidents of sexual misconduct without fear of consequences for having possessed or consumed alcohol and/or drugs at the time of the incident. The university's primary concern is to address student safety, discrimination, and sexual misconduct. The university does not condone drinking, use of illegal drugs, or other violations of law or university policy; however, the university generally will not pursue Student Conduct Code allegations against a complainant for alcohol or drug use and/or possession at the time of the reported sexual misconduct. This amnesty does not extend to other potential violations of the Student Conduct Code. This limited amnesty is applicable only to university Student Conduct Code proceedings and is at the university's discretion.

CHAPTER 3 – COMPLAINT & INVESTIGATIVE PROCEDURES

Upon receipt of a complaint under this policy, the Title IX Coordinator or designee shall determine the appropriate process for handling the complaint. The procedures for responding to and investigating a complaint are contained in EWU Policy 402-05 (Discrimination & Title IX Investigations and Resolutions).

CHAPTER 4 – RESPONSIBILITIES

4-1. University President

The university president is responsible for overall compliance with Title IX, Title VII, the Violence Against Women Act, Washington Law Against Discrimination, and other nondiscrimination laws. The president will ensure development and implementation of university policies and programs to comply with these laws. The president will promote those programs and policies and monitor

university compliance. The president delegates to the associate vice president for civil rights, compliance and business services the responsibility for promoting and monitoring the university's compliance with federal and state nondiscrimination laws. The associate vice president is responsible for responding to any external investigations by the Human Rights Commission, Equal Employment Opportunity Commission, and/or Office of Civil Rights.

4-2. Title IX Coordinator

a. Contact Information

Title IX Coordinator
211 Tawanka Hall
(509) 359-6724

b. Response

The Title IX Coordinator will ensure all complaints of sexual misconduct or interpersonal violence are investigated in a prompt, thorough, and impartial manner. In the absence of extenuating circumstances, an investigation should be completed and disciplinary decision made within 90 days from the date the complaint is received by the university.

Investigations involving employees will be handled in accordance with EWU Policy 402-05, Discrimination & Title IX Investigations & Resolutions). . Investigations involving students will be handled in accordance with Discrimination and Title IX Violations by Students, chapter 172-125 WAC. Investigations involving employees, visitors, contractors, and volunteers that do not fall within the parameters of this policy are handled in accordance with this policy and EWU Guideline 401-01 (Investigations).

c. Monitoring & Training

The Title IX Coordinator shall maintain a register of the number and types of sexual misconduct and interpersonal violence complaints received, the results of any investigations, supportive measures provided, and the resolutions of student and employee conduct.

The Title IX Coordinator will periodically review incident details and university responses for consistency and sufficiency - and to assess whether the university is meeting its goal to promote a safe learning and working environment free from discrimination and harassment, including preventing future recurrence of such conduct and addressing the effects of such conduct on the university learning and work environments. The Title IX Coordinator or designee will provide training on Title IX and all types of conduct prohibited by this policy.

Anyone who is involved in investigating or making a decision as to whether or not someone has violated this policy must have completed training on issues relating to

sexual misconduct and interpersonal violence, Title IX, and the Violence Against Women Reauthorization Act. Investigators must be adequately trained on an annual basis on issues of sexual misconduct and how to conduct an investigation that protects the safety of complainants and promotes accountability.

The Title IX Coordinator shall report the data and findings to the university president at least once per year. Each year the Title IX Coordinator will meet with the University President regarding Title IX compliance.

4-3. Deputy Title IX Coordinators

In consultation with the Title IX Coordinator, the Deputy Title IX Coordinators shall ensure appropriate actions are taken to comply with Title IX matters involving their areas of assignment. The university president may appoint Deputy Title IX Coordinators as needed.

4-4. Supervisors and Faculty

Supervisors and faculty members play a key role in both preventing and responding to discriminatory acts or behaviors.

a. Prevention: Prevention is the best method for eliminating discrimination and harassment in the workplace. Supervisors and faculty members can help prevent discrimination and harassment by modeling appropriate behaviors and by arranging discrimination prevention training when necessary.

b. Response: When supervisors and faculty members become aware of incidents of discrimination and/or harassment, they will take appropriate action based on the situation. In all cases, the supervisor or faculty member will report the incident or behavior to appropriate authorities.

c. Faculty members have the additional responsibility to monitor student activities in the classroom and to take appropriate action when discriminatory or harassing behaviors or incidents occur.

d. Supervisors and faculty who are, or should be, aware of discriminatory practices or harassment within their department, area, or classroom will be held responsible for their actions in response to such circumstances. In determining such responsibility, the supervisor's or faculty member's extent of control over the circumstances and any corrective actions they have taken will be considered.

4-5. Dean of Students; Title IX Coordinator; Human Resources; University Police

Complainants of sexual misconduct or interpersonal violence must be provided with certain notifications and procedural protections in accordance with the requirements of the Clery Act. The Dean of Student's Office, Title IX Coordinator, Human Resources, and

University Police will coordinate to ensure notifications and protections are provided to students and employees.

Additional information about the procedural protections, training, and resources for complainants is contained in EWU Policy 402-05, Discrimination & Title IX Investigations and Resolutions, EWU Policy 603-01, Campus Safety, Security & Crime Prevention, and chapter 172-125 WAC, Discrimination and Title IX Violations by Students.

The University Police are responsible for providing training to the campus community and resources for complainants for the aspects of this policy that also constitute criminal conduct, including acts of sexual and interpersonal violence, as detailed in EWU Policy 603-01, Campus Safety, Security and Crime Prevention.

CHAPTER 5 – VIOLATIONS & SANCTIONS

All university students, employees, program participants, visitors, volunteers and contractors are prohibited from engaging in any form of discrimination on the basis of sex, including sexual misconduct and interpersonal violence. Discrimination on the basis of sex, sexual orientation, or gender identity/expression that does not fit within the definitions below is prohibited by and addressed in EWU Policy 402-02 (Diversity & Nondiscrimination).

5-1. Sex-Based Harassment

Sex-based harassment is a form of discrimination and violates this policy. Sex-based harassment is harassment on the basis of a person's sex, sex stereotypes, sex characteristics, sexual orientation, gender identity/expression, or pregnancy or related conditions, that falls within the definitions below for quid pro quo or hostile environment.

Comments do not have to be sexual in nature to constitute sex-based harassment.

a. Quid Pro Quo

Quid pro quo sexual harassment is when an employee, agent, or other person authorized by the university to provide an aid, benefit, or service on behalf of the university explicitly or implicitly conditions the provision of such an aid, benefit or service on a person's participation in unwelcome sexual conduct. This includes instances where submission to or rejection of such sexual conduct by a complainant is used as the basis for educational or employment decisions affecting the complainant. In determining whether such harassment exists, it is immaterial whether the complainant resists and suffers the threatened harm or submits and thus avoids the threatened harm.

b. Hostile Environment

Unwelcome sex-based conduct that, based on the totality of the circumstances, is:

(1) Subjectively and objectively offensive; and,

(2) So severe or pervasive that it creates a hostile environment by limiting or denying a person's ability to participate in or benefit from the university's programs or activities.

In determining whether or not such an environment exists, the university will consider: (A) the degree to which the conduct affected the complainant's ability to access university's programs or activities; (B) the type, frequency, and duration of the conduct; (C) the parties' ages, roles within the university, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct; (D) the location of the conduct and the context in which the conduct occurred; and (E) other sex-based harassment in the university's programs or activities. These are factors for consideration; each factor does not need to be met for a hostile environment to exist.

5-2. Sexual Assault

Sexual assault of any kind is prohibited by this policy and is the most egregious form of sex-based harassment. Sexual assault is any sexual act directed against another person, without a person's consent, including instances where a person is not capable of giving consent. Consent means actual words or conduct indicating freely given agreement to the sexual act. Consent cannot be inferred from silence, passivity, or lack of active resistance. There is no consent where there is a threat of force or violence, any form of coercion, or physical or psychological intimidation. Sexual activity is nonconsensual when one person is incapable of consent by reason of mental incapacity, drug/alcohol use, illness, unconsciousness, age, or physical condition. Incapacitation due to drugs or alcohol refers to an individual who is in a state of intoxication such that the individual is incapable of making rational, reasonable decisions because the person lacks the capacity to give knowing consent.

Sexual assault includes:

a. Rape

Penetration, no matter how slight, of the vagina or anus, with any body part or object, without consent, or oral penetration by a sex organ of another person, without a person's consent.

b. Fondling

The touching of the private body parts of another person for the purpose of sexual gratification, without the person's consent. Private body parts include, but are not limited to, breasts, genitalia, thighs, and buttocks.

c. Sodomy

Oral or anal sexual intercourse with another person, without their consent.

d. Incest

Sexual intercourse between persons who are related to each other within the degree wherein marriage is prohibited by state law.

e. Statutory Rape

Sexual intercourse with a person who is under the age of consent as defined by state law.

5-3. Other Forms of Sexual Misconduct

Other forms of prohibited sexual misconduct include, but are not limited to, indecent liberties, indecent exposure, sexual exhibitionism, sex-based cyber-harassment, prostitution or the solicitation of a prostitute, communications with a minor for immoral purposes, peeping or other voyeurism, possession, creation, or distribution of child pornography, disclosure of intimate images as defined in RCW 9A.86.010 without consent, or going beyond the boundaries of consent, such as by allowing others to view consensual sex or the non-consensual recording of sexual activity. All employees are also prohibited from engaging in consensual sexual intercourse or sexual contact (touching of intimate body parts of another except for medical treatment) while on campus outside of one's own residence or while performing official university functions. These types of sexual misconduct violate this policy.

5-4. Interpersonal Violence

Interpersonal violence violates this policy. Interpersonal violence includes domestic violence, dating violence, and stalking as defined below.

a. Domestic violence: Any act of violence or threatened act of violence that occurs between individuals who are involved or have been involved in a sexual relationship, are current or former family members, or adult persons who presently reside together. This includes, but is not limited to, physical abuse, threats of bodily harm or safety, or coercive control. Coercive control is: (1) a pattern of behavior used to cause another to suffer physical, emotional, or psychological harm; (2) and is intended to or has the effect of unreasonably interfering with a person's free will and personal liberty. Examples of coercive control are identified in RCW 7.105.010(4).

b. Dating violence: is domestic violence as defined above except the acts are committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. In determining whether such a relationship exists, the following factors are considered: (1) the length of time the relationship has

existed; (2) the type of relationship; and (3) the frequency of interaction between the parties involved in the relationship.

c. Stalking:

Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to (1) fear for their health and/or safety or the health/safety of others; or (2) suffer substantial emotional distress.

5-6. Retaliation

Any intimidation, threat, coercion, or discrimination against a person for the purpose of interfering with a person's rights under this policy, or because a person reported information, filed a complaint, testified, assisted, or participated or refused to participate in an investigation, proceeding, or informal resolution under this policy. Any actual or threatened retaliation is prohibited and is a separate violation of this chapter. If the complainant or respondent engages in retaliatory behavior, the university shall take immediate steps to protect the complainant or respondent from further harassment or retaliation.

5-7. Sanctions

Sanctions for a violation of WAC 172-125 (Discrimination & Title IX Violations by Students) may include an admonition, warning, censure, disciplinary probation, restitution, fines, discretionary sanctions, loss of institutional, financial aid funds, assessment, suspension, expulsion, or revocation of degree. The results of such investigations and proceedings shall be reported to the Title IX Coordinator immediately.

An employee who is found responsible for violating this policy may be subject to corrective/constructive action or discipline, including letters of expectation, letters of coaching and counseling, performance improvement plans, verbal or written reprimand/warning, temporary suspension, demotion, reassignment, mandatory training, and/or termination. Student employees may be subject to sanctions under both WAC 172-125 and this policy with respect to their employment. The results of such investigations and processes shall be reported to the Title IX Coordinator immediately.

5-8. Internal Complaints of Failure to Comply with Title IX

Any person who believes the university has failed to comply with Title IX requirements may file a complaint with the Title IX Coordinator or the Associate Vice President for Civil Rights, Compliance & Business Services (211 Tawanka; (509 359-6724). The Title IX Coordinator or, in the case of a possible conflict of interest, the associate vice president or designee, shall inquire into how the university handled the situation and whether or not the university

complied with Title IX. A person may also file an external complaint under chapter 6.

5-9. Notification- Grants & Research

If the respondent in an investigation conducted under this policy is the principal investigator or co-principal investigator for research conducted as part of a federal grant or contract, such as an award by the National Science Foundation, the University is obligated to follow federal regulations and terms and conditions of the award regarding notification of the federal agency. The Provost or designee is responsible for notifying the awarding agency if a principal investigator or co-principal investigator is found responsible for sexual harassment, harassment, or sexual assault, if such person is placed on administrative leave or restricted duties for such reasons, or if the person is convicted of a sexual offense in court. The notice provided to the federal awarding agency will not include any personally identifiable information of the complainant or other individuals involved in the matter other than the respondent.

CHAPTER 6 – EXTERNAL COMPLAINTS

Individuals have a right to file complaints alleging discrimination, harassment, or retaliation with state or federal agencies within the agencies' prescribed time periods. State and federal agencies have their own processes for responding to and processing such complaints. Filing a complaint with a state or federal agency listed below may be done in lieu of or in addition to the university's complaint process.

Equal Employment Opportunity Commission
909 First Avenue, Suite 400
Seattle, WA 98104
Phone: (800) 669-4000
TTY: (800) 669-6820
www.eeoc.gov

Office of Federal Contract Compliance
90 7th Street, Suite #18-300
San Francisco, CA 94103
(415) 625-7800
www.dol.gov/ofccp/index.htm

U.S. Department of Labor
Wage and Hour Division
300 Fifth Avenue, Suite 1130
Seattle, WA
(206) 398-8039
www.dol.gov/WHD/index.htm

Department of Education, Office for Civil Rights
915 Second Avenue, Room 3310

Seattle, WA 98174
(206) 442-1636
OCRSeattle@ed.gov
<http://www.ed.gov/ocr/complaintprocess.html>

Washington State Human Rights Commission
1330 N, Washington St., Suite 2460
Spokane, WA 99201
(800) 233-3247
www.hum.wa.gov

CHAPTER 7 – RESOURCES AND REFERENCES

The following resources may be helpful if you have concerns involving sexual misconduct or interpersonal violence.

7-1. Non-Confidential Campus Resources

Student Rights and Responsibilities
301 Pence Union Building
(509) 359-6889

Student Accommodations and Support Services
109 Hargreaves Hall
(509) 359-7924

Title IX Coordinator
211 Tawanka Hall
(509) 359-6724

University Police
101 Red Barn
Emergency: Dial 911
Office: (509) 359-6300

7-2. Confidential Resources

Counseling and Wellness Services
225 Martin Hall
(509) 359-2366

Washington State Employee Assistance Program
(877) 313-4455

YWCA Alternatives to Domestic Violence- 24 hour crisis line
(509) 326-2255

Lutheran Community Services, Sexual Assault & Family Trauma Response Center;
(509) 747-8224

24/7 Regional Crisis Line
(877) 266-1818

REFERENCES

- a. EWU Policy 402-05, Discrimination & Title IX Investigations and Resolutions
- b. EWU Policy 403-05, Employee Leave Related to Domestic Violence, Sexual Assault & Stalking
- c. EWU Policy 603-01, Campus Safety, Security & Crime Prevention
- d. EWU Policy 402-02, Diversity & Nondiscrimination
- e. WAC 172-125, Discrimination & Title IX Violations by Students
- f. Titles VI and VII of the Civil Rights Act of 1964
- g. Title IX of the Education Amendments of 1972
 - h. The Civil Rights Act of 1991
 - i. Washington State Laws on Discrimination, RCW 49.60
 - j. Collective Bargaining Agreements
 - k. Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act & Violence Against Women Reauthorization Act