

**Wentworth Institute of Technology Sexual Misconduct and
Sex-based Discrimination Policy for Students and Employees**
(Approved August 13, 2020)

I. Statement of the Policy

Wentworth Institute of Technology (University) is committed to maintaining a safe and inclusive living, learning, and working environment for all members of the community. All members of the University are responsible for maintaining an environment free from sexual discrimination and harassment and are expected to commit themselves to be examples of the highest standards of personal and professional conduct. Acts of sexual discrimination harassment are detrimental to the University's commitment to Inclusive Excellence and will not be tolerated in our community.

As provided for in Title IX of the Higher Education Amendments of 1972, the University prohibits discrimination and discriminatory harassment in all of its educational and employment programs and activities on the basis of any individual's sex, including admission and employment. Additionally, this policy complies with the regulations provided for in the Violence Against Women Reauthorization Act of 2013 ("VAWA"), the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act"), and Title VII of the Civil Rights Act of 1964.

This Policy prohibits a broad continuum of behaviors, some of which are not prohibited under Title IX or other laws. This reflects the University's commitment to provide an inclusive learning environment where members of the Community us free to work and learn safely so they may become the best versions of themselves. This policy prohibits discrimination and discriminatory harassment that occurs within the educational programs and activities that is based on sex, including admission and employment. Such Prohibited Conduct includes sexual harassment (including *quid pro quo* and hostile environment), as well as sexual assault, dating violence, domestic violence, stalking, sexual exploitation, and retaliation. The University will respond to all formal complaints of Prohibited Conduct in a prompt, fair, and impartial manner.

There is a presumption that a Respondent is not responsible for the alleged conduct. If upon conclusion of the grievance process, an employee or student is found responsible for violating University policy, the University will issue sanctions pursuant to established sanctioning guidelines., Sanctions may include, but are not limited to, separation or suspension from the University.

In addition to discrimination on the basis of sex, the University prohibits discrimination in its employment practices and its educational programs and activities on the basis of race, color, religion, national origin, age, sexual orientation, gender identity and expression, genetic information, disability and veteran status. The University's Unlawful Discrimination Policy may be found at <https://wit.edu/human-resources/unlawful-discrimination>.

Retaliation against those who make a complaint or participate in the resolution process, is strictly prohibited.

The purpose of this Policy is to affirm the University's commitment prohibit discrimination on the basis of sex through the following efforts: 1) explicitly prohibiting discrimination and discriminatory harassment based on sex; 2) identifying and defining Prohibited Conduct; 3) outlining the procedures complainants should follow, including how and to whom to report; 4) provide a fair and impartial resolution process; 5) identify on and off-campus resources and supportive measures available regardless if a formal complaint is filed; and 6) describing the on-going and prevention and awareness programs.

Inquiries regarding the application of this Policy and the respective grievance procedures used to resolve complaints may be referred to the recipient's Title IX Coordinator, to the U.S. Department of Education's Office for Civil Rights, or both.

II. **Related Policies**

a. Students:

Family Education and Privacy Act (FERPA) <https://wit.edu/registrar/ferpa>
Student Code of Conduct <https://wit.edu/student-code-conduct>

b. Employees:

Unlawful Discrimination and Harassment Policy <https://wit.edu/human-resources/unlawful-discrimination>
Consensual Relations Policy <https://wit.edu/policies/consensual-relationsPregan>
Non-Retaliation <https://wit.edu/policies/whistleblower>
Employee Code of Conduct
<https://connect.wit.edu/documents/10354/0/Employee+Handbook+2019.pdf/ed2c00f6-56e0-445c-b963-0cd54f3d93d7>

III. **Applicability and Jurisdiction**

This Policy applies to all University students, employees, vendors, and volunteers affiliated with the University. Third Parties are both protected by and subject to this policy. A third-party may make a report of a violation of this policy committed by a member of the University community. A third-party may also be permanently barred from the University or subject to other restrictions for failing to comply with this policy.

This policy applies to conduct that occurs on University property (i.e., on campus) and in the local vicinity. This policy also applies to conduct that occurs off University property (i.e., off campus) when the conduct is associated with a University-sponsored program or activity, such as travel, research, or internship programs or when such conduct may have a continuing adverse effect or could create a hostile environment on campus, or when such

conduct may have a continuing adverse effect or could create a hostile environment on campus. Judgments about these matters will depend on facts of an individual case.

All actions by a member of the University community that involve the use of the University's computing and network resources from a remote location, including but not limited to accessing email accounts, will be deemed to have occurred on campus. On-line and/or social media conduct may violate this Policy if it meets the definition of Prohibited Conduct. Online postings are in the public sphere and are not private. These postings may subject an individual to allegations of Prohibited Conduct or other misconduct. The University does not regularly search for this information nor does it monitor any particular social media site, but it may take action if and when such information is brought to its attention. See the University's Acceptable Use Policy <https://wit.edu/policies/acceptable-use-policy> and Responsible Use of Computer and Networks Policy <https://wit.edu/student-code-conduct/policies/responsible-use-computers-networks>. The University will view any Report of online Prohibited Conduct with the Respondent's free speech rights in mind.

Individuals are encouraged to report any violation of this policy as soon as possible in order to maximize the University's ability to respond promptly and effectively. Reports and Complaints may be made at any time without regard to how much time has elapsed since the incident(s) in question.

If the Respondent is no longer a student or employee at the time of the report or Complaint, the University may not be able to take disciplinary action against the Respondent, but it will still seek to meet its Title IX or other legal obligations by offering supportive measures for the Complainant and taking steps, if necessary and possible, to end the prohibited behavior, prevent and address its recurrence, and address its effects.

For a party to file a formal Title IX complaint, the reported conduct must have occurred within the scope of the University's programs or activities as defined as locations, events, or circumstances over which Wentworth exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution.

Students who cross-register for courses at other Colleges of the Fenway institutions are expected to follow the policy and resolution process of the host institution.

IV. Grievance Procedure and Referrals

This Policy governs Prohibited Conduct that constitutes sexual misconduct, including sexual harassment and/or sex-based discrimination, however, the government defines "sexual harassment" differently in certain settings. This Policy covers behaviors that fall both within and outside the jurisdiction required for response by Title IX. The University will determine

which grievance processes will be used based on the constellation of facts and circumstances surrounding the report or Complaint and the following factors:

- a. Applicable law
- b. The status of the Complainant as a student, employee, or third-party
- c. The status of the Respondent as a student, employee, or third-party
- d. The context in which the harassing behavior is reported to have occurred
- e. Whether or not the reported behavior occurred within the United States
- f. Whether there are continuing effect of such reported behavior on campus or within the University's education programs or associated activities

The Title IX Coordinator is the University official designated to evaluate reports to determine which law(s) attach, what threshold each law holds under the various laws, and which grievance process to utilize to resolve such reported behavior. For reports and complaints involving multiple University policies, a case-by-case determination will be made regarding which grievance procedure will be utilized.

V. Title IX Coordinator

The Title IX Coordinator is charged with coordinating the University's efforts to comply and carry out its responsibilities pursuant to Title IX. In this role, the Title IX Coordinator monitors the University's response to complaints to provide a prompt, fair, and equitable resolution process; and provides appropriate education and training.

The Title IX Coordinator, or designee, provides information and education to community members and applicants for admission and employment about the Policy; implements supportive measures and remedies; is involved in decisions regarding emergency removals and administrative leave; evaluates requests for confidentiality; files formal complaints on behalf of the University; oversees the dismissal, consolidation, and referral of complaints as appropriate; assists persons in filing complaints with law enforcement (when requested); and provides or facilitates training for faculty, staff, and students; and may investigate complaints.

Any person may contact the Title IX Coordinator to report Prohibited Conduct. The Title IX Coordinator can be contacted in person, by telephone, email, or in person during regular business hours (Monday-Friday 8:30-4:30 pm):

Beth Devonshire

Interim Title IX Coordinator
205 Williston Hall
devonshireb@wit.edu
617-989-4193

VI. **Employee Responsibilities**

Title IX uses the concept of actual notice and requires that a University must “respond promptly” when the Title IX Coordinator and other employees are notified of a report of sexual harassment. This response includes contacting a Complainant and notifying them of the policy and procedures, availability of supportive measures, and ability to file a formal complaint. Reports do not automatically trigger the initiation of a formal grievance procedure.

a. Mandated Reporters

Reports Involving Wentworth Students and Employees:

To encouraging reporting and provide a prompt and equitable response, the University will require that certain University officials must immediately report incidents of Prohibited Conduct to the Title IX Coordinator. These “mandated reporters” (formally referred to as Responsible Employees) must report all relevant details of the incident including the name of the Complainant and Respondent, if known, dates, times, locations, and the names of witnesses. Reporting must take place regardless of the location of the incident (on or off-campus) as it assists the Title IX Coordinator in tracking patterns, evaluating the scope of the problem, formulating appropriate campus-wide responses, and ensuring that impacted students are provided with information about reporting options and resources.

Reports are not required if they were made at public awareness events, in approved research projects, and as part of coursework assignments.

The following employees, including student employees, have an obligation to report any and all alleged prohibited conduct that they learn of involving students:

- Employees in a supervisory role;
- All of those in the Office of Public Safety; and
- All personnel in Athletics, Housing and Residential Life, and Student Affairs (excluding those listed below as a Confidential Employee):
 - o Dean of Students Office (617-989-4702)
 - o Athletics (617-98-4655)
 - o Housing and Residential Life – including Resident Assistants (RAs) (617-989-4160)
 - o Center for Student Engagement (617-989-4080)
 - o Schumann Fitness Center (617-989-4098)
 - o Center for COOPS+CAREERS (617-989-4101)

While faculty members are not designed Mandated Reporters, they *must* provide the name and contact information of the Title IX Coordinator to any student who reports an act of Prohibited Conduct to them.

Reports Involving Children and Vulnerable Populations:

The University is committed to safeguarding all children, young people, and vulnerable adults involved in our programs, or on our campus. The University will not tolerate the abuse of minors or vulnerable adults in any form. As such, members of the University

community are encouraged to report the presence of unaccompanied Minors on campus, as well as any inappropriate conduct by a Minor and an accompanying Adult to the Wentworth Institute of Technology Department of Public Safety (617-989-4444). Wentworth employees and volunteers (including student employees or volunteers associated with the Program) serving as Program leaders or Authorized Adults in University sponsored Programs should be aware that they are mandatory reporters under Massachusetts law and must report to the Department of Youth Services (1-800-792-5200) all instances where they have reasonable cause to believe a child is suffering physically or emotionally from abuse, including sexual abuse, or neglect. All such employees should contact the Wentworth Institute of Technology Department of Public Safety (617-989-4400) or the Office of Compliance and Risk Management (617-989-4413) immediately in the event they become aware of or concerned about such abuse or neglect and for assistance in making all required reports under Massachusetts law.

b. Confidential Employees

The University has designated employees on campus where individuals may make confidential reports. Confidential Employees cannot reveal information to any third party unless one or more of the following conditions are present: the individual has provided written consent to disclose information; there is a concern about imminent harm to self or others; the information concerns the neglect or abuse of someone who is a minor, elderly, or disabled; or an employee has been charged with providing non-identifiable aggregate information for purposes of the Clery Act.

The following have been deemed Confidential Employees:

- 1) Staff members who work in the Center for Wellness (617-989-4390)
- 2) All staff members working within Optum Student Health Services (617-879-5220)

c. Campus Security Authorities (CSA)

Campus Security Authorities (CSAs) are individuals who by virtue of their University responsibilities and under the Clery Act, are designated to receive and report criminal incidents to the Wentworth Institute of Technology Department of Public Safety so that they may be included and published in the University's Annual Security and Fire Safety Report. All Employees who are designated as Campus Security Authorities for the purposes of the Clery Act must immediately provide the Wentworth Institute of Technology Department of Public Safety with non-identifying statistical information regarding all reported incidents of sexual assault, dating violence, domestic violence, and stalking.

d. Employees' Duty to Cooperate

Exclusive of the Complainant and Respondent, University employees are encouraged to cooperate fully and unconditionally in an investigation conducted pursuant to this Policy. This duty includes, among other things, speaking with the Title IX Coordinator, Investigator,

Decision-maker(s) or appellate body, and voluntarily providing all documentation that relates to the claim being investigated.

VII. Definitions

- a. **Actual knowledge** means notice of Prohibited Conduct to the Title IX Coordinator or any official who has the authority to institute corrective measures.
- b. **Advisor** means any person who accompanies a Respondent or Complainant in any meeting or grievance proceeding. This is a separate role from that of a support person. Except for conducting cross-examination at a hearing for a Title IX-related violation at a Title IX-related grievance proceeding, the advisor's role is limited to providing support and guidance to their advisee, and the Advisor may not speak or otherwise represent their advisee throughout the process, including opening or closing statements, object to questions, or engage in any advocacy other than permitted herein. If an Advisor of the party's choice does not attend the hearing or is removed by the University for failure to follow the Rule of Decorum, the University will provide an Advisor of the University's choice for the sole purpose of conducting cross-examination on behalf of the party. The University will not restrict the choice of an Advisor, and reasonable requests to change proposed meetings to accommodate an Advisor's schedule will be considered. Requests to have more than one Advisor will be considered on case-by-case basis, and the final decision is the sole discretion of the Title IX Coordinator. For example, a party may elect to have one Advisor accompany them to meetings but choose a separate Advisor to conduct cross-examination. No faculty or staff member is required to accept a request from a party to serve as an advisor. The parties must inform the Title IX Coordinator the name of the Advisor prior to any meeting or hearing described in this Policy.
- c. **Business day** means any day, Monday through Friday, that the University is open.
- d. **Complainant** means the individual who is alleged to be the victim of conduct that could constitute Prohibited Conduct.
- e. **Conduct file** means the printed, written, electronic file which may include, but is not limited to, all information obtained as part of an investigation, including any determination regarding responsibility and any audio or audiovisual recording or transcript; any disciplinary sanctions and/or remedies; any appeal, including the result of the appeal; and any informal resolution and the result therefrom.
- f. **Decision-maker(s)** means those annually trained who are authorized to determine emergency removals, conduct hearings, and/or review appeals. Decision-maker(s) may only serve one role within a case and are free from conflict of interest or bias.
- g. **Designee** means any employee who has responsibility for implementing or administering this Policy.

- h. Education program or activity** includes locations, events, or circumstances over which the institution exercises substantial control over both the Respondent and the context of in which the harassment occurs, and also includes any building owned or controlled by the University. This does not include education programs or activities outside of the United States.
- i. Employee** means all full and part time staff. Vendors are not typically considered employees.
- j. Evidence**

 - i. Inculpatory evidence means information that is used to establish a violation.
 - ii. Exculpatory evidence means information that is used to establish if there is not a violation
- k. Formal complaint** means a document filed by a Complainant or signed by the Title IX Coordinator alleging Prohibited Conduct against a Respondent and requesting that the recipient investigate the allegation of Prohibited Conduct.
- l. Personnel file** means the employee file which containing documents relating to an employee’s employment as maintained by the University’s ordinary course of business.
- m. Party** means either the Complainant(s) or Respondent(s) in an investigation or action related to Prohibited Conduct.
- n. Preponderance of the evidence** means a standard of proof in which the totality of the evidence offered in support of a fact is greater or more convincing than the evidence which is offered in opposition to it; given the totality of information the version of events that is more likely than not. Preponderance of the evidence is understood to require more than 50 percent certainty to determine responsibility for a policy violation (51% or greater).
- o. Relevancy** means information that is presented to establish if a fact is more or less true. Investigators and decision makers have the ability to make relevancy determinations.
- p. Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
- q. Student** means any person who attends or has attended the University. Persons admitted but never matriculated may not be considered students. For purposes of this Policy, the Title IX Coordinator will make the final determination as to whether or not an individual is a student.
- r. Supportive measures** mean non-disciplinary, non-punitive individualized services offered as appropriate and reasonably available without fee or charge to the

Complainant and Respondent, before or after the filing of a formal complaint, or where no formal complaint has been filed. Supportive measures are designed to balance restoring or preserving access, without unreasonably unburdening the other party.

- s. **Support person** means any person who has been authorized by the University as an accommodation per Section XVI and attends meetings associated with this Policy. This is a separate role than that of the Advisor. Support persons may not play an active role in the process, including, but not limited to, asking questions, presenting evidence, or making statements. A support person may not have any additional role, such as a witness, in the University process. Only reasonable requests to change proposed meetings to accommodate a support person's schedule will be considered. No faculty or staff member is required to accept a request from a party to serve as a support person. The parties must inform the Title IX Coordinator the name of the support person prior to any meeting or hearing described in this Policy
- t. **Third party** means any vendor, contractor, visitor, or guest.
- u. **Witness** means any individual who has relevant knowledge of an incident. Character witnesses are not allowed as part of this Policy.

VIII. Prohibited Conduct and Related Definitions

Prohibited Conduct

As outlined above, the University prohibits behaviors that fall outside of the scope of conduct prohibited by Title IX. If a report constitutes behavior as described below, the University will determine which grievance process to utilize or resolve the complaint.

For purposes of this policy, all of the following definitions constitute conduct to be "on the basis of sex." The University will treat attempts to commit any Prohibited Conduct as if those attempts had been completed.

- a. **Sexual Harassment:** conduct on the basis of sex that satisfies one or more of the following:
 - i. An employee conditioning the provision of an aid, benefit, or service on the individual's participation in unwelcome conduct
 - ii. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to their education
 - iii. Sexual assault, dating violence, domestic violence, or stalking
- 1. **Quid Pro Quo:** Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
 - i. Submission to or rejection of such conduct is made implicitly or explicitly a term or condition of instruction, employment, or participation in any University activity or benefit;

- ii. Submission to or rejection of these behaviors by an individual is used as a basis for evaluation in making academic or personnel decisions;

To reach the threshold for a claim under Title IX and to be adjudicated under the Title IX-Related Process described in XIII, the person conditioning the provision of the aid, benefit, or service must be an employee. A single instance of abuse of authority may constitute *quid pro quo* harassment. If a Complainant acquiesces to unwelcome conduct in a quid pro quo context to avoid potential negative consequences, consent does not necessarily mean that the conduct was “welcomed” or that the harassment did not occur.

- 2. **Hostile Environment:** Any unwelcome sexual advance, request for sexual favors, or other unwelcome verbal, electronic or physical conduct of a sexual nature when such conduct has the purpose or effect of unreasonably interfering with an individual’s work or academic performance; i.e. it is sufficiently serious, pervasive or persistent as to create an intimidating, hostile, humiliating, demeaning, or sexually offensive working, academic, residential, or social environment under both a subjective and an objective standard.

To reach the threshold for a claim under Title IX and to be adjudicated under the Title IX-Related Process described in XIII, the reported unwelcome conduct must be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University’s education program or activity.

The Title IX Coordinator will conduct a preliminary determination as to whether alleged conduct satisfies the definition of a Title IX policy. Such a determination will be based on the totality of reported facts and circumstances established in the Complaint.

Examples of harassment that creates a hostile environment include, but are not limited to the following:

- i. **Sex discrimination:** Discriminatory conduct based on sex, including pay or hiring discrimination
- ii. **Gender-based Harassment:** A form of discrimination that includes verbal, written, or physical behavior, directed at someone, or against a particular group, because of that person’s or group’s sex, gender identity, actual or perceived sexual orientation, or based on gender stereotypes, when that behavior is unwelcome and has the purpose or effect of substantially interfering with the individual’s work or educational performance by creating an intimidating, hostile, or demeaning environment for employment or education.

Such conduct does not need to be directed at or to a specific individual in order to constitute sexual harassment, but may consist of generalized unwelcome and inappropriate behaviors or communications based on sex, gender identity, actual or perceived sexual orientation, or gender stereotypes.

- iii. **Unwanted sexual attention:** Unwanted verbal or physical sexual advances. This may also include unwanted sexual behaviors such as pressuring a person for dates, unwanted touching including hugging and kissing; wide dissemination of “revenge porn;” conspiring to sexually harass people; unwelcome conduct that harms and humiliates a person on the basis of sex; recording, photographing, or transmitting identifiable images of private sexual activity and/or the intimate parts of another person; allowing third parties to observe private sexual acts; distributing, viewing or forcing others to view illegal pornography; forcing others to view legal pornography; engaging in voyeurism; and exposing one’s genitals or inducing one to expose their own genitals in nonconsensual circumstances
3. **Sexual Assault – Non-Consensual Sexual Penetration:** The penetration, no matter how slight, of the vagina, anus, with any body part or object, or oral penetration by a sex organ of another person without the consent of the victim. This includes any gender of victim or Respondent.
4. **Sexual Assault – Non-Consensual Sexual Contact:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances in which the victim is incapable of giving consent because of their age or temporary or permanent mental incapacity.
5. **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent, which is 16 in Massachusetts.
6. **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. In Massachusetts, this includes sexual contact with persons who are related by blood or adoption.
7. **Dating Violence:** Any act of violence or threatened violence against a person who is, or has been in, a social relationship of a romantic or intimate nature with that person. The existence of such a relationship shall be determined based on the reporting Party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the

relationship. For the purposes of this definition dating violence includes, but is not limited to, sexual or physical abuse, or the threat of such abuse.

8. Domestic Violence: Any felony or misdemeanor crime of violence committed by those who:

- are or were married to one another;
- are or were residing together in the same household;
- are or were related by blood or marriage;
- have a child in common regardless of whether they have ever married or lived together; or
- are or have been in a substantive dating or engagement relationship

According to Section 16 of title 18 of the United States Code, the term “crime of violence” means

- an offense under Massachusetts State law that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or
- any other offense that is a felony in Massachusetts and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

Domestic violence, as defined by Title IX is considered relationship violence and must be “on the basis of sex.” For purposes of this Policy, Domestic Violence does not include acts that meet the definition of domestic violence under Massachusetts laws that are based solely on cohabitation (e.g. roommates) or family relationship (e.g. parent/child). While non-relationship violence would not be addressed using this policy, it would still be counted for purposes of Clery Act reporting and may be addressed under other University policies.

9. Stalking: Any course of conduct (more than one act) directed at a specific person (directly, indirectly, through a third party, or other means) that places that person in reasonable fear for his or her safety or the safety of others. For the purposes of this Policy, the behaviors must be directly related to that person’s sex.

For the purposes of this definition:

- Course of conduct means two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third Parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person’s property.

- Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

b. Retaliation: Any attempt to seek retribution against an individual or group of individuals involved in making a good faith report, filing a Complaint, participating in a disciplinary process, or opposing in a reasonable manner an action believed to constitute a violation of this policy. Retaliation can take many forms, including abuse or violence, threats, coercion, and intimidation. Actions in response to a good faith report or response under this policy are considered retaliatory if they have a materially adverse effect on the working, academic or University-controlled living environment of an individual or if they hinder or prevent the individual from effectively carrying out their University responsibilities. Any individual or group of individuals can engage in retaliation and will be held accountable under this policy.

Allegations of Retaliation will proceed under the non-Title IX processes.

c. Discrimination Based on Sex: An intentional or unintentional act that adversely affects employment and/or educational opportunities because of a person's membership in a protected class or association with a member(s) of a protected class that is based on sex (including pregnancy). Discrimination may be classified as either disparate impact (facially neutral practices that fall more harshly on one group than another and cannot be justified by business necessity) or disparate treatment (treatment of an individual that is less favorable than treatment of others based on discriminatory reasons). A single act of discrimination may be based on more than one protected class status.

Allegations of Discrimination based on sex that do not reach a Title IX threshold will proceed under the non-Title IX processes.

d. Sexual Exploitation: Any nonconsensual act or acts committed through exploitation of another person's sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage, or for the purpose of causing harm to another's reputation

Sexual exploitation includes, but is not limited to, causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over such other person; causing the prostitution of another person; recording, photographing, or transmitting identifiable images of private sexual activity and/or the intimate parts of another person; allowing third parties to observe private sexual acts; manipulation of contraception; possessing, distributing, viewing or forcing others to view illegal pornography; forcing others to view legal pornography; engaging in voyeurism; exposing one's genitals or inducing one to expose their own genitals in nonconsensual circumstances; intentionally or knowingly exposing another

individual to a sexually transmitted infection or virus without their knowledge, or facilitation of the sexual harm of another person.

Allegations of Sexual Exploitation that do not reach a Title IX threshold will proceed under the non-Title IX processes.

Related Definitions

- a. **Consent** is an understandable exchange of affirmative words or actions, which indicate a willingness to participate in a mutually agreed upon sexual activity at a mutually agreed upon time.

Consent must be informed, freely and actively given. It is the responsibility of the initiator to obtain clear and affirmative responses at each stage of sexual involvement.

. Silence, previous sexual relationships or experiences, and/or a current relationship may not, in themselves, be taken to imply consent. While nonverbal consent is possible (through active participation), it is best to obtain verbal consent. Similarly, consent to one form of sexual activity does not imply consent to other forms of sexual activity. An individual who is incapacitated cannot consent. Consent to sexual activity may be withdrawn at any time through clear communication.

Sexual conduct in the presence of force, coercion, and/or incapacitation is not consensual.

- b. **Force** is the use of physical strength or action (no matter how slight), violence, threats of violence or intimidation, as a means to engage in sexual activity. While physical resistance by Complainant is not germane to a finding of force, Evidence of resistance by the Complainant will be viewed as a clear demonstration of a lack of consent.
- c. **Coercion:** Use of unreasonable pressure on another person to engage in sexual activity. A single sexual advance does not constitute coercion. Coercion begins when the initiator continues to pressure another, through the use of psychological/emotional pressure, alcohol, drugs, threat, intimidation, or force, to engage in sexual behavior, when a reasonable person would realize that the other does not want to engage in sexual activity.
- d. **Incapacitation** Physical and/or mental inability, whether temporary or permanent, of an individual to make rational, reasonable decisions, or judgments regarding one's well-being or welfare.

A person who is incapacitated lacks the capacity to understand or appreciate the fact, nature or extent of a sexual encounter. States of incapacitation include, but are not limited to, unconsciousness, sleep, and blackouts. Incapacitation may result from the

voluntary or involuntary consumption of alcohol and/or other drugs. Incapacitation may also occur due to mental or cognitive impairment, injury, or sleep. Where alcohol or other substances are involved, incapacitation is determined by how the substance impacts a person's decision-making capacity, awareness of consequences, and ability to make informed judgments.

The question of incapacitation is determined on a case-by-case basis using both objective and subjective standards. In evaluating whether a person was incapacitated for purposes of evaluating effective consent, the University will consider: (1) whether the person initiating the sexual activity knew that their partner was incapacitated; and if not (2) whether a reasonable person in the same situation would have known that their partner was incapacitated.

IX. Reporting Options

The University strongly encourages all who have experienced Prohibited Conduct to report the incident so that the University can provide support and pursue an appropriate resolution. The University encourages anyone who experiences or becomes aware of Prohibited Conduct to immediately contact one of the options listed below including law enforcement, school administrators and confidential options. Reports may be made by complainants, or by a third-party, including, but not limited to, a friend, family member, advisor, or professor. The University prohibits and will not tolerate retaliation against anyone who makes a report.

A Complainant may pursue some or all these reporting options at the same time (e.g., one may simultaneously pursue a Formal Resolution Process with the University and a criminal complaint). When initiating any report, a Complainant does not need to know whether they wish to request any particular course of action, nor how to label what happened.

a. Immediate Needs: Safety and Preserving Evidence:

If an incident occurs, the University encourages any impacted individual to report the incident and seek both police and medical assistance. Seeking police or medical assistance does not obligate a Complainant to make a complaint or take any further action, but the decision to seek medical help and gather evidence allows complainants to preserve the full range of available options. The University will assist any community member to get to a safe place, provide transportation for medical help and, if requested, contact law enforcement. For 24/7 help, contact the Department of Public Safety, or contact the Title IX Coordinator during normal University hours.

Any person impacted by Prohibited Conduct, including sexual misconduct, is encouraged to take steps to preserve evidence of the incident. Prior to making a report, the impacted individual should:

- Refrain from bathing, showering, brushing teeth, drinking, eating, douching or changing clothes until the evidence can be collected
- Place any garment or clothing worn during the alleged incident in a separate paper bag.
- Preserve copies of any related written or electronic communications (e.g., pictures/videos, texts, social media posts, etc.), taking care not to delete the originals.

Complainants may choose to file a report with both law enforcement and the University when the incident constitutes both a crime and a violation of University policy. In cases in which the Complainant chooses to report to law enforcement, the Title IX Coordinator may contact any law enforcement agency that is conducting its own investigation to inform that agency that a University investigation is also in progress; to ascertain the status of the criminal investigation; and to determine the extent to which any evidence collected by law enforcement may be available to the University in its investigation. At the request of law enforcement, the investigator may delay the University investigation temporarily while an external law enforcement agency is gathering evidence.

b. Reporting to Law Enforcement:

Conduct that violates this Policy may also violate state and local laws (Appendix A). The University encourages all individuals to immediately contact law enforcement in situations which may present imminent or ongoing danger by contacting:

- 9-1-1- for emergencies
- Wentworth Department of Public Safety 617-989-4444
- Boston Police Department (District B-2), 617-343-4270
- Boston Police Sexual Assault Unit, 617-343-0044

While the University encourages Complainants to contact law enforcement, it is not required. Additionally, the Complainant is still entitled to supportive measures regardless if a report is filed. University officials will provide assistance in contacting law enforcement as needed.

c. Reporting to the University:

Complainants are encouraged to report the incident to the University by contacting the Title IX Coordinator. The Title IX Coordinator may be contacted by telephone, mail, email or in person during regular business hours (8:15am-4:45pm)

Beth Devonshire, Interim Title IX Coordinator
 205 Williston Hall
devonshireb@wit.edu
 617-989-4193

An individual may report an incident via an online reporting form. The online form will not be considered a complaint that would trigger a full investigation. To access the Title IX Reporting Form, click here:

https://cm.maxient.com/reportingform.php?Wentworth&layout_id=2

Mandated Reporters: The following university officials have been designated as mandated reporters by the University. Mandated reporters will promptly notify the Title IX Coordinator of all known relevant details including names of the parties and witnesses, and the time, date, and location of the incident.

Upon receipt of a report, the Title IX Coordinator, or designee, will promptly contact the Complainant and provide the following: information on the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, the ability to receive supportive measures with or without filing a report, and information about the process for filing a formal complaint.

In order to proceed with a formal grievance process, a formal complaint must be filed. Supportive measures will be available regardless if a formal complaint is filed.

d. Confidential Resources:

Several campus professionals are designated as Confidential. An individual who is not prepared to make a report, or who may be unsure how to label what happened, but still seeks information and support, is strongly encouraged to contact a Confidential Resource.

i. Students:

On-Campus:

- Center for Wellness: 617-989-4390
- ProtoCall: (after-hours and weekends) 617-989-4390
- Health Services: (24 hours a day) 617-989-4070.

Off-Campus:

- Boston Area Rape Crisis Center: (24-hour free hotline) 1-800-841-8371
- Beth Israel Deaconess Medical Center: 617-667-7000 (SANE)
- Boston Medical Center: 617-638-8000 (SANE)
- Brigham and Women's Hospital: 617-732-6462 (SANE)

ii. Employees:

- EAP (Employee Assistance Provider), AllOneHealth, (24 hours a day) at 800-451-1834 or at the website at www.allonehealth.com.

e. Make an Anonymous Report:

Those who wish to make an anonymous report may file an incident report online through wit.ethicspoint.com. Anonymous reports also are accepted and should be directed to the Title IX Coordinator. The University will respond promptly and equitably to anonymous reports, but the response may be limited if the report does not include

identifying information and/or a description of the facts and circumstances.

Anonymous reports that provide sufficient information to constitute certain criminal offenses will be reported to Wentworth Department of Public Safety for purposes of inclusion in the University's Annual Security and Fire Safety Report and to assess whether the University should send a Timely Warning Notice as required by the Clery Act.

f. Take No Action:

Complainants have the right not to file a report. Even if a Complainant chooses not to file a report, the Complainant is highly encouraged to seek medical attention and counseling. Complainants who wish to file a report at a later date, may do so by utilizing any of the options above. Delay in reporting could create obstacles to the University's process for stopping harassment/discrimination, remedying its effects, and preventing recurrence as well as potentially weakening evidence that could be useful in determining whether Prohibited Conduct occurred.

g. Off-Campus Reporting Options:

The University has identified a list of on and off-campus resources for community members to access regarding reports of prohibited conduct. Please click here for a list of resources <https://wit.edu/title-ix/reporting-options>

Additionally, all members of the University community may also contact the Office for Civil Rights (a division of the United States Department of Education) to file a complaint pertaining to Title IX.

Office for Civil Rights:

Headquarters:

400 Maryland Avenue, SW, Washington, DC 20202-1100

Customer Service Hotline #: (800) 421-3481 | Facsimile: (202) 453-6012

TTY#: (800) 877-8339 | Email: OCR@ed.gov | Web: <http://www.ed.gov/ocr>

Boston Office:

U.S. Department of Education

8th Floor

5 Post Office Square

Boston, MA 02109-3921

Telephone: (617) 289-0111

Facsimile: (617) 289-0150

Email: OCR.Boston@ed.gov

Employees may also file a complaint with the following offices:

U.S. Equal Employment Opportunity Commission (EEOC)

JFK Federal Building

15 New Sudbury Street, Room 475

Boston, MA 022-3-0506

Massachusetts Commission Against Discrimination (MCAD)

1 Ashburton Place, Suite 601

Boston, MA 02108

X. University Response to Reports

a. Privacy and Confidentiality

Issues of privacy and confidentiality play important roles in this policy and may affect individuals differently. Privacy and confidentiality are related but distinct terms. “Confidentiality” refers to the circumstances under which information will or will not be disclosed to others. “Privacy” refers to the discretion that will be exercised by the University in the course of any investigation or disciplinary processes under this policy or a separate grievance procedure.

Requests for confidentiality or use of anonymous reporting may limit the University’s ability to investigate a matter. In limited circumstance, the Title IX Coordinator may choose to sign a formal complaint, initiating a grievance procedure. In those cases, the Complainant will not be required to participate in any University grievance proceeding.

Medical and counseling records, as well as those with a recognized legal privilege are confidential documents that parties will not be required to disclose. If one party chooses to provide written consent regarding disclosure, all parties will have access to those records.

b. Supportive Measures

Upon receipt of a complaint or a report of a violation of this Policy, the University will provide reasonable and appropriate supportive measures to all parties. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and reasonably available without fee or charge to the Complainant and Respondent, before or after the filing of a formal complaint, or where no formal complaint has been filed. Supportive measures are designed to balance restoring or preserving access, without unreasonably unburdening the other party. Additionally, they are intended to protect the safety of all parties and/or deter Prohibited Conduct.

Supportive measures include counseling, extension of deadlines or other course-related adjustments, modification of work or class schedules, campus escort services, mutual orders of no contact, changes in work or housing locations, leaves of absences, increased security and monitoring of certain area.

The University will maintain the privacy of any supportive measures provided under this Policy to the extent practicable and will promptly address any reports of retaliation or violations of mutual no contact orders. The University has the discretion to impose and/or modify any supportive measure based on all available information.

The University will provide reasonable remedial and protective measures to Third Parties as appropriate and available, taking into account the role of the Third Party and the nature of any contractual relationship with the University.

All individuals are encouraged to report concerns about the failure of another to abide by any restrictions imposed by a Supportive Measure. The University will take immediate action to enforce a previously implemented measure and disciplinary penalties can be imposed for failing to abide by a University-imposed measure utilizing the disciplinary process deemed appropriate by the Title IX Coordinator.

c. Amnesty/Immunity

The University has a special concern for incidents of Prohibited Conduct. Such incidents damage not only individuals, but also the free and open academic environment of the University.

The University is aware that individuals may not report Prohibited Conduct out of concern that they, or witnesses, might be charged with violations of the Universities' policies. Accordingly, the University will not pursue discipline violations related to drug or alcohol use against an individual who, in good faith, reports, witnesses or possesses personal knowledge of Prohibited Conduct.

While amnesty is typically limited to violations involving the use of alcohol and drugs and any policies related to Covid-19, determinations regarding amnesty for other forms of prohibited conduct will be made on a case-by-case basis.

d. Timely Warning

If Public Safety becomes aware of a serious and continuing threat to the campus community, Campus Security will issue a timely notification to the University community. In all cases of Prohibited Conduct, the Title IX Coordinator will be notified. Campus Security, as required by law, may also be required to complete an incident report and publicly disclose the reported incident of Prohibited Conduct in the annual security report without personally identifying information. In addition, the University may also share non-identifying information, including data about outcomes and penalties, in aggregate form. At no time will the University release the name or other personally identifiable information of the Complainant to the general public without the express consent of the Complainant or as otherwise permitted or required by law.

XI. Interim Action

a. Emergency Removal

The University may impose an interim emergency removal on a Respondent prior to or during a University grievance procedure. Such action may be taken when, after an individualized safety and risk analysis, a University official has determined that an immediate threat to the physical health or safety of any student or other individual exists.

Respondent will be provided with written notice including: information about the grievance process, including an opportunity to challenge the dismissal; identities of the parties involved in the incident, if known; the conduct allegedly constituting Prohibited Conduct; the date and location of the alleged incident.

Respondents wishing to challenge an Emergency Removal must submit a written appeal of such decision within five business days. Grounds for appeal include the following:

- Procedural irregularity that affected the outcome;
- New evidence that was not readily available when the decision regarding an emergency removal was made that could affect the outcome; and
- A University official involved in the decision-making process regarding the emergency removal had a general or specific conflict of interest or bias that impacted the decision to issue an emergency removal.

A Decision-maker(s) will provide a decision to the Respondent within five (5) business days of receiving the appeal. If the appeal is denied, the emergency removal may remain in effect through the conclusion of the grievance process, including the appellate process.

b. Administrative Leave

If it deems it appropriate to do so, the University may place an employee Respondent, including student employees, on administrative leave prior to or during the pendency of a University grievance process set forth in this policy.

Typically, those placed on administrative leave will continue to receive pay and benefits. Additionally, administrative leave is not indefinite and will be provided updates regarding their status.

XII. Grievance Procedures for Non-Title IX-Related Prohibited Conduct Involving Employees

a. Complaint and Resolution Process:

- i. Step 1** A person who believes they has been subject to Prohibited Conduct should contact a representative from Human Resources as soon as possible. An employee may also contact their supervisor. A meeting will be held with a representative from Human Resources, or another investigator appointed by Wentworth, to discuss the conduct and events and to answer any questions regarding the process. In those instances where a resolution is appropriate, a

representative from Human Resources, or another investigator, will advise and assist in resolving the matter.

- ii. **Step 2** In those instances where a resolution is not reached or is not appropriate, a request will be made to submit a written statement to the Vice President of Human Resources. The written statement is most effective when it includes the following information: a description of the incident(s), the name of the person(s) engaging in the conduct, times, locations, specific words/actions, and the name of any witnesses to the incident(s). The investigator will review all information provided and may make requests for additional information. The investigator's notes and files are not subject to review by the person bringing forward the concern or to the person(s) alleged to have violated this policy.
- iii. **Step 3** The investigator will meet with the person alleged to have engaged in the conduct. They may submit a written statement and any documents in response to the concerns and should provide the names of any possible witnesses and any other materials or documents he/she feels are responsive to the allegation(s) made.
- iv. **Step 4** The investigator will interview witnesses noted by the person bringing forward the concern and any witnesses named by the person alleged to have engaged in the conduct. The investigator may gather information relating to the concern from any source or person.
- v. **Step 5** Upon completion of the investigation, the Vice President of Human Resources will make a finding and inform the person raising the concern and the person(s) alleged to have engaged in the conduct of the result.
- vi. **Step 6** If the person raising the concern is not satisfied with the finding of the Vice President of Human Resources, he/she may take the issue to the President for review. In the event that the finding of the Vice President and/or President indicate that unlawful discrimination has not occurred, the matter will be closed. In the event that the finding of the Vice President and/or President indicate that a violation has occurred, further action will be taken including, but not limited to, disciplinary action up to and including termination.

Please see Sections XIV Sanctions and Remedies and XV Appeals for additional information.

b. **Timetable**

Wentworth recognizes that the interests of all persons are best served by the prompt investigation and resolution of prohibited Conduct. It will strive to investigate concerns in a prompt and reasonable manner, within sixty (60) days, taking into account scheduled breaks, vacation periods and other obligations.

c. **Confidentiality**

All actions taken to investigate and resolve concerns raised through this process shall be conducted with as much confidentiality as possible without compromising the thoroughness of the investigation. It is Wentworth's position that generally a person

raising a concern cannot insist on anonymity because such will impede the fairness and thoroughness of the investigation. The investigator will not discuss the matter with persons other than those involved in, affected by or having information about the matter, or those necessary to implement the investigative process or the disciplinary procedures under this policy.

d. Standard of Evidence

The standard of evidence used to determine whether the alleged violation of the policy occurred is preponderance of the evidence. The preponderance of the evidence means a standard of proof in which the totality of the evidence offered in support of a fact is greater or more convincing than the evidence which is offered in opposition to it; given the totality of information the version of events that is more likely than not.

Preponderance of the evidence is understood to require more than 50 percent certainty to determine responsibility for a policy violation (51% or greater).

XIII. Grievance Procedures for Non-Title IX Related Prohibited Conduct Involving Students and Title IX-Related Prohibited Conduct Involving Students and Employees

a. Filing of a Formal Complaint

To initiate either the informal resolution process or formal resolution process, a Complainant must file a Complaint. A Complaint means a written statement filed by a Complainant or signed by the Title IX Coordinator alleging Prohibited Conduct against a Respondent and requesting resolution of the alleged behavior. A complaint may be completed by the Complainant in person or submitted by email, mail or by phone to the Title IX Coordinator.

If the Complainant does not wish to proceed with a formal complaint, the University will respect the complainant's autonomy and wishes to the extent possible. The Complainant will be able to access supportive measures.

In limited circumstances, the Title IX Coordinator may sign a formal complaint and move forward with a formal grievance process. These cases include, but are not limited to, the following:

- i. Actual knowledge of a pattern of alleged Prohibited Conduct by a Respondent in a position of authority;
- ii. The Title IX Coordinator receives multiple reports of Prohibited Conduct and sex-discrimination against the same Respondent;
- iii. A pattern of alleged conduct and the involvement of violence, weapons, and similar factors in the complainant's allegations;
- iv. The seriousness of the alleged harassment; and
- v. The age of the student who was allegedly harassed.

In cases in which the Title IX Coordinator signs a formal complaint, the Title IX Coordinator will not serve as a party within the grievance process. Additionally, the

Complainant cannot be required to participate in the grievance procedure and does not need to appear at a live hearing or submit cross-examination.

b. Notification and Rights and Options

If a formal complaint is not filed, the Complainant will be provided an explanation of their rights and options which includes the following:

- The importance of obtaining and preserving forensic and other evidence;
- The right to report or not report the alleged incident to the University, law enforcement or both, including information about the Complainant's right to privacy and which reporting methods are confidential;
- The right to request and receive assistance from campus authorities in notifying law enforcement;
- The right to request and receive assistance in obtaining and enforcing a campus-issued order of protection or no contact order.
- The right to speak to and receive assistance from on and off campus Confidential Resources and other organizations that provide support and services to Complainants
- The right to assistance from the University in accessing and navigating campus and local health and mental health services, counseling, and advocacy services.
- The right to Supportive Measures with or without the filing of a formal Complainant and that the University will consider the Complainant's wishes with respect to available supportive measures including without limitation changes to academic, living, dining, working, and transportation situations;
- The right to request a Formal or Informal Resolution Process if cause is found to proceed under this Policy and a summary of the appropriate complaint resolution procedures;
- Contact information for all of the people and organizations listed herein;
- The right to request an end to the process except as set forth in this Policy.

If a formal complaint is filed, the parties will receive written notice from the Title IX Coordinator of the allegations of Prohibited Conduct, including sufficient details known at the time with sufficient time to prepare before any initial meeting or interview. Additionally, the Complainant and Respondent will be provided an explanation of their rights and options which includes the following:

- The right for Complainants and Respondents to be treated equitably by the University which includes providing remedies to a Complainant where a determination of responsibility for Prohibited Conduct has been made against the Respondent, and by following a grievance process that complies with this policy;
- The right to a fair, impartial, proceeding that begins promptly and is completed within reasonably prompt timeframes;
- The right to a resolution process that is consistent with the University's policies, transparent to the Complainant and Respondent, and in which the burden of proof and of gathering evidence rests with the University and not the Parties;

- The right to an Advisor of the Party's choosing during the grievance process. If a Party does not have an Advisor present at a Title-IX related hearing, the University will provide without fee or charge, an Advisor of the University's choice;
- The right to reasonable accommodations during any hearing, such as not being in the same room as the other Party;
- The right to an objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence—and provide that credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness;
- The right to a determination regarding responsibility made at the conclusion of the resolution process and that the University makes no prior presumption of responsibility regarding the Respondent prior to a finding;
- The right not to be retaliated against for filing a Complaint and/or for participating in an Informal or Formal Resolution Process.

c. Dismissal of complaint

If the Complainant files a formal complaint, the Title IX Coordinator, or designee, will review the complaint. Complaints that do not rise to the level of a violation of this policy or did not occur within the context of a University program or activity, or within the United States, will be dismissed or will refer the complaint as appropriate.

The Title IX Coordinator may dismiss formal complaints in which the Complainant withdraws their formal complaint, the Respondent is no longer enrolled at the University, or there are specific circumstances preventing the University from gathering evidence sufficient to reach a determination as to the formal complaint.

Upon dismissal of the complaint, the University will promptly send written notice of the dismissal and the reason(s) therefore simultaneously to the Parties.

Either party may appeal the University's dismissal of a Complaint or any allegations by submitting a written appeal within five (5) business days of the dismissal. Appeals may follow the grounds outlined in the Appeals section of this policy. If the appeal is denied, the dismissal of the complaint will remain in effect.

d. Consolidation

The University may consolidate formal complaints involving allegations of Prohibited Conduct in the following instances: allegations of Prohibited Conduct involving more than one Respondent; allegations of Prohibited Conduct involving more than one complaint against one or more Respondents; and/or allegations of Prohibited Conduct arise out of the same facts or circumstances

For complaints involving other policies, a case-by-case determination will be made regarding the grievance procedures which will be used in resolving the complaints

e. Informal Resolution

i. Overview

- If a formal complaint is filed, the parties will receive written notice from the Title IX Coordinator of the allegations of Prohibited Conduct, including sufficient details known at the time with sufficient time to prepare before any initial meeting or interview;
- At the time of the filing of a Complaint or at any time prior to a determination of responsibility, either Party may request to proceed under a voluntary Informal Resolution Process (IRP) that does not involve a full investigation and/or hearing. The Title IX Coordinator will determine, based on the totality of the circumstances, whether an IRP is appropriate given the facts and participants. For example, an IRP is never appropriate for resolving reports alleging sexual harassment of a student by an employee;
- Upon request and written agreement by the Parties and the Title IX Coordinator that the IRP is appropriate, the Title IX Coordinator will provide to the parties a written notice disclosing the allegations, and the requirements of the IRP, including when the Parties are precluded from resuming a Formal Resolution Process and any consequences resulting from participating in the IRP. Parties may withdraw from the IRP at any time prior to agreeing to a resolution and resume the Formal Resolution Process with respect to the Complaint;
- Typically, the IRP will be completed within ninety (90) days from the filing of the formal complaint with the Title IX Coordinator.

ii. Informal Resolution Process- Elements and Expectations:

- Informal resolution shall not be available to a Respondent if there are subsequent reports of any alleged Prohibited Conduct. If in the course of the process, additional reports are discovered, the request for IRP will be re-evaluated;
- The IRP is available for all Prohibited Conduct, including sexual assault;
- Participation in this process does not constitute a finding of responsibility for a policy violation, but will be included as part of the student's conduct file and an employee's personnel file
- The information documented during this process is subject to subpoena if a criminal or civil process is initiated;
- All agreements reached during the IRP, which outline the requirements of the Complainant and Respondent, must be approved by the Title IX Coordinator and signed by the Respondent and complainant. Failure to reach an agreement may result in the case being referred to a formal resolution process;
- Failure to fulfill the requirements of the signed agreement may result in subsequent policy violations or the case being referred to formal resolution;

- Successful completion of requirements contained in the signed agreement will preclude the parties from resuming any formal complaint arising from the same allegations;
- If either party withdraws from the IRP process and requests resolution through a formal process, the information obtained during this process will not be available without signed written consent of both parties;
- If the Respondent is found responsible for any University policy in the future, this agreement can be considered when issuing sanctions for Respondent .

iii. Informal Resolutions – Outcomes

- Informal Resolution options are designed to address the harm that has been caused, and what is needed to repair the harm and restore trust. Overseen by the Title IX Coordinator, students may utilize one of the processes detailed below:
- Placing a Respondent on notice that, if such behavior has occurred or is occurring, such conduct should cease immediately;
- A written warning;
- Education and/or training for a Respondent and/or department;
- Permanent Supportive Measures for Complainant;
- Mediation, Restorative Justice, or other informal communication between the Complainant and Respondent;
- Messaging to the campus community;
- Events and/or trainings offered to the campus community or particular departments; and/or
- Referral and/or collaboration with another University department in order to address the allegations and eliminate any potential Prohibited Conduct.

f. Formal Resolution Process

i. Notice of Allegations and assignment to an Investigator

Upon filing of a complaint requesting a Formal Resolution, Complainant and Respondent will receive written notice of the following: the allegations of Prohibited Conduct, including sufficient details known at the time with sufficient time to prepare before any initial interview; a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process; information about their advisor of choice; a statement prohibiting knowingly making false statements or submitting false information. The Parties will receive written simultaneous notification of additional allegations as appropriate.

The Title IX Coordinator will assign one or more Investigators to the case and/or will conduct the investigation personally. The Parties will be provided with the name(s) of the Investigator(s) and allowed five (5) business days to request the removal and replacement of an Investigator based on bias or conflict of interest.

Throughout the grievance process, the Title IX Coordinator will provide to a Party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of meetings, investigative interviews, and hearings, with sufficient time for the Party to prepare to participate.

ii. Timeframe

Typically, an investigation will be completed within ninety (90) days from the filing of a formal complaint with the Title IX Coordinator, or the date upon which the Title IX Coordinator decides to pursue an investigation independently, whichever is first. In some circumstances, it may be necessary to extend that timeframe due to the complexity of the case, availability of witnesses, the need for language assistance or accommodation due to a disability, the occurrence of a simultaneous criminal investigation and request from law enforcement that the University delay its investigation, or other factors which unavoidably delay the investigation, collectively “good cause.” If good cause exists for the Title IX Coordinator to extend the investigation timeframe beyond 90 days, both parties will be promptly notified of the revised (expected) timeframe.

iii. Investigation – General

The University, through a trained investigator(s), will conduct a prompt, equitable, and impartial investigation into the facts of the case and will interview the Complainant, Respondent, witnesses and/or others who may have relevant information, and collect any other evidence deemed relevant to the case.

The parties will receive written notice of the date, time, location, participants, and purpose of all hearings, investigation interviews, or other meetings in which their participation is invited or expected with sufficient time to prepare. The parties will have an equal opportunity to be heard, to present witnesses, including fact and expert witnesses, to submit information and other inculpatory and exculpatory evidence, to submit questions they believe should be directed by the investigator to the other party or witness.

The parties will have the same opportunity to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an Advisor of their choice and/or a support person. The Support Person’s role in the processes is limited to what has been specified in the provided accommodation. At these grievance/investigation meetings, neither the Advisor nor the support person(s) are allowed to actively participate.

Absent the signed written consent of the applicable party, records maintained by a physician, psychiatrist, psychologist, or other recognized professional will

remain confidential. If a party chooses to share these records as part of the investigation, the Respondent and Complainant shall both have access to these records from the Title IX Coordinator. The University prohibits the use of medical expert documentation and testimony with an actual or apparent conflict of interest.

Questions regarding a Complainant's prior sexual behavior or history will not be included in the investigative record or in the grievance hearing unless it is offered to prove someone other than the Respondent committed the conduct alleged by the complainant, or if the evidence concerns specific incidents of the Complainant's sexual behavior with the Respondent and is offered to prove consent.

The University will not restrict either Party from discussing allegations under investigation or from presenting relevant evidence.

At any stage of this process, the parties and the Title IX Coordinator, or designee, may consider resolution of the case without further resolution or a hearing. Those who agree to resolution without a hearing, have no right to appeal.

iv. Investigation – Participation

With the exception of the Complainant and Respondent, the University encourages all member of the community to cooperate fully with the investigation and disciplinary procedures.

Should a Respondent who has been notified of an investigation decline to participate, the investigation may proceed, a hearing may be held, a finding may be reached, and a sanction may be imposed based on the information available. Similarly, complainants cannot be compelled to participate in an investigation, including when a formal complaint is filed by the Title IX Coordinator. Additionally, student witnesses cannot be compelled to participate in an investigation, and the investigator will proceed with otherwise available information if a party chooses not to participate. The University will not, however, draw any inference about the determination of responsibility based on a party or witness absence from this process.

v. Investigation – Inspection of Evidence and Investigative Report

The University will provide the parties timely and equal access to inspect and review all records or evidence obtained that is directly related to the allegations, including evidence in which the University is not intending to rely upon in reaching a determination of responsibility and inculpatory and exculpatory evidence whether obtained from a party or other source, so that

each party can respond. The evidence subject to inspection and review will not contain any privileged or inadmissible information as defined in this policy.

Prior to the completion of an investigative report, the University will send to each party a preliminary investigative report containing the evidence subject to inspection and review, redacted of personally identifiable information as necessary, in an electronic format or a hard copy. The parties will have ten (10) business days to submit a written response which the investigator will consider prior to the completion of the investigative report. This information will also be available at the hearing.

Following the opportunity to review the preliminary investigative report, the Investigator will create a final investigative report that incorporates any written response or new information from the Parties or collected by the Investigator. The final investigative report will also fairly summarize the relevant evidence. The Investigator has the discretion to determine the relevance of any proffered evidence.

The Title IX Coordinator will send to each Party the final investigative report in an electronic format or a hard copy, for their review. This report will be shared no less than ten (10) business days prior to a hearing.

The Title IX Coordinator will secure written permission from the Parties to share the preliminary and final investigative reports with the Party's Advisor. Reports will not be shared by the University with a Support Person.

vi. Assignment to Non-Title IX-Related or Title IX-Related Hearing Procedure

At the conclusion of the investigation, if the University has not previously determined that the case meets the threshold for the Title IX grievance procedure, the Title IX Coordinator will make a final determination as to whether to proceed under the Title IX or Non-Title IX Grievance Procedures. If the case does not meet the threshold and jurisdiction for Title IX, the Title IX Coordinator will dismiss the case for purposes of Title IX and will refer the case as appropriate.

For employee cases which do not meet the threshold for Title IX-Related cases, please see XII(f).

vii. Non-Title IX Related Hearing Procedures – Students

For Non-Title IX cases in which the Respondent is a student, the determination regarding responsibility will be made at a live hearing utilizing the procedures outlined in this section. Hearings are typically held within ten (10) to fifteen (15) business days of the investigative report being sent to the Parties and their Advisor of choice.

At the conclusion of an Investigation, the parties will be provided the names of the Decision-maker(s) and will be allowed five (5) business days to request the removal and replacement of a Decision-maker(s) based on bias or conflict of interest. Any request must be accompanied by supporting information regarding the decision to assign a new Decision-maker.

These hearings may be held virtually or in person. If a hearing is held in person, requests to place the parties in separate rooms will be honored. For hearings that are held in separate rooms or virtually, the Parties will be required to be seen and heard by the Decision-maker(s) and the other party when speaking and answering questions.

The Parties may have a support person and/or an Advisor of their choice to accompany them to the hearing. The Support Person's role in the processes is limited to what has been specified in the provided accommodation. The Advisor may not actively participate but may confer with the Party as is reasonably necessary. If the Support Person and/or the Advisor violates the rules or engages in behavior or advocacy that harasses, abuses, or intimidates either Party, a witness, or the Decision-maker(s), that Support Person and/or Advisor may be prohibited from further participation.

At least five (5) business days prior to the hearing, the Parties must submit names of witnesses they would like to appear at the hearing and any relevant questions to be asked of the witnesses and the other party. The Parties may ask additional relevant questions at the hearing, but pre-submitted questions will be vetted in advance for relevancy and admissibility. Questions at the hearing are limited to those assessing credibility and relevant questions that have not previously been asked and answered in the final investigative report.

At the hearing, the Decision-maker(s) is responsible for maintaining an orderly, fair, impartial, and respectful hearing. The Decision-maker(s) has broad authority to respond to disruptive or harassing behaviors, including adjourning the hearing or excluding any offending person.

The parties are encouraged to provide all relevant information regarding the incident during the investigation. In the absence of good cause as determined by the Decision-maker(s) information, witnesses, and other evidence discoverable through the exercise of due diligence that is not provided to the Investigator during the investigation may still be considered, but it may impact the weight in which the Decision-maker(s) assign this information.

All hearings are closed to the public. A recording will not be made by the University and all other recordings are prohibited.

A Complainant, Respondent, or witness may decline to participate in the hearing. The Decision-maker(s) will not draw an inference about the responsibility determination based solely on a party's or witness's absence from the Hearing or refusal to submit to questions.

viii. Title IX-Related Hearing Procedures for Students and Employees

For cases that have been determined by the Title IX Coordinator to meet the threshold for Title IX Sexual Harassment as well as the Title IX jurisdictional requirements, the determination regarding responsibility will be made at a live hearing utilizing the procedures outlined in this section. Hearings are typically held within ten (10) to fifteen (15) business days of the investigative report being sent to the parties and their advisors.

At the conclusion of an Investigation, the parties will be provided the names of the Decision-maker(s) and will be allowed five (5) business days to request the removal and replacement of a Decision-maker(s) based on bias or conflict of interest. Any request must be accompanied by supporting information regarding the decision to assign a new Decision-maker(s).

Hearings may be held virtually or in person. If a hearing is held in person, requests to place the Parties in separate rooms will be honored. For hearings that are held in separate rooms or virtually, the parties will be required to be seen and heard by the Decision-maker(s) and the other party when speaking and answering questions.

The Parties may have a Support Person and an Advisor of their choice at hearing. The Support Person's role in the processes is limited to what has been specified in the provided accommodation. The Advisor is responsible for conducting the cross-examination which includes asking the other Party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. If a Party does not have an Advisor, the University will appoint one on behalf of the Party free of charge. In this capacity, the Advisor will be appointed for the sole purpose of conducting cross examination of the other Party and witnesses. If the Advisor or Support Person violates the rules or engages in behavior or advocacy that harasses, abuses, or intimidates either Party, a witness, or the Decision-maker(s), that Advisor or Support Person may be prohibited from further participation.

At the hearing, the Decision-maker(s) is responsible for maintaining an orderly, fair, impartial and respectful hearing. The Decision-maker(s) has broad authority to respond to disruptive or harassing behaviors, including adjourning the

hearing or excluding any offending person. Only relevant cross-examination and other questions may be asked of a Party or witness. Questions regarding a complainant's prior sexual behavior or history will not be allowed unless it is offered to prove someone other than the Respondent committed the conduct alleged by the complainant, or if the evidence concerns specific incidents of the complainant's sexual behavior with the Respondent and it is offered to prove consent. Questions regarding any information protected by legally recognized privilege, including treatment records will not be allowed without signed written consent of the party.

Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. The Decision-maker(s) must explain to the Party proposing the questions any decision to exclude a question as not relevant.

The parties are encouraged to provide all relevant information regarding the incident during the investigation. In the absence of good cause as determined by the Decision-maker(s) information, witnesses, and other evidence discoverable through the exercise of due diligence that is not provided to the Investigator during the investigation may still be considered, but it may impact the weight in which the Decision-maker(s) assign this information.

All hearings are closed to the public. A recording will be made by the University, but all other recordings are prohibited.

If a Complainant, Respondent, or witness declines to participate in the hearing or submit to cross-examination by an advisor, the Decision-maker(s) cannot rely on any prior statement of that party or witness in reaching a determination of responsibility. If a party or witness does not answer the questions of a Decision-maker(s), the Decision-maker(s) may rely on prior statements made by that party or witness. However, the Decision-maker(s) will not draw an inference about the responsibility determination based solely on a party's or witness's absence from the Hearing or refusal to submit to questions.

ix. Findings

A. Standard of Evidence

The Decision-maker(s) shall use a preponderance of the evidence standard to determine whether the alleged violation of the policy occurred. The preponderance of the evidence means a standard of proof in which the totality of the evidence offered in support of a fact is greater or more convincing than the evidence which is offered in opposition to it; given the totality of information the version of events

that is more likely than not. Preponderance of the evidence is understood to require more than 50 percent certainty to determine responsibility for a policy violation (51% or greater).

If an Employee Respondent challenges a sanction imposed under this Policy through the grievance and arbitration procedure in a collective bargaining agreement, the University will request the arbitrator appointed to hear an arbitration brought under that procedure use a preponderance of the evidence standard in the arbitration.

B. Written Determination of Responsibility

The Complainant and Respondent will simultaneously receive a written determination regarding responsibility applying the preponderance of the evidence standard typically within five (5) business days of the determination of responsibility. The written determination letter, drafted by the Decision-maker(s) will include:

- The allegations constituting Prohibited Conduct;
- A description of the procedural steps taken during the grievance process;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the Policy to the facts;
- A statement, and rationale for the result of each allegation including findings, sanctions, and remedies; and
- Options for appeal.

The determination of responsibility becomes final either on notification of the results of the appeal, or the date on which an appeal would no longer be considered timely.

An Employee Respondent covered by a collective bargaining agreement may challenge a sanction imposed under this Policy through the grievance and arbitration procedure contained in that collective bargaining agreement.

XIV. Sanctions and Remedies

a. Determination of Sanctions

When a Respondent has been found “responsible” for violating the Policy, the Decision-maker(s) shall consider the final investigation report and all exhibits as well as the statements and testimony provided at the live hearing in determining the appropriate sanction. The Decision-maker(s) reserves the right to increase or decrease the recommended sanction guidelines listed above in the case of significant mitigating or

aggravating factors. The Decision-maker(s) may consider the Respondents student conduct history in determining the appropriate sanction.

b. Student Sanctions

The following sanctions may be imposed, individually or in various combinations, on any student found to have violated the Policy. Please note this is not an exhaustive list of sanctions:

- i. **Warning:** A written notice that the Respondent has violated the Policy and a warning that another violation will likely result in a more severe sanction, which could include University Probation, Temporary or Permanent Residence Hall Suspension, University Suspension, or University Expulsion.
- ii. **University Probation:** A set period of time during which the Respondent is given the opportunity to modify behavior to complete specific assignments, meet with designated persons, and demonstrate a positive contribution to the University community in an effort to regain privileges within the University community. Please be aware that a finding for any violation(s) of any University policy during the probationary period will be viewed as a violation of probation, and will result in further disciplinary action being imposed, including, but not limited to, University Suspension or University Expulsion. Additionally, as students and organizations which are on University Probation are not considered to be in good disciplinary standing, this may impact their ability to participate in intercollegiate athletics, represent the University, student leadership positions, study abroad opportunities, extracurricular and/or residence life activities.
- iii. **University Suspension:** A separation from the University for a designated period. Students who are suspended from the University are restricted from all University premises and activities, including, but not limited to, course registration, class attendance, participation in co-curricular activities and University housing. Students returning from University Suspension must contact the Title IX Coordinator at least two weeks prior to the semester of their return and follow any additional sanctions assigned to them. A person's presence on Wentworth property during University Suspension will be viewed as trespassing and may be subject to arrest.
- iv. **University Expulsion:** A permanent separation from the University. Students are prevented and prohibited from completing any academic progress towards a Wentworth degree including registering for coursework, attending classes, or being present in or on Wentworth property. Students are administratively withdrawn from their courses and therefore will not receive grades for their academic work for the semester the sanction is implemented. Students must also return their laptop to DTS immediately to avoid being charged the full value of the unit. A person's presence on Wentworth property upon being expelled will be viewed as trespassing and may be subject to arrest.
- v. **Additional Sanctions:** The following may be given in conjunction with any of the above:

- A. Loss of Privileges: Denial of specified privileges for a designated period of time.
- B. Restitution: Compensation for loss of or damage to University property or services rendered. This may take the form of appropriate service and/or monetary or material replacement.
- C. Educational Initiatives: Projects; participation in health or safety programs, including restorative justice workshops (the student may be required to pay a fee); service to the University or to the larger community; seminars; and other assignments as warranted.

c. Employee Respondent

If there is a finding of responsibility based on the preponderance of the evidence, the determination of sanctions and remedies will be made by the Decision-maker(s) in consultation with the Vice President of Human Resources or Provost.

d. Employee Sanctions

Disciplinary action may consist of a warning, reassignment, suspension, mandatory counseling, termination of employment and/or banning from campus or events. The disciplinary action taken will depend upon the seriousness of the violation and the totality of the circumstances. There is no particular sequence or level of disciplinary action. The concept of progressive discipline does not apply. The final disciplinary action taken as the result of an investigation is not shared with the person bringing forward the concern or complaint, except to the extent it involves prohibiting further contact.

An Employee Respondent covered by a collective bargaining agreement may challenge a sanction imposed under this Policy through the grievance and arbitration procedure contained in that collective bargaining agreement.

e. Remedies

Remedies are designed to restore or preserve equal access to the recipient's education program or activity. Such remedies may include Supportive Measures, however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent. The Title IX Coordinator is responsible for effective implementation of remedies.

XV. Appeals

The Complainant and Respondent have equal rights to an impartial appeal. The parties have five (5) business days from the date in which the parties are provided written determination of the determination of responsibility. All appeals will be referred to a trained Decision-maker(s) who shall have no other role in this process.

Only decisions reached through a hearing can be appealed. The parties will be notified in writing when an appeal is submitted. The parties are provided a reasonable, equal opportunity to submit a written statement in support of or challenging the outcome of the hearing.

Except as required to explain the basis of new information, an appeal shall be limited to a review of the investigation report and review finding. The review shall be for one or more of the following purposes:

- i. Procedural irregularity that affected the outcome;
- ii. New evidence that was not reasonably available when the determination of responsibility was made that could affect the outcome;
- iii. The Title IX Coordinator, investigator, or Decision-maker(s) had a general or specific conflict of interest or bias against the Complainant or Respondent that affected the outcome

The parties will receive a simultaneous written decision regarding the appeal describing the results of the appeal and the rationale for each result within five (5) business days after the conclusion of the review.

If the appeal is granted, the matter shall be either referred to the original hearing body for re-opening of the hearing to allow reconsideration of the original determination or the appellate administrator will determine any change in sanction. If an appeal is denied, the matter shall be considered final and binding upon all involved; except that an Employee Respondent covered by a collective bargaining agreement may challenge a sanction imposed as a result of a denial of appeal under this Policy through the grievance and arbitration procedure contained in that collective bargaining agreement.

XVI. Education, Prevention, and Awareness Programs and Training of University Officials

The University engages in comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to reduce and eliminate Prohibited Conduct or other forms of prohibited conduct which:

- are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research, or assessed for value, effectiveness, or outcome;
- consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community and societal levels;
- include primary prevention and awareness programs directed at incoming students and ongoing prevention and awareness campaigns directed at current students; and
- include programs focused risk reduction and bystander intervention.

Training of University Officials:

Title IX Coordinators, investigators, Decision-maker(s) and any person who facilitates an

informal resolution process will receive annual training on the following: the definition of sexual harassment, including an understanding of educational program or activity; how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes; how to serve impartially, including avoiding prejudgment about the facts at issue, conflicts of interest, and bias; the technology to be used at a live hearing; issues of relevance, including questioning, and investigative reports.

XVII. Disability Accommodations and Interpretive Services

Students with a disability who desire an accommodation regarding this Policy must request an accommodation by following the procedure for requesting an accommodation through The Center for Wellness. It is the individual's responsibility, and not that of a university official, to request an accommodation. The Center for Wellness will make a determination regarding the request and notify the appropriate parties. An Individual will not be considered to have a disability unless and until the student registers with the Center for Wellness. Please contact the Center for Wellness at 617-989-4390.

Employees with a disability who desire an accommodation regarding this Policy must request an accommodation with Human Resources.

Similarly, those in need of interpretive services are encouraged to contact the Center for Wellness at 617-989-4390 or Human Resources at 617-989-4190.

XVIII. Record Management

The University will keep for 7 years, the following:

All information obtained as part of each Prohibited Conduct investigation, including any determination regarding responsibility and any audio or audiovisual recording or transcript; any disciplinary sanctions and/or remedies; any appeal, including the result of the appeal; and any informal resolution and the result therefrom.

All information regarding any action taken, including supportive measures, and a rationale as to why a formal complaint was not filed. If a Complainant was not provided supportive measures, a rationale must be provided as to why supportive measures were not provided.

All training materials used to train Title IX Coordinators, investigators, decision makers, appellate administrators, and those who facilitate the informal resolution process will be available at <https://wit.edu/title-ix>.

Under federal privacy laws, documents prepared or compiled in accordance with a complaint under this policy constitute education records that may not be disclosed outside of the proceedings set forth in the policy, except as may be required or authorized by law.

Employee personnel files will not be disclosed except as may be required or authorized by law.

XIX. Revision and Interpretation

The Policy is maintained by the Office of the General Counsel and was most recently approved by President Mark A. Thompson on July __, 2020. The University reserves the right to review and update the Policy in accordance with changing legal requirements and specific needs of the University.

Any questions of interpretation regarding the Policy shall be referred to the Title IX Coordinator, or designee for determination. The Title IX Coordinator or designee's determination is final.

All reports received by the University after August 14, 2020 will be administered in accordance with the procedures described under this Policy.

XX. 1st Amendment Considerations

Nothing in this Policy shall be construed to penalize a member of the community for expressing an opinion, theory, or idea in the process of responsible teaching and learning.

Appendix A: Related Massachusetts Legal Definitions

Sexual/gender-based misconduct and interpersonal violence cases are governed in accordance with this Policy and not by Massachusetts state law. However, students who believe they have been the victim of a crime may choose to pursue a criminal investigation through local law enforcement in addition to the administration of the case by the University. In those instances, Massachusetts law applies. Below are the definitions of Massachusetts crimes related to sexual/ gender-based misconduct and interpersonal violence.

Domestic Violence: Massachusetts General Law chapter 209A, section 1 defines domestic abuse as “the occurrence of one or more of the following acts between family or household members: (a) attempting to cause or causing physical harm; (b) placing another in fear of imminent serious physical harm; (c) causing another to engage involuntarily in sexual relations by force, threat or duress.”

<http://www.malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter209A>

Dating Violence: Massachusetts does not have a law pertaining to violence that occurs between people in a dating relationship. Instead, Massachusetts General Law chapter 265, section 13A would apply: “an assault or an assault and battery: (i) upon another and [the perpetrator] by such assault and battery causes serious bodily injury; (ii) upon another who is pregnant at the time of such assault and battery, [the perpetrator] knowing or having reason to know that the person is pregnant; or (iii) upon another who [the perpetrator] knows has an outstanding temporary or permanent vacate, restraining or no-contact order or judgment issued pursuant to [applicable law], in effect against him at the time of such assault or assault and battery.”

<http://www.malegislature.gov/Laws/GeneralLaws/PartIV/TitleI/Chapter265/Section13a>

Sexual Assault: Massachusetts defines rape as (1) the penetration of any orifice by any body part or object (2) by force and (3) without consent. Rape also includes instances where the victim is incapacitated (“wholly insensible so as to be incapable of consenting”) and the perpetrator is aware of the incapacitation.

<http://www.malegislature.gov/Laws/GeneralLaws/PartIV/TitleI/Chapter265/Section22;>

<http://masscases.com/cases/sjc/450/450mass583.html>

Consent: The voluntary agreement, demonstrated by words or actions, by a person with sufficient mental capacity to make a conscious choice to do something proposed by another, free of duress. Commonwealth v. Lopez, 433 Mass. 722 (2001), Commonwealth v. Lefkowitz, 20 Mass. App. Ct. 513 (1985); see also:

<http://www.malegislature.gov/Laws/GeneralLaws/PartIV/TitleI/Chapter265/Section22>

Stalking: Massachusetts General Law chapter 265, section 43 defines “Stalking” as “(1) willfully and maliciously engag[ing] in a knowing pattern of conduct or series of acts over a period of time directed at a specific person which seriously alarms or annoys that person and would cause a reasonable person to suffer substantial emotional distress, and (2) mak[ing] a threat with the intent to place the person in imminent fear of death or bodily injury.”

<https://malegislature.gov/Laws/GeneralLaws/PartIV/TitleI/Chapter265/Section43>

Questions or complaints about the University's compliance with Title IX may also be addressed to U.S. Department of Education, Office for Civil Rights, 5 Post Office Square, Boston, MA 02109. Telephone: 617-289-0111.