

Dickinson

Title IX Part 1: Investigator Training

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Title IX and Sexual Respect Office
8/14/20



Dickinson College prohibits sexual and gender-based misconduct

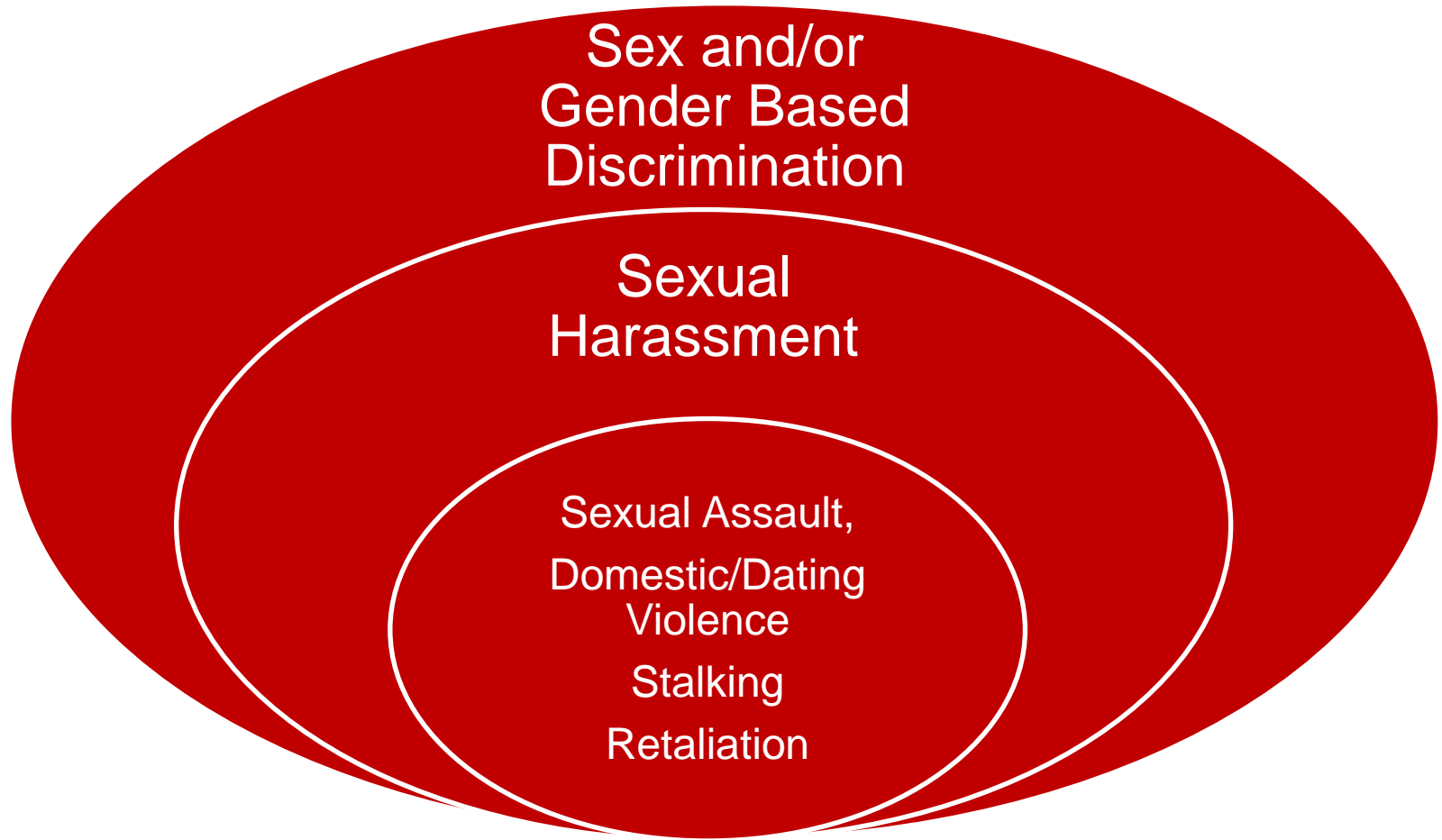


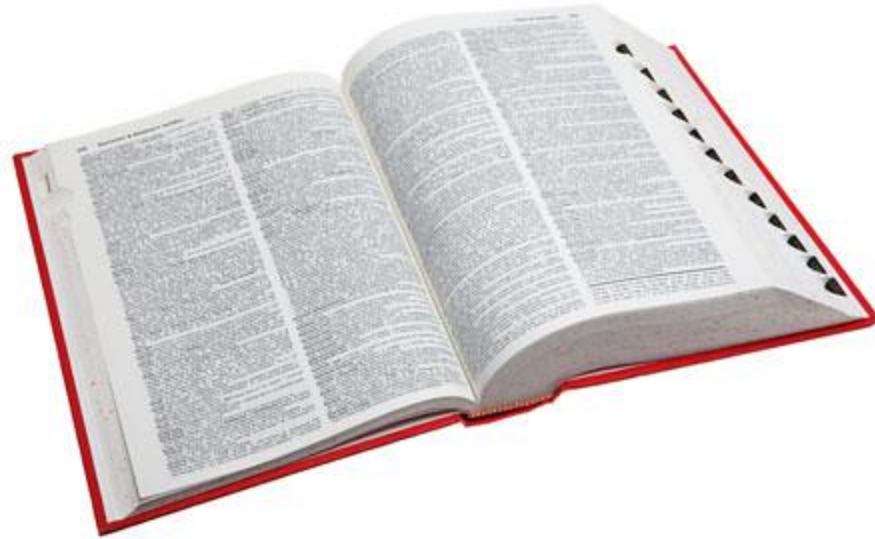
Title IX states –

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.



Dickinson College's Sexual Harassment and Misconduct Policy Covers





Policy and Definitions

Sexual Harassment

Sexual Harassment is conduct on the basis of sex that involves an employee of Dickinson College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct (Quid pro Quo); or an individual engaging in unwelcome conduct on the basis of sex as determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Dickinson College's education program or activity. Title IX Sexual Harassment also includes:

- Sexual Assault
 - Fondling
 - Incest
 - Statutory Rape
- Dating Violence
- Domestic Violence
- Stalking

As per Title IX regulations

- Sexual assault as defined in Clery Act (20 U.S.C. 1092(f)(6)(A)(v)),
- Dating Violence as defined in VAWA Act (34 U.S.C. 12291(a)(10)),
- Domestic Violence as defined in VAWA Act (34 U.S.C. 12291(a)(8)),
or
- Stalking as defined in VAWA Act (34 U.S.C. 12291(a)(30)).

Sexual Assault

Sexual Assault is the penetration or attempted penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration or attempted penetration by a sex organ of another person.

Fondling

Fondling is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim.

Incest

Incest is non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape

Statutory Rape is non-forcible sexual intercourse with a person who is under the statutory age of consent.

Dating Violence

Dating violence includes any act of violence or threatened act of violence, including sexual or physical abuse or the threat of such abuse, committed by a person who is or has been involved in a sexual or dating relationship with that person. It may involve one act or an ongoing pattern of behavior. Dating violence can encompass a broad range of behavior, including, but not limited to threats, assault, property damage, violence or threat of violence to oneself, one's sexual or romantic partner or to the family members or friends of the sexual or romantic partner.

Domestic Violence

Domestic violence includes any act of violence committed by a current or former spouse or intimate partner of the person; by a person with whom the individual shares a child in common; by a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner; by a person similarly situated to a spouse of the complainant; or by any other person against an adult or youth against whom the complainant is protected under Pennsylvania's domestic and family violence laws.

Stalking

Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or suffer substantial emotional distress. For the purposes of this definition, (a) course of conduct means two or more acts, including, but not limited to, acts in 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; (b) reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.; and (c) substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

What is Gender-Based Harassment?

Gender-Based Harassment is behavior consisting of:

- verbal,
- nonverbal,
- graphic,
- or physical aggression, intimidation, or hostile conduct

- based on sex, sex-stereotyping, sexual orientation, or gender identity.



Important Related Information

Consent is:

- *Informed*
- *Freely given*
- *Actively given*
- *Mutually understandable*



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Incapacitation

An individual who is incapacitated cannot consent to sexual activity.



Presumption of Good Faith Reporting

The College presumes that reports of Prohibited Conduct are made in good faith. A finding that the behavior at issue does not constitute a violation of this Policy or that there is insufficient evidence to conclude that the incident occurred as reported does not mean that the report was made in bad faith. All community members are expected to provide truthful information in any proceeding under this policy. Submitting or providing false or misleading information in bad faith, with a view to personal gain or to cause intentional harm to another in connection with a report or investigation under this policy is prohibited. A student who is found to have violated this provision may be found in violation of the Dishonesty provision of the Community Standards; an employee may be subject to appropriate discipline under the Employee Handbook or Academic Handbook.

Presumption of Non-Responsibility

The Respondent is presumed to be not responsible until a preponderance of the evidence supports a finding that the Respondent violated the Policy.

Privacy

Privacy generally means that information related to a report of sexual misconduct will only be shared with a limited circle of individuals. The use of this information is limited to those College employees who “need to know” in order to assist in the active review, investigation and/or resolution of the complaint. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process.

What is Retaliation?



Support Services

Support Services are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before, during or after the filing of a formal grievance complaint or where no formal grievance complaint has been filed. Such measures are designed to restore or preserve equal access to the College's educational program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment or deter sexual or gender-based harassment.

Support Services

The College maintains confidentiality, to the highest extent possible, for the Complainant or the Respondent regarding the requested supportive measures by either party.

Individuals who have experienced sexual or gender-based misconduct can request support services by contacting the Title IX Coordinator. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Support Services

- Mutual No-Contact Agreement
- Imposition of No-Contact Directive
- Providing counseling services and assistance in setting up an initial appointment
- Providing medical services
- Change in class schedule, including the ability to transfer course sections or drop a course without penalty
- Rescheduling of exams and assignments
- Change in work schedule or job assignment
- Change in living arrangements
- Providing an escort to ensure safe movement between classes and activities
- Voluntary leave of absence
- Increased security and monitoring of certain areas of the campus

Jurisdiction

The Title IX Coordinator will initiate an investigation when they are made aware of allegations of sexual harassment involving incoming and current students, faculty, and staff, individuals participating or attempting to participate in a Dickinson educational program or activity, as well as third parties, such as but not limited to independent contractors, vendors, visitors and guests whenever the College has actual knowledge of the misconduct and the misconduct occurs:

- Against a person in the United States;
- On Dickinson College property;
- Off Dickinson College property and within an education program or activity including locations, events, or circumstances over which the College exercises substantial control over both the respondent and the context in which the alleged sexual harassment occurs,
- In any building owned or controlled by a student organization that is officially recognized by the College irrespective of whether the building is on campus or off campus.



Jurisdiction

Q: What if the conduct falls outside of the jurisdictional requirements or does not meet the specific definitions outlined?



Jurisdiction

Q: What if the conduct falls outside of the jurisdictional requirements or does not meet the specific definitions outlined?

A: While this conduct may not be the subject of a formal investigation conducted under Title IX, the Title IX Coordinator can determine that the allegation should be referred to another office or department to review.



Hello
my name is

Parties and Roles



Who's Who *Parties*

Complainant: An individual(s) who is reported to have been subject to alleged sexual or gender-based misconduct and seeks a resolution process.

Respondent: The individual(s) or organization(s) who is alleged to have violated the Sexual Harassment and Misconduct policy and against whom a complaint has been brought to the attention of the College.



Who's Who

Investigators

Investigators are tasked with interviewing parties and witnesses, gathering facts, collecting evidence, and assembling an investigative packet.

Investigators do not favor any particular party and do not make determinations about whether the respondent is or should be found responsible for violating policy.

In most cases, the Investigation and Research Specialist will act as the lead investigator, and the Title IX Coordinator will appoint a second investigator. In some cases, the Title IX Coordinator may decide to engage an outside party as either the lead or second investigator.



Who's Who *Advisors*

An Advisor is an individual chosen by the Complainant or Respondent to provide support and guidance during the review of a report of Prohibited Conduct.

An Advisor may not be a witness or otherwise have any conflicting role in the process. An Advisor may be an advocate and/or an attorney. If a Complainant or Respondent does not have an Advisor for the Hearing, the College will select an Advisor of the College's choice.





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Formal Grievance Complaint



Formal Grievance Complaint

A Formal Grievance and Resolution process will occur when the Complainant or Title IX Coordinator signs a formal complaint alleging sexual or gender-based harassment against a Respondent, requests a formal grievance process and the allegations fall under the jurisdiction of the College and potentially violate the prohibited conduct under policy.



Notice of Investigation

After a formal complaint has been filed and an investigation has been initiated, the Title IX Coordinator will send a Notice of Investigation to the complainant and respondent informing both parties of the allegation and confirming that an investigation has been initiated.



Review the Notice Letters

As the Investigator you want to ensure that the alleged prohibited conduct definitions are included in the Notice letters.

As you progress through your investigation, if there is new additional information learned that would include additional allegations of prohibited conduct, you must inform the Title IX Coordinator so that another Notice letter with the allegations is sent to both the Complainant and Respondent.



Communication with parties

If parties send you an email with information or evidence, it is important for you to reply informing them that you have received the information.

As you work with parties, either the Complainant or Respondent or both may inform you of new information, such as potential retaliation or breach of No Communication/No Contact Directives. You must inform the Title IX Coordinator as soon as possible as the College is responsible to review, stop and remedy any such issues.





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Title IX Part 2: Investigator Training

Jared Boyer, Title IX Investigation and Research Specialist

Title IX and Sexual Respect Office

8/14/20



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Investigative Process

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Investigation

The investigators will interview the complainant, respondent, and witnesses to gather evidence. They may also attempt to collect physical evidence, such as communications between parties.

The complainant and respondent are both given the option to receive weekly updates on the progress of the investigation. These updates provide a sense of the investigation's timeline and progression, but do not include substantive information about facts gathered.



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Investigation

Investigators may interview anyone who they believe to have relevant information, including individuals who have no affiliation to the college. Witnesses may be suggested by the parties, or may be identified by investigators during the course of the investigation. Witnesses who have an affiliation with Dickinson will be advised that they are prohibited from retaliating against the parties. Expert witnesses can be contacted if investigators determine it is necessary in understanding the facts of the case.

Investigators may visit relevant sites or locations. Observations made during a site visit will be documented in the investigative packet.



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Evidence and Privilege

In general, medical records, including counseling records, are not available to investigators. An individual may decide voluntarily to waive this privilege. If such a waiver occurs, these records, or a relevant subset thereof, may be included in the investigative packet.



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Amnesty Protections

Students who share information with the College about sexual or gender-based misconduct allegations will not face disciplinary action due to the personal ingestion of alcohol or other drugs.

The College may choose, however, to pursue educational remedies, including assessment and counseling, for those individuals. Under limited circumstances, a student may be held accountable for other misconduct that resulted from personal ingestion of alcohol or other drugs and that was not directly related to the sexual or gender-based misconduct allegations in question; such violations will be reviewed in conduct proceedings separate from the proceedings under this policy.



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Evidence and Sexual History

The sexual history of a Complainant or Respondent will never be used to prove character or reputation. An investigation may consider prior or subsequent sexual history between the parties if it is determined that there was a prior or ongoing relationship between the Complainant and the Respondent and the Investigators are attempting to determine whether consent was sought and given.

However, whether someone consented on a prior or subsequent occasion is not evidence that the person consented on this occasion, and consent must be sought and given each time. Any prior or subsequent sexual history between the parties will only be used to help understand the manner and nature of communications between the parties and the context of the relationship.



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Equity Requirement

Investigators must treat parties equitably. This expectation does not require investigators to treat the party exactly equally under all circumstances, but rather to treat them fairly while considering their specific circumstances.



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Investigative Technique

During an interview, it is important to be mindful that the tone of a question can have an impact on the interviewee's answer.

Avoid questions that can be perceived as judgmental or argumentative. These will alienate the interviewee and may cause them to answer less completely or cease answering altogether.

Try to phrase the question in a way that will elicit the desired information without offending the interviewee.



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Investigative Technique

Avoid guessing or filling in answers for an interviewee.

It is not permissible to direct a party not to communicate with others about the allegation. However, it is advisable to explain how such a communication may be detrimental to the investigation and to the party's own interests.



Investigative Report

The investigators will complete an investigative packet which both parties will have an opportunity to review before it is finalized.

In general, the Investigator(s) may redact information that is irrelevant, more prejudicial than probative, or immaterial. The Investigator(s) may also redact statements that a reasonably prudent person would deem not germane to the ultimate goal of determining the facts and a potential policy violation. Consistent with FERPA or safety concerns, identifying information about the Complainant or witnesses may be redacted at the discretion of the Title IX Coordinator. The Title IX Coordinator will review the investigative packet for thoroughness and fairness. After this review, the packet will be sent to the complainant and the respondent.



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Investigative Report

The complainant, respondent and their advisors will have 10 days to review the a draft of the investigative packet. Before the end of the 10 day period, the parties can submit a written response.

In the written response, they can submit any additional comment or information to the Investigators, request changes to the packet, request further investigation and submit any additional questions they believe should be asked of the other parties or witnesses. The written responses will be added to the Investigation Packet in order for the Hearing Panel to objectively evaluate.



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Decorum

If a party's Advisor of choice refuses to comply with the College's behavioral expectations so as not to unduly disrupt the proceedings, the Chair of the Hearing Panel and/or Title IX Coordinator may stop the hearing process and require the party to use a different Advisor. The College may reschedule the Hearing in such circumstances.



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Decorum

Disruptive behavior includes, but is not limited to:

- Name-calling, using harassing or intimidating language
- Yelling, banging a table, kicking, stomping, or other similar acts of aggression/anger
- Repeating a question deemed irrelevant by the chair
- Asking an irrelevant question for the purpose of humiliating, intimidating or otherwise insulting an individual
- Engaging in loud or disruptive side-conversations, including an Advisor and Party
- Interrupting the flow of the hearing process

