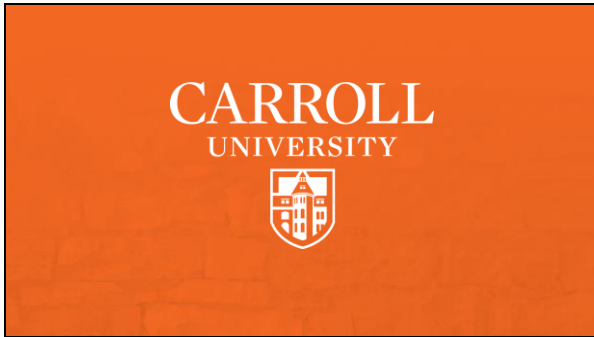
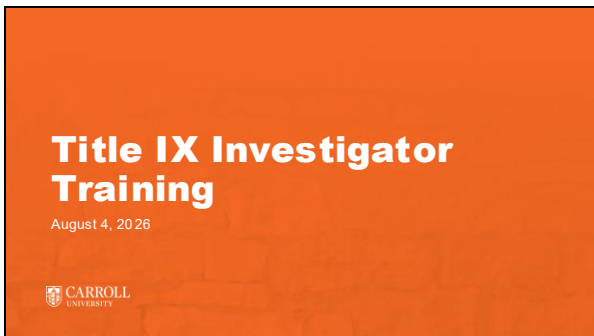








Scope of Title IX



Scope of Title IX – Sexual Harassment

- Sexual Harassment – conduct on the basis of sex that satisfies one or more of the following
 - **Quid pro quo** – An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct;
 - **Hostile Environment (SPOO)**– Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity; or
 - **Cleary crimes and VAWA Offenses** – Sexual assault, dating violence, domestic violence, or stalking

Scope of Title IX - Sexual Assault

- Sexual Assault (Defined in Carroll's Sexual Misconduct Policy)
 - **Rape** – Penetration, no matter how slight, of the vagina or anus of a person, with any body part or object, or oral penetration of a sex organ of the Complainant, or by the Respondent's sex organ, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of their age or because of a temporary or permanent mental or physical incapacity
 - **Fondling** – The intentional touching of the clothed or unclothed genitals, buttocks, groin, breasts, or other body parts of the Complainant by the Respondent, Without the consent of the Complainant, for the purpose of sexual degradation, sexual gratification, or sexual humiliation Or, the intentional touching by the Complainant of the Respondent's clothed or unclothed genitals, buttocks, groin, breasts, or other body parts, without the consent of the Complainant, for the purpose of sexual degradation, sexual gratification, or sexual humiliation.

Scope of Title IX - Sexual Assault - Sex Offenses

- **Sexual Assault** (Defined in Carroll's Sexual Misconduct Policy)
 - Sex Offenses
 - **Incest** – Sexual intercourse, between persons who are related to each other, within the degrees wherein marriage is prohibited by Wisconsin law.
 - **Statutory Rape** - Non-forcible sexual intercourse, with a person who is under the statutory age of consent of 18 years old.

Sexual Harassment – Dating & Domestic Violence

- **Dating Violence** – violence, on the basis of sex, committed by the respondent, who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
 - Existence of relationship determined based on
 - length of the relationship
 - type of relationship
 - frequency of interaction between the persons involved in the relationship.
 - Includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- **Domestic Violence** – violence, on the basis of sex, committed by a Respondent who is a current or former spouse or intimate partner,
 - by a person with whom the Complainant shares a child,
 - 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 under the domestic or family violence laws of Wisconsin,
 - or by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Wisconsin.

Sexual Harassment - Stalking

- **Stalking** is a Respondent engaging in a course of conduct, on the basis of sex, directed at the Complainant,
 - that would cause a reasonable person to fear for the person's safety, or
 - the safety of others; or
 - Suffer substantial emotional distress

NOTE – Must be sex-based stalking to qualify under Title IX. If not sex-based, would be dismissed to a different policy/process (Student Conduct, HR)

Sexual Harassment – Stalking Under VAWA Regulations

Course of Conduct
means two or more acts, including, but not limited to, acts in which the respondent 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.

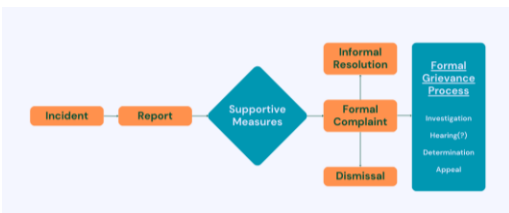
Reasonable Person
means a reasonable person under similar circumstances and with similar identities to the victim.

Substantial Emotional Distress
means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Title IX Policy & Process



Title IX Process



Formal Complaint Process

- A formal complaint is different than a report of sexual misconduct
- Filed by complainant OR signed by Title IX Coordinator
- Alleges prohibited conduct against a respondent and requests the University to investigate
- Once a formal complaint is filed, the following could occur
 - Informal Resolution
 - Formal Grievance Process (Investigation w/ Hearing)
 - Dismissal
 - Formal Complaint Withdrawn



Formal Grievance Process - Reminders

- We must follow our process as outlined in our policy
- We must treat complainant and respondent equitably
 - For example, both have access to supportive measures
- No disciplinary sanctions against the respondent can occur unless the grievance process has been completed and a determination made (presumption that respondent is not responsible)



Formal Grievance Process – Notice of Allegations

- First step to start the investigation process
 - At this point we typically have named our two investigators
- Notice is provided to both complainant and respondent simultaneously
- Notice of Allegations Outlines:
 - Grievance Process and Informal Resolution Process
 - Allegations
 - Typically includes the formal complaint
 - Right to have an advisor
 - Sanctions if founded



Investigation Process



Responsibilities of Investigators

Gather & Organize all relevant evidence

- Follow the formal grievance process
 - Title IX Coordinator provides guidance on process and resources
- Interview complainant and respondent
 - This can happen multiple times
 - Equal opportunity to collect names of witnesses and provide evidence
- Notetaking and creation of interview reports
- Creation of investigation report to be reviewed by both parties and utilized by decision maker
- Attend hearing held by decision-maker to answer any questions regarding the report and investigation



Avoiding Conflicts of Interest and Bias

- Maintain neutrality throughout investigation process
- Conflicts of interest
- Avoid and be aware of stereotypes
- Treat complainants and respondents equitably and provide equal opportunities to participate
- Disclose any connection or circumstance that could be actual or perceived bias

The role of the investigator is not to advocate, defend, or determine responsibility. The investigator's role is to gather, assess, and present relevant evidence in a fair, unbiased, and objective manner.



First Step – Review & Strategize

- Any notes and information from Title IX Coordinator
- Notice of Allegations
- Title IX Policy
- Scope of Investigation
 - What happened? What is agreed upon or disputed?
- Evidence List
 - Some may have been provided by complainant, or you may create a list of possible evidence you want to inquire about
- Witness List
 - Who and Why



Collecting Evidence

Examples of Evidence:

Electronic communications, security info, pictures, videos, police reports, prior complaints



Relevance and Impermissible Evidence

- Investigators gather relevant evidence
- Not all information obtained during an investigation is relevant.
- Questions regarding a complainant's sexual predisposition are generally not relevant. (does not apply to respondent)
- Questions regarding prior sexual behavior are generally not relevant. (does not apply to respondent)
- Exceptions may exist:
 - To prove someone other than the respondent committed the conduct
 - To prove consent between the parties.
- Investigators should document relevance determinations.



Witness List & Planning Ahead

- Create list of questions in advance of meeting with complainant, respondent, or witnesses
- Consider what information the individual may have and why they may have it
- Role of each investigator
 - Note taker vs Asking Questions
 - Combination?
- Prepare for Interview:
 - Know the allegations
 - Start a log to track investigation
 - List of questions
 - Evidence you may need to reference or show
 - Title IX Policy
 - Non Academic Release Form if not already on file
 - Mode of recording and transcription
 - Work with TIX Coordinator



Notetaking Tips

- Use symbols in margins for important info such as follow up questions (?), *(evidence), W (witness)
- Use initials or C, R, W1, W2, W3
- Record important quotes or the time they were said
- If only recording audio, is there specific actions you want the individual to describe out loud
- Remember – it is being recorded! You do not need to write down everything
- Tips from past investigations?



Interview Process

- Title IX Coordinator will work with you to schedule initial complainant and respondent interviews
- Investigators schedule interviews moving forward and communicate with parties and witnesses
- Title IX Coordinator will assist with individuals who do not respond and provide guidance for wording



Interview Flow

- Set the stage
 - Introduction, why they are here, ability to take breaks, any questions, and review retaliation policy
 - Time set aside for interview
 - FERPA Release & Advisors
- Start big picture or broadly
 - Review the incident
 - Walk us through your day leading up to the incident
 - In your own words, what happened?
- Follow your list of questions... or don't!
 - Skip around as comfortable to what makes sense or revisit questions that need further clarification
 - This is where note taking is important
 - Freeze!
 - Freeze on a moment and describe details
 - Think of your 5 senses
 - Describe the set up of the room
 - How close were you to the other person
 - Tone and body language observed



Reminder About Advisors

- Parties are entitled to an advisor of their choice, who may be an attorney
 - Encourage parties to consult with their advisor, and to use them to draft statements, etc., if they find it helpful
- Advisors can review documents in the same manner that the parties do
- Advisors should not be answering questions regarding the alleged conduct in interviews
- Encourage advisors to help with if breaks are needed or questions are unclear
- Must have signed FERPA release!



Credibility

- You are gathering facts for the decision-maker
- Ask questions if responses change or do not align with evidence or other interviews
- Are witnesses corroborating or contradicting themselves, other witnesses, or the evidence provided?

REMEMBER – Memory errors alone do not necessarily diminish witness credibility. We must be sensitive to potential trauma and how that impacts individuals.



Assessing Credibility

Credibility assessments should be based on:

- Corroboration
- Consistency
- Plausibility
- Detail
- Reliability of memory
- Opportunity to observe



Avoid:

- Assumptions based on sex
- Assumptions based on alcohol use
- Assumptions based on relationship status
- Assumptions based on delayed reporting

Trauma-Informed Interviewing

- Recognize that people respond differently to trauma
- Avoid assumptions about how someone should behave or respond
- Memory gaps, delayed reporting, or emotional responses do not automatically prove or disprove an allegation
- Investigators gather facts rather than diagnose trauma
- Trauma-informed interviewing supports equitable treatment of all parties



Consent & Carroll's Policy

Consent is:

- Knowing
- Voluntary
- Clear permission
- By word or action
- To engage in sexual activity



Key Principles for Investigators

- Investigators should examine:
 - Words used
 - Actions taken
 - Force
 - Coercion
 - Incapacitation
- Consent is specific to each sexual act.
- Consent can be withdrawn.
- Silence does not necessarily indicate consent
- Consent to one activity does **not** imply consent to another activity.
- A current or previous relationship is not, by itself, consent.
- The burden is not on either party to prove consent or non-consent.
- Consent should be evaluated based on the **totality of the circumstances**.

Consent Cont.

Key Principles for Investigators

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 - Words used, Actions taken, Force, Coercion, Incapacitation
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- Consent should be evaluated based on the **totality of the circumstances**.



Force vs Coercion

Force

Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation, or coercion intended to overcome resistance or produce consent.

Examples:

- Physical restraint
- Holding someone down
- Threatening physical harm
- Using intimidation to obtain compliance

Coercion

Coercion is unreasonable pressure for sexual activity. Coercion occurs when pressure continues after a person has indicated they do not want to engage in sexual activity or do not want to go beyond a certain point.

Examples:

- Repeatedly pressuring someone after they have said "no"
- Refusing to accept a person's decision to stop
- Persistent pressure designed to wear down resistance
- Using emotional manipulation to obtain participation



Consent in Question

Consent Construct:

1. Was **force** used by the Respondent to obtain sexual or intimate access?
 - Coercion included
2. Was the Complainant **incapacitated**?
3. What **clear words or actions** by the Complainant gave the Respondent permission for each specific sexual or intimate act that took place as it took place?



If you can answer **YES** to any of these three questions, there was not consent.

Before ending the interview

- Any final questions
- Request any potential evidence they have access to
- Review confidentiality and retaliation
- Review next steps and contact information



Post Interview Checklist

- Update investigation log
- Review your notes and make corrections or discuss with fellow investigator for clarification
- Update witness and/or evidence list
- Write down questions you thought of to ask others
- Complete interview summary and share with individual interviewed (10 days to review)



Interview Summary or Transcript

- After each interview, investigators should review notes and recording to create an interview summary or review/edit Transcript
- Use quotes when possible
- Include main topics or questions asked and answered
- Interview summaries many of times become the bulk of your report, use them in your favor!
- Your work now will save you time when drafting the investigation report



Investigation Report

- Can be written once investigation has concluded
- Interview summaries are incredibly helpful for this or if you noted specific quotes in transcripts
- Utilize template
- Summarize **facts**
- **Parties will receive a DRAFT report and then a FINAL report after feedback is provided**



Hearings

- Must provide a live, cross examination hearing
- Parties **MUST** have an advisor and University must provide advisor if the party does not have one
- Only advisors ask relevant cross- examination
 - Complainant and Respondent to not ask each other questions directly
- It can be virtual as long as recorded and transcribed
- Hearing Officer will oversee the process



Hearings & Decision-Making

- Make a finding
 - Decision-maker determines what occurred based on the standard of evidence
- Making a Final Determination
 - Decision-maker determines whether what occurred is a policy violation applying the standard of evidence
 - Consider each allegation individually for each Respondent
- Standard of Evidence
 - Carroll uses preponderance of the evidence standard



Standard of Proof - Preponderance



Written Determination

- Decision Maker will make a written determination that includes:
 - Procedures
 - Findings of fact
 - Conclusions
 - Statement of and rationale for each result of each allegation, including determination of responsibility
- Procedures and basis for appeal by both parties
- Written determination is sent to both parties simultaneously



Appeals

- Appeal option must be offered to both parties
- Bases of Appeal:
 - Procedural irregularity that affected outcome
 - New evidence not available earlier
 - Conflict of interest or bias by Coordinator, investigator, and/or decision-maker that affected the outcome
- Decision-maker from hearing cannot be the decision-maker for appeal
- Provide equal opportunity to submit statement in support of or challenging determination made
- Must issue a written decision with result of appeal and rationale



Informal Resolution



What is Informal Resolution?

- Voluntary, remedies-based, and structured process.
- Available only after a Formal Complaint has been filed.
- Requires:
 - Request by Complainant
 - Agreement by Respondent
 - Approval by Title IX Coordinator
 - Participation Agreement must be signed prior to beginning the process
- Not a finding of responsibility.
- May occur at any time before a final determination is reached.
- Either party may end the process before a resolution agreement is signed.



Role of Informal Resolution Facilitator

The facilitator is not:

- An investigator
- A decision-maker
- An advocate for either party
- Determining responsibility

The facilitator's role is to:

- Remain impartial & Avoid bias and conflicts of interest
- Help parties identify wants, needs, and concerns
- Identify interests and area of overlap between parties
- Explore possible resolutions
- Facilitate communication
- Draft any resulting agreement

Remember!

The goal is helping parties move forward with equal access to educational opportunities, not deciding who is right or wrong.

Facilitation Process

Step 1 - Meet separately with each party.

Step 2 - Explain the process

- o Voluntary
- o Ability to withdraw
- o Confidentiality expectations
- o Possible outcomes

Step 3 - Ask each party:

- o What do you want?
- o What do you need?
- o What would help you move forward?
- o What could you live with?

Step 4 - Look for overlap

Step 5 - Explore options

Step 6 - Develop and document an agreement if mutually acceptable terms are reached

Jordan and Taylor Meeting Notes

Jordan's Interests

- Continue participating in Bird Calling Club.
 - No direct contact from Taylor.
 - Acknowledgment that the interaction was unwelcome.
 - Feel comfortable on campus.
- Potential Areas of Overlap

Taylor's Interests

- Avoid a hearing.
- Continue involvement in Bird Calling Club.
- Clear expectations moving forward.
- No admission of responsibility.



Agreement to Participate in the Informal Resolution Process

Informal Resolution is a voluntary, mediated-based, structured process under Carroll's Title IX policy. It is not formal disciplinary action against a Respondent and focuses on the expressed needs of the harmed party(ies). The informal resolution process will only be used at the request of the Complainant, agreement of both the Complainant and Respondent, and as deemed appropriate by the Title IX Coordinator or designee.

TERMS OF THE RESOLUTION AGREEMENT AS MUTUALLY AND VOLUNTARILY AGREED UPON:

MEASURES MUTUALLY AGREED UPON AS RESOLUTION	COMPLETION DATE	FOLLOW UP EXPECTATIONS
No direct contact between Jordan and Taylor except for unavoidable academic or club matters.	Immediate	Report concerns to Title IX Office
Jordan and Taylor will attend club events without retaliation or interference.	Ongoing	Title IX Coordinator available for support and guidance
Taylor will complete Respectful Relationships educational coaching through Student Life	May 1, 2026	Completion verified by Student Life

Agreement Outcome

- Parties sign agreement
- Title IX Coordinator approves agreement
- Matter is resolved
- Formal Grievance Process ends
- Resolution Agreement maintained by the Title IX Office



Questions?