



Equal Opportunity Report and Response

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September 16, 2020

Dear Members of the University Community,

UW has revised its Title IX policies and procedures. These revisions provide for live hearings to decide allegations of sexual misconduct, and those live hearings can also be conducted virtually using technology. This new procedure is the result of new Title IX regulations that were issued by the U.S. Department of Education in May. These regulations are very lengthy and detailed (2083 pages!). Mainly, they seek to provide strong due process protections to those who are accused of sexual misconduct while also balancing the rights of those who experience sexual harassment, assault, dating violence, domestic violence, retaliation, and/or sex/gender discrimination.

You may have heard a lot about the new regulations from friends or on social media. Many people who have read them have mixed feelings about them. UW's goal to emphasize the best parts of the regulations while working to minimize the potentially negative impact of some of the more challenging provisions. We comply with all requirements, but there is some latitude for how schools interpret the new rules and how they are implemented. Importantly, the University provides a number of procedural protections that are important to all members of this community, including:

- Providing clear notice to anyone accused of misconduct along with a presumption of innocence;
- Protections and accountability for students and employees (including faculty and staff);
- Conducting a process that is very transparent to the participants, where all evidence is known and shared prior to any final decision;
- Providing a strong set of supportive measures to all parties that are designed to effectively bring an end to any hostile environment;
- Delivering resolutions to complaints as promptly as possible;
- Strong sanctions for violations of policy;
- Ensuring investigators and decision-makers are impartial and unbiased; and
- Appropriate informal resolution opportunities.

Significantly, the regulations leave it to schools to decide to be more protective than the law, and in that way, the University views the regulations as setting the floor of what we must do; we are aiming for the ceiling of best practices in as many ways as we can. You may have heard, for example, that the regulations permit cross-examination in the hearing, and many students and employees may have concerns about that. However, the University approach does not include direct questioning by one party of the other.

The process includes a hearing but isn't the same as an adversarial trial. In fact, nothing requires the parties to be in the same room with each other at all, and all parties have the right to an advisor of their choosing throughout the process. At the hearing, most questions are asked by a neutral decision-maker and if there are remaining questions, they are posed by the advisors to the parties, not the parties themselves. They are not posed directly, but instead are reviewed by the decision-maker who first determines whether the question is relevant and ensures that it is not abusive. This approach to

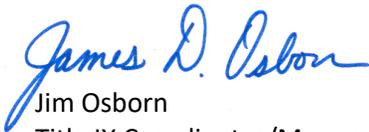
questioning is humane and trauma-informed, while also helping the decision-maker have access to all the information they need to make a fair decision.

While the new regulations mean many changes for the University's policies and procedures, what hasn't changed is our dedication to a process that respects the equal dignity of all members of the University community. We respect the right of someone who experiences sexual misconduct to process it in the way that is best for them and their healing process. We respect their right to choose to bring a report forward for formal resolution by the University, or to seek a response from the University that is primarily centered on supportive measures and resources available from UW and/or the larger community. Fair process is a priority, as is repairing harm and facilitating healing and safety for all members of the community irrespective of race, sex, gender identity/expression, age, ability, religion, socio-economic status, or the other qualities/identities that we value within a diverse community.

To learn more about the revised University policies and procedures, please visit the [ReportIt website](#). If you have questions about the process or wish to talk to someone about your options to report or seek support, please contact Equal Opportunity Report and Response (report-it@uwyo.edu, 766-5200).

Not every member of the community is going to be comfortable with the changes to the regulations, or to our policies and procedures. We understand that and welcome your voices and input as we strive to improve our Title IX program and be responsive to the concerns of the members of the UW community. We wish you a healthy and safe 2020-2021 school year and remind you that EORR (the Title IX office) is here for you if we are needed.

There are several lawsuits pending which seek delay or block implementation of some or all of the provisions in the 2020 Title IX Regulations. Should a court delay or block any *portion* of the 2020 Title IX Regulations, the College/University will make any necessary modifications, which could become effective immediately. If a court strikes down *all* of the regulations, the College/University may revert back to a previous version of its policies and procedures.



Jim Osborn

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