



**Elevating Gender Based Violence Prevention
At Central Washington University
December 28, 2022**

During the fall 2022 quarter, students, staff, and faculty have engaged the university administration in meaningful and impactful conversations regarding Central Washington University's prevention and handling of gender-based violence, including recommendations for changing policies and practices and providing resources that are trauma-informed and equity-centered.

Specifically, the administration has engaged the ASCWU Board of Directors, has listened to a variety of students, including the leadership of Cats Against Assault, and has worked with faculty and staff leadership groups to discern a pathway forward to elevate and improve our work in this area. As a result of these conversations, we have developed a shared governance work group, CWU Safe, that will convene beginning in the winter quarter to analyze our current work and make recommendations for improvement based on research, best practices, and the evolving landscape of federal law and regulation.

Additionally, several suggestions have been made by students that we have already resolved, but which may lead to additional study or examination by the CWU Safe Work Group; as we prepare to share more information about the work group after the new year, a summary of those recommendations and our actions on each is provided below.

Suggestion #1. Revise the retaliation section in CWU 2-35-050 Sexual Harassment policy for clarity with impactful consequences; work with the Office of Student Rights and Responsibilities to make certain that the policy is followed.

Suggested Revision to CWUP 2-35-050 Sexual Harassment.

(D) Retaliation against individuals covered by this policy who report allegations of sexual harassment, or who participate in an investigation is prohibited **and will not be tolerated. The university will hold individuals who retaliate accountable for their actions, up to and including dismissal.**

(E) Any employee found to have retaliated against individuals covered by the policy who report allegations of sexual harassment or who participate in an investigation will be subject to corrective action and/or disciplinary action, up to and including dismissal. **Individuals who are alleged to have retaliated may be suspended from employment while an investigation occurs.**

The President will be taking the suggested revised language (tracked above in red) through the policy revision process and ultimately to the University Policy Advisory Committee (UPAC) for approval (March 8, 2023). Additionally, the President has met with staff who work on Title IX,

Sexual Harassment, and Discrimination cases, including the Office of Student Rights and Responsibilities, to discuss our history with this work, where we are now, and how we will move forward. The meeting, which was held on Tuesday, December 13, 2022, emphasized the importance of all of our work in ensuring that we follow policies and create a safe campus.

Finally, this policy will be reviewed based on research and best practice by the Gender-based Violence Prevention work group that will launch in Winter 2023; the committee will have the opportunity to offer further suggestions for revisions.

Additionally, the policy on Student Discrimination Complaints will be reviewed and updated based on research and best practices. Specifically, the policy definition for retaliation leaves room for interpretation.

CWUR 3-45-010 Student Discrimination Complaint

(3) Retaliation and False Complaints

Filing a false complaint is considered to be serious misconduct and such offenses will be subject to the full range of applicable sanctions. A finding that discrimination did not occur will not in itself be the basis for a charge of false complaint.

The university aims to protect all participants in these proceedings from retaliation. Retaliation means harming, threatening, intimidating, coercing, or taking adverse action of any kind against a person because such person reported an alleged violation, provided information about an alleged violation, or participated in any capacity in a university investigation. Retaliating against participants in these proceedings is serious misconduct, and is subject to the full range of applicable sanctions.

The committee will investigate providing specific examples of what would be considered retaliation, including possibly such things as threatening to sue someone for reporting a crime, dropping a student's grade for reporting, etc.

Revisions of policies take time—sometimes as much as a year—as they must be vetted by various groups across campus. The workgroup will be asked to research how the language can be tightened up to make the consequences for retaliation clearer and impactful.

Suggestion #2. Investigate the possibility of offering free, accessible General Counsel to students and employees in Title IX and sexual harassment cases.

The President has worked with CWU's General Counsel, who works in the Attorney General's office, to investigate the possibility of this service. Based on this feedback, the most viable pathway is to institute a S&A Fee to provide this service. This would need to be taken to the ASCWU Board of Directors. The General Counsel provided the following information:

This is not something the Attorney General's office could do. The AGO represents client agencies and institutions. The office cannot represent students, faculty or staff in their individual capacities. CWU as an institution also could not itself provide legal representation for individuals,

in part because this would constitute an unlawful gift of public funds, but also because CWU lacks the statutory authority to provide legal representation apart from the representation provided by the AGO.

However, a legal aid program that provides representation for individual students could be funded through Services & Activities Fees approved by the S&A Fees Committee and Board of Trustees, *provided* that the program is not used to institute legal action against the university. The UW, for example, has a Student Legal Services program funded through S&A Fees. The program provides free legal advice and low hourly rates for students in a variety of areas (e.g., immigration, landlord/tenant, criminal law). However, UW Student Legal Services cannot represent a student when the opposing party is another UW student or a UW entity. Similar limitations would have to apply here.

An additional complication arises specifically with respect to Title IX/sexual harassment cases. In Title IX cases, any procedural rights and/or supportive services provided to one party must also be provided for the other party. So if S&A fees are used to provide legal representation for one party (presumably a student complainant), then S&A fees must also be used to provide legal representation for the responding party, who would be either another CWU student or a CWU employee, if not CWU itself.

Given these substantial limitations, I would have to conclude that providing free legal representation to individuals in Title IX cases is not a viable option.

If students would like to pursue this type of service, they would need to do so through instituting a new S&A Fee, which would also have to be approved by the Board of Trustees.

Suggestion #3. Offer students information on their rights at the outset of a case in writing. Provide a copy of the document that we share with students with feedback for suggested changes.

The Office of Civil Rights Compliance and Title IX does share a document with students at the initial intake of a case if they come into the office and meet face-to-face. If students prefer to complete their intake virtually, the document is provided as a PDF; a hard copy can be mailed to them if they would like one.

Students have offered suggested revisions to this document; these changes have been shared with those in Civil Rights who are responsible for the document. They will be considering these changes along with those suggested by the Gender Based Violence Prevention Workgroup in order to make further revisions.

Suggestion #4. Follow CWU timelines for resolving Title IX and Student Rights and Responsibilities cases. As noted in our procedures, any extension of timelines to our process may occur based on scheduled breaks, witness availability, law enforcement activity, etc. All parties will be notified of any extensions.

Every case that goes through our Title IX or Sexual Harassment process is different and depends upon the availability and desires of the claimant and respondent. In cases where there are no

delays on the part of the claimant, the respondent, or any witnesses, cases will be resolved within stated timelines. Any delays must be agreed upon by the claimant and respondent and documented in the process.

However, we must provide a trauma informed approach to this work, which means that we must be sensitive to the needs of those involved in an investigation. Often, delays occur because of the challenges of moving through an investigation, and we must be sensitive to the needs of our students as they go through this process.

If there are any requests for delays, those requests are documented as part of the process and clearly communicated to all those involved. Additionally, we have instituted a new practice where the Vice President of the division where an alleged offense has occurred must meet with the Title IX officer as soon as the complaint is filed; the Vice Presidents have been notified that we must treat this work with seriousness and follow all policies and procedures.

Suggestion #5: Provide a listing of all Title IX Training that is completed by the Director of the Office, investigators, and others involved in Title IX and sexual harassment.

Central Washington University uses the SUNY Student Conduct Institute for all training (<https://system.suny.edu/sci/>). Everyone in the compliance office (Director, investigators) along with others involved in these cases (President, VP for Student Engagement and Success, Director of Student Rights and Responsibilities, Director of Human Resources) is expected to complete the Title IX Compliance Learning Path Certificate on an annual basis. This includes completing the following modules.

- 2022-2023: What is Severe, Persistent, and Objectively Offensive Title IX Sexual Harassment?
- 2022-2023: Legal Framework for Understanding Conflicts of Interest and Bias
- 2022-2023: What Is Affirmative Consent?
- 2022-2023: Privacy, Confidentiality & Privilege in Disclosures of Sexual and Interpersonal Violence
- 2022-2023: Cultural Relevance and Inclusiveness, and Responding to Sexual and Interpersonal Violence on Campus
- 2022-2023: Due Process Part One: Theory and History
- 2022-2023: Understanding the Investigative Report Template for Investigations of Title IX Sexual Harassment
- 2022-2023: Title IX Final Rule Basics
- 2022-2023: Collecting and Understanding Specialized Evidence
- 2022-2023: No Contact Orders, Emergency Removals, and Interim Suspensions
- 2022-2023: Technology Basics - Information Security, Confidentiality, and Decorum
- 2022-2023: Effective Interviewing of Parties and Witnesses
- 2022-2023: Relevance and Decorum in a Title IX Hearing
- 2022-2023: Determining Relevance in Title IX Hearings: Part One
- 2022-2023: Cross-Examination in a Title IX Hearing
- 2022-2023: Neurobiology of Sexual Assault Trauma - Part 1: Introduction
- 2022-2023: Disability Law in Student Conduct Proceedings

Additionally, other individuals involved in Title IX cases completed modules relevant to their roles. These are the additional trainings that have been completed by the staff in the Title IX office during 2022 either through SUNY, Washington Bar association, Summitt Law, ASCA, NASPA, etc. Most of the listed trainings are half day or a full day long and some are multi day events.

Investigators

- SUNY Student Conduct Institute (SCI) Investigator Live Training (January 2022)
- SUNY Student Conduct Institute (SCI) Title IX Training for HR Professionals Training (April 2022)
- Social Justice Mediation Training – 40 hours (August 2022)
- SUNY Spectrum Conference – 2 days – (September 2022)
- SUNY Student Conduct Institute (SCI) Hazing Investigations (October 2022)
- SUNY Student Conduct Institute (SCI) Investigator Live Training (January 2022)
- WSBA Disability Justice 101 Continuing Legal Education (May 2022)
- ASCA Gehring Academy: Advanced Sexual Misconduct Live Training - 4 day training (July 2022)
- SUNY Spectrum Conference – 2 days – (September 2022)

Director

- Conducting Personnel Investigations – Summit Law Webinar (March 2022)
- Title IX & the Clery Act: Better Together (May 2022) –
- SUNY SCI – Virtual Annual Security workshop – Clery (July 2022)
- Culture of Respect – NASPA – Stalking: The Problem Lurking on College Campuses (August 2022)
- SUNY Spectrum Conference – 2 days – (September 2022)

Suggestion #6: Investigate the legality and possibility of instituting one-way no-contact orders against the respondent.

CWU’s General Counsel in the Attorney General’s office provided feedback on the legality of instituting one-way no-contact orders. This was his response:

In a word, no, although the decision to impose a one-way no contact order may be considered on a case-by-case basis. In Title IX parlance, a no-contact order is a “supportive measure,” defined as non-disciplinary, non-punitive services offered as appropriate, as further explained in CWU’s Supplemental Title IX Grievance Procedure, CWUR 3-45-061.

“**Supportive Measures**” are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or respondent regardless of whether the complainant or the Title IX Coordinator has filed a formal complaint. Supportive measures restore or preserve a party’s access to CWU’s education programs and activities without unreasonably burdening the other party, as determined through an interactive process between the Title IX Coordinator and the party. Supportive measures include measures designed to protect the safety of all parties and/or CWU’s educational environment and to deter sexual harassment or retaliation. Supportive measures may include, without limitation, (i) counseling and other medical assistance, (ii) extensions of deadlines or other course-related adjustments, (iii) modifications of work or class schedules, (iv) leaves of absence, (v) increased security or monitoring of certain areas of campus, and (vi) imposition of orders prohibiting the parties from contacting one another in education or employment situations. Determinations about whether to impose a one-way no contact order must be

made on a case-by-case basis. If supportive measures are not provided, the Title IX Coordinator must document in writing why this was clearly reasonable under the circumstances.

As a general rule, Title IX requires that supportive measures made available for one party must also be made available to the other party. A supportive measure, such as a no-contact order, must not unreasonably burden the other party, as determined through an interactive process between the Title IX Coordinator and the party. If a no-contact order is made available for one party, but not to the other, the Title IX Coordinator must document in writing why this was clearly reasonable under the circumstances.

The primary point here is that any supportive measure that is provided to one party must also be available to the other party. Without such equity, we would not be following the Final Rules propagated by the Trump administration.

Suggestion #7: The university may use suspension of an employee (faculty, staff, student) as a tool if the case warrants it while it is being investigated.

In the meeting on December 13 with all University individuals who are involved in Title IX and Sexual Harassment cases, the President made it clear that we can and will, if the situation warrants, suspend an employee who is accused of a Title IX or Sexual Harassment violation. It is likely the case that suspension can be used as a tool in particular cases, and CWU should determine which cases are appropriate for suspension. This will be part of the conversation between the Director of the office and the Vice President.

Beyond these specific suggestions, CWU has taken other steps to elevate this work and make certain it is collaborative and inclusive. These steps include:

Step #1. Involve a student in the search process for the Compliance Education specialist.

A portion of the Compliance Education specialist's role will be offering students the opportunity for a face-to-face intake for Title IX and sexual harassment cases. This individual will not be involved in investigations or the follow up process, which will be handled by the Compliance Office.

Briana Silva, ASCWU Director for Student Life and Facilities, has been a part of this search committee. She was an active participant in conducting initial Zoom interviews and selecting candidates for on campus interviews. She was also involved in determining the itinerary for the interview and then conducting the interview.

Step #2. Complete the search for a permanent Compliance Office Executive Director by July 1, 2023. Involve a student in the search process.

Working with ASCWU President, Luis Reyes, Briana Silva has been asked to join this search committee. The permanent Compliance Office Director will be required to be located on the Ellensburg campus.

Step #3. Convene a shared governance workgroup on gender-based violence prevention in order to elevate our work in this area through researching and instigating best practice.

The Gender Based Violence Prevention Workgroup charge has been developed and we have worked with shared governance leaders to nominate individuals to this committee. These individuals have been contacted about being on the committee. Once they confirm their participation, an email will be sent out to the university community.

Step #4. Develop clear and easily accessible communication for faculty, staff, and students about the resources available to students (and employees) for assistance in cases of assault, harassment, or other gender based violence instances.

Public Affairs will be working with the various offices and experts at the university to develop materials for easy display that will indicate where complainants can go for assistance of various kinds. We are also developing a website for the Gender Based Violence Prevention Group work.