

# TITLE IX TRAINING

Procedures for Addressing Prohibited Title IX  
Sexual Harassment at WSSU

*Winston-Salem State University*

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Office of General Counsel | Title IX Compliance

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## Training Agenda

1. Purpose & Scope of WSSU Procedures
2. Roles: Coordinator, Deputies & Reporters
3. Reporting Options & Supportive Measures
4. Prohibited Conduct Definitions
5. Formal Complaint & Dismissal Standards
6. Grievance Process: Investigation → Hearing → Decision
7. Appeals & Informal Resolution
8. Recordkeeping, Impartiality & Risk Areas
9. Practical Scenarios & Deputy Q&A

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## Purpose of WSSU Title IX Procedures

### Prompt & Equitable Response

- Timely resolution of all reports
- Equal treatment for all parties
- No presumption of guilt

### Safe & Inclusive Campus

- Prevent hostile environments
- Protect complainants & respondents
- Support community wellbeing

### Regulatory Compliance

- Federal Title IX (2020 Regs)
- UNC System Policy
- WSSU institutional obligations

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## Scope of Title IX at WSSU

Title IX applies when ALL five elements are met:

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### Location

Conduct occurred in the United States

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### Substantial Control

WSSU exercises substantial control over respondent or context

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### Nature of Conduct

The conduct must meet the regulatory definition of **Title IX sexual harassment.**

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### Program or Activity

Within WSSU's education program or activity

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### Applicable Complainant

Must be participating in or attempting to participate in the institution's education program or activity at the time of filing the complaint  
This includes:  
Current students  
Employees  
Applicants for admission or employment  
Individuals participating in institutional programs (including some visitors, depending on context)

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## Roles: Coordinator, Deputies & the Process

### Title IX Coordinator

- Oversees institutional compliance
- Files formal complaints when necessary
- Ensures training and recordkeeping
- Manages day-to-day intake and process
- Coordinates supportive measures
- Maintains impartiality and documentation

### Resource Coordinator

- Acts as a designee of the Coordinator
- Manages Title IX pregnancy accommodations
- Provides assist with supportive measures

### Investigator

- Conducts neutral fact-finding
- Interviews parties and witnesses
- Gathers and preserves evidence
- Drafts and shares investigation report

### Decision-Maker / Hearing Officer

- Presides over live hearing
- Rules on evidence relevance
- Issues written determination
- Must not have investigative role

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## Reporting Options

**Key Principle: Reporting ≠ Automatic Investigation**

### Report to Title IX Office

- Any time — no deadline
- Anonymous reports accepted
- Triggers Coordinator outreach
- Does NOT require formal complaint

### Report to Campus Safety

- Mandatory for Clery Act offenses
- Coordinates with Title IX Office
- May initiate parallel processes
- Criminal investigation is separate

### Confidential Resources

- Counseling Services
- Health Center providers

### External Options

- NC State & local law enforcement
- OCR Complaint (U.S. Dept. of Education)
- State Human Relations Commission
- Civil court remedies

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## Required Reporters vs. Confidential Employees

### REQUIRED REPORTERS

- All faculty and instructional staff
- Student affairs professionals
- Coaches and athletic staff
- Advisors, RAs, and student org advisors
- HR personnel and supervisors
- Must report: name, details, location & date
- Failure to report = institutional violation

### CONFIDENTIAL EMPLOYEES

- Licensed mental health counselors
- Health center medical providers
- Clergy / pastoral counselors (if designated)
- May share de-identified data for reporting
- Cannot be compelled to disclose details
- Exceptions: Imminent danger, mandatory abuse reporting
- Should clearly communicate limits of confidentiality

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## Supportive Measures

Non-disciplinary | Non-punitive | Available With OR Without a Formal Complaint

### Academic

- Class schedule changes
- Incomplete/withdrawal options
- Assignment extensions
- Alternative course formats

### Housing

- Room or hall reassignment
- No-contact orders
- Modified check-in procedures
- Transportation assistance

### Safety

- Campus escort services
- Security planning consultation
- Trespass or stay-away orders
- Increased campus safety presence

### Counseling & Support

- Mental health referrals
- Victim advocate connection
- Leave of absence guidance
- Academic advising priority

### Workplace (Employees)

- Work schedule adjustments
- Remote work options
- Transfer to alternate location
- Supervisory reassignment

### Communication

- No-contact directives
- Email/phone restriction orders
- Mutual or one-directional
- Breach triggers disciplinary review

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## Definitions of Prohibited Conduct

Title IX covers three categories of prohibited conduct:

### Quid Pro Quo Sexual Harassment

An employee conditions a term, condition, or privilege of education (or employment) on an individual's participation in unwelcome sexual conduct. This includes explicit or implicit conditioning.

### Hostile Environment Harassment

Unwelcome conduct determined by a reasonable person to be so severe, pervasive, AND objectively offensive that it effectively denies equal access to WSSU's education program or activity. All three prongs must be met.

### Clery Act Sexual Offenses

Sexual assault (rape, fondling, incest, statutory rape), dating violence, domestic violence, and stalking — as defined by the Clery Act and VAWA. These are covered regardless of severity/pervasiveness threshold.

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## Consent Framework

Consent must be:

Clear	Unambiguous agreement through words or actions
Voluntary	Freely given without pressure, manipulation, or force
Informed	Based on accurate information; not obtained through fraud
Active	Requires affirmative action — silence or passivity is not consent
Revocable	Can be withdrawn at any time; prior consent does not imply future consent

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Consent CANNOT be given when: under coercion | incapacitated by alcohol or drugs | below the age of consent | unconscious or asleep

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## Retaliation – Prohibition & Response

Retaliation against any person for participating in or opposing discrimination under Title IX is **PROHIBITED** and constitutes an independent violation.

What Constitutes Retaliation	Who Is Protected	Response
<ul style="list-style-type: none"> <li>• Adverse academic or employment action</li> <li>• Threats, intimidation, or harassment</li> <li>• Lowering grades or performance ratings</li> </ul>	<ul style="list-style-type: none"> <li>• Complainants and respondents</li> <li>• Witnesses and third-party reporters</li> <li>• Investigators and hearing officers</li> <li>• Anyone who exercises rights under Title IX</li> <li>• Advocates and support persons</li> </ul>	<ul style="list-style-type: none"> <li>• Document all retaliation concerns immediately</li> <li>• Treat as a new, separate complaint</li> <li>• Notify the Title IX Coordinator</li> <li>• Consider interim supportive measures</li> <li>• May require separate investigation</li> </ul>

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## Emergency Removal

Emergency removal requires an individualized safety analysis — it is **NOT** a disciplinary finding.

<b>1</b>	<p><b>Individualized Analysis</b></p> <p>Assess whether the respondent poses an immediate threat to physical health or safety of any student or other individual.</p>	<b>2</b>	<p><b>Threat Must Be Immediate</b></p> <p>Vague or speculative threats are insufficient. The threat must be present, concrete, and substantiated by evidence.</p>	<b>3</b>	<p><b>Document the Basis</b></p> <p>Record all facts, risk factors, and institutional reasoning supporting the removal decision before it is implemented.</p>
<b>4</b>		<b>5</b>			
		<p><b>Notice to Respondent</b></p> <p>Provide written notice of the removal and the basis for the decision immediately upon or before implementation.</p>	<p><b>Right to Challenge</b></p> <p>The respondent has the right to challenge the removal through a prompt process before an impartial decision-maker.</p>		

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## Filing a Formal Complaint

A formal complaint is a written, signed document requesting an investigation of alleged sexual harassment.

### Who May File

- The Complainant (with a physical or digital signature)
- The Title IX Coordinator — even over complainant's objection
- Coordinator must weigh safety, interests, and pattern evidence
- Third parties CANNOT file on behalf of another
- No time limit (but delay may affect evidence availability)

### When Coordinator Should File

- Respondent poses ongoing threat to campus safety
- Pattern of similar conduct by same respondent
- Complainant cannot participate (e.g., incapacitation)
- Conduct is particularly severe or widespread
- Document reasoning thoroughly regardless of decision

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## Mandatory vs. Discretionary Dismissal

When must WSSU dismiss a Title IX complaint — and when may it?

### MUST:

1. It would not constitute Sexual Harassment as defined under Title IX, even if proved,
2. It did not occur in the University's education program or activity,
3. It did not occur against a person in the United States.

### MAY:

1. A complainant notifies the Title IX Coordinator in writing that they would like to withdraw the formal complaint or any allegations in the complaint,
2. The respondent is no longer enrolled or employed by the University, or
3. Specific circumstances prevent the University from gathering sufficient evidence to reach a determination as to the formal complaint or allegations in the complaint.

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## Grievance Process Overview



### Presumption:

Respondent is presumed NOT responsible throughout the entire process.

### Standard of Proof:

Preponderance of the evidence (more likely than not).

### Timeframes:

WSSU must resolve complaints in a reasonably prompt manner; extensions require good cause and written notice.

### Documentation:

All steps must be documented; records retained for 7 years.

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## Investigation Process

### Initiation

- Provide written notice of allegations to all parties
- Include potential policy violations and standard of proof
- Advise of advisor rights and support resources
- Secure all relevant electronic evidence immediately

### Evidence Gathering

- Interview complainant, respondent, and witnesses
- Collect documents, records, and digital evidence
- Coordinate with campus safety as appropriate
- Preserve chain of custody for all evidence

### Party Review Period

- Share all evidence — inculpatory AND exculpatory
- Each party has 10 days to review and respond
- This is a NON-waivable due process requirement
- Responses must be incorporated into the report

### Investigation Report

- Summarizes evidence but does not make findings
- Shared with parties 10 days before hearing
- Parties may respond before the hearing
- Investigator may not serve as decision-maker

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## Live Hearing Requirements

### Live Hearing Required

All formal complaints must proceed to a live hearing. Hearings may be conducted virtually but must allow real-time participation.

### Advisor Conducts Cross-Examination

Cross-examination is conducted ONLY by advisors, not parties. If a party has no advisor, WSSU must appoint one. Direct cross by parties is prohibited.

### Hearing Officer Role

An impartial decision-maker presides. They may not have been involved in the investigation. They rule on relevance of all questions.

### Relevance Standard

All cross-examination questions are subject to a relevance determination. The hearing officer must explain in writing why a question is excluded.

### Recording & Transcript

All hearings must be recorded or transcribed. Parties must have access to the recording or transcript for appeal purposes.

### Separation Option

Parties may request physical separation during the hearing. Technology must allow real-time cross-examination and viewing of testimony.

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## Evidence Rules & Protections

### Relevance Standard

Only relevant evidence is admissible. The hearing officer determines relevance for all questions and evidence, and must provide written explanations for exclusions.

### Rape Shield Protection

Evidence of a complainant's prior sexual behavior or predisposition is NOT relevant and CANNOT be admitted — with narrow exceptions (to prove physical evidence from another source, or prior consensual behavior between the parties relevant to consent).

### Protected Counseling Records

Records made or maintained by a physician, psychologist, or counselor in connection with treatment are prohibited from use without the party's voluntary, written consent.

### Equal Access to Evidence

Both parties have equal rights to all evidence, including evidence that is both inculpatory and exculpatory. Evidence gathered that does not support the complaint must still be shared.

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## Standard of Proof & Written Determination

### PREPONDERANCE OF THE EVIDENCE

More likely than not (>50%) that the alleged conduct occurred as described — the same standard used in most civil proceedings.

#### Required Contents of the Written Determination:

- Identification of the allegations constituting potential Title IX violations
- Description of the procedural steps taken from receipt of complaint through determination
- Findings of fact supporting the determination for each allegation
- Conclusions regarding the application of WSSU policy to the facts
- Statement of — and rationale for — the determination for each allegation
- Sanctions imposed on the respondent (if any) and their rationale
- Remedies provided to the complainant (if any)
- Procedures and permissible bases for appeal

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## Sanctions & Remedies

Sanctions are imposed on the respondent. Remedies are provided to the complainant to restore equal access to education.

#### Student Sanctions (Range)

- Expulsion (permanent separation)
- Suspension (temporary, with conditions)
- Disciplinary probation
- Deferred suspension
- Educational programs / community service
- No-contact or behavioral conditions
- Loss of privileges (e.g., parking, athletics, study abroad)

#### Complainant Remedies

- Grade corrections or academic adjustments
- Transcript notation removal options
- Ongoing counseling or support services
- Housing re-assignment (if not already ordered)

#### Employee Sanctions (Range)

- Termination of employment
- Demotion or reduction in pay
- Suspension without pay
- Written warning or reprimand
- Mandatory training / counseling referral

#### Key Distinction

- Remedies do NOT depend on the respondent being found responsible
- Remedies can be ordered even after discretionary dismissal
- Always document remedies offered, accepted, and declined

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## Appeals Process

Both complainant and respondent have equal rights to appeal on the same grounds.

### 1. Procedural Irregularity

A procedural error affected the outcome of the matter. The error must be material — not every procedural deviation warrants reversal.

### 2. New Evidence

New evidence is available that was not reasonably available at the time of the determination and could affect the outcome. Must explain why it was unavailable.

### 3. Conflict of Interest or Bias

The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias that affected the outcome. Must be specific and substantiated.

*Appeal Outcome Options: Uphold determination / Modify sanction only / Remand for new hearing / Dismiss on procedural grounds*

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## Informal Resolution

### Voluntary

Both parties must voluntarily consent. Consent can be withdrawn at any time prior to completion, returning the matter to the formal grievance process.

### Prohibited Use ⚠

Informal resolution CANNOT be used when a WSSU employee is accused of sexual harassment against a student. There are no exceptions to this rule.

### Forms Available

Options include: mediated dialogue, restorative practices, accepted responsibility with agreed conditions, or mutual behavioral agreements.

### Documented Agreement

All informal resolution outcomes must be documented in a written agreement signed by both parties. File in Title IX records for 7 years.

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## Recordkeeping Requirements

WSSU must retain all Title IX records for 7 YEARS from the date of each action, determination, appeal decision, or informal resolution.

### Investigation Records

- All evidence gathered (inculpatory & exculpatory)
- Interview notes and party submissions
- Investigation reports (all drafts)
- Written determinations and rationales

### Appeal Records

- Appeal submissions from both parties
- Written appeal decisions with rationale
- Outcome letters and modification notices
- Hearing recordings or transcripts

### Supportive Measure Records

- All measures offered to both parties
- Measures accepted and measures declined
- Documentation of individualized analysis
- Any modifications to measures over time

### Training & Policy Records

- All training materials must be publicly available
- Post them on the WSSU Title IX website
- Retain all versions used in each calendar year
- Track who attended and when

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## Impartiality & Presumption of Non-Responsibility

The respondent is presumed NOT responsible for the alleged conduct until a determination is reached at the conclusion of the grievance process.

### No Predetermined Outcomes

Decision-makers and investigators must approach each matter with an open mind. Prior findings in similar cases do not create presumptions.

### No Conflicts of Interest

All individuals involved must disclose any prior relationship with either party, prior involvement in the matter, or institutional interest in a particular outcome.

### No Bias Against Any Party

Bias includes favoring or disfavoring complainants or respondents as a class. Training materials that advocate for one outcome are prohibited.

### Conflict of Interest Protocol

If a conflict is identified: disclose immediately, recuse from the matter, and document the reason for recusal in the case file.

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## Practical Scenarios: Applying Your Knowledge

### SCENARIO 1: Jurisdiction Analysis

A WSSU student reports that another student sexually assaulted her during spring break in a different state, at a private residence with no WSSU connection. The respondent is a WSSU student athlete.

→ Does WSSU have Title IX jurisdiction? What other options exist?

### SCENARIO 2: Supportive Measures

A complainant requests a no-contact order but also asks that WSSU not tell the respondent why the order was issued. The respondent and complainant share three classes and the same residence hall.

→ What supportive measures are appropriate? How do you balance confidentiality?

### SCENARIO 3: Retaliation Concern

Two weeks after a formal complaint is filed, the respondent's faculty advisor gives the complainant a failing grade on a previously graded assignment, claiming errors were not caught before.

→ Is this retaliation? How should the deputy respond?

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## High-Risk Areas

### Jurisdiction Misclassification

HIGH

Treating a matter as Title IX when it does not meet all five elements, or dismissing a matter that does qualify. Both create legal exposure.

### Failure to Provide Supportive Measures

HIGH

Not discussing or offering supportive measures at the initial contact with a complainant is a regulatory violation, even without a formal complaint.

### Procedural Due Process Errors

HIGH

Skipping the 10-day evidence review period, denying a party their advisor, or issuing a determination before the record is complete.

### Bias or Conflict of Interest

HIGH

Any prior relationship with a party or institutional pressure to reach a particular outcome must be disclosed and resolved through recusal.

### Inadequate Recordkeeping

MEDIUM

Incomplete records, missing evidence logs, or failure to retain materials for 7 years exposes WSSU to compliance sanctions and undermines future appeals.

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## Commitment

- Ensure every party receives equitable, impartial treatment
- Follow WSSU's procedures precisely — document every step
- Offer supportive measures at every initial contact
- Identify and disclose conflicts of interest immediately
- Maintain the presumption of non-responsibility throughout
- Treat every case as if it will be appealed — because it might be

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Questions? | Office of General Counsel | Title IX Compliance | Winston-Salem State University

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## Notice to Parties: Required Contents

Written notice must be provided BEFORE any investigative interview of either party.

### Notice of the Complaint

Sufficient details to allow the respondent to prepare a response — including date, time, location, and nature of the alleged conduct.

### Identity of Parties

Names of all parties involved, to the extent known at the time of filing. May be updated as investigation develops.

### Alleged Policy Violations

The specific provisions of WSSU's Title IX policy that the conduct is alleged to violate, cited precisely.

### Presumption of Non-Responsibility

A clear statement that the respondent is presumed not responsible until the conclusion of the grievance process.

### Right to an Advisor

Both parties may have an advisor of their choice, including an attorney. WSSU will appoint one if a party does not have one for the hearing.

### Right to Inspect Evidence

Both parties have the right to inspect and review all evidence gathered, inculpatory and exculpatory, before the investigation report is finalized.

### Anti-Retaliation Notice

WSSU prohibits retaliation against any person for participating in the Title IX grievance process.

### Prohibition on Dishonesty

WSSU's Code prohibits knowingly making false statements or submitting false information during the grievance process.

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## Advisor Rights & Roles

### ADVISORS MAY

- Accompany the party at any meeting or proceeding
- Review all evidence shared with the party
- Conduct cross-examination at the live hearing
- Consult privately with the party at any stage
- Review the investigation report before the hearing
- Submit questions to the hearing officer for relevance ruling

### ADVISORS MAY NOT

- Speak on behalf of the party during investigative interviews
- Obstruct or delay investigative proceedings
- Retaliate against any participant in the process

## Clery Act Intersection & Reporting Obligations

	TITLE IX	CLERY ACT
<b>Purpose</b>	Prohibit sex discrimination in federally funded education	Transparency: campus crime statistics & safety
<b>Triggering Events</b>	Quid pro quo, hostile environment, Clery sex offenses	Clery Act geography crimes (rape, stalking, DV, DA)
<b>Who Reports</b>	Title IX Coordinator	Campus Security Authorities (CSAs)
<b>Disclosure</b>	No public disclosure of individual cases	Annual Security Report; daily crime log
<b>Timing</b>	Prompt, equitable resolution (varies)	Annual report by Oct. 1; timely warnings as needed
<b>Confidentiality</b>	Strong privacy protections for parties	Statistical only; no names in ASR

## Special Situations & Circumstances

### Employee as Respondent

- Informal resolution is PROHIBITED
- HR must be notified and coordinated
- Coordinate with General Counsel on parallel processes

### Student-Athlete Cases

- Notify Athletics compliance staff of case status (no details)
- Eligibility decisions are separate from Title IX findings
- Avoid creating appearance of preferential treatment
- Document all coordination with Athletics

### Study Abroad / Off-Campus

- Title IX may apply to WSSU-sponsored programs abroad
- Assess substantial control carefully
- Coordinate with International Programs office

### Anonymous Complaints

- Evaluate whether Coordinator-initiated complaint is appropriate
- Consider pattern evidence from similar reports
- Assess campus safety risk independently
- Document decision-making thoroughly

### Cross-Complaints

- Both complaints proceed independently and simultaneously
- One investigator may handle both (document impartiality)
- Hearing officer must review both Outcomes may differ — explain clearly in determination

### Minor Complainants

- NC mandatory reporting obligations may be triggered
- Notify General Counsel immediately
- Family Educational Rights and Privacy Act (FERPA) implications
- Consider guardianship and representation issues

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## Working with Law Enforcement: Parallel Proceedings

WSSU's Title IX grievance process proceeds independently from any criminal investigation — regardless of whether charges are filed, declined, or pending.

### Do NOT Delay for Criminal Process

WSSU may not wait for the conclusion of a criminal investigation. Temporary delay is permissible for evidence-gathering coordination (document the basis and duration).

### Evidence Sharing Limits

Law enforcement evidence shared with WSSU must be used consistently with applicable privacy laws. FERPA may limit what WSSU can share in return.

### Clergy Act Timely Warning Coordination

If a Clergy Act offense is reported, coordinate with the Clergy compliance officer on whether a timely warning is required — separate from the Title IX response.

### Criminal Outcome ≠ Title IX Outcome

An acquittal or declined prosecution does not preclude a finding of responsibility under Title IX's preponderance standard. Explain this clearly to parties.

### Law Enforcement Requests

If outside law enforcement requests WSSU cooperation, consult with General Counsel before disclosing any case information. FERPA applies to student records.

### Victims' Rights Coordination

North Carolina's Crime Victims' Rights Act may provide the complainant with rights in the criminal process. Refer to campus victim advocate for coordination.

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## Documentation Best Practices

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### Document in Real Time

Record actions, decisions, and communications as they occur — not from memory days later. Real-time notes are more credible and defensible.

2

### Use Objective Language

Describe conduct and statements factually. Avoid characterizations like 'victim' or 'perpetrator' before a finding. Use 'complainant' and 'respondent' consistently.

3

### Record What Was Offered — Not Just Accepted

Document every supportive measure discussed with each party, including measures the party declined. A declined measure is still a documented offer.

4

### Preserve All Communications

Retain all emails, texts, and written communications with parties, advisors, and witnesses. These are part of the case record and subject to 7-year retention.

5

### Document Extension Requests

Any extension of the resolution timeline must be documented with the reason, the new deadline, and notice to both parties in writing.

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### Separate Files for Each Matter

Maintain a dedicated, secure case file for each complaint. Do not commingle records across cases. Restrict access to those with a need to know.

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## Confidentiality vs. Privacy: Key Distinctions

### CONFIDENTIALITY

**What it means:** Information will NOT be shared without consent.

**Who can promise it:**

ONLY designated confidential employees (counselors, health providers).

Exceptions exist for: imminent danger, mandatory child abuse reporting, and court orders.

**Title IX staff CANNOT promise confidentiality.**

*They cannot promise confidentiality but will protect privacy to the extent possible.*

### PRIVACY

**What it means:** Information will be shared only on a need-to-know basis.

**Who controls it:**

WSSU — as required by FERPA and Title IX regulations.

**FERPA protects:**

Student education records, including Title IX case records.

**What deputies should share:**

Only what is necessary for the investigation, supportive measures, or institutional safety.

**What Title IX Staff must NOT share:**

*Case details with faculty, other students, or anyone without a direct role in the process.*

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## Self-Audit Checklist: Case Closure Review

### Intake & Notice

- Written notice of allegations provided to both parties before any investigative interview
- Parties advised of right to advisor, evidence review, and anti-retaliation policy
- Supportive measures discussed with complainant at initial contact
- Initial contact documented in case file

### Investigation

- All evidence — inculpatory and exculpatory — gathered and preserved
- 10-day evidence review period completed; party responses incorporated
- Investigation report shared with parties at least 10 days before hearing
- No conflicts of interest identified; if identified, recusal documented

### Hearing & Determination

- Live hearing conducted; recording or transcript made and retained
- All cross-examination questions ruled on by hearing officer with reasons documented
- Written determination includes all required elements (findings, rationale, sanctions, remedies, appeal rights)
- Determination letter simultaneously provided to both parties

### Post-Determination

- Appeal rights communicated in the determination letter
- Any appeals processed on permitted grounds only; outcome documented
- Sanctions implemented and remedies provided to complainant
- All records placed in secure case file; 7-year retention confirmed