University of Wisconsin – Eau Claire
Sexual Violence and Sexual Harassment Policy

Policy Statement: UW-Eau Claire is committed to creating and maintaining a community environment that is free from sexual violence and sexual harassment.

Purpose and Scope of Policy: This policy prohibits acts of sexual violence and sexual harassment on university property, at university-sanctioned or university-affiliated events, and where off-campus conduct affects a member of the university community. This policy applies to all university students and employees. The university is committed to educating its community and to promptly and effectively respond to and redress conduct that violates this policy. This policy provides the UW-Eau Claire community with information and resources to identify, report, and respond to sexual violence and sexual harassment including sexual assault, stalking, and dating and domestic violence. These efforts support the overall missions of UW-Eau Claire and the UW System.

Title IX Statement: Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq., prohibits discrimination on the basis of sex in any educational program or activity receiving federal financial assistance.

I. Definitions
Complainant. Any individual who is reported to have been subjected to sexual harassment, sexual assault, dating violence, domestic violence, or stalking, as defined in the relevant Administrative Code provisions or policies. See, e.g., Chs. UWS 4.015 (faculty), UWS 11.015 (academic staff), and UWS 17.02(2m) (students).

Confidential Employee. Any employee, who is a licensed medical, clinical, or mental health professional, when acting in that role in the provision of services to a patient or client who is a university student or employee. A Confidential Employee will not report specific information concerning a report of sexual violence or sexual harassment received by that Employee in the Employee’s professional capacity unless with the consent of the reporting individual or unless required by the Employee’s license or by law.

Confidential Resource. Individuals or agencies in the community, whose professional license or certification permits that individual or agency to preserve the confidentiality of the patient or client.

Consent. Words or overt actions by a person who is competent to give informed consent, indicating a freely given agreement to have sexual intercourse or sexual contact. A person is unable to give consent if the person is incapacitated because of drugs, alcohol, physical or intellectual disability, or unconsciousness [Wis. Stat. § 940.225(4)].

Dating Violence. Violence committed in a “dating relationship,” which is defined as a romantic or intimate social relationship between two adult individuals; “dating relationship” does not include a casual relationship or an ordinary fraternization between two individuals in a business or social context. A court shall determine if a dating relationship existed by considering the length of the relationship, the type of the relationship, and the frequency of the interaction between the adult individuals involved in the relationship [Wis. Stat. § 813.12(1)(a)].

Domestic Violence. Any of the following engaged in by an adult family member or adult household member against another adult family member or adult household member, by an adult caregiver against an adult who is under the caregiver’s care, by an adult against his or her adult former spouse, by an adult
against an adult with whom the individual has or had a dating relationship, or by an adult against an adult with whom the person has a child in common [Wis. Stat. §§ 813.12 (1)(am), 968.075]:

1. Intentional infliction of physical pain, physical injury, or illness.
2. Intentional impairment of physical condition.
3. A violation of the state statute regarding sexual assault [Wis. Stat. § 940.225(1), (2) or (3)].
4. A violation of the state statute regarding stalking [Wis. Stat. § 940.32].
5. A violation of the state statute regarding damage to property [Wis. Stat. § 943.01], involving property that belongs to the individual.
6. A threat to engage in any of the conduct under 1 through 5 listed above [Wis. Stat. §§ 813.12 (1)(am), 968.075].

**Employee.** Any individual who holds a faculty, academic staff, university staff, limited, student employment, employee-in-training, temporary, or project appointment. (See, e.g., UPS Operational Policy, GEN 0, General Terms and Definitions (https://www.wisconsin.edu/ohrwd/download/policies/ops/gen0.pdf))

**Executive Order 54.** Executive Order issued by Governor Walker in 2011 requiring that university employees report incidents of child abuse and neglect which they observe or witness in the course of their employment. Such reports must be personally and immediately made to law enforcement or the county department of social services or human services. (https://docs.legis.wisconsin.gov/code/executive_orders/2011_scott_walker/2011-54.pdf)

**Hostile Environment.** A hostile work, academic, or program-related environment is created when one engages in harassment that consists of unwelcome verbal or physical conduct directed at another individual because of that individual’s gender, and that has the purpose or effect of creating an intimidating, hostile, or offensive work, academic, or program-related environment or has the purpose or effect of substantially interfering with that individual’s work or academic performance. Substantial interference with an employee’s work or academic performance or creation of an intimidating, hostile, or offensive work, academic, or program-related environment is established when the conduct is such that a reasonable person under the same circumstances as the student or employee would consider the conduct sufficiently severe or pervasive to interfere substantially with the person’s work or academic performance or to create an intimidating, hostile, or offensive work or learning environment. [See, e.g., Wis. Stat. § 111.36(1)(b)]

**Incapacitation.** As it applies to this policy, the state of being unable to physically and/or mentally make informed rational judgments and effectively communicate, and may include unconsciousness, sleep, or blackouts, and may result from the use of alcohol or other drugs. Where alcohol or other drugs are involved, evaluation of incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects a person’s decision-making ability; awareness of consequences; ability to make informed, rational judgments; capacity to appreciate the nature and quality of the act; or level of consciousness. The assessment is based on objectively and reasonably apparent indications of incapacitation when viewed from the perspective of a sober, reasonable person.

**Office for Civil Rights.** The U.S. Department of Education office that is responsible for enforcing Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and other education-based discrimination acts. http://www2.ed.gov/about/offices/list/ocr/complaints-how.html

**Preponderance of the Evidence.** Information that would persuade a reasonable person that a proposition is more probably true than not true. It is a lower standard of proof than “clear and convincing evidence” and is the minimum standard for a finding of responsibility. [Wisconsin Administrative Code §§ UWS 17.02(13), UWS 11.015(7), UWS 4.015(7), UWS 7.015(5)]
Respondent. A student who is accused of violating a policy under Chapter UWS 17, Wis. Admin. Code, or an employee who is accused of violating a policy under Chapters UWS 4, 7, or 11, Wis. Admin. Code.

Responsible Employee. Any employee (other than a “confidential resource”):
- Who has the authority to take action to redress sexual misconduct;
- Who has been given the duty of reporting incidents of sexual misconduct by students or employees to the Title IX coordinator or other appropriate school designee; or

Retaliation. An adverse action taken against an individual in response to, motivated by, or in connection with an individual’s complaint of discrimination or discriminatory harassment, participation in an investigation of such complaint, and/or opposition of discrimination or discriminatory harassment in the educational or workplace setting.

Sex Discrimination. Discrimination on the basis of sex or gender. Sexual harassment and sexual assault are forms of sex discrimination. [See 20 USC §§ 1681-1688]

Sexual Assault. Sexual contact or sexual intercourse with another person without the consent of that person. Wisconsin Law (Wis. Stat. § 940.225) provides:
- Engaging in any of the following constitutes First Degree Sexual Assault:
  - Sexual contact or sexual intercourse with another person without consent of that person and that causes pregnancy or great bodily harm to that person.
  - Sexual contact or sexual intercourse with another person without consent of that person by use or threat of use of a dangerous weapon or any article used or fashioned in a manner to lead the victim reasonably to believe it to be a dangerous weapon.
  - Sexual contact or sexual intercourse with another person without the consent of that person by use or threat of force or violence, aided or abetted by one or more persons.
  - Engaging in any of the following constitutes Second Degree Sexual Assault:
    - Sexual contact or sexual intercourse with another person without consent of that person by use or threat of force or violence.
    - Sexual contact or sexual intercourse with another person without consent of that person causing injury, illness, disease or impairment of a sexual or reproductive organ, or mental anguish requiring psychiatric care for the victim.
    - Sexual contact or sexual intercourse with a person who suffers from a mental illness or deficiency which renders that person temporarily or permanently incapable of appraising the person’s conduct, and the defendant knows of such condition.
    - Sexual contact or sexual intercourse with a person who is under the influence of an intoxicant to a degree which renders that person incapable of giving consent if the defendant has actual knowledge that the person is incapable of giving consent and the defendant has the purpose to have sexual contact or sexual intercourse with the person while the person is incapable of giving consent.
    - Sexual contact or sexual intercourse with a person who the defendant knows is unconscious.
    - Sexual contact or sexual intercourse with another person without the consent of that person, aided or abetted by one or more other persons.
  - Sexual intercourse with a person without the consent of that person constitutes Third Degree Sexual Assault.
  - Sexual contact with a person without the consent of that person constitutes Fourth Degree Sexual Assault.
**Sexual Contact.** Intentional touching, whether direct or through clothing, if that intentional touching is for the purpose of sexually degrading or sexually humiliating the complainant or sexually arousing or gratifying the defendant or if the touching contains the elements of actual or attempted battery under Wis. Stat. § 940.19(1) or § 940.225(5)(b)(1)

**Sexual Harassment.** Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment or educational experience, (2) submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such an individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual’s work or academic performance or creating an intimidating, hostile, or offensive working or learning environment. [Adapted from 29 C.F.R. § 1604.11 (1980)].

**Sexual Intercourse.** Penetration, as well as cunnilingus, fellatio or anal intercourse between persons or any other intrusion, however slight, of any part of a person’s body or of any object into the genital or anal opening either by the defendant or upon the defendant’s instruction [§ 940.225(5)(c), Wis. Stats.].

**Sexual Violence.** The phrase, as used in this policy, refers to incidents involving sexual assault, sexual harassment, stalking, dating violence, and domestic violence.

**Stalking.** Intentionally engaging in a course of conduct that would cause a reasonable person under the same circumstances to suffer serious emotional distress or to fear bodily injury to or the death of himself or herself or a member of his or her family or household [§. 940.32, Wis. Stats.].

**Student.** “Student” means any person who is registered for study in a University of Wisconsin System institution for the academic period in which the alleged act of sexual violence or sexual harassment occurred, or between academic periods for continuing students. [See Wis. Admin. Code UWS 17.02(14).]

**Title IX.** Title IX of the Education Amendments of 1972 (20 U.S.C. sec. 1681 et seq.; 34 C.F.R. Part 106)(as amended) is a federal law that states, “[n]o 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.” 20 U.S.C. § 1681(a).

**Title IX Coordinator (and Deputies).** An employee designated to coordinate compliance with Title IX, who plays an an important role in an institution’s efforts to ensure equitable opportunity for all students and employees, and who works with school officials to remind the school community that students and employees must have equal access to all programs. (Adapted and revised from April 24, 2015, “Dear Colleague Letter” available at http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201504-title-ix-coordinators.pdf).

**Trauma-Informed Care.** Trauma-informed care reflects an understanding of trauma and emphasizes creating services and programs that are sensitive and directly responsive to the trauma that many victims and survivors experience following a violent crime. Trauma-informed care programs identify and limit potential triggers to reduce their re-traumatization and protect their mental and emotional health. [https://www.justice.gov/ovw/blog/importance-understanding-trauma-informed-care-and-self-care-victim-service-providers]. Trauma-informed care is an organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma. Trauma-informed care also emphasizes physical, psychological and emotional safety for both consumers and providers, and helps survivors rebuild a sense of control and empowerment. See

Violence Against Women Act (VAWA). Federal law enacted in 1994, which promotes the investigation and prosecution of violent crimes against women, among other objectives. Recently, it affected amendments to the Clery Act [42 U.S.C. §§ 13701-14040], through the Campus Sexual Violence Elimination Act (SaVE) provision, Section 304.

II. Role and Duties of University Officials and Employees
A. Chancellor
The Chancellor is ultimately responsible for institutional Title IX compliance, and delegates to the Title IX Coordinator and other campus personnel as appropriate.

B. Title IX Coordinator
The Title IX Coordinator oversees campus efforts to comply with Title IX. Duties of the Title IX Coordinator include: Receiving reports of sexual violence and sexual harassment; investigating or delegating investigation of allegations of sexual violence and sexual harassment; maintaining appropriate records; providing or supporting the provision of appropriate education and training; maintaining ongoing communication with any Deputy Title IX Coordinators and the Title IX Committee; ensuring that applicable policies, resources, and other information is up-to-date and properly disseminated. The duties of the Title IX Coordinator are guided by principles of trauma-informed care.

C. Title IX Committee
The Title IX Committee at UW- Eau Claire is appointed by the Chancellor and chaired by the Title IX Coordinator. The committee meets at least once per semester and provides guidance to the Title IX Coordinator and to other campus administration and personnel as appropriate. The committee discusses policy implementation and revision, trainings and educational programming, campus climate, and other issues pertinent to Title IX on campus.

D. Responsible Employees
A responsible employee includes any employee who has the authority to take action to redress sexual violence, who has been given the duty of reporting incidents of sexual violence or any other misconduct, or whom a student could reasonably believe has this authority or duty. Responsible employees are trained to:

- Be familiar with definitions of sexual violence and sexual harassment.
- Be familiar with this and other related policies.
- Be prepared to respond should an individual report an incident of sexual violence or sexual harassment.
- Be familiar with resources on campus to which to refer a reporting individual.
- UW-Eau Claire has designated individuals in the following titles and work areas as responsible employees:
  - Chancellor
  - Provost,
  - Vice Chancellors
  - Assistant Chancellors,
  - Associate Vice Chancellors,
  - Deans,
  - Department Chairs
  - Unit Directors
  - Title IX Coordinator and Deputy Title IX Coordinators
  - Dean of Students (including Assistant Dean of Students and Student Assistance Coordinator
• Supervisors of Student Employees
• Academic Advisors
• Head and Assistant Coaches of athletic teams
• Hall Directors,
• Resident Assistants,
• Faculty Advisors to Student Organizations
• Blugold Beginnings College Coaches, and
• University Police officers.

E. All Employees
In accordance with § 36.11(22), Wis. Stats., employees who witness an act of sexual assault, or who receive a first-hand report of sexual assault from an enrolled student, must report that information to the Office of the Dean of Students. Confidential employees, described below, are only required to report the occurrence of the sexual assault.

All employees must comply with Executive Order 54 which requires that university employees report incidents of child abuse and neglect which they observe or learn of in the course of their employment. Such reports must be personally and immediately made to law enforcement or the county department of social services or human services.

UW-Eau Claire EO 54 Information: http://www.uwec.edu/Affirm/policies/mandatoryreporting.htm
UW System EO 54 Training: http://wcwpds.wisc.edu/mandatedreporter/index.html

III. Reporting an Incident of Sexual Violence or Sexual Harassment
A. Reporting Options
Those who have been subjected to an incident of sexual violence or sexual harassment, or who have received a report of or witnessed an incident of sexual violence or sexual harassment, have several options for reporting the incident. They may:

• Elect not to report (unless the individual is an employee who has information about a sexual assault as described in II.D. above)

• Report to a confidential employee:
  Center for Awareness of Sexual Assault
  (715) 836-HELP (4357)
  casa@uwec.edu | 2119 Old Library

  Counseling Services
  (715) 836-5521 | Old Library 2122

  Student Health Services
  (715) 836-5360
  shs@uwec.edu | 150 Crest Wellness Center

• Report to the campus Title IX Coordinator or Deputy Title IX Coordinator:
  Director of Affirmative Action and Title IX Coordinator
  (715) 836-2387
  affirm01@uwec.edu | 212 Schofield Hall

  Dean of Students and Deputy Title IX Coordinator
  (715) 836-5626
  dos@uwec.ecu | 204 Schofield Hall
• Report to campus law enforcement:
  University Police
  police@uwec.edu
  (715) 836-2222 | 119 Crest Wellness Center

• Report to local law enforcement:
  Eau Claire Police
  (715) 839-4972

  Eau Claire County Sheriff
  (715) 839-4701
  (715) 839-4709

• File a complaint with the U.S. Department of Education, Office for Civil
  Rights: http://www2.ed.gov/about/offices/list/ocr/docs/howto.html

  Note: Individuals may report or file with one or more of the offices or individuals above.

B. Amnesty for Students

  Complainants, victims, and witnesses to incidents of sexual violence, including sexual assault, will not be
  issued citations or subject to disciplinary sanctions for violations of university policy at or near the time of
  the incident unless the institution determines that the violation was egregious, including actions that place
  the health or safety of any other person at risk.

C. Confidentiality

  Individuals, including victims, who report to any of the offices or individuals noted above, or to any other
  university employee, except those noted below, cannot be assured absolute confidentiality. However,
  information provided in the report and in any subsequent, related proceeding will be maintained in a
  confidential manner; only those individuals who have a need to know to fulfill obligations consistent with
  university policies or laws will be privy to certain information.

D. Resources and Accommodations

  1. Accommodations
  
  The university will work with individuals involved in alleged incidents of sexual violence and sexual
  harassment to undertake appropriate measures to assist in their safety and wellbeing. These may
  include: no-contact directives, academic or work modifications, and relocation of living or working space.

  2. Resources
  
  The university offers a variety of resources that are available to individuals involved in incidents of sexual
  violence or sexual harassment, including the following:

    Center for Awareness of Sexual Assault
    (715) 836-HELP (4357)
    casa@uwec.edu | 2119 Old Library

    Student Health Services
    (715) 836-5360
    shs@uwec.edu | 150 Crest Wellness Center

    Counseling Services
    (715) 836-5521
    Old Library 2122
E. Procedures

1. When a report is made to the Title IX Coordinator alleging that a student has engaged in an act of sexual violence or sexual harassment, the procedures in Wisconsin Administrative Code UWS 17, apply: [https://docs.legis.wisconsin.gov/code/admin_code/uws/17](https://docs.legis.wisconsin.gov/code/admin_code/uws/17)

2. When a report is made to the Title IX Coordinator alleging that an employee has engaged in an act of sexual violence or sexual harassment, the procedures linked here apply: [https://www.uwec.edu/Affirm/policies/discriminationpolicy.htm](https://www.uwec.edu/Affirm/policies/discriminationpolicy.htm). Additionally, Wisconsin Administrative Code Chapters UWS 4, 6, and 7 will apply for faculty and Chapters UWS 11 and 13 will apply for Academic Staff.

3. When a report is made to University Police alleging that an individual has engaged in an act of sexual violence or sexual harassment, the procedures linked here apply: [http://www.uwec.edu/Police/](http://www.uwec.edu/Police/)

4. When a report is made to Eau Claire City Police or Eau Claire County Sheriff alleging that an individual has engaged in an act of sexual violence or sexual harassment, the procedures linked here apply: [http://www.ci.eau-claire.wi.us/departments/police-department](http://www.ci.eau-claire.wi.us/departments/police-department), [http://www.co.eau-claire.wi.us/departments/departments-l-z/sheriff](http://www.co.eau-claire.wi.us/departments/departments-l-z/sheriff)

5. When a report is made to more than one of the offices noted above, the offices will endeavor to cooperate as they are able. Attempts will be made to limit the number of times a complainant or respondent is required to repeat information about the allegations.

F. Prompt Resolution

The offices and individuals receiving a report of sexual assault or sexual harassment will endeavor to resolve the matter in a timely manner, with consideration to available information and context.

1. Potential Sanctions
   The procedures identified above provide for disciplinary action against staff members and students who are found responsible for violating University policy. Such sanctions may include restrictions on a course or program, suspension, expulsion, suspension and dismissal from academic duties. Chapter UWS 17.10, Wis. Admin. Code and UW-Eau Claire's Residence Hall Judicial Code provide a more comprehensive list of potential sanctions against students. Employee sanctions may include suspension from duties and dismissal.

2. Notice of Outcome
   Both the complainant and the respondent will be provided with notice of the outcome of the final resolution of the complaint.

G. Prohibition Against Retaliation

This policy prohibits retaliation against an individual who reports, assists an individual in reporting, or participates in proceedings involving an allegation of sexual violence or sexual harassment. Retaliation under this policy includes threats, intimidation, or adverse employment/academic actions. Those who believe they have been subjected to retaliation under this section may report the allegations to the Title IX Coordinator or Deputy, campus law enforcement, or local law enforcement. (See contact information above.)

H. False Accusations

Knowingly making a material misstatement of fact in connection with reporting under this policy may subject the individual to disciplinary action. Anyone who believes that they have been the subject of a false complaint may meet with the Title IX Coordinator to discuss the allegations. The filing of a complaint that does not result in a finding of prohibited conduct is not alone evidence of the intent to file a false complaint.
IV. Education and Training
The Title IX Coordinator will be primarily responsible for facilitating the training and educational programs to the campus community. At a minimum, all students and employees will be required to complete the campus-supported on-line training covering issues of sexual violence and sexual harassment.

The Chancellor or designee will identify and offer more in-depth training for employees who are executives, supervisors, managers, directors, department heads, responsible employees, and those connected with the disciplinary process.

V. Record Keeping and Data Collection
As noted above, the Title IX Coordinator will maintain records of reports of sexual violence and sexual harassment consistent with the institutional records-retention policy. In addition, the Title IX Coordinator will track compliance with mandatory training programs, and maintain a list of training and education offered on campus.

The UW-Eau Claire Police Department or other appropriate office will collect, maintain, and submit the Annual Security Report, consistent with the federal Clery Act.

The Office of the Dean of Students, or other appropriate office, will collect appropriate data and compile the state report required under § 36.11(22), Wis. Stats.

VI. Assessment
UW-Eau Claire will periodically conduct a study that seeks to gather data and information concerning sexual violence and harassment on or near campus. Efforts will be made to conduct such a study once every three years. All students and employees are encouraged to participate. The campus will also work to design methods for effectively evaluating the outcomes of campus training and educational programming. It is imperative that UW System institutions proactively integrate empirically informed assessment and evaluations into sexual violence and harassment prevention and awareness programs to measure whether they are achieving the intended outcomes.