

Approval Date August 13, 2020

Steward Title IX Coordinator

Approval Authority Senior Leadership Group

Signature File

[Policy Approval Form Title IX 2020.pdf](#)

Previous Version [Sexual Harassment and Sexual Misconduct - archived](#)

Categories

[Administration](#)

[Employees](#)

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Full Text of the Policy

A. Purpose

The Evergreen State College (Evergreen) is committed to maintaining and strengthening an educational and employment environment founded on civility and mutual respect without regard to a person's sex, sexual orientation, gender identity or gender expression. While Evergreen's ultimate goal is to prevent sexual harassment through education and the development of a sense of community, Evergreen acknowledges that these prohibited behaviors can occur.

Evergreen recognizes its responsibility to investigate, resolve, implement corrective measures, and monitor the educational environment and workplace to stop, remediate, and prevent discrimination on the basis of sex, as required by Title IX of the Educational Amendments of 1972, Title VII of the Civil Rights Act of 1964, the Violence Against Women Reauthorization Act, and Washington State's Law Against Discrimination, and their implementing regulations. To this end, Evergreen has enacted this Title IX policy and procedure for receiving and investigating Sexual Harassment allegations arising during education programs and activities. Any individual found responsible for violating Evergreen's Title IX policy is subject to disciplinary action up to and including dismissal from Evergreen's education programs and activities and/or termination of employment.

effectively denies a person equal access to Evergreen's education programs or activio

of such a relationship shall be determined based on a consideration of the following factors:

1. The length of the relationship;
- 2.

investigations.

g. Engaging in an interactive process with both parties to identify and provide supportive measures that ensure during the investigation and disciplinary processes that the parties have equitable access to education programs and activities and are protected from further discrimination or retaliation.

h. Upon completion of an investigation, issuing or administering the issuance of a final investigation report to the parties and the appropriate disciplinary authority in compliance with this Title IX policy and procedure.

i. Assigning a Decision Maker or Decision Makers for the grievance procedure, if applicable.

j. Recommending non-disciplinary corrective measures to stop, remediate, and/or prevent recurrence of discriminatory conduct to disciplinary authorities and other Evergreen administrators.

k. Serving as Steward to the Title IX policy and procedure, disseminating it to the larger campus community, and updating it as needed and applicable.

C. Prevention and Training

Evergreen will regularly provide education and training aimed to: (1) promote student and employee awareness about and prevent sexual harassment (2) to equip those responsible to respond, report, and address sexual harassment. A notice will be disseminated annually to the campus community with information on the Title IX policy and procedure, Non-Discrimination policy, Code of Student Rights and Responsibilities, and information on how to file a complaint.

D. Responsible Employees and Officials with Authority

Under this policy, Evergreen designates all staff (with the exception of temporary hourly employees and those confidential resources identified below), all faculty, and student resident assistants as Responsible Employees.

All Responsible Employees have a mandatory duty to immediately report, as indicated in Section E, all details known to them regarding behaviors

that might constitute Sexual Harassment or Retaliation. Information to report includes, but is not limited to, the identities of the parties, and knowledge of the events. Failure to immediately report shall be deemed a violation of this policy. Responsible Employees may report knowledge to any Official with Authority.

Officials with Authority are individuals designated by Evergreen to receive complaints of alleged Title IX violations. Under this policy, Evergreen designates an Official with Authority as three individuals on campus: the Title IX Coordinator, the Affirmative Action and Equal Opportunity Officer, and the Senior Student Conduct Official. Any person wishing to make a complaint of sexual harassment should report to any of the three individuals, or report via the options in Section E.

E. Reporting and Filing a Complaint

Anyone experiencing, witnessing, or having knowledge of a potential Title IX violation can report in the following ways:

1. In person, via email, or telephone to an

johnslo@evergreen.edu

3 0-8 7- 298

1. Police Services: If there is an immediate threat of safety, please contact Police Services or 9-1-1. Police Services are located in Seminar 1, 2150. Their non-emergency line: 3 0-8 7- 832.

2. Online Incident Report Form: The online reporting form allows for anonymous reporting. Please note that Responsible Employees must provide their own contact information when reporting knowledge. The Title IX Report Form can be found on the Title IX website at evergreen.edu/titleix, or through the direct link: https://evergreen-advocate.symplicity.com/titleix_report/index.php/pid03_332?

Confidential Resource : Evergreen has designated several individuals on-campus as confidential, meaning they are not Responsible Employees and are not obligated to report any knowledge of an alleged Title IX violation to an Offi

www.safeplaceolympia.org

1 Pierce County Sexual Assault Center for Pierce County (off-campus)

2 Hour helpline: 253- 7 -7273

Office: 253-597- 2

1. Washington State Employee Assistance Program (off-campus)

1222 State Ave NE, Ste. 201, Olympia, WA 9850

3 0- 07-9 90

<https://des.wa.gov/services/hr-finance/washington-state-employee-assistance-program-eap>

F. Principles for Title IX Grievance Procedure

18 The responsible party shall be presumed responsible for the alleged misconduct unless or until a determination of responsibility is rendered

from present ~~XXXXXX~~/
and breaks; cooperation with a
process; reasonable requests from parties; disciplinary
obtaining evidence as applicable; multiple ~~XXXXXX~~(s) and/or
the region ~~XXXXXX~~ion. ~~XXXXXX~~ e the pan, ~~XXXXXX~~ e
Respondent(s) and coordination of the process. Good cause supporting a
request for an extension includes, but is not limited to: a party, a party's
advisor, or a witness being unavailable, concurrent law enforcement
activity, and the need for language assistance or accommodation of
disabilities. Parties will receive the notice of any temporary delay or
proceeding against students respond ~~lt~~/~~XXXX~~/
respondent for good cause with an explanation of why the action was
~~XXXXXX~~ responsible for e p Harassment say

. A Respondent found responsible for engaging in Sexual Assault may
receive discipline up to and including dismissal from Evergreen. A
description of other possible disciplinary sanctions and conditions that
may be imposed against students can be found in WAC 17 -VAU ?ff

- d. privileges applicable to medical providers, mental health therapists, and counselors;
- e. privileges applicable to sexual assault and domestic violence advocates; and
- f. Other legal privileges identified in RCW 5.00.00.

G. Title IX Administrators – Free from bias – Training requirements

1. Title IX Administrators shall perform their duties free from bias or conflicts.
2. Title IX Administrators shall undergo training on the following topics:
 1. The definition of Sexual H

I. Confidentiality

1. Evergreen will seek to protect the privacy of the Complainant to the fullest extent possible, consistent with the legal obligation to investigate, take appropriate remedial and/or disciplinary action, and comply with the federal and state law, as well as Evergreen policies and procedures. Although Evergreen will attempt to honor Complainants' requests for confidentiality, it cannot guarantee complete confidentiality. Determinations regarding how to handle requests for confidentiality will be made by the Title IX Coordinator.
2. The Title IX Coordinator will inform and attempt to obtain consent from the Complainant before commencing an investigation of alleged Sexual Harassment. If a Complainant asks that their name not be revealed to the Respondent or that Evergreen not investigate the allegation, the Title IX Coordinator will inform the Complainant that maintaining confidentiality may limit Evergreen's ability to fully respond to the allegations and that retaliation by the Respondent and/or others is prohibited. If the Complainant still insists that their name not be disclosed or that Evergreen not investigate, the Title IX Coordinator will determine whether Evergreen can honor the request and at the same time maintain a safe and nondiscriminatory environment for all members of the Evergreen community, including the Complainant. Factors to be weighed during this determination may include, but are not limited to:
 - a. The seriousness of the alleged Sexual Harassment;
 - b. The age of the Complainant;
 - c. Whether the Sexual Harassment was perpetrated with a weapon or other dangerous means;
 - d. Whether the Respondent has a history of committing acts of Sexual Harassment or violence or has been the subject of other Sexual Harassment or violence complaints or findings;
 - e. Whether the Respondent threatened to commit additional acts of Sexual Harassment or violence against the Complainant or others; and
 - f. Whether relevant evidence about the alleged incident can be obtained

through other means (e.g., security cameras, other witnesses, physical evidence).

1. If Evergreen is unable to honor a Complainant's request for confidentiality, the Title IX Coordinator will notify the Complainant of the decision and ensure that the Complainant's identity is disclosed only to the extent reasonably necessary to effectively conduct and complete the investigation in compliance with this procedure.
2. If Evergreen decides not to conduct an investigation or take disciplinary action because of a request for confidentiality, the Title IX Coordinator will evaluate whether other measures are available to address the circumstances giving rise to the complaint and prevent their recurrence, and implement such measures if reasonably feasible.

J. Co [redacted]

Responding party(ies) may explore remedies or resolution through:

- Guided conversations or communications conducted by the Title IX Coordinator / HRO representative or a mutually agreed upon third party;
- Structured resolution process conducted by a trained mediator; or
- Voluntarily agreed on alterations to either or both of the parties' work or class schedules, on-campus activities, or student housing arrangements.

If the parties agree to an informal resolution process, Evergreen will commence the process within 1 business days after the parties agree to this option and conclude within 30 business days of beginning that process, subject to reasonable delays and extensions for good cause shown. ☐

L. Investigation Notices

Upon receiving a Formal Complaint and determining that allegations comport with Title IX claims, Evergreen will provide the parties with the following notices containing the following information:

1. Notice of the formal and informal resolution processes. A description of Evergreen's grievance resolution procedures, including the informal resolution procedure.
2. The Title IX Coordinator will serve the Respondent and the Complainant with a Notice of Investigation in advance of the initial interview with the Respondent to allow the Respondent sufficient time to prepare a response to the allegations and to inform the Complainant that Evergreen has accepted an investigation. The investigation notice will:
 1. Include the identities of the parties (if known), a description of the conduct alleged constituting Title IX S^a

consolidate

Evergreen. Parties may continue to use the assigned Advisor

prohibited and may constitute retaliation in violation of this policy.

Q. False Claims

A person who knowingly makes false allegations of sexual harassment under this Title IX policy and procedure, or who knowingly provides false information in a Title IX procedure shall be subject to disciplinary action.

R. Disciplinary Process

For Title IX Disciplinary processes with a student Respondent, Appendix A of this policy and procedure outlines the Disciplinary procedures. For Title IX Disciplinary procedures with an employee Respondent, Appendix B of this policy outlines the Disciplinary procedures.

In cases where a Dismissal from Title IX /~~XXXXXX~~ff©d,c

(5) Education program or Activity includes locations, events, or circumstances over which Evergreen exercised substantial control over both the Respondent and the context in which the alleged Sexual Harassment occurred. It also includes any building owned or controlled by a student org

1. Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

WAC _____

Evergreen will be conducting the cross-examination of parties and witnesses. The full names and contact information for all advisors selected by the parties to appear at the Hearing must be submitted to the Hearing Panel Chair at least five (5) days before the Hearing.

3. A party may choose to have an attorney serve as their Advisor at the party's own expense. This right will be waived unless, at least five (5) days before the hearing, the attorney files a notice of appearance with the Hearing Panel Chair, with copies to all parties and the Student Conduct Official.

Parties may also select an individual to serve as emotional support during the hearing. This individual will not have a formal role in the hearing, and will serve the purpose of providing care and emotional support for the party.

5. In preparation for the hearing, the parties will have equal access to all evidence gathered by the investigator during the investigation, regardless of whether Evergreen intends to offer the evidence at the hearing.

WAC 174-123-420 Rights of Parties

1. The Evergreen State College's Code of Student Rights and Responsibilities, WAC 174-123, and this supplemental procedure shall apply equally to all parties.
2. Evergreen has the burden of offering and presenting sufficient testimony and evidence to establish that the Respondent is responsible for a Title IX violation by a preponderance of the evidence.
3. The Respondent will be presumed not responsible until such time as the disciplinary process has been finally resolved.
During the hearing, each party shall be represented by advisors. The parties are entitled to advisors of their own choosing and the Advisor may be an attorney. If a party does not choose a process Advisor, then the Title IX Coordinator will appoint a process Advisor of Evergreen's choosing on the party's behalf at no expense to the party.

WAC 174-123-430 Evidence

The introduction and consideration of evidence during the hearing is subject to the following procedures and restrictions:

1. Relevance: The Hearing Chair shall review all questions for relevance and shall explain on the record their reasons for excluding any question based on lack of relevance.
2. Relevance means that information elicited by the question makes facts in dispute more or less likely to be true.

3. Questions or evidence about a Complainant's sexual predisposition or prior sexual behavior are not relevant and must be excluded, unless such question or evidence:

a. Is asked or offered to prove someone other than the Responde

In addition to complying with WAC 174-123-310, the Hearing Panel will be responsible for conferring and drafting an Initial Order that:

1. Identifies the allegations of Sexual Harassment;
2. Describes the grievance and disciplinary procedures, starting with filing of the Formal Complaint and through determination of responsibility, including notices to parties, interviews with witnesses and parties, site visits, methods used to gather evidence, and hearings held;
3. Makes findings of fact supporting the determination of responsibility for each charge;
 - . Reaches conclusions as to whether the facts establish whether the Respondent is responsible for engaging in Sexual Harassment in violation of Title IX;
5. Contains a statement of, and rationale for, the Hearing Panel's determination of responsibility for each allegation;
1. Describes any disciplinary sanction or conditions imposed against the Respondent, if any;
7. Describes to what extent, if any, the Complainant is entitled to remedies designed to restore or preserve the Complainant's equal access to Evergreen's education programs or activities; and
8. Describes the process for appealing the Initial Order.
9. The Hearing Panel Chair will serve the Initial Order on the parties simultaneously.

WAC 174-123-450 Appeals

of

1. The parties shall have the right to appeal from the Initial Order's determination of responsibility and/or dismissal of fact.

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a. Advisors will be responsible for questioning all witnesses and the other party on the party's behalf;

b. Advisor may be an attorney and/or, if the party is a represented employee, a union representative;

c. A represented employee who chooses an Advisor who is not a union representative must submit a signed waiver of union representation that includes consent from the union; and

d. Evergreen will appoint the party an Advisor of Evergreen's choosing at no cost to the party, if the party fails to choose an Advisor;

1. Explain that if a party fails to appear at the hearing, a decision of responsibility may be made in the party's absence.

C. Service of the disciplinary notice or any other document required to be served under this supplemental procedure

provided Advisor, the party must provide the Title IX Coordinator and the Decision Maker with a signed waiver of union representation, including written consent from the union

C. In preparation for the hearing, the parties will have equal access to all evidence gathered by the investigator during the investigation, regardless of whether Evergreen intends to offer the evidence at the hearing.

E. Rights of Pa

b. Concerns specific incidents of prior sexual behavior between the Complainant and the Respondent, which are asked or offered on the issue of consent.

1. Cross-examination required: If a party or witness does not submit to cross-examination during the live hearing, the Decision Maker must not rely on any statement by that party or witness in reaching a determination of responsibility.
2. No negative inference: The Decision Maker may not make an inference regarding responsibility solely on a witness's or party's absence from the hearing or refusal to answer questions.
3. Privileged evidence: The Decision Maker shall not consider legally privileged information unless the holder has effectively waived the privilege. Privileged information includes, but is not limited to, information protected by the following:
 1. Spousal/domestic partner privilege;
 2. Attorney-Client and attorney work product privileges;
 3. Privileges applicable to members of the clergy and priests;
 4. Privileges applicable to medical providers, mental health therapists, and counselors;
 5. Privileges applicable to sexual assault and domestic violence advocates; and
 6. Other legal privileges identified in RCW 5A.00.01.

G. Initial Order

A. The Decision Maker will be responsible for drafting an Initial Order that:

1. Identifies the allegations of Sexual Harassment;
2. Describes the grievance and disciplinary procedures, starting with filing of the Formal Complaint through the determination of responsibility, including notices to parties, interviews with witnesses and parties, site visits, methods used to gather evidence, and hearings held;
3. Makes findings of fact supporting the determination of responsibility;
 4. Reaches conclusions as to whether the facts establish whether the Respondent is responsible for engaging in Sexual Harassment in violation of Title IX;
5. Contains a statement of, and rationale for, the Decision Maker's determination of responsibility for each allegation;
 6. Describes any disciplinary sanction or conditions imposed on the

[Emergency Information](#) (Includes alerts about delays and closures.)

[Non-Discrimination Policy](#)

[Privacy Policy](#)

[Report Web](#)  [rsc3d](#)  [p0](#)  [ebu](#)  [rsc3d](#)  [p0](#)  [Rp5](#)  [0](#)  [5](#)  [0](#)  [b7oe](#)  [b](#)  [CVp5](#)  [BfQ](#)  [d](#)  [f](#)