



Board of Regents

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DATE: February 4, 2019
TO: Members of the Board of Regents
FROM: Jess Lathrop, Executive Director and Corporate Secretary

PUBLIC MEETING NOTICE

Meeting of the UW System Board of Regents
to be held at UW-Madison, Union South, 2nd floor,
1308 W. Dayton Street, Madison, Wisconsin
on February 7-8, 2019

Thursday, February 7, 2019

- 9:00 a.m. – 10:30 a.m. Business and Finance Committee – Varsity Hall I
- 9:00 a.m. – 10:30 a.m. Education Committee – Varsity Hall II
- 10:45 a.m. – 12:00 p.m. Capital Planning and Budget Committee – Varsity Hall I
- 10:45 a.m. – 12:00 p.m. Research, Economic Development and Innovation Committee – Varsity Hall II
- 10:45 a.m. – 12:00 p.m. Audit Committee – Northwoods Room (3rd floor)
- 12:00 p.m. Lunch – Varsity Hall III
A quorum of the Board of Regents may be present; no Board business will be conducted.

1:00 p.m. All Regents—Varsity Hall II

1. Calling of the roll
2. Updates and introductions
3. Host-campus Presentation by Rebecca Blank, Chancellor, UW-Madison: “Investing in UW-Madison”
4. Report from Associate Vice President Alex Roe: “Capital Renewal”
5. Report from the UW System Sexual Violence and Harassment Priorities working group

6. Closed Session – Varsity Hall I

Move into closed session to:

- a. Consider personal histories related to a UW-Oshkosh honorary degree nomination, as permitted by s. 19.85(1)(f), Wis. Stats.;
- b. Consider a student request for review of a UW-Madison disciplinary decision, as permitted by s. 19.85(1)(a), (f), and (g), Wis. Stats.;
- c. consider personal histories or disciplinary data of specific persons relating to the UW-Oshkosh Foundation matter which, if discussed in public, would be likely to have a substantial effect upon the reputation of such persons, as permitted by s. 19.85(1)(f), Wis. Stats.;
- d. confer with legal counsel regarding pending litigation (Bank First National v. UW-Oshkosh Foundation; Board of Regents v. Sonnleitner and Wells; University of Wisconsin-Oshkosh Foundation, Inc. v. Board of Regents; UW-Oshkosh Foundation, Inc. Chapter 11 Bankruptcy Filing), as permitted by s. 19.85(1)(g), Wis. Stats.; and
- e. Consider amended employment and additional compensation agreements for UW-Madison head football coach, as permitted by s. 19.85(1)(c) and (e), Wis. Stats.

5:30 p.m. – 7:30 p.m. Reception and dinner hosted by Chancellor Blank, 130 N. Prospect Avenue, Madison
Event is by invitation only. Please contact carrie.olson@wisc.edu for more information.

A quorum of the Board of Regents may be present; no Board business will be conducted.

The closed session agenda also may be considered on Friday, February 8, 2019, as the Board's needs may dictate. In addition, the Board may reconvene in open session regarding matters taken up in the closed session, including voting, where applicable.

Information about agenda items can be found during the week of the meeting at

<https://www.wisconsin.edu/regents/meetings/> or may be obtained from Jess Lathrop, Executive Director, Office of the Board of Regents, 1860 Van Hise Hall, Madison, WI 53706, (608)262-2324. Persons with disabilities requesting an accommodation to attend are asked to contact Jess Lathrop in advance of the meeting. The meeting will be webcast at <http://www.wisconsin.edu/regents/board-of-regents-video-streaming/> on Thursday, February 7, 2019, from 1:00 p.m. to approximately 3:00 p.m. and on Friday, February 8, 2019, from 9:00 a.m. to approximately 11:30 a.m.

CAPITAL RENEWAL

EXECUTIVE SUMMARY

BACKGROUND

Each biennium, UW institutions submit their capital budget needs in the form of a six-year plan to the Office of Capital Planning and Budget for consideration as part of the University of Wisconsin System's consolidated biennial capital budget request.

REQUESTED ACTION

No action is required; this item is for information only.

DISCUSSION

Every biennium, UW institutions submit capital budget requests in three categories for funding authority. These categories are All-Agency (less than \$3 million), Instructional Space (less than \$7.4 million) or Major Projects (more than \$3 million).

Over 60% of the University's physical infrastructure is between 44 and 69 years old. Many of these facilities require extensive renovation and/or remodeling to maintain their current programmatic operations. In FY2015-17, no All-Agency General Fund Supported Borrowing was enumerated by the legislature, further delaying necessary improvements across the UW System.

Due to limitations in the availability of General Fund Supported Borrowing and a diminishment of Program Revenue Supported Borrowing by the state, the Office of Capital Planning and Budget, in consultation with the Department of Administration's Division of Facilities Development and Management, has had to prioritize spending its limited resources on life safety and/or other code compliance activities, and critical academic or student life projects.

The Board of Regents approved, as part of the FY2019-21 Capital Budget recommendation, a request for \$200 million in General Fund Supported Borrowing and \$100 million in Program Revenue Supported Borrowing, which will enable UW institutions continue to address maintenance and repair issues. Continued prioritization of this budget request allows our universities to continue ensuring a safe and productive environment for our students, faculty and staff.

**UNIVERSITY OF WISCONSIN SYSTEM
PRESIDENT'S SEXUAL VIOLENCE AND HARASSMENT PRIORITIES
WORKING GROUP**

BACKGROUND

In December 2016, President Cross adopted the Report and Recommendations of the UW System Task Force on Sexual Violence and Harassment (Task Force).

President Ray Cross identified a three-fold purpose to guide the work of the Task Force when it was first established: (1) ensure compliance with the new and existing requirements established by state and federal laws and the expectations of enforcement agencies related to this area; (2) advance continued efforts on campus to promote a culture of prevention, timely reporting, and effective response to allegations of sexual misconduct; and (3) serve as a clearinghouse for resources concerning training, research, and best practices.

In order to ensure compliance with the remaining Task Force recommendations and to establish additional expectations, the president's Sexual Violence and Harassment Priorities Working Group has been created and endorsed. This working group will provide recommendations to President Cross on the ongoing UWSA and institutional commitment to enacting the Task Force's recommendations. The Workgroup is comprised of System administrators and institutional representatives.

REQUESTED ACTION

For information.

DISCUSSION

The President's Sexual Violence and Harassment Priorities Working Group has been led by Shenita Brokenburr, UW System Human Resources, and Quinn Williams, Office of General Counsel. Eleven members have participated in the working group with diverse subject matter expertise from human resources, Title IX, student affairs, and equity and diversity. The Office of Internal Audit has participated as a consultative partner.

The scope of work and deliverables included several items, beginning with a review of the current state of sexual harassment and sexual violence claims for UW System. The current state assessment included an in-depth review of institutional policies and was conducted in collaboration with UW System Internal Audit. The working group was further charged to develop a proposed advanced training curriculum for first responders and Title IX coordinators, assess record-keeping data collection and technology capabilities, and identify best and most common practices. The full report of the working group is completed, and the following recommendations come forth from the working group:

- A. That all employees and first-year students should be required to take sexual misconduct training through the module provided by the University of Wisconsin System as part of the on-boarding process and matriculation process;
- B. That the University of Wisconsin System make available resources to the institutions to facilitate periodic advanced training for personnel who respond to reports of sexual assault and other sexual misconduct;
- C. That the University of Wisconsin Board of Regents accept current policies developed at each institution as they each comport with the RPD 14-2 & 14-8 templates provided in 2016;
- D. That the University of Wisconsin System consult with campuses to develop a recommended workflow for the processing of sexual assault incident reports through the final institutional determination, including recommendations regarding which incidents should be communicated to the Chancellor of an institution;
- E. That the University of Wisconsin System Office of Human Resources continue to explore technological solutions for data collection of incidents of sexual misconduct.
- F. Those Institutions who have the desire and resources to facilitate record keeping, training and response with its own modules and methods are permitted to do so within the parameters of the recommended best practice.

Moving forward, the Office of General Counsel will have responsibility and oversight related to sexual harassment and violence matters as well as training and compliance for UW System as a whole.

TO: Dr. Shenita Brokenburr, Senior Associate Vice President and Chief Human Resource Officer & Quinn Williams, General Counsel

FROM: Christopher C. Paquet, Chair

RE: Final Recommendation of President's Sexual Violence & Harassment Priorities Working Group

DATE: January 22, 2019

On May 14, 2018, Dr. Shenita Brokenburr, Senior Associate Vice President and Chief Human Resource Officer for the University of Wisconsin System and Quinn Williams, General Counsel for the University of Wisconsin System, as executive sponsors asked Christopher C. Paquet to chair the Sexual Violence and Harassment Priorities Work Group (hereinafter "Workgroup") which was charged with the delivery of a final report to include the following;

- I. Current state assessment**
- II. Report on current and recommended Title IX Trainings for employees and students**
- III. A review of institutional implementation of RPDs 14-2 & 14-8**
- IV. A review of institutional workflows, data collection and reporting of Title IX incidents within the institution and to the UW System**
- V. A report about current use of technology, the efficacy of a single database of all reports and the availability of additional technology**

The *Workgroup* focused on data collection, assessment to determine common practices as well as gaps in delivery to inform recommendations to President Cross regarding the consistent and compliant application of state and federal requirements. Please accept this Memorandum as the Final Report of the *Workgroup*.

SUMMARY OF RECOMMENDATIONS OF THE WORKGROUP

Based on the below stated process, the Workgroup makes the following recommendations regarding the queries set forth for the above requests:

- A. Maintain the expectation that all employees and first-year students should be required to take sexual misconduct prevention, reporting, and resource awareness training through the module provided by the University of Wisconsin System or as developed locally by individual institutions as part of the on-boarding process and matriculation process;
- B. That the University of Wisconsin System make available resources to the institutions to facilitate periodic advanced training for personnel who respond to reports of sexual assault and other sexual misconduct;
- C. That the University of Wisconsin Board of Regents accept current policies developed at each institution as they each comport with the RPD 14-2 & 14-8 templates provided in 2016;
- D. That the University of Wisconsin System consult with campuses to develop a recommended workflow for the processing of sexual assault incident reports through the final institutional determination, including recommendations regarding which incidents should be communicated to the Chancellor of an institution;

- E. That the University of Wisconsin System Office of Human Resources continue to explore technological solutions for data collection of incidents of sexual misconduct.
- F. Those Institutions who have the desire and resources to facilitate record keeping, training and response with its own modules and methods are permitted to do so within the parameters of the recommended best practice.

CREATION OF THE WORKGROUP AND METHODOLOGY

Workgroup members:

Upon receiving the charge, Paquet as chair invited multiple subject matter experts from various institutions within the University of Wisconsin System to join the Workgroup. Creating a cross-institutional group that was diverse in subject matter expertise offered an opportunity to gather information regarding the different protocols and procedures implemented at various institutions as well as within different areas of campus that respond to Title IX issues. The final makeup of the *Workgroup* consisted of eleven (11) members from nine (9) institutions. The members held positions including Chief Human Resource Officer; Director of Equity and Affirmative Action; Title IX Coordinator; Dean of Students; and Assistant Dean of Students.

The *Workgroup* members are:

Human Resource Emphasis:

Kristi Krimpelbein; CHRO UW-Stout (Deputy Title IX Coordinator)

Shawna Kuether; AVC-HRD UW Oshkosh (incoming Title IX Facilitator)

Steven Marshall¹; Interim HRD UW Superior (Title IX Coordinator)

Sheronda Glass; HRD UW-Parkside (Title IX Coordinator)

Office of Equity and Diversity;

Nizam Arain Dir. of Equity and Affirmative Action UW-La Crosse (Title IX Coordinator)

Kelly Thomas, Dir. Office of Equity, Diversity and Inclusion, UW-Colleges and Extension (Title IX Coordinator)

Janelle Ramsel², UW Milwaukee Interim Title IX Coordinator

Student Affairs Emphasis;

Rebecca Freer, Dean of Students UW-Milwaukee

Artanya Wesley, Dean of Students UW-Whitewater (Deputy Title IX Coordinator)

¹ Left position prior to submission of report

² Left position prior to submission of report

Tonya Schmidt, Assistant Dean of Students, Dir. Office of Student Conduct and Community Standards, UW-Madison

The *Workgroup* was also advised by two consultants whose subject matter expertise contributed to the assessment of the data collected by the *Workgroup*; Amanda Nehmer, UWSA Audit Director, assisting on Policy Analysis; Nelida Cortes, UW-Milwaukee, Student Conduct Investigator, assisting on advanced training opportunities.

Data collection and methodology:

The *Workgroup* collected its data from a variety of sources. Of significance, the Office of General Counsel (OGC) shared the institutional responses to the solicitations made within the April 9, 2018 Memorandum; UW System Task Force on Sexual Violence and Harassment Recommendations President's Priorities ("*President's Memo*") see attached "A". Through this document, all UW System Institutions were required to submit to System their updated institutional policies; their mechanisms for collection of sexual harassment / assault incident reports; a flow chart of the process, by which individual reports are circulated to University Officials; and the advanced Title IX training provided on the institutional level and to whom and how those trainings are provided.

The OGC provided the institutional responses to the *Workgroup*, which used the information as a primary data source. In addition, the *Workgroup* solicited additional information as needed from individual institutions, which supplemented the data collected by OGC. All institutions were asked to provide copies of the institutional policy that complied with RPD 14-2 & 14-8. Finally, the UWSA Human Resource Department provided responses to institutional surveys that it has conducted during the transition of Title IX oversight from OGC to UWSA HR. All data was uploaded and stored on SharePoint Drive, which was made available to all members of the *Workgroup*, the executive sponsors and the consultants.

The *Workgroup* was divided into three sub-groups: examining compliance with BOR Policy; commonalities and gaps in workflow and data collection; and mandatory and advanced Title IX Training available on the campuses.

The policy sub-group collected relevant policies from each institution; performed an assessment of the similarities and distinctions between institutional policies; and in consultation with UWSA Internal Audit, developed a recommendation regarding best practice for inclusion of procedures and definitions within the institutional policy.

The workflow and data collection sub-group examined the workflow processes and flow charts from the individual institutions; identified unique and common data collection technology used by various campuses; and developed a recommendation for additional system wide collaboration on this issue, including when Chancellor notification is necessary.

The training sub-group reviewed the data regarding who at each institution falls under the mandatory training requirements and the methods used which compel compliance with the training requirements; examined the data from institutions regarding what advanced trainings are being provided and whether such trainings are developed locally or purchased; and developed a recommendation for common application of who should be required to participate in mandatory training as well as what support for advanced trainings should be made available to different institutions.

The *Workgroup* first convened on June 19, 2018 and concluded on November 21, 2018. Communication was achieved through periodic teleconferences as well as email surveys and solicitation of additional information.

CURRENT STATE ASSESSMENT

In December 2016, President Raymond Cross adopted the Report and Recommendations of the UW System Task Force on Sexual Violence and Harassment. As part of that report, several items of concern were identified which the Task Force believed were in need of additional review in the hopes of attempting to gain uniform compliance with both System and institutional Title IX policies. The report and recommendations of the Task Force were operationalized in the April 9, 2018 Memorandum, *attachment "A"* by which a call was made to individual institutions to respond with documentation of the steps each institution had taken to fulfill the Task Force Recommendations.

Further information was obtained through the UWSA Office of Human Resources' Pulse Survey for Calendar Year 2017, by which Title IX personnel on campuses responded to questions regarding the implementation of a comprehensive sexual harassment policy; the office of delegation for investigation of Title IX claims; and the notification process of campus administration. The survey had a 100% institutional compliance and also obtained responses from UW System Administration and UW Colleges and Cooperative Extension.

As stated in the President's Memo, the institutional responses received regarding employee Title IX training were very impressive. Consistent with that finding, the data received indicated that all institutions are in compliance with the President's directive regarding mandatory employee training.

The data collected regarding student training was not so clear. Whereas UWSA Human Resources was able to narrowly define the employees who were mandated to engage in the training,³ a common definition of which students would be required to participate in the training (e.g. resident students, all students) was not established. As a result, the success rates of the reporting institutions showed significant variances, which establishes some doubt in the data. The recommendation of a standardized definition of what students will be required to participate in mandatory training is addressed in this report and will hopefully assist in providing clearer information about compliance with the President's mandate.

The President's Memo also called for all institutions to provide proof of updated institutional policies for RPD 14-2 and RPD 14-8. Based on the review of the above-cited materials, as of August 1, 2018 all institutions have drafted a comprehensive sexual harassment policy as required by RPD 14-2 and have either implemented RPD 14-8 directly or implemented an institutional consensual relationship policy that adheres to RPD 14-8 standards. Based on the data collected, all institutions are in compliance with the President's directive for Policy Review set forth in the President's Memo. Further assessment of those individual policies will be addressed in greater detail in this report.

Similar to the data collected above, all institutions have provided information regarding their use of technology in recording and reporting sexual assault and harassment incident reports received by various units on the individual campus. The most common technological solution for tracking

³ Per the March 13, 2018 Memorandum "President Cross' Training Completion Benchmarks: April 1, Employee Training, employee was defined as "all **full-time employees** (excluding student employees), including those who have been granted an exemption. *Emphasis contained in quoted phrase.*

student misconduct appears to be Maxient⁴, with some campuses using a different vendor and others using a self-developed process. Even within the institutions who are using Maxient, distinctions in which office held this data, who was able to access the data and what employees could input data were discovered. Data collected was found to be consistent throughout the institutions surveyed, however campuses did vary on what constituted a reportable incident for statistical purpose as well as the process implemented in final disposition of the matter.

In conjunction with the response regarding data analysis, the institutions also provided a flow chart of the institutional processes used for intake of sexual misconduct incident reports. Substantial consistencies were found through the institutions in the intake process. In addition, the President's Memo asked for the process by which sexual misconduct reports were relayed to University Administration. While most institutions had a process by which an analysis was performed to determine whether Chancellor or other notification was necessary, few institutions had that process formalized.

The above assessment was used by the Workgroup in its development of recommendations. Where consistencies were found, standard practices have been recommended to be implemented by the institutions. Gaps and inconsistencies have been identified and additional System-wide collaboration on best practices for workflow is recommended.

REVIEW OF RPD 14-2 & 14-8

A primary focus of the Workgroup was to obtain information about individual institution's implementation of RPD 14-2 and RPD 14-8. The President's Memo specifically required that all institutions provide updated institutional policies that responded to the required implementation of the aforementioned Board of Regents Policies.

As stated above, the workgroup received 100% compliance with the data request and was able to review each institutional policy for conformity to the Board of Regents' policies. The Workgroup specifically compared the institutional policies to the components and requirements of RPD 14-2 Appendix A, "Template for UW Institutions Policy." As a review tool, the workgroup used *Benchmarks for UW System Institutional Policy Under 14-2 & 14-8*. See attached B. This tool was reviewed by Ms. Amanda Nehmer, of UW System Audit, who concurred with the Workgroup's assessment that this was an appropriate tool for assessing compliance with RPD 14-2 & 14-8.

Each institutional policy was examined by applying the required components of RPD 14-2 Appendix A & B to the content of the institutional policies. Per this review, all institutions have complied with the President's Memo's requirement to implement a "Sexual Violence and Sexual Harassment Policy"; all institutional policies adhere to the required components of RPD 14-2 Appendix A; and all institutions have policies which contain the required definitions found in RPD 14-2 Appendix B.

There was similar compliance in the review of institutional policies responding to RPD 14-8. Eleven institutions submitted institutional consensual relationship and familial relationship policies. Three institutions simply implemented RPD 14-8 as an institutional policy and referred to the Board of Regents Policy within the institutional resources.

⁴ <https://www.maxient.com/>

Attachment “B” was used by the Workgroup to measure the conformity of each institutional policy with RDP 14-8. Of the eleven institutional policies reviewed, all contain the required components of RPD 14-8; each provides the required definitions of the Board of Regents Policy; and each provides the process and sanctions that would be followed in the event of a violation. Based upon this review, all institutions have policies that satisfy the requirements of RDP 14-8. Policy variations at some institutions reflect the different student and employee populations at individual institutions. Language added to these policies also clarified definitions or strengthened expectations regarding the boundaries for dating relationships between faculty and undergraduate students. These changes support the requirements of RDP 14-8 and can be accepted as satisfying the template policy requirements.

The Workgroup’s review relating to RPD 14-2 revealed very few distinctions between the institutional policies, and no shortfalls in compliance with RPD 14-2 Appendix A or B were discovered. For RPD 14-8, institutional variations in policy language reflect the different student and employee populations at individual institutions. These institutional variations further the goals of RDP 14-8 and do not undermine the System template policy requirements.

WORKFLOW

The data collection and reporting subgroup was tasked with providing a recommended intake and workflow process, which assures compliance with all federal, state, and System requirements for every report, including notification to Campus Administration when necessary.

In order to provide a recommendation regarding workflows across University of Wisconsin System institutions, our subgroup reviewed the investigatory process documents for both employees and students submitted by nine (9) UW System institutions. In addition, other institutions provided relevant highlights and additional details regarding their complaint investigation process without a visual flowchart. Of the responses reviewed, no substantial distinctions were found in the processing of sexual misconduct incidents reports at respective UW System institutions. All reviewed processes implemented some centralized clearing process by which reports from various areas on campus are routed to a single area for assessment; the assessment is performed by designated employees, with notification being provided as required by Title IX; determination on appropriate action is made; the matter is opened for further action or disposed at that time. All processes also included criteria which would trigger notification to senior campuses administration if warranted.

Overall flow of the complaint process and investigation is consistent among all UW institutions. This consistency is likely due to the nature of the investigatory process itself, which is defined primarily by federal and state regulations, as well as policy similarities across UW institutions.⁵ Minor differences in approach among UW institutions are likely due to different administrative organizational structures rather than different expected standards for student and employee conduct.

Notably, the workflow includes a provision for notification to Campus Administration in the event that the report involves a minor or a high risk of media interest (for example, involves faculty and student, student athlete or senior member of administration) or is required by institutional policy. In

⁵ Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 et seq. <https://www.justice.gov/crt/overview-title-ix-education-amendments-1972-20-usc-1681-et-seq> & UWS §17.11 Wis. Admin. Code https://docs.legis.wisconsin.gov/code/admin_code/uws/17/11

addition to the workflow, the workgroup has provided a list of best practices, which were discovered in individual instructional workflows.⁶ Institutions are strongly encouraged to adopt the following practices as part of their investigatory process:

- Establish practices which clarify that a Title IX investigation is a formal or informal administrative process, not a civil or criminal proceeding. Participants should be advised that the purpose of an investigation is to find out what happened, determine who, if anyone, is responsible, and determine if any university policies have been violated.
- A written or oral report to a Responsible Employee triggers the University's obligation to respond. Responsible Employees should be trained to immediately report to the institution's Title IX Officer(s).
- When a report is made, the report should be evaluated to determine if there is an ongoing threat to the institutional community and whether a timely warning is warranted.
- When possible, institutions should obtain the complainant's agreement before proceeding with an investigation. However, in limited circumstances in which there is a heightened risk to other members of the campus community, institutions may need to respond to that information, formally or informally, over the objection of the complainant.
- Complainants and respondents should be informed of their rights and resources available to them during the investigation and any disciplinary process.
- During the investigation, interim measures may be put in place, including but not limited to no contact directives.
- The Title IX process is not confidential. It will, however, protect individuals' privacy as much as possible. Only those who need information on the case will be informed.
- In formal investigatory processes, documentation throughout the process is a necessary element of recordkeeping. Essential components of documentation include: notification and findings letters to complainants and respondents, notetaking during interviews, and creation of a final investigatory report.

COMMON DATA REPORTING

The Workgroup was charged with providing a recommendation for common methods of data reporting which apply the same variables and definitions to ensure uniform reporting from all institutions and reliable aggregate data for the UW System.

The sub-group reviewed the feedback from nine (9) UW institutions regarding methods of data collection and reporting of Title IX related complaints. Significant discoveries are:

⁶ -All students have access to campus counseling, and all employees have access to the Employee Assistance resources, regardless of whether a formal complaint is pursued or its outcome.

-All individuals who believe they have been subjected to sexual assault, dating violence, domestic violence, or stalking within the course and scope of a university program or activity or have the right to contact law enforcement and/or pursue available external legal remedies in addition to, or instead of, utilizing University processes.

-The University reserves the right to assume the role of Initiator or Complainant, and to pursue a report or complaint, either informally or formally.

- Differences in data collection systems that separate reports based on respondent status (i.e., student versus employee).
- Similarities amongst institutions regarding information collected for complaints. For example, name, date, description of events, classification of complainant and respondent, etc. are common elements of collection for a report of sexual misconduct.
- Maxient is used as the common system of reporting for student related Title IX complaints; there is not a common system used for tracking of employee related complaints.
- UW institutions vary in their definitions of what is considered a “report”.

Given the current structure of reporting, we recommend the following:

- There are a variety of nuances involved when individuals notify an institution of misconduct, and further clarification is needed for these definitions to provide consistency in system-wide reporting.
- Institutions should equalize and create uniform reporting structures for both student and employee-related complaints.
- Implementing a case management system for all discrimination complaints would be a desired functionality in a database solution rather than focusing solely on Title IX related issues (*please see below for additional information*).
- Given the confidential nature of the reports and differences in those handling investigation and disposition of complaints, confidentiality must be given a highest amount of consideration with a system-wide tool for reporting and tracking. Wider distribution of records of sexual misconduct may inadvertently dissuade complainants from coming forward. It would be beneficial for a small number of individuals who “need to know” to be identified as the holders of the data.
- A primary contact to provide overarching, system-wide guidance on these topics is needed.
- As a future goal, it is recommended that a single complaint process be established for all types of Title IX cases, no matter who the respondent is (employee or student).

It may be challenging given the current structure and differences amongst institutions to provide a consistent, streamlined option for intake and reporting without a technological solution. As these recommendations move towards operationalization, research may be done into products and resources which are available within the marketplace to provide the individual institutions with a resource to track and retrieve both institutional data as well as System wide information.

MANDATORY TRAINING

The Workgroup also examined how to best obtain compliance with President Cross’ requirement that all employees and students receive Title IX training. This mandate was issued March 13, 2018 through a Memorandum issued through Human Resource and the Office of General Counsel. In response, the University of Wisconsin System contracted with Everfi ⁷ to provide on-line training that was utilized by many campuses. Other campuses developed a local training solution for employees

⁷ Students are required to take the “Think About It” Module; Employees are required to take the “LawRoom” training or the locally developed training at their individual institution.

tailored to the unique employee populations at their institution (e.g., multi-language, accessible, in-person or on-line).

In the aforementioned memorandum, employees who were required to participate in training were defined as all full-time and ongoing employees of the institution, subject to articulated exemptions including but not limited to: experience of past trauma, those with a documented disability, and those on long-term leave. Per the institutional reports received regarding this required training, institutions achieved President Cross's training requirements for employees who met that definition.

Unfortunately, a similar, narrow definition was not achieved for student training. As such the workgroup was charged with recommending a definition which could be applied to students to ensure that the President's mandate would be met.

In obtaining that information, selected institutions were asked to respond to a survey with the following queries:

1. Is the use of the following definition for employees who are mandated to participate in Title IX sexual violence prevention training practical and appropriate: *Full time employees, with continuing employment agreements, excluding student employees?*
2. How often should employees who fall under the definition need to take the training? *Every year, bi-annually, once, other?*
3. What incentive or sanction should / could be used for non-compliance?
4. What definition of student should be used to categorize individuals who are mandated to take the training?
 - a. Full time (12 credits)
 - b. First year / First year at institution?
 - c. Degree seeking?
 - d. Undergraduate?
 - e. Graduate?
 - f. Enrolled in "for credit" education?
 - g. Other (*please advise*)

**please note the above are not mutually exclusive, and you could agree to all or none of the suggested criteria*

5. How often should students who fall under the definition need to take the training? *Every year, bi-annually, once, other?*
6. What incentive or sanction should / could be used for non-compliance?

Once collected, the information was reviewed for consistencies in response and applied to the President's statement of March 2018. Based on that analysis the group was able to make the following recommendations regarding mandatory training for employees and students:

- A. That all employees should continue to be required to take sexual misconduct prevention, reporting, and resource awareness training through the module provided by the

- University of Wisconsin System or via a locally developed training as part of the on-boarding process⁸;
- B. That an employee should be defined as a full-time and on-going employee;
 - C. That in addition to full-time employees, training should be required for all individuals engaged in work for the institution who would meet the definition of “responsible employee” under Title IX, specifically;
 - a. any employee who has the authority to take action to redress sexual harassment/violence, or
 - b. who has been given the duty of reporting incidents of sexual harassment/violence or any other misconduct by students to the Title IX Coordinator or other appropriate school designee, or
 - c. who a student/employee could reasonably believe has either the authority or the duty listed above.
 - d. Full or part-time appointments who are responsible employees may include but are not limited to: coaches; advisors for recognized student organizations; academic counselor and advisors; directors of student centers; reception staff at Dean of Student, or other student service offices; resident assistants; student ambassadors.
 - D. That all employees should be required to take the training not less than every three (3) years;
 - E. That all first-year students should be required to participate in an on-line training through a University of Wisconsin System provided module or via a locally developed or purchased module as part of their orientation process or within the first semester after matriculation;
 - F. That a student be defined as a freshman or first-year student at the institution who enrolled in for credit course work and who has not participated in UW System required training at another institution;
 - G. That Institutions are encouraged to implement a hold on accounts or other similar sanctions against students who do not participate in training within the required time frame;
 - H. That the exemptions outlined in the March 13, 2018 memorandum should continue to provide an exemption for training for both students and employees;
 - I. That institutions should report compliance with the training requirements for students and employees bi-annually, and not less than one month after the completion of the term.

ADVANCED TRAINING

The Workgroup was also asked to review the need for advanced training in subject matters pertaining to sexual misconduct and response to victims of sexual violence. Specifically, all institutions are required to have in place a response plan to any allegation of sexual harassment, sexual assault, dating violence, domestic violence, or stalking, and as part of Title IX guidance and requirements of the Violence Against Women Act (“VAWA”) these individuals must receive appropriate and periodic training to be able to fulfill the institutional obligations.

⁸ The Workgroup does recommend that if periodic and mandated training was to be required for all employees, that a uniform system of tracking and reporting be provided so as not to encumber the work of the department charged with monitoring such training

As part of the response to the President's Memo individual institutions were required to submit a report indicating the trainings that they have provided related to sexual misconduct response; the individuals who participated in that training; and the cost associated with each training. All institutions submitted the required data which was reviewed by the Workgroup. The responses were varied; as per the data collected, some institutions performed no advanced trainings outside of those provided through the UW System modules and those offered by the Office of General Counsel, whereas some institutions expended several thousand dollars per year on training for personnel who respond to allegations of sexual misconduct.

In addition, the Workgroup conducted a survey of selected institutions regarding the personnel who would be most in need of advanced training and the subject matter that would be most beneficial.

The responses identified the following personnel as individuals who would be most in need of advanced training:

- Title IX Coordinators and Co-Coordinators
- Dean of Students
- Judicial Conduct Officers
- Hearing Committee Personnel
- Investigators
- Resident Life Assistants and Staff
- Coaches
- Law Enforcement

The subject matter most identified as training needs were:

- Trauma informed intervention
- Title IX process
- VAWA crimes and responses
- UWSA procedures and policies
- UWS 17 Wis. Admin. Code
 - Rights of Parties in a Complaint, Investigation, Hearing and Appeal
 - Sanctions/Repercussions
 - Reporting
- Confidentiality
- Victim Resources & Remedies
- Investigating Complaints
- Prevention, Awareness and Community Education

Analyzing the responses to the survey with the data that was collected in response to the President's Memo, it appears there is consistency in the types of trainings that have been offered as well as the subject matter identified by the institutions for which training is requested. In turn, the title of the employees required by the Institutions to have this training were uniform.

Based on the consistencies, it is recommended that the University of Wisconsin System Administration commence the development of a training module that would be accessible to

individual institutions for the training of personnel involved in sexual assault response. Specifically, the UWSA should solicit or directly provide institutional or regional training for staff at the individual campuses regarding the above stated subject matters, which provide both procedural guidance and skill development. The provision of these trainings from a centralized location in a regional fashion would present both a cost savings to the institutions as well as provide greater availability to a larger number of personnel who are in need of the training.

CONCLUSION

The above recommendations are based upon the analysis of the cited data received from UW System institutions, in addition to the applied subject matter expertise of the workgroup and consultants. It is believed that these recommendations are responsive to the charge of the workgroup as well as President Cross' April 9, 2018 Memorandum which set forth the action items needed in response to the areas identified by the UW System's Task Force on Sexual Violence and Harassment.

The Workgroup has set forth the above recommendations but stopped short of articulating any specific plans for the operationalization of these recommendations. It is clear from the data collected that all institutions have a strong interest in both complying with Title IX regulations, as well as serving their students. However, as the allocation of resources from a centralized location is unknown, and all institutions have limited availability of both financial and human resources to effectuate the recommendations unilaterally, so determinations of allocation needs to be made based on the priorities of President Cross and the Board of Regents. Notwithstanding, it is the hope of the Workgroup that these recommendations will provide additional support for the University of Wisconsin System dealing with the extremely important issue of sexual violence and harassment on campus.

Respectfully Submitted,

Christopher C. Paquet
Chair, President's Sexual Violence & Harassment Priorities Working Group



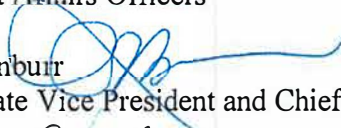
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TO: Chancellors
 Title IX Coordinators
 Human Resource Directors
 Senior Student Affairs Officers

FROM: Shenita Brokenburr 
 Senior Associate Vice President and Chief Human Resources Officer

Anne E. Bilder 
 Senior System Legal Counsel

Laura Dunek 
 Special Assistant for Governance and Strategic Initiatives

Janelle Ramsel 
 Research and Policy Project Manager

DATE: April 9, 2018

RE: UW System Task Force on Sexual Violence and Harassment Recommendations
 President's Priorities

In December 2016, President Cross adopted the Report and Recommendations of the UW System Task Force on Sexual Violence and Harassment (Task Force). We are writing to follow up with guidance on ensuring compliance with the Task Force recommendations and additional expectations of President Cross. President Cross previewed these items at the Chancellor's meeting on February 23, 2018. The attached chart graphically describes the data submission dates described below.

This memo is intended to provide guidance to capture institutions' timely compliance with Task Force recommendations. Ongoing expectations for data collection after the included deadlines will be forthcoming. Meanwhile, please continue to implement all Task Force training recommendations.

Training Completion-2017

Employees:

Thank you to all institutions who complied with the full time employee training and timely reporting requirement. Institutional results were very impressive. We appreciate your dedication and substantial efforts to prevent sexual violence, and promote training. If you have not yet submitted your completion results, please send this to jramsel@uwsa.edu by **Friday, April 13th**.

Students:

By October 1, 2018, please submit the online training completion rates to System regarding incoming freshman students enrolled for the fall 2017 and spring 2018 semester. This includes part-time students and students granted exemptions (see below), but excludes students who are enrolled entirely online or high school students taking college courses at the institution. Please note that although we are collecting a snapshot of historical data, institutions are expected to continue make progress towards ongoing Task Force training requirements.

Please submit completion rates via the Qualtrics link below:
http://uwsystemadmin.qualtrics.com/jfe/form/SV_3Qsml6wIlfzMyN

Student and Employee Training Exemptions:

- **Past trauma** which interferes with the student's ability to complete the online training;
- **A disability** that interferes with the ability to complete the training
- Documentation that **the student or employee has completed the course** or a similar course at another UW System institution;
- **A language** barrier;
- Where there is a demonstrated **lack of on-campus presence** or internet access.
- Where the student or employee is on **long-term leave**, including sabbatical or FLMA
- **New employees** who are still within the 30 days of the initial assignment of the course (temporary exemption for the purposes of calculating the April 1st or October 1st completion rate).

Individuals who have been exempted must still receive the appropriate information to enable them to identify sexual violence and harassment on campus and to know their reporting options. We recommend that at a minimum, the institution send an email/letter to these exempted populations including the appropriate policies and resources.

Policy Review

Each institution shall send System its updated institutional policies for RPD 14-2, and RPD 14-8 by **October 1, 2018**. We will undertake a review of the policies and recommend, as appropriate, revisions to promote consistency with the Board policies.

Data Analysis

President Cross is interested in exploring whether and how to track across institutions reports of sexual harassment and sexual violence. To help us begin this exploration, please submit to us by **April 30, 2018**, information as to how your institution tracks or collects data on reports of sexual violence and sexual harassment. Please address the following in your submission:

- The mechanism (e.g., manually, computer data base) by which you collect information;
- What information is collected (e.g., name, date, description of events, classification of complainant and respondent--student, staff, faculty, etc.);
- Your definition of “report” or other identifier that triggers inclusion in the system;
- Disposition of the matter;
- Any other relevant information; and
- Any opinion on the efficacy or advisability of systemwide tracking of this information.

An analysis of this information will help inform us as to potential collection mechanisms.

Reporting Process Description

In an effort to better understand how reports of sexual violence and sexual harassment are handled at our institutions, President Cross has asked each institution to provide a visual/graphic explication (e.g., a detailed flowchart) of the process by which an individual reports an incident of sexual violence or sexual harassment to university officials. In so doing, please identify each stage of the process including the university official involved at the stage. If not apparent in the graphic depiction, please address the criteria used to elevate an issue to the Provost and Chancellor level. Please submit this information by **April 30, 2018**. We may use this information to identify challenges and barriers in the process, and to promote best practices in this area.

Creation of a President’s Sexual Violence and Harassment Priorities Working Group

President Cross has endorsed the creation of a President’s Sexual Violence and Harassment Priorities Working Group. This working group will provide recommendations to President Cross on the ongoing UWSA and institutional commitment to enacting the Task

Force's recommendations in the Task Force and those additional priorities described in the President's February 23rd Chancellor's meeting. These recommendations will include ongoing training guidelines. It will be comprised of System administrators and institutional representatives.

Please submit the above information by the required deadline to Janelle Ramsel (jramsel@uwsa.edu). We are prepared to assist you in any way we can to facilitate the submission of this information. Please do not hesitate to contact us.

Attachment: Priorities Chart

cc: Quinn Williams

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Priority	Submission date
Training completion	
Faculty: Collection Round 1	April 2, 2018
Students: Collection Round 1	Oct. 1, 2018
Policy Review: RPD 14-2 and RPD 14-8	Oct. 1, 2018
Reporting Processes Descriptions: Flowcharts	April 30, 2018
Data Storage: Institutional Feedback to System	April 30, 2018

Benchmarks for UW System Institutional Policy under 14-2:
<https://www.wisconsin.edu/regents/policies/sexual-violence-and-sexual-harassment/>

Institution: UW-_____

Contains:

1. **Sufficient policy statement** (see template below): _____ Yes _____ No

The mission of University of Wisconsin-_____ is to provide a teaching, learning and working environment in which faculty, staff, and students can discover, examine critically, preserve, and transmit the knowledge, wisdom, and values that will improve quality of life for all. To promote these institutional values, UW-_____ is committed to creating and maintaining a community environment that is free from sexual violence and sexual harassment.

2. **Outline of purpose and scope of policy:** _____ Yes _____ No

3. **Contains Title IX Statement:** _____ Yes _____ No

4. **Includes required definitions** (see below list): _____ Yes _____ No

5. **Outlines Roles and Duties of following employees:**

- | | | |
|---------------------------|-----------|----------|
| a. Title IX Coordinator: | _____ Yes | _____ No |
| b. Title IX Committee: | _____ Yes | _____ No |
| c. Responsible Employees: | _____ Yes | _____ No |
| d. All Employees: | _____ Yes | _____ No |

6. **Provides process for reporting an Incident reporting including:**

1. The individual may elect not to report
2. The individual may report information to a confidential employee:
[Name, contact information of confidential advisors]
3. The individual may report information to the campus Title IX Coordinator:
[Name, contact information of institutional Title IX Coordinator].
4. The individual may report information to campus law enforcement:
[Name, contact information of campus law enforcement].
5. The individual may report information to local law enforcement:
[Name, contact information of local law enforcement].
6. Individuals have the option to 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>

_____ Yes _____ No

7. **Notification of Amnesty for Students:** _____ Yes _____ No

8. **Advisement on issues of Confidentiality:** _____ Yes _____ No

9. Information on Resources and Accommodations: _____ Yes _____ No

10. Outline of Procedures used in responding to Sexual Assault / Harassment incident, including:

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

_____ Yes _____ No

2. When a report is made to the *Title IX Coordinator* alleging that a *faculty member* has engaged in an act of sexual violence or sexual harassment.

_____ Yes _____ No

3. When a report is made to the *Title IX Coordinator* alleging that a *member of the academic staff* has engaged in an act of sexual violence or sexual harassment

_____ Yes _____ No

4. When a report is made to the *Title IX Coordinator* alleging that a *member of the university staff* has engaged in an act of sexual violence or sexual harassment

_____ Yes _____ No

5. When a report is made to *campus law enforcement* alleging that an individual has engaged in an act of sexual violence or sexual harassment

_____ Yes _____ No

6. When a report is made to *local law enforcement* alleging that an individual has engaged in an act of sexual violence or sexual harassment

_____ Yes _____ No

7. The right to prompt resolution

_____ Yes _____ No

8. Notice of potential sanctions

_____ Yes _____ No

9. Notice of Outcome to both parties

_____ Yes _____ No

11. A statement including a prohibition against retaliation: _____ Yes _____ No

12. A response to False Accusations: _____ Yes _____ No

13. Outline of Education and Training: _____ Yes _____ No

14. Record Keeping and Data Collection of:

a. Training of employees: _____ Yes _____ No

b. Clery Reporting: _____ Yes _____ No

c. DOS under §36.11(22) _____ Yes _____ No

15. Confirmation of continuing assessment: _____ Yes _____ No

List of Definitions: *(See appendix B)*

Complainant: _____ Yes _____ No

Confidential Employee: _____ Yes _____ No

Confidential: _____ Yes _____ No

Dating Violence: _____ Yes _____ No

Domestic Violence: _____ Yes _____ No

Employee: _____ Yes _____ No

Executive Order 54: _____ Yes _____ No

Hostile Environment: _____ Yes _____ No

Incapacitation: _____ Yes _____ No

Office for Civil Rights: _____ Yes _____ No

Preponderance of the Evidence: _____ Yes _____ No

Respondent: _____ Yes _____ No

Responsible Employee: _____ Yes _____ No

Retaliation: _____ Yes _____ No

Sex Discrimination: _____ Yes _____ No

Sexual Assault: _____ Yes _____ No

Sexual Contact: _____ Yes _____ No

Sexual Harassment: _____ Yes _____ No

Sexual Intercourse: _____ Yes _____ No

Sexual Violence: _____ Yes _____ No

Stalking: _____ Yes _____ No

Student: _____ Yes _____ No

Title IX: _____ Yes _____ No

Title IX Coordinator (and Deputies): _____ Yes _____ No

Trauma-Informed Care: _____ Yes _____ No

Violence Against Women Act (VAWA): _____ Yes _____ No

Regent Policy Document 14-8:

<https://www.wisconsin.edu/regents/policies/consensual-relationships/>

1. Contains the following definitions:

- | | | |
|-----------------------------|-----------|----------|
| a. Consensual Relationship: | _____ Yes | _____ No |
| b. Conflict of Interest: | _____ Yes | _____ No |
| c. Instructor: | _____ Yes | _____ No |
| d. Power Differential: | _____ Yes | _____ No |
| e. Employees: | _____ Yes | _____ No |
| f. Students: | _____ Yes | _____ No |
| g. Affiliated individuals: | _____ Yes | _____ No |

2. A statement regarding:

- a. Consensual relationship between a student and instructor:
_____ Yes _____ No
- b. Consensual relationship between student and non-instructor employee with whom a supervisory relationship exists:
_____ Yes _____ No
- c. Consensual relationship between and employee and employee within a supervisory context:
_____ Yes _____ No

3. Procedure for reporting and responding to notification of a consensual relationship:

_____ Yes _____ No

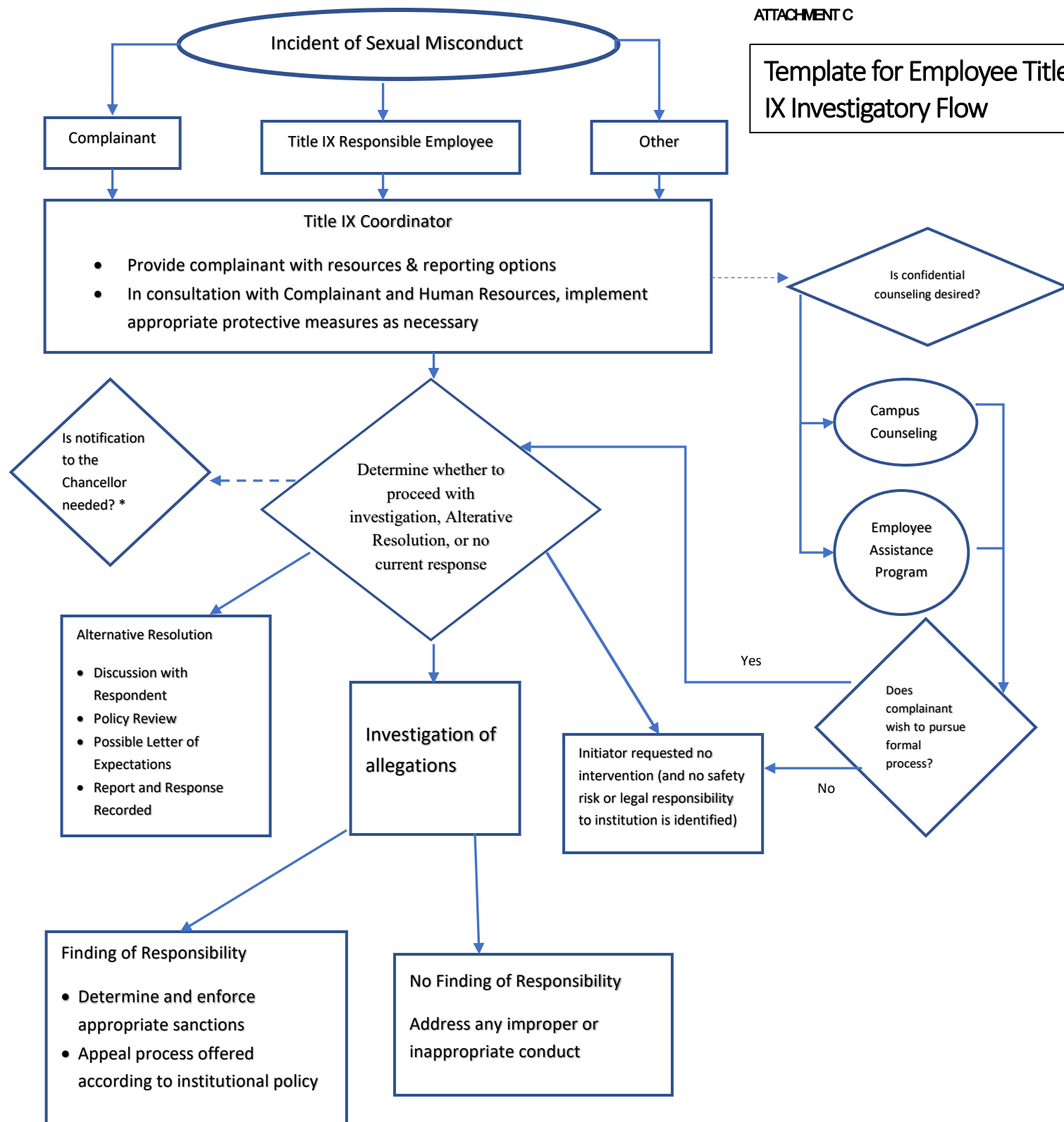
4. A listing sanctions for violations:

_____ Yes _____ No

5. A state of non-retaliation:

_____ Yes _____ No

Template for Employee Title IX Investigatory Flow



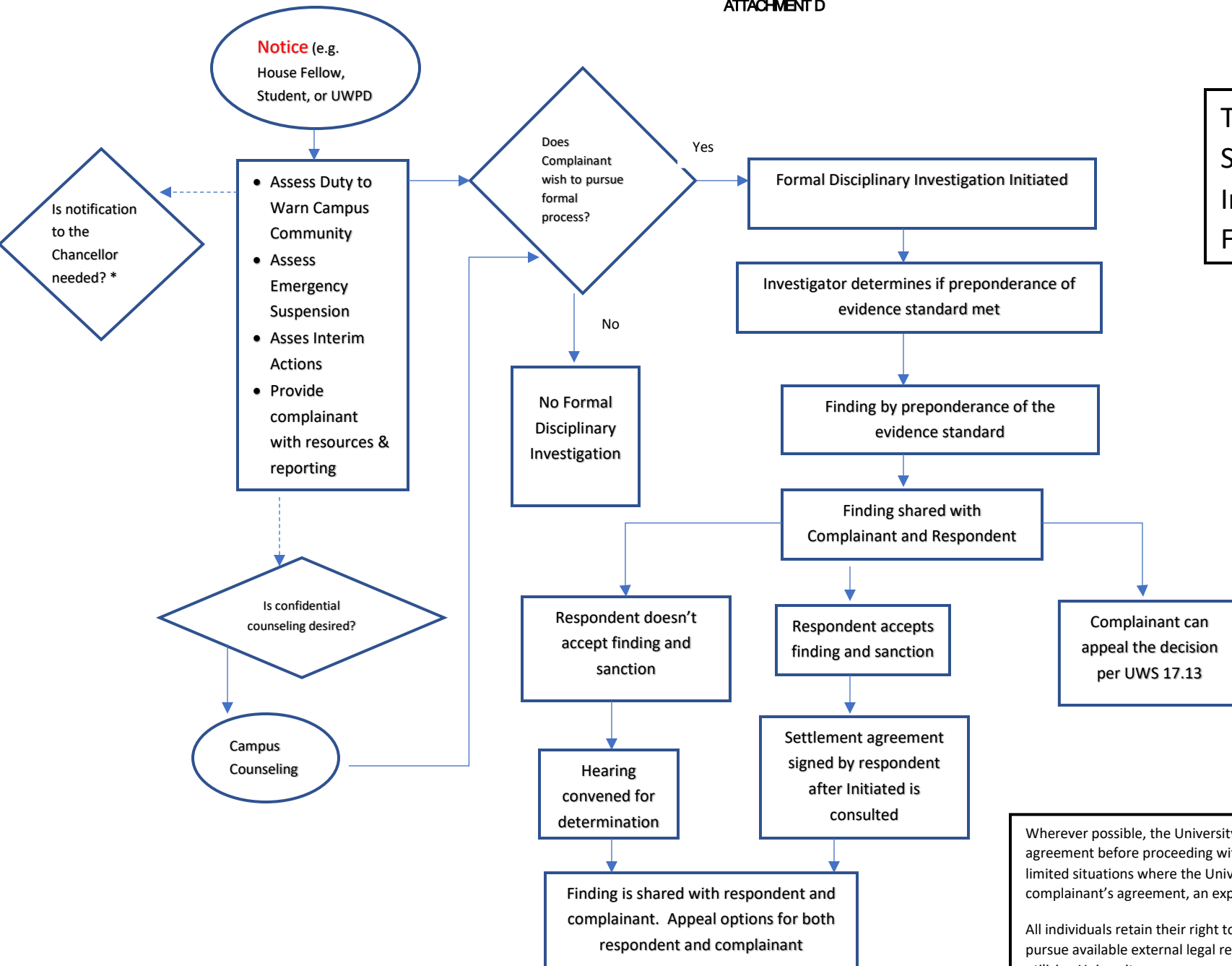
All Students have access to Campus Counseling, and all employees have access to the Employee Assistance Program, regardless of whether a formal complaint is pursued or its outcome.

All individuals retain their right to contact law enforcement and/or pursue available external legal remedies in addition to, or instead of, utilizing University processes.

The University reserves the right to assume the role of Complainant, and to pursue a report or complaint, either informally or formally.

*Notification to the Chancellor is needed if: involves a minor, pursuance of disciplinary action according to institutional policy, off campus law enforcement is involved, and/or a high risk of media coverage is present or anticipated.

Template for Student Title IX Investigatory Flow



Wherever possible, the University will obtain the complainant's agreement before proceeding with an investigation. In those limited situations where the University must proceed without the complainant's agreement, an explanation will be provided.

All individuals retain their right to contact law enforcement and/or pursue available external legal remedies in addition to, or instead of, utilizing University processes.

Notification to Chancellor is needed if: involves a minor, pursuance of disciplinary action according to institutional policy, off campus law enforcement is involved, and/or a high risk of media coverage is present or anticipated.