



TITLE IX

DYOUVILLE
UNIVERSITY

The background is a solid light blue color. It is decorated with hand-drawn marks in red and black. In the top-left and bottom-right corners, there are clusters of red marks, including circles, lines, and scribbles. In the top-right and bottom-left corners, there are clusters of black marks, including circles, lines, and scribbles. The marks are scattered and appear to be drawn with a marker or thick pen.

WHAT IS

TITLE IX?

37 WORDS.

THAT TELL US...

“No 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.”

37 WORDS.

WHICH MEAN...

- Schools must be proactive in ensuring campus is free of sex discrimination
- Title IX does not apply to female students only
- Schools must have an established procedure for handling complaints of sex discrimination, sexual harassment or sexual violence
- Schools must take immediate action to ensure a complainant – respondent can continue their education free of ongoing sex discrimination, sexual harassment or sexual violence
- Schools may not retaliate against someone filing a complaint and must keep a complainant–respondent safe from retaliatory harassment or behavior
- Schools can issue a no contact directive under Title IX to prevent the accused student from approaching or interacting with the complainant
- In cases of sexual violence, schools are prohibited from encouraging or allowing mediation (rather than a formal hearing of the complainant)
- Schools cannot discourage anyone from continuing their education
- Title IX is a landmark federal civil right that prohibits sex discrimination in education

**WHAT DOES
THAT MEAN
FOR ME @
DYOUVILLE?**

@ DYOUVILLE...

D'Youville **prohibits** its employees and undergraduate and graduate students from engaging in **any form of sex discrimination**, which includes sexual harassment and sexual assault/violence. This policy provides information regarding the Institution's prevention and education efforts related to sexual harassment and sexual assault/violence (collectively referred to in this policy as "sexual misconduct"). Should the Institution become aware of sexual misconduct impacting its employees, undergraduate students or graduate students, the Institution is **committed to promptly and effectively addressing the situation.**

D'YOUVILLE'S SCOPE

This policy applies to reports that an employee of D'Youville or an undergraduate or graduate student ("Impacted Party") is alleged to have been subjected to sexual misconduct by another employee of D'Youville, a third party (such as a contracted service provider or vendor), or an undergraduate or graduate student ("Respondent") whenever the alleged sexual misconduct occurs:

On campus, which includes the Main Campus, Dobson field, and any other areas owned or leased by D'Youville; or

Off campus, if:

- In connection with **an Institution or Institution-recognized program or activity**; or
- In a manner that **may pose an obvious and serious threat of harm** to, or that may have the effect of creating a hostile educational or work environment for, any member(s) of the Institution community.

DEFINITIONS.

AFFIRMATIVE CONSENT

- Consent to sexual activity **must be in the affirmative.**
- **Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity.** Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent.
- Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- **Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity.** Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.
- Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
- **Consent may be initially given but withdrawn at any time. When consent is withdrawn or can no longer be given, sexual activity must stop.**

SEXUAL MISCONDUCT

Term used to encompass unwanted or unwelcome conduct of a sexual nature that is committed without valid consent, including sexual assault, sexual violence, and sexual harassment. Sexual misconduct may occur between people of the same sex or between people of different sexes. Sexual misconduct can include both intentional conduct and conduct that results in negative effects, even if those negative effects were unintended. Sexual misconduct may include the following:

DATING VIOLENCE

Violence committed by a person:

(1) who is or has been in a social relationship of a romantic or intimate nature with the victim;
and

(2) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- (i) The length of the relationship.
- (ii) The type of relationship.
- (iii) The frequency of interaction between the persons involved in the relationship.

Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

DOMESTIC VIOLENCE

Violence committed (a) by a current or former spouse or intimate partner of the victim; (b) by a person with whom the victim shares a child in common; (c) by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; (d) by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the institution is located; or (e) by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

SEXUAL ASSAULT

- Any sexual act directed against another person, **forcibly and/or against that person's will**; or not forcibly or against the person's will where the **victim is incapable of giving affirmative consent**.

Sexual assault consists of the following specific acts:

- The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will; or, not forcibly or against the person's will where the victim is incapable of giving consent because of his/her/their youth or because of his/her/their temporary or permanent mental or physical incapacity.
- Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape. Non-forcible sexual intercourse with a person who is under the statutory age of consent. The statutory age of consent in New York is 17.

SEXUAL HARASSMENT

- Sexual harassment **can include unwelcome sexual advances, requests for sexual favors, and other verbal/non-verbal or physical conduct of a sexual nature such as sexual assault or acts of sexual violence.** Sexual harassment is also a form of sex discrimination, which is illegal, under the New York State Human Rights Law, as well as under Title VII of the Civil Rights Act of 1964, as it relates to employees and under Title IX of the Education Amendments of 1972, as it relates to students.
- **Sexual harassment may be described as unwelcome sexual advances, requests for sexual favors, or other physical or expressible behavior of a sexual nature** where:
 - Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment or education.
 - Submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions affecting an individual; or
 - Such conduct has the purpose or effect of substantially interfering with an individual's academic or professional performance, or creates an intimidating hostile or offensive work or academic environment even if the person engaging in the conduct does not intend to interfere, intimidate or be hostile or offensive.

SEXUAL HARASSMENT (CONT.)

This includes, but is not limited to, sexual joking or innuendo, the use of sexually-explicit language or the display of sexually-oriented jokes, posters or other material on bulletin boards, in offices, carrels and work areas.

Examples of sexual harassment may include, but are not limited to, the following: unwanted sexual statements (including sexual joking or innuendo or sexually-explicit language); the display of sexually-oriented jokes, posters or other material on bulletin boards, in offices, carrels and work areas; unwanted personal attention (including stalking and cyber-stalking); unwanted physical or sexual advances that would constitute sexual assault, as defined in this policy; electronically recording, photographing, or transmitting intimate or sexual utterances, sounds, or images without the knowledge and consent of all parties involved; touching oneself sexually for others to view; and voyeurism (spying on others who are in intimate or sexual situations).

Conduct reported as sexual harassment will be evaluated by considering the totality of the particular circumstances, including the nature, frequency, intensity, location, context, and duration of the questioned behavior. Although repeated incidents generally create a stronger claim of sexual harassment, a serious incident, even if isolated, can be sufficient. For example, a single instance of sexual assault can constitute sexual harassment.

SEXUAL VIOLENCE

Physical acts perpetrated without consent or when a person is incapable of giving consent. A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.

STALKING

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) fear for his or her safety or the safety of others; or (2) suffer substantial emotional distress.

REPORTING.

REPORTING

The Institution strongly encourages the prompt reporting of sexual misconduct.

The report may be made by:

- A person covered by this policy who believes they experienced sexual misconduct; or
- A person who has information that sexual misconduct may have been committed by a person covered by this policy.

Reports should be **made to the Title IX Coordinator in writing via their Institution email or by mail, verbally in person or over the phone, or digitally through the official Institution reporting system, Maxient, located on the main Institution website and within SharePoint under HELP!**

Any member of the D'Youville community who believes that they have been subjected to sexual misconduct is encouraged to report it and may request that an investigation be conducted.

Unless an office has been designated as a confidential resource, as described below, students should assume that any other Institution office, official or employee (including Resident Advisors) to which a report is made will share that report with the Title IX Coordinator for review and handling in accordance with this policy.

In fact, certain Institution employees are required by law to do so.

CONFIDENTIAL REPORTING

CONFIDENTIAL CAMPUS RESOURCES:

- COUNSELING SERVICES
- CAMPUS MINISTRY
- CRISIS SERVICES

Discussing allegations of Sexual Misconduct with the above mentioned resources will NOT result in a report to the Title IX Coordinator

D'YOUVILLE

SAINT SUPPORT SHEET

Sexual Harassment & Misconduct

What You Need to Know: Obtaining Information, Support & Assistance, & Filing a Complaint

Upon receipt of notice of any allegation of sexual misconduct, the College will advise Complainants of their right to notify law enforcement; right to decline to do so; or be assisted in notifying law enforcement.

EMERGENCY RESPONSE

Buffalo Police Department | 911 &
716-851-4444
D'Youville Campus Safety | 716-829-7777
Erie County Medical Center | 716-898-3000

CONFIDENTIAL RESOURCES & SUPPORT

D'Youville Counseling Center | 716-829-7815
SaintsCare: Scan QR Code Below



REPORTING OPTIONS | ON CAMPUS

Title IX Coordinator | 716-829-8337
D'Youville Student Affairs | 716-829-7812
D'Youville Athletics | 716-829-8304
D'Youville Campus Safety | 716-829-7550
D'Youville Human Resources | 716-829-8222

REPORTING OPTIONS | OFF CAMPUS

Buffalo Police Department | 716-851-4444
Erie County Medical Center | 716-898-3000
Buffalo Crisis Services | 716-834-3131
Pride Center of Western New York | 716-852-7743 (M – F; 9 a.m. – 5 p.m.)

INTERIM MEASURES

D'Youville will take appropriate interim measures designed to protect the parties involved, regardless of a Complainant's course of action. These may include academic or employment accommodations, housing accommodations, the imposition of a No-Contact Agreement, counseling & other support services as needed. Both Parties shall be afforded a prompt review of the need for & terms of any such interim measure.

INVESTIGATION

D'Youville will support Complainants & Respondents in navigating the Complaint Resolution Procedures. There are several options available to resolve a report of prohibited conduct. These options include both informal & formal processes & will vary slightly based upon whether the Respondent is a student or an employee. Upon receipt of a report, the College will conduct an initial Title IX assessment and, if a formal complaint is filed by the complainant or Title IX Coordinator, commence an investigation. The College may pursue informal conflict resolution, with the parties' consent, or proceed with formal resolution. The formal resolution process will include a Live Title IX Hearing.

TITLE IX HEARING

The Title IX Coordinator or designee will select three members from a pool of trained hearing officers for a Hearing Panel. At least 10 days prior to the Hearing, the parties will receive a copy of the investigative report for their review & written response. At least one week prior to the Hearing, the parties will receive a description of the alleged violations & applicable procedures. The Panel will deliberate in closed session to determine under a preponderance of the evidence standard whether the Respondent is responsible or not responsible for the violations in question. The written decision of the Hearing Panel will be communicated to both parties via email & letter concurrently within 5 business days after the Hearing has concluded.

APPEAL PROCESS FOR STUDENT-RESPONDENTS

All requests for a final appeal must be submitted in writing to the Title IX Coordinator or designee within 5 business days of the delivery of the written finding of the Hearing Panel. Dissatisfaction with the Hearing Panel's decision is not grounds for appeal. All sanctions imposed by the Hearing Panel will be in effect during the appeal. The Title IX Appeal Panel will issue a written decision via email & letter to all parties within 5 business days of receipt of the appeal from the Title IX Coordinator. The decision of the Title IX Appeal Panel is final & may not be appealed.

RESOURCES

Campus Sexual Assault Victim's Bill of Rights

Sexual Misconduct & Harassment Information (Title IX)



TITLE IX STRUCTURE

Danielle Nesselbush

Executive Director for Student Affairs
& Title IX Coordinator

Rebecca Capinera

Associate Athletic Director
for Internal Affairs
& Deputy Title IX
Coordinator

Tammy Maston

Senior Human Resources
Manager
& Deputy Title IX
Coordinator

Benjamin Grant

Chief Student Affairs Officer
& Appellate Officer



DYVOUVILLE

PROCESS

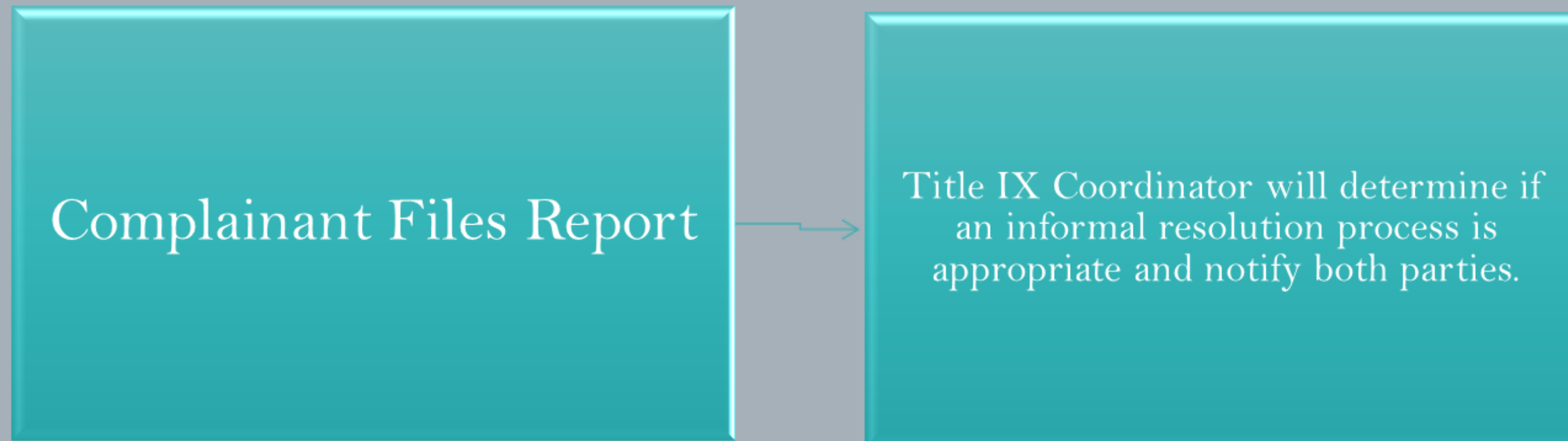
DYOUVILLE PROCESS

FORMAL RESOLUTION



DYOUVILLE PROCESS

INFORMAL RESOLUTION



DYOUNVILLE TIMELINE

An investigation conducted pursuant to this policy, the investigator's preparation of their initial report, presentation to the Title IX Coordinator, completion of a Live Hearing, and the imposition of sanctions should normally be completed within 60 calendar days after the Institution has notice of an allegation of sexual misconduct. The Title IX Coordinator may extend this time frame for good cause, including Institution breaks. If the time frame is extended, notice of the extension and the reasons for such extension will be provided to the Impacted Party and Respondent.

STAFFING.

STAFFING

Deputy Title IX Coordinators

Tammy Maston: Human Resources

Rebecca Capinera: Athletics

Sam D'Amato: Assistant Dean of Assessment

Title IX Coordinator

Danielle Nesselbush

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716.829.8337

KAB 302

GOALS.



WORKING TO MAKE SURE CAMPUS COMMUNITY IS:

Educated: Consent- Process- Prevention
Informed: Definitions- report filing- dyu process

