I. Background and Purpose

1.1 Policy Statement. The University of Wisconsin–Superior is committed to providing educational programs, activities, and a workplace environment that are inclusive and free from discrimination, discriminatory harassment (including sexual harassment), sexual misconduct, and retaliation. Furthermore, UW-Superior is committed to the prompt and equitable investigative and resolution process of all complaints.

1.2 Purpose and Scope of Policy. This policy provides the UW-Superior community with information and resources for responses to complaints of sexual misconduct which includes but is not limited to: sexual harassment, sexual assault, gender-based stalking, and dating/domestic violence. This policy applies to all University employees, students, contracted employees, and volunteers. This policy applies to all University property, sanctioned events, or other off-campus conduct (including Study Abroad locations) that would affect a member of the University community.

II. Constraints

Title IX Statement. Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq., prohibits discrimination on the basis of sex in any educational program or activity receiving Federal financial assistance. Title IX requirements cover sex discrimination, sexual harassment, sexual misconduct and sexual violence. In accordance with these requirements, UW-Superior is responsible for taking immediate and effective steps to respond to sexual misconduct and violence. Sexual violence may include physical sexual acts performed against a person’s will or where a person is incapable of giving consent. A number of acts fall into the category of sexual violence, including; rape, sexual assault, sexual battery, and sexual coercion.

III. Definitions

3.1 Confidential Resources. Licensed counselors, advocates, licensed medical or health care providers, and clergy are considered confidential resources. These individuals do not have the obligation to report specific information concerning reports of sex discrimination or sexual misconduct unless with the consent of the reporting individual or unless required by licensure or by law.

3.2 Complainant. A student, employee, or participant in a university program, event or activity who is allegedly harmed by the respondent as a result of sexual misconduct.

3.3 Consent. Words or overt actions by a person who is competent to give informed consent indicating a freely given agreement to have sexual intercourse or sexual contact. A person is unable to give consent if they are incapacitated because of drugs, alcohol, disabled physically or intellectually, or unconscious (s. 940.224(4), Wis. Stats.).

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

3.5 Domestic Violence. Any of the following engaged in by an adult family member or adult household member against another adult family member or adult household member, by an adult caregiver against an adult who is under the caregiver’s care, by an adult against his or her adult former spouse, by an adult against an adult with who the individual has or had a dating relationship, or by an adult against an adult with whom the person has a child in common (s. 813.12 (1)(am) and 968.075, Wis. Stats.):
   1. Intentional infliction of physical pain, physical injury or illness.
   2. Intentional impairment of physical condition.
   3. A violation of the state statute regarding sexual assault (Wis. Stat. § 940.225(1), (2) or (3).
   5. A violation of the state statute regarding damage to property (Wis. Stat. § 943.01), involving property that belongs to the individual.
   6. A threat to engage in the conduct under 1., 2., 3., 4., or 5 listed above, s. 813.12 (1)(am) and 968.075.

3.6 Gender-Based Stalking. When one intentionally engages in a course of conduct directed at a specific person that would cause a reasonable person under the same circumstances to suffer serious emotional distress or to fear bodily injury to or the death of himself or herself or a member of his or her family or household, (s. 940.32, Wis. Stats.).

3.7 Hostile Environment. A work, academic, or program-related environment that is created by one or more individuals that would be considered intimidating, hostile, or offensive to a reasonable person.

3.8 Preponderance of the Evidence. Information that would persuade a reasonable person that a proposition is more probably true than not true. It is a lower standard of proof than “clear and convincing evidence” and is the minimum standard for a finding of responsibility.


3.10 Responsible Employee. An employee designated on campus who has the authority to take action to address sexual violence and who has been given the duty to report incidents of sexual violence or any other misconduct by students to the Title IX coordinator or other appropriate school designee. UW-Superior responsible employees are staff in the Dean of Students Office, Chancellor, Vice Chancellors, Director of Human Resources, Dean of Faculties and Graduate Studies, Campus Safety Officers, Director of Residence Life, Coordinator for Residence Life, Hall Managers, Assistant Hall Managers, Resident Assistants, Director of Athletics, Assistant Director(s) of Athletics, Athletic Coaches and Assistant Coaches. (Not to be confused with Wisconsin Statute 36.11(22) or Clery Campus Security Authorities or CSAs.)

3.11 Retaliation. Any adverse action(s) taken against an individual for filing a complaint or against an individual supporting someone who has filed a complaint. Serious consequences will be applied if retaliation occurs.
3.12 Sex Discrimination. Occurs when a person has been treated inequitably based on sex or gender. Sexual misconduct, sexual harassment, sexual assault, stalking, dating violence, and domestic violence are also forms of sex discrimination.

3.13 Sexual Assault. … sexual contact or sexual intercourse with another person without the consent of that person, s. 940.225(4), Wis. Stats.

(1) FIRST DEGREE SEXUAL ASSAULT. Engaging in any of the following constitutes First Degree Sexual Assault:
   (a) Has sexual contact or sexual intercourse with another person without consent of that person and causes pregnancy or great bodily harm to that person.
   (b) Has sexual contact or sexual intercourse with another person without consent of that person by use or threat of use of a dangerous weapon or any article used or fashioned in a manner to lead the victim reasonably to believe it to be a dangerous weapon.
   (c) Is aided or abetted by one or more other persons and has sexual contact or sexual intercourse with another person without consent of that person by use or threat of force or violence.

(2) SECOND DEGREE SEXUAL ASSAULT. Engaging in any of the following constitutes Second Degree Sexual Assault:
   (a) Has sexual contact or sexual intercourse with another person without consent of that person by use or threat of force or violence.
   (b) Has sexual contact or sexual intercourse with another person without consent of that person and causes injury, illness, disease or impairment of a sexual or reproductive organ, or mental anguish requiring psychiatric care for the victim.
   (c) Has sexual contact or sexual intercourse with a person who suffers from a mental illness or deficiency which renders that person temporarily or permanently incapable of appraising the person's conduct, and the defendant knows of such condition.
   (d) Has sexual contact or sexual intercourse with a person who is under the influence of an intoxicant to a degree which renders that person incapable of giving consent if the defendant has actual knowledge that the person is incapable of giving consent and the defendant has the purpose to have sexual contact or sexual intercourse with the person while the person is incapable of giving consent.
   (e) Has sexual contact or sexual intercourse with a person who the defendant knows is unconscious.
   (f) Is aided or abetted by one or more other persons and has sexual contact or sexual intercourse with another person without the consent of that person.

(3) THIRD DEGREE SEXUAL ASSAULT. Having sexual intercourse with a person without the consent of that person.

(4) FOURTH DEGREE SEXUAL ASSAULT. Having sexual contact with a person without the consent of that person.

3.14 Sexual Contact. Means intentional touching, whether direct or through clothing, if that intentional touching is either for the purpose of sexually degrading, or for the purpose of sexually humiliating the complainant or sexually arousing or gratifying the defendant or if the touching contains the elements of actual or attempted batter under s. 940.19(1), s940.225(5)(b)(1), Wise. Stats.

3.15 Sexual Harassment. Conduct that is sexual in nature, is unwelcome, and denies or limits a student or employee’s ability to participate in or benefit from the educational environment.
3.16 Sexual Intercourse. Includes penetration as well as cunnilingus, fellatio or anal intercourse between persons or any other intrusion, however slight, of any part of a person’s body or of any object into the genital or anal opening either by the defendant or upon the defendant’s instruction, s.940.225(5)(c).

3.17 University Employee. Refers to any of the following: individuals employed part-time/fulltime, applicants for employment, contracted service employees.

IV. Policy Procedures

4.1 Accommodations.

The University will work with all parties involved in an incident of alleged sexual violence or misconduct to undertake any appropriate interim measures to provide remedies for the parties involved to address their safety and well-being. The accommodations or interim measures may include, but are not limited to: academic and employment accommodations, safety measures, relocation of living/work space, no contact directives, access to counseling services and assistance, etc.

4.2 Collection of Data and University Reporting Obligations.

Clery Reports – UW-Superior Annual Campus Security and Fire Safety Report contains the campus’ crime statistics (including sexual assaults) and addresses annual reporting requirements currently required by the United States Department of Education. The report can be found at [https://www.uwsuper.edu/safety/clery/annual-security-report-archives.cfm](https://www.uwsuper.edu/safety/clery/annual-security-report-archives.cfm).

WI Stat. 36.11(22) Requirements – Any person employed by UW-Superior who witnesses a sexual assault (or any sexual misconduct) on the UW-Superior campus or in the immediate surrounding area, or who receives a first-hand report of sexual assault from an enrolled student, is required by Wisconsin law (s.36.11(22), Wis. Stats.) to report the sexual misconduct to the Dean of Students Office. This effort is not the same as filing a criminal report. Disclosing the victim’s name is not required as part of this report. The Campus Safety Office in collaboration with the Dean of Students Office shall compile reports for the purpose of disseminating statistical information.

Executive Order #54 (EO-54) – All University of Wisconsin System employees must immediately report abuse or neglect if the employee, in the course of employment, observes an incident or threat of child abuse or neglect, or learns of an incident or threat of child abuse or neglect, and the employee has reasonable cause to believe that child abuse or neglect has occurred or will occur. UW-Superior employees must report these incidents to either the Department of Health and Human Services, the Superior Police Department, the Douglas County Sheriff’s Department, or to the UW-Superior Department of Public Safety. (Note: a child is considered a person who is less than 18 years of age… (Wis. Stat. § 48.02(2)).

4.3 Confidentiality.

To the extent permissible by law, UW-Superior will endeavor to keep victim information private. However, once a report is made to the University, or the University has notice of an incident of sexual harassment, sexual assault, domestic/dating violence, or gender-based stalking, confidentiality cannot be guaranteed unless that information is reported directly to one of the confidential resources listed below.
For victims aged 18 and older who report to non-confidential sources, relevant information will be shared only with those who need to know, such as Title IX Coordinators and Deputy Coordinators, compliance investigators, and other individuals who are responsible for handling the school’s response to incidents of sexual violence. In the case of minors, UW-Superior employees must report child abuse to Child Protective Services or local law enforcement.

In an effort to protect victim safety and privacy, UW-Superior maintains information about sexual violence in a secure manner. If the University has notice of an incident, UW-Superior will balance the victim’s request to keep identifying information confidential with Title IX’s mandate to investigate hostile environments. UW-Superior will redact a victim’s identifying information when responding to requests for information pursuant to the Wisconsin Public Records law and the federal Family Educational Rights and Privacy Act (FERPA), which governs the disclosure of student education records. The University will not disclose identifiable information about research subjects if prohibited by an NIH-issued Certificate of Confidentiality, HIPAA regulations and state laws pertaining to the privacy of health information or promises of confidentiality made to research subjects pursuant to the federally required consent form and authorization form. The University must respond to court-ordered subpoenas that are not prohibited by other applicable law, and may not be able to redact information when responding to a subpoena.

Complainants have the option to access confidential resources such as the resources listed below. Other licensed healthcare providers, counselors and social workers employed by the University follow the confidentiality requirements of their profession when they are providing care to a patient or a client.

4.4 Confidential Resources.

The University encourages victim/survivors to report sexual violence or misconduct. If you are seeking a confidential source which to report, please contact the following resources:

- Student Health and Counseling Services  
  - 715-394-8236
- Center Against Sexual and Domestic Abuse (CASDA)  
  - 715-392-3136  
  - A Victim Advocate is available 2 hours per week at the Gender Equity Center. For more information visit [https://www.uwsuper.edu/genderequity/advocate.cfm](https://www.uwsuper.edu/genderequity/advocate.cfm)
- CASDA 24-hour Hotline –  
  - 715-392-3136 or 800-649-2921

4.5 Education/Training.

The Title IX Coordinator will collaborate with all units on campus to ensure training and educational programs are provided to the campus community for new students, the general student body, and for university employees. University employees and students are required to complete training on an annual basis and may face disciplinary consequences for failure to complete.

4.6 Evaluation.

The Title IX Coordinator will collaborate with the Office of Institution Effectiveness to conduct a yearly climate study. All students and university employees are encouraged to participate. Also, education programs and trainings are assessed to measure whether learning outcomes are achieved.
4.7 Office of Civil Rights (OCR) Complaint.

Anyone who believes that UW-Superior has discriminated against them on the basis of race, color, national origin, sex (gender), sexual orientation, religion, disability or age, may file a report with the Office of Civil Rights at http://www2.ed.gov/about/offices/list/ocr/docs/howto.html.

4.8 Procedures for Reporting, Investigation and Resolution.

Reporting Options:

Students or University Employees who experience sexual misconduct are strongly encouraged to contact one of the below reporting option to….

1. Report to Title IX Coordinator or Dean of Students Office:
   - Students or University Employees who experience sexual misconduct can contact the Title IX Coordinator (who has been designated to receive reports from University employees and students) or the Dean of Students Office (who has been designated to receive reports from students).
     - Title IX Coordinator -- 715-394-8243
     - Dean of Students Office --715-394-8244
     - www.uwsuper.edu/incidentreport (this report is routed to the Title IX Coordinator)
   - University Employees who witness or receive a first-hand report of sexual misconduct from an enrolled student are required by Wisconsin Law 36.11(22) to report the incident to the Dean of Students Office or Title IX Coordinator. Details of the report need to be included however, a name does not need to be provided.

2. Report to a Responsible Employee:
   - Students or University Employees who experience sexual misconduct can contact one of the below “responsible employees” who is required to report the incident to the Title IX Coordinator:
     - Dean of Students Office – 715-394-8244
     - Chancellor – 715-394-8223
     - Vice Chancellors
       - Provost and Academic Affairs – 715-394-8449
       - Administration and Finance – 715-394-8014
       - Enrollment Management – 715-394-8115
       - University Advancement – 715-394-8598
     - Director of Human Resources – 715-395-8220
     - Dean of Faculties and Graduate Studies – 715-394-8595
     - Campus Safety – 715-394-8114
     - Residence Life Staff – 715-394-8438
       - Hall Managers, Assistant Hall Managers and Resident Assistance can be contacted in student respective halls.
     - Director of Athletics, Assistant Director(s) of Athletics, Coaches, and Assistant Coaches – 715-395-4693

3. Report to a Confidential Resource: The University encourages victim/survivors to report sexual misconduct. Below is a list of confidential sources to report to:
- **Student Health and Counseling Services (SHCS)** – 715-394-8236, Marcovich Wellness Center 1729, [www.uwsuper.edu/shcs](http://www.uwsuper.edu/shcs) (NOTE: Counselors in SHCS provide confidential counseling and have a responsibility to report only general information about incidents of sexual misconduct to the Title IX Coordinator to the campus’ obligation to gather statistical information.)

- **Center Against Sexual and Domestic Abuse (CASDA)** - 800-649-2921 (24-hour hotline), 318 21st Ave E, Superior, WI 54880, [www.casda.org](http://www.casda.org)


- **24-Hour National Domestic Violence Hotline** - 800-799-SAFE (7233)

- **Personal clergy/pastoral counselor**

- **Local hospitals**

4. Report to law enforcement or Campus Safety:
   - **Dial 911**
   - **UW–Superior Campus Safety Department** -- 715-394-8114, 606 Belknap Street, Superior, WI 54880
   - **Superior Police Department** -- 715-395-7234, 1316 N 14th St #150, Superior, WI 54880
   - **Or local police jurisdiction** where sexual misconduct occurred.

5. Reporting Anonymously:
   - [www.uwsuper.edu/incidentreport](http://www.uwsuper.edu/incidentreport) -- individuals reporting are not required to report their name, however other information such as date, time, location, perpetrator information, etc. can be provide.

Reports of sexual misconduct are addressed at UW-Superior through prompt, fair, and equitable student and university employees conduct procedures. These procedures address all members of the University community, including faculty, staff, university employees, students, and visitors to our campus, and provides resources to address and resolve issues and concerns of sexual misconduct.

A. Investigative Procedures for Allegations against Students

**Notice/report/information received** – Any incident report, police report, or complaint received by the Dean of Students Office that alleges the sexual misconduct policy has been violated is reviewed by the Title IX Coordinator.

**Meeting with Title IX Coordinator** – Complainant meets with the Title IX Coordinator and receives written information including: victim rights, campus and community resources, student conduct process (UWS Chapter 17), assistance available in filing a report with law enforcement (if victim chooses), and temporary accommodation options. Complainant is also notified of their right to have a victim’s advocate or other support person with them throughout the process.

**Emergency Suspension** – The report is assessed on a case by case basis internally by the Dean of Students Office and the Title IX Coordinator an emergency suspension may be imposed for the respondent as determined by UWS Chapter 17.19.

**Duty to warn, timely warning, or emergency notification** – The situation is assessed on a case by case basis by Campus Safety or Chancellor/Officer of the Day. A notice to campus will be sent via email if it is found to be necessary.
Remedial Actions and Interim Measures– If there is not enough information to proceed with a formal investigation, the Title IX Coordinator will decide upon remedial actions and/or interim measures to address safety and confidentiality of the complainant and overall campus safety. A report of the information and remedial actions delivered to the respondent and, at times, to the complainant as well. This may include but is not limited to an emergency suspension, no contact directives, change in class schedules, etc.

Formal Investigation – If a formal investigation is deemed appropriate and/or requested, the Title IX Coordinator will contact a Title IX Deputy for Student Conduct to begin a thorough and complete investigation under UWS Chapter 17. This process is separate from any law enforcement investigations which may be occurring at the same time. The student conduct process does not wait for the law enforcement/criminal process to conclude and instead continues separately in a timely manner.

The Title IX Deputy will:
- interview the student complainant.
- send a letter of allegation(s) to the student respondent and request a meeting to discuss the allegation(s).
- interview the student respondent.
- conduct other investigative tasks as needed (e.g. interviewing witnesses, gathering other relevant information).
- determine preponderance and recommended sanctions in consultation with the Title IX Coordinator.

Post Investigation – After a thorough investigation has been conducted, the Title IX Deputy will meet with the Title IX Coordinator to discuss information obtained. Information is reviewed to determine if the preponderance of evidence standard is met.

Preponderance of Evidence Standard Met - Finding of Responsibility:
- The Title IX Deputy will communicate the recommendation(s) to student respondent and complainant in writing.
- If the student respondent does not agree with the recommended sanction
  - The Title IX Deputy convenes a hearing for determination per Chapter 17.12.
- If the student respondent accepts recommended sanction
  - Settlement signed.

Preponderance of Evidence Standard NOT Met
- The Title IX Deputy will share the outcome with the student complainant and respondent in writing simultaneously.
- Complainant has the option to appeal to the Dean of Students.

Respondent rejects recommended sanction
- Hearing committee is convened to hear the case by the Title IX Deputy.

Respondent accepts recommended sanction
- Respondent and complainant review the settlement document and sign it in agreement.
- If both parties do not agree with the settlement, a hearing committee will be convened to hear the case.
B. Investigative Procedures for Allegations against University Employees

Notice/report/information received – Any report or complaint received from a University Employee that alleges the sexual misconduct policy has been violated is reviewed by the Title IX Coordinator. NOTE: The Title IX Coordinator, based on the information received, may also open a complaint at their discretion or at the request of the Chancellor, the Provost, or the Dean of Students.

Meeting with Title IX Coordinator – Complainant meets with the Title IX Coordinator who reviews the initial facts to determine if a formal investigation needs to be referred to a Deputy Title IX Coordinator in Human Resources. The complainant also at this time receives written information including: campus and community resource information, about the process, and an explanation of options for interim measures and accommodations. Complainant is also notified of their right to have a victim’s advocate or other support person with them throughout the process.

Duty to warn, timely warning, or emergency notification – The situation is assessed on a case by case basis by Campus Safety or Chancellor/Officer of the Day. A notice to campus will be sent via email if it is found to be necessary.

Remedial Actions and Interim Measures – If there is not enough information to proceed with a formal investigation, the Title IX Coordinator will decide upon remedial actions and/or interim measures to address safety and confidentiality of the complainant and overall campus safety. A report of the information and remedial actions are for all parties involved. This may include but is not limited to a suspension from work duties, no contact directives, change of work schedule, etc.

Formal Investigation – If a formal investigation is deemed appropriate and/or requested, the Title IX Coordinator will contact the Title IX Deputy in Human Resources to begin a thorough and complete investigation of the complaint. This process is separate from any law enforcement investigations which may be occurring at the same time. This process will not wait for the law enforcement/criminal process to conclude and instead continues separately in a timely manner.

The Title IX Deputy in Human Resources will:
- interview the complainant.
- send a letter of allegation(s) to the respondent and request a meeting to discuss the allegation(s).
- interview the respondent.
- conduct other investigative tasks as needed (e.g. interviewing witnesses, gathering other relevant information).
- determine preponderance and recommended sanction in consultation with the Title IX Coordinator.

Post Investigation – After a thorough investigation has been conducted, the Title IX Deputy will meet with the Title IX Coordinator to discuss information obtained. Information is reviewed to determine if the preponderance of evidence standard is met.

Preponderance of Evidence Standard Met - Finding of Responsibility:
• The Title IX Deputy will communicate the recommendation(s) to respondent and complainant in writing.
• If the respondent does not agree with the recommended sanction
  o The Title IX Deputy will refer the respondent to the Chancellor for an appeal.
• If the respondent accepts recommended sanction, a settlement signed.

Preponderance of Evidence Standard NOT Met
• The Title IX Deputy shares outcome with complainant and respondent in writing.
• Complainant has the option to appeal to the Chancellor.

4.9 Responsible Action Guidelines.

In cases where a student has been a victim of a crime of sexual violence and/or other violent crime(s) while under the influence of alcohol or other drugs, neither the Dean of Students Office, Residence Life, nor UW-Superior Campus Safety will pursue disciplinary actions against the student victim (or against a reporting witness) for their improper use of alcohol or other drugs (e.g., underage drinking). A student victim who is under the influence of alcohol or other drugs at the time of the sexual assault is entitled to university and community assistance and encouraged to seek help.

4.10 Retaliation.

State and federal laws and university policy protect against retaliation. University policy prohibits retaliation against an individual who has reported sex discrimination or misconduct, filed a complaint, participated in the investigation of a complaint, or assisted others who raised a complaint. Retaliation is a serious offense which will result in disciplinary action and will be considered a form of discrimination and will be treated as such. This protection exists even if a complaint is dismissed or found lacking in merit.

4.11 Sanctions.

Students -- The following are sanctions (per UWS Chapter 17) that may be imposed for a violation of sexual misconduct by a student:
(1) The disciplinary sanctions that may be imposed for nonacademic misconduct, in accordance with the procedures of ss. UWS 17.11 to 17.13, are any of the following:
  (a) A written reprimand.
  (b) Denial of specified university privileges.
  (c) Payment of restitution.
  (d) Educational or service sanctions, including community service.
  (e) Disciplinary probation.
  (f) Imposition of reasonable terms and conditions on continued student status.
  (g) Removal from a course in progress.
  (h) Enrollment restrictions on a course or program.
  (i) Suspension.
  (j) Expulsion.

University Employees -- Sanctions that may be imposed for a violation of sexual misconduct by University employees can range from a written warning, change of work location and/or duties, educational remediation, suspension, and/or termination of employment contract.
V. Compliance

A Title IX Committee at UW-Superior meets on a regular basis to discuss policy implementation and revision, to assess the effectiveness of trainings and educational programming, to address campus climate issues, and to provide guidance to the Title IX Coordinator. The representatives on this committee include, but are not limited to: Admissions, Financial Aid/Student Employment, Counseling Services, Human Resources, Residence Life, Athletics, Campus Safety, Provost, Dean of Students, Gender Equity, and student representation.

VI. Attachments

Board of Regents Sexual Violence and Harassment Policy
UW System Consensual Sex Policy