



**WESTERN KENTUCKY UNIVERSITY**  
**Mandatory Reporting Guidelines**  
Title IX and the Clery Act

**Introduction**

There are two federal laws that establish responsibilities for employees of universities to report certain types of crimes and incidents, especially sexual misconduct—Title IX and the Clery Act. Each of these areas of federal law has a different purpose, but generally the laws are intended to protect members of the campus community, visitors, and guests from criminal and discriminatory behavior. The responsibilities established by these laws give rise to the term “mandatory reporter.”

Title IX focuses on the adverse consequences faced by victims of gender discrimination and sexual harassment and creates obligations for the University to investigate and to provide a “prompt and effective remedy.” If the victim is a student, Title IX means, among other things, that the University must provide an environment that does not interfere with the victim’s right to pursue an education. The University incurs this obligation when a victim has given notice to a “responsible employee,” or when the University, in the exercise of reasonable care, should have known about the assault or harassment.

The Clery Act creates a duty for institutions to report crimes in different categories (listed on pages 3-4) and has the broadest scope. Guided by the language of the Clery Act and subsequent amendments, the University is required to define which employees must report crime information they receive.

**Mandatory Reporters**

Title IX and Clery Act mandatory reporters include any employees who have the authority to take action to redress the harassment, who have the duty to report to appropriate school officials sexual harassment or any other misconduct by students or employees, or an individual whom a student could reasonably believe has this authority or responsibility which include, but are not limited to:

- Vice Presidents, Deans, Department Chairs, Directors, and Coaches;
- Assistant or Associate Vice Presidents, Deans, and Provosts;
- Any employee in a supervisory or management role;
- Any faculty member responsible for supervising any activities or programs that include direct contact with students outside of classroom (including faculty advisors to recognized student organizations);

- Western Kentucky University Police Department (WKUPD) Officers and any contracted security personnel.

1. In regards to Title IX, when you become aware of an alleged act of sexual harassment, sexual assault, or gender discrimination you must:

- a. Provide the alleged victim with the [Resource Brochure](#).
- b. Immediately contact a Title IX Coordinator, Deputy, or Investigator:

**i. Title IX Coordinator**

Ms. Ena Demir, Executive Director and Title IX Coordinator  
Institutional Equity  
Phone: (270) 745-6867  
Email: [titleix@wku.edu](mailto:titleix@wku.edu)

**ii. Title IX Investigators**

Mr. Michael Crowe, Jr., Director  
Office of Student Conduct  
Phone: (270) 745-5429  
Email: [michael.crowe@wku.edu](mailto:michael.crowe@wku.edu)

Mr. Rodney Stewart, Investigator  
Institutional Equity  
Phone: (270) 745-4515  
Email: [rodney.stewart@wku.edu](mailto:rodney.stewart@wku.edu)

**After Hours Contact: 911, the WKU Police Department at (270) 745-2548, or the Bowling Green Police Department at (270) 393-4000.**

2. In regards to the Clery Act, when you become aware of any of the crimes listed below, which occur 1) on campus, 2) on public property within or immediately adjacent to campus, or 3) in or on non-campus property that the University owns or controls:

- a. Call 911 or the WKUPD at (270) 745-2548 if it is an actual emergency or involves an imminent threat to life or property. (These reports are not anonymous and must include who, what, where and how the incident occurred.)
- b. Call the WKUPD at (270) 745-2548 or complete and submit the [Anonymous Reporting Form](#) if it is not an actual emergency or does not involve an imminent threat to life or property.

- Murder & Non-Negligent Manslaughter: The willful killing of one human being by another.
- Negligent Manslaughter: The killing of another person through gross negligence.

- Robbery: The taking or attempted taking of anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.
- Aggravated Assault: An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. (It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon is used which could and probably would result in serious personal injury if the crime were successfully completed.)
- Burglary: The unlawful entry of a structure to commit a felony or theft. For reporting purposes this definition includes: unlawful entry with intent to commit a larceny or felony; breaking and entering with intent to commit larceny; housebreaking; safecracking; and all attempts to commit any of the aforementioned.
- Motor Vehicle Theft: The theft or attempted theft of a motor vehicle. (Classify as motor vehicle theft all cases where automobiles are taken by persons not having lawful access even though the vehicles are later abandoned, including joyriding.)
- Arson: Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.
- Arrests for Weapon Law Violations: The violation of laws or ordinances dealing with weapon offenses, regulatory in nature, such as: manufacture, sale, or possession of deadly weapons; carrying deadly weapons, concealed or openly; furnishing deadly weapons to minors; aliens possessing deadly weapons; and all attempts to commit any of the aforementioned.
- Arrests for Drug Abuse Violations: Violations of state and local laws relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The relevant substances include: opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics (Demerol, methadones); and dangerous nonnarcotic drugs (barbiturates, Benzedrine).
- Arrests for Liquor Law Violations: The violation of laws or ordinances prohibiting: the manufacture, sale, transporting, furnishing, possessing of intoxicating liquor; maintaining unlawful drinking places; bootlegging; operating a still; furnishing liquor to a minor or intemperate person; using a vehicle for illegal transportation of liquor; drinking on a train or public conveyance; and all attempts to commit any of the aforementioned. (drunkenness & driving under the influence are not included in this definition.)
- Disciplinary Referrals for Weapon Law Violations
- Disciplinary Referrals for Drug Abuse Violations
- Disciplinary Referrals for Liquor Law Violations • Hate Crimes
- Sex Offenses (**Reporting sex offenses to the Title IX Coordinator and/or to the WKUPD satisfies the Clery Act reporting requirements**)
  - Forcible: Any sexual act directed against another person, forcibly or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent.
  - Sex Offenses: Nonforcible – unlawful, nonforcible sexual intercourse.

- Incest: Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - Statutory Rape: Nonforcible sexual intercourse with a person who is under the statutory age of consent (age 16 in Kentucky).
- Domestic violence means a felony or misdemeanor crime of violence committed by—
  - A current or former spouse or intimate partner of the victim,
  - A person with whom the victim shares a child in common,
  - A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner,
  - A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies [under VAWA], or
  - 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.
- Dating violence means violence committed by a person—
  - Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
  - Where the existence of such a relationship shall be determined based on a consideration of the following factors:
    - the length of the relationship;
    - the type of relationship; and
    - the frequency of interaction between the persons involved in the relationship.
- Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to—
  - Fear for his or her safety or the safety of others; or
  - Suffer substantial emotional distress.

Kentucky law requires that any person who suspects that a minor child (under 18) is the victim of abuse or neglect must immediately contact a local law enforcement agency or other agency authorized by statute. KRS 620.030. The WKUPD (270-745-2548) constitutes a local law enforcement agency for purposes of Kentucky’s mandatory reporting law for child abuse and neglect. Failure to report suspected abuse may result in criminal charges and/or disciplinary action. Kentucky law also requires that any person who suspects that a person is a victim of spousal abuse must also immediately report this information to the appropriate agency. KRS 209A.030. The University Police Department can be reached at (270) 745-2548.

### DEFINITIONS

- A. Sexual Harassment: Conduct on the basis of sex that occurs in the University’s education program or education activity, and satisfies one or more of the following:
1. An employee of the University conditioning the provision of an aid, benefit, or service of the recipient on an individual’s participation in

unwelcome sexual conduct. This type of sexual harassment is also referred to as Quid Pro Quo;

2. Unwelcome conduct determined by a reasonable person to be so severe, and pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity. This type of sexual harassment is also referred to as a Hostile Environment; and/or
3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a) (10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a) (30).

B. Sexual Assault: A form of sexual harassment or sexual misconduct. The federal regulation uses the definition 20 U.S.C. 1092(f)(6)(A)(v), which defines sexual assault as an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

1. Forcible Sex Offenses: Any sexual act directed against another person (without consent) including instances, in which the person is incapable of giving consent. The following are also included as Forcible Sex Offenses:
  - a) Forcible Rape: 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 consent of the person.
  - b) Forcible Sodomy: Oral or anal sexual intercourse with another person that is forced and/or against that person's will (non-consensually); oral or anal sexual intercourse with another person that is not forced or against the person's will, in which the person is incapable of giving consent (e.g., age, temporary or permanent mental or physical incapacity).
  - c) Sexual Assault with an Object: Use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly, and/or against that person's will (non-consensually); use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, not forcibly, and/or against the person's will, in which the person is incapable of giving consent (e.g., age, temporary or permanent mental or physical incapacity).
  - d) Forcible Fondling: Touching of the private body parts of another person (e.g., buttocks, groin, breasts), for the purpose of sexual gratification, forcibly, and/or against that person's will (non-

consensually); touching of the private body parts of another person (e.g., buttocks, groin, breasts), for the purpose of sexual gratification, not forcibly, and/or against the person's will, in which the person is incapable of giving consent (e.g., age, temporary or permanent mental or physical incapacity).

2. Non-Forcible Sex Offenses: Unlawful, non-forcible sexual intercourse.

- a) Incest: Non-forcible sexual intercourse, between persons who are related to each other, within the degrees wherein marriage is prohibited by Kentucky law.
- b) Statutory Rape: Non-forcible sexual intercourse, with a person who is under the statutory age of consent in Kentucky.

C. Dating Violence: A form of sexual harassment or sexual misconduct as defined in 34 U.S.C. 12291(a) (10) as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, and where the existence of such a relationship is determined based on consideration of the following factors:

- a) Length of the relationship;
- b) Type of relationship;
- c) Frequency of interaction between the persons involved in the relationship.

D. Domestic Violence: A form of sexual harassment or sexual misconduct. The federal regulation uses the definition in 34 U.S.C. 12291(a)(8), which defines domestic violence as felony or misdemeanor crimes of violence committed by a current or former spouse (or intimate partner of the victim), by a person with whom the victim shares a child in common; by a person who is cohabitating with or has cohabitated with the victim as a spouse (or intimate partner); by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Kentucky; or 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 Kentucky.

E. Stalking: A form of sexual harassment or sexual misconduct. The federal regulation uses the definition in 34 USC § 12291(a) (30), which is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress. Course of conduct is defined as two or more acts that include, but are not limited to, the stalker directly or indirectly (e.g., through third parties), by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to (or about) a person or interferes

with a person's property. Substantial emotional distress is defined as significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. A reasonable person is defined as someone who is sensible and approaches situations with objectivity.

- F. Retaliation: Retaliation occurs when an adverse action is taken against an individual because they reported a violation of this policy, filed a formal complaint, and/or participated in an investigation of a discrimination or harassment report.

**Non-Retaliation/Non-Retribution Policy**

The purpose of this [Policy and Procedure](#) is to encourage and enable good-faith reports by University employees of observed or suspected misconduct or noncompliance with law or with University policies and procedures without fear of retaliation or retribution.