




# OVERVIEW OF CHANGES TO MUHLENBERG'S EQUAL OPPORTUNITY & NONDISCRIMINATION POLICY AND PROCEDURES FOR INVESTIGATORS AND DECISION-MAKERS

September 11, 2020, 10:00am via Zoom

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- Who's here and what are your roles
  - Overview of changes to the EO Policy and procedures due to new Title IX rule
  - Q & A

# Equity and Title IX

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Muhlenberg College is committed to providing a diverse and inclusive educational environment for all students, faculty, and staff. The Office of Equity and Title IX supports this commitment in its responsibilities by ensuring that all Muhlenberg community members can equally participate in Muhlenberg's educational and employment opportunities regardless of age, color, disability, gender, gender identity, national or ethnic origin, race, religion, sex, sexual orientation, veteran status or any other identity as protected by applicable laws. The Office of Equity and Title IX, in collaboration with campus partners, provides guidance and training to

College Nondiscrimination & Title IX Policy

File an Online Report Now

Anti-Racist Resources

Bias Resource & Education Team

Brochures and Flyers

Diversity at Muhlenberg

Mandatory Reporting



# College Nondiscrimination & Title IX Policy and Procedures

- [Muhlenberg College Equal Opportunity and Nondiscrimination Policy](#)
- [Muhlenberg College Equal Opportunity and Nondiscrimination Procedures for Complaints Made About Students](#)
- [Muhlenberg College Equal Opportunity and Nondiscrimination Procedures for Complaints Made About Staff](#)
- [Muhlenberg College Equal Opportunity and Nondiscrimination Procedures for Complaints Made About Faculty](#)

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[Sexual Assault and Resource Team](#)

# WHO IS HERE

- **Investigator:** An Investigator is a trained staff member, or a trained outside investigator, who conducts an impartial, fair, and unbiased investigation into allegations of violations of the EO Policy under the guidance of the Director of Equity and Title IX Coordinator. The Director of Equity and Title IX Coordinator may serve as the Investigator and may also designate more than one Investigator to conduct an investigation as needed.
- **Decision-maker:** A Decision-maker is a person with the authority to make a determination on Respondent's responsibility and/or determine the appropriate sanction following a finding of responsibility for a violation of the EO Policy. The VPSA, VPHR, Provost, panel members, and appeal officer are examples of a Decision-maker.



# FOCUS FOR POLICY CHANGES

In addition to ensuring the updates were compliant with the new Title IX regulation:

- Keeping as much of the College's Equal Opportunity & Nondiscrimination Policy and procedures as intact as possible.
- Ensuring the procedures included fair and meaningful resolution options in lieu of a Title IX live hearing option.

# HIGHLIGHTS OF POLICY CHANGES DUE TO NEW TITLE IX RULE

- Title IX definition of “sexual harassment” and jurisdictional parameters: p. 10 of EO Policy

**Title IX sexual harassment is** conduct of the basis of sex, occurring only in the College’s “education program or activity”, that satisfies one or more of the following:

- An employee who conditions the provision of an aid, benefit, or service at the College on an individual’s participation in unwelcome sexual conduct (see also “Quid Pro Quo Sexual Harassment” below);
- Unwelcome sexual conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies an individual equal access to the College’s educational program or activity;
- Sexual assault, dating violence, domestic violence, or stalking as further defined below.

FN: “Education program or activity” as defined by the U.S. Department of Education is “locations, events, or circumstances over which the [school] exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution.” Title IX Sexual Harassment also only applies to discrimination occurring against a person in the United States.

# HIGHLIGHTS OF POLICY CHANGES DUE TO NEW TITLE IX RULE

- Title IX live hearing with cross examination resolution process – p. 14 of student, p. 15 of faculty, and p. 15 of staff procedures.
  - The investigation remains similar to non-Title IX complaints, with a few small procedural changes
  - The investigation report is submitted to the hearing panel
  - A hearing chair will be chosen – this role is significant and important and we have the possibility of hiring a third party for this role
  - Both parties must have an advisor for the live hearing and if they do not have one, one will be appointed by the College
  - The advisor must understand how to conduct cross-examination
  - If a party or witness declines to be cross-examined, any statement that has been made by that party or witness may **not** be considered by the panelists



# HIGHLIGHTS OF POLICY CHANGES DUE TO NEW TITLE IX RULE

- Addition of “Adaptable Resolution” options to provide informal resolution options in lieu of a formal resolution – p. 6 of student, p. 7 of faculty, p. 7 of staff procedures
  - Restorative Justice Process
  - Negotiated Resolution
  - Acceptance of Responsibility

*Exception to these options:* complaint of sexual harassment by student against an employee

# HIGHLIGHTS OF POLICY CHANGES DUE TO NEW TITLE IX RULE

- Addition of “Bias affecting Judgment” appeal grounds - p. 20 of student, p. 21 of faculty, p. 22 of staff procedures

**Bias affecting Judgement:** The Director of Equity & Title IX Coordinator, the investigator(s), Decision-maker(s), or VPSA (or VPHR or Provost) harbored bias for or against one or both parties, or had a conflict of interest, such that it affected the outcome of the matter.



# TRAINING NEXT WEEK

- In depth for investigators and decision-makers on the legal and regulatory framework of Title IX, investigative protocols, forensic interviewing, hearing preparation and practices, evaluating credibility, deliberation techniques, and report writing.
- Wed, Sept 16 and Thurs, Sept 17 for investigators and decision-makers
- Will forward more information as soon as I get it



QUESTIONS?