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# Title IX and Nondiscrimination

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# Goals Today

- Overview of Nondiscrimination at PC
- Title IX and Sex-Based Discrimination
- PC's Sexual Misconduct Policy
- Reporting
- Hypotheticals

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# PC and Nondiscrimination

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# PC and Nondiscrimination

PC prohibits a wide variety of unlawful discrimination and harassment, including behavior based on

- Race/color
- Sexual or sex-based (including LGBT status)
- Religion
- Disability
- National origin
- Pregnancy
- Military Status
- Age

# PC and Nondiscrimination

*Personnel Handbook*, pp. 11-14:

**“the College does not authorize and will not tolerate any form of harassment or discrimination of or by any employee in the workplace...”**

# PC and Nondiscrimination

*Arts and Sciences Faculty Handbook*, p. 42:

**“Presbyterian College does not improperly discriminate on the basis of race, religion, color, national origin, sex, disability, or age in its programs or activities. This policy includes, but is not limited to, prohibition of sexual harassment and discrimination.”**

# PC and Nondiscrimination

*Diversity and Inclusion Statement:*

**“The College seeks to foster mutual respect and understanding among and for people of different cultures, ethnicities, races...”**

**“We believe a diversity of human experiences and viewpoints in our learning community strengthens the educational experience of all members...”**

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# Title IX

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# TITLE IX

- Title IX is a federal law that prohibits discrimination on the basis of sex in education programs or activities
- PC has an obligation to ensure that a student is not denied access to or limited in the ability to participate or benefit from the school's program on the basis of sex

# TITLE IX – *A very* brief history

- Education Amendments of 1972
- Athletic Equity
- 2011 “Dear Colleague Letter” - policies to investigate and adjudicate student sexual assault
- 2020 Trump Administration Title IX Regulations
- 2021 Biden Administration clarifies TIX includes LGBT protections
- June 23, 2022 – Proposed new regulations issued

# TITLE IX

- PC investigates and resolves gender-based discrimination through its Sexual Misconduct Policy
- Revised in August 2020, when new Title IX regulations took effect
- Policy is administered by the VP of HR and Title IX

# Sexual Harassment Defined

- Types of Sexual Harassment
  - “Quid pro quo”: i.e., when a benefit is offered or withheld based on victim’s agreement to sexual conduct
  - “Hostile Environment”: unwelcome conduct that a reasonable person would deem so severe, pervasive, and objectively offensive as to deny a person equal access to College programs and activities
  - Certain criminal and civil offenses as defined in law: sexual assault, rape, domestic violence, dating violence, gender-based stalking

# Forms of Sexual Harassment

- Student on student
- Employee on student
- Employee on employee
- Discrimination by third parties
- *Note:* Parties can be the same or different genders

# Examples of Sexual Harassment

- Verbal harassment – jokes, innuendo, foul language
- Physical harassment – unwelcome touching, assault, rape, etc.
- Visual harassment – pictures, forwarded internet materials, pornography
- Unwelcome sexual advances or requests for sexual favors
- *Note:* sexual harassment is NOT normal, pleasant, friendly or even mildly flirtatious interactions, so long as a reasonable person would not be offended.

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# PC's Sexual Misconduct Policy

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# Reporting

- Reports are made to the Title IX Office
  - Title IX office determines whether the report concerns “Sexual Misconduct”
- Title IX Coordinator explains the process and offers “Supportive Measures” to Complainant
- Formal Complaint may be filed



# Reporting

- Retaliation for good faith reports is **PROHIBITED**
- Confidentiality will be respected to the extent practicable, but parties, witnesses, and others involved in the process may be informed

# Investigations

- If a formal complaint is filed, neutral, trained investigators will be appointed
- Parties and witnesses will be interviewed and evidence collected
- Investigative report will be prepared and shared with the parties

# Hearings

- If alleged behavior falls under Title IX regulations, the College follows special hearing procedures
  - Parties must have advisors
  - Cross examination is required
- Three-person hearing panels determine responsibility and recommend sanctions
- Preponderance of the evidence standard is used

# Hearings

- If alleged behavior falls outside the scope of Title IX and involves a student Respondent, modified hearing procedures are used
- For faculty and staff misconduct that is outside Title IX, the matter is resolved under procedures in the applicable handbook

# Other Sexual Misconduct Policy Procedures

- Appeals may follow hearing determinations
- Informal resolution (mediation, acceptance of responsibility and agreed sanctions, etc.) may be used in most instances with agreement of the parties
- Policy anticipates 90-120 days to resolve most complaints

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Your Role = Reporting

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# MANDATORY REPORTING

**“The College cannot resolve matters that are not brought to its attention.”**

Personnel Handbook, p. 13

# MANDATORY REPORTING

- “Somebody should report her actions.”

YOU ARE SOMEBODY!



# MANDATORY REPORTING

- Personnel HB:
  - Any employee who feels he or she has been discriminated against “*must report*” (p. 13)
  - “Any employee who observes conduct by another . . . *must report*” (p. 13)

# MANDATORY REPORTING

Arts and Sciences Faculty HB, pp. 44-45:

“Because they are seen by students as occupying positions of authority, faculty members may receive grievances from students or College employees. The appropriate response will depend on the nature of the grievance, but in no case may you ignore a complaint once it has been brought to your attention.

# MANDATORY REPORTING

Report to VP of Human Resources and Title IX:

- Any incidents of discrimination or harassment in the workplace.
- Any incidents of sexual harassment, violence or discrimination, including those that involve students.

# If a report comes to you...

- Inform the person of the Sexual Misconduct Policy and how to report
- Report to Title IX \*\*
  - (\*\*Exceptions for PC chaplains, counselors)
- Keep confidential
- Support investigation and corrective action (if any)
- Do not retaliate

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# Hypotheticals

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# HYPO ONE

Student states she was at a party over the weekend, drinking with a male student. She woke up in the bed with the male the next morning, both were naked, and she noticed bleeding in her vaginal area. She is terrified and asks you not to say anything to anyone.

# HYPO ONE

- A. Keep the matter confidential, but encourage her to report to Title IX Office
- B. Recommend she speak to a counselor.
- C. Report the incident to Title IX Office
- D. Encourage her to make a doctor's appointment
- E. B, C & D

# HYPO TWO

Student says he and his boyfriend are “having a tough time” and he is making an appointment to discuss the matter with a PC chaplain.



# HYPO TWO

- A. Keep confidential but encourage the discussion with the chaplain.
- B. Report the Matter to the Title IX Office
- C. File a Bias Incident Report
- D. Inform the Dean of Students

# Variations on HYPO TWO

- Student complaining presents with black eye
- Student complaining states that in a discussion in class on same-sex marriage, other students expressed opposition and he feels this is “sexual harassment” of him and his boyfriend
- Student complaining adds that boyfriend has “pushed him to do things he is not comfortable with”

# HYPO THREE

You are a new female staff member in a department. In informal discussions, a colleague warns you to “look out” for a male professor in the department, because he is “a harasser”

# HYPO THREE

- A. Report the matter to Title IX
- B. Do nothing
- C. Encourage the colleague to report if she has been harassed

# HYPO FOUR

You are an untenured faculty member. A new faculty member joins your department in August. At the end of the semester, she comes to your office, tells you the department chair has been constantly touching her inappropriately, and in October said that she would not get tenure unless she agreed to sleep with him. She plans to resign and move far away. The next day she tenders her resignation to take a job at the University of Alaska.

# HYPO FOUR

- A. Inform the Title IX office of the conversation.
- B. Do nothing – the victim left anyway; there is nothing that can be done now.
- C. Warn your best friend in the department to be on the lookout, but don't report this up. You cannot risk angering the department chair and jeopardizing your own tenure review.

# THANK YOU



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Member

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