

# Title IX and You: Understanding Your Role



# AGENDA

## PART I

1. Introduction and Learning Objectives
2. The Legal Aspects
3. Definitions
4. Title IX in the World Today
5. Reporting and Intakes
6. Interviewing
7. Investigation
8. Hearing
9. Informal Resolution
10. Appeals
11. Prevention and Programs

## PART 2

1. Scenarios
2. Practice interviewing
3. Debrief

## PART 3

1. Summary
  2. Q & A
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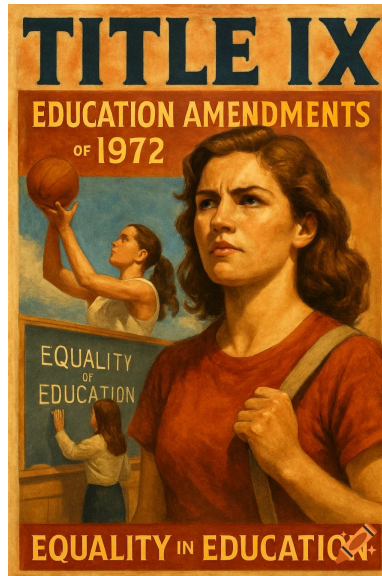
# Introduction

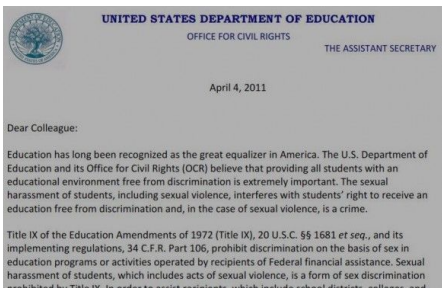
## Objectives:

- Understand the compliance
- Use equity in investigations
- Provide students and employees with tools
- Learn resources for responding to reports
- Practice your skills

# TITLE IX

**“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.”**





# Evolution of Title IX

2011 Dear Colleague Letter from the Office of Civil Rights

Reminder that Title IX covers sexual violence

Requires immediate investigation

Must take prompt and effective steps to end sexual violence, prevent its recurrence, and address its effects

Use of preponderance of evidence standard

Offer a grievance procedure with equal opportunity

Must notify parties of outcome simultaneously

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# Other laws or acts that govern how we respond to complaints

VAWA

Illinois Preventing Sexual Violence in  
Higher Ed

NCAA

Clery Act

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# Violence Against Women Act

Signed in 1994

Reauthorized in 2000, 2005, 2013,  
2022

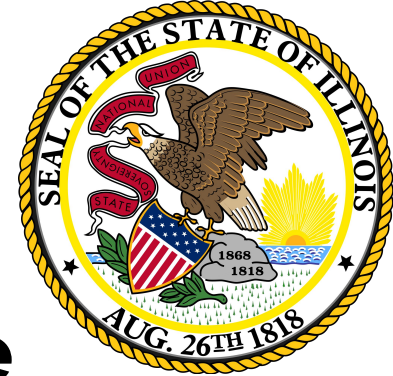
**Domestic Violence:** A pattern of abusive behavior in a relationship that is used by one partner to gain or maintain power and control over an intimate partner

**Dating Violence:** Committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim

**Sexual Assault:** A nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks the capacity to consent

**Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety

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# Illinois Preventing Sexual Violence in Higher Education Act-2015

Defines sexual violence

Requires:

Comprehensive policy

Confidential advisors

Prevention Training

Response timeline of 12 hours

Task force

Standard of proof

Annual campus climate survey

Survivor-centered support

Annual reporting

Investigation/resolution procedures

Survivor rights

# Federal changes in 2024

Institutions can use the “Clear and Convincing” or “Preponderance of Evidence” standard but must use same standard for all investigative processes

Clear and convincing: Leaves a person with a firm belief or conviction that it is highly probable that the factual contentions of the claim or defense are true

Illinois requires “Preponderance of Evidence”

Preponderance of evidence: More than likely or 50% plus a feather



# NCAA

**August 2017**, the NCAA Board of Governors adopted the **Policy on Campus Sexual Violence**, which applies to all 1,100 member schools. The policy:

- Requires **annual attestation** of compliance with sexual violence prevention, education, and response efforts.
- Mandates that schools maintain policies, procedures, and educational programs addressing sexual violence.
- Encourages regular review of practices and coordination with campus stakeholders



# Clery Act-1990

Jeanne Clery murdered at Lehigh University  
in 1986

Requires annual reporting to be published  
publicly for prospective students/parents

Requires: Annual report  
Crime statistics  
Timely warnings  
Daily crime log  
Missing student notification  
Policy disclosures



# How does sexual violence affect our youth?

Audrie and Daisy



# Dating/Domestic Violence Cases

Yardley Love

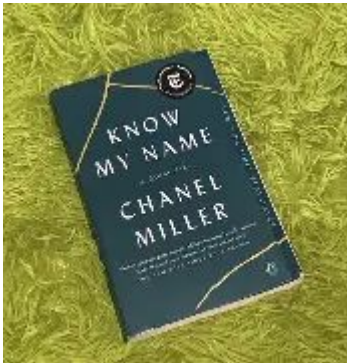


# Stalking



# Famous cases

Chanel Miller



The Stanford Swimmer case



# Idaho murders

Issues for college campuses  
Threat Assessment teams



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# Lauren McCluskey

Implications for how colleges  
respond to complaints



**BREAKTIME**

# Important definitions

**Applicable scope:** When the Respondent is a member of the WIU community, a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the WIU community. This community includes, but is not limited to, students, student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, invitees, and campers.

**Jurisdiction:** The policy covers the campus property or attendance in events that are sponsored by the institution. Regardless of where the alleged offense occurred, the complainant has the right to supportive measures. Does not cover outside of the US, even if on a study abroad trip.

# Examples-do we have jurisdiction?



Sorority House  
Fieldhouse  
Sports Corner  
Conference  
Performances, events on campus

Kitchen at a residence hall  
WIU sponsored trip in US  
Apartment on Jackson Street  
Employment  
Online program

# Limitations

Conflicts with 1st Amendment and other Constitutional rights

Teaching materials are 1st Amendment rights and considered academic freedom

Conflicts with Religious Freedom Restoration Act-RFRA does not override TIX



# Sex Discrimination

Discrimination in a systematic way because of  
policy or practice  
If it affects a group or category rather than a  
person  
Not usually one individual respondent

**The treatment limits the person  
from participating in educational  
programs or activities**

Individualized examples

1. Action taken or adverse treatment of a person because of their sex
2. Usually has an identifiable respondent

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## Hostile Environment

Unwelcome conduct that could be considered by a reasonable person to be severe, pervasive, **and** objectively offensive

## Quid Pro Quo

A school employee (or agent of the school) creates a situation in which a student's participation in an education program or activity is conditioned on the student's submission to sexual conduct, whether verbal, nonverbal, or physical in nature

## Sexual offenses

- Dating violence
- Domestic violence
- Stalking
- Sexual assault

The conduct limits or excludes a person from participating in educational programs or activities

# Sexual Assault

**Incest**-non-forcible sexual conduct between two persons who are related to each other within the degrees wherein marriage is prohibited by law

**Fondling**-touching of the private parts of another person for sexual gratification w/o consent

**Statutory Rape**-non-forcible sexual intercourse with a person under age of consent

**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, or by a sex-related object

# More definitions

## Dating Violence:

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim

## Domestic Violence:

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

## Stalking:

Course of conduct directed at an individual that would cause a reasonable person to fear for their safety or safety of others, can cause the individual substantial emotional distress

# What is consent?



“An affirmative, voluntary, and informed agreement to engage in a specific sexual activity, expressed by words or actions, and not the absence of a ‘no’ response.”

# CCOW

**C**lear

**C**oherent



**O**ngoing

**W**illing

# Incapacitation

- **Age** (e.g., below the age of consent in Illinois, generally 17 and under)
- **Physical condition or disability** that impairs the ability to consent
- **Consumption of alcohol or drugs** (voluntarily or involuntarily)
- **Sleep or other unconsciousness**

What to consider:

Ability to speak coherently

When consumption occurred

Amount consumed

Ability to weigh risks and benefits

Size of person consuming

Physical signs-walk or stand



# Required and Confidential Reporting

**Most WIU employees are required to report harassment and/or discrimination**

**Officials with Authority:** President , Assistant Vice Presidents, Deans, Directors, Assistant Directors, Executive Provost, Associate Provost, School Directors or Administrative Equivalent

**Confidential Advisors:**

Off campus-WIRC Victim Advocates

On campus-Counseling Center, Beu Health Center, Peer Counselors



# Mandated Reporters and Officials with Authority (OWA)

Any faculty, staff, or employee of WIU that can be expected to report actual or suspected discrimination or harassment

EXCEPTIONS ARE CONFIDENTIAL RESOURCES: Beu employees, Psychology clinic, WIU Counseling Center, On campus ministries staff, Off campus resources such as WIRC, counselors, attorneys, clergy

OWA should report any incident of observed or suspected violation of WIU policy

# Complainant rights



1. Right to file a complaint

2. Right to Privacy

3. Right to supportive measures

4. Right to be heard

5. Right to an equitable process

6. Right to protection from retaliation

7. Access to resources

8. Right to appeal

9. Right to report to law enforcement

10. Right to be treated with dignity and respect

11. Right to have a person present during interview

12. Right to an Informal Resolution when possible

# Respondent rights



1. Right to be treated with dignity and respect
2. Right to supportive measures and resources
3. Right to have a person present during interview
4. Right to be heard
5. Right to an equitable process
6. Right to protection from retaliation
7. Right to know identity of complainant and details of the alleged violation
8. Right to appeal
9. Right to an advisor

# Supportive Measures

Supportive measures may include, but are not limited to, the following:

- Counseling
- Extensions of deadlines or other course-related adjustments
- Modifications of work or class schedules
- Campus escort services
- Mutual restrictions on contact between the parties-burden cannot be carried by one party
- Changes in working or housing locations
- Leaves of absence
- Increased security and monitoring of certain areas of the campus.
- Medical Treatment

# What if the complainant does not wish to file a complaint?

Title IX supports the complainants wishes

EXCEPTIONS:

There are multiple incidents/allegations involving the respondent

There are multiple respondents in one case

The University pursuing safety on campus\*

\*WIU must make an educated decision regarding what is best moving forward



# Formal Complaint

Must be signed by Complainant and submitted to the Title IX Intake Officer/Investigator

It is recommended that the statement is written by Complainant, but the Title IX Intake Officer may help in the process

No formal complaint needed to receive supportive measures

**BREAKTIME**

# Pregnant and Parenting

Title IX prohibits discrimination on the basis of sex – including pregnancy, parenting, and related conditions – in education programs and activities that receive federal funding. Colleges and Universities cannot discriminate on the basis of:

- Pregnancy
- Childbirth
- False Pregnancy
- Termination of pregnancy
- Recovery therefrom

Faculty and staff should not request medical documentation

# Retaliation

Neither the University nor other person may intimidate , threaten , or discriminate against any individual for the purpose of interfering with any University policy including Title IX, or because the individual has made a report or complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing conducted under the sexual harassment policy.

Retaliatory acts could include: • giving students failing grades • preventing students from participating in school activities • threatening expulsion

# Dismissal of a case



Dismissal of Title IX Sexual Harassment Allegations and Complaints; WIU must dismiss a formal complaint if it is determined that:

- 1) The conduct alleged in the formal complaint would not constitute Title IX Sexual Harassment as defined in the Policy, even if proved;
- 2) The conduct did not occur in an educational program or activity controlled by WIU
- 3) The conduct did not occur against a person in the United States; or
- 4) At the time of filing a formal complaint, the complainant is not participating in or attempting to participate in the education program or activity of WIU.

WIU may dismiss a formal complaint or any allegations therein if,

- 1) A Complainant notifies the OEOA Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; or
- 2) The Respondent is no longer enrolled in or employed by WIU; or
- 3) Specific circumstances prevent WIU from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

# DISMISSALS

Who is responsible for addressing  
Non-Title IX matters?

EOA

Student Rights and Responsibilities  
Human Resources

**Other Avenues for Address**  
Sexual misconduct which does not  
fall within the Title IX policy may  
be investigated and addressed  
pursuant to other applicable,  
non-Title IX policies, including but  
not limited to the College's  
Harassment Policy or Student  
Code of Conduct and Discipline  
Non-Academic Policy.

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# Fair, Thorough & Impartial Investigation

What is the investigator's role?

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# Investigator does not determine responsibility

Responsibilities of an investigator include:

- Gathering facts
- Collecting evidence
- Interviewing parties
- Interviewing witnesses
- Obtaining documentation
- Organizing information
- Determining relevance
- Preparing an investigation report

# Common investigator traps

- Confirmation bias
- Tunnel vision
- Credibility by status

# Impartiality does not mean

- Treating everyone the same regardless of the circumstances
- Lacking empathy
- Acting robotic

## What it means

Every party receives:

- Equal opportunity to present evidence
  - Equal opportunity to identify witnesses
  - Equal opportunity to review evidence
  - Equal opportunity to respond
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# 10 Steps of an Investigation

1. **Receive Notice/Complaint**
2. **Initial Assessment and Jurisdiction Determination**
3. **Establish basis for investigation (Incident, Pattern, and/or Culture/Climate)**
4. **Notice of Investigation and Allegations (NOIA) to Parties**
5. **Establish investigation strategy**
6. **Formal comprehensive investigation**
  - a. **Parties interviews**
  - b. **Witness interviews**
  - c. **Evidence gathering**

# 10 Steps of an Investigation continued

7. Draft investigation report
8. Meet with Title IX Coordinator to review draft report and evidence
9. Provide report and all evidence directly related to the allegations to parties for review with 10 business days for response
10. Complete final investigation report
  - a. Synthesize and analyse relevant evidence
  - b. Send final report to parties for review and written response at least 10 business days prior to hearing

# Interviewing 101

Tips for a successful interview

Introduce yourself

Make the person comfortable-consider location, time of day, needs of interviewee

Explain what you will be doing and the steps you will take

Mean what you say and say what you mean

Manage expectations

Give breaks if needed

Give time for questions

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## Inform party that questions may be difficult, okay if they can't remember everything

Let them “tell their story” free of interruption and use open ended questions

- Tell me about your experience that led you here today.
- Do you have a response to the allegations?
- Can you tell me what you know about the allegations? (Witness)
- Ask as many open-ended questions as possible
- Use “mirroring” language
- Ask them to define unfamiliar terms or phrases
- Address contradictions or differing statements
- Tell me more about...
- Can you help me understand...
- Establish a timeline
- Do you remember...

# Expectations

## What they should expect of you:

- That you are neutral
- That you will listen-what they are saying is important to you
- That you will keep the information they share private
- What you will do with recording/notes
- That you may have to ask difficult questions
- Patience, respect, and appreciation
- This will not be their only opportunity to speak with you
- Prepare the parties for follow up interviews

## What you expect of them:

- Honesty
- That they will seek clarity if needed(give them permission to do so)
- That they won't guess or fill in the blanks
- If an employee-they will participate
- Provide evidence if it exists

# After the interview: Reflection

- Is there something you missed or forgot to ask?
  - Do you need clarity on any of the information shared?
  - Has this interview revealed additional evidence that you want to explore or collect?
  - Has evidence of additional policy violations been shared?
  - If something doesn't make sense, you probably don't have all the info
  - Stories have different perspectives
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# Follow Up Interviews

You may interview multiple times

- Seek clarification
- Explore inconsistencies
- Explore contradictions
- Explore difficult issues
- Opportunity to respond

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# What questions do you have for Quinn?

“Casey and I have been friends for a few weeks. On Friday night, we were hanging out alone in my room, watching a movie. We started to make out, and I was ok with that. After making out for a while, Casey started touching me down there. Then Casey tried to have sex with me. Casey knew that I didn’t want to have sex but kept trying anyway. Casey was being really coercive, and so I just went along with it. Casey raped me and I want Casey to be held accountable.”

# What questions do you have for Barri?

“When I got to the party, I was already lit. I kept letting Marc get me drinks anyway. At some point, I just kinda don’t remember anything. And then I woke up in Marc’s bed and it was morning. I had all my clothes on, but I know someone had sex with me. I could feel it. I just wanted to go, so I did. Before I left, Marc woke up and tried to talk to me but I wasn’t hearing it. He looked guilty and I could tell he felt bad.”

# What questions do you have for Alex?

“Pat and I have been together for about a month and have been intimate for the last two weeks. We went out with my friends on Friday night and Pat got really drunk. At some point we ran into my ex and Pat was really jealous, so we left. When we got back to my place, I thought things were fine. We started hooking up and all of a sudden Pat's mood changed. Pat got really aggressive and choked me. Pat was so angry and I was so scared.”

# Writing the Investigative Report



A strong report is:

- Organized
- Neutral
- Thorough
- Easy for a hearing/decision-making panel to follow

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# Suggested structure:

1. Key
2. Procedural history
3. Allegations
4. Applicable policy
5. Summary of each interview
6. Summary of evidence
7. Inculpatory and exculpatory evidence
8. Attachments and exhibits

# Investigative report language

Use neutral language such as:

- “The complainant stated...”
- “The respondent reported...”
- “Witness 1 recalled...”

Avoid language like:

- “I believe...”
- “The respondent was clearly evasive”
- “The complainant was obviously truthful”

# Evidence Collection

Burden of proof and gathering evidence rests on the College and not the parties

- Investigators have discretion to determine relevance of all evidence collected
- Evidence can be submitted by parties, witnesses, and/or third parties or be collected by investigators
- Social Media evidence
- Make sure messages, videos, etc. are time and date stamped
- Ask party to verify evidence provided from other party and/or witnesses

# Relevance: What's In, What's Out

## Relevant:

- Text messages between the parties before and after the alleged incident
- Security footage showing who entered or left a building
- Witnesses who observed interactions before or after the alleged conduct
- Swipe card records establishing timelines

## Generally irrelevant:

- A person's reputation
- Rumors on campus
- Prior unrelated disciplinary records
- Information about a party's prior sexual behaviour



Impartiality, not advocacy, governs how evidence is classified and presented

**Inculpatory evidence:** evidence that tends to support a finding of responsibility

**Exculpatory evidence:** evidence that tends to negate or weaken responsibility

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# Standard of proof

Illinois-Preponderance of Evidence

Lowest standard of proof

If the evidence supports a 51% or more that the violation likely did occur

Often referred to the 51% standard or 50% plus a feather

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# Stress response management

Memories, timelines, sleep-traumatic events change how brain responds  
Understand the implications  
Take the stress into consideration

# Decision making

Must consider all evidence with committee

Inculpatory vs Exculpatory

Recommendations

Impact statements

Ask clarifying questions

If there is a finding, sanctions are determined

Determine weight and credibility of all evidence

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# Grounds for appeals:

1. A procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g., substantiated bias, material deviation from established procedures).
2. • To consider new evidence, unknown or unavailable during the investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.
3. • The OEOA Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.
4. • The sanction(s) imposed were not appropriate for the violation of the Policy which the accused was found to have committed.

Appeal decisions are final.

# Process A

For allegations of Title IX  
Formal or Informal  
Resolution-exceptions  
Formal investigation/hearing\*

\* This process must be used when complainant is a student  
and respondent is a WIU employee

# Process B

For allegations of non-Title IX  
Formal or Informal  
How is it different?

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# Process A Non-Title IX

Formal Investigation

Intake

Investigation

Report sent to decision maker(s)

Final decision

Appeals

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# Process A

Informal Resolution

Agreement between parties that focuses on restorative practice or mediation

Can provide supportive measures

Can be moved to an investigation at any time by either party or WIU

Signed agreement is not appealable

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# Process B

## Title IX

Evidence NOT considered:

Past sexual history

Evidence not directly related to complaint, unless it shows a pattern

Previous discipline (Except during sanction phase)

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# Process B

## Title IX

Advisors for process and hearing

Intake

Investigation

Pre-hearing process and meetings

Joint hearings if more than one  
Complainant but one Respondent

Testimony and questioning-Chair  
oversees

Cross-examination questions vetted

Notice of outcome sent to both parties

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# Narrative

Nia and Steven have been in a dating relationship for 2 years. Both are students at WIU and take classes at the Macomb campus. They do not take any classes together and both live in separate off campus apartments. Nia reports to the Title IX Coordinator that Steven has been verbally and physically abusive towards her during the relationship. Nia states that Steven, on two occasions, has called her names and yelled at her while on campus. Nia states all the physical abuse (slapping, hitting, pushing) took place at her off-campus apartment.

# Questions

- Is this a Title IX matter?
- If yes, what are the next steps? Potential policy violations?
- If no, what are the next steps? Can or should the matter be referred to another department on campus?
- Are the parties eligible for supportive measures?
- If yes, what supportive measures could you offer?

# Narrative

• Kesha graduated from WIU in 2025 and is now a student at another graduate school. In 2026, Kesha called WIU and reported to the Title IX Coordinator that while at WIU in 2025, a student named Selma touched her breasts and buttocks without her consent while they were alone in a classroom. Selma is still a current student at WIU who is expected to graduate in 2027 and is thinking of transferring to the same university Kesha attends.

# Questions

- Is this a Title IX matter?
- If yes, what are the next steps? Potential policy violations?
- If no, what are the next steps? Can or should the matter be referred to another department on campus?
- Are the parties eligible for supportive measures?
- If yes, what supportive measures could you offer?
- What if Selma no longer attends WIU?

# Narrative

Gabe reported to the Title IX Coordinator that his friend Akim told him something about one of the WIU professors. Akim told Gabe that Professor Lucy Liu keeps asking Akim out to dinner and won't stop. Akim has told Professor Lui no and that it makes him uncomfortable and to stop. Akim told Gabe that Professor Lui recently told Akim that if he doesn't go out with her, then she will fail him in the class. Akim is afraid to say anything because he really needs to pass this class. Gabe reported that Akim is really stressed out and has talked about "just ending it all". Gabe has convinced Akim to talk to the Title IX Office, but Akim doesn't want an investigation. Akim wants to handle the situation informally and remain anonymous.

# Questions

- Is this a Title IX matter?
- If yes, what are the next steps? Potential policy violations?
- If no, what are the next steps? Can or should the matter be referred to another department on campus?
- Are the parties eligible for supportive measures?
- If yes, what supportive measures could you offer?
- What if Professor Lui is no longer employed by WIU?

# Resources

US Department of Education: [Title IX and Sex Discrimination | U.S. Department of Education](#)

WIU Policy: [Discrimination, Harassment, and Sexual Misconduct Policy Update](#)

Miller, Chanel (2019). *Know my Name: A Memoir*. Penguin.

“Unbelievable.” 2019. Netflix.

“Audrie and Daisy.” 2016. Netflix.

A Rape on Campus-Rolling Stone Magazine-retracted