

Nelson University
Title IX Frequently Asked Questions

What is Title IX?

Title IX of the Education Amendments of 1972 is a federal civil rights law that prohibits discrimination on the basis of sex in federally funded education programs and activities. All public and private schools receiving any federal financial assistance must comply with Title IX. Although commonly associated with sex-based discrimination in athletics, the law is much broader. The act seeks to reduce or eliminate barriers to education opportunity caused by sex discrimination. The law states that:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any educational program or activity receiving Federal financial assistance.

Title IX prohibits sex discrimination in all University programs and activities, including, but not limited to, admissions, recruiting, financial aid, academic programs, student services, counseling and guidance, discipline, class assignment, grading, recreation, athletics, housing, and employment. Sexual violence and harassment are forms of sex discrimination prohibited by Title IX. This statute also prohibits retaliation against people for making or participating in complaints of sex discrimination.

How has Title IX Changed in Recent Years?

In March of 2013 Campus Sexual Violence Elimination Act was signed into law which increased transparency regarding incidents of sexual violence on campus, guaranteed victims' rights, set standards for disciplinary proceedings, and required campus-wide prevention education programs. All employees are now required to complete Title IX training.

When Title IX was passed Congress added a small but powerful provision that states that an educational institution that is *controlled by a religious organization* does not have to comply if Title IX *would not be consistent with the religious tenets of such organization*.

These "right-to-discriminate" waivers were relatively rare until 2014 when the Obama administration issued guidance that the Title IX discrimination prohibition "extends to claims of discrimination based on gender identity," meaning that entities receiving federal funding could not discriminate against transgender and gender nonconforming people.

This created some dire challenges for faith-based, evangelical schools, who historically have been allowed to discriminate in this area in their admissions and hiring practices. Nelson University applied for a waiver and in August 2016 received a letter from the US Department of Education granting an exemption from specific elements of Title IX.

What are Nelson University's basic responsibilities to address sexual harassment?

When a school knows or reasonably should know of possible sexual harassment in its education programs and activities, as that term is defined below, it must take prompt and appropriate steps to end the prohibited conduct, prevent its recurrence, and, as appropriate, remedy its effects.

What is sexual harassment?

Sexual harassment for purposes of the Title IX policy, which can be found in its entirety at <https://www.nelson.edu/titleix/>, is conduct on the basis of sex that constitutes Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, or Stalking.

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Some specific examples of conduct that may constitute Sexual Harassment if unwelcome include, but are not limited to:

- Unreasonable pressure for a dating, romantic, or intimate relationship or sexual contact;
- Unwelcome kissing, hugging, or massaging;
- Sexual innuendos, jokes, or humor;
- Displaying sexual graffiti, pictures, videos, or posters;
- Using sexually explicit profanity;
- Asking about, or telling about, sexual fantasies, sexual preferences, or sexual activities;
- E-mail and Internet use that violates this policy;
- Leering or staring at someone in a sexual way, such as staring at a person's breasts or groin;
- Sending sexually explicit emails, text messages, or social media posts;
- Commenting on a person's dress in a sexual manner;
- Giving unwelcome personal gifts such as lingerie that suggest the desire for a romantic relationship;
- Insulting, demeaning, or degrading another person based on gender or gender stereotypes;
- Indecent exposure or sexual exhibitionism;
- Sex-based cyber-harassment;
- Prostitution or the solicitation of a prostitute;
- Peeping or other voyeurism, or
- Going beyond the boundaries of consent (e.g. recording, sharing or disseminating recordings, or threatening to share or disseminate recordings, of sexual activity or nudity without the consent of all parties involved).

What is considered sexual assault?

Sexual assault is any unwanted, non-consensual sexual contact against any individual by another. It often includes the sex offenses and attempted offenses of Rape, Sodomy, Sexual Assault with an Object, Fondling, Incest, and Statutory Rape

- **Domestic Violence** is 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 Texas,¹ 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 Texas.
- **Dating Violence**- violence by a person who has been in a social relationship of a romantic or intimate nature with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.
- **Stalking**- a course of conduct directed at a specific person that would cause a reasonable person to fear for her, his, or others' safety, or to suffer substantial emotional distress.
- **Consent** is free and active agreement, given equally by both parties, to engage in a specific activity. Giving in is not the same as giving consent. Consensual sexual activity involves the presence of the word "yes" without incapacitation of alcohol or other drugs, coercion, force, threat, or intimidation.

¹ Family Violence is defined by the Texas Family Code Section 71.004 as:

- (1) an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or Sexual Assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or Sexual Assault, but does not include defensive measures to protect oneself;
- (2) abuse, as that term is defined by Sections 261.001(1)(C), (E), and (G), by a member of a family or household toward a child of the family or household; or
- (3) Dating violence, as that term is defined by Section 71.0021.

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Are women the only victims of sexual harassment or sexual violence?

No, both females and males can be victims of sexual harassment and/or sexual violence.

Is it possible to be sexually harassed/assaulted by someone of the same gender?

Yes. If you have been subjected to unwanted sexual contact or sexual harassment, your gender and the gender of the alleged perpetrator are irrelevant.

Can the University retaliate against one who reports the sexual misconduct?

It is a violation of institutional policy to discipline or otherwise discriminate against an employee who in good faith makes a mandatory report or cooperates with an investigation, disciplinary process, or judicial proceeding relating to a mandatory report of sexual harassment, sexual assault, dating violence or stalking.

“**Retaliation**” is any attempt to seek retribution against an individual or group of individuals involved in filing a complaint or report under this Policy, filing an external complaint, participating in a disciplinary process, or opposing in a reasonable manner an action believed to constitute a violation of this Policy. Retaliation can take many forms, including abuse or violence, threats, and intimidation. Actions in response to a good faith report or response under this Policy are considered retaliatory if they have a materially adverse effect on the working, academic or University-controlled living environment of an individual; or if they hinder or prevent the individual from effectively carrying out their University responsibilities. Any individual or group of individuals can engage in retaliation and will be held accountable under this Policy.

Nothing in this Policy is intended to interfere with legitimate employment decisions.

Does Title IX cover employee complaints against a student?

Yes, if an employee reports sexual assault or harassment against a student, Nelson University must act on the report and notify the employee of options and resources for support. Nelson University will notify the student, conduct an investigation, and ensure that the conduct ceases.

Does Title IX cover student complaints of sexual misconduct against employees?

Yes, if a student reports sexual misconduct/harassment by an employee, Nelson University must take action. Based on the report (to an obligated reporter), Nelson University will notify the student of options and resources available for support. Nelson University will notify the employee and in most instances will conduct an investigation, and if it is found that the employee has engaged in sexual misconduct/harassment, Nelson University will take steps to ensure the conduct stops. If the investigation reveals inappropriate behavior by the student, charges may be filed against the student with the Office of Student Development.

Does Title IX cover employee complaints against another employee?

The primary federal law addressing sexual misconduct/harassment claims by one employee against another is Title VII rather than Title IX. While both statutes prohibit sexual misconduct/harassment at an educational institution, the statutes have different administrative requirements and are overseen by different federal agencies. Any employee that has a complaint of sexual misconduct/harassment against another employee should report it to his/her supervisor or the Director of Human Resources.

How do I report sexual harassment or sexual assault?

Complaints of sexual assault or harassment can be reported to the Title IX Coordinator or the Deputy Title IX Coordinator via email, phone call, private meeting, or private, written correspondence. Anonymous reporting is available through email at: titleix@nelson.edu or by clicking on *Services* in the *MENU* drop down box on the University’s website at www.nelson.edu.

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Who are Nelson University's Title IX Officers?

Vice-president Dr. Lance Meche serves as the Title IX Coordinator and can be reached at 972.825.4747, 888.937.7248 ext. 4747, or lmeche@nelson.edu.

Senior Director of Human Resources Ruth Roberts serves as the Deputy Title IX Coordinator and can be reached at 972.825.4656, 888.937.7248 ext. 4656, or rroberts@nelson.edu.

Can I make a report to someone other than the Title IX Coordinator?

Under Texas law, all University employees, with the exception of Confidential Employees, who:

1. in the course and scope of their employment²
2. witnesses or receives information regarding an incident that the employee reasonably believes constitutes Sexual Harassment,³ Sexual Assault, Dating Violence, or Stalking, which
3. is alleged to have been committed by or against a person who was a student enrolled at or an employee of the University at the time of the incident must promptly report the incident to the University's Title IX Coordinator or a Deputy Title IX Coordinator.

If an incident of sexual assault or sexual harassment occurs off-campus, can Nelson University investigate?

Yes, if the incident has sufficient ties to Nelson University (if it occurs at a Nelson University event, if it involves a Nelson University student, staff member or faculty member, etc.) then Nelson University can investigate and provide resolution.

Will the Title IX staff be sensitive to the needs of victims/survivors?

The Title IX staff intentionally work to create a compassionate, sensitive environment to address the issues; offer an unbiased and transparent system for gathering facts; and connect all community members with appropriate support and resources.

Is there a time limit for filing a sexual violence or harassment report?

There is no time limit for making a report. Nelson University encourages reporting an incident as soon as possible in order to maximize a prompt and effective response. The University does not, however, limit the time frame for reporting. If the respondent is no longer a student or employee, Nelson University may not be able to take action against the respondent, but it will still seek to meet its Title IX obligation by taking steps to end the harassment, prevent its recurrence, and address its effects, when appropriate.

Will my complaint remain confidential?

To make informed choices, all parties should be aware of confidentiality and privacy issues, as well as institutional mandatory reporting requirements. Members of the University community may speak to officially designated Confidential Employees⁴ about Sexual Harassment, Sexual Assault, Dating Violence, or Stalking without the conversation triggering a mandatory report of incident details.

² "Course and Scope of Employment" means an employee performing duties in the furtherance of the institution's interests.

³ For the purposes of Texas's mandatory reporting requirement only, "Sexual Harassment" means: unwelcome, sex-based verbal or physical conduct that (a) in the employment context, unreasonably interferes with a person's work performance or creates an intimidating, hostile, or offensive work environment; or (b) in the education context, is sufficiently severe, persistent, or pervasive that the conduct interferes with a student's ability to participate in or benefit from the University's educational programs or activities.

⁴ Under Texas law, a "Confidential Employee" is an employee (1) designated by the University as a person with whom students may speak confidentially concerning Sexual Harassment, Sexual Assault, Dating Violence, or Stalking or (2) receives

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If reporting students want details of an incident be kept confidential, they should speak with campus counseling center counselors. Campus counselors are available to help on an emergency basis. Their service is free of charge. Members of the clergy, chaplains, and off-campus rape crisis center staff can maintain confidentiality. Local resources such as Elledge Counseling Associates (972-268-3096), Donaldson Wellness Center (972-923-0730), and Domestic Violence Hot Line (800-799-7233) are also confidential and have no duty to report your information to the university.

A Confidential Employee is not required to report any information that would violate an individual's expectation of privacy, such as the name or other identifying information of an individual who has experienced or allegedly engaged in Sexual Harassment.⁵

Does Title IX force victims/survivors to share their experience with the Institute or pressure a student to pursue disciplinary action?

The student always retains control over whom to talk to and what level of information to share. Nelson University will never force a survivor-victim to share the details of their experience, but when a report of sexual misconduct is shared with the Title IX Coordinator, Nelson University has a legal duty to follow up on the report to determine the appropriate response under Title IX. The Title IX Coordinator will conduct an initial assessment regarding, among other things, the nature of the report, the safety of the individual and of the broader campus community, and the complainant's expressed preference for resolution. Students are not pressured to pursue a specific action. In planning any response, the wishes of the reporting student are given full consideration. Nevertheless, the University may need to pursue a certain path despite the wishes of the student, but usually only if there is a broader safety risk for the community.

If I file a sexual assault or harassment complaint, am I obligated to file a report with law enforcement authorities?

Reporting an incident to the police and/or pursuing criminal charges are always available to a claimant, and Nelson University will help in accessing those resources, but it is separate and different from the University's Title IX process. A claimant can pursue both the criminal and Nelson University's process at the same time.

What will happen when a Title IX complaint has been made?

Once a complaint has been reported, an official investigation will be launched with the intent to resolve the complaint within a reasonable period of time. This investigation would include opportunity for all parties to present witnesses and other evidence to prove or disprove the complaint. All parties will be notified at each step of the process. Nelson University will take steps to prevent any recurrence and to correct its discriminatory effects on the complainant and others, if appropriate. It should be noted that once a complaint of sexual violence or harassment has been made, the University is obligated by Title IX to complete the investigation.

What are my rights as a complainant (victim) or respondent (accused)?

Both the complainant and respondent have the following rights when a sexual violence or harassment complaint has been made:

- To be treated with respect and dignity.
- To assistance from the University in reporting the incident to law enforcement, if desired.
- To information about the process used in the investigation and appeal.
- To information about counseling support available.
- To privacy to the extent possible consistent with applicable law and University policy.
- To an advisor to be present throughout the investigation.

information regarding such an incident under circumstances that render the employee's communications confidential or privileged under other law.

⁵ This provision does not affect any employee's duty to report incidents of sexual misconduct as required by other law.

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- If both parties are enrolled in the same class, the options to drop class without academic penalties.
- To protection from retaliation and harassment while the disciplinary process is pending.
- To have reasonable and equitable access to all evidence. in the institution’s possession which is relevant to the alleged violation, including any statements made by the alleged victim or by other persons, information stored electronically, written or electronic communications, social media posts, or physical evidence, redacted as necessary to comply with any applicable federal or state law regarding confidentiality.
- To choose whether or not to participate in the investigation process.
- To a prompt and thorough investigation of the allegations.
- To have a reasonable time to provide information to the investigator.
- To raise any question regarding a possible conflict of interest on the part of any person involved in the investigation or verdict.
- To appeal the decision and any sanctions made by the investigators.
- To written notification of the verdict and the outcome of any appeal.

What is Nelson University’s non-discrimination policy?

Nelson University does not discriminate based on race, color, national origin, gender, disability, age, veteran status, or any other protected legal status in matters of admissions, employment, housing, educational programs or activities, except as granted by waiver from the US Department of Education. The University operates in compliance with federal non-discrimination laws, including:

- Title IX of the Education Amendments of 1972.
- Title VI and Title IX of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973.
- The Age Discrimination Act of 1975.

As a religious institution, the University is exempt from certain provisions and retains the right to make legitimate employment, admission, and educational decisions on the basis of religious tenets, consistent with applicable laws (Title IX statute, 1st Amendment, and Religious Freedom Restoration Act). Because of its affiliation with the General Council of the Assemblies of God and the North Texas District Council of the Assemblies of God, Nelson University qualifies for the religious exemption under 20 U.S.C § 1681(a)(3) and 34C.F.R. § 106.12.

For a more detailed review of some doctrinal matters and societal issues reflecting the university’s viewpoint, refer to various denominational position papers located on the AG website (www.ag.org) – click on “Beliefs” and then “Position Papers”.

Nelson University is bound to AG doctrinal teachings and also guided by Assemblies of God Position Papers and other teachings on pastoral and moral issues such as homosexuality and gender identity (see AG Position Paper – Homosexuality, Marriage, and Sexual Identity and AG Position Paper – Transgenderism, Transsexuality, And Gender Identity).

Someone has filed a complaint against me, what do I do?

If the behavior is brought to your attention, apologize; ask for a description of what was offensive and who found it offensive. Consider the following actions:

- If you realize that you have been inappropriate, apologize as soon as possible.
- Change your behavior.
- Recognize that other steps may need to be taken.
- Be careful of inappropriate advice that would lead you to minimize or ignore this issue.
- Seek the advice of appropriate University resources.
- Attend sexual harassment training.
- Know the policy on sexual harassment.

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What is the best way to prevent sexual harassment?

Know your rights. Members of the University community have the right to work and learn in an environment that is free from verbal or physical sexual conduct which might either interfere with an individual's performance, or create a work or educational climate that is hostile, intimidating, or offensive, whether that conduct originates with an instructor, a supervisor, or a peer.

If I have been the victim of, a witness to, or accused of sexual violence or sexual harassment what resources are available to me?

Victims should go to a safe location as soon as you are able. You should seek immediate medical attention if you are injured, or believe you may have been exposed to an STI/STD or potential pregnancy. Baylor Scott & White Medical Center provides sexual assault exams for victims.

Baylor Scott & White Medical Center

2400 North I-35E
Waxahachie, TX 75165
469-843-4000

Campus Security

1200 Sycamore St, Security Bldg.
Waxahachie, TX 75165
972-923-5400
bfulfer@nelson.edu

All members of the University community who have been involved in Title IX incidents are offered services provided by a counselor who does not provide counseling to any other person involved in a specific incident. Additional local counseling services are listed below:

Elledge Counseling Associates

103 W. Red Oak Rd.
Red Oak, TX 75154
Elledgecounseling.com
972.268.3096

Donaldson Wellness Center

508 Grace Street
Waxahachie, TX 75165
Donaldsonwellnesscenter.com
972.923.0730

Domestic Violence Hotline

800.799.7233
Thehotline.org