



WICHITA STATE  
UNIVERSITY

# OIEC 101 Training

---

Christine Taylor, J.D. LL.M.

Director, Office of Institutional Equity and Compliance

# Agenda

---

- OIEC Team and Responsibilities
- WSU Policies:
  - discrimination against persons with disabilities
  - protected class discrimination
  - gender-based harassment, discrimination and sexual misconduct
- WSU's response to reports of policy violations
- Complaint Process: adjudication and resolution
- Your role in prevention and response

---

# Office of Institutional Equity and Compliance

# Mission

---

The Office of Institutional Equity and Compliance is committed to preventing and eliminating discrimination or harassment based on race color, national origin, pregnancy, sex, age, disability, creed, religion, sexual orientation, gender identity, gender expression, veteran status, or political philosophy.

# OIEC Team

---

## Director of Office of Institutional Equity and Compliance

Responsible for receiving and overseeing Title IX and EEO reports and investigations of discrimination and harassment pursuant to WSU Policies and Procedures. Reports or complaints may be reported to the Director of OIEC:

**Christine Taylor, J.D., LL.M.**

[christine.taylor@wichita.edu](mailto:christine.taylor@wichita.edu)

(316) 978-3205

# OIEC Team

---

## Equal Opportunity Coordinator

Responsible for overseeing University policy, procedures and compliance with Title VII, ADA, Section 504 and other protected class discrimination, regulation and case law. Reports or complaints may be reported to the EO Coordinator.

**Michael Irvin, J.D., M.P.A.**

[Michael.irvin@wichita.edu](mailto:Michael.irvin@wichita.edu)

(316) 978-3186

# OIEC Team

---

## Title IX Coordinator

Responsible for overseeing University policy, procedures and compliance with Title IX, regulation and case law. Reports or complaints may be reported to the Title IX Coordinator.

**Sara Zafar, J.D.**

[sara.zafar@wichita.edu](mailto:sara.zafar@wichita.edu)

(316) 978-5177

---

# Wichita State University Policies



# Wichita State Policies

---

## WSU's Policy Defines:

- Offenses under the policy
- Reporting options
- Complaint process
- Explanation of resources

# Wichita State Policies

---

- 3.02/ Notice of Non-discrimination
- 3.06/ Sexual Misconduct, Sexual Harassment, Relationship Violence and Stalking Policy for Employees and Visitors
- 3.19/ Prohibition of Retaliation
- 3.47/ Discrimination Review Procedures for Students, Employees and Visitors

# Persons with Disabilities

---

- Title II: Federal Law that prohibits state and local government (public schools and universities) from discriminating against persons with disabilities.

American with Disabilities Act (ADA)

- Sec. 504: Federal law that prohibits any entity that receives federal financial assistance from discriminating against persons with disabilities.

Rehabilitation Act of 1973

# Title VI

---

Title VI: No person in the United States shall, on the basis of sex, race, color, national origin and religion, be excluded from participation, be denied the benefits of or be subjected to discrimination under any education program or activity receiving federal financial assistance.

- This includes a person's actual or perceived race, color, national origin, ethnicity or ancestry.
- Includes discrimination based on the country/world region.

Title VI of the Civil Rights Act of 1964

# Title IX

---

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

Title IX of the Education Amendments of 1972 Implementing Regulations @ 20 U.S.C. § 1681 & 34 C.F.R. Part 106

# Protected Classes

---

- Age (40 or over)
- Ancestry
- Color
- Disability
- Gender
- Gender Expression
- Gender Identity
- Genetic Information
- Marital Status
- National Origin
- Political Affiliation
- Pregnancy
- Race
- Religion
- Sex
- Sexual Orientation
- Veteran Status
- *Retaliation*

# What is Retaliation?

---

Any adverse employment or educational action taken because of the person's participation in an investigation or resolution of discrimination or sexual misconduct.

- Protected activities include:
  - Filing a complainant, and
  - Being a witness in an investigation

# When do Wichita State's Policies Apply?

---

- Discrimination
- Discriminatory harassment
- Sexual harassment (including, sexual orientation, gender identity or gender expression)
- Sexual misconduct
- Relationship/intimate partner violence, and
- Stalking



---

# Discrimination

# Discrimination

---

- Title IX: *Bias, unjust or prejudicial treatment that limits an individual's ability to participate in or benefit from the University's educational programs, activities or employment.*
- Title VII: *Bias, unjust or prejudicial treatment that limits an individual's ability to participate in or benefit from the employer's terms, conditions or privileges of employment.*

# Discrimination

---

## Adverse Employment Actions:

- Recruitment and Hiring
- Promotion, Demotion and Transfer
- Discipline
- Training
- Placement and Assignments
- Compensation and Benefits
- Leaves of Absence
- Terminations
- All Terms, Conditions and Privileges

# Discrimination

---

Discrimination may be intentional or unintentional

- Disparate Treatment (Intentional)
  - Unequal discipline based on protected status.
- Disparate Impact (Intent not Required)
  - Hiring or layoff patterns or policies could target or exclude certain groups

# Discriminatory Harassment

---

Verbal or physical conduct that denigrates or shows hostility toward an individual based on membership in a protected class or because of opposition to discrimination or participation in a discrimination complaint process. Discriminatory harassment creates an intimidating, hostile or offensive learning, living or working environment.

*WSU Policies and Procedures 3.47*

# Discriminatory Harassment

---

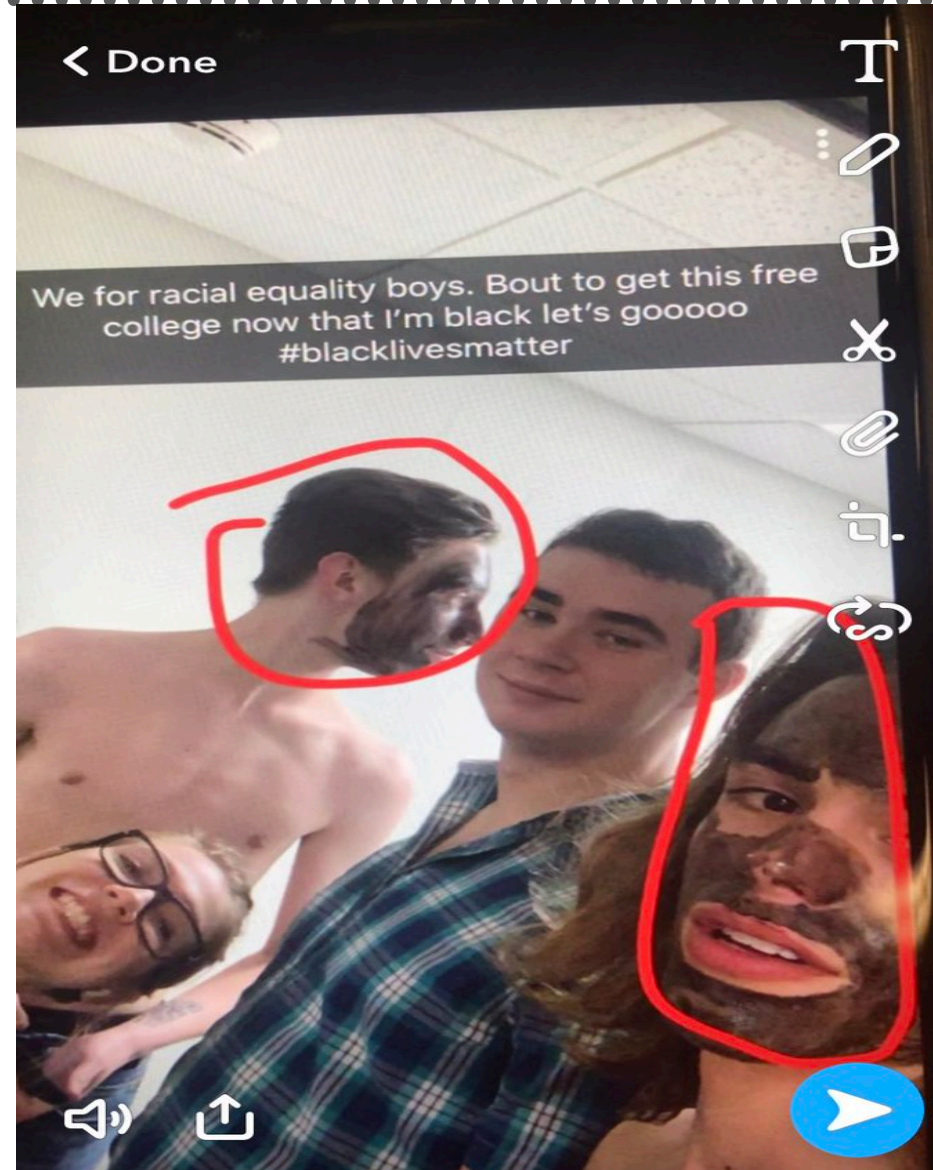
- Quid Pro Quo
  - Enduring the offensive conduct becomes a condition of continued employment
- Hostile Work Environment
  - The conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive

# Hostile Work Environment

---

- Must be “severe” OR “pervasive”
- Objectively offensive
- Must affect conditions of employment
- Could be jokes, emails, magazines, etc.

# Examples of Discriminatory Harassment







## Possibly Discriminatory Harassment



## Not Discriminatory Harassment





## Not Discriminatory Harassment

---

# Sexual Misconduct

# Sexual Misconduct Under Title IX

---

- Sexual Harassment: Unwelcome conduct of a sexual nature. It includes unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature.
- Quid pro quo sexual harassment: is unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature by a person having power or authority over another constitutes sexual harassment when:

# Quid Pro Quo

---

- The terms or conditions of employment, educational benefits, academic grades or opportunities, living environment or participation in a University activity is conditioned upon, either explicitly or implicitly submission to or rejection or unwelcome sexual advances or requests for sexual favors; or
- When submission or rejection is a factor in decisions affecting that individual's employment, education, living environment, or participation in a University program or activity.

# Sexual Misconduct

---

- Broad term encompassing behaviors focused on sex and/or gender discrimination that may or may not be sexual in nature.
- Includes:
  - Non-consensual sexual contact
  - Non-consensual intercourse
  - Coercion
  - Relationship violence
  - Stalking

# Examples of Sexual Harassment

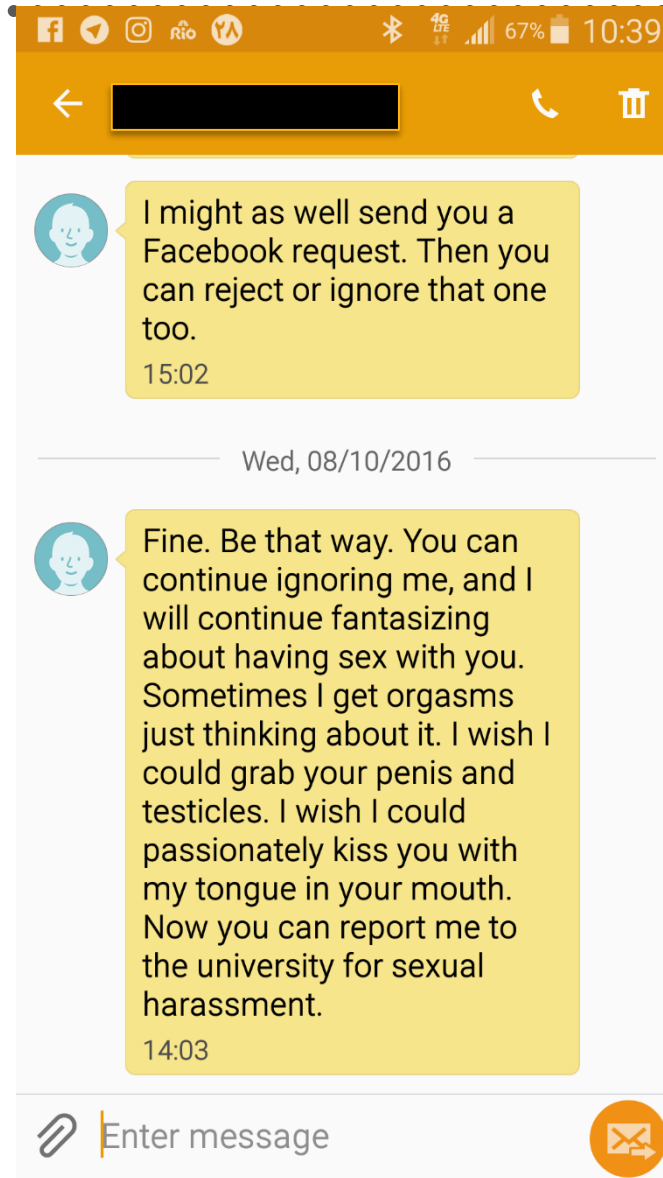
Sexually explicit  
photos, videos,  
drawings, etc.





# Examples of Sexual Harassment

## Sexually Explicit Messaging



# Examples of Sexual Harassment

---

- Sexual comments about a person's clothing, anatomy or looks
- Inappropriate physical contact
- Repeatedly asking for a date after person has declined the invitation
- “Reckless eyeballing”

# Examples of Sexual Harassment

---

**I WAS ASKED WHO MY FAVOURITE  
X-MEN CHARACTER WAS**

I've learned that you can get by on charm for about fifteen minutes.  
After that, you'd better have a big weenie or huge boobs.

**APPARENTLY BRUCE JENNER  
WAS "INAPPROPRIATE"**  
kappit.com

# Sexual Harassment

---



Sexually Explicit Messaging

# Was that Sexual Harassment?

---

- Was is severe or persistent or pervasive?
- Was it objectively offensive?
- Did it unreasonably interfere with, denies, or limit her ability to participate in or benefit from employment and/or activities?

*Source: The ATIXA Playbook 2017*

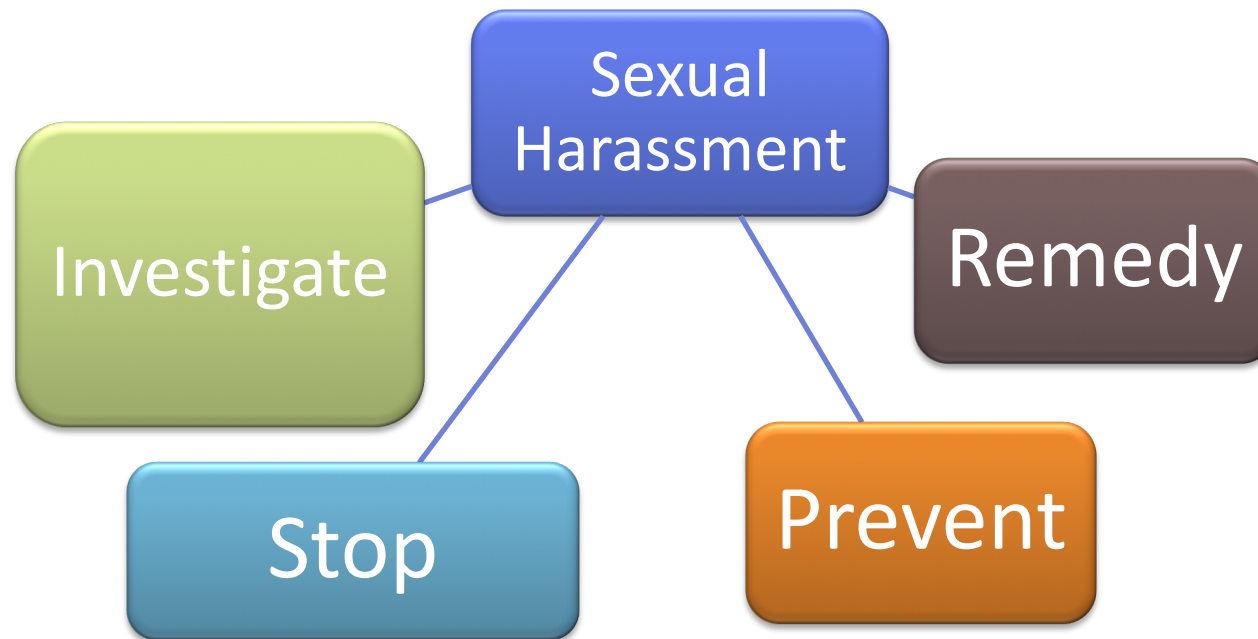
---

# Reporting to OIEC

# Institutional Obligation Under Title IX

---

When an institution “knows or reasonably should know” about sexual misconduct, Title IX requires that the school **“take immediate action.”**



# Responsible Employees

---

- All university employees are required to report actual or suspected harassment, discrimination or sexual misconduct to appropriate officials.
- This includes actual or suspected protected class discriminatory harassment.
- *Exception: Confidential employees do not need to report all the details but must report non-identifiable information regarding incidents disclosed to them.*



# Responsible Employees

---

- Required to promptly report all relevant details to the Office of Institutional Equity and Compliance.
- Report to University Police Department
- Though many employees have mentoring and other relationships with colleagues and students, responsible employees **cannot** promise confidentiality.
- If it appears that someone is about to disclose, employees should make sure that the person understands the mandatory reporting requirements.

# Disclosure Protocol

---

How to have that conversation:

- “Because I want to make sure you are safe and have access to the help and resources, I need to contact someone in the OIEC. I will let you know the next steps. Your privacy will be respected.”
- *Inform OIEC of any discussions with complainant*

# Disclosure Protocol

---

- **STEP 1**: Care for the person—ensure that he or she is safe and provide non-judgmental support.
  - “Thank you for sharing with me.”
  - “I am here to support you.”
  - “I am sorry this happened.”
  - **RESIST THE URGE TO ASK TOO MANY QUESTIONS.**
- **STEP 2**: Contact Christine Taylor, Mike Irvin, or Sara Zafar.

# Reporting/Process Options for Complainant

---

- File a criminal complaint with UPD, WPD or other appropriate law enforcement agency
- File a complaint under Wichita State University Policies and Procedures and request a formal investigation.
- Pursue both processes at the same time
- Choose not to pursue any process

# After a Report is Made

---

- Someone from the OIEC reaches out to the student and/or employee and offers support, resources, and options (Including interim measures).
- The student and/or employee doesn't have to move forward with a formal complaint or investigation, and does not have to engage with the OIEC if they do not wish to.

---

# Investigation Process

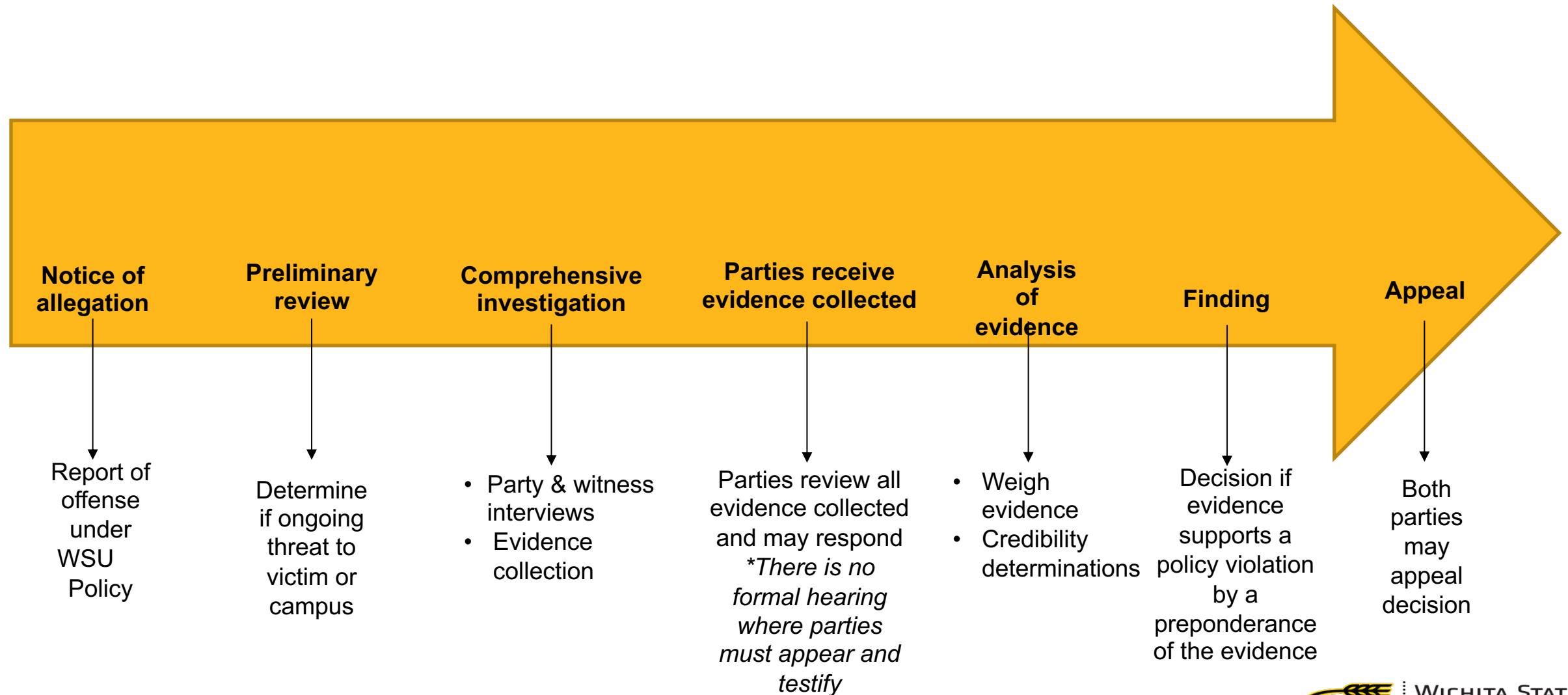
# Administrative vs. Criminal Process

---

- Investigation very similar
  - Note: OIEC team will stop its investigation during the evidence collection stage of the criminal investigation (days not weeks)
- Different evidentiary standards and rules
  - Beyond a reasonable doubt v. preponderance of the evidence
- Different outcomes
  - Criminal process may end with the offender in jail; administrative process may end with the offender expelled or terminated.

# WSU's Complaint Process

---

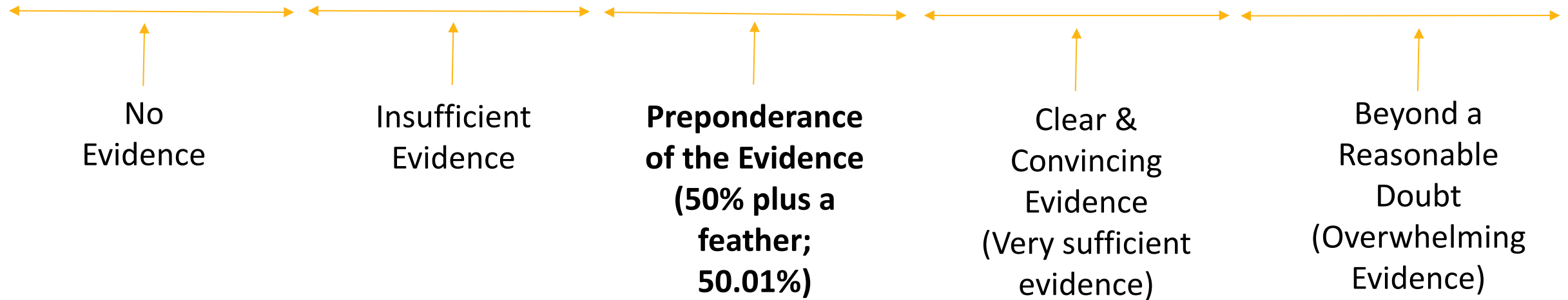




# Preponderance of the Evidence

---

## STANDARDS OF PROOF



# Possible Determinations

---

- Preponderance of the evidence supports a finding of responsibility under the policy
- Preponderance of the evidence does not support a finding of responsibility under the policy
- There is insufficient evidence to conclude a policy violation occurred.

# Possible Sanctions

---

## Students

- Warning
- Probation
- Suspension
- Expulsion
- Withholding diploma
- Withholding degree

## Employees

- Corrective counseling
- PIP
- Referral to the EAP
- Suspension w/o pay
- Suspension w/pay
- Termination

# Resources for Parties

---

- Afforded the right to have a support person accompany them throughout an investigation.
- Counseling and Testing Center/Student Health Services
- Academic support
- CARE Team
- Inform someone from the OIEC of any discussion with a party

# Responding to Parties

---

- Complainant/Victim/Survivor
- The fundamental goals of a healing response is to:
  - Establish safety
  - Validate experience
  - Return as much control as possible back to the survivor
- Trauma-informed
- “The way in which you respond can have a lasting impact on a survivor’s recovery.”

*Lynn O’Brien and Tony Perez- 2012 RHD Training*

# Responding to Parties

---

- Respondents/Accused
- The same resources to support complainants exist for respondents
- Access to the process
- Fair, neutral, unbiased
- Not “guilty” unless evidence supports a finding of a policy violation

# Proposed New Title IX Regulations

---

- Proposed new regulations issued from DOE on Nov. 16, 2018
- Welcome to review [new regs](#) at the Department of Education
- More information will be provided at a later date

# **Thank You!**

---

**You are all important support resources for our campus community. Thank you for your commitment to this issue!**

**Questions?**