

# Report of the Title IX Ad Hoc Committee

## 22 January 2018

### I. OVERVIEW

#### A. Formation and Charge of the Title IX Ad Hoc Committee

On November 1, 2016, Father Mark Poorman, C.S.C., the President of the University of Portland (“University”), formed a Title IX Ad Hoc Committee consisting of members of the faculty, staff, and student body.<sup>1</sup> In his letter announcing the Committee’s formation, Fr. Poorman described the charge of the Committee as follows:

Our policies at the University of Portland are compliant with Title IX federal regulation, and yet I recognize that the expectations for best practices continue to evolve. It is critically important that our policies keep up with relevant considerations comparable to our peer institutions and that we are pursuing them with integrity as a faith-based institution.

I have invited members of the UP community, including faculty, staff, and students, to serve on the Ad Hoc Committee and review our current Title IX policies, procedures, and services, as well as to identify additional opportunities that could further benefit our community.

#### B. Information about Title IX and Definitions

Title IX of the Education Amendments of 1972 states:

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.<sup>2</sup>

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<sup>1</sup> The Title IX Committee consists of the following members:

- Elise Moentmann, Chair, Associate Professor and Associate Dean for Students, CAS
- Sandy Chung, Associate Vice President for Human Resources
- Tim Doughty, Associate Professor, Shiley School of Engineering
- Gerry Gregg, Director of Public Safety
- Nick Krautscheid '18, Student, School of Education
- Megan Launceford '17, Student, Pamplin School of Business
- Sarah Meiser, Associate Director for Community Standards, Residence Life
- Karen Peters, Senior Associate Athletic Director, Athletics
- Matt Rygg, Associate Vice President for Student Development, Office of Student Affairs
- Anne Santiago, Associate Professor, Political Science

<sup>2</sup><https://www.dol.gov/oasam/regs/statutes/titleix.htm>

Essentially, Title IX prohibits sex discrimination in educational institutions that receive federal funding, including assistance through the federal student loan program. United States Supreme Court decisions and guidance from the Office of Civil Rights for the U.S. Department of Education (OCR) have interpreted Title IX's prohibition to include what OCR refers to as "sex-based harassment," i.e., sexual harassment, sexual violence, and gender-based violence. Under Title IX, as a condition of continued receipt of federal funding, schools are required to take steps to prevent recurrence of sex discrimination and to remedy its discriminatory effects, as appropriate.

Under OCR guidance and in this report, the three types of "sex-based harassment" – sexual harassment, sexual violence, and gender-based harassment – have the following definitions:

- **What is Sexual Harassment?** Sexual harassment is unwelcome conduct of a sexual nature. It includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature.
- **What is Sexual Violence?** Sexual violence is a form of sexual harassment. Sexual violence, as OCR uses the term, refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.
- **What is Gender-Based Harassment?** Gender-based harassment is unwelcome conduct based on a student's actual or perceived sex. It includes slurs, taunts, stereotypes, or name-calling, as well as gender-motivated physical threats, attacks, or other hateful conduct.<sup>3</sup>

In the last six years, OCR has issued written guidance and engaged in enforcement actions that encourage institutions of higher education to focus particular attention and efforts on the area of sexual violence. Institutions of higher education that receive federal funding are also subject to the requirements of the Clery Act. The Violence Against Women Reauthorization Act of 2013 amended the Clery Act to require institutions to compile statistics and adopt disciplinary procedures for incidents of dating violence, domestic violence, sexual assault, and stalking.<sup>4</sup> In this report, the Committee uses the terms above consistent with how they have been defined by OCR. For purposes of this report, sexual violence is defined as including dating/relationship/domestic violence, and stalking.

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<sup>3</sup> <https://www2.ed.gov/about/offices/list/ocr/frontpage/faq/sex.html>

<sup>4</sup> <https://www.congress.gov/bill/113th-congress/house-bill/11>

### **C. Committee's Review Process**

The Committee review focused on the policies, processes, and resources for addressing sex-based discrimination at the University of Portland. Specific subject areas reviewed were:

- Prevention, education, and training for the campus community
- Title IX staffing
- Reporting options and resources
- Resources and interim measures for parties involved in Title IX matters, including post-process support
- Grievance procedures and investigations into student reports of sex-based harassment or assault, including the formal hearing process through the Student Conduct Office
- Sanctions and conditions for readmission
- The case review/appeal process for students

The Committee gathered relevant information and data by:

- Reviewing relevant University policies and procedures
- Reviewing relevant University resources, such as websites, handbooks, and handouts
- Interviewing current and former University employees with Title IX related duties
- Interviewing current employees whose work with students relates to Title IX, including members of the Health & Counseling Center, Public Safety Officers, and the Community Against Violence Team
- Interviewing student employees and representatives from a variety of student groups, including Associated Students of UP (ASUP), Students Against Sexual Assault (SASA), Gay Straight Partnership (GSP) and Resident Assistants (RAs)
- Gathering input from faculty and staff via listening sessions with members of the Athletic staff & coaches, Campus Ministry, Residence Hall Directors and the Gender and Women's Studies Advisory Committee
- Gathering input from students via a listening session held on March 8, 2017
- Interviewing student reporting and responding parties who had been through both the informal and formal Title IX processes at UP
- Reviewing input gathered from the University community (77 students, 21 faculty, and 32 staff) via an anonymous questionnaire developed by the Committee
- Reviewing input gathered from 1121 UP undergraduate students via the HEDS Campus Climate survey<sup>5</sup>
- Reviewing input from alumni of UP

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<sup>5</sup> HEDS stands for the Higher Education Data Sharing Consortium. HEDS is a consortium of institutions of higher education who share and analyze information via common surveys. The survey was organized by the Director of Institutional Research and the Title IX Coordinator. UP data was anonymously collected between March 1, 2017 and April 5, 2017.

- Reviewing information from other institutions of higher education about their Title IX policies, processes, structures, and resources<sup>6</sup>

With the information and input attained from these constituents and sources, the Committee gained a deeper understanding of the University's policies, procedures, and processes; an indication of emerging practices in higher education; and valuable suggestions for areas of improvement.

#### **D. Committee's Approach**

The Committee's approach was informed first and foremost by the University's mission statement, which states in relevant part:

As a diverse community of scholars dedicated to excellence and innovation, we pursue teaching and learning, faith and formation, service and leadership in the classroom, residence halls, and the world. Because we value the development of the whole person, the University honors faith and reason as ways of knowing, promotes ethical reflection, and prepares people who respond to the needs of the world and its human family.<sup>7</sup>

The founder of the Holy Cross Order, Blessed Basil Moreau, CSC, said, "The mind will not be cultivated at the expense of the heart." This commitment to educating the hands, heart, and mind are hallmarks of the University's belief in educating the whole person. The University's commitment to the education of the whole person has a rich tradition in Catholic Social Teaching that emphasizes respect and recognition of the inherent dignity of each individual person and promoting care for the common good. Thus, the University strives to create a campus and community free from sexual violence or sex-based harassment.

The Committee's approach was also informed by examining Federal Title IX documents, what and how best practices have evolved, and why Title IX has been a challenging area for higher education generally. We learned that while the University already has implemented education and training, policies, and processes to prevent and address Title IX incidents, like other institutions of higher education, the University also faces challenges within the Title IX landscape because of the following factors:

- Title IX is a complex area because it encompasses a wide range of situations. Over time, Title IX matters have ranged from:

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<sup>6</sup> A full list of all individuals and groups interviewed is set out in *Appendix 1*. A list of other institutions of higher education about which the Committee gathered information is in *Appendix 2*.

<sup>7</sup> <https://www.up.edu/about/mission.html>

- (i) disparate treatment of male versus female students/employees (such as in the form of disparate funding or treatment, e.g., disparate funding for men versus women's sports); to
  - (ii) sexual harassment (which can range from sexual jokes or innuendos, to sexual photos or pictures or items, to sexual texts, to unwanted flirting); to
  - (iii) sexual violence including sexual assault, dating/relationship/domestic violence, and sex/gender related stalking; to
  - (iv) discrimination and harassment towards transgender students.
- Title IX matters also can be complex in that a matter might involve only students as the reporting and responding parties but can also involve an employee or a non-UP student as a reporting or responding party or another individual from outside the UP community.
  - Sex/gender related differential treatment, sexual harassment, sexual assault, dating/relationship/domestic violence, and stalking continue to affect many individuals (particularly women and LGBTQ individuals) in American society. Institutions of higher education, including UP, are not immune from these forms of unequal treatment, disrespect, and violence.
  - Current American public dialogue indicates that our law enforcement and court systems do not consistently address Title IX situations in an adequate manner. As well, many types of sex/gender-related differential treatment and sexual harassment are not criminal violations and hence not subject to law enforcement's jurisdiction.
  - The federal government has sought to address certain forms of Title IX (such as sexual assault, dating/relationship/domestic violence, and stalking) on college campuses via more recent legislation and other efforts. Such efforts include legislation such as the Violence Against Women Act, the Campus SaVE Act, and "Dear Colleague" letters promulgated by the U.S. Department of Education's Office of Civil Rights ("OCR"). There have been significant changes in the guidance provided in the "Dear Colleague" letters provided by OCR that are used by institutions of higher education. As recently as September 2017, OCR rescinded a guidance document that had been operative since 2011.<sup>8</sup>
  - A significant part of the framework recommended by OCR for Title IX investigations comes from Title VII, which is the federal law that prohibits discrimination and sexual harassment in employment. However, Title VII cases often do not involve the complexities of Title IX cases. For example, in the employment context, an employer can implement rules against dating or flirting in the workplace, and can implement discipline or terminate employment for violation of such rules. However, it is difficult to implement such rules on

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<sup>8</sup><https://www2.ed.gov/about/offices/list/ocr/docs/qa-title-ix-201709.pdf>

a college campus where students learn together, live in residence halls together, establish friendships, participate in clubs and athletics teams together, and engage in romantic relationships. Indeed, Title IX cases more often involve situations that occurred between friends, romantic partners, or prior romantic partners, and these situations often include alcohol as well. Title IX violations in these types of situations can be especially challenging to investigate, adjudicate, and mitigate – especially within the Title VII-based framework, which was not developed for the contours and contexts of college campuses and college students.

- It is often not possible for any Title IX process to determine exactly what happened in any reported situation because it is after the fact, it is dependent on the evidence and statements provided by the parties and witnesses, and the University is not a law enforcement agency or a court of law. Findings based on the evidence available are not the same as knowing exactly what occurred. As well, it is not possible for the Title IX process to completely restore or heal an individual who is impacted by sexual harassment, sexual assault, dating/relationship/domestic violence, and/or stalking. Moreover, the Title IX adjudicative process most often does not bring full restoration and healing.

Based on these foundational considerations, the Committee asked the following overarching question in its review: How does UP navigate the complex social, legal, and structural challenges posed and reflected by Title IX in a manner that is consistent with the University's values of educating the whole person, respecting and recognizing the inherent dignity of each individual person, and promoting care for the common good?

## **II. UP'S TITLE IX POLICIES, PROCESSES, RESOURCES, AND TRAINING**

In learning about the history of Title IX efforts at UP, as well as in reviewing the current structure of Title IX resources and responsibilities, it was clear to the Committee that many University offices and employees have committed a great deal of time and care to developing UP's Title IX policies, processes, resources, education, and training. Such dedication is reflected in the current structure and support offered to students at the University. Those policies, processes, resources, and training are summarized below.

### **A. Current Title IX Policies and Processes for Student and Employees**

UP's Title IX policies and processes for incidents involving students as a responding party are as follows:

**Title IX Policies for Students:** *Interpersonal Violence Policies* (including definitions of Consent, Dating Violence (Relationship Violence), Domestic Violence, Sexual Harassment, Stalking, Sexual Misconduct).<sup>9</sup>

**Summary of process when a student is the responding party (please see the entire policy in *Life on the Bluff, Interpersonal Violence Resource Guide*)**

**(1) Non-confidential reporters – receive concerns/complaints.** Most employees of the University are considered as having mandatory reporting responsibilities for Title IX purposes. If such employees receive information about a Title IX matter involving a student, such concerns are to be forwarded to UP’s Title IX Coordinators.

**(2) Title IX Coordinator – provides information and facilitates next steps.** When informed about a potential Title IX incident, the Title IX Coordinator contacts reporting and responding students and provides information about the informal and formal processes and resources, including facilitating support through the Health and Counseling Center or academic and housing accommodations to support both parties’ access to education at the University. The Title IX Coordinator facilitates any informal resolutions if chosen by the reporting party. The Title IX Coordinator also helps facilitate any necessary interim measures, e.g., no-contact orders, Public Safety escorts, etc. Reporting to the Title IX Coordinator does not obligate the student to pursue formal resolution through a student conduct case, but a reporting student may engage the student conduct process at any time. Furthermore, a reporting student may also report to Portland Police at any time. The University itself may initiate the formal conduct process or take other actions if a threat to the student or community is determined. Thus, reporting to the Title IX Coordinator does not prevent the University from contacting Portland Police, either immediately or in the future.

**(3) Office of Public Safety – conducts an investigation.** If a reporting student or the University choose to pursue a formal resolution, the Office of Public Safety (through Public Safety Officers) conducts interviews with the reporting party, responding party, and witnesses. A report that includes the statements of both parties and witnesses, as well as other information, is written and sent to the Student Conduct Office.

**(4) Student Conduct Office – conducts a fact-finding/disciplinary panel hearing.** The Student Conduct Office sets up a Title IX Student Conduct panel with three University administrators/staff (“hearing officers”), specifically trained in Title IX-related policies and

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<sup>9</sup> **Source Document:** UP’s Student Handbook *Life on the Bluff*: (available to all students online at <http://up.smartcatalogiq.com/Student-Handbook/Student-Handbook/Interpersonal-Violence-Resource-Guide> and in print by special request)

procedures. Both the reporting party and responding party are provided the opportunity to present evidence (i.e., their testimony, witness testimony, other evidence.) Both parties are allowed to bring a support person of their choice.

The hearing officers review the investigation materials, consider the statements made at the hearing, and make a decision based on the “preponderance of evidence” standard (i.e., whether it is “more likely than not” that the alleged incident occurred). If the hearing officers determine that a University policy was violated, the hearing officers also determine the disciplinary sanction. The Student Conduct Office provides both the reporting and responding parties with the hearing panel’s determination(s) via a letter delivered at an in-person meeting.

**(5) Vice President for Student Affairs or Designee – conducts a review of the panel’s decisions, if requested.** Either the reporting or responding party may request that a hearing panel’s decision be reviewed by the Vice President for Student Affairs or his/her designee. The reporting party and the responding party may request such a case review based on the decision made but not based on the sanction(s) assigned. A case review only involves the following determinations:

- Whether the procedures outlined in *Life on the Bluff* were not followed during the student’s original hearing, or
- New and significant evidence is available which was unknown and could not have been known at the time of the hearing.

UP’s Title IX policies and processes for incidents involving employees as a responding party are as follows:

**Policy:** Employee Harassment & Discrimination Policy<sup>10</sup>

**Summary of process (employee as responding party):**

**(1) Non-confidential reporters – receive concerns/complaints.** For employee related Title IX matters, all administrators and supervisors are considered as having mandatory reporting responsibilities for Title IX purposes.

**(2) Office of Human Resources – conducts an investigation, makes findings, and provides recommendations.** If informed about a potential Title IX incident, the Office of Human Resources contacts reporting parties (whether students or employees) and provides information about the process and resources.

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<sup>10</sup> **Source Document:** UP’s Employee Harassment & Discrimination Policy available at: <https://www.up.edu/hr/workplace-concerns/harassment-and-discrimination.html>



Human Resources staff members conduct a formal investigation for all Title IX concerns involving an employee as a responding party.<sup>11</sup> The Human Resources staff member with primary responsibility for conducting the investigation writes up an investigation report.

Based on the investigation determinations, the head of the Office of Human Resources makes a recommendation about appropriate corrective measures such as discipline and/or training.

**(3) Employee’s Manager(s) – implements recommendations.** The employee’s manager and director-level administrators in the employee’s reporting structure reviews the Office of Human Resources’s recommended corrective measures, adopts corrective measures as appropriate, and implements them.

Where the responding party is a faculty member, the Provost’s Office and relevant Dean would be the administrators who review, adopt, and implement corrective measures.

**(4) University Vice Presidents – may review.** There is no formal process for case review or appeal. However, some employees have requested review by a University Vice President.

**B. Assignment of Title IX responsibilities across campus**

As the prior section indicates, multiple offices across UP’s campus have responsibilities related to Title IX. The table below provides another snapshot of where responsibilities are assigned.

Position/Office	Title IX Related Duties	Reports To
Title IX Coordinator	<ul style="list-style-type: none"> <li>- Coordinate efforts to comply with Title IX and carry out related obligations</li> <li>- Receive and respond to Title IX reports and oversee Title IX matters</li> <li>- Provide information to reporting and responding parties regarding the process and available resources</li> <li>- Conduct informal resolution processes</li> <li>- Oversee provision of interim measures and accommodations, including no-contact orders</li> <li>- Provide process notices to reporting and responding parties</li> <li>- Maintain/report data related to Title IX</li> </ul>	President

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<sup>11</sup> The Office of Human Resources is unaware of any Title IX matters that involved an employee as a reporting party and a student as a responding party. In such incidents, it is likely that the Office of Human Resources would conduct an investigation and any disciplinary action for the student would be implemented through the Student Conduct Office’s hearing panel process.

	<ul style="list-style-type: none"> <li>- Provide trainings to employees and students</li> <li>- Maintain Title IX files</li> <li>- Oversee Title IX website</li> </ul>	
Five Deputy Title IX Coordinators (three for students, one for faculty, and one for staff)	<ul style="list-style-type: none"> <li>- Support the Title IX Coordinator by attending and participating in meetings with students (3 of the 5 Deputy Coordinators)</li> <li>-Support the Title IX Coordinator by attending and participating in meetings with staff or faculty members as reporting or responding parties (2 of the 5 Deputy Coordinators)</li> <li>- Assist with process notices and documentation</li> <li>- Assist with interim and other accommodations</li> </ul> <p><b>(The Title IX Coordinator and Deputies are referred to as the "Title IX Team")</b></p>	Title IX Coordinator
Shepard Academic Resource Center	<ul style="list-style-type: none"> <li>- Help provide education/training to students at first-year orientation</li> </ul>	Provost
Student Activities	<ul style="list-style-type: none"> <li>- Help provide education/training to students at first-year orientation</li> </ul>	VP for Student Affairs
Student Conduct	<ul style="list-style-type: none"> <li>- Oversee/convene formal conduct hearing panels</li> <li>- Through conduct panels, make factual, policy violation, and disciplinary determinations</li> <li>- Provide process notices to students</li> <li>- Write Title IX determination reports/letters after formal hearings</li> <li>- Train Title IX formal panel members</li> </ul>	Title IX Coordinator
Public Safety Office	<ul style="list-style-type: none"> <li>- For Title IX matters involving students as responding parties, conduct an investigation via reporter &amp; respondent interviews, witness interviews, and other fact-gathering as pertinent</li> <li>- Help to carry out no-contact orders, if needed</li> <li>- Keep Title IX related data</li> <li>- Publicly report Title IX related data on an annual basis consistent with the requirements of the federal Clery Act</li> </ul>	VP for Student Affairs
Office of Residence Life	<ul style="list-style-type: none"> <li>- Provide Title IX training and technical support to Residence Life staff, including student employees (RA's)</li> <li>- Provide Title IX related education/training opportunities to students residing in residence halls</li> </ul>	VP for Student Affairs
Health and Counseling Center	<ul style="list-style-type: none"> <li>- Provide confidential counseling resources</li> <li>- Provide confidential healthcare resources</li> <li>- Oversee and implement Green Dot training across campus</li> <li>- Oversee Students Against Sexual Assault (SASA) student group</li> <li>- Provide Title IX education/training to students</li> </ul>	VP for Student Affairs

Vice President for Student Affairs	- Oversee contract for on-line Title IX training required of first-year students	University President
Human Resources	- For Title IX matters where responding party is an employee, conduct investigations, write investigation report, make determinations, and make recommendations re training, discipline, etc. - Provide Title IX related education/training to staff employees	VP for Financial Affairs
Provost's Office	- Determine and implement discipline and other necessary measures where responding party is a faculty member - Provide Title IX related education/training to faculty	University President

At UP, almost all employees (including student employees serving as Resident Assistants) are designated as having mandatory reporting duties if they are notified or otherwise learn about a potential incident of sexual harassment or sexual violence. Currently, the following UP community members serve as confidential resources.

- The staff of the University's Health and Counseling Center (HCC).
- ProtoCall, a counseling hotline available to students outside the regular hours of HCC.
- Campus ministers, including Holy Cross priests and other religious in their ministerial role.

Being a confidential resource in the Title IX context means that a student can share information about an incident of sexual harassment or sexual violence, and the confidential individual will not share the information with any third party unless there is an applicable law or a court order requires or permits disclosure of such information. For example, a confidential resource may disclose information when: (i) the individual gives written consent for its disclosure; (ii) there appears to be a risk of immediate harm to self or others; or (iii) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18.

### **C. Resources, Education, and Training**

Similar to the assignment of Title IX responsibilities across campus, various offices and groups across campus provide Title IX related resources, education, and training.

The main resources for information about Title IX publicly available to all members of the UP community are:

- **UP's Title IX website**, which is overseen by the Title IX Coordinator, and provides the opportunity to make a report (including anonymously): <https://www.up.edu/titleix>

- **UP's Student Conduct website**, which is overseen by the Student Conduct Office and links to UP's Title IX page for reporting purposes:  
<https://www.up.edu/residencelife/student-conduct/index.html>
- **UP's Residence Life website**, which is overseen by the Residence Life Office and links to UP's Title IX page for reporting purposes:  
<https://www.up.edu/residencelife/student-conduct/index.html>
- **UP's Community Against Violence website**, which is overseen by the CAV committee:  
<https://www.up.edu/cav>
- **UP's Human Resources website**, which is overseen by Human Resources and has information about how to make an anonymous or non-anonymous report:  
<https://www.up.edu/hr/workplace-concerns/index.html>
- **UP's student handbook titled *Life on the Bluff***, which is overseen by Student Affairs and made available to the entire UP community online:  
<http://up.smartcatalogiq.com/Student-Handbook/Student-Handbook>
- **Pamphlet titled *Interpersonal Violence Resource Guide for Our UP Community***, which was developed by Community Against Violence and is available at various offices across campus
- **Sticker posters** posted in restrooms across campus with information about sexual-assault related resources

Various offices and groups across campus provide education and training resources to students and are listed below:

- **Mandatory online Title IX training.** Prior their arrival on campus, all first-year students are required to take a mandatory online Title IX training provided by a vendor called Campus Clarity (soon to be EverFi). According to administrators with Title IX experience gained from both within and outside UP, this training is comprehensive and well-developed, although it does contain the usual limitations of a training platform that is not provided in person. In addition to information about sexual misconduct and sexual assault, this training also has information about the impact of alcohol and drug use in these types of incidents.
- **Mandatory on-campus training.** During first-year orientation at the beginning of the fall semester, first-year students are also required to attend a session related to Title IX. This training is implemented by representatives of the Health and Counseling Center, the Shepard Academic Resource Center, and Student Activities.

- **Non-mandatory education, training, and information sessions provided by administrators and staff.** Campus departments and organizations such as the Health and Counseling Center, Green Dot, Community Against Violence, Campus Ministry, and the Service and Justice Coordinators from the Moreau Center have held events throughout the academic year on issues relevant to Title IX, including sexual assault, confidential resources external to UP, and healthy relationships.
- **Non-mandatory education, training, and information sessions provided by students.** Student organizations such as Students Against Sexual Assault (SASA) and Associated Students of UP (ASUP, UP's student government organization) have held events that provide Title IX related information to students.
- **In-person information sessions provided by Title IX Coordinator.** Each year during the past several years, the Title IX Coordinator has increased the in-person Title IX information sessions provided to students. For example, during fall 2017, the Title IX Coordinator held training sessions with all University student-athletes and offered training sessions to all students residing in UP's residence halls by visiting each dorm individually.

Education and training resources for Employees are listed below:

- **Mandatory training and test:** Staff employees are required to take a mandatory training and test every two years. Currently, UP's Human Resource Office implements a training developed in house. The Human Resources Office is currently reviewing other Title IX related training options to make available to staff employees.
- **Handout titled *Quick Reference Guidance Document – Unlawful Discrimination, Sexual Harassment, Title IX, Bullying, and Mandatory Reporter*:** This document was developed by UP's Human Resources Office and available on UP's Human Resources website. It is provided to all new staff employees as part of the offer letter process, and they are required to acknowledge review of this document.
- **Handout titled, "Faculty & Staff Responding to Interpersonal Violence."** The current Title IX Coordinator developed this document. It has information about Title IX related duties, contacts, and resources for employees. It is provided to all new faculty during new faculty orientation, to all new staff members as part of the offer letter process, and to continuing faculty and staff at annual department or division meetings attended by the Title IX Coordinator.
- **In-person trainings provided by Title IX Coordinator.** Each year during the past several years, the Title IX Coordinator has increased the in-person Title IX informational sessions provided to various groups of employees. For example, during

fall 2017, the Title IX Coordinator provided these sessions at faculty department meetings, Athletics meetings, and Residence Life meetings.

- **In-person trainings provided by ATIXA.** ATIXA is an organization that provides training and consultation regarding Title IX. During 2016 and 2017, UP hosted ATIXA for its Title IX level 1 and 2 trainings. Multiple UP administrators and staff with Title IX responsibilities attended these trainings.
- **Trainings for employees with Title IX related responsibilities.** Employees with Title IX related responsibilities receive position specific training via conferences, webinars, UP in-house developed trainings, and other methods. Generally, such trainings are planned and paid for by the departments to which administrators are assigned. An exception lies with the Title IX Student Conduct panel hearing officers who are provided trainings by Student Affairs.

In reviewing these policies, processes, resources, education, and training explained above, the Committee also found that these individuals and groups continually look out for new ideas and policies that might be implemented to ensure that we are doing more than simply meeting our legal obligations and are keeping up with best practices in this area. The formation of the Ad Hoc Committee is one such example of these continued efforts. The Committee especially commends the following practices or policies:

- The area of Title IX at UP, as it relates to students, faculty, and staff, consists of a dedicated team that includes the Title IX Coordinator and several deputy coordinators.
- Partly due to the efforts of this Title IX Team, most Title IX cases at UP involving students are resolved through informal processes. For example, in the 2016-17 academic year, fewer than 9% percent of the Title IX cases brought to the Title IX Team result in a formal investigation and hearing process.
- Even after a Title IX case is resolved, the Title IX Team works to develop accommodations designed to promote the students' welfare on campus so that they are able to continue their education unrestricted.
- Every first-year student receives education in Title IX matters before arriving on campus and during Orientation.
- The formation of the Green Dot Program has greatly increased awareness of students' responsibilities to each other as bystanders.

- All policies and procedures regarding Title IX are available to students in *Life on the Bluff*, UP's student handbook. Some policies and resources for students regarding sexual harassment and sexual violence are also outlined in abbreviated form in the pamphlet created by the Community Against Violence Team (CAV), entitled "Interpersonal Violence Resource Guide for Our UP Community," and on various campus webpages, including the CAV and Title IX webpages.

Most recently, since the Ad Hoc Committee's formation in November 2016, some policies, procedures, and resources at the University have been improved for the 2017-18 academic year. Several examples include:

- The University named an additional deputy Title IX Coordinator, a female staff member, bringing to five the number of deputy coordinators (three work specifically with students) who work alongside the Title IX Coordinator to address Title IX incidents at UP.
- The Title IX Coordinator continued to expand Title IX training to various campus groups. Such efforts include meeting with every faculty unit on campus in August 2017 to ensure that faculty members understand their obligations under Title IX, and meeting with student athletes as well as groups of students in each residence hall.
- In its revision of *Life on the Bluff* during Summer 2017, Student Activities consolidated all policies and procedures related to Interpersonal Violence into a distinct section of the handbook, making this information easier to find and access.
- The University adopted the ProtoCall service, a 24-hour confidential resource that is available to all students regardless of whether they live on or off campus. The service is also available to students studying abroad.

Despite the fact that the University is meeting federal expectations in its Title IX policies and procedures, and that offices across campus continue to improve their Title IX services, feedback from the university community and information gathered from other research suggest that there remain areas in which UP could improve its policies, procedures, education, and resources in relation to Title IX. This feedback and information is summarized below.

### **III. SUMMARY OF INFORMATION, THOUGHTS, AND CONCERNS SHARED BY STUDENTS**

UP has approximately 4400 undergraduate and graduate students. The Committee estimates that during the Committee's review processes, at least two hundred students provided information, thoughts, and concerns related to Title IX (via the Committee's survey, the Committee's listening session with students, and the Committee's interviews with student

groups and individual students). It was clear from those students who shared their thoughts and concerns with the Committee that they care deeply about the University of Portland and about the serious issues encompassed by Title IX.

Additionally, the Committee was able to obtain Title IX related feedback from the 1121 undergraduate students who responded to the HEDS Sexual Assault Campus Climate Survey which was implemented by UP's Institutional Research Office in conjunction with UP's Title IX Coordinator in March 2017.<sup>12</sup>

Significant areas of feedback from students, based on information received directly by the Committee and/or from the HEDS Survey, are explained below.

1. Students expressed the general belief and concern that significant percentages of undergraduate students at UP – particularly female students and LGBTQ students – experience sexual harassment and sexual assault.
2. Students expressed the concern that in many cases of sexual harassment or sexual assault, students are not reporting such incidents through the Title IX reporting processes. The HEDS survey data supports this concern that not all students are taking advantage of the option to report Title IX incidents to a member of the Title IX team or a mandatory reporter at UP.<sup>13</sup>
3. Students acknowledged that UP provides Title IX related education and trainings – particularly when students start at UP as first-year students. However, there was substantial feedback that students want and need more education and training.<sup>14</sup>

HEDS survey data indicates that UP's efforts in the past few years to educate and train students about how to recognize sexual assault and bystander prevention and intervention (Green Dot) have had significant reach, as in both these areas more than 70% of respondents said they had received information. (See the following chart.)

However, HEDS data also shows that generally, less than 50 percent of female students reported that they had received information about how to report sexual assault, the

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<sup>12</sup> Information about HEDS is in footnote 4.

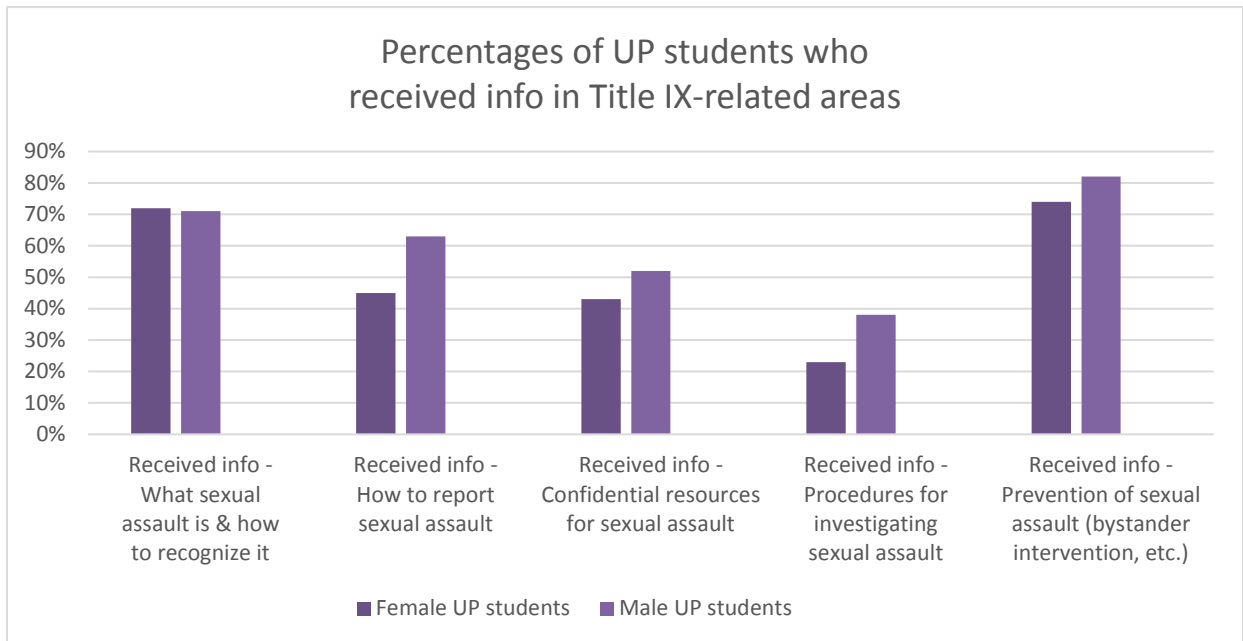
<sup>13</sup> The HEDS survey did not define what was meant by "formally report an assault."

<sup>14</sup> The following are specific pieces of feedback related to trainings and education received from students:

- Comment that Green Dot is a great program but UP needs to expand on training/education that is more than bystander intervention.
- Question about what types of Title IX training/education are provided to students studying abroad.
- Comment that there should be more training/education about sexual violence/assault and dating/relationship/domestic violence and how such incidents occur most often between persons who are acquaintances, friends, or current/prior romantic partners rather than between strangers.
- Comment that there should be more training/education about the connection between alcohol and Title IX related matters.



University’s investigation procedures, or the University’s confidential resources. This data suggests that more education and training is needed in these areas.



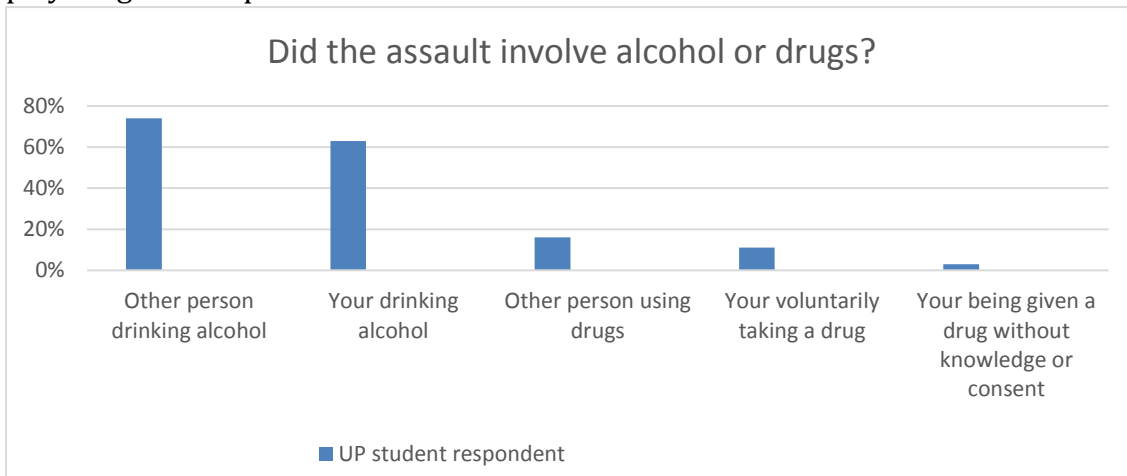
4. Students acknowledged that the University provides Title IX related informational resources on campus. However, there was substantial feedback that students would like the University to provide these resources in ways that are easier to access, understand, and use, especially by students who may be experiencing trauma because of a recently experienced incident of sexual harassment or sexual assault.<sup>15</sup> The previously mentioned HEDS survey data – which indicate that there is room for improvement in the areas of student awareness about how to report sexual assault, confidential resources, and investigation procedures – support this request.
  
5. Generally, students acknowledge that confidential Title IX resources are available to students on campus. However, there was substantial feedback that students want an expansion of the confidential resources available to them on campus. In other words, although most employees on campus (including faculty, staff, and student employees such as Resident Assistants) are designated as having mandatory Title IX reporting duties, students indicated that they would like more persons on campus designated as confidential resources.<sup>16</sup> It should be noted that the Committee received this feedback before the University’s adoption of ProtoCall, a 24-hour counseling hotline.

<sup>15</sup> The following are specific pieces of feedback related to resources received from students:

- Comment that UP can improve its Title IX website, and that for example, the University of Oregon has developed an effective Title IX website.
- Comment that more resources need to be provided to students living off campus.

<sup>16</sup> The following were the reasons articulated by students as to why they want more confidential resources:

6. Information from students provided via the HEDS survey indicates that alcohol and drugs play a significant part in incidents of sexual assault.



7. Through the Committee’s survey, listening session, and individual interviews, students who had participated as reporting and responding parties in Title IX’s formal resolution process (the Public Safety investigation and Student Conduct Title IX Hearing) indicated that they found it to be a negative, often traumatic experience. Most of the negative feedback was not about how UP employees handled the process but rather the general negative and unsupportive feeling surrounding the process, especially the hearing. Specific negative feedback received related to: the physical setup of the hearings; a lack of understanding of the role of support persons; the questions asked during the hearing; the sense that the burden of proof rested too heavily on the reporting party; the feeling that the hearing was too similar – in a negative way – to a courtroom; and that, in essence, the hearing forced the reporting party to relive the sexual harassment or sexual assault experience.
8. In our survey, listening session, and interviews, a significant number of students, including several who had gone through the Title IX formal process and had been found responsible for violating a sexual harassment or sexual violence-related policy at UP, requested more clarity in the communication of possible outcomes that might result from being found responsible for such violations by a Student Conduct Title IX hearing panel.

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- Not all students wish to go through formal Title IX procedures, and students should not have to go through such procedures if they do not wish to do so.
  - Students should have supportive resources apart from formal Title IX procedures.
  - Not all students wish to speak with someone at HCC or a priest under the sacrament of confession.
  - Confidential supportive resources can provide students with information about Title IX related processes and resources, and this would help students be better informed about next steps and accessing resources.

#### **IV. SUMMARY OF THOUGHTS, CONCERNS, AND SUGGESTIONS SHARED BY STAFF & FACULTY**

1. There was feedback that although the University has made various educational/training and resource materials available to students and employees, the University would benefit from a consolidated Title IX educational campaign for the entire community – students, faculty, and staff. As part of this campaign, it was suggested that the University develop a common language and definitions so that Title IX related terms are used consistently across campus, including in all resource materials and policies. A review of the terms and definitions used by other institutions indicates that terms used in the Title IX context should be clearly defined and consistent with definitions used by OCR.
2. There was feedback related to the seeming diffusion of Title IX related efforts (policies, processes, resources, and training) across campus. For example, the University staff position devoted to Green Dot and other educational efforts (Community Against Violence) is located in the Health and Counseling Center. Staff and faculty expressed concern that such dispersion of efforts could affect consistency and coordination and that it could create unnecessary redundancies or gaps in communications and resources.

One common suggestion to deal with these potential redundancies or gaps is for the University to review the Title IX Coordinator's authority over Title IX related policies, processes, resources, and training and consider increasing the consolidation of Title IX related areas under the direct and explicit authority of the Title IX Coordinator. One specific recommendation in this area was to move all Title IX training responsibilities and resources under the direct authority of the Title IX Coordinator.

Guidance from OCR about best practices supports that a Title IX Coordinator must have the authority, independence, visibility, and resources necessary to effectively organize, manage, and direct an institution's Title IX policies, processes, resources, and training.<sup>17</sup>

3. The Committee received feedback that Title IX matters can take up significant work time for employees with Title IX responsibilities and that this can be difficult because they have non-Title IX duties as well. Accordingly, it was suggested that the University review how Title IX-related duties are assigned to employees, whether members of the faculty or staff.
4. Similarly, feedback suggested that the continuity and momentum of the University's Title IX efforts could be impacted if employees with significant Title IX responsibilities leave their positions or UP. Accordingly, it was suggested that the University consider how to structure Title IX duties, document duties and processes, and cross train to lessen the impact of employee changes.

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<sup>17</sup> <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201504-title-ix-coordinators.pdf>

5. Feedback was received suggesting that certain employee groups on campus may benefit from more Title IX related trainings. Particular groups included faculty and Residence Life staff (because of both groups' frequent interactions with students), including RAs, and Public Safety Officers who serve as UP's investigators.
6. Some faculty and staff asked for more transparency regarding the Title IX process, especially the formal resolution process.
7. There was feedback that certain employee groups on campus (especially members of the faculty) wish to participate more with Title IX processes, especially after the ending of the Safe Advocate Program. Accordingly, it was suggested that the University consider how such groups may participate more. Suggestions included designation of such participants as confidential resources, training such participants as process advocates, or training such participants to serve as hearing officers on Title IX hearing panels.
8. Some members of the faculty and staff expressed concern that the Title-IX team is male-dominated. (At the time that the Committee was conducting its interviews and listening sessions, the team consisted of four persons, one female and three males. Since that time, one female has been added to the team, meaning that two of the five members are female.)

## **V. SUMMARY OF INFORMATION AND DATA EXTERNAL TO UP**

1. In 2011, the Department of Education and its Office of Civil Rights (OCR) began issuing "Dear Colleague" letters to educational institutions with increased expectations and guidelines regarding their obligations surrounding Title IX matters. Most recently, in September 2017, OCR issued new guidance to institutions of higher education about sexual misconduct cases.<sup>18</sup> The Committee is aware that this guidance does not yet constitute clear directives or regulations and that OCR is working on the process for implementing new regulations that would be more binding on institutions. However, it is likely that the September 2017 Guidance portends what OCR may incorporate in the new regulations.
2. Most schools similar to UP in size and mission have a Title IX Coordinator who also has other, non-Title IX responsibilities on campus. Most commonly, the Title IX Coordinator is also either the administrator who oversees diversity, inclusion, and/or equity initiatives at the school or the Director of Human Resources.

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<sup>18</sup> <https://www2.ed.gov/about/offices/list/ocr/docs/qa-title-ix-201709.pdf>

3. Based on information gathered from other schools, it appears that as institutions strive to improve the policies and procedures that increase the equity and safety of their students, an increasing number of institutions are moving to a single investigator model. These institutions include such disparate schools as University of Notre Dame, Stonehill College, and Willamette University. The single investigator model means that a single person (trained in conducting investigations) is tasked with the responsibility of gathering all evidence (via witness interviews and other pertinent methods), evaluating the credibility of parties and witnesses, and analyzing and synthesizing all of the evidence in a written report.<sup>19</sup> This is also the type of investigatory model recommended in the September 2017 guidance by OCR. Unfortunately, it is too early to assess, due to lack of data, to what extent this model may improve reporting of Title IX violations or help to resolve such violations in a more effective manner.

## VI. RECOMMENDATIONS

Informed by the considerations, suggestions, and information highlighted above, the Committee offers recommendations for the University to consider in ten different areas.

### 1. Recommendation Area One: Educational Efforts

The Committee observed a noticeable disconnect between the University's education efforts and student perception of those efforts. As stated and documented previously in this report, it was clear to the Committee that many offices and personnel have committed time and care to developing UP's Title IX policies, processes, resources, and training. However, it appears that UP's students may not see these efforts at UP. Therefore, **the Committee recommends that the University expand its educational efforts and provide greater coordination of these efforts by the Title IX Coordinator and/or Deputy Coordinators.** Specific recommendations include:

#### A. Coordinated Campus-wide Educational Campaign

Included as part of such expanded education efforts, the Committee recommends that the University consider creating and implementing a campus-wide educational campaign that creates a common language – based on UP's values and mission – among students and all employees, including both faculty and staff, in the areas encompassed by Title IX. As part of this educational campaign, the Committee recommends that UP develop, adopt, and communicate UP's Title IX institutional goals. Possible illustrative goals developed by the Committee include:

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<sup>19</sup> The investigatory and adjudication models used by other institutions of higher education is in *Appendix 2*.

**Title IX Institutional Goal No. 1 - Holistic Education:** Recognize and acknowledge that our University community is not immune from Title IX matters (such as sexual harassment, sexual assault, dating/relationship/domestic abuse, and stalking). From that acknowledgement, educate and challenge our community members – students, staff, faculty, and other community members – to do better. Community members must be educated that these types of conduct are wrong and that such conduct is not in line with UP’s institutional values. Community members also must be conditioned to act as “up standers” – i.e., individuals who actively engage in and role model respectful conduct and who report, address, or intervene in appropriate and safe ways when such conduct does occur (as through Green Dot).

**Title IX Institutional Goal No. 2 – Transparency:** Continuously ensure that our resources, communications, education, policies, and processes are easily accessible and easily understandable. Such accessibility helps to ensure that the University’s efforts are effective in providing support for individuals who experience sexual harassment, sexual assault, dating/relationship/domestic abuse, and stalking, with the goal of helping those individuals feel as safe as possible and know that they are respected and valued members of the University community.

**Title IX Institutional Goal No. 3 - Effectiveness:** Continuously ensure that our Title IX policies and processes are legally compliant, support the University’s values, and are considered to be among current best practices in this area. Such efforts mean that Title IX policies and processes must have the ability to effectively deal with the range of matters encompassed by Title IX. This also means that policies, processes, and outcomes should be as fair and respectful as possible to all parties, while still being able to address the facts and needs of particular situations effectively.

## **B. Title IX education for students**

More specifically, **the Committee recommends that educational efforts for students be better coordinated and that students be educated and trained about Title IX throughout their entire time at UP.** This observation is based on a review of the education and training available to students along with feedback from students, faculty, and staff.

To these ends, the Committee suggests that the University assess current education and training available to students and explore how to better coordinate, expand, and improve Title IX training for students. In this assessment, the Committee suggests that the University consider the following factors:

1. How much coordination and centralization of Title IX educational efforts is necessary to maximize their effectiveness?

2. What is the best way of coordinating and centralizing the education and training provided by various offices and groups on campus? What is and should be the Title IX Coordinator's role in coordinating education and training for students?
3. How can UP support and expand the effectiveness of already-established programs and groups like Green Dot, Community Against Violence, and Students Against Sexual Assault?
4. Should Green Dot (and the staff member assigned to run the Green Dot program) and/or Community Against Violence report directly to the Title IX Coordinator?
5. What can be done to increase the effectiveness of the Title IX education and training provided to first-year students?
  - For first-year students, should UP require mandatory or discretionary Title IX education in addition to the online training module and workshop provided during first-year orientation? What is the most effective way of providing these training(s), and what areas need to be covered in the training(s)?
  - Should the University provide Title IX related education via the first-year workshops? (While the Committee understands that these workshops are academically oriented, sexual harassment and sexual violence as well as alcohol and drug use are factors likely to contribute to academic struggles.)
6. How might trainings be required after the first year? What is the most effective way of providing this training, and what areas need to be covered in the training?
7. What types of mandatory or discretionary trainings should be provided to transfer students? To graduate students?
8. What types of trainings should be provided to students participating in studies abroad?
9. How can the University reinforce the seriousness of Title IX matters during its educational efforts and trainings, including those provided to incoming new students (i.e., first-year and transfer students)? Is there a way to share UP specific data or student experiences to emphasize the serious nature of such incidents and that such incidents do occur at UP?

10. What areas of sex-based harassment – sexual harassment, sexual assault, dating/relationship violence, stalking – need to be shored up in UP’s educational efforts, including those efforts geared at both new and continuing students?
11. Recognizing that UP’s students arrive on campus with widely varying knowledge and experience with dating, relationships, sexual intimacy, and safe sex, what types of education or training can UP provide to students to help them navigate these areas? How can UP encourage further dialogue and open communications about healthy relationships, sexual intimacy, and safe sex?
12. What additional education and training should be provided in the Residence Halls and to off campus students?
13. How should the University provide education and training about the challenges faced by LGBTQ students?
14. How can the University educate students that healthy, safe, and respectful relationships are an important part of the ethical decision making and character formation that is at the heart of a UP education? How can the University effectively teach students that all choices affect character formation?

**C. Review education efforts that focus on the effects of alcohol and drug use.** Given that students themselves recognize the role of alcohol and/or drug use on incidents of sex discrimination, especially sexual assault, how can the University provide additional and effective training to students in the area of alcohol and drug use? What more needs to be done in this area during the first year and subsequent years?

## **2. Recommendation Area Two: Title IX trainings for employees**

Based on a review of the Title IX training available to UP employees, the Committee has observed that in-person training and informational sessions for faculty and staff provided by the Title IX Coordinator has increased over the past 1-2 years. Yet, the Committee’s observation is that Title IX training efforts could still be better coordinated and expanded for all employees, including staff, faculty, and student workers. Therefore, **the Committee recommends that the University explore ways to better coordinate and expand Title IX training for all employees, including faculty, staff, and student workers**, with the following factors in mind:

1. How much coordination and centralization of trainings is necessary to maximize the effectiveness of Title IX trainings for employees, including faculty, staff, and student employees?



2. What is the best way of coordinating and centralizing the trainings provided by various offices and groups on campus? What is and should be the Title IX Coordinator's role in coordinating and centralizing trainings for employees?
3. What employee groups on campus need more Title IX training? How is the best way to train these groups? What should be the content of Title IX trainings for different groups on campus? For example:
  - Do Title IX Student Conduct hearing panel members receive sufficient training to fulfill their responsibilities? Are sufficient numbers of UP employees trained to participate as hearing officers on Title IX related panels? Should members of the faculty receive training to serve as hearing officers?
  - Do public safety officers receive sufficient training about how to conduct and write up investigations? Are sufficient numbers of public safety officers trained on conducting and writing up investigations?
  - Do Human Resources staff receive sufficient training for Title IX-related responsibilities? Are sufficient numbers of Human Resources staff trained on conducting and writing up investigations?
  - Do the Residence Life staff – including Hall Directors, Assistant Hall Directors, and Residence Assistants – receive sufficient training, especially to help them serve as supportive resources for students experiencing sexual harassment or sexual assault? What types of Title IX training should be provided to Residence Life staff?
  - Do Athletics staff receive sufficient training? What types of Title IX training should be provided to Athletics staff?
  - Does the faculty receive sufficient training? What types of Title IX training should be provided to faculty?
  - What types of Title IX training should be provided to administrators and faculty who support or participate in studies abroad?
  - Which employees on campus should be provided training related to trauma and Title IX processes? How often should such training occur?

### 3. Recommendation Area Three: General Title IX resources

Similar to its recommendations about educational efforts and trainings for students and employees, the Committee's observation is that Title IX resources could be better coordinated, expanded, and improved. This observation is based on a review of Title IX resources and feedback from students, faculty, and staff. Thus, the Committee recommends several specific ideas for better coordination, expansion, and/or improvement of Title IX Resources.

- A. **Revise the Title IX website** to consolidate as much information as possible regarding Title IX polices and resources in one easy to access and use place.<sup>20</sup> As part of this revision, the Committee recommends the following considerations:
1. What are best practices with Title IX website design and content and how can they be applied to UP's Title IX website?
  2. Once information on policies and resources is consolidated on one main Title IX website, what information should other UP websites include in regards to information about Title IX?
  3. Consider developing a special section on the Title IX webpage about healing, self-care, next steps, etc.
- B. **On the Title IX website as well as in any other literature related to interpersonal violence, communicate more clearly the informal and formal resolution processes for Title IX incidents**, including information about the parts of the formal process involving investigations and the Student Conduct hearing.
- C. **Assist in providing access to additional and more thorough long-term healing resources**. Such resources should be available on or off campus as appropriate to the situation, even after the Title IX process is complete (for reporters and respondents).
- D. **Consider whether UP's Title IX system would benefit from volunteer advisors**, i.e., members of the University community who are educated in Title IX policies and processes and can help a student understand the various steps in the process as well as help the student determine how far they wish to proceed in the process.

Other ideas to be considered as to how to better coordinate, expand, and improve Title IX resources include:

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<sup>20</sup> Links to some especially clear websites are included in *Appendix 3*. The University of Illinois' website has been especially commended for its clarity and ease of access by the Educational Advisory Board.

- How much centralization of resources is necessary to maximize the effectiveness of Title IX information and support?
- What is the best way of coordinating and centralizing the resources provided by various offices and groups on campus? What is and should be the Title IX Coordinator's role in coordinating and centralizing resources?
- Should a Title IX page be developed for UP's mobile application?
- Continue to update annually any sexual assault related communication located in various places across campus, such as residence halls and restrooms, especially to remove reference to the Safe Advocate Program, and to advertise the new ProtoCall service. Are there ways to expand the general campus communication of Title IX resources, such as with posters?
- What are ways to gather and incorporate feedback from students about what types of informational resources would be most effective for the student population?

#### **4. Recommendation Area Four: Title IX confidential resources and reporting options**

As explained above, UP's Title IX team consists of the Title IX Coordinator and five Deputy Title IX Coordinators (three for students, one for faculty, and one for staff). During the 2016-2017 academic year, the number of UP students who contacted UP's Title IX Team increased by approximately 60 percent from the prior year. Notwithstanding this increased reporting of possible Title IX violations by students, based on feedback from all members of the UP community, the Committee believes that there is significant room for improvement in this area. Two possible methods of increasing reporting of Title IX violations are easily accessible information on reporting resources and readily available confidential resources.

- A. Research suggests that one important way to increase reporting of Title IX violations is for students to have easily available and easy to use access to information on reporting resources and procedures. To this end, **the Committee recommends several changes to the Title IX website.**
1. Include an easily accessible section on reporting resources. As asked previously in regards to a revised Title IX website, what Title IX website best practices from other schools might UP apply to help create an easy to understand explanation of reporting processes?
  2. Consider including a flow chart(s) on the Title IX website that clearly explains the process(es) and resource(s) available to students. Based on samples of flow charts

the Committee has reviewed, it is recommended that any such flow chart include information about the resource(s) available on and off campus, the Role of the Title IX Coordinator, the investigation process, and the formal and informal resolution processes. (See links to sample flow charts in *Appendix 3*.)

3. Consider adding a Title IX tab in the Moodle and Student Portal pages to help students more easily access Title IX information.
  4. Consider adding a clear section on UP's Title IX website about anonymous reporting.
- B. Likewise, anecdotal information from students indicates that expanding confidential resources available to students may help increase Title IX related reporting rates, and the Committee received significant feedback from students that they wanted more confidential resources. A student experiencing the difficulties and trauma of a recent sexual harassment or especially an assault may have a particularly difficult time navigating the Title IX process. A confidential resource can help such a student understand the resources and processes that are available, as well as provide support while a student decides what steps to take. Certainly, the recent addition of the after-hours ProtoCall resource greatly expands the confidential resources available to students, instituted after our listening session and survey. However, some students might yet prefer a face-to-face resource, especially after hours. **Therefore, the Committee recommends that the University continue to evaluate the possibility of additional confidential resources on campus.** As part of this evaluation, the Committee suggests the following considerations:
1. Which positions on campus might be designated as additional confidential resources consistent with legal and operational needs related to Title IX?
  2. Other than HCC staff and campus ministers, all employees are designated as having mandatory reporting responsibilities related to Title IX? Is this the best policy? For example, is it effective to designate reporting duties for employees with primary job responsibilities not related to students or compliance (such as employees with clerical duties or employees in the Physical Plant department)?
  3. Can/should some professors be designated as confidential resources?
  4. Can/should some students be designated as confidential resources?
  5. Could/should any residence hall staff (other than pastoral residents) be designated as confidential resources?

6. Would it be effective to note in the UP directory about which persons are confidential resources and which persons are not confidential resources?
7. What is the student feedback about ProtoCall, the new after-business-hours confidential resource? How can UP more widely and effectively publicize the availability of ProtoCall as a confidential reporting resource?
8. Are the ProtoCall staff knowledgeable of UP's Title IX reporting resources, such as the role of the Title IX Coordinator?
9. How can non-UP confidential resources best be publicized?

## 5. Recommendation Area Five: Title IX policies.

Policies about sexual harassment and sexual violence for students are set out in *Life on the Bluff*, UP's student handbook. The Committee commends the recent consolidation of all policies and procedures regarding sexual harassment and sexual violence into one document, available to students in a distinct section of the 2017-18 version of *Life on the Bluff*. Some policies are also outlined in abbreviated form in the pamphlet created by the Community Against Violence Team (CAV), entitled "Interpersonal Violence Resource Guide for Our UP Community," and on various campus webpages, including the CAV and Title IX webpages.

- A. Notwithstanding the efforts that the Title IX Team as well as various offices and groups on campus have made for the Title IX policies to be more accessible, the Committee received significant feedback from students that they did not know where to access the policies and/or did not know about the content of the policies. Thus, **the Committee recommends that the University review the communication of key policies and procedures related to Title IX, especially beyond *Life on the Bluff***. As part of this review, the Committee suggests that the following factors be considered:
  1. What is the best way to educate students about UP's policies related to sexual harassment and sexual assault? What is the best way to make these policies accessible to students, especially beyond *Life on the Bluff*?
  2. The current Title IX website simply has a link to *Life on the Bluff*. Would it be more user friendly for Title IX-related definitions, policies, and education to be pulled out and placed on the Title IX website?
  3. Other institutions have a list of definitions related to Title IX readily available on their Title IX website and in other documents. Should something like this be developed at UP and placed on the Title IX website?

- B. The Committee also received significant feedback from students that they found it difficult to translate or apply the policies to real-life situations involving alcohol or sexual acts. Further, there was feedback that some of the terms used in the policies did not appear fully consistent with how terms are used by OCR or at other institutions. Thus, **the Committee recommends a review of policies and definitions associated with or closely related to Title IX.** As part of this review, the Committee suggests the following considerations:
1. Given the recent change in guidance from OCR as well as the evolving legal landscape defined by court decisions, review Title IX related terminology – including the terms consent, intoxication, and incapacitation. How can these terms be defined, explained, and clarified to maximize legal compliance and minimize confusion about what types of conduct violate UP’s Title IX policies?
  2. Clarify the amnesty policy in *Life on the Bluff* – so that it is abundantly clear that it applies to a student who reports sexual harassment or sexual assault. If this clarification is made, what is the most effective way(s) of disseminating this information?
  3. Given the recent change in guidance from OCR as well as the expected new guidance and/or rules, consider conducting a legal review of UP’s Title IX related policies.
- C. Finally, given recent changes in guidance from OCR, and given that our LGBTQ students are particularly vulnerable to experiencing all forms of sex-based discrimination, **the Committee recommends that the University consider further initiatives that might help our LGBTQ students to feel safer on campus and more confident that they are welcomed and respected members of the UP community.** Some considerations include:
1. Should the University include gender identity in its non-discrimination statement? Such inclusion would be consistent with the non-discrimination policies of our colleague schools like Seattle University, Gonzaga University, Santa Clara University, and Pacific Lutheran University and with Catholic social teaching about the dignity of the human person. While recognizing that gender identity is included within the definition of sexual orientation under Oregon state law and that sexual orientation is included in the University’s non-discrimination statement, might the explicit addition of gender identity bring a feeling of greater security to one of our most vulnerable student populations?
  2. What other initiatives might the University take to ensure that our transgender students feel welcome and safe on campus?

## 6. Recommendation Area Six: Title IX structure and staffing resources

For several years, the University has designated a Title IX Coordinator, a position held by both faculty and staff employees. Over time, several UP employees (generally, administrators and faculty) were assigned Deputy Title IX Coordinator duties to broaden the Title IX Team; currently, there are five Deputy Title IX Coordinators (three for students, one for staff, and one for faculty).

As explained in earlier sections of this report, however, the Committee observed that various aspects of educational outreach, policies, and procedures related to Title IX are housed in disparate offices throughout the campus. Such dispersion is likely one factor in the apparent lack of knowledge and understanding of these policies and procedures within the student body.

- A. Therefore, **the Committee recommends a review of UP's Title IX staffing and resource structure, including the assignment/delegation of responsibilities and authority, the allocation of staffing and non-staffing resources, the financial responsibility over such resources, and the reporting structure and its effectiveness.** Regarding the Title IX staffing and resource structure, consider:
1. Does this staffing and resource structure accomplish UP's Title IX institutional goals?
  2. Is this structure sustainable over time?
  3. Does this structure allow for assignment and completion of Title IX duties by employees with other important, non-Title IX, duties in a sustainable manner?
  4. Will this structure support the continuity and momentum of the University's Title IX efforts, even if there are staffing changes related to employee turnover or leaves?
  5. Does this structure fully and effectively utilize available staffing and other resources at UP?
- B. Furthermore, **the Committee also recommends that a set time period be established (e.g. every 3-5 years) for review of all Title IX policies, processes, resources, and training.** As part of this timetable, consider who should be responsible for such a review, especially whether the review should be conducted by individuals who are internal or external to UP.

## **7. Recommendation Area Seven: Title IX Investigations and Student Conduct panel hearings**

The Title IX Team spends an extraordinary amount of time and effort to help resolve the majority of Title IX cases through informal processes, for parties who wish to use the informal resolution process. As mentioned previously, fewer than 9% percent of the Title IX cases brought to the Title IX Team resulted in a formal investigation and hearing process during the 2016-17 academic year. In these cases, Public Safety officers conduct the investigations and the Student Conduct Office within the Office of Residence Life adjudicates them through the Title IX Student Conduct panel hearings. Several members of the University staff from offices across the campus are trained specifically in Title IX procedures and serve as hearing officers on the three-member hearing panels that are used to adjudicate cases of sexual harassment or sexual violence involving student respondents. The training and hearing duties include lengthy, detailed work that is separate from the regular University duties of these employees.

It is clear to the Committee that both the employees who participate in Public Safety and Student Conduct processes related to Title IX strive to perform their duties thoroughly, fairly, and impartially, and that they strive to treat all parties with respect and dignity. All of these individuals are to be commended for their dedication to UP students and the University's efforts to address incidents of sexual harassment, sexual violence, and gender-based harassment.

The Committee also recognizes that no process, including informal ones, can ever completely bring healing to an individual who has been the victim of sexual violence. However, UP should continue to strive to make its Title IX processes as supportive as possible for all parties involved, one that makes the parties feel heard, respected, and validated, no matter the outcome of the case. The current formal process certainly accomplishes this goal at times, while at other times students reported that the process fell short of these aspirations.

Despite the small percentage of Title IX cases that go through the formal process, one of the most common themes that the Committee heard during our meetings and interviews, especially with those students who had experienced a formal resolution with a hearing, was a deep dissatisfaction with the formal process. As explained earlier in this report (see p. 18), most of the negative feedback regarding the formal process did not focus on specific personnel but on the experience of the hearing itself. To those individuals who had been through a hearing, most found the experience to be traumatic, no matter the outcome of their case. The Committee also heard multiple accounts of students who chose not to report an incident of sexual harassment or sexual assault for fear of possibly having to face the hearing process.

Additionally, the Committee received feedback that the single investigator model may address some of these concerns. Such alleviation of concerns may occur because with the single



investigator model, the investigator can conduct both the fact-finding and adjudicatory functions currently done by Public Safety officers and the Title IX Student Conduct hearing panel. Investigation processes usually do not utilize the features common to hearings – such as having both parties present and requiring the parties and witnesses to provide testimony to a panel of individuals. Thus, the negative reactions that arise from the hearing feeling too much like a court proceeding may be addressed via the single investigator model. Unfortunately, data supporting the benefits of the single investigator model remains largely anecdotal, as many schools have only recently moved to this model or are still planning to change to this model. However, this model of investigations may also comply more directly with the newest guidance from OCR regarding that: “the investigation should result in a written report summarizing the relevant exculpatory and inculpatory evidence.”<sup>21</sup>

Based on feedback received from the University community, the Committee also found a misconception regarding the Title IX Hearing. The University has a separate Title IX hearing panel consisting of individuals who have received special Title IX training. However, the fact that the hearing panel is coordinated by the Student Conduct Office and housed in the Office of Residence Life seems to have created the perception that the hearing panels for Title IX cases are the same as those for a Student Conduct case. Responses from the University community also reflected a lack of awareness as to how the formal process actually works.

Given these observations and feedback, the Committee makes several recommendations to help the University meet its aspirations on a more consistent basis for those few individuals who end up going through the formal process to resolve a Title IX case.

- A. **Assess the benefits and feasibility of the single investigator model given UP’s size, resources, numbers of Title IX cases, and Title IX Institutional Goals, among other factors.** Review the list of schools that have moved to this model (see *Appendix 2*), especially as these schools accumulate more reliable data over the next 1-2 years as regards to the effectiveness of this model and its impact on such things as an increased reporting of Title IX violations.
- B. **Review all pieces of communication that explain both the formal hearing process and the make-up of the Title IX hearing board to provide more clarity as to the steps in the process and the special nature of the board.**
- C. **Review the location of the Student Conduct Office.** Consider whether organizationally it should remain within the Residence Life Office and whether the Student Conduct administrator should continue to report to the Residence Life administrator. Title IX matters and student conduct matters affect all students of UP,

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<sup>21</sup> <https://www2.ed.gov/about/offices/list/ocr/docs/qa-title-ix-201709.pdf>

whether they live on or off campus, and having the Student Conduct Office placed within Residence Life is optically and structurally inconsistent with this reality.

## **8. Recommendation Area Eight: Sanctions.**

If a student is found to have violated a Title IX policy through the formal adjudicatory process, sanctions could include dismissal or suspension from the University. In feedback to the Committee, students who had gone through the Title IX formal process and had been found responsible for violating a sexual harassment or sexual violence-related policy at UP asked for more clarity surrounding the possible outcomes of a Student Conduct Title IX hearing panel and its decisions. Additionally, students found responsible for violating a Title IX policy who had been forced to leave the University for a period of time also asked for earlier and more explicit communication as to the possible conditions of their return. Furthermore, the most recent guidance from OCR states: "In its annual security report, a postsecondary institution must list all of the possible sanctions that the institution may impose following the results of any institutional disciplinary proceeding for an allegation of dating violence, domestic violence, sexual assault, or stalking." Given both the feedback from students as well as the new OCR expectations, the Committee recommends several items for consideration.

- A. **The Committee recommends that the University consider publishing on UP's Title IX webpage and in UP's Title IX literature and resources information the range of possible sanctions that may result from a student being found responsible for violating a Title IX policy.** A further consideration for making available such information is that an acknowledgment of potential sanctions could serve an important educational purpose and theoretically as a potential deterrent to Title IX incidents. Therefore, information about sanctions could be accompanied by an explanation as to the purpose of sanctions, especially as they relate to the University's values and mission of developing the whole person.
- B. **The Committee also recommends a review of the established language for written communication with both the reporting and responding parties who go through the Title IX formal process to minimize misinterpretations or unexpected conditions for continuing at UP or for a possible return to UP after suspension.** Some considerations for improving this communication include:
  1. Does UP's communications with the parties through the Title IX formal process have clear and necessary information related to a responding party's possible return to the University after a suspension, as well as how accountability and accommodations will be handled by the University upon a responding party's return?

2. Beyond the expectations that a suspended student must meet before returning to the University, do suspension letters also contain the possible range of conditions and restrictions for the return as it relates to academic access, athletic and team participation, clubs and organizations, student leadership and employment opportunities, etc.? It is recommended that a student be informed early on about all the restrictions that could be placed upon him or her at return.
3. Should the terms, restrictions, and accountability for a suspended student's return to school be coordinated through the Title IX Team rather than Student Conduct, especially since the reporting student may still be enrolled at UP?

### **9. Recommendation Area Nine: Case review**

Currently, either the reporting or responding party is able to ask for a case review once a hearing panel has made a decision in a formal Title IX process. Such a policy is in line with the current OCR guidelines. If either party requests a review, the Vice President for Student Affairs or his/her designee conducts the case review. This review process is similar to a review for any student conduct case in that one person conducts the review.

Based on feedback from students, faculty, and staff, several areas of concern exist with this model, based largely on perception rather than reality. One negative perception is that a sole individual conducting a case review might limit the process provided to a party or have biases. Another negative perception is that the Title IX case review process does not differ significantly from the review process followed for any other student conduct violation, again giving the appearance that incidents of sexual harassment and sexual assault are not given a high enough priority or not taken more seriously than some other violations of the conduct code.

Therefore, **the Committee recommends that the University consider establishing a Title IX Case Review Team** with the following considerations in mind:

1. Should a Case Review Team be formed? If so, should the Title IX Office coordinate membership and training for such a Review Team? What should be the composition of the team (administrators, staff and/or faculty)?
2. Would the University be able to assign multiple, diverse individuals from across the campus who have been trained in Title IX issues?
3. Would the pool of trained individuals be large enough so that individuals are not overly burdened by multiple cases?

## **10. Recommendation Area Ten: Office of Human Resources**

When the responding party is an employee in a Title IX matter, the Office of Human Resources handles such cases. With matters involving sexual harassment or sexual assault, the Office of Human Resources is able to apply policies and processes based on Title VII, which is the federal law that addresses unlawful discrimination and harassment in employment situations. OCR stated that although Title IX covers sex-based discrimination related to employees in higher education, Title VII covers such situations as well. There are advantages with Title VII because it is an older and more established piece of legislation as compared to Title IX, especially with regard to case law.

The Office of Human Resources coordinates with the Title IX Coordinator for any sex-based discrimination matter involving a student and a University employee. Consistent with this, the Director of Employee Relations & Staff Diversity, who is a Human Resources administrator, is a Deputy Title IX Coordinator. Aside from coordination, a staff member in Human Resources who has experience and training in conducting investigations carries out the investigation and makes determinations. Based on the investigator's determinations, the head of the Human Resource Office makes recommendations about training, discipline, and other necessary measures.

In the HEDS report, no UP students reported sexual assault by an employee of the University. However, in the past two years, the Office of Human Resources has received and investigated matters involving allegations of potential sexual harassment by a student reporting party towards an employee responding party. Investigations were completed in these cases and determinations made. The Office of Human Resources is unable to say that there was anything particularly noteworthy or difficult about these matters.

Regarding potential recommendations, the Office of Human Resources stated that it would review its Discrimination & Harassment policy and processes for employees to make sure the policy and processes are in compliance with OCR's most recent guidance. The Human Resources group also indicated that it is continuing to review Title IX related training for employees.

Therefore, the Committee makes the following recommendations for Title IX related issues that involve members of the University's faculty and staff:

- A. Ensure that the University's Human Resources Office review UP's Discrimination & Harassment policy and processes for employees to make sure the policy and processes are in compliance with OCR's most recent guidance.**
- B. Ensure that the University's Human Resources Office review Title IX related training and implement training as appropriate and necessary for all employees, whether members of the staff, faculty, or student body.**

## **VII. CONCLUSION**

The Ad Hoc Committee thanks members of the University community, students, staff, and faculty, who shared their thoughts, experiences, concerns, and suggestions with the Committee through various forms. We are especially grateful to those students who have been through either the informal or formal Title IX processes and were willing to share their experiences. As the Committee has stated in this report, we commend our colleagues who bring their compassion, skill, and time to develop effective education and training surrounding Title IX related matters as well as policies, procedures, and processes for dealing with Title IX related incidents on our campus. Through their efforts, the University is meeting federal expectations and, influenced by our mission of educating the whole person, often going beyond those expectations in responding to reports of sex-based harassment. In some areas, however, the University has room for improvement in order to keep up with best practices and evolving norms. The Committee believes that the recommendations stated in this report reflect an informed way forward in making those improvements. As the Title IX team works with various offices across campus to consider our recommendations, members of the Committee are available for consultation or clarification as needed.