

Title IX – Violence Against Women Act

Anti-Sexual Harassment and Sexual Violence Policy for Students and Employees

Title IX – Violence Against Women Act Policy

Stewart School is committed to providing a work and educational environment free of sexual harassment, including sexual violence, and to full compliance with Title IX of the Education Amendments Act of 1972 and other federal and state laws governing such conduct. Stewart School policy prohibits harassment or discrimination based on race, religion, creed, color, national origin, ancestry, sex (including pregnancy, childbirth or related medical conditions), military or veteran status, physical or mental disability, medical condition, marital status, age, sexual orientation, gender, gender identity or expression, genetic information or any other basis protected by the federal, state or local law.

The following individuals have been designated as the Title IX Coordinators by Stewart School to handle inquiries regarding Title IX policies, including receiving and responding to information about any incident of sex discrimination.

Title IX Coordinator:

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Stewart School educates the incoming and current student and employees about sexual violence, violence prevention, and all relevant policies and procedures during all orientations held for new and current students at the onset of a class and at least annually.

In addition, Stewart School conducts new and current employee training on these topics at least annually. The Title IX Coordinator is responsible for training all current students and employees about Stewart School policies regarding sexual violence and for conducting the new student and employee training.

Stewart School engages in educational programming to prevent domestic violence, dating violence, sexual assault and stalking. Educational programming consists of primary prevention and awareness programs for all incoming students and new employees and ongoing awareness and prevention campaigns for students and faculty that:

1. Identifies domestic violence, dating violence, sexual assault and stalking as prohibited conduct;
2. Defines what behavior constitutes domestic violence, dating violence, sexual assault, and stalking;
3. Defines what behavior and actions constitute consent to sexual activity:

Sexual intimacy requires that all participants consent to the activity. Consent between two or more people is defined as an affirmative agreement--through clear actions or words--to engage in sexual activity. The person giving the consent must act freely, voluntarily, and with an understanding of their actions when giving the consent. Lack of protest or resistance does not constitute consent, nor does silence mean consent has been given. Relying solely on nonverbal communication can lead to misunderstanding. Persons who want to engage in the sexual activity are responsible for obtaining consent--it should never be assumed. A prior relationship or prior sexual activity is not sufficient to demonstrate consent.

Consent must be present throughout the sexual activity--at any time, a participant can communicate that they no longer consent to continuing the activity. If there is confusion as to whether anyone has consented or continues to consent to sexual activity, it is essential that the participants stop the activity until the confusion can be clearly resolved.

The following people are unable to give consent:

- Persons who are asleep or unconscious
 - Persons who are incapacitated due to the influence of drugs, alcohol, or medication (see "Resource Links" below for Iowa Code Section 709.1A, Incapacitation)
 - Persons who are unable to communicate consent due to a mental or physical condition
- Generally, minors under the age of 16.

4. Provides safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of domestic violence, dating violence, sexual assault, or stalking against a person other than the bystander.

When & How to Intervene

Every situation is different and there is no universal response when intervening to prevent sexual violence. Safety is key in deciding when and how to respond to sexual violence. Every person must decide for themselves the safest and most meaningful way to become an engaged bystander. Some ideas on how to maintain safety while being an engaged bystander:

- If you witness sexual violence, get support from people around you. You do not have to act alone. If you do not feel safe, contact the police.
 - When intervening, be respectful, direct and honest.
 - Group setting and sexual gestures made to a person in the group. Person becomes upset. An engaged bystander could tell the group to stop harassing the person, or ask the person if they want to leave and tell an appropriate authority (Ex: Instructor or Supervisor.)
 - Group setting and a friend starts flirting with someone. The other person is not interested, but the friend will not leave them alone. An engaged bystander could approach the friend and start a conversation to distract them from the uninterested person.
5. Provides information on risk reduction so that students and employees may recognize warning signs of abusive behavior and how to avoid potential attacks. – See below Risk Reduction/Warning Signs of Abusive Behavior
 6. Provides an overview of information contained in the Annual Security Report in compliance with the Clery Act.

This educational campaign will consist of but not be limited to the distribution of educational materials to new students, participating in and presenting information and materials during student/employee orientation and through newsletters among other means of distribution through the year. The college also has a directory of services that are available to victims within the community to assist those who have suffered from a criminal act.

Risk Reduction/Warning Signs of Abusive Behavior

No victim is ever to blame for being assaulted or abused. Unfortunately, a person who is the victim of sexual or dating violence is more likely to be re-victimized. Below are some tips to help reduce your risk, to recognize warnings signs of abusive behavior and how to avoid potential attacks.

Warning Signs of Abusive Behavior

Domestic and dating abuse often escalates from threats and verbal abuse to violence. And, while physical injury may be the most obvious danger, the emotional and psychological consequences of domestic and dating violence are also severe. Warning signs of dating and domestic violence include:

1. Being afraid of your partner.
2. Constantly watching what you say to avoid a “blow up.”
3. Feelings of low self-worth and helplessness about your relationship.
4. Feeling isolated from family or friends because of your relationship.
5. Hiding bruises or other injuries from family or friends.
6. Being prevented from working, studying, going home, and/or using technology (including your cell phone.)
7. Being monitored by your partner at home, work, or school.
8. Being forced to do things you don’t want to do.

Help Reduce Your Risk and Avoid Potential Attacks

If you are being abused or suspect that someone you know is being abused, speak up or intervene.

1. Learn how to look for “red flags” in relationships so you can learn to avoid some of those characteristics in future partners.
2. Consider making a report with the College Administrator and ask for a “no contact” directive from the college to prevent future contact.
3. Consider getting a protective order or stay away order.
4. Learn more about what behaviors constitute dating and domestic violence, understand it is not your fault, and talk with friends and family members about ways you can be supported.
5. Trust your instincts—if something doesn’t feel right in a relationship, speak up or end it.

Sexual Assault Prevention (From Rape, Abuse and Incest National Network - RAINN)

- **Try not to leave your drink unattended.
- **Only drink from un-opened containers, or from drinks you have watched being made and poured.
- **Cover your drink. It is easy to slip in a small pill even while you are holding your drink. Hold a cup with your hand over the top or choose drinks that are contained in a bottle and keep your thumb over the nozzle.
- **If you feel extremely tired or drunk for no apparent reason, you may have been drugged. Find your friends and ask them to leave with you as soon as possible.
- **If you suspect you have been drugged, go to a hospital and ask to be tested.
- **Keep track of how many drinks you have had.
- **Try to come and leave with a group of people you trust.
- **Avoid giving out your personal information (phone number, where you live, etc.). If someone asks for your number, take his/her number instead of giving out yours.
- **Traveling to and from campus and outside the campus building make sure your cell phone is easily accessible and fully charged.
- **Take major, public paths rather than less populated shortcuts if walking to and from the college.
- **Avoid dimly lit places and talk to the College Administrator if lights need to be installed in an area.
- **Avoid putting music headphones in both ears so that you can be more aware of your surroundings, especially if you are walking alone.
- **Carry a noisemaker on your keychain.
- **Carry a small flashlight on your keychain.

Information regarding sexual discrimination, including sexual harassment or sexual violence, may also be reported by anyone to: U.S. Office for Civil Rights by email at ocr@ed.gov or at the addresses provided at the following website: <https://www.hhs.gov/civil-rights/filing-a-complaint/index.html>.

Stewart School's anti-harassment policy applies to all persons involved in the operation of the School and prohibits unlawful harassment by any employee of the School, as well as students, customers, vendors or anyone who does business with the School. It further extends to prohibit unlawful harassment by or against students. Any employee, student or contract worker who violates this policy will be subject to disciplinary action. To the extent a customer, vendor or other person with whom the School does business engages in unlawful harassment or discrimination, the School will take appropriate corrective action.

As part of the Stewart School's commitment to providing a harassment-free working and learning environment, this policy shall be disseminated to the School community through publications, the School website, new employee orientations, student orientations, and other appropriate channels of communication. The School provides training to key staff members to enable the School to handle any allegations of sexual harassment or sexual violence promptly and effectively. All students and staff of Stewart School are expected to report incidents of sexual discrimination (including sexual harassment or sexual violence) to the Title IX Coordinator. The school will respond quickly to all reports, and will take appropriate action to prevent, to correct, and if necessary, to discipline behavior that violates this policy.

Definitions

Sexual Harassment is defined as 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. Sexual harassment is conduct that explicitly or implicitly affects a person's employment or education or interferes with a person's work or educational performance or creates an environment such that a reasonable person would find the conduct intimidating, hostile or offensive.

Sexual Violence is defined as physical sexual acts engaged in without the consent of the other person or when the other person is unable to consent to the activity. Sexual violence includes sexual assault, rape, battery, and sexual coercion; domestic violence; dating violence; and stalking.

Domestic Violence is defined as abuse committed against an adult or a minor who is a spouse or former spouse, cohabitant or former cohabitant, or someone with whom the abuser has a child, has an existing dating or engagement relationship, or has had a former dating or engagement relationship.

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

Sexual Assault occurs when a physical sexual activity is engaged in without the consent of the other person or when the other person is unable to consent to the activity. The activity or conduct may include physical force, violence, threat, or intimidation, ignoring the objections of the other person, causing the other person's intoxication or incapacitation through the use of drugs or alcohol, and taking advantage of the other person's incapacitation (including voluntary intoxication).

Stalking is behavior in which a person repeatedly engages in conduct directed at a specific person that places that person in reasonable fear of his or her safety or the safety of others. "Cyber stalk" means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose. A person, who willfully, maliciously, and repeatedly follows, harasses, or cyber stalks another person commits the offense of stalking, a misdemeanor of the first degree.

Credible threat means a verbal or nonverbal threat, or a combination of the two, including threats delivered by electronic communication or implied by a pattern of conduct, which places the person who is the target of the threat in reasonable fear for his or her safety, or the safety of his or her

family members or individuals closely associated with the person, and which is made with the apparent ability to carry out the threat to cause such harm. It is not necessary to prove that the person making the threat had the intent to actually carry out the threat.

Consent is informed, voluntary and revocable. Consent is an affirmative, unambiguous, and conscious decision by each participant to engage in mutually agreed-upon sexual activity. It must be given without coercion, force, threats or intimidation. Consent must be ongoing throughout a sexual encounter and can be revoked at any time. Once consent is withdrawn, the sexual activity must stop immediately.

Prohibited Conduct

This policy strictly prohibits sexual or other unlawful harassment or discrimination as well as sexual violence, as defined above. Sexual or other unlawful harassment or discrimination includes any verbal, physical or visual conduct based on sex, race, age, national origin, disability or any other legally protected basis if:

- i. *submission to such conduct is made either explicitly or implicitly a term or condition of an individual's education or employment;*
- ii. *submission to or rejection of such conduct by an individual is used as a basis for decisions concerning that individual's education or employment; or*
- iii. *it creates a hostile or offensive work environment, which means the alleged conduct is sufficiently serious to limit or deny a student's or ability to participate or benefit from the student's education program.*

Unlawful harassment or discrimination may include racial epithets, slurs and derogatory remarks, stereotypes, jokes, posters or cartoons based on race, national origin, age, disability, marital status or other legally protected categories.

Sexual harassment is conduct based on sex, whether directed towards a person of the opposite or same sex, and may include explicit sexual propositions, sexual innuendo, suggestive comments, sexually oriented "kidding" or "teasing", practical jokes, jokes about or displays of obscene printed or visual material, questions about sexual fantasies, preferences or history, and physical contact such as patting, pinching, or intentionally brushing against another person's body. Gender-based harassment, including acts of verbal, nonverbal or physical aggression, intimidation, or hostility based on sex or sex-stereotyping are strictly prohibited, even if those acts do not involve conduct of a sexual nature.

Complaint/Grievance Procedure

If you are a victim of sexual violence, including sexual violence, dating violence, domestic violence, or stalking, your first priority should be to get to a place of safety. You should then obtain any necessary medical treatment. Information about the alleged offense should be provided to the Title IX Coordinator as soon as possible. Time is a critical factor for evidence collection and preservation.

Stewart School strongly advocates that a victim of sexual violence reports the incident to police in a timely manner and, if requested to do so by the victim, Stewart School's Title IX Coordinator will assist the victim in contacting the police. Filing a police report will not obligate the victim to prosecute, nor will it subject the victim to scrutiny or judgmental opinions from officers. The victim always has the right to decline to notify police of the incident.

If you believe that you have witnessed harassment or sexual violence, notify the Title IX Coordinator as soon as possible after the incident. Do not allow an inappropriate situation to continue by not reporting it, regardless of who is creating the situation. No employee, contract worker, student, vendor or other person who does business with the School is exempt from the prohibitions in this policy. All complaints will be reported to the Title IX Coordinator for student-related complaints as well as complaints that involve an employee. In order to facilitate

the investigation, your complaint should include details of the incident or incidents, names of the individuals involved and names of any witnesses. All complaints will be referred to the campus's Title IX Coordinator.

The School ensures that its employee(s) designated to serve as Title IX Coordinator(s) have adequate training on what constitutes sexual harassment, including sexual violence, and that they understand how the School's grievance procedures operate. Because complaints could also be filed with an Instructor, these employees also receive training on the Stewart School's grievance procedures and other procedures used for investigating reports of sexual harassment.

Once the Title IX Coordinator receives a report of sexual violence, the Title IX coordinator will provide the individual making the report with written information regarding existing counseling, health, mental health, victim advocacy, legal assistance and other services available for victims in the community.

The Sioux Falls Police Department has jurisdiction over the city of Sioux Falls where Stewart School is located. Their contact information is:

320 W. 4th St

Sioux Falls, SD 57104

605-367-7272

In an emergency dial 911!

Investigation of Complaints

In response to all complaints, Stewart School will conduct prompt and equitable resolution through a reliable and impartial investigation of complaints, including the opportunity for both parties to present witnesses or other evidence. The time necessary to conduct an investigation will vary based on complexity but will generally be completed within sixty (60) days of receipt of the complaint. The School shall maintain confidentiality for all parties to the extent possible, but absolute confidentiality cannot be guaranteed. In cases where a student does not give consent for an investigation, the School will weigh the student's request for confidentiality against the impact on School safety to determine whether an investigation must proceed. Complainants should be aware that in a formal investigation due process generally requires that the identity of the charging party and the substance of the complaint be revealed to the person charged with the alleged harassment.

The preponderance of the evidence standard will apply to investigations, meaning the School will evaluate whether it is more likely than not that the alleged conduct occurred. Both parties will receive written notice of the outcome of the complaint.

During the investigation, the School will provide interim measures, as necessary, to protect the safety and wellbeing of students and/or employees involved.

If the School determines that unlawful harassment or sexual violence has occurred, immediate appropriate corrective action will be taken in accordance with the circumstances involved, and the School will take steps to prevent the recurrence of any harassment or discrimination. Any employee determined by the School to be responsible for unlawful harassment or discrimination will be subject to appropriate disciplinary action, up to and including termination. Remedies for student-related claims may include, but are not limited to, an order to stay away, suspension or expulsion.

To initiate a criminal investigation, reports of sexual violence should be made to "911" or local law enforcement. The criminal process is separate from the School's disciplinary process. To the extent that an employee or contract worker is not satisfied with the School's handling of a harassment or discrimination complaint, he or she may also contact the appropriate state or federal enforcement agency for legal relief.

Confidentiality

Reports about sexual violence or other crimes may be provided informally and in confidence to Stewart School's Title IX Coordinator, who will make every attempt to maintain privacy of the information in accordance with your request and Family Educational Rights and Privacy Act of 1974 (FERPA) regulations

unless Stewart School is under an obligation to disclose your identity to protect the safety of others. You will be informed if the school cannot maintain the requested confidentiality of the information.

Stewart School strongly encourages victims of sexual violence who do not want to report an incident to police, or file a complaint using the school institutional procedures, to report the incident to the Title IX Coordinator voluntarily and on a confidential basis, solely to permit the inclusion of that information in the school's annual crime statistics. With such information, the school can keep an accurate record of the number of similar incidents, determine where there is a pattern of crime about a particular location, method, or assailant, and alert the campus community to potential danger. Stewart School will make best efforts to maintain the privacy of that information and to comply with FERPA.

Stewart School is required to, and will, keep the identity of victims of sexual violence private in any public report of Clery Act crimes. Reporting to the institution will also enable the victim to receive protective measures. At the victim's request, the school will maintain as confidential any protective measures provided to the victim, to the extent that making such information confidential does not impair the ability of the institution to provide those protective measures. The victim will be informed by the institution if providing a protective measure may reveal the identity of the victim.

Sanctions and Protective Measures

Sanctions that may be imposed by Stewart School include, but are not limited to:

- Written warning;
- Mandatory counseling;
- Mandatory education and training;
- Changes in academic or working arrangements;
- Revocation of certain campus privileges;
- Suspension; or
- Expulsion.

The school has flexibility in the type and range of sanctions to impose on the perpetrator depending on the severity of the incident. Stewart School has a process in place to ensure that sanctions imposed are consistent with sanctions imposed in past incidents of similar conduct and are not imposed unequally based on gender or gender identity.

Protective measures that the school may utilize to protect the complainant included, but are not limited to:

- Changes to academic situations;
- Ensuring the complainant and perpetrator do not share classes or clinic together;
- Arranging for the complainant to restart with a different class with no academic or financial penalty.

When determining what protective measures to establish, Stewart School will consider a number of factors including the specific needs and requests expressed by the complainant; the severity or pervasiveness of the conduct; any continuing effects on the complainant; whether the complainant and alleged perpetrator share the same class or clinical times.

Retaliation Prohibited

The School will not retaliate against you for filing a complaint and will not tolerate retaliation by students or employees. If you believe you have been retaliated against, you should promptly notify your Title IX Coordinator.

Reporting Requirements

Victims of sexual misconduct should be aware that Stewart School must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to other members of the campus community. The School will make every effort to ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the danger. The School reserves the right to notify parents/guardians of dependent students regarding any health or safety risk, or a change in student status.

Additional Information

Employees should contact the School Director for more information, or any questions related to this policy. Students may contact the Title IX Coordinator(s) with any questions related to this policy. In addition, the U.S. Department of Education Office for Civil Rights (“OCR”) investigates complaints of unlawful harassment of students in educational programs or activities. This agency may serve as a neutral fact finder and will attempt to facilitate the voluntary resolution of disputes with the parties. For more information, visit the OCR website at: <http://www.hhs.gov/ocr/>.

Rights and Options of Victims of Sexual Violence

Within 24 hours of a Title IX Coordinator receiving a report of dating violence, domestic violence, sexual assault, or stalking, whether the offense occurred on or off campus, the institution will provide the student or employee with a written explanation of the student’s or employee’s rights and options. That notice will contain the following information:

This document outlines your rights under Title IX. You may have additional rights under other federal and state laws. Title IX of the Education Amendments of 1972 prohibits sex discrimination—which includes sexual violence—in educational programs and activities. All public and private schools, school districts, colleges, and universities receiving federal funds must comply with Title IX. If you have experienced sexual violence, here are some things you should know about your Title IX rights:

Your School Must Respond Promptly and Effectively to Sexual Violence

- You have the right to report the incident to your school, have your school investigate what happened, and have your complaint resolved promptly and equitably.
- You have the right to choose to report an incident of sexual violence to the school or local law enforcement, but a criminal investigation does not relieve your school of its duty under Title IX to respond promptly and effectively.
- Your school must adopt and publish procedures for resolving complaints of sex discrimination, including sexual violence. Your school may use student disciplinary procedures, but any procedures for sexual violence complaints must afford you a prompt and equitable resolution.
- Your school should ensure that you are aware of your Title IX rights and any available resources, such as victim advocacy, housing assistance, academic support, counseling, disability services, health and mental health services, and legal assistance.
- Your school must designate a Title IX coordinator and make sure all students and employees know how to contact him or her. The Title IX coordinator should also be available to meet with you.
- All students are protected by Title IX, regardless of whether they have a disability, are international or undocumented, and regardless of their sexual orientation and gender identity.

Your School Must Provide Interim Measures as Necessary

- Your school must protect you as necessary, even before it completes any investigation. Your school should start doing this promptly once the incident is reported.
- Once you tell your school about an incident of sexual violence, you have the right to receive some immediate help, such as changing classes. When taking these measures, your school should minimize the burden on you.
- You have the right to report any retaliation by school employees, the alleged perpetrator, and other students, and your school should take strong responsive action if this occurs.

Your School Should Make Known Where You Can Find Confidential Support Services

- Your school should clearly identify where you can go to talk to someone confidentially and who can provide services like advocacy, counseling, or academic support. Some people, such as counselors or victim advocates, can talk to you in confidence without triggering a school's investigation. Because different employees have different reporting obligations when they find out about sexual violence involving students, your school should clearly explain the reporting obligations of all school employees.
- Even if you do not specifically ask for confidentiality, your school should only disclose information to individuals who are responsible for handling the school's response to sexual violence. Your school should consult with you about how to best protect your safety and privacy.

Your School Must Conduct an Adequate, Reliable, and Impartial Investigation

- You have the right to be notified of the time frames for all major stages of the investigation.
- You have the right to present witnesses and evidence.
- If the alleged perpetrator is allowed to have a lawyer, you have the right to have one too.
- Your school must resolve your complaint based on what they think is more likely than not to have happened (this is called a preponderance-of-the-evidence standard of proof). Your school cannot use a higher standard of proof.
- You have the right to be notified in writing of the outcome of your complaint and any appeal, including
- any sanctions that directly relate to you.
If your school provides for an appeal process, it must be equally available for both parties.
- You have the right to have any proceedings documented, which may include written findings of fact, transcripts, or audio recordings.
- You have the right not to "work it out" with the alleged perpetrator in mediation. Mediation is not appropriate in cases involving sexual violence.

Your School Must Provide Remedies as Necessary

- If an investigation reveals that sexual violence created a hostile environment, your school must take prompt and effective steps reasonably calculated to end the sexual violence, eliminate the hostile environment, prevent its recurrence, and, as appropriate, remedy its effects.
- Appropriate remedies will generally include disciplinary action against the perpetrator but may also include remedies to help you get your education back on track (like academic support, retaking a class without penalty, and counseling). These remedies are in addition to any interim measures you received.
- Your school may also have to provide remedies for the broader student population (such as training) or change its services or policies to prevent such incidents from repeating.
- If you want to learn more about your rights, or if you believe that your school is violating federal law, you may contact the U.S. Department of Education, Office for Civil Rights, at (800) 421-3481 or (800) 421-3481 or ocr@ed.gov. If you wish to fill out a complaint form online, you may do so at <http://www.ed.gov/ocr/complaintintro.html>.

Resources Available in the Community

- South Dakota Network Against Family Violence and Sexual Assault
<http://www.sdnafvsa.com/legalservices.php>
- National Alliance to End Sexual Violence <http://endsexualviolence.org/forsurvivors>
- Rape, Abuse & Incest National Network <https://www.rainn.org/get-help>
- Sexual Assault Hotline: 800-656-4673