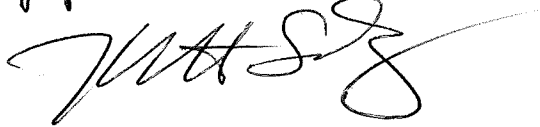



Approved 8-13-2020


MEMORANDUM

TO: Kirk Schulz, President

FROM: Elizabeth Chilton, Provost and Executive Vice President 

SUBJECT: President Request for Approval – Faculty Manual Change

DATE: August 12, 2020

Faculty Manual Change

On August 12th, 2020, the Faculty Senate Steering Committee approved changes to the Faculty Manual based on new federal guidelines related to Title IX investigations that go into effect August 14th, 2020. Authority to allow Faculty Senate Steering to approve changes to the faculty manual was provide by the full senate during the April 9th, 2020 meeting. Action Item 14 from that meeting's agenda allowed Faculty Senate Steering to carry out all necessary functions of the Faculty Senate during the period of May 16, 2020 through August 15, 2020. The changes outlined below were developed in partnership between Faculty Senate Steering, The Office of Civil Rights Compliance & Investigation, the Office of the Attorney General, and my office. These new federal guidelines required numerous policies and procedures updates across the university.

Given the requirement that WSU comply with federal Title IX policy, I request that you approve the changes outlined below and that these be made active on August 14, 2020.

Changes are fully documented as redline markup on the Faculty Senate Website at URL <https://facsen.wsu.edu/summer-2020-fm-title-ix-changes/> Minor changes are listed below:

1. Change "EP#15, the Policy Prohibiting Discrimination, Sexual Harassment, and Sexual Misconduct" to "EP#15, the Policy Prohibiting Discrimination and Harassment" (throughout)
2. Change "Office of Civil Rights Compliance and Investigation (CRCI)" to "Compliance and Civil Rights (CCR)" (throughout)
3. Added required non-discrimination statement and CRC contact information to III. Faculty Personnel Policies (page 54)

Section II.F "Disciplinary Process/Procedures" was modified to add specific procedures to bring the Faculty Manual into compliance with Title IX Sexual Harassment cases. Generally, these changes *only* apply where allegations have been identified as Title IX Sexual Harassment, as defined by EP#15:

- a. A description that an investigation into matters involving Title IX Sexual Harassment must be initiated through a formal complaint to CCR/Title IX Coordinator.

- b. The Provost will rely on the CCR investigation, but where there are allegations beyond Title IX Sexual Harassment, the complainant and respondent will be alerted 10 days in advance of any meetings of the purpose of the meetings, who is participating, and the date/time/location of the meeting.
- c. Regardless of the outcome of an investigation, the complainant and the respondent will be afforded an opportunity to participate in a live hearing.
- d. The Faculty Status Committee will serve as the Hearing Committee and must receive specific training on Title IX regulatory requirements from CCR.
- e. The live hearing process must include the following: Notice to both parties, presumption that the respondent is not responsible, opportunity to participate, right to have an advisor, evidence availability, opportunity to submit witnesses, right to cross-examine all witnesses (including the complainant and the respondent) through an advisor, and if a party does not have an advisor, through an advisor provided by the institution free-of-charge. The complainant and the respondent are also afforded the opportunity to be in separate rooms/locations during the hearing and to participate through technology.
- f. The live hearing decision-makers may only accept witness statements for consideration that have been subject to cross-examination. The live hearing decision-makers may only accept relevant evidence, and certain types of information relating to a complainant's sexual history are prohibited from being considered.
- g. At the conclusion of the hearing, rather than forwarding recommendations to the President, the Faculty Status Committee will make and issue a written determination simultaneously to the parties with rationale for their findings, sanctions, and remedies.
- h. Audio or audio-visual recordings or a transcript must be made available to both parties.
- i. A statement about available remedies has been added.
- j. A new appeals process has been added for Title IX Sexual Harassment cases. Both parties will have an opportunity to appeal to the Office of the President on limited grounds. The other appeal rights described in the faculty manual are not applicable to these cases.
- k. Upon receipt of an appeal, the Office of the President will notify both the complainant and the respondent in writing, when an appeal has been received. Each party will have ten days to submit a written statement in support of or challenging an outcome to the Office of the President.
- l. The president or the president's delegate, who has received the required Title IX regulatory training provided by CCR, will review the appeal and determine whether to sustain the decision of the Hearing Committee or to return it to the Hearing Committee with specific objections.

Please let me know if you approve these changes, and let me know if you have any questions.