

**TO:** Michael Roth, *President, Wesleyan University*

**FROM:** Lindy Aldrich, Esq., *Deputy Director of the Victim Rights Law Center*; Amanda Walsh, Esq., *Education Program Senior Attorney, Victim Rights Law Center*; Candi Smiley, *Title IX Coordinator at Howard University*

**DATE:** March 23, 2017

**RE:** Title IX External Assessment – February 8-9, 2017

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Earlier this semester we were invited to Wesleyan to assess the existing policy and response protocols with respect to sexual harassment, sexual assault, intimate partner violence, and stalking. The Victim Rights Law Center (VRLC) was selected through a process that included input from Wesleyan's Title IX Policy Committee, Title IX Student Advisory Committee, and members of the Wesleyan Student Assembly.

The VRLC is the first law center in the nation dedicated solely to serving the legal needs of sexual assault victims and is a leader in representing sexual assault victims within the civil context. Throughout the last decade, VRLC attorneys have represented hundreds of students who experienced a form of sexual violence that impacted their educational trajectory. The VRLC's education attorneys have also trained over 1,000 colleges and universities around Title IX, confidentiality, and sexual assault response protocols.

We were charged with gathering information about the strengths and weaknesses of Wesleyan's response to reports of sexual and gender-based misconduct,<sup>1</sup> particularly:

- the clarity of resources for students, faculty, and staff;
- the accessibility of the process to all students, faculty, and staff, including underrepresented minorities, first-generation, low-income, and LGBTQ populations;
- the collaboration between the Office for Equity and Inclusion and other first responders.

The external review team included Lindy Aldrich, Esq., Deputy Director of the Victim Rights Law Center; Amanda Walsh, Esq., Education Program Senior Attorney, Victim Rights Law Center; and Candi Smiley, Esq., Title IX Coordinator at Howard University. (*See Appendix A - Bios.*) We visited campus on February 8-9, 2017 and gathered feedback from a representative group of students, faculty and staff. (*See Appendix B – Site Visit Agenda.*<sup>2</sup>) In advance of the visit, we reviewed Wesleyan's relevant web pages, the One Policy, the relevant complaint procedures, and a series of documents provided by the Faculty Committee on Rights and Responsibilities (FCRR). Following our visit, we had an additional follow-up call with members of the Office for Equity and Inclusion (OEI).

It was clear that Wesleyan asked us to engage in this assessment to gather an objective perspective that could facilitate real change on campus. Accordingly, the bulk of our report focuses on recommendations for areas that could be improved. Although, it would be incomplete if we did not state explicitly that there are many positive and promising practices at Wesleyan. There are references to many of these throughout the report, but we also wanted to highlight several at the outset.

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<sup>1</sup> Throughout this report, references to sexual and gender-based misconduct include sexual and gender-based harassment, sexual assault, interpersonal/intimate partner violence, and stalking.

<sup>2</sup> The Site Visit Agenda contained in this report varies slightly from the original agenda circulated and posted on the OEI website. Some changes were made at our request and due to inclement weather.

- *Robust and improved community partnerships.* Wesleyan has worked hard to create and cultivate productive and cooperative relationships with community partners, including the Connecticut State’s Attorney, Middletown Police Department, Women and Families Center, and Connecticut Alliance to End Sexual Violence. Wesleyan administrators value the work of local organizations, which results in positive experiences and comprehensive services for students.
- *Strong peer support.* Wesleyan students who experience sexual and gender-based harassment and violence are largely supported and believed by their peers. This level of support is not often experienced by victims<sup>3</sup> upon disclosing and the importance of a community like Wesleyan cannot be emphasized enough.
- *Committed and engaged faculty members.* The involvement and commitment from all areas of the University, especially faculty, is heartening. While many Title IX administrators struggle to work cooperatively with faculty, members of the Wesleyan faculty were engaged throughout our meetings. It is apparent from their thoughtful feedback that they care deeply about one another and the students and recognize this as a community-wide issue.
- *Inclusive community and understanding of intersectionality.* The Wesleyan community collectively recognizes that the impact these types of incidents have on a person are shaped by that individual’s experiences and identities. This is a critical first step to identifying and addressing reporting barriers that may exist for particular students, faculty, and staff. While there were suggestions that this knowledge base could be increased, there is a baseline of understanding that is part of the Wesleyan culture and conversation on campus.

Further, during our campus visit, multiple people pointed out that there are not many students voicing support or positive feedback following their engagement in the adjudication process. This was often meant as a critique and to suggest that few, if any, students had a positive experience. It is important to note that this is not unique to Wesleyan. When the process is transparent and people are treated fairly, an institution affords those individuals the ability to remain anonymous. For those students, their experience becomes part of their time at Wesleyan, rather than defining their time at Wesleyan. The lack of positive feedback does not necessarily reflect poorly on the integrity of the process. We encourage the campus community to keep that in mind as they read this report, as we did throughout this review.

## ***I. Introduction***

Throughout our visit, we noticed several themes in the feedback we received – (1) a sense of mistrust among community members, (2) a lack of transparency and/or communication about the reporting process and outcomes, and (3) a need for additional or different training and education. These themes are in many ways overlapping and connected. For example, many community members cited the lack of transparency about outcomes as the source of their mistrust about the reporting and adjudication process. Others cited communication issues and misunderstandings as examples of inadequate training. The subsequent recommendations aim to address each of these themes.

It was not within the scope of this assessment to review specific cases, but many community members pointed to two specific incidents during the fall 2016 semester that led to the current climate on

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<sup>3</sup> Throughout this report, we generally use the term victim but want to recognize that some people prefer the term survivor and others identify as both a victim and survivor at different points.

campus. Further probing about what the climate was like prior to the fall suggested that a lack of trust existed beforehand and in many ways has historically been part of the culture of the Wesleyan community. Therefore, this report is not in response to any specific cases or incidents, but rather is an assessment of Wesleyan's existing policy, process, and response protocols.

## *II. Office for Equity & Inclusion*

Nearly all of the students we spoke with shared that the student community generally does not trust the Office for Equity and Inclusion (OEI) (or sometimes referred to by students during our meetings as the Title IX office). Although, when asked who specifically students did not trust, many of the named individuals were not members of OEI at all, but did have a role in implementing the adjudication process. Some community members indicated there were certain individuals that could not be trusted, but also suggested that replacing these individuals would not likely improve the climate or at least not for an extended period of time because the trust deficit was a result of existing systems.

In general, there is a complete lack of familiarity with OEI. Students, faculty, and staff are unsure of who works in the office, not a single student knew where on campus OEI is located, and most referenced Alysha Warren, Sexual Assault Resource Coordinator, as the only person on campus to whom they could report a potential sexual or gender-based misconduct incident. Further, those who have viewed the website found it confusing and incomplete.

Currently, the role of Title IX Coordinator is held by Antonio Farias, Vice President for Diversity & Inclusion. Debbie Colucci serves as both a Deputy Title IX Coordinator and the Equity Compliance Director. Vice President Farias does not typically conduct trainings around Title IX or sexual and gender-based misconduct, meet with complainants or respondents, and he is not a decision-maker in the adjudication process for complaints against students, faculty, or staff. Ms. Colucci is the principal trainer around Title IX and is typically the person students see if they have questions about the process.

Ms. Colucci also has a visible role on the various Title IX committees. She is well-respected among the community, considered accessible and trustworthy, and already serves many functions of a Title IX coordinator. While Ms. Colucci is trusted, numerous people described her as "having no power" and therefore unable to create change or uphold the integrity of the process.

In part, the trust deficit is a direct result of Vice President Farias's lack of visibility, especially among the student community. He has little opportunity to develop any relationship or rapport with students because he is not involved in orientation, individual meetings, committee meetings, etc. While Wesleyan administrators are acutely aware of the lack of trust between students and administrators, thus far the response has been to decrease the interaction between Vice President Farias and students which is not addressing the underlying problem.

Another source of mistrust is a lack of understanding among students about how the investigation and adjudication process works or who implements it. This leads to assumptions about the process that are inaccurate and may have a chilling effect on reporting. Students who work in Residential Life shared that until they received a training last fall, as a result of a specific case, they had no idea about the investigation and adjudication process. This is particularly problematic because Residential Life employees are generally among the first to learn about sexual and gender-based misconduct incidents.

Ms. Colucci has already made progress in addressing this by requesting New Student Orientation and Residential Life incorporate a training on the investigation and adjudication process.

**RECOMMENDATIONS:**

- ✓ ***Wesleyan should separate the role of Title IX coordinator from the Vice President for Equity and Inclusion.***

The responsibilities of a Title IX coordinator are significant. At an institution as small as Wesleyan, the individual in that role needs to be accessible to students, faculty, and staff and have a presence at the various trainings and awareness events on campus. The Title IX coordinator should be a point of contact for individuals assessing potential options for reporting and connecting those people to available campus and community resources. Currently, these responsibilities are primarily managed by Ms. Colucci.

Therefore, Wesleyan may consider naming Ms. Colucci as the Title IX coordinator, rather than a deputy. In that role, Ms. Colucci should be empowered to oversee policy and process changes (with the requisite community and committee input), continue to monitor compliance with relevant federal and state laws, supervise investigations, and be the primary person to meet with community members individually and collectively about sexual and gender-based misconduct.

The Title IX coordinator role could continue to report to the Vice President for Equity & Inclusion, as gender equity fits squarely within this purview. This is also a common reporting structure at peer institutions. If Wesleyan chooses to explore other reporting structures, considerations should be given to the fact that this position has a role in issues involving students, faculty, and staff and therefore, should not be siloed into only one of those areas. For example, the Title IX coordinator should not report only to a Vice President for Student Affairs or Human Resources.

- ✓ ***Create or modify trainings to clarify what behaviors constitute a “reportable violation” and the subsequent steps taken by OEI upon receiving a report.***

Throughout our visit, students, faculty, and staff, at various points, categorized behaviors or incidents that fall squarely within the scope of Title IX as outside of their obligation to report. For example, numerous faculty members shared that if someone describes an experience that constitutes sexual harassment, but does not specifically name it as sexual harassment, it does not need to be reported to OEI. In another case, staff shared that at times they suspected that what a student was describing was a sexual assault or an incident of dating violence, but they purposely circumvented the reporting requirement by not inquiring further. In nearly all cases, the intention behind not reporting was to benefit the person who was harmed by maintaining their privacy.

These conversations indicated two separate issues. First, there is a knowledge gap or misunderstanding regarding when an incident need to be reported to OEI. Some staff and faculty members suggested that sexual assault was the only violation that required reporting. All trainings should clarify Wesleyan’s responsible employee reporting policy in detail including why the mandatory/responsible employee reporting requirements exists, what information needs to be reported, how incidents should be reported, the timeframe suggested for reporting, and the steps OEI will take upon receiving the report. This training should not be offered exclusively to faculty and staff. Students should

also understand the employee reporting obligation so that they can make informed choices about who to share information with and how much information they want to share.

The second issue is the sense among staff and faculty that reporting to OEI or to a deputy Title IX coordinator will have negative ramifications. This perception needs to be directly addressed. OEI should clarify exactly what happens when a report is received to instill confidence that the reporting party will maintain autonomy, to the extent possible, throughout the process. The training should also explain that collecting reports allows Wesleyan to identify systemic patterns and trends which will ideally lead to greater campus safety. OEI should also discuss Wesleyan's policy on whether and in what circumstances the University will conduct an investigation upon receiving a report, including when the harmed party makes a request for confidentiality.

✓ *OEI must continue to train students on the investigation and adjudication process.*

Residential Life and Ms. Colucci shared that beginning in the fall 2016, a training about the investigation and adjudication process has become a standard part of the curriculum for Residential Life student staff. This is critical and similar trainings should be offered for other student leaders and groups. Wesleyan has made great strides to increase the accessibility of the process and that should be shared widely so that students can base their decision about whether to report on accurate information about what that process entails.

✓ *Utilize campus and community resources through "Don't Cancel That Class" or other initiatives to expand awareness to students.*

Institutions nationally struggle to share information with students in an effective way. Wesleyan is no exception and despite the University's efforts to establish a clear website, encourage student representation on the various Title IX committees, and host awareness events, the community is still unclear about available resources.

In an effort to increase awareness, Wesleyan could consider implementing an initiative in partnership with faculty, on-campus advocacy and off-campus community providers to allow for education opportunities for students. "Don't Cancel That Class" is one option where a faculty member alerts the advocacy office about a potential class cancellation in their schedule and offers to use that time to bring in a speaker on a variety of topics such as healthy consent, interpersonal violence, safe space training for LGBTQ communities. For those areas without expertise on campus, utilizing community resources is a great way to continue to solidify relationships as well as educate students about their options for off campus advocacy.

### ***III. Campus & Community Resources***

As discussed above, Wesleyan's community partnerships are strong. Noted throughout the report are areas where community partners could be further utilized for trainings, but otherwise we do not have recommendations and instead will focus on campus resources.

In addition to OEI, Counseling and Psychological Services (CAPS), specifically Alysha Warren, was predominantly cited as the campus resource for students impacted by sexual or gender-based misconduct. It is apparent that the Wesleyan community has great respect for Ms. Warren's work as both an individual counselor in CAPS and as a person jointly responsible with WesWell for the prevention,

intervention, and awareness programming on campus. Some expressed a concern, however, that she is required to do too much and some of her roles may conflict. Ms. Warren serves both a counseling role and also what is often considered to be within the realm of advocates on other campuses. Therefore, in a single case she may be a counselor for a student who is also a complainant, the complainant's process advisor, and take on an additional advocacy or case management role. Ms. Warren is highly capable and invaluable to the students at Wesleyan, but the majority of stakeholders we spoke with agree that her workload is too significant for a single person and she is expected to wear too many hats.

**RECOMMENDATIONS:**

- ✓ *Consider adding an advocate in order to separate Alysha Warren's multiple roles.*

Counselors and advocates serve very different functions. The role of an advocate is crisis intervention, helping an individual understand their options and ways to proceed, and case management support. On campuses, advocates generally act as a liaison between students and Title IX coordinators or support deans, accompany students to meetings with various administrators or offices, and assist a student in requesting accommodations or supportive measures. In some cases, they work as advisors for students involved in an investigation and adjudication process. This is and should be distinct from the support offered by a counselor.

Wesleyan should consider creating a separate position for a confidential advocate. The advocate could split their time between programming around issues of sexual and gender-based misconduct while also providing direct support to students who are impacted. This role could be housed in WesWell, therefore keeping all education programming and advocacy in a single place. The role in CAPS should continue to provide longer term trauma-informed therapy for all students. Based on the immense trust that students and staff have in Ms. Warren, we encourage Wesleyan to utilize her expertise and knowledge when structuring an advocate position.

- ✓ *Specialized training on Title IX accommodation and interim remedial measure for the class deans.*

The class deans are currently underutilized and should be viewed and trained as first responders to reports of sexual and gender-based misconduct. During our visit, class deans were classified as a "one-stop-shop" and a "catch-all" resource for students who were experiencing anything that may impact their academics. In this role, the deans may find themselves supporting a reporting student, an accused student, or both. Students and several staff members described a recurring miscommunication about accommodations and the role of the class deans in that process. Specifically, students shared that they are unclear about whether class deans or individual faculty members approve academic accommodations and the process for making those requests. A staff member also shared that the confusion stems from class deans failing to clarify that they can make academic accommodations requests, but ultimately it is up to the faculty member to approve that request.

Accommodation requests can go through the class deans in two ways – a request from the deputy Title IX coordinator to the class dean on a student's behalf and a request directly from a student to a class dean. The process for the latter example seems to be the source of confusion. It is important that the class deans see themselves as an integral part of Title IX compliance and are trained accordingly. Training may include supporting a reporting party and the accused student, an in-depth look at the Clery

Act and Title IX guidance on the interactive process of determining the reasonableness of an accommodations request, and interim measures and their impact on the safety of the campus community as a whole.

#### ***IV. Title IX Committees***

The Title IX Committees demonstrate Wesleyan's commitment to sexual and gender-based misconduct and are a commendable step toward creating transparency around the process. However, we heard from some members that the scope of each committee's role is not always clear. For example, it was unclear to the members on the Policy Committee whether the faculty procedures were within their purview. Similarly, a question was raised about whether the Education Committee has a role in reviewing or selecting various trainings for faculty and staff. In both cases, [the committee descriptions available on the Office for Equity & Inclusion website](#) identify these as functions of the respective committees.

In general, several of the committees appear to be underutilized. The involvement and feedback from such a significant number of community members is unusual and Wesleyan should capitalize on it. Through our meetings, we learned that various committee representatives are not sure of their role in the committee and find that they rarely contribute to the discussion or work while others shared that they leave each committee meeting with a long list of projects and very little support to complete those projects.

#### ***RECOMMENDATIONS:***

✓ ***Review and update the role of each Title IX committee.***

During the upcoming meetings of each committee, time should be dedicated to reviewing the role of each committee and discussing the contributions of the various representatives. The role and charge of each committee should be updated to reflect these discussions and the workload shared accordingly. This will help representatives understand where they fit in the process and contribute more effectively.

✓ ***Strategize with Student Advisory Committee to determine ways to utilize this group.***

Our team was so impressed with the Student Advisory Committee. They were thoughtful, open-minded, and engaged. It is clear that they want this committee to be constructive to Wesleyan students, but noted that they lack direction about ways they can be useful. Options the Student Advisory Title IX Committee may consider include:

- Create a short training focused on educating students about the policy and the investigation and adjudication process that can be led or co-facilitated by committee members and OEI to address the knowledge gap in how the process works. (*See Section II above for more information.*)
- Utilize committee members to peer review and offer feedback on resource materials. (*See Section VI.A Recommendations below for more information.*)
- Consider including the student athlete representatives from the Athletics Title IX Committee as members of the Student Advisory Committee. Student-athletes make up a significant portion of the Wesleyan student community – various people shared that it was about one-third. They also have different and additional barriers to reporting and accessing information. Creating space for their voices among their peers will help

educate other Student Advisory Committee members on these additional barriers so that they are able to advocate effectively on behalf of student-athletes.

- Facilitate a meeting that invites all student groups with similar or overlapping missions to an annual discussion. The Student Advisory Committee noted there are many students and groups active in this area working on parallel tracks towards the same goal. This large scale discussion may lead to more efficient organizing.

## V. ***One Policy (“Policy”)***

Wesleyan has put a lot of work into its existing Policy and for the most part it seems to have the backing and support of the various campus constituents. The issues surrounding the Policy are focused on how the information is displayed and the toggling between documents that is required to answer fairly basic questions. In its current format, the content a community member may be seeking can be difficult to locate because it is not contained in a single place. For example, if a student is seeking information about how Wesleyan defines sexual misconduct and what the investigation process will be should they choose to report, they would need to access three documents or websites – the Policy, the separate definitions page, and the 2016-2017 Student Handbook. Further, finding the applicable section within the Student Handbook is time-consuming, as described below in section VI. A.

### ***RECOMMENDATIONS:***

#### ✓ ***Create additional sub-headings to improve the Policy.***

Include the content on the [definitions](#) page as part of the [One Policy](#) documents. The Policy should be updated to include various sub-headings that would improve its clarity and accessibility. These sub-headings should include a section for Prohibited Conduct and a section that lists definitions, such as consent, incapacitation, and coercion. This information should be incorporated into the Policy itself. Wesleyan could maintain a similar website display by including anchor links that allow a viewer to jump down to information contained below.

Currently, the Policy lists the “Rights of Those Who Report Policy Violations,” but is silent on the rights of those accused of policy violations. While some of this information is contained within the procedures documents, that is not clear to a reader of the Policy only. Wesleyan has put a lot of thought into implementing a fair and equitable process and that needs to be clear to the community.

#### ✓ ***Improve Intimate Partner Violence Definitions.***

The intimate partner definition currently includes two paragraphs that are inconsistent. The first paragraph defines intimate partner violence as “any act of violence or threatened act of violence.” However, the second paragraph states:

*“the University does not define intimate partner violence as a distinct form of misconduct. Rather, the University recognizes that sexual harassment, sexual assault, sexual exploitation, stalking, harm to others, emotional and psychological abuse, harassing conduct, and retaliation may all be forms of intimate partner violence...”*

This latter definition appears to be inconsistent with the first paragraph by eliminating the possibility of physical violence as a violation of the policy. Additionally, language that suggests that

intimate partner violence is not “a distinct form of misconduct” without further explanation is confusing and may potentially chill future reports. Should this language be changed, it is encouraged that intimate partner violence and stalking language be included throughout the policy when referencing making a complaint. For instance, on page 26, the following language regarding making a complaint (“...any complaint alleging discriminatory harassment and/or form of sexual misconduct...”) could add the words intimate partner violence and stalking to the list of potential complaints.

✓ ***Improve the Romantic Relationships section.***

The Title IX Policy Committee shared that they have plans to improve the romantic relationships section of the Policy. This should be a priority and implemented as quickly as possible. Clarifying the institution’s position on relationships between members of the university with different status is a trend among peer institutions. That is not to say that Wesleyan should prohibit all relationships between individuals with different status, but rather should clarify the University’s position and implement appropriate safeguards. For example, if a faculty member and a graduate student begin a relationship, the updated language should clarify the steps the faculty member should take to comply with the policy. This may include completing a conflict of interest form, removing themselves from the student’s thesis committee, or identifying a new advisor for the student. The language needs to balance the reality that these relationships do happen while considering that the existing power differential may result in a coercive dynamic.

During the revision process, the Title IX Policy Committee should consider removing the term “romantic” in favor of two separate sections: Prohibited Relationships and Relationships Between Individuals with Different University Status. The first section should outline relationships that are strictly prohibited. Wesleyan may consider including relationships between a supervisor and their direct subordinate or a faculty member and an undergraduate student. The latter category should include a statement about the University’s position on relationships between people in different positions of authority that may not be strictly prohibited, but are discouraged or potentially inappropriate. This section may include two employees with a significant power differential but no direct or indirect supervisory relationship.

Using “romantic” as a section title is problematic, as it implies positive, loving, or consensual relationships. This is misleading because this section addresses relationships that may exploit power dynamics.

✓ ***Include a list of available campus and community resources as part of the Policy.***

The Policy indicates that a Title IX coordinator or other Wesleyan employee will share information for available support services, such as advocacy and counseling with a reporting party. This may have the unintended consequence of implying that a student will only be able to access these services if they report. This problem is further exacerbated by the fact that people have different interpretations of what it means to “report” and the ramifications of that decision. Specifically, it is not clear whether reporting requires a student to also participate in a subsequent investigation. The Policy should be updated to include the names and contact information of all available resources in the campus and the larger community and indicate whether those resources are confidential. This will provide another avenue for students who do not want to report to access that information and make more informed decisions.

## **VI. Resolution and Adjudication Process for Complaints Against Students**

### **A. Information available on the website and/or in the Student Handbook**

Students were generally confused about the process for investigating and adjudicating complaints of sexual or gender-based misconduct at Wesleyan. Students who had participated as complainants in the process consistently said they relied on Ms. Warren, Sexual Assault Resource Coordinator, or Ms. Colucci, Deputy Title IX Coordinator, to inform them during each step of the process. Both are excellent resources for the students who have reported, but are not available to students who have not yet told a Wesleyan employee that they experienced a potential policy violation.

This confusion is due in part to the fact that the process is embedded within the larger Student Handbook. This is the first barrier to accessing the information. Additionally, gaining an in-depth understanding of what the process entails requires an individual to gather information from various parts of the Student Handbook, understanding which sections do not apply, and putting them together sequentially. For example, most of the specific procedural steps are found within Section IV, but a student who is interested in whether there is a time limit for reporting would need to find that information on page 28 (“Reporting Violations to the University”). The students involved as complainants and respondents in these matters are already overwhelmed by the process, requiring them to sort through the information in this way can feel daunting at best.

In other cases, the information is incomplete. For example, if that student is wondering about whether they are permitted to have an advisor accompany them throughout the process, they would find that information on page 11 which states, “In cases involving discriminatory harassment and sexual misconduct and/or other Title IX charges, both students have the option to have an advisor of their choice present at the hearing.” This section does not inform students that they are also permitted to have an advisor present during meetings with the investigator, although in practice they are permitted to do so, or what the role of that advisor would be at the hearing. This point is particularly relevant because the role of attorneys as advisors was raised by a number of students.

### **RECOMMENDATIONS:**

- ✓ ***Consider adding a Procedures section to the Title IX webpage that clearly outlines the process for complaints against students, faculty, and staff.***

Currently, when a viewer clicks the [link](#) embedded in the One Policy for the student procedures, they are redirected to the Office of Student Affairs homepage. From there, a person would need to identify the Student Handbook link to begin digging for the relevant information they need. In light of the fact that in Title IX cases, there are a significant number of people searching for this information including complainants, respondents, witnesses, parents, attorneys, and, in some cases, media, it benefits Wesleyan to make this information as easy to locate as possible. While the procedures are similar to those used for cases that do not involve sexual or gender-based misconduct violations, the differences are significant enough that it warrants its own document. That document can be both embedded in the Student Handbook and found on the OEI website.

✓ ***Ensure that appeals process is clearly defined.***

Students raised a concern about how to determine when a case was officially closed. Specifically, there seems to be a lack of clarity about whether there is a level of appeal beyond what is outlined in the Student Handbook based on recent cases. Any procedures webpage or chart detailing the process needs to clearly define all possible levels of adjudication. If there are exceptional circumstances that would allow for a case to be reopened, the process needs to define which administrator would have that authority and the timing for that final determination.

✓ ***Clearly state the role of advisors in the process for complaints alleging sexual or gender-based misconduct against students.***

The procedures need to be updated to include a section that fully and clearly articulates who may serve as an advisor. This section should clarify that both parties in sexual and gender-based misconduct cases may utilize an advisor of their choice and state whether and to what extent the advisor can participate in the process, including at investigation interviews, during hearings, and in meetings with Title IX coordinators. If Wesleyan helps identify advisors for complainants and respondents or has a trained pool of faculty and staff to serve as advisors, this section should also include that information.

✓ ***Create a committee to explore Restorative Justice options, including principles, impact on student and/or staff/faculty cases, and the necessary training needed.***

Both students and those involved in the hearing process expressed an interest in exploring a restorative justice option (which would be in addition to the current resolution process), especially after several recent experiences with students “self-adjudicating” complaints. Often mistaken with mediation, restorative justice is a process focused on addressing the harm of the complainant in a non-punitive way. Those expressing interest understood the need for additional training and exploration but felt that some students would prefer this process and restorative justice could potentially meet the needs of these students better than the current process. Alternatively, this option could be explored by an existing Title IX Committee, such as the Policy Committee.

✓ ***Create a resource for students that outlines entire investigation and adjudication process.***

To alleviate some of the confusion about resources, OEI should consider creating a flowchart or resource that outlines each step of the process. This would be useful to students, parents, and advisors. It would also be a tool that Title IX coordinators and investigators could utilize during meetings to help students understand where they are in the process. Several people referenced the [SART chart](#) as a tool that allowed them to facilitate conversations with students and ensure they are offering consistent and accurate information. OEI could partner with the Title IX Student Advisory Committee and student representatives on the Title IX Athletic Committee to peer review any new materials.

### ***B. Investigation***

Students had almost entirely positive feedback about the investigation phase of the adjudication process. Investigators seem to be well-liked, experienced, and participate in ongoing training opportunities. Students who had participated in the adjudication process consistently stated that the investigation interviews and meetings were much easier and more transparent than the hearing and the questions were rooted in the language found within the policy.

## **RECOMMENDATIONS:**

- ✓ ***All investigation interviews should be conducted in a neutral space.***

Conducting interviews in the Office of Public Safety can be intimidating for both complainants and respondents. Cultivating an atmosphere that is as comfortable as possible may create space for students to report who would not do so otherwise, specifically students who have historically distrusted law enforcement. It is clear that the investigators within Public Safety are always willing to meet with students in a separate location, but a designated space should be identified and consistently used by all investigators as a matter of course.

### ***C. Administrative Hearing Panel***

Participating in a campus administrative panel is a time-intensive, exhausting, and often thankless role. The panelists at Wesleyan are committed to a fair and equitable outcome. Students who had gone through the process had consistently positive feedback about the panelists.

The panelists agreed that they received training and felt prepared to participate in the adjudication process. They did indicate that they would like to receive additional training and have a formalized way of checking in with one another and members of OEI. Some members shared that they did not even know who was on the panel until they came to our meeting. One member elaborated, saying that it would have been helpful to know because those people understand what it takes to hear a case and it is not something she can discuss with anyone else. The group noted that the number of panelists naturally fluctuates as people leave the University or transition to new roles, creating a burden on a small group of members. Understanding the group of panelists is often small, each has at times felt the obligation to hear a specific case when asked.

One panelist shared that the process was “long and intrusive,” adding that the parties “have to share their stories multiple times.” The panelists articulated their role as exclusively deliberative and specifically stated that at the point that they receive the investigation report, the facts have already been established. This seems inconsistent with the process itself. Currently, the parties are permitted to present statements, request that the panel hear from witnesses, submit questions for one another through the Associate Dean of Students, Kevin Butler. These procedures imply that information is being gathered throughout the hearing, therefore making the panel fact-finders. As it currently stands, this is, in part, necessary because prior to the hearing, the parties have not had an opportunity to review and respond to all of the statements and materials submitted as part of the investigation. Parties receive a packet immediately before the hearing, therefore an investigator cannot include a party’s response or reaction to those materials within the investigation report. Students also shared that information gathered at the hearing only, rather than during the investigation, was offered as the rationale for the panel’s decision of responsible or not responsible – again implying that the investigation, at least in part, extends to the hearing process. Additionally, the investigator who also has the role of establishing the facts is not necessarily one of the witnesses.

- ✓ ***Clearly articulate the role of the administrative panel and update the process to be consistent with that role.***

It is misleading to say that the facts have been established, but then engage in a hearing that can also be described as fact-finding. In its current format, the process is redundant because students are

required to repeat their experiences multiple times. Therefore, Wesleyan needs to determine whether the role of the panel is deliberative or fact-finding. If the panel is deliberative only, its role would be to apply the policy to the facts established by a trained investigator in order to determine whether a policy violation occurred and, when necessary, sanction accordingly.

If Wesleyan determines that the role of the panel should be deliberative only, the investigation procedures need to be expanded to provide students with ample opportunity to respond to the information that has been gathered. This would require that they have an opportunity during the investigation phase to review the materials and information that has been gathered and have a subsequent interview with the investigator to answer questions and respond to those materials. The investigation report would include their responses and be comprehensive enough that additional fact-finding was not necessary. If the panel determined that additional fact-finding was necessary, the investigator should be empowered to go back and complete any necessary follow up. In this model, the investigator would generally meet with the panel as a witness in nearly every case.

If Wesleyan determines that together the investigator and the panel conducts the investigation, the panelists should be offered advanced training consistent with this role. This training would include assessing credibility, questioning and listening skills, and determining relevance. Because some panelists are only hearing 1-2 cases annually, this would require ongoing mock hearings and trainings to practice and hone these skills.

- ✓ ***Create consistency among the training received by administrative hearing panelists and incorporate ongoing meetings and training.***

Wesleyan has an established hearing panel training plan that covers a comprehensive look at various topics, but there does not appear to be a standard or precedent for exactly how many and which trainings a panelist must complete prior to participating in a hearing. For example, several members received their training through the Sexual Assault Response Team, while others indicated that they received training through outside consultants or conferences. As new members are identified and trained, it will be critical that OEI determines which trainings will be required prior to a panelist's participation in a hearing and which trainings will be completed on an ongoing basis.

While panelists were unsure about whether they participated in all of the sessions or the same sessions as one another, they were clear that it had been some time since most of them received any additional training. An ongoing training plan must be established both to develop and grow the skills of the panelists, to inform the panelist of changes in laws, Wesleyan policies and best practices, and to create an outlet for discussions about the impact of these cases. Panelists noted how difficult it can be to hear these cases, both emotionally and in addition to their full-time responsibilities. The training should include a discussion around self-care and the signs and impacts of vicarious trauma. This is an opportunity to partner with a community-based organization such as Women and Families Center or the Connecticut Alliance to End Sexual Violence. Self-care is often an ongoing topic at community-based organizations that work with people impacted by trauma and violence on a regular basis.

Based on the feedback we received, additional training topics may include:

- Intersection of alcohol and sexual and gender-based misconduct
- Issues specific to intimate partner/dating violence and stalking

- Intersectionality and how an individual's identities impact their decision to participate in the process as well as their experience once within the adjudication process
- Legislative and policy updates

### ***C. Faculty Reporting Process***

Wesleyan has an engaged and committed faculty and we were grateful to meet with some of them throughout our visit. These meetings included discussions with members of the current and previous year's FCRR, the Women's Caucus, individual faculty members who participated in the open forum, and faculty representatives on the various Title IX committees.

There were some references to an individual case, but many faculty members focused on their own experiences or the experiences of peers when discussing the climate on campus as it relates to sexual harassment or gender-based misconduct. While it is impossible to know the rate at which Wesleyan faculty members are experiencing sexual or gender-based misconduct, there was a consensus among most people that we spoke with that there are very few incidents reported. There is, though, a discrepancy about what can be gathered from the low rates of reporting. Many in leadership positions equate a lack of reports to a lack of incidents. This is in contrast to faculty, who acknowledge a lack of reporting but attribute that to a lack of trust about how those reports will be handled.

Some faculty members shared concerns about the existing barriers to reporting. Unsurprisingly, many concerns were focused around a fear of retaliation by senior faculty or mentors following a report. Those fears were especially heightened for junior faculty who cited concerns that appropriate mechanisms did not exist to ensure that reporting would not impact their ability to become tenured. There was a lot of conversation about Wesleyan's size and the personal relationships that exist as a result. One faculty member said that upon reporting, people are told "that is just how [the accused] person acts" which leads to some feelings that "untenured women are just not safe on campus." Faculty noted that they had no available confidential resource to meet with to explore potential options about how to proceed when they experience a form of sexual or gender-based misconduct. Because most of their colleagues are responsible employees, and therefore required to report all incidents of sexual and gender-based misconduct, these faculty members expressed that they are therefore unable to discuss their concerns with anyone at Wesleyan and must seek support off campus.

In addition to a lack of confidential resources, the ability for a faculty member to explore potential reporting options on their own is hindered by a lack of clear information about the adjudication process. Notably, even stakeholders with a direct role in implementing the process for complaints against faculty members had varied accounts of how the process works. It is important to note that this may be due to a lack of complaints being submitted and therefore, some stakeholders have not had a role in adjudicating an actual case. In particular, FCRR's role in the process and the desired role of FCRR were both unclear and varied. For example, some people articulated that FCRR adjudicates all matters that may result in termination if the allegations are substantiated, but when probed about who determines whether conduct rises to that level, we received three different responses - the Vice President for Academic Affairs (VPAA), Vice President Farias, and FCRR. This lack of clarity is highly problematic because, for some, we can assume that the answer would impact a person's decision to report.

Another discrepancy exists as it relates to appeals. Some faculty members stated that there is no appeals process, while other stakeholders articulated that all faculty members have the right to appeal to FCRR if they are unhappy with the outcome determined by the VPAA. It was not within the scope of this assessment to rewrite Wesleyan's process for handling faculty complaints in its entirety and doing so would require a more extensive visit, but it cannot be stressed enough that this is an area that needs to be addressed immediately.

Some current and former members of FCRR agreed that FCRR should have a role in the adjudication process of sexual misconduct complaints. Others shared that a separate entity or committee should be created. Despite the lack of consensus around the adjudication phase, there was agreement, for the most part, that investigations should be conducted by external attorneys. Faculty believed this would address concerns about personal relationships influencing investigations and lead to an increase in reporting.

While it is not possible to eliminate all of these barriers, there are areas that can be addressed and Wesleyan should strive to reduce those within the University's control.

#### ***RECOMMENDATIONS:***

✓ ***Hire an Ombudsperson or identify some other confidential resource for faculty and staff.***

Faculty members need a resource that is neutral and confidential, such as an ombudsperson. This person needs to understand Title IX, what constitutes a Title IX violation, the reporting process and be qualified to offer support to a faculty member by exploring with them all available options. For the purposes of this report, the focus is to meet the needs of individuals who may wish to report sexual and gender-based misconduct, but an ombudsperson could be beneficial to Wesleyan in a wide range of areas.

An ombudsperson could also report trends and patterns about specific individuals or departments, even if individuals choose not to report, if doing so would allow them to maintain the confidentiality or identity of the reporting parties. This would offer Wesleyan the opportunity to respond in some form, such as targeted training, in the absence of a complaint.

✓ ***Review and update the procedures for complaints against faculty.***

The procedures for complaints against faculty need to be reviewed and modified. We reviewed [the process that is outlined on the OEI website](#), but also heard that the process lacks faculty buy-in. Wesleyan may consider creating a subcommittee to review and propose an updated faculty process. This subcommittee should reflect the broad range of perspectives and have representation from FCRR, the Title IX Policy Committee, the Women's Caucus, and OEI.

If it is determined that FCRR, or some other faculty subcommittee, will have a role in the adjudication process, they will need to receive training consistent with that role. Currently, FCRR does not receive adequate training to serve as decision-makers in a sexual or gender-based misconduct case. By their own acknowledgement, the matters they handle are very serious, but are largely academic in nature. Consideration also needs to be given to the short terms currently served by FCRR members and whether it makes sense to increase the length of those terms in order to maintain a trained panel.

In acknowledgement that a revision process will take some time, Wesleyan should consider implementing interim measures immediately. This may include a faculty representative being present

throughout the investigation process. This representative should be selected by a faculty body, such as FCRR, and must receive training to understand the University's obligations under state and federal law. The goal is to increase transparency around the process in hopes that faculty will feel more empowered to report incidents of sexual and gender-based misconduct.

✓ *Consider retaining external investigators for complaints against faculty.*

Wesleyan should consider retaining external investigators to conduct investigations into complaints against faculty members. This will help to mitigate the concern that personal relationships will impact the investigation process. Currently, there is a sense that a small group of people are responsible for investigating (or supervising the investigation), determining responsibility, and sanctioning faculty. The goal is that by using external investigators, for at least some length of time, the rates of reporting will increase and Wesleyan will have the opportunity to develop or rebuild trust with some of the constituencies. Again, in acknowledgement that it may take time to identify and vet qualified investigators, a faculty representative should be selected to be present throughout the investigation process in the interim.

While this may begin the process of decreasing the existing barriers to faculty reporting, it is important to note that it is only a first step and not the solution that some faculty believe it will be. Following the investigation, the adjudication process will still be implemented by Wesleyan staff or faculty and therefore faculty and the administrative leadership need to work together to determine what that will entail to ensure it is transparent.

✓ *Develop ongoing training opportunities for faculty.*

On many campuses, training is a moving target. Wesleyan has made significant efforts to train all faculty on sexual harassment, discrimination, and the intersection of Title IX and Title VII beginning in 2014. This training was an important first step to educating the community. Members of OEI, in conjunction with faculty leadership, should identify ongoing training to continue fostering an inclusive and equitable environment. Based on the feedback we received, the training should cover the following topics:

- Accommodations/Interim safety and remedial measures
- Prohibited/inappropriate relationships
- Understanding and identifying all forms of sexual and gender-based misconduct
- Duties of a Responsible Employee

#### ***D. Student Activism***

We heard from students and staff about the culture of student activism at Wesleyan. Student activists are often among the most knowledgeable on campus when it comes to sexual and gender-based misconduct and have effected a vast number of changes nationally and on individual campuses. Their efforts and accomplishments should be applauded and recognized. It is also critical that activists organize in a way that is thoughtful and intentional and reflects the interests of the group they intend to serve.

Many Wesleyan students, including those who identify as activists, feel betrayed and discouraged by recent events and cases. This has resulted in a series of events and actions that, while well-intentioned, can be harmful to students, specifically victims of sexual and interpersonal violence. For example, stories

were shared with us that detailed specific occasions when a victim's peers or friends were speaking out on their behalf without their consent. A staff member shared details of an occasion when a victim was in attendance at a party and others began speaking out about their story without even knowing that they were the person being discussed.

There is no "right" way to be a victim or survivor and choosing not to report or disclose an experience is no less brave or important than a victim who publicly shares their story. When students "call out" an individual as a "rapist," they may be identifying a victim who would prefer to remain anonymous. This could subject someone to retaliation or humiliation.

- ✓ *Create support mechanisms for student activists that will allow them to continue to create change, while also protecting the rights of their peers.*

Currently, there is no advocate at Wesleyan. While Ms. Warren serves this function in many respects, she is a counselor and cannot always be at a protest or other unplanned events. (*See Section III above for further discussion.*) If Wesleyan invests in an advocate, that individual needs to have the students' trust. They can work with activists to support their organizing efforts and collaborate to create constructive change on campus in thoughtful ways.

Students may also consider utilizing [Know Your IX's Campus Organizing Toolkit](#). We heard a lot of frustration expressed by students about how slow change has been at Wesleyan. Learning from others who have had similar experiences nationally may help students identify strategies to be as effective as possible during their time on campus, while also maintaining the privacy interests of their peers.

### ***E. Conclusion***

We extend our sincerest gratitude to the students, faculty, and staff who provided us with such thoughtful insight and feedback. Many community members shared their very personal experiences with such candor and honesty with the goal of continuing to improve Wesleyan and increase the accessibility of the reporting process. We were greeted with hospitality and kindness at Wesleyan and in Middletown and thank the staff who helped make this visit as smooth as possible, in light of very adverse weather conditions.

## APPENDIX A: EXTERNAL ASSESSMENT TEAM BIOS

### **Lindy Aldrich, Esq.,** *Deputy Director, Victim Rights Law Center*

Lindy Aldrich has been with the VRLC since 2007, beginning as a staff attorney and becoming Deputy Director in 2010. Given that almost 50% of the VRLC's clients are under the age of 24, Lindy and other VRLC staff attorneys work to ensure that sexual assault victims stay their educational course, including helping to curtail and ameliorate the often devastating impact of the assault on the victim's safety, housing (dormitory or off-campus housing), employment (after school, on or off campus job), scholarship and extracurricular activities.

As a trainer on the VRLC's national Technical Assistance grant, Lindy trains around the country on a number of topics including Title IX and Campus Sexual Assault Policies and Response. Lindy and other VRLC trainers remain at the forefront of this national discussion through consultations and trainings with state and national agencies, universities, and other legal service providers. She has been a Resource Team member and trainer for the OVW Campus Program Training and Technical Assistance Institute since 2010 and a recent presenter for the Project STOP NOW! conference for campus administrators from historically black colleges and universities. Lindy collaborates with the Clery Center for Security on Campus on webinars and conferences as a Title IX expert. In February 2014, Lindy was invited, by the White House Task Force to Protect Students from Sexual Assault, to lend her expertise on Title IX and victim confidentiality. She is also an Office for Victims of Crime (OVC) Training and Technical Assistance Center trainer and, in partnership with OVC, has delivered webinars and live chats on sexual violence and education. Lindy is a graduate of Suffolk University Law School.

### **Amanda Walsh, Esq.,** *Education Program Senior Attorney, Victim Rights Law Center*

Amanda Walsh, Esq. returned to the VRLC in January 2017 as an Education Program Senior Attorney. In this role, Amanda provides training and technical assistance to Office on Violence Against Women campus grantees. From 2011-2015, Amanda was a VRLC staff attorney, focusing primarily on the representation of high school and college students who have been victims of sexual assault. In addition to Title IX, Amanda represented clients seeking disability accommodations within the education setting and special education benefits under an Individualized Education Plan (IEP). She also trained colleges and universities nationally on Title IX and campus sexual assault response. Before returning to the VRLC, Amanda was the inaugural Title IX Program Officer at Brown University. She was responsible for implementing Brown's sexual and gender-based harassment and violence policy and complaint procedures, building Brown's flagship Title IX Office, and overseeing all related complaint investigations. In August 2014, Amanda was invited by the White House Task Force to Protect Students from Sexual Assault to lend her expertise on the unique issues facing K-12 sexual assault victims and their remedies under Title IX and IDEA. In 2012, Amanda was recognized for her work in public interest and received the President's Volunteer Service Award – Gold Level for her sustained commitment. Amanda is a graduate of Northeastern University and Roger Williams University School of Law.

### **Candi N. Smiley, Esq.,** *Title IX Coordinator, Howard University*

Candi N. Smiley, Esq. currently serves as the Title IX Coordinator for Howard University. Ms. Smiley coordinates the University's response, prevention and education initiatives pursuant to Title IX and related statutes and regulation. She also conducts and oversees investigations for complaints alleging

sexual assault, sexual misconduct, sexual harassment, and gender-based discrimination. Ms. Smiley previously served as a corporate attorney working on various matters involving federal agencies, private corporations and non-profit organizations. She has been a dedicated volunteer with organizations committed to assisting individuals suffering with drug addiction, alcohol abuse and domestic violence. Ms. Smiley received her Juris Doctor degree from Indiana University Maurer School of Law.

## **APPENXDIX B: SITE VISIT AGENDA**

**Wednesday,**  
**February 8**

| <b><u>Time</u></b>    | <b><u>Location</u></b> | <b><u>Group</u></b>  |
|-----------------------|------------------------|--|
| 8:00 - 9:00am         | Usdan 136              | Debbie Colucci, Deputy Title IX Coordinator<br>Antonio Farias, Title IX Officer  |
| 9:00 - 10:00am        | Usdan 136              | Debbie Colucci, Investigator<br>Paul Verrillo, Investigator<br>Rick Culliton, Dean of Students<br>Kevin Butler, Assistant Dean of Students                           |
| 10:00 - 11:00am       | Usdan 136              | Administrative Hearing Panel members   |
| 11:00 - noon          | Usdan 136              | Lunch with the Deans<br>Louise Brown, Class of '17<br>Renee Johnson-Thornton, Class of '18<br>Jennifer Wood, Class of '19<br>Laura Patey, Student Academic Resources |
| <b>12:15 - 1:45pm</b> | <b>Shanklin 107</b>    | <b>All Campus Open Forum - Faculty, Staff, Student</b>   |
| 2:00 - 3:00pm         | Usdan 136              | CT Alliance / Women & Family Services Staff  |
| 3:00 - 4:00pm         | Usdan 136              | TIX Core Committee*  |
| 4:00 - 4:30pm         | Usdan 136              | Cheryl Hagner, Dir. Graduate Student Services  |
| 4:30 - 5:00pm         | Usdan 136              | TIX Student Advisory Committee*  |

**Thursday,**  
**February 9**

| <b><u>Time</u></b> | <b><u>Location</u></b> | <b><u>Group</u></b>                |
|--------------------|------------------------|------------------------------------|
| 8:00 - 9:00am      | Woodhead Lounge        | TIX Policy & Education Committees* |

|                      |                 |  |
|----------------------|-----------------|--|
| 9:00 - 10:00am       | Woodhead Lounge | TIX Athletic Committee* and coaches  |
| 10:15 - 10:45am      | Woodhead Lounge | Angel Riddle, student Title IX web site<br>Rebecca Hutmann, WSA President<br>additional WSA students   |
| 10:45 - 11:45am      | Woodhead Lounge | Women's Faculty Caucus   |
| 11:45am -<br>12:45pm | Woodhead Lounge | Lunch with Residence Life Student Staff  |
| 1:00 - 2:00pm        | Woodhead Lounge | Faculty Committee on Rights and Responsibilities<br>(FCRR)   |
| 2:00 - 3:00pm        | Woodhead Lounge | Academic Affairs<br>Joyce Jacobsen, Provost / VP Academic Affairs<br>Mark Hovey, Associate Provost<br>Sheryl Culotta, Associate Provost<br>Marc Eisner, Dean of Social Sciences<br>Ellen Nerenberg, Dean of Arts & Humanities<br>Joe Knee, Dean of Natural Sciences & Math |
| 3:15 - 4:15pm        | Woodhead Lounge | Sexual Violence Resources<br>Invited student survivors<br>Lex Spirtes, SART Intern   |
| 4:15 - 5:15pm        | Woodhead Lounge | Alysha Warren, Therapist and SART Coord.   |

\*committee members listed on OEI  
website