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**Valley Grande Institute Non-Discrimination Statement**

- Valley Grande Institute for Academic Studies does not discriminate or tolerate discrimination or harassment against individuals on the basis of **sex, sexual orientation, gender identity, gender expression, pregnancy (including related conditions), parental status, marital status, family status, religion, race, color, ethnicity, national origin, age, disability, genetic information, or veteran status** (collectively, "Protected Status") in its employment, admissions, and/or education programs and activities...

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**Title IX Generally**

- Title IX prohibits sex-based discrimination in education programs and activities receiving federal financial assistance.
- Title IX applies to all public and private educational institutions receiving federal financial assistance.
- "Education programs and activities" includes all of a school's operations.

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**Title IX is Not Just...**



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**Title IX Coverage Is Broad**

- Title IX is broad and includes, but is not limited to the following:
- Admissions
- Pregnant & Parenting Students
- Sexual Harassment & Sexual Violence
- Athletics
- Sex-Based Different Treatment Generally

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**Title IX and Admissions**

- **General Rule:** A recipient shall not discriminate on the basis of sex in admission or recruitment.
- This applies **only to** institutions of
  - vocational education,
  - professional education,
  - graduate higher education, and
  - public institutions of undergraduate higher education.
- **Public Institutions of Undergraduate Higher Education Rule:** Does not apply to any public institution of undergraduate higher education which traditionally and continually from its establishment has had a policy of admitting only students of one sex.



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# PREGNANT AND PARENTING STUDENTS

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### Classes and School Activities



- The Institute must allow pregnant students to...
- Continue participating in classes and extracurricular activities even though they are pregnant. This includes honors classes, school clubs, student leadership opportunities, and other activities.
- Not require pregnant students to submit a doctor's note unless the Institute requires a doctor's note from all students who have a physical or emotional condition requiring treatment by a doctor.
- Not require a doctor's note from pregnant students after they have been hospitalized for childbirth unless it requires a doctor's note from all students who have been hospitalized for other conditions.
- Provide pregnant students with reasonable accommodations, like a larger desk, elevator access, or allowing them to make frequent trips to the restroom, when necessary because of pregnancy.

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### Excused Absences & Medical Leave

- The Institute must...
- Excuse absences due to pregnancy or childbirth for as long as your doctor says it is necessary.
- Allow pregnant students to return to the same academic and extracurricular status as before their medical leave began, which should include giving pregnant students the opportunity to make up any work missed while they were out.

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### Excused Absences & Medical Leave *contd.*

- The Institute must...
- Provide pregnant students with the same special services it provides to students with temporary medical conditions.
- Ensure that instructors understand the Title IX requirements related to excused absences/ medical leave.
- An instructor may NOT refuse to implement Institute-approved pregnancy accommodations.

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## A Note on Accreditation Requirements

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### Nursing & Lactation Rooms



- Breastfeeding is a condition related to pregnancy, so schools must find ways to help students who need to breastfeed or pump on campus

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**SEXUAL HARASSMENT & SEXUAL VIOLENCE**

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**Why is Harassment a Concern?**

- Harassment based on sex (or other protected categories like race, color, national origin, disability, or age) is a form of discrimination that violates students' civil rights
- It can deny equal educational opportunities to the harassed student
- It can create a hostile environment that undermines the education of all students



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**Who Can Be Harassed?**

**Who Can Be Harassed?**

- All ages, races and ethnicities
- Men and women; girls and boys
- People perceived to be of a particular race or sex, or perceived to have a disability
- People who have a relationship or association with a person of a particular race, sex, or disability

**Who Can Be A Harasser?**

- An employee, such as a teacher, professor, or administrator
- Another student
- A third party

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**Same Status Harassment**

Harassment is prohibited regardless of the sex, sexual orientation, gender identity, gender expression, or pregnancy status of the harasser or the target.

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- Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:
  - (1) An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
  - (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or
  - (3) "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

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**Definition of Sexual Harassment** contd.

- Definition of sex-based harassment includes:
  - Quid Pro Quo Harassment
  - VAWA Offenses
    - Domestic Violence
    - Dating Violence
    - Sexual Assault
    - Stalking




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### Examples of Sexual Harassment

- Unwelcome **sexual** advances, sexually motivated, or inappropriate patting, pinching, or other touching of a sexual nature
- Displaying or distributing of sexually explicit drawings, pictures and written materials
- Sexual gestures, sexual, or “dirty” jokes
- Pressure for sexual favors
- Spreading rumors about or rating other students as to sexual activity or performance
- Rape, sexual assault, sexually motivated stalking (sexual violence)
- Taunting, teasing based on perceived gender stereotyping

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### 2024 Rules on Hostile Environment

• **Hostile Environment:** Unwelcome **sex-based conduct** that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it **limits or denies** a person’s ability to participate in or benefit from the recipient’s education program or activity

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### Unwelcome



- Conduct is unwelcome if the student **did not request or invite it and regarded the conduct as undesirable or offensive.**
- The fact that a student **accepted the conduct** does not mean that the student welcomed it.
- Also, the fact that a student willingly participated in conduct on one occasion does not prevent the student from indicating that the same conduct has become unwelcome **on a subsequent occasion.**

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**Denies or Limits**

- **Denies or limits a student's ability to participate** in or receive the benefits, services or opportunities of the school's programs or activities.
- This is a low threshold.
- Harassment **does not require**
  - intent to harm,
  - a specific target, or
  - repeated incidents.

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**Harassment vs. Bullying**



- The **label used** to describe an incident does not determine how a school is obligated to respond.
- **There are no magic words.** A student does not have to use the term "harassment" and it can be harassment even if another term such as "bullying" is used
- The **nature of the conduct** itself must be assessed for civil rights implications.

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**2024 Rules on Hostile Environment cntd.**

- Regulations apply to every recipient and to **all sex discrimination occurring under a recipient's education program or activity** in the United States. This includes:
  - Conduct that occurs in a **building owned or controlled by approved student organization**
  - Conduct **subject to recipient's disciplinary authority**
- A recipient has an obligation to address a sex-based hostile environment under its education program or activity, **even when some conduct alleged to be contributing to the hostile environment occurred outside the recipient's education program or activity** or outside the United States.

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**2024 Rules on Hostile Environment** *cntd.*

- Factors in considering whether a Hostile Environment exists:
  - The degree to which the conduct affected the complainant's ability to access the recipient's education program or activity;
  - The type, frequency, and duration of the conduct;
  - The parties' ages, roles within the recipient's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
  - The location of the conduct and the context in which the conduct occurred; and
  - Other sex-based harassment in the recipient's education program or activity

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**2017 Interim Rule Regarding Sexual Harassment**

- Whether or not a student files a complaint of alleged sexual misconduct or otherwise asks the school to take action, **where the school knows or reasonably should know** of an incident of sexual misconduct, the school must take steps to understand what occurred and to respond appropriately.

United States Department of Education, Office for Civil Rights  
 Q&A on Campus Sexual Misconduct  
 September 2017 (Rescinded)  
<https://www2.ed.gov/about/offices/list/ocri/docs/qa-title-ix-201709.pdf>

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**2020 Rule Regarding Sexual Harassment**

- A recipient with **actual knowledge** of sexual harassment in an education program or activity of the recipient against a person in the United States, must respond promptly in a manner that is not deliberately indifferent.
- A recipient is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the **known circumstances**.

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**2024 Rule Regarding Sexual Harassment**

- A recipient with **knowledge of conduct that reasonably may constitute sex discrimination** in its education program or activity must respond promptly and effectively.

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**TITLE IX COORDINATOR AND GRIEVANCE PROCEDURES**

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**Title IX Coordinator/ EEO Coordinator**

**Monica Benavides, LVN**  
 Title IX/EEO Coordinator  
 (956) 973-1945 extension 307  
 mbenavides@vgi.edu  
 Building A1, Room 103  
 414 S. Missouri  
 Weslaco, TX 78596

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**Title IX Coordinator Requirements**

- Every postsecondary institution must designate a Title IX Coordinator.
- When designating a Title IX coordinator, an institution should be careful to avoid designating an employee whose other job responsibilities may create a conflict of interest.
- It is critical that the employee has all the qualifications, training, authority, and time to address all complaints raising the Title IX issues.

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**Responsibilities of the Title IX Coordinator**

- Responsible for monitoring and overseeing school's compliance with Title IX and prevention of sexual misconduct.
- Knowledgeable and trained in school's policies and procedures and relevant state and federal law.
- Available to advise individuals about school and community resources and reporting options.
- Available to provide assistance to school employees regarding how to respond appropriately to report of the Title IX-related prohibited conduct and related retaliation.

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**Responsibilities of the Title IX Coordinator *cntd.***



- Ensures effective implementation of school's sexual misconduct policies and procedures.
- Oversees training, prevention, and education efforts and annual reviews of climate and culture. Overseeing the school's response to Title IX reports and complaints and identifying and addressing any patterns or systemic problems revealed by such reports and complaints.
- The school should ensure that the Title IX coordinator is given the training, authority, and visibility necessary to fulfill these responsibilities.

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**Response to Sex Discrimination by Title IX Coordinator**

- Treat the complainant and respondent equitably
- Offer and coordinate supportive measures, as appropriate, for the complainant.
- Notify the complainant, or if the complainant is unknown, the individual who reported the conduct, of the grievance procedures and the informal resolution process, if available and appropriate.
- If a complaint is made, notify the respondent of the grievance procedures and the informal resolution process (if applicable)
- In response to a complaint, initiate the school's grievance procedures or informal resolution process

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**Response to Sex Discrimination by Title IX Coordinator *contd.***

- In the absence of a complaint or a withdrawal, make a fact-specific determination that, based on factors listed in the regulation, the Title IX Coordinator may/should initiate a complaint.
- If the Title IX Coordinator initiates a complaint, notify the complainant prior to doing so and appropriately address reasonable concerns about the complainant's safety or the safety of others.
- Regardless of whether a complaint is initiated, take other appropriate prompt and effective steps to ensure that sex discrimination does not continue, in addition to providing remedies to an individual complainant.

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**Supportive Measures**

- Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent
- Must not unreasonably burden either party
- Recipient must provide complainant or respondent with timely opportunity to seek modification or reversal of any decision to provide, modify, or terminate supportive measures applicable to them.
- Generally - must not disclose information about any supportive measures unless necessary to provide the supportive measures

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### Supportive Measures *contd.*

• Supportive measures may include (but are not limited to) counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

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### Emergency Removal

• A recipient has the right to remove a respondent from the recipient's education program or activity on an emergency basis, provided that the recipient undertakes an individualized safety and risk analysis, determines that an imminent and serious threat to the health or safety of a complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.

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### Fairness and Impartiality

• A fair determination of the facts requires a fair process, not tilted to favor a particular outcome, and a fair and neutral fact-finder, not predisposed to reach a particular conclusion.



- Procedural Fairness
- Substantive Fairness

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**Basic Requirements for Grievance Procedures**

- A recipient's grievance procedures must:
- Treat complainants and respondents equitably;
- Require that any person designated as a [Title IX Coordinator, investigator, or decisionmaker](#) not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. The decisionmaker may be the same person as the Title IX Coordinator or investigator;
- Include a [presumption that the respondent is NOT responsible](#) for the alleged sex discrimination until a determination is made at the conclusion of the recipient's grievance procedures for complaints of sex discrimination;

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**Basic Requirements for Grievance Procedures**

- Establish reasonably prompt timeframes for the major stages of the grievance procedures, including a process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay.

[Valley Grande Institute's Timeframes](#)

- Investigation – 60 calendar days
- Parties' Review of Investigative Report – 10 business days
- Time to File an Appeal – 3 business days
- Appeal Response – 30 calendar days

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**Basic Requirements for Grievance Procedures**

- Require the recipient to take [reasonable steps to protect the privacy of the parties and witnesses](#) during the pendency of a recipient's grievance procedures, [provided that the steps do not restrict](#) the ability of the parties to:
  - obtain and present evidence, including by speaking to witnesses;
  - consult with their family members, confidential resources, or advisors; or
  - otherwise prepare for or participate in the grievance procedures;
- Require an objective evaluation of all relevant evidence

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**Basic Requirements for Grievance Procedures**

- Exclude the following types of evidence, and questions seeking that evidence, as impermissible:
  - Evidence that is **protected under a privilege as recognized by Federal or State law** or evidence provided to a **confidential employee**, unless the person to whom the privilege or confidentiality is owed has **voluntarily waived** the privilege or confidentiality;
  - A party's or witness's **records that are made or maintained by a physician, psychologist, or other recognized professional** or paraprofessional in connection with the provision of treatment to the party or witness, unless the recipient obtains that party's or witness's voluntary, written consent for use in the recipient's grievance procedures; and
  - Evidence that relates to the complainant's **sexual interests or prior sexual conduct**, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent.

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**Live Hearing Procedures**

- A postsecondary institution's sex-based harassment grievance procedures **may, but need not, provide for a live hearing.**
- If a postsecondary institution chooses to conduct a live hearing, it may conduct the live hearing **with the parties physically present** in the same geographic location. At the postsecondary institution's discretion the institution may, or upon the request of either party it must, conduct the live hearing **with the parties physically present in separate locations, with technology enabling the decisionmaker and parties to simultaneously see and hear the party or the witness** while that person is speaking.
- A postsecondary institution **must create an audio or audiovisual recording or transcript**, of any live hearing and make it available to the parties for inspection and review.

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**Written Determination**

- The postsecondary institution must provide the determination whether sex-based harassment occurred **in writing to the parties simultaneously.**
- The determination regarding responsibility **becomes final** either on the date that the postsecondary institution provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.



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### Written Determination *contd.*

- The written determination must include:
  - A description of the alleged sex-based harassment;
  - Information about the policies and procedures that the postsecondary institution used to evaluate the allegations;
  - The decisionmaker's evaluation of the relevant and not otherwise impermissible evidence and determination whether sex-based harassment occurred;
  - When the decisionmaker finds that sex-based harassment occurred, any disciplinary sanctions the postsecondary institution will impose on the respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by the postsecondary institution to the complainant, and, to the extent appropriate, other students identified by the postsecondary institution to be experiencing the effects of the sex-based harassment; and
  - The postsecondary institution's procedures for the complainant and respondent to appeal.

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### Retaliation



- A recipient must prohibit retaliation, including peer retaliation, in its education program or activity.

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QUESTIONS?

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