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## Villanova University Title IX Program Review

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# Villanova University Title IX Program Review

Taylor Malatesta



Photo courtesy of Villanova University

## General Information

### Accessibility and Information Provided

Title IX information for Villanova University is easily accessible only insofar as it relates to sexual misconduct. However, finding Title IX information related to athletics, pregnancy, and LGBTQ+ issues is considerably more challenging.

A quick Google search using the term “Title IX Villanova University” immediately yields five relevant search results, all of which focus exclusively on sexual misconduct. The first result links to the Compliance Office’s Title IX page.<sup>1</sup> This page does not provide the text of Title IX, nor any background or general overview of the amendment and its scope. Instead, it simply states that Title IX prevents discrimination on the basis of sex; notes that sexual harassment constitutes sex discrimination; lists which forms of conduct are considered sexual harassment; provides contact information for the Title IX Coordinator Ryan Rost and the other Deputy Title IX Coordinators (including the Deputy Title IX Coordinator for Athletics, despite the fact that this page does not explain Title IX’s relevance to athletics); summarizes the role of the Title IX Office and Coordinators; and states that students and faculty can file complaints with the Title IX Office, without explaining how to do so. This page also provides links to the Sexual Violence Resource Website and Community Guide on Sexual Violence, both of which provide far more information regarding on-campus and off-campus resources for survivors, an explanation of how to file a report of sexual harassment with the Title IX Office, detailed definitions of each form of conduct that is considered sexual harassment, resources for prevention and intervention, and more. The second Google search result links to the University’s Sexual Misconduct Prevention and Response “Title IX Notice” page, which provides the same basic information as the Compliance Office page about Title IX’s applicability to sexual harassment and offers contact information for the school’s Title IX officers.<sup>2</sup> The final three Google search results lead to the “Title IX Notice,” “Sexual Misconduct,” and “Special Procedures Governing Sexual Misconduct Proceedings” pages of the University’s Student Handbook website.<sup>3</sup> The “Title IX Notice” is the same as that provided in the second search result. The “Sexual

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<sup>1</sup> *Title IX*, Villanova Univ. Compliance Office, <https://www1.villanova.edu/villanova/generalcounsel/uco/titleix.html> (last accessed Apr. 3, 2023).

<sup>2</sup> *Title IX*, Villanova Univ. Villanova Univ. Sexual Misconduct Prevention and Response, <https://www1.villanova.edu/university/sexual-misconduct/titleix.html> (last accessed Apr. 3, 2023).

<sup>3</sup> *Title IX Notice*, Villanova Univ. Student Handbook, <https://studenthandbook.villanova.edu/title-ix-notice> (last accessed Apr. 3, 2023); *Sexual Misconduct Policy*, Villanova Univ. Student Handbook, <https://studenthandbook.villanova.edu/sexual-misconduct-policy> (last accessed Apr. 3, 2023); *Special Procedures Governing Sexual Misconduct Proceedings*, Villanova Univ. Student Handbook, <https://studenthandbook.villanova.edu/special-procedures-governing-sexual-misconduct-proceedings> (last accessed Apr. 3, 2023).

Misconduct” and “Special Procedures” pages, however, provide incredibly detailed explanations of the reporting and investigations process.

Notably, the “Title IX Villanova University” search used above does not immediately yield any results relating to athletics, pregnancy, or LGBTQ+ issues. Searching “Villanova Title IX Athletics” on Google, however, quickly yields two relevant search results. The first links to an article entitled “Villanova Athletics Celebrates 50 years of Title IX” on the Villanova Athletics website.<sup>4</sup> This article contains very little substantive information about Title IX, stating only that it protects against discrimination on the basis of sex “in education programs or activities at any institutions receiving federal financial assistance” and that it allowed for “an expansion of opportunities for girls and women in sports.” The remainder of the article includes a video, tweets, and other information about University programming aimed at celebrating women’s sports and female athletes’ achievements at the University. The second result links to the “Title IX Policy” on the Villanova Athletics website.<sup>5</sup> This page provides a brief overview of Title IX’s application to women’s participation in sports, athletic scholarships, and the treatment of female athletes and sports teams. It also instructs athletes who feel they are “not being treated equitably under this Policy or...are interested in filing a request for varsity status for an athletic team not currently offered at the varsity level” to contact Ryan Rost, the Title IX Coordinator, or Lynn Tighe, the Deputy Title IX Coordinator for Athletics.

Perhaps most interestingly, searching “Villanova Title IX pregnancy” and “Villanova Title IX LGBTQ+ issues” on Google yields the results “Pregnancy Support” and “LGBTQIA+ Resources,” respectively. Of the two, only the “LGBTQIA+ Resources” page mentions Title IX, and even then, it merely lists the Title IX Coordinator as a resource for LGBTQ+ students without meaningfully explaining how Title IX protections affect LGBTQ+ individuals. Thus, University resources addressing the full scope and applicability of Title IX to these issues is utterly lacking.

## Organization

In short, Villanova University’s Title IX information and resources are incredibly disorganized and difficult to navigate. The resources provided by the University center primarily on sexual misconduct, yet even this information is scattered across roughly half a dozen different webpages, each of which explains Title IX’s rules regarding sexual misconduct, tools for reporting, and other resources in varying depth and detail. It is also confusing that several of these pages list Lynn Tighe, the Deputy Title IX Coordinator for Athletics, as a resource, despite focusing solely on sexual misconduct and containing no discussion of athletics at all. Moreover, Villanova Athletics’ Title IX page oversimplifies information about Title IX’s applicability to sports and provides no meaningful information on how the reporting process operates for athletes who

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<sup>4</sup> *Villanova Athletics Celebrates 50 years of Title IX*, Villanova Univ. Athletics, <https://villanova.com/sports/2022/6/21/villanova-athletics-celebrates-50-years-of-title-ix.aspx> (last accessed Apr. 3, 2023).

<sup>5</sup> *Title IX Policy*, Villanova Univ. Athletics, <https://villanova.com/sports/2018/6/18/ot-title-ix-html.aspx> (last accessed Apr. 3, 2023).

wish to file a report of discrimination. Finally, the absolute dearth of information about pregnant and LGBTQ+ students' Title IX rights reflects not only how incomplete and disorganized the University's Title IX resources are, but also raises the more troubling concern that reports of Title IX violations on these bases may be lacking or altogether non-existent, thus potentially obscuring the presence of discriminatory conduct against pregnant or LGBTQ+ students on campus.

On a similar note, conducting these searches for Title IX resources from the perspective of a law student further underscores the importance of providing clear, cohesive, and easily accessible information for students. Having studied Title IX at length, I understand that it relates not only to sexual misconduct, but also to other areas such as athletics, pregnancy, and LGBTQ+ issues. Undergraduate and even graduate students without the benefit of a legal education to guide their inquiries regarding the University's Title IX and anti-discrimination policies likely would not think to conduct specific searches for each application of Title IX the way I did. Therefore, it is essential that the University provide a more unified Title IX website and/or web pages.

## Training

Villanova University's Title IX training materials were fairly easy to find, though they were limited to training related to sexual misconduct. That is, the University's "Sexual Misconduct Prevention and Response" site includes several pages that explain training materials and other resources available to faculty and staff, students, and parents. For instance, the "Prevention and Education" page details both mandatory and optional training and prevention programs available to faculty and staff; undergraduate, graduate, and law students; athletes; members of fraternities and sororities; and parents seeking to educate their children about sexual misconduct.<sup>6</sup> "The Faculty and Staff" page, which is linked on the "Prevention and Education" page, provides a step-by-step explanation of what faculty members must do if students disclose incidents of sexual harassment to them.<sup>7</sup> Crucially, this page focuses not only on the logistics of the reporting process, but also encourages faculty and staff to treat students with compassion, to avoid making judgments about the student, and offers faculty links to resources on how to respond to student concerns in a trauma-informed manner. Finally, the "Sexual Misconduct Grievance Process Training Materials" provides links to the training materials that are required by the May 19, 2020 Final Rule for University administrators involved in the Sexual Misconduct Grievance Process.<sup>8</sup>

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<sup>6</sup> *Prevention and Education*, Villanova Univ. Sexual Misconduct Prevention and Response, <https://www1.villanova.edu/university/sexual-misconduct/education.html> (last accessed Apr. 3, 2023).

<sup>7</sup> *Faculty and Staff Resources*, Villanova Univ. Sexual Misconduct Prevention and Response, <https://www1.villanova.edu/university/sexual-misconduct/faculty-staff.html> (last accessed Apr. 3, 2023).

<sup>8</sup> *Sexual Misconduct Grievance Process Training Materials*, Villanova Univ. Sexual Misconduct Prevention and Response, <https://www1.villanova.edu/university/sexual-misconduct/training-materials.html> (last accessed Apr. 3, 2023).

## Ongoing Investigations of Villanova University

Villanova University is not currently under investigation for any Title IX complaints.

## Athletics

### Coordinator for Athletics

Lynn Tighe serves as Villanova University's Deputy Title IX Coordinator for Athletics. She is also the Senior Associate Athletic Director and Senior Woman Administrator.



### Filing a Complaint/Lodging a Concern

The University provides very limited information about how to file a Title IX complaint for sex discrimination in athletics. After providing a brief summary of the rules Title IX imposes on federally-funded universities regarding athletic participation, scholarships, and treatment of female athletes and sports teams, the Villanova Athletics' "Title IX Policy" web page explains that students who believe they are being discriminated against or "not being treated fairly" under these policies can file a complaint with either Ryan Rost or Lynn Tighe.<sup>9</sup> Both Rost's and Tighe's email addresses and phone numbers are linked here, as well. The page also notes that students who "wish to compete on a varsity sport that is not currently offered at Villanova University may file a petition to request varsity status," that these "petitions will be reviewed annually," and that "factors considered shall include gender equity, interest and ability, intercollegiate competitive opportunities, among others." Moreover, the University makes clear that "students who ask questions, seek advice or report a suspected violation of this Policy are protected by Villanova University's non-retaliation policy," which is linked on the "Title IX Policy" webpage, as well. However, neither this page, nor any other on the Villanova Athletics website, explains in detail the process of filing a report, what information students will be expected to provide to the Title IX Office, or the anticipated timeline for conducting an investigation.

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<sup>9</sup> Title IX Policy, *supra* note 5.

## EADA Information

A review of the information listed in Villanova's EADA report reveals that there are some imbalances regarding the proportionality of men's and women's participation in athletics at Villanova, as well as in the University's teams and in the amount of money spent on men's and women's teams.

Villanova has a total undergraduate population of 6,808, 3,714 of which are women and 3,094 of which are men. Therefore, women make up 54.6% of the student body, and men make up the other 45.4%. However, the unduplicated count of participants on women's teams totals 300 and those on men's teams totals 296, meaning that female athletes participate at a rate of 50.4%, while men participate at a rate of 49.7%. Therefore, there is a roughly 4% imbalance in proportionality when compared to University enrollment. Nevertheless, this imbalance is slight.

There are also slight imbalances in the varsity teams offered by the University. As demonstrated by the EADA chart (included below), several varsity teams exist only for one gender. For instance, only women have a rowing team, a volleyball team, and a water polo team, and only men have a golf team. Yet even when both women and men have varsity teams for a given sport, participation sometimes diverges. Though most variations are small (e.g., 41 female lacrosse players and 43 male lacrosse players), there is notable variation in the number of female and male track participants (84 and 106, respectively). It does not, however, appear that new teams have been added or old teams removed for either gender.

Varsity Teams	Number of participants as of the day of the first scheduled contest	
	Men's Teams	Women's Teams
Baseball	29	N/A
Basketball	16	20
All Track Combined	106	84
Field Hockey	N/A	19
Football	90	N/A
Golf	10	
Lacrosse	43	41
Rowing		63
Soccer	25	30
Softball	N/A	22
Swimming and Diving	19	22
Tennis	13	12
Volleyball		25
Water Polo		21
<b>Total Participants Men's and Women's Teams</b>	<b>351</b>	<b>359</b>
Unduplicated Count of Participants (Number of individuals who participated on at least one varsity team.)	296	300
<b>CAVEAT</b>		
Volleyball had 22 female participants and 3 male practice players for a total of 25 participants. Women's basketball had 14 female participants and 6 male practice players for a total of 20 participants.		

The most notable disparities in athletics are reflected in the amount of money spent on men's and women's teams. For instance, women's teams receive \$7,536,237 in athletically-related aid, while men's teams receive \$8,221,368, representing a \$685,131 difference. Moreover, recruiting expenses for women's teams total \$207,424, while those for men's teams total \$335,328, a \$127,904 difference. Finally and most glaringly, operating expenses per team average \$2,758,148 for women's teams and \$7,351,087 for men's teams, a difference of \$4,592,939, much of which I suspect is attributable to the expenses of operating the men's basketball team.

## Complaints and Investigations of Villanova University

There have been no recorded complaints or investigations of Villanova University in the area of athletics.

## Sexual Misconduct

### Coordinator for Sexual Misconduct

There is no Title IX coordinator for sexual misconduct, specifically. Instead, Ryan Rost, the University's overall Title IX Coordinator, is listed as the main contact person for all reports and investigations related to sexual misconduct.



### Filing a Complaint/Lodging a Concern

Several Villanova University web pages provide information about filing a complaint or lodging a concern for incidents of sexual misconduct under Title IX.

For instance, the Sexual Violence Resource Website includes a link to the page entitled "Make a Report and Next Steps," which includes neatly labeled drop-down headings detailing on-campus and off-campus reporting options with contact information for each, a link to the University's anonymous reporting website, the names and contact information of the University's Title IX and Deputy Title IX Coordinators, a summary of what to expect after making a report, an overview of the resolution process under the University's policies, and information about what to expect when pursuing a criminal complaint.<sup>10</sup>

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<sup>10</sup> *Make a Report and Next Steps*, Villanova Univ. Sexual Misconduct Prevention and Response, <https://www1.villanova.edu/content/university/sexual-misconduct/reporting.html> (last accessed Apr. 3, 2023).



The pamphlet-style Community Guide on Sexual Violence also provides information about how to report an incident of sexual misconduct, though the information provided here is not as robust as that provided on the Sexual Violence Resource Website.<sup>11</sup> That is, while this resource does include on-campus and off-campus reporting options with phone numbers for each, this resource provides nearly half of the options as those shown on the Sexual Violence Resource Website and fails to specifically name the Title IX Coordinator and Title IX Investigator whose phone numbers are listed. Nevertheless, the Community Guide on Sexual Violence still provides useful bullet points explaining what students can expect after reporting an incident of sexual misconduct to the University, as well as what to expect when pursuing disciplinary action against the respondent.

Finally, the “Special Procedures Governing Sexual Misconduct Proceeding” page of the Student Handbook website provides substantially similar information on how to report an incident of sexual misconduct as that provided on the Sexual Violence Resource Website.<sup>12</sup> However, unlike the neat drop-down headings provided in the latter, the “Special Procedures” page provides this information in paragraph format, which is not as easy to navigate.

## The Investigative Process

The “Special Procedures Governing Sexual Misconduct Proceeding” page of the Student Handbook website offers an in-depth explanation of Villanova University’s investigation process for Title IX sexual misconduct cases.<sup>13</sup>

According to this page, once the Title IX Coordinator receives a report of sexual misconduct, “they will contact the Complainant to discuss the availability” and “explain the process for filing a formal complaint.” After the filing of a formal complaint, the administrative investigation begins. This investigation shall be complete “within a reasonably prompt manner and no longer than ninety (90) business days after the filing” the formal complaint. Once the investigation begins, the investigator, Kim Kearney<sup>14</sup>, is tasked with providing the parties with both formal and informal options for resolution of the matter. Additionally, throughout the process, both the Complainant and Respondent are to receive “periodic updates as to the status of the review or investigation,” the frequency of which varies based on the circumstances of each case. When the investigation is finished, the “Complainant, Respondent and their advisors will have the opportunity to review relevant documentation related to the investigation,” after which time “the matter may be referred to the Dean of Students.” If the matter is referred, the Dean and/or the Conduct Review Officer is tasked with “review[ing] the complaint and investigation and determine whether or not, if proven, the allegations would constitute a violation

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<sup>11</sup> A *Villanova Guide for Community: Sexual Assault, Sexual Harassment, and Sexual Misconduct*, Villanova Univ. Student Life, <https://www1.villanova.edu/content/dam/villanova/studentlife/documents/healthpromotion/Booklet.pdf> (last accessed Apr. 3, 2023).

<sup>12</sup> *Special Procedures Governing Sexual Misconduct Proceedings*, *supra* note 3.

<sup>13</sup> *Id.*

<sup>14</sup> *Make a Report and Next Steps*, *supra* note 10.

of the University's Sexual Misconduct Policy." If a violation is found, the Complainant will meet with the Dean of Students or Conduct Review Officer, who is to be assigned by the Dean, to discuss the options available to the Complainant. If, however, the complaint is dismissed, the Complainant and/or Respondent may request an appeal for a new hearing on certain specified grounds (i.e., "Procedural Irregularity," "New Evidence," or "Conflict of Interest or Bias") or an appeal for review of sanctions if the party believes the sanctions "imposed were disproportionate to the violation."

It is also worth noting the differences in formal and informal resolutions as described on the "Special Procedures" webpage. After filing a formal complaint, the Complainant and Respondent are both entitled to request, in writing, that the Title IX Coordinator allow for an "informal resolution in lieu of formal resolution." Ultimately, it is up to the University to determine if such an informal resolution is appropriate. If it is, and both parties consent to it, "the matter will be referred to the appropriate University official or third party engaged by the University to facilitate the process," though it is unclear who that official or third party is. Any informal resolution reached is also "subject to the University's final approval." Once the Complainant, the Respondent, and the University acknowledge this final approval, the matter is concluded and is no longer subject to further review or appeal.

The formal resolution process, on the other hand, is very different and occurs either "by acceptance of responsibility or by a Conduct Review Board Hearing." If the case facts are not disputed, the Respondent may accept responsibility for their actions and "be sanctioned accordingly by the Conduct Review Officer." In cases where the Respondent cannot or does not simply accept responsibility, a Conduct Review Board hearing is held to determine whether the Respondent is responsible for the alleged violations they have been accused of. This Conduct Review Board is composed of the Chair of the Board – "who is normally an attorney, "may or may not be an employee of the University," and acts as a "non-voting member of the Board" – as well "three trained faculty/staff members." The Conduct Review Officer is also present during these hearings "to facilitate the administrative needs of" and "provide assistance to" the Board. At the conclusion of the hearing and after reviewing the evidence, the Board will determine the Respondent's responsibility by a preponderance of the evidence, and their decision "shall be by majority vote." After an acceptance of responsibility by the Respondent or finding of responsibility by the Board, the Conduct Review Officer imposes sanctions on the Respondent. As mentioned above, appeal may then be initiated by either the Complainant or Respondent on certain specified grounds, also detailed above.

Overall, the investigative procedures outlined here are robust and seem to afford a reasonably effective means for resolving reports of sexual misconduct. However, the one critique I have is that the University should mandate that at least one of the investigators be independent. That is, in the case of formal resolution, it is possible that the entire Conduct Review Board be composed of University employees, as the policy states that the Chair may be an employee and specifies that the other three members are employees. Though University employees may certainly prove to be impartial decision makers, the small size of Villanova University's campus and student population increases the likelihood that one or more members

of the Board will know at least one of the parties involved, which risks unfairly influencing the outcome, even if only at a subconscious level. To combat this risk, University policy states that the Complainant or Respondent “may challenge the composition of the Conduct Review Board if they believe that a conflict of interest exists with a Board member.” However, there is no guarantee that the supposedly conflicted Board member will be removed, as that decision is left to the Conduct Review Officer. Moreover, students who do know faculty on the Board and believe there is a conflict might feel uncomfortable even speaking up and challenging their position on the Board in the first place. Accordingly, the University should explicitly require that one or more of the investigators – particularly those endowed with the right to vote on a finding of responsibility – be independent of the University.

## Retaliation Policy

Villanova University’s “Non-Discrimination/Non-Harassment Policy,” effective as of March 14, 2022, includes the University’s general non-retaliation policy, which is not specifically limited to Title IX complaints. It states:

“Retaliation is strictly prohibited in any form against a faculty, staff, or student who exercises in good faith their right to make a complaint under this policy and with any of the respective procedures, or who cooperates in the investigation of any such complaint . A finding of retaliation will itself be cause for appropriate disciplinary action. A person found to have made a knowingly false complaint or report, or to have knowingly and willingly given false information in the review of a complaint, may be subject to corrective action. A complaint made with a good faith belief that the reported information is true, whether ultimately substantiated or not, does not constitute a false report.”<sup>15</sup>

## Clery Act Statistics

Clery Act statistics on sexual misconduct-related offenses at Villanova University are found under the “Criminal Offenses” and “VAWA Offenses” categories of the Department of Education’s school search site. However, End Rape on Campus has no data on Villanova University.

According to the Department of Education’s data, the only “Criminal Offenses” occurring on Villanova from 2019 through 2021 have been categorized as occurring “on campus” and “in on-campus student housing facilities.” Offenses “on campus” include rape (10 counts in 2019, 3 in 2020, and 13 in 2021) and fondling (5 counts in 2019, 1 in 2020, and 7 in 2021). Offenses in

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<sup>15</sup> *Non-Discrimination/Non-Harassment Policy*, Villanova Univ. Human Resources (Mar. 14, 2022), <https://villanova.policytech.com/dotNet/documents/?docid=1544&public=true>.

“on-campus student housing facilities” include rape (7 counts in 2019, 3 in 2020, and 12 in 2021) and fondling (2 in 2019, 0 in 2020, and 5 in 2021).

Similarly, the only “VAWA Offenses” occurring on Villanova from 2019 through 2021 were categorized as occurring “on campus” and “in on-campus student housing facilities.” Offenses “on campus” include domestic violence (1 count in 2019, 0 in 2020, and 9 in 2021), dating violence (2 in 2019, 0 in 2020, and 2 in 2021), and stalking (2 in 2019, 2 in 2020, and 5 in 2021). Offenses in “on-campus student housing facilities” include domestic violence (1 count in 2019, 0 in 2020, and 9 in 2021), dating violence (1 in 2019, 0 in 2020, and 2 in 2021), and stalking (1 in 2019, 1 in 2020, and 3 in 2021).

## Pregnancy

### Resources

The only resources Villanova University offers for pregnant students are located on the Student Life website’s “Pregnancy Support” page. Concerningly, nowhere on this page is Title IX and its non-discrimination protections for pregnant students addressed.

Instead, the “Pregnancy Support” page initially asserts that “Villanova University is committed to life and to making the choice of life viable for our students.” Accordingly, the University further states:

"A student who becomes pregnant may elect to stay at Villanova during pregnancy if she wishes. The University community will offer her our full support. Villanova will do its best to accommodate a student's needs and concerns regarding classes, housing, and personal counseling during and after the pregnancy."<sup>16</sup>

This statement is the closest thing to a non-discrimination policy that Villanova offers, yet it falls critically short of reflecting the specific requirements of Title IX and neglects to make clear what specific rights and accommodations pregnant students are entitled to.

Nevertheless, this page proceeds to offer a number of on-campus and off-campus resources for pregnant students. The on-campus resources offered to students focus primarily on the health of pregnant students and the University’s pro-life values. For instance, students are instructed to turn to Stacy Andes, the University’s Director of Health Promotion and designated advocate for pregnant students, for assistance, as well as the Student Health Center, the University Counseling Center, the academic Deans’ offices, and Campus Ministry. Though off-campus resources include pregnancy crisis centers, they once again largely focus on the University’s pro-life mission. For instance, the Archdiocese of Philadelphia: Pregnancy

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<sup>16</sup> *Pregnancy Support*, Villanova Univ. Student Life, <https://www1.villanova.edu/university/student-life/health-services/health-wellness-resources/pregnancy.html> (last accessed Apr. 3, 2023).

Assistance, A Pro-Life Federation-Full List of Pregnancy Help Centers, and Villanovans for Life are all listed as resources for pregnant students.

In short, while these resources – slanted as they are in favor of pro-life values – may help students obtain medical or spiritual guidance concerning their pregnancy, they offer students no guidance on how to balance their pregnancy and coursework, with the assistance and accommodation of Villanova University as required by Title IX.

## University Compliance

It is certainly not clear from the “Pregnancy Support” page whether Villanova University is meeting its obligations to pregnant students. Unfortunately, neither the Student Handbook for the 2022-2023 Academic Year, nor the Non-Discrimination/Non-Harassment Policy, provide any further clarity on this matter.<sup>17</sup> That is, while the Student Handbook mentions the general procedures for requesting a medical leave of absence, it does not mention leaves of absence in the specific case of pregnancy, much less the duties the University owes to pregnant students who take a leave of absence during the school year. Furthermore, the Non-Discrimination/Non-Harassment Policy only provides a basic overview of the University’s non-discrimination policy and mentions that sex is a protected class under the policy, but it does not mention Title IX, much less explain that pregnancy discrimination falls under the category of sex discrimination. It is therefore unclear if and how Villanova University is meeting its obligations under Title IX to pregnant students.

## Cases Against Villanova University

There have been no recorded cases against Villanova University dealing with pregnant students.

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<sup>17</sup> *Student Handbook 2022-2023*, Villanova Univ., [https://studenthandbook.villanova.edu/sites/default/files/pdf/pdf\\_generator/student-handbook-202223.pdf](https://studenthandbook.villanova.edu/sites/default/files/pdf/pdf_generator/student-handbook-202223.pdf) (last accessed Apr. 3, 2023); *Non-Discrimination/Non-Harassment Policy*, *supra* note 15.

## LGBTQ+

### Protections and Policies Concerning LGBTQ+ Students

Villanova University does not have a single, unified policy concerning the protections available to LGBTQ+ students or provide any information on non-discrimination in housing or facilities. However, faculty and students have issued statements encouraging protection and support for LGBTQ+ students, the University offers a number of resources for students in the community, and the University has also issued guidance related to chosen names and faculty pronoun usage in the classroom.

For example, Villanova University's Student Life website offers an "LGBTQIA+ Resources" page. The page begins with a reiteration of the University's mission statement, which "affirms that we 'seek to nurture a concern for the common good' and 'an enthusiasm for the challenge of responsible and productive citizenship in order to build a just and peaceful world.'" It proceeds to provide a somewhat lengthy "Statement Affirming LGBTQ+ Villanovans." Written by the University's LGBTQ Employee Resource Group and signed by both members and students, the statement calls for the creation of a "Villanova community in which all persons are seen, celebrated, valued, and loved exactly as they are" in keeping with the University's Catholic faith tradition, which requires that dignity and respect be shown to all persons regardless of sexuality or gender identity. Additionally, the page offers a "Catholic perspective" on the treatment of LGBTQ+ Villanovans that reiterates the University's mission and states that "all people, including people attracted to members of the same sex, are deserving of pastoral care." This page concludes by listing a variety of on-campus and off-campus resources for LGBTQ+ students, one of which is the Title IX Coordinator; however, little explanation of how Title IX protections affect LGBTQ+ individuals is offered beyond the brief statement that the "Title IX Coordinator works with the Villanova community and Sexual Assault Resource Coordinator (SARC) team on education and training to help prevent incidents of discrimination."

Another resource provided at the bottom of the "LGBTQIA+ Resources" page is a link to the University's "Chosen First Name" procedures on the Office of the Registrar's website.<sup>18</sup> According to the Office of the Registrar, "it is the practice of Villanova University that any student, faculty, or staff may choose to be identified within the University community with a chosen first name that may differ from the individual's legal first name." This statement is followed by a list of instructions on how students can edit their chosen name on University documents, identification cards, and email addresses.

Finally, in the Spring of 2022, the University issued a "Gender Inclusive Practices Guide," which provides faculty with recommendations for how to normalize gender inclusivity in the

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<sup>18</sup> *Chosen First Name*, Villanova Univ. Office of the Registrar, <https://www1.villanova.edu/villanova/enroll/registrar/policies/updating-personal-information/chosen-first-name.html> (last accessed Apr. 3, 2023).

classroom by initiating pronoun usage in class and respecting the pronouns each student identifies with.<sup>19</sup> Though only two pages in length, this guide represents an important step toward creating a more inclusive campus.

Overall, despite not having a uniform policy concerning LGBTQ+ protections or meaningfully addressing the intersection of Title IX and LGBTQ+ issues, the University does offer a host of important resources for students and faculty who are members of the community, in addition to guidelines for faculty and allies to create a welcoming environment for LGBTQ+ students.

## Recommendations

This review of Villanova University's Title IX program has revealed several shortcomings in the accessibility of information about the program and in the program itself. As discussed at length previously, information about the University's Title IX program is often difficult to find outside of the sexual misconduct context, is generally disorganized, and is scattered across several websites and web pages that address the same topics in varying levels of detail, which can be confusing for users. In terms of the substance of the program, the University has failed to address or make clear its policies about several issues that implicate Title IX, such as pregnancy and LGBTQ+ issues. Moreover, even for Title IX policies that are explicitly addressed, such as sexual misconduct investigations, there is still room for improvement.

Considering these flaws, I propose several solutions, discussed below, that can be categorized as either "accessibility" recommendations or "substance" recommendations:

### Accessibility

1. **Create a dedicated Title IX website that addresses all areas of campus life affected by Title IX in one well-organized place:**

The Title IX Office should create a website specifically dedicated to explaining all of Villanova University's Title IX policies in one place, in an organized and readily accessible manner. This site should address at length each of the issues discussed above: athletics, sexual misconduct, pregnancy, and LGBTQ+ issues.

For example, the site's homepage should provide the text of Title IX, a general overview of Title IX law as it stands today, and a summary of its protections for members of the University community. This page should also identify all of the University's Title IX personnel clearly, by name, and with contact information, perhaps in a sidebar. The site should then have several sub-pages labeled "Athletics," "Sexual Misconduct,"

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<sup>19</sup> *Gender Inclusive Practices Guide*, Villanova Univ. (2022), <https://www1.villanova.edu/content/dam/villanova/vital/pdfs/genderinclusivepracticesvu0822.pdf>.

“Pregnancy,” and “LGBTQ+” (in no particular order) that users can click on to access all relevant information about Title IX’s applicability to each of these issues. Each page should first provide an overview of Title IX’s interaction with the specific issue addressed. Below this overview, or in a sidebar, the University should provide separate sub-tabs that bring users to a more detailed explanation of the applicable law for the particular Title IX issue addressed, perhaps with examples of how these laws play out on campus and apply to members of the Villanova community; a detailed statement of the University’s policies on the issue; a list of the names of Title IX personnel that users can turn to for assistance with this specific issue, along with their phone numbers and email addresses; a link to a reporting website or form for the issue that includes clear instructions on how to report and explains all relevant consequences and procedures involved in reporting; and an FAQ page to clarify any information given previously.

To illustrate the format proposed, consider the “Pregnancy” tab. This tab would lead first to an overview of pregnancy and Title IX issues. Below or beside this overview could be a tab labeled “The Law,” which explains the current the law regarding Title IX and pregnancy and offers examples of how these laws play out on campus to protect members of the Villanova community (for example: “If a Villanova student becomes pregnant, the University is obligated to provide certain accommodations, such as X, Y, Z”). The next tab could be labeled “University Policy” and provide a clear, unequivocal statement of the University’s policy on the issue, with particular reference to the non-discrimination mandates of Title IX. Another tab could be labeled “Who to Contact” and provide contact information for Ryan Rost and the other relevant Deputy Title IX Coordinators who could help a pregnant student that is seeking accommodations or is concerned about discrimination. Next would be the “How to Report” tab, which could include a sub-tab explaining the reporting process and another linking to the relevant reporting mechanism. Finally, the “FAQ” tab could offer further clarification on issues that students and other University personnel are frequently confused about when it comes to Title IX’s pregnancy protections.

2. **Update existing University webpages and policy manuals with the information provided on the new Title IX website:**

It is also worth noting that the creation of this unified Title IX website, with all its topical subdivisions, would not be intended to eliminate existing information about Title IX provided by other University departments, such as Athletics or Student Health. Instead, the information on those pages should be updated to reflect that which is provided on the dedicated Title IX website. Additionally, existing web pages and student policies that do not - but should - address Title IX issues, such as the “Pregnancy Resources” web page and “Student Handbook,” should similarly be updated with relevant information related to Title IX.



## Substance

1. **Mandate independent investigators for sexual misconduct cases:**

As discussed previously, the University should mandate that sexual misconduct cases have at least one independent investigator, with voting power, to help neutralize any outstanding concerns students might have about a faculty member they perceive to be conflicted serving on the Conduct Review Board for their case. Doing so could help the parties involved feel more comfortable throughout the process and better ensure a fair outcome.

2. **Clarify Title IX protections and University policies regarding pregnant students:**

The University should more fully develop and publicize a policy concerning accommodations for pregnant students that specifically references Title IX and unequivocally complies with its non-discrimination mandate. This policy should specifically address accommodations owed to pregnant students in such areas as class attendance, housing, leaves of absence, and more. It is simply not enough for the University to vaguely tell students, as it has so far, that they will be “supported” during their pregnancy, and to provide crisis resources and various other pro-life resources without also providing resources that will educate students about their Title IX rights and how to exercise them.

3. **Clarify Title IX protections and University policies regarding LGBTQ+ students:**

The University should develop and publicize a non-discrimination policy that is specific to members of the University’s LGBTQ+ community. This statement should also address the overlap between Title IX rights and LGBTQ+ issues. Given that the application of Title IX to LGBTQ+ students often fluctuates over time and between presidential administrations, this policy statement should be continually updated to inform students of the current state of law, so that they are correctly apprised of their Title IX rights under federal law; at the same time, the policy should remind students that regardless of current federal law, the University unequivocally supports a policy of non-discrimination for LGBTQ+ Villanovans. While the University has taken important strides in this direction, with its chosen name policies and pronoun usage guide for faculty, a unified, readily accessible non-discrimination policy is still needed.