

Title IX

Policy:

Enacted in 1972, Title IX prohibits discrimination on the basis of sex in education programs and activities that receive Federal Financial Assistance. "No person in the United States shall, on the basis of sex, be excluded from participation in, denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal Financial Assistance." (20 U.S.C 1681)

Heartland Welding Academy believes that all students and/or staff have the right to learn/work in an environment that prohibits inappropriate conduct or harassment of a sexual nature. All students and staff have the right to learn/work in an environment free of sexual harassment. HWA prohibits crimes of dating violence, domestic violence, sexual assault and stalking as defined below by Kansas state law.

Definitions:

This policy requires HWA to provide the below definitions as stated by Kansas law.

Domestic Violence (domestic battery) – Knowingly or recklessly causing bodily harm by a family or household member against a family or household member; or knowingly causing physical contact with a family or household member by a family or household member when done in a rude, insulting or angry manner

Dating violence - Knowingly or recklessly causing bodily harm to a person with whom the offender is involved or has been involved in a dating relationship or a family or household member; or knowingly causing physical contact with a person with whom the offender is involved or has been involved in a dating relationship or a family or household member, when done in a rude, insulting or angry manner. (21-5414)

Stalking - "an intentional harassment of another person that places the other person in reasonable fear for that person's safety. (Protection from Stalking Act Article 31A)

Sexual harassment - "Harassment" means a knowing and intentional course of conduct directed at a specific person that seriously alarms, annoys, torments or terrorizes the person, and that serves no legitimate purpose.

Sexual harassment may include any of the following

- Any instance of quid pro quo harassment by a school's employee;
- Any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access;
- Any instance of sexual assault, dating violence, domestic violence, sexual harassment, or stalking as defined in the Violence Against Women Act

Sexual assault - A nonconsensual sexual act; or

an attempted sexual act against another by force, threat of force, duress or when the person is incapable of giving consent.

Rape - Knowingly engaging in sexual intercourse with a victim who does not consent to the sexual intercourse under any of the following circumstances:

- (A) When the victim is overcome by force or fear; or
- (B) when the victim is unconscious or physically powerless;

Knowingly engaging in sexual intercourse with a victim when the victim is incapable of giving consent because of mental deficiency or disease, or when the victim is incapable of giving consent because of the effect of any alcoholic liquor, narcotic, drug or other substance, which condition was known by the offender or was reasonably apparent to the offender;

- sexual intercourse with a child who is under 14 years of age;
- sexual intercourse with a victim when the victim's consent was obtained through a knowing misrepresentation made by the offender that the sexual intercourse was a medically or therapeutically necessary procedure; or
- sexual intercourse with a victim when the victim's consent was obtained through a knowing misrepresentation made by the offender that the sexual intercourse was a legally required procedure within the scope of the offender's authority.

Consent - the legal age of consent in the state of Kansas is 16. Individuals age 15 or younger are not legally able to consent to sexual activity, therefore such activity would be considered statutory rape.

Sexual battery- (a) Sexual battery is the touching of a victim who is 16 or more years of age and who does not consent thereto, with the intent to arouse or satisfy the sexual desires of the offender or another.

(b) Aggravated sexual battery is sexual battery, as defined in subsection (a), under any of the following circumstances:

- When the victim is overcome by force or fear;
- When the victim is unconscious or physically powerless; or
- When the victim is incapable of giving consent because of mental deficiency or disease, or when the victim is incapable of giving consent because of the effect of any alcoholic liquor, narcotic, drug or other substance, which condition was known by, or was reasonably apparent to, the offender.

Sexual battery is a class A person misdemeanor.

Aggravated sexual battery is a severity level 5, person felony.

(d) Except as provided in subsection (b)(3), it shall not be a defense that the offender did not know or have reason to know that the victim did not consent to the battery, that the victim was overcome by force or fear, or that the victim was unconscious or physically powerless. (21-5505)

Prevention and Awareness Campaigns:

Students are made aware of their rights under Title IX as well as information on dating violence, domestic violence, sexual assault and stalking during their new student orientation.

Awareness programs include bystander intervention, primary prevention, and risk reduction.

Faculty and staff undergo Title IX training as part of their annual Professional Development

Procedure:

Disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking.

Reporting – Any person who believes they have been a victim of sexual harassment by a student, staff member, or a guest should immediately file a Grievance Report with the Title IX coordinator. This reporting will remain confidential. If the Title IX coordinator deems that further investigation of the complaint is needed, and a criminal report needs to be filed by the victim the Managing Director will also be notified.

Investigation - To determine whether the alleged conduct is sexual harassment the nature of the sexual advances and the context in which they occurred will be considered. The incident will be fully documented (including date, time, witnesses, and a clear statement of what happened).

Action - Students, faculty, staff, or guests of HWA that engage in sexual harassment is subject to immediate discipline including termination. After the investigation has concluded the complainant and the perpetrator will be provided with the results. Any investigation that is found to have merit will be turned in to the Andover Police Department.

Retaliation – against an individual who has made a formal complaint of sexual harassment is strictly prohibited and will result in termination

False Claims – false claims of sexual harassment can also result in disciplinary actions