

University View Academy

Title IX Training



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Overview of Title IX

- June 23, 1972
 - Title IX of the Education Amendments of 1972
- July 21, 1975
 - Department of Education publishes the Regulations, found at 34 CFR Part 106, which implement Title IX.
 - Regulations can be revised with each new Administration. The Obama Administration issued regulations, the Trump administration has issued regulations, and the Biden Administration will issue regulations.
- May 2020
 - On May 19, 2020, Department of Education publishes the official version of its final Title IX rule in the Federal Register.
- August 14, 2020
 - Effective Date of new Title IX Regulations.
 - Training is now **required** by the Regulations, and that is what we are doing today.

Title IX – What is it?

- Federal law prohibiting sex/gender discrimination against students and employees of educational institutions in education programs and activities.
 - Also prohibits harassment (which includes assault) and retaliation for filing a Title IX complaint or participating in the Title IX process.
- Protects
 - males & females,
 - students & **employees**.
- Requires educational institutions to maintain policies, practices and programs that do not discriminate against anyone based on sex.
- Applies to schools that receive federal funding.

Claims Covered by Title IX

- The School's policy applies to sexual harassment falling within the scope of the Title IX Regulations and is applicable to all members of the School's community, including students, faculty, and staff.
- "Sexual Harassment" is defined in the policy and includes:
 - Quid pro quo sexual harassment (an exchange)
 - Unwelcome conduct so severe, pervasive, and objectively offensive that it denies a person equal access to the School's programs/activities.
 - Sexual assault, dating violence, domestic violence, and stalking.
- "Complainant" – person who is alleged to be the victim of sexual harassment.
- "Respondent" – person alleged to have perpetrated the sexual harassment.

Title IX Coordinator – Role

- The Title IX Coordinator oversees all Title IX claims unless there is a conflict of interest.
- The Title IX Coordinator has the authority to
 - receive,
 - investigate,
 - hear, and
 - resolve reports and/or complaints brought by or against any member of the School’s community that invoke Title IX.
- The Title IX Coordinator authorizes procedures that include specific instructions for reporting, investigating and resolving Title IX complaints and reports.
- The Title IX Coordinator can facilitate an informal resolution process.

Receipt of Complaint

- Title IX Coordinator will promptly contact the complainant to discuss the availability of **supportive measures** and explain the process involved in filing a formal complaint.
- The Title IX Coordinator may **remove a respondent** from the education program or activity on an emergency basis, provided that the Title IX Coordinator undertakes an individualized safety and risk analysis, determines that an **immediate threat to the physical health or safety of any student or other individual** arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.

Supportive Measures

- Supportive Measures Include:
 - 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.

Title IX Procedures

- Reports of Title IX violations will come to the Title IX Coordinator.
- Timeframe for resolving Title IX complaints is 90 days. If it will take longer, the complainant and respondent should be notified in writing.
- Initial Assessment:
 - Title IX Coordinator will determine what immediate issues need to be addressed (i.e. supportive measures & emergency removal).
 - Emergency Removal available after an individualized safety and risk analysis and determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal.

Formal Grievance Process

- The submission of a “formal complaint” (a document filed by a complainant, either physically or electronically, or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the recipient investigate the allegation of sexual harassment) triggers the formal grievance procedure.

Formal Grievance Process

Step #1: Written Notice

- Written notice to the parties with specific information (listed in the School's policy). If you get a claim, we can assist with this.
 - Provide notice of the school's Title IX grievance process;
 - Provide notice of the allegations of sexual harassment potentially constituting sexual harassment as defined in, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview;
 - Contain a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
 - Inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney;
 - Inform the parties of any provision in the recipient's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

Formal Grievance Process

Step #2: The Investigation

- The Investigator will gather all relevant evidence and will keep an investigation file, which may include documents/evidence and interview notes.
- The Investigator **will not filter or exclude evidence or decide weight/credibility of evidence, unless the evidence is clearly irrelevant** (prior sexual history is generally always irrelevant unless it's to show someone other than the Respondent is responsible or offered to prove consent).
 - Avoid using sex stereotypes at all during the process.
 - Must be impartial and avoid all bias.

Formal Grievance Process

Step #2: The Investigation (continued)

- Equal opportunity must be given to the parties to present evidence & to review evidence gathered.
- Adequate notice of interviews of witnesses and parties must be given.
- Investigative Report will be prepared.
 - Given to parties for review for 10 days.
 - Consider comments prior to completion of report.
 - Investigator will complete report and re-send it to the parties.
- Parties will be permitted to submit written, relevant questions.
 - Not about prior sexual behavior unless falling into an exception.

Dismissal

- Upon investigation, a formal complaint must be dismissed under Title IX if:
 - the alleged conduct does not meet the requirements for sexual harassment;
 - the complaint alleges conduct that did not occur in the school’s education program or activity; or
 - the alleged conduct did not occur in the United States.
- A formal complaint may be dismissed under Title IX if:
 - Respondent is no longer enrolled or employed by the school; or
 - Specific circumstances prevent the school from gathering evidence sufficient to reach a determination about the allegation(s).

Adjudication

- Title IX matters will be adjudicated without a hearing.
 - Parties will be given opportunity to submit relevant, written questions.
- The Title IX Coordinator will **not** be a decision-maker.
- The decision-maker must be free of conflict of interest and bias.
- The Title IX Coordinator will identify the decision-maker to the parties 5 days in advance of the adjudication.
 - The parties will have an opportunity to object to an adjudicator if there is a conflict of interest.
- Standard of evidence is “clear and convincing,” which means the evidence is highly and substantially more likely to be true than untrue.
- Written Determination will be issued by the decision-maker.
 - Provided to the parties simultaneously.
 - Will include the specific information listed in the policy.

Appeals

- Both parties are permitted to appeal a determination regarding responsibility and from the dismissal of a formal complaint or any allegations therein on the following bases:
 - A procedural irregularity affected the outcome of the matter;
 - New evidence has been discovered that was not reasonably available at the time of the determination; or
 - A conflict of interest on the part of the Title IX Coordinator, an investigator who compiled the evidence, or a decision-maker, and the conflict of interest affected the outcome of the case.
- Notice to other party that appeal was filed.
- Allow both parties to submit written statement.
- Have a new adjudicator who will issue a written determination.

Range of Sanctions

- Written or Verbal Reprimand
- Training
- Counseling
- Non-Academic Probation
- Suspension
- Expulsion

Informal Resolution

- At any time prior to reaching a determination regarding responsibility, the School may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication.
- A formal complaint must be filed and both parties must agree to participate in an informal resolution process.
- **Cannot offer information resolution to claims by a student against an employee of the School.**
- School must (1) provide written notice, and (2) ensure parties' voluntary, written consent.

No Retaliation

- No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this Policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Policy.
- Complaints alleging retaliation are treated like a Title IX complaint and the procedures outlined in the policy apply.

Confidentiality

- The School should keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness.

