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& ASSOCIATES

Title IX Coordinator- Introduction to Title IX (Tier 0)

Presented by DSA Associates:

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Adrienne Murray

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Intro to Title IX-2020 Regulations

Agenda

- Overview of the Law
- Key Concepts for Compliance
- Title IX Policies, Procedures, and Processes
- Special Considerations and Best Practices
- Case Studies and Practical Application
(throughout)
- Now what? Q&A/Questions/Discussion



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Adrienne Meador Murray, Vice President, Equity Compliance and Civil Rights Services



In January 2014, Adrienne Meador Murray joined D. Stafford & Associates where she currently serves as the Vice President, Equity Compliance and Civil Rights Services after having been affiliated with D. Stafford & Associates as a part-time Associate since 2012 and the National Association of Clery Compliance Officers & Professionals (NACCOP) where she currently serves as Director of Training and Compliance Activities. Murray began her career in municipal law enforcement as a civilian employee with the City of Richmond Police Department (Virginia). She graduated from the Virginia Commonwealth University Police Training Academy and began her career as a sworn police officer for the University of Richmond (UR) Police Department (Virginia). At UR, Murray progressed through the ranks from a night shift patrol officer to Operations Lieutenant (overseeing criminal investigations, crime prevention and patrol) over the span of a decade before becoming the Chief of Police at Davidson

College in North Carolina. Most recently, Murray served as Chief of Police at Trinity Washington University (in Washington, D.C.).

As the Executive Director, Equity Compliance and Civil Rights Services for DSA, Murray builds on her 17-year career in law enforcement in which she became a nationally recognized expert in the field of best practice postsecondary institutional response to the sexual victimization of college women in the United States and in Canada. She is also a trained civil rights investigator and is well respected throughout the country for her ability to aid institutions in understating how to do best practice criminal and civil rights investigations concurrently. She is well known for her work in having provided support, advocacy and criminal investigative services for victims of sexual assault, stalking and intimate partner violence and is a sought-out speaker and investigator. She has expertise in the construction of best practice law enforcement standard operating procedures and training police officers to respond in best practice and trauma-informed ways to victims of sexual assault and intimate partner violence. In her current role, Murray coordinates curriculum development and instruction for national classes, including basic and advanced sexual misconduct investigation classes; an investigation of dating violence, domestic violence and stalking class; and a Title IX Coordinator/Investigator class offered through D. Stafford & Associates. To date, Murray has trained more than 3,500 criminal and civil rights investigators throughout the U.S.

Drawing on her experiences as a trained criminal and civil rights investigator, Murray also oversees independent investigations of complex sexual misconduct cases; conducts audits of Title IX/VAWA



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Compliance; drafts institutional sexual misconduct policies and procedures; and conducts campus-based trainings pertaining to the resolution of sexual misconduct offenses on college and university campuses. Murray frequently presents at regional and national conferences on topics such as the *Sexual Victimization of College Women*, *Understanding Consent and Incapacitation*, and *Responding to Sexual Assault on Campus: Clery Act and Title IX Implications*. Murray also conducts provincially specific sexual misconduct trainings throughout Canada.

Murray is a graduate of the University of Richmond, where she received her Bachelor's Degree in Applied Studies in Human Resource Management and of New England College, where she received her Master's Degree in Campus Public Safety Administration. Murray is also a graduate of the 235th session of the prestigious FBI National Academy where she was awarded a graduate certificate in Criminal Justice from the University of Virginia. She has authored numerous journal articles.



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Catherine Cocks, M.A.
Director, Student Affairs, Behavioral Threat Assessment and
Independent Investigation Services



Ms. Cocks has been a higher education professional for over thirty years. Her work with D. Stafford & Associates focuses on Title IX investigations and training; assessment of student affairs policies, practices and services; and behavioral threat assessment services. Cathy was the Director of Community Standards for the University of Connecticut for 14 years where she managed the student conduct process, which included managing all Title IX cases involving student respondents and chaired the University's student threat assessment team. Prior to that, she held several positions within Residential Life at the University of Connecticut and Roger Williams University.

She is a faculty member for the Association for Student Conduct Administration's (ASCA) Donald D. Gehring Academy teaching on subjects such as ethics, governance, threat assessment, media relations, and higher education trends. She was an affiliated faculty

member for many years in the University of Connecticut's Higher Education and Student Affairs Master's program teaching "The Law, Ethics, and Decision-Making in Student Affairs."

Cathy has co-authored the "Philosophy of Student Conduct" chapter in the 2nd edition of "Student Conduct Practice" (2020) and was a member of the writing team for CAS Standards' Cross-functional Framework for Identifying and Responding to Behavioral Concerns.

Cathy is a Past President of ASCA. She has also served as a Circuit representative, co-chair of the Public Policy and Legislative Issues Committee, and as a member of the ASCA Expectations of Members Task Force. Cathy has served in a variety of leadership roles in NASPA Region I.

She was the 2015 recipient of ASCA's Donald D. Gehring Award. She is a past recipient of the NASPA Region I Mid-Level Student Affairs Professional Award and the NASPA Region I Continuous Service Award.

She earned her Master's degree in Higher Education Administration from the University of Connecticut and Bachelor's degree in Communications/Media from Fitchburg State University.



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Kacy J. Z. Hagan, Associate



Kacy J. Z. Hagan has worked in the Human Resources field for nearly 20 years, serving in a joint HR/Title IX Coordinator role in higher education for 8 of those years. Kacy has as her bachelor's degree in Political Science & International Affairs from the University of Mary Washington and her Master of Business Administration degree with a concentration in Human Resources Management from Strayer University. Kacy holds a number of certifications and credentials, including her SHRM-CP, PHR, Title IX Coordinator certification, Civil Rights Investigator certification, Social Justice Mediation certification, and has earned a certificate from eCornell in Diversity, Equity, & Inclusion for Human Resources.

Kacy currently serves as the Associate Vice President for Human Resources & Compliance and Title IX Coordinator for Lycoming College and previously served as the Director of Human

Resources, Social Equity Officer, and Title IX Coordinator for Mansfield University. In both of those positions, she has been responsible for overseeing Title IX compliance and leading cross-divisional teams of faculty and staff serving as investigators, hearing officers, advisors, and prevention and training professionals. Kacy has served as a guest lecturer on HR and Title IX-related topics at Elmira College, Mansfield University, and Lycoming College. While at Mansfield University, Kacy developed a Title IX investigation report template that was adopted by the Pennsylvania State System of Higher Education as a model for other schools in the system. Kacy started Mansfield University's LGBTQ+ Resource Center and Comfort Canine Program and established the Office of Sexual Misconduct Prevention & Response at Lycoming College.

Kacy particularly enjoys combining her love of training and theatre by creating mock Title IX hearing and mock investigation trainings for Title IX professionals. Prior to working in Title IX, Kacy had an extensive experience leading HR teams and conducting personnel investigations at various not-for-profit and for-profit organizations, and she continues to do Human Resources consulting work to support and develop HR professionals. Kacy has served on a number of non-profit boards, including Alliance for Empowerment, Inc., Capabilities, Inc., Haven of Tioga County, and Hamilton-Gibson Productions, among others, and was recognized for her community involvement and volunteer leadership by being awarded the 2021 NextGen Community Leader Award for the Twin Tiers of Pennsylvania and New York.

Kacy has been an associate with D. Stafford & Associates since 2024, where she serves as an instructor in Title IX, Diversity, Equity and Inclusion and a consultant.



ISSUANCE OF CERTIFICATES FOR COMPLETION

To receive a certificate, attendees must attend the majority of the class and have paid class invoice in full. This applies to both in-person classes and virtual classes. We understand that attendees may need to miss class for a legitimate reason for longer periods of time or may need to leave the room during a class for a few minutes to take a phone call or attend to other business. If an attendee misses a significant amount of the class (depending on the length of the class) or they miss an attendance poll, they will not be issued a certificate of completion for the class.

Attendees should report each absence using the online form provided (each class has its own unique form that is sent to all attendees via email prior to class). Attendees should complete the form twice for each absence: once to record their departure, and again to record their return. Attendees should complete the form immediately before leaving class and as soon as practicable upon their return. If an attendee signs out but does not sign back in, they will be marked absent for the remainder of the day.

The criteria for receiving a certificate is determined based on missed class time and participation in the Attendance Polls that will be launched throughout each day of class. Attendance polls are left up for approximately 5 minutes and the instructor notifies the attendees that a poll is being launched to ensure that everyone who is present can respond to the poll. If an attendee is unable to respond to the attendance poll, the attendee would need to **immediately post "I am here"** in the chat feature within the Zoom platform. That way we can give the attendee credit for being in attendance for that specific poll. Notifying us after the attendance poll has been closed will not allow us to give the attendee credit for being in class during the poll.

Some of our classes may qualify for credit toward a Master's Degree at New England College (and regardless if you decide to seek credit or not, accreditation requirements mandate that we follow the same standards for all class attendees), so we have strict attendance standards that we follow for issuance of a certificate. For DSA & NACCOP, issuance of a Certificate of Completion is verification of attendance.



TITLE IX

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INVESTIGATION CLASS ACRONYMS

- ASR:** Annual Security Report (often used as a reference to the Annual Security Report and/or the Annual Security and Fire Safety Report) that must be published by each institution of higher education.
- CSA:** Campus Security Authority—Individuals on each campus who have been identified by the Department of Education as persons who are required to report crimes that they become aware of to the Reporting Structure at each institution.
- DCL:** Dear Colleague Letter—this is a formal name of the method of communication from the Department of Education to college campuses. It is like naming their official “memo” to campuses.
- FERPA:** Family Educational Rights and Privacy Act—governs the confidentiality of student records.
- FNE:** Forensic Nurse Examiners
- GO:** General Order—some departments describe their operating procedures as general orders
- HEOA:** Higher Education Opportunity Act—the broader law that contains the Clery Act language and the fire safety and missing person language that is in the law but not contained within the “Clery Act” portion of the law.
- HIPAA:** Health Insurance and Privacy and Portability Act—governs privacy of medical records.
- MOU:** Memorandum of Understanding—an official agreement developed between agencies.
- NIBRS:** National Incident-Based Reporting System. 1 of 2 crime reporting systems developed by the FBI, but not the system that you are required to use for Clery Reporting—the only portion of this system that is used for Clery Act purposes are the 4 forcible and 2 non-forcible sex offense definitions.
- OCR:** Office of Civil Rights—the unit of the Department of Education that oversees Title IX Compliance.
- PD:** Police Department
- PS:** Public Safety
- PNG:** Persona-non-Grata—process used by some campuses not keep students from entering certain areas of the campus or the entire campus (administrative process) versus legal bar notice or trespass warning.
- SACC:** Sexual Assault Crisis Center, also known as Women’s Center.
- SANE:** Sexual Assault Nurse Examiner

SART: Sexual Assault Response Team

SOP: Standard Operating Procedures—some departments describe their operating procedures as Standard Operating Procedures. Some call them General Orders, etc...

SWA: Senior Women's Administrator (Athletics)

TWN: Timely Warning Notice

UCR: Uniformed Crime Report. This is 1 of 2 crime statistics reporting systems developed by the FBI. Institutions are required to use UCR Standards for counting and classifying crimes for reporting the Clery statistics.

VAWA: Violence Against Women Act



TITLE IX COORDINATOR – INTRO TO TITLE IX 2020 REGULATIONS



2026 Course



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IMPORTANT ANNOUNCEMENTS



Attendance Polls: Attendance polls will be announced during the class. Please respond to each poll to ensure you receive credit for attending the class. If a poll does not appear, notify the instructor(s) **immediately** via Zoom chat.



Class Absence Form: If you need to step away, use the Class Absence Form to let us know you will be missing class time. Use the form when you leave **and** when you return. The Class Absence Form link is in the logistics email sent before the class.



Host Loss of Connectivity: If the instructor loses connectivity and disconnects, participants will be placed in a waiting room. Remain there until readmitted—do not leave the class.



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A NOTE ON TRAINING



**This is not legal advice,
consult your lawyer!**

AGENDA



Overview of the Law



Key Concepts for Compliance



Title IX Policies, Procedures, and Processes



Special Considerations and Best Practices



Case Studies and Practical Application



Now what?

AN OVERVIEW OF THE LAW





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FEDERAL LAW



Statutes

20 U.S.C.D.
§ 1681-1688



Regulatory Guidance

34 C.F.R. § 106



Sub-Regulatory Guidance

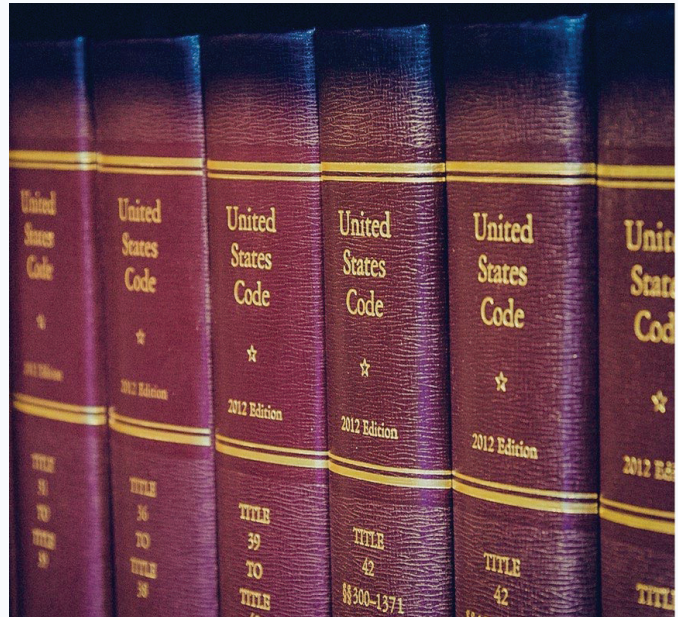
DCLs
Preamble to Regs
Executive Orders
OCR Website



Case Law

Circuit courts
District courts

STATUTES



TITLE IX, EDUCATION AMENDMENTS OF 1972, 20 U.S.C. § 1681

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

§ 1681(a) – EXCEPTIONS

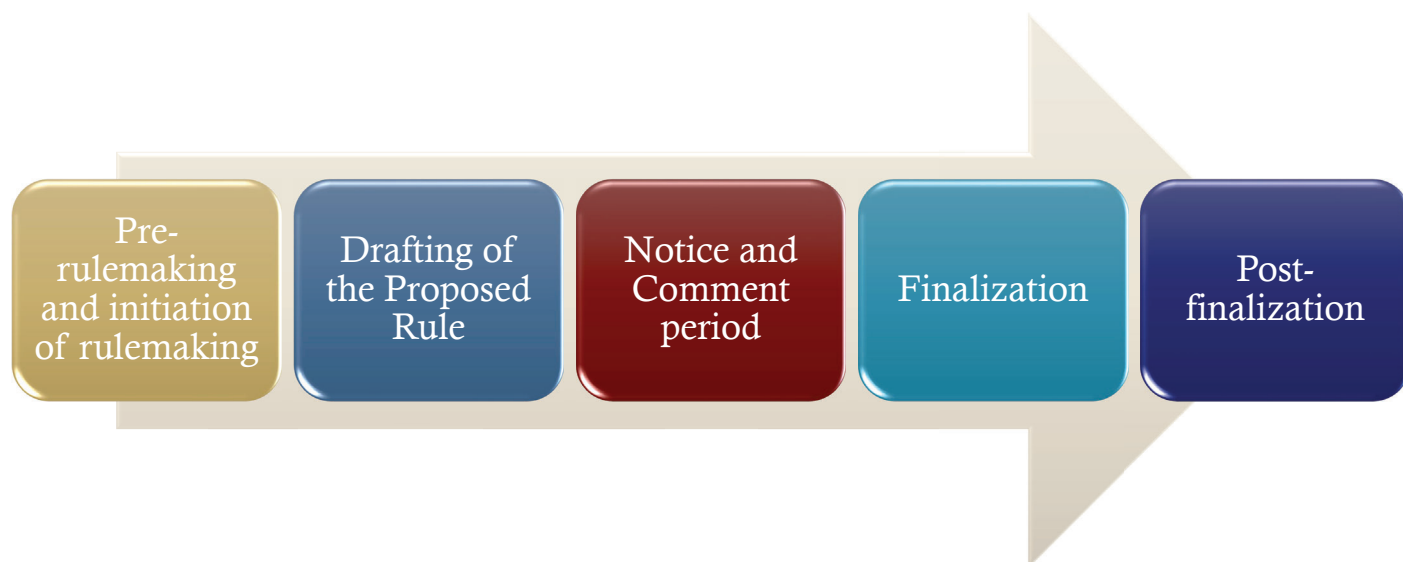
- Admission policies
- Institutions changing from single-sex status
- Religious institutions
- Military services or merchant marines
- Public traditional single-sex institutions
- Social fraternities or sororities
- Voluntary youth organizations
- Boy or girl conferences
- Father-son/mother-daughter activities
- “Beauty” pageants
- Housing

REGULATIONS

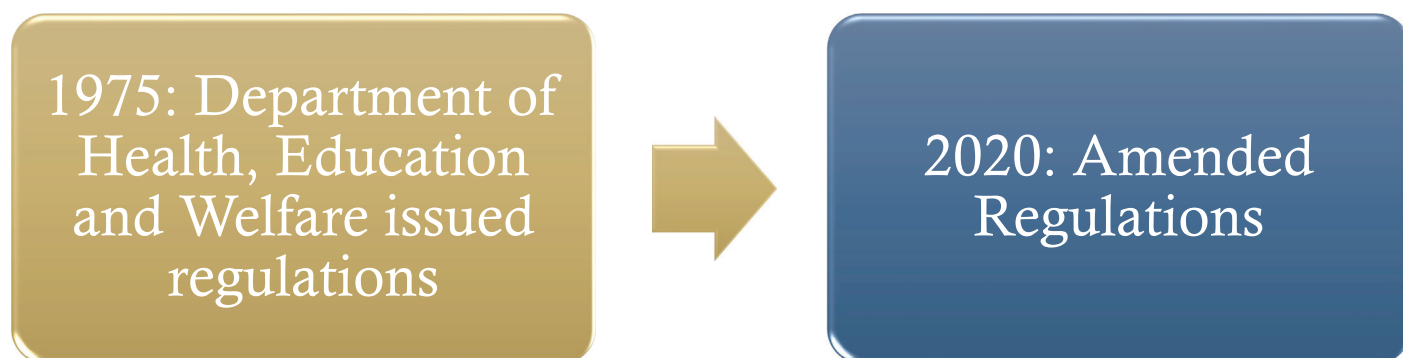


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REGULATORY PROCESS



REGULATORY PROCESS



SUB- REGULATORY GUIDANCE



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

April 4, 2011

Dear Colleague:

Education has long been recognized as the great equalizer in America. The U.S. Department of Education and its Office for Civil Rights (OCR) believe that providing all students with an educational environment free from discrimination is extremely important. The sexual harassment of students, including sexual violence, interferes with students' right to receive an education free from discrimination and, in the case of sexual violence, is a crime.

Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681 *et seq.*, and its implementing regulations, 34 C.F.R. Part 106, prohibit discrimination on the basis of sex in education programs or activities operated by recipients of Federal financial assistance. Sexual harassment of students, which includes acts of sexual violence, is a form of sex discrimination prohibited by Title IX. In order to assist recipients, which include school districts, colleges, and universities (hereinafter "schools" or "recipients") in meeting these obligations, this letter¹ explains that the requirements of Title IX pertaining to sexual harassment also cover sexual violence, and lays out the specific Title IX requirements applicable to sexual violence.² Sexual violence, as that term is used in this letter, refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. An individual also may be unable to give consent due to an intellectual or other disability. A number of different acts fall into the category of sexual violence, including rape,

¹ The Department has determined that this Dear Colleague Letter is a "significant guidance document" under the Office of Management and Budget's Final Bulletin for Agency Good Guidance Review, 77 Fed. Reg. 34233.

EXECUTIVE ORDER-DEFENDING WOMEN FROM GENDER IDEOLOGY EXTREMISM AND RESTORING BIOLOGICAL TRUTH TO THE FEDERAL GOVERNMENT



EXECUTIVE ORDER- IMPROVING EDUCATION OUTCOMES BY EMPOWERING PARENTS, STATES, AND COMMUNITIES



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EXECUTIVE ORDER-KEEPING MEN OUT OF WOMEN'S SPORTS



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18

IF AN EXECUTIVE ORDER ISN'T LAW, HOW CAN VIOLATING ONE LEAD TO A VIOLATION OF TITLE IX?



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19

CASE LAW



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20

KEY CASE LAW SHAPING TITLE IX INTERPRETATION



Gebser v. Lago Vista ISD (1998) – Defined liability standard for institutions



Davis v. Monroe County BOE (1999) – Established deliberate indifference standard



Jackson v. Birmingham BOE (2005) – Confirmed retaliation claims under Title IX



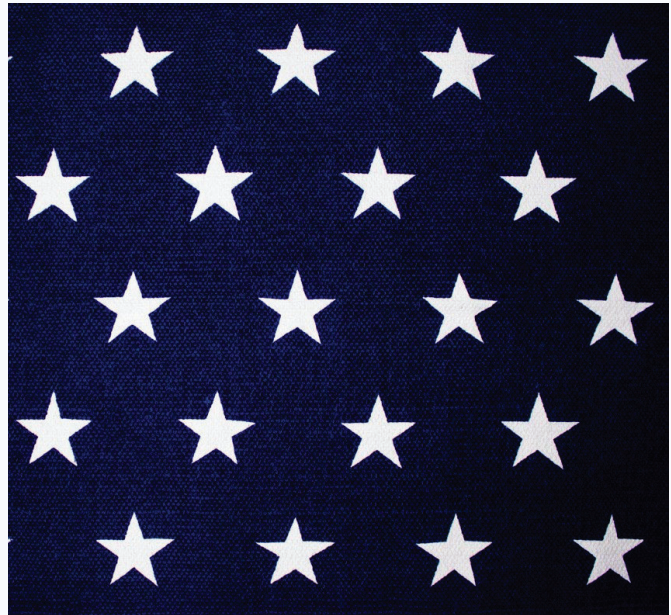
BOSTOCK V. CLAYTON COUNTY



As it relates to the application of the Executive Order on Gender to **employee complaints**, the Bostock v. Clayton County decision by the U.S. Supreme Court in 2020 established that discrimination based on sexual orientation or gender identity is a form of sex discrimination under Title VII of the Civil Rights Act. This decision has significant implications for executive orders addressing gender ideology and employees on campus.

For example, executive orders that attempt to define "sex" strictly as a biological binary (male or female) may conflict with the broader interpretation of sex discrimination established in Bostock. Courts have used the reasoning in Bostock to argue that protections against sex discrimination under Title VII also apply to other federal laws, such as Title IX, which governs education programs. This means that executive orders limiting gender identity protections could face legal challenges for being inconsistent with the precedent set by Bostock.

STATE LAWS



STATE LAWS AND THE REGULATIONS

§ 106.6(b) Effect of State or local law or other requirements. The obligation to comply with Title IX and this part is not obviated or alleviated by any State or local law or other requirement that conflicts with Title IX or this part.



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CONNECTICUT SCHOOL GRAPPLES WITH HOW TO IMPLEMENT 2020 VERSION OF TITLE IX AS MANDATED BY FEDERAL LAW

The school board is in a "quandary" when it comes to reimplementing the 2020 version of the Title IX law to be in compliance with the federal government.

This is because some language in this version of the law contradicts wording in a Connecticut law regarding discrimination and harassment based on gender identity, expression and sexual orientation.

25

SO, YOU'RE A
TITLE IX
COORDINATOR!
NOW WHAT?!

Key Concepts in Compliance

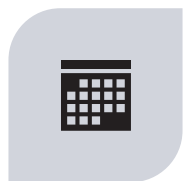


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26

§ 106.44(a) – GENERAL (RESPONSE)

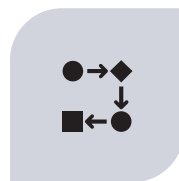
Institutions must respond promptly and effectively when they have knowledge of conduct that **reasonably may constitute sex discrimination** under Title IX.



Promptly



Effectively



Compliantly

Title IX Sex Discrimination

Sex-Based Harassment

- Sexual Assault
- Dating/Domestic Violence
- Stalking
- Hostile Environment
- Quid Pro Quo

Sex Discrimination

- Pregnancy or related conditions
- Admissions
- Recruitment
- Employment
- Athletics

FOR A COMPLAINT TO FALL UNDER TITLE IX

Conduct
Meets
Threshold As
Alleged

Jurisdiction
of Persons

Jurisdiction
of Activity

§ 106.30(a) - SEXUAL HARASSMENT

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;
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).

PRONG 1: QUID PRO QUO

*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*

(§ 106.30(a))



QUID PRO QUO (FROM THE PREAMBLE)



“This for that” harassment



Must be an employee respondent (not volunteer, visitor, student)



“Unwelcome” is subjective element (submission vs. consent)



Does not need to meet pervasiveness element



Limited need to show impact - single instance could jeopardize access

PRONG 2: HOSTILE ENVIRONMENT+ (THE DAVIS STANDARD)



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

(§ 106.30(a))



§ 106.30(a) - HOSTILE ENVIRONMENT+

Referred to in preamble as “The Davis Standard”

Not the same Title VII “hostile environment” or 2001 Guidance

First Amendment protections

Must show the “effectively denies” to reach the bar

PRONG 3: THE VAWA OFFENSES



“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)
(§ 106.30(a))



§ 106.30(a) - THE VAWA OFFENSES



Sexual Assault

Rape
Fondling
Incest
Statutory Rape



Intimate Partner Violence

Dating Violence
Domestic Violence



Stalking

CLERY DEFINITIONS OF SEXUAL ASSAULT

- **Rape** - The penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This offense includes the rape of both males and females.
- **Fondling** - The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental incapacity.
- **Incest** - Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Statutory Rape** - Sexual intercourse with a person who is under the statutory age of consent.

34 CFR 668 Appendix A

DOES NEW NIBRS LANGUAGE REPLACE FONDLING???

ANSWER: WE AREN'T SURE.

OLD: *Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.*

NEW: *Criminal Sexual Contact: The intentional touching of the clothed or unclothed body parts without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation. The forced touching by the victim of the actor's clothed or unclothed body parts, without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation. This offense includes instances where the victim is incapable of giving consent because of age or incapacity due to temporary or permanent mental or physical impairment or intoxication.*

DATING VIOLENCE - 34 U.S.C. 12291(A)(10)

The term “dating violence” means violence committed by a person—
(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship. (ii) The type of relationship. (iii) The frequency of interaction between the persons involved in the relationship.

DATING VIOLENCE - CLERY REGULATION ADDITIONS

(ii) For the purposes of this definition -

(A) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

(B) Dating violence does not include acts covered under the definition of domestic violence.

DOMESTIC VIOLENCE - 34 U.S.C. 12291(A)(8)

The term “domestic violence” includes felony or misdemeanor crimes of violence committed by

- a current or former spouse or intimate partner of the victim,
- by a person with whom the victim shares a child in common,
- a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner,
- by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or
- by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

STALKING - 34 U.S.C. 12291(A)(30)

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

- Fear for the person’s safety or the safety of others; or
- Suffer substantial emotional distress.

STALKING - CLERY REGULATION ADDITIONS

(ii) For the purposes of this definition -

(A) Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

(B) Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

(C) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

TITLE IX JURISDICTION - PERSONS



At the time of filing a formal complaint...the complainant must be participating in or attempting to participate in the education program or activity.” (§106.30(a))



The recipient exercised substantial control over both the respondent and the context in which the sexual harassment occurs.

“ATTEMPTING TO PARTICIPATE”

- Has withdrawn due to alleged harassment and has desire to re-enroll
- Has graduated but intends to apply to new program or participate in alumni programs
- Is on a leave of absence and still enrolled or intends to re-apply
- Has applied for admission

NON-STUDENT OR NON-EMPLOYEE COMPLAINANTS (Q&A)

There are circumstances when a Title IX Coordinator may need to sign a formal complaint that obligates the school to initiate an investigation regardless of the complainant's relationship with the school or interest in participating in the Title IX grievance process.

- Examples:
 - Perpetrator in a position of authority
 - Potential for harm to other students

JURISDICTION OF ACTIVITY – CONTEXT OF EDUCATIONAL PROGRAMS OR ACTIVITIES

Locations, events or circumstances in which the institution has control over the respondent AND context

Or

Any building owned or controlled by a student organization that is officially recognized

And

Occurred in the United States

OFF-CAMPUS JURISDICTION



Hotel
On field trip



Home
While tutoring



Bus
For athletic travel



Virtual
During class



Business
At internship

GROUP WORK: IS THIS COMPLAINT IN OR OUT FOR TITLE IX?

Scenario One: Student A reports that they were sexually harassed by another student at an off-campus party. The harassment included unwanted touching and repeated inappropriate comments. The complainant states that the incident has affected their ability to focus in class and participate in campus activities.

Scenario Two: Employee A and Employee B work in the Financial Aid Office at your institution. Employee A reported to HR that Employee A and Employee B traveled together to a work-related conference and while in the airplane en route to the conference, that Employee B touched Employee A's left breast. Employee A said that "it wasn't accidental" and while she didn't say anything at the time that the remainder of the trip was "horrible" and now she cannot stand to look at Employee B in the office anymore.

Scenario Three: A college admissions tour was making its way through campus during Admitted Students' Day. Public Safety was called to respond because two students (Student F and Student G) participating in the tour were involved in a verbal altercation, and it was reported that one grabbed the other's cell phone and broke it. When Public Safety interviewed both students, Student F stated that he and Student G are dating and that Student G "does this kind of thing all the time." Public Safety separated the students and took an incident report but allowed the students to continue with the tour.

INSTRUCTIONS



Meet in your assigned group.



You will have 15 minutes to discuss the scenarios and determine if they meet the threshold to be "in" or are "out" for purposes of the jurisdiction of Title IX.



Pick a speaker for your group. When we return from our breakouts, you will need to explain to the group what your decision was for each scenario as well as articulate your rationale for your decision.



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PROCEDURAL STEPS UNDER TITLE IX

1. Report
2. Supportive Measures and Right to File a Signed Formal Complaint
3. Signed Formal Complaint Received-Assessment/Evaluation
4. Proceed or Dismiss
5. Proceed-Assign to Investigation or Offer Informal Resolution (Dismissal=Appeal Rights)
6. Investigate
7. Preliminary Report/Evidence Packet
8. Final Report
9. Hearing
10. Appeal

51

UNDERSTANDING WHAT
POLICIES AND PROCEDURES
YOU HAVE THAT COULD BE
APPLICABLE TO YOUR WORK





POLICIES AND PROCEDURES APPLICABLE TO TITLE IX FUNCTION

Title IX Policy

Student Code of Conduct

Faculty Handbook(s)

Student Handbook(s)

Disability Office procedures (students)

HR procedures for employee disability and leave



REPORTING PROCESSES

WHO can someone report/disclose to?

- Title IX
- Confidential Employee
- “Regular” (Responsible) Employee
- Anonymously

HOW can they disclose?

- In person
- Telephone
- Email
- Website/reporting form
- RMS (like Maxient)



EMPLOYEE REPORTING REQUIREMENTS

2001 Guidance

Responsible Employees: Employee with authority to take action; given the duty of reporting misconduct; or student would reasonably believe has this authority

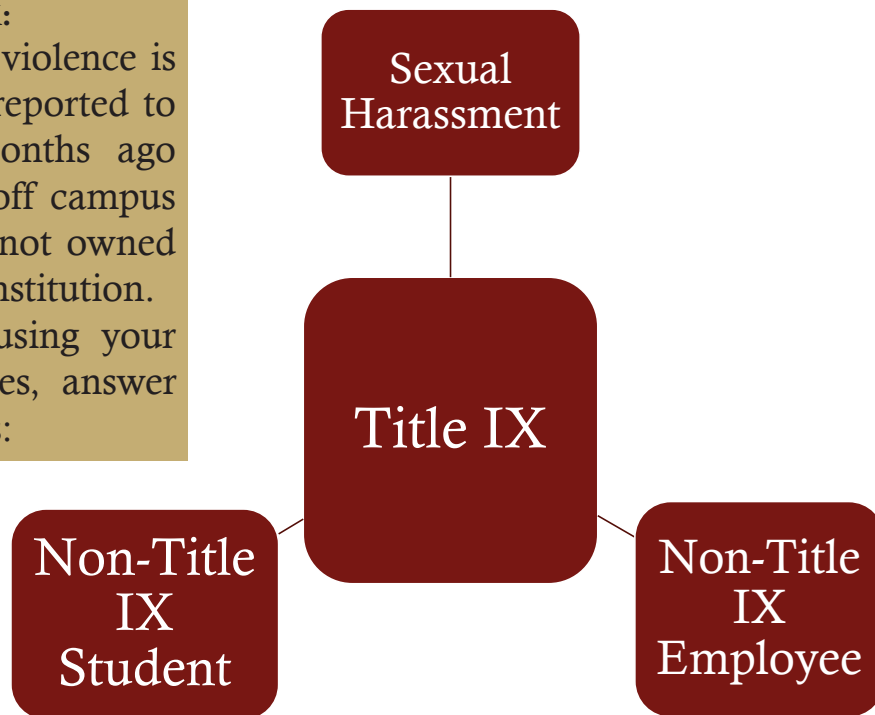


2020 Regulations

Officials with Authority to institute corrective measures

GROUP WORK:

An incident of dating violence is reported to you. It is reported to have occurred six months ago between two students off campus in a private residence not owned or controlled by your institution. In your groups and using your policies and procedures, answer the following questions:



INSTRUCTIONS-15 MINUTES USING YOUR INSTITUTIONAL POLICIES AND PROCEDURES:

1

Is this reported incident “in” or “out” for Title IX?

2

If it is “out” for Title IX, where would this report go at your institution?

3

How many policies and procedures do you have at your institution to be responsive to “non-Title IX” reports of sexual assault, dating violence, domestic violence, or stalking? Make sure you identify policies specific to students, staff, faculty, including if there is a difference in policy for tenured versus non-tenured, etc.

RESPONSIBILITIES RELATED TO PREGNANCY AND ASSOCIATED CONDITIONS



WHAT POLICY AND PROCEDURE GOVERN RESPONSE TO PREGNANCY DISCRIMINATION?



TITLE IX COVERAGE OF PREGNANCY ETC.



STUDENTS:
Admissions



STUDENTS:
Educational
Programs and
Activities



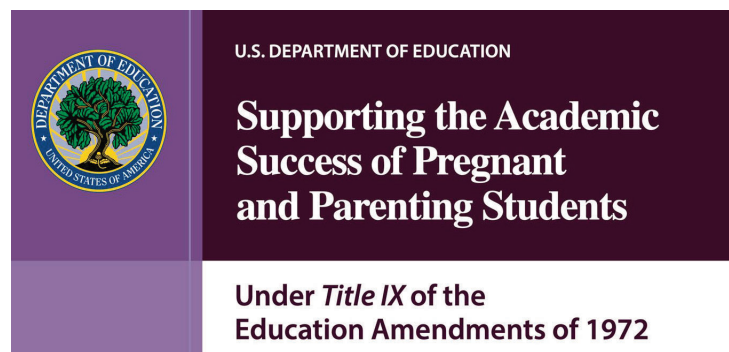
EMPLOYEES:
Student
Employment

USEFUL GUIDANCE & RESOURCES

2022:



2013 (FIRST
PUBLISHED IN
JULY 1991):



PREGNANCY OR RELATED CONDITIONS

Must:

- Treat pregnancy or related conditions in the same manner and under the same policies as any other temporary medical conditions

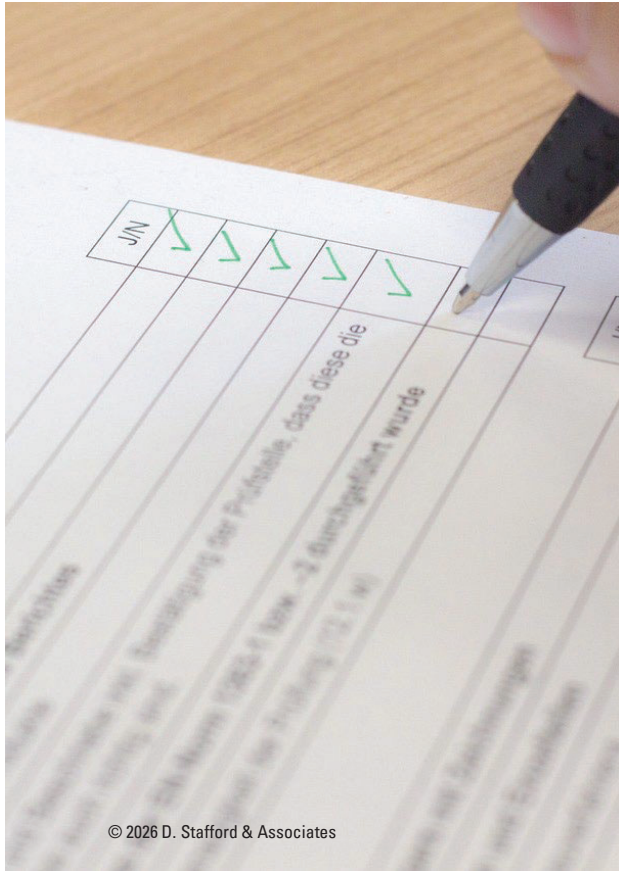
Must Not:

- Discriminate against any person on the basis of pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom.



COMPARABLE TREATMENT

Use the same manner and under the same policies as any other temporary medical conditions



CERTIFICATION TO PARTICIPATE

- Must not require a certification that the student is physically able to participate in the program or activity unless:
 - Level of physical ability or health is necessary for participation
 - Requires such certification for all students participating in the activity
 - Information obtained is not used as a basis for discrimination

65



VOLUNTARY PARTICIPATION

- Must not discriminate based on the student's current, potential, or past pregnancy or related conditions
- A student may voluntarily participate in a separate portion of its education program or activity provided the recipient ensures that the separate portion is comparable to that offered are not pregnant and does not have related conditions.

66

STUDENT EMPLOYMENT: PREGNANCY, ETC.

Follow all employment laws regarding pregnancy & parenting (more than just Title IX and the ADA/504!)

Title VII of the Civil Rights Act of 1964

Pregnancy Discrimination Act

Fair Labor Standards Act

Pregnant Workers Fairness Act

PUMP Act

Americans with Disabilities Act

Section 504 of the Rehabilitation Act



Specific Actions



Provide
Information



Reasonable
Modifications



Voluntary
Separate and
Comparable



Voluntary Leave
of Absence



Lactation Space



Limitation on
supporting
documents

REASONABLE MODIFICATIONS

Reasonable Modifications

- Based on the student's individualized needs
- Student must be consulted
- Cannot fundamentally alter the nature of the program or activity

Student Acceptance

- Student may accept or decline each reasonable modification
- Institution must implement any accepted modification

Examples

- Breaks during class
- Intermittent absences
- Access to online or homebound education
- Changes in schedule or course sequence
- Extensions of time
- Allowing sit/stand/water
- Counseling
- Changes in space or supplies
- Elevator access

VOLUNTARY LEAVES OF ABSENCE

Must allow a voluntarily leave of absence to cover, at minimum, the period of time deemed medically necessary

Must allow a student to use another leave policy if it allows for more time than medically necessary

Must be reinstated to the academic status and, as practicable, to the extracurricular status the student held before the leave

LACTATION SPACE

Must ensure access to a lactation space

May be used for expressing breast milk or breastfeeding as needed

Can't be a bathroom

Clean

Shielded from view

Free from intrusion

LIMITATION ON SUPPORTING DOCUMENTATION

Limitation

Must not require supporting documentation unless it is necessary and reasonable to determine the reasonable modifications or whether to take additional actions

Examples - Not Necessary

- Needs a bigger uniform
- Supporting documentation has previously been submitted
- Carrying or keeping water nearby
- Using a bigger desk
- Sit or stand
- Take breaks to eat, drink, or use the restroom
- Lactation needs

GROUP WORK: 15 MINUTES (ODD GROUPS)

Pregnancy-Related Complaint

- Sonia is a graduate student at your institution. She gave birth in the fall and has returned to school this spring semester. She is actively breastfeeding her baby.
- She is enrolled in a science course with a laboratory and must leave the lab periodically to pump/express her breastmilk.
- She has concluded that because of the distance from the classroom to the lactation room that this is prohibitive as she is missing too much class time, so she opts to purchase a wearable breast pump. She applies it to her breasts prior to coming to class and she is able to sit in class and the machine pumps her breasts allowing her to remain in class. The machine is completely covered by her clothing and is nearly silent.
- She mentioned to her faculty member that once per class she would need to be excused so that she could empty her breastmilk into bags and clean her pump.
- When her faculty member learned that Sonia was wearing the pump in class, she stated, in front of the class, that it was “not hygienic”, was “disgusting”, and that “under no circumstances should Sonia wear the pump to her class again. Citing rules for a “safe and clean lab”, Sonia was upset but understood, although she felt very disparaged by the embarrassment caused by making such a public statement about her.
- Her friend told her to report to Title IX.

What are we required to do?

- In your groups, discuss the mini-case study.
- What are Sonia’s rights?
- What are the institution’s obligations?
- What should you do as the Title IX Coordinator about this lactation-related challenge?
- Do you also find any reportable sex-based harassment in this case study? If so, what is it and how do you respond?

GROUP WORK: 15 MINUTES (EVEN GROUPS)

Pregnancy Complaint

- Samia is a student at your institution and is majoring in English. She is 4 months pregnant. She reports to her program chair that she has been struggling recently due to pregnancy-related symptoms. Specifically, once she got through bouts of initial morning sickness she thought she was ok but is now experiencing bouts of it again as well as extreme nausea. She has missed a couple of classes due to feeling ill and repeatedly has to leave class to excuse herself to the restroom. Samia’s faculty member has graded her down on class participation because of her absences and told her that she needs to bring in a doctor’s note to get an excused absence. She also told Samia that she is not permitted to make up any work she missed during her absences.

What are we required to do?

- In your groups, discuss the mini-case study.
- What are Samia’s rights?
- What are the institution’s obligations?
- What should you do as the Title IX Coordinator?

REPORT OUT!



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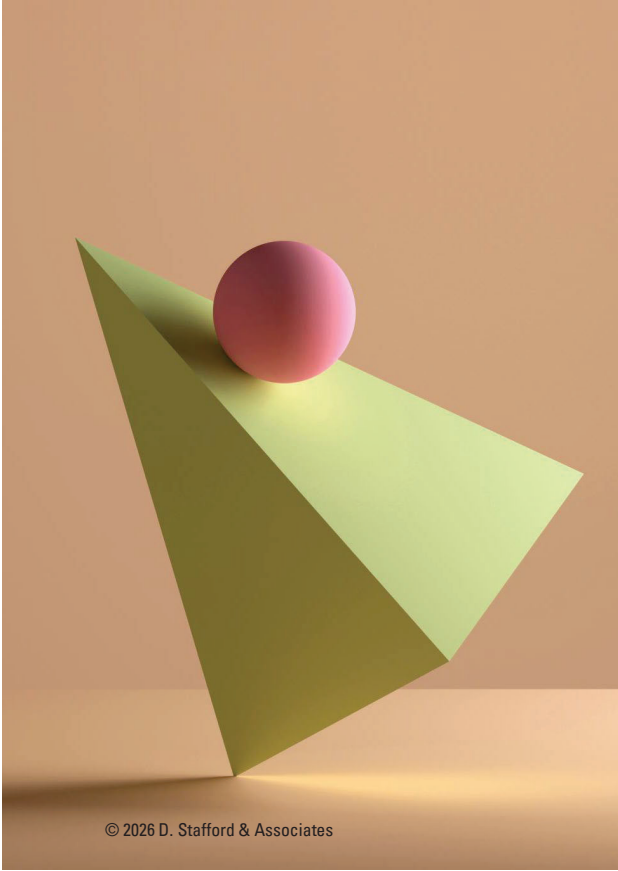


SPECIAL CONSIDERATIONS AND BEST PRACTICES



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SYSTEMS, STRUCTURES, AND PROCESSES

1. Assessment of enterprise compliance
 2. Assessment of staff and functions
 3. Identification and collaboration with key campus stakeholders
 4. Reporting processes
 5. Systems for reporting, complaining, modifications, referrals
 6. Policy and procedure familiarization
 7. Setting up recordkeeping
 8. Calendar/spreadsheet of tasks
 9. Website
-

77



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ASSESSMENT OF ENTERPRISE COMPLIANCE

What's required of us?
What's in place?
What have we been doing?
What's going well?
What could/needs to change?
Who do I need help from?

78

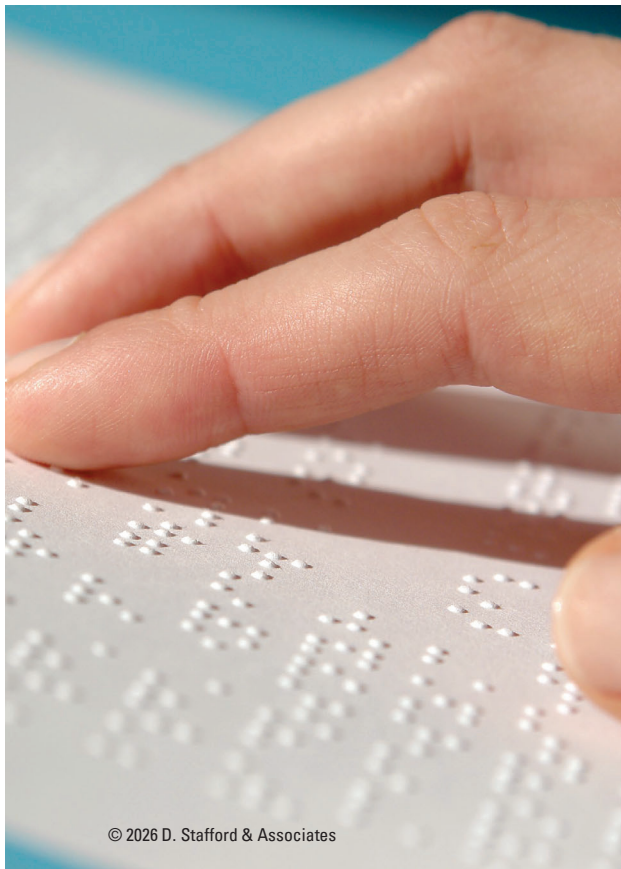


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ASSESSMENT OF STAFF AND FUNCTIONS-WHO IS ON MY TEAM?

- Deputy Title IX Coordinator(s) and function
- Investigators
- Decisionmakers
- Informal Resolution Facilitators
- Confidential Employees
- In house Advisors (if applicable)
- Liaisons (optional, but helpful)

79



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IDENTIFICATION AND COLLABORATION WITH KEY CAMPUS STAKEHOLDERS

- HR
- Student Conduct
- Disability Services
- Faculty
- *DEI
- Multicultural Center
- *LGBTQ+ Org
- Athletics
- Wellness Office
- Counseling and Psych Services

80



POLICY AND PROCEDURE FAMILIARIZATION

What policies does your institution have that could be used to resolve complaints of sex-based harassment or discrimination?

Title IX policy and procedure(s)

Student Conduct

Human Resources

Individual Handbooks (law school, hospital, etc.)

What else?



CALENDAR/SPREADSHEET OF TASKS

- Evaluation of prior year and modifications to existing systems/structures/practices to ensure no recurrence of sex discrimination
- Annual Notice of Nondiscrimination
- Statement of Prohibition of Sex Discrimination in all publications
- Identification of Reporters
- Employee Training
- Student Education
- Reporting Requirements (institution, State and Federal law requirements)
- Updating of policies/procedures/publications/websites/etc.
- Meeting with key stakeholders
- Prevention and awareness calendar of programming



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AUDIT TRAIL

Create an audit trail that captures the institution's response to reports and complaints.

The audit trail should include pertinent info that can easily be relayed to OCR in the event of a complaint.

Name or case number

Type of complaint

Supportive measures provided

Proceeding with Complaint or not (and justification)

Formal or informal resolution

Major Dates

Resolution

83

WEBSITE-THINGS TO CONSIDER

Title IX, Harassment Discrimination

This webpage is a comprehensive resource tool to support all members of our College community. Northwest State v have experienced sexual misconduct or another type of discrimination or harassment based on a protected class, an been accused of the same, to understand how the College addresses these issues. This includes each party's optior as well as the College's legal responsibilities.

If you are in an immediate crisis, call 911.

What is Title IX?

Title IX is a federal law that prohibits sex-based discrimination in education programs and activities receiving federal assistance. "Education programs and activities" include all of a school's operations, including employment and schoc athletics and activities (on or off campus).

Title IX protects students, employees and third parties with a relationship to the College, whether on or off-campus. T

- Students (including high school students participating in Northwest State programs and visiting students)
- Faculty, staff, and interns
- Applicants for employment or education
- Campus visitors

Pregnant, Lactating, and/or Parent Learners (Or Related Conditions)

You cannot be discriminated against for your status as a pregnant, lactating, and/or parenting learner (or due to associated with pregnancy, like abortion, miscarriage, IVF/fertility treatments, etc.) Additionally, Title IX requires reasonable modifications to learners who need them due to pregnancy or related conditions for as long as is me not need a doctor's note to request reasonable modifications.

Lactation Room On-Campus

Did you know that NSCC has a Lactation Room available on campus? We do! It is located in A201B. For more i how to gain access and reserve the space, click the button below.

*If you require a place to pump and the lactation space is not available during the times you usually need to pun titleix@northweststate.edu and tell the Title IX Coordinator what challenge you are experiencing so we can remedy it. Alternately, if the room is occupied and you need a space to pump.

RESERVING THE LACTATION ROOM

Cleveland Office Office for Civil Rights U.S. Department of Education 1350 Euclid Avenue, Suite 325 Cleveland, OH 44115-1812
Telephone: 216-522-4970 FAX: 216-522-2573; TDD: 800-877-8339 Email: OCR.Cleveland@ed.gov

§ 106.8(c) – NOTIFICATION OF NONDISCRIMINATION

(c) Notice of nondiscrimination.

A recipient must provide a notice of nondiscrimination to students; parents, guardians, or other authorized legal representatives of elementary school and secondary school students; employees; applicants for admission and employment; and all unions and professional organizations holding collective bargaining or professional agreements with the recipient.

CONTENTS OF NOTICE OF NONDISCRIMINATION

- (i) The notice of nondiscrimination must include the following elements:
 - (A) A statement that the recipient does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX and this part, including in admission (unless subpart C of this part does not apply) and employment;
 - (B) The contact information for the Title IX Coordinator, including the Title IX Coordinator's name or title, office address, telephone number, and email address;
 - (C) A statement that inquiries about the application of Title IX and this part to the recipient may be referred to the Title IX Coordinator, to the Assistant Secretary, or both.
- (ii) The recipient must prominently display the notice of nondiscrimination on its website, if any, and in each handbook or catalog that it makes available to persons entitled to a notification under paragraph (c) of this section.

WHAT NOW? QUESTIONS AND DISCUSSION



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87



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88



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The Alliance is a dedicated affinity group through which Title IX and Equity Professionals, and the practitioners who support and/or supervise them, can benefit from NACCOP's expertise in complying with the Clery Act, Title IX, and other civil rights laws that affect their work.

BENEFITS OF JOINING THE ALLIANCE

- **Access to NACCOP's annual 9 on IX webinar series at no additional cost (a \$710 value)**
 - These 60-minute succinct webinars will offer legal insight and practical guidance on Title IX topics from experts who have served or are currently serving as active practitioners on college and university campuses.
- **Alliance-Exclusive Professional Development Opportunities such as the Title IX & Equity Open House Discussion Series**
 - An Alliance-exclusive virtual open house will be held bi-monthly (every other month, 6 sessions annually) to engage with experts from NACCOP's partner organization, D. Stafford & Associates, as well as other invited guests, to discuss current trends and issues. Each open house will focus on a specific topic for discussion and participants will be encouraged to engage in the conversation.
- **Access to Alliance-Exclusive Whitepapers regarding Title VI, VII, and IX**
- **Connect and collaborate with other Title IX and Equity Professionals via an Alliance-restricted Listserv**
- **Discounted Professional Development Opportunities**
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