



Deputy Coordinator & Advising Training

October 7 & 8, 2020



Overview

- Major Changes to Title IX Processes
- The Processes
- Deputy Coordinator Role
- Advising Role

Major Changes to Title IX Process

Jurisdiction

Schools Response

Live-Hearing Process

Appeals

Informal Resolution

Additional Updates

Jurisdiction:

The jurisdiction of what triggers the Title IX obligation to investigate an incident has been narrowed.

- **Actual Knowledge:** The Title IX Coordinator or another official with the University with authority to Institute Corrective Measures.
- **Definition of Sexual Harassment:** The federal definition has changed and is specific.
- **Educational Program:** The incident must occur on during an educational program.
- **In the US:** the incident must have occurred in the United States.

- **Liability:** Deliberate Indifference- A university must respond promptly, must provide supportive measures, must give notice to respondent, must follow grievance process, and must not restrict 1st amendment rights.
- **Formal Complaint Filed** – a formal complaint must be filed and signed by complainant or the Title IX coordinator for a formal investigation to take place.
- **Investigation** – The investigation process is not initiated until the formal complaint is filed. Additionally, if at any point during the investigation, it is learned that the incident does not meet jurisdictional requirements, then the investigation may be closed.

Schools Response

Live-Hearing Process

- **Advisor Requirement** – Students are given the option of choosing an advisor to help them through the Title IX formal investigation process (this may be an attorney). If a student cannot find an advisor or afford an advisor, then the University must provide them one.
- **Cross Examination** – Parties will be subject to cross examination that shall take place during the live hearing process.
- **Relevant Questions** – Questions asked in cross-examination must be relevant to the incident alleged. The Hearing officer shall determine if a question is relevant.
- **Hearing Officer** – A hearing officer (not the Title IX coordinator or investigator) shall be the decision-maker in a Title IX proceeding.
- **Timelines and Turnover of Evidence and Investigator's Report** – The new regulations set out certain timelines for providing an investigator report and turning over evidence before the live hearing. Additionally, new regulations require turnover of all evidence to both parties and their advisors for review.
- **Rape Shield Protections** – The new regulations provide for protections regarding sexual history.

- The new regulations require **3 appeals** options.
 - Procedural Irregularity
 - New Evidence that was not reasonably available at the time the determination that could affect the outcome of the matter
 - The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias that affected the outcome of the matter.

Appeals



Informal Process and Informal Resolution

- Both Parties must opt-out of the formal process and agree to the informal process.
- Should either party choose to not proceed with the informal process then the process automatically reverts to the formal process which includes the live hearings, etc.
- Complaints made where an employee is involved cannot opt-out of the formal process.
- Prior to filing a formal complaint a complainant may choose to proceed with an informal resolution.

- 7-year retention policy requirement.
- Reporting Online
- Additional Training for hearing officers, Title IX coordinators, Deputy Coordinators, and Advisors.

Additional Updates:

The Processes

- **The Formal Complaint Process**
- **The Investigation Process**
- **The Hearing Process**
- **The Decision Process**
- **The Appeals Process**
- **The Sanction Process**

The Deputy Coordinator Role

- Investigating Title IX Complaints when a conflict of interest with the Title IX Investigator has been raised.
- Assisting in Investigations
- Helping the Title IX Coordinator manage a hearing

The Advisor Role

- Understanding the entire Sexual Misconduct Policy and the Sexual Misconduct Adjudication Processes (SMAP)
- Assisting complainants and respondents through the entire Title IX process
- Advising parties of the process and helping them with reviewing evidence, responding to the investigator's report, and questioning and cross-examining witnesses.