

2026 Title IX Training

Kansas Board of Regents Institutions & Kansas Community Colleges

Hosted by Emporia State University

EMPORIA STATE
UNIVERSITY

Meet Your Facilitator



Emporia State University
Title IX Coordinator

Jessica Ward, PhD

Jessica Ward is a Senior Solutions Specialist at Grand River Solutions with a career rooted in Title IX, student conduct, residence life, and diversity, equity, and inclusion education.

Before joining Grand River Solutions, Jessica served as Associate Vice President/Dean of Students/Title IX Coordinator at the University of Indianapolis, where she oversaw Title IX compliance, led the Behavioral Intervention Team, and managed all aspects of residence life. Prior to that, she was Assistant Director for the Office of Student Standards at Eastern Illinois University and also served as Coordinator for Gender and Sexual Diversity, where she overhauled the Safe Zone training program and created a Trans and Differing Abilities inclusive Center for Gender and Sexual Diversity.

Jessica holds a Ph.D. in Leadership in Higher Education from Indiana State University, a Master's in Higher Education Administration from the University of Kansas, and a Bachelor's in Rhetoric and Political Science from Georgia College and State University.

Meet Your Facilitator



Emporia State University
General Counsel

Tyler Pettigrew, J.D.

Tyler Pettigrew serves as General Counsel for Emporia State University, where he advises the University on Title IX, employment law, student affairs, institutional compliance, and risk management. He also oversees the University's emergency management, threat assessment, Clery Act, and continuity planning efforts.

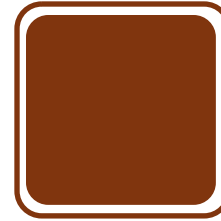
In his role, Tyler regularly provides training and guidance to campus leaders on responding to discrimination, harassment, and other complex legal and compliance matters.

Who is in the room?

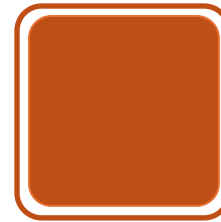


- Name
- Role
- Institution
- Current Hobby/Interest

Framing Today's Conversation



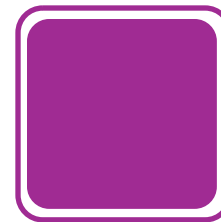
Be mindful



Honor privacy



Assume positive
intent



Any suggestions?

Agenda

- Title IX Basics
- Trauma Informed Practice
- Intake
- Assessment and Allegations
- Supportive Measures
- Resolution Options
- Hot Topics
- Wrap Up

Title IX Basics



Title IX

Title IX of the Education Amendments Act of 1972

”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.”

20 U.S.C. § 1681 (1972).

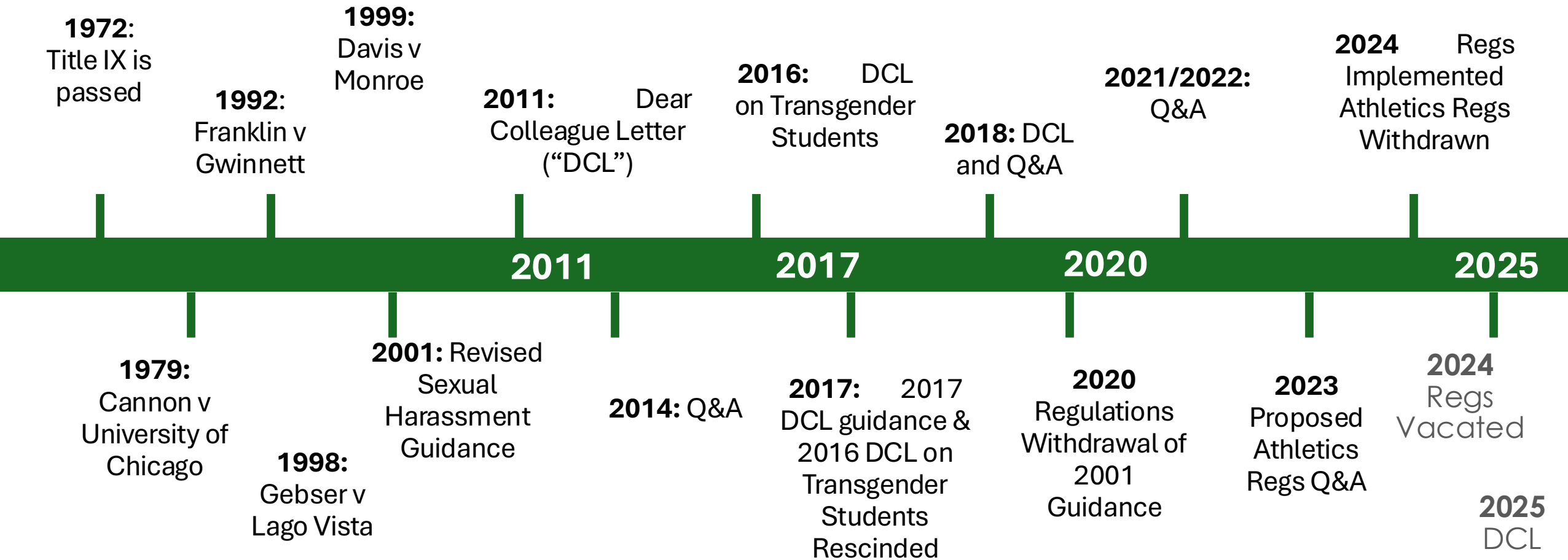


TITLE IX APPLIES TO ALL FORMS OF SEX DISCRIMINATION

- Sexual Harassment
- Achievement Awards
- Athletics
- Benefits
- Financial Aid
- Leaves of absence and re-entry policies
- Opportunities to join groups
- Pay rates
- Recruitment
- Retention Rates
- Safety
- Screening Exams
- Sign-on Bonuses
- Student and Employee Benefits
- Thesis Approvals
- Vocational or College Counseling
- Research opportunities

The History of Title IX

A TIMELINE



The Title IX Regulations

Sexual Harassment Only

1

Narrows the definition of sexual harassment;

3

Narrows eligibility to file a complaint;

2

Narrows the scope of the institution's educational program or activity;

4

Develops procedural requirements for the investigation and adjudication of sexual harassment complaints, only.

Types of conduct



SEXUAL HARASSMENT: *DEFINED IN 1996, 2001, & 2011 GUIDANCE*

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- (1) 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, OR objectively offensive** that it **effectively denies** a person equal access to the recipient's education program or activity; or
- (3) Sexual assault is a form of sexual harassment

*Dating Violence, Domestic Violence, Stalking not included pre 2020 regulations.

SEXUAL HARASSMENT: *SECTION 106.30*

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; or
- (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).

“SPECIFIC OFFENSES” (VAWA)

These are conformed to
VAWA Amendments to the Clery
Act



DATING VIOLENCE

Definition:

- “Violence committed by a person
- Who is or has been in a social relationship of a romantic or intimate nature with the victim;
- The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of:
 - The length of the relationship;
 - The type of relationship; and
 - The frequency of interaction between the persons involved in the relationship”

DOMESTIC VIOLENCE

The term domestic violence is a “felony or misdemeanor crimes of violence” committed by:

- A. A current or former spouse of the victim
- B. A person with whom the victim shares a child in common
- C. A person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner
- D. A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the violence occurred
- E. Or 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 in which the crime of violence occurred

SEXUAL ASSAULT

Sexual Assault includes Rape, Sexual Contact, Incest, and Statutory Rape.

These definitions come from the FBI.

SEX OFFENSES

A. 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 or by a sex-related object, without the consent of the victim.

B. Sexual Contact (Replaced Fondling) — The intentional, nonconsensual touching of the clothed or unclothed body parts of another person for the purpose of sexual degradation, sexual gratification, or sexual humiliation. Sexual Contact also includes the forced, nonconsensual touching by the victim of the actor's clothed or unclothed body parts for the purpose of sexual degradation, sexual gratification, or sexual humiliation.

C. Incest — Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

D. Statutory Rape — Sexual intercourse with a person who is under the statutory age of consent.

STALKING

- The term stalking means “engaging in a course of conduct directed at a specific person that would cause a reasonable person to—
 - A. fear for the person’s safety or the safety of others; or
 - B. suffer substantial emotional distress.

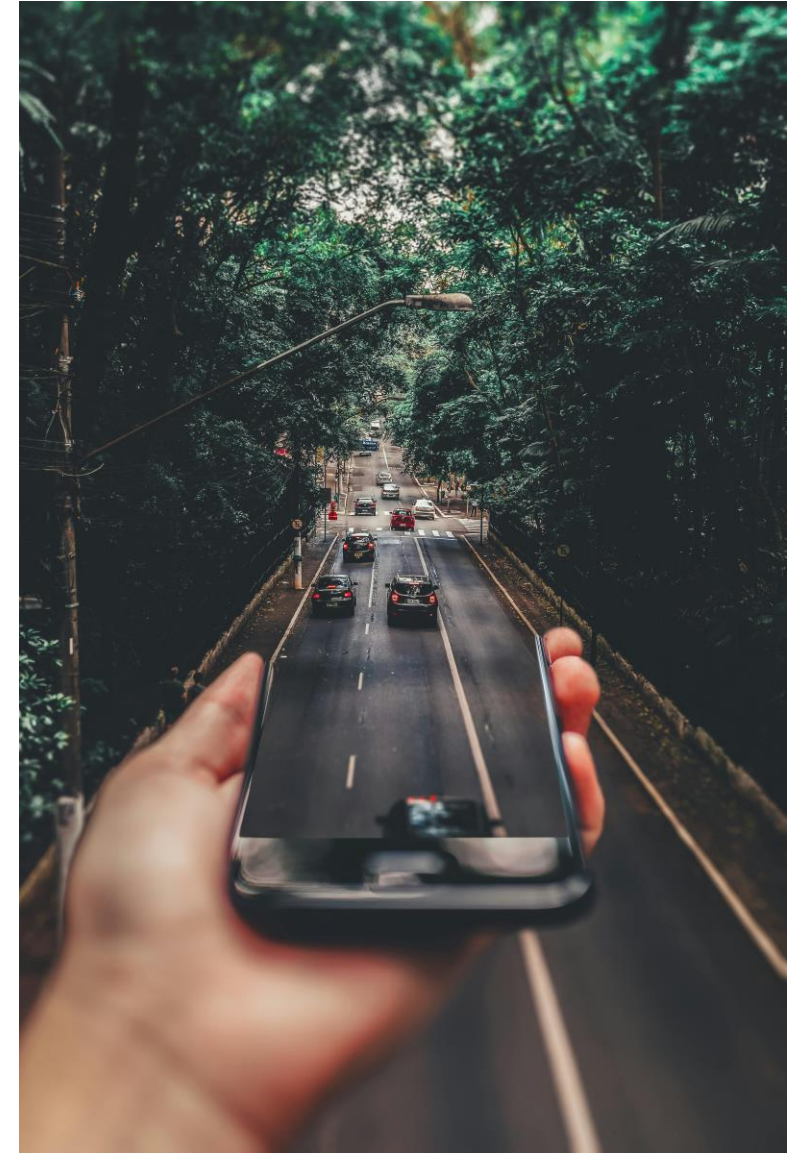


EXAMPLE: STALKING

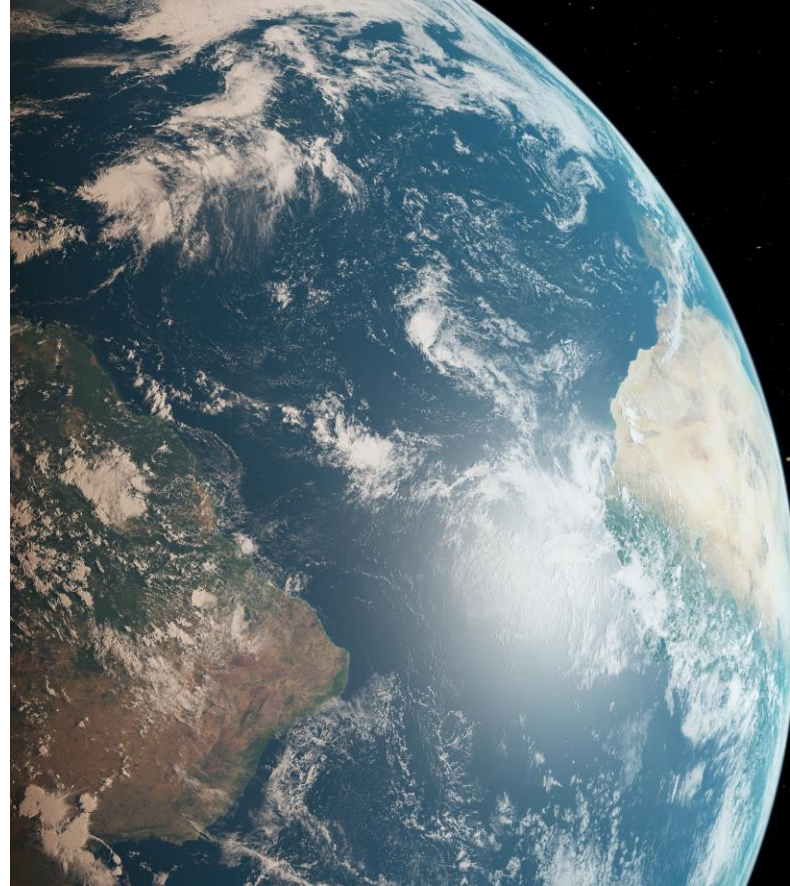
- A student shares that another student is staring at them at the dining hall which is making them uncomfortable.

Complainant says that they see the other student around campus a few times a week. There have been no communication attempts by Respondent.

- Will you address under Title IX? Why or why not? What other information do you need to know?



Location and Geography





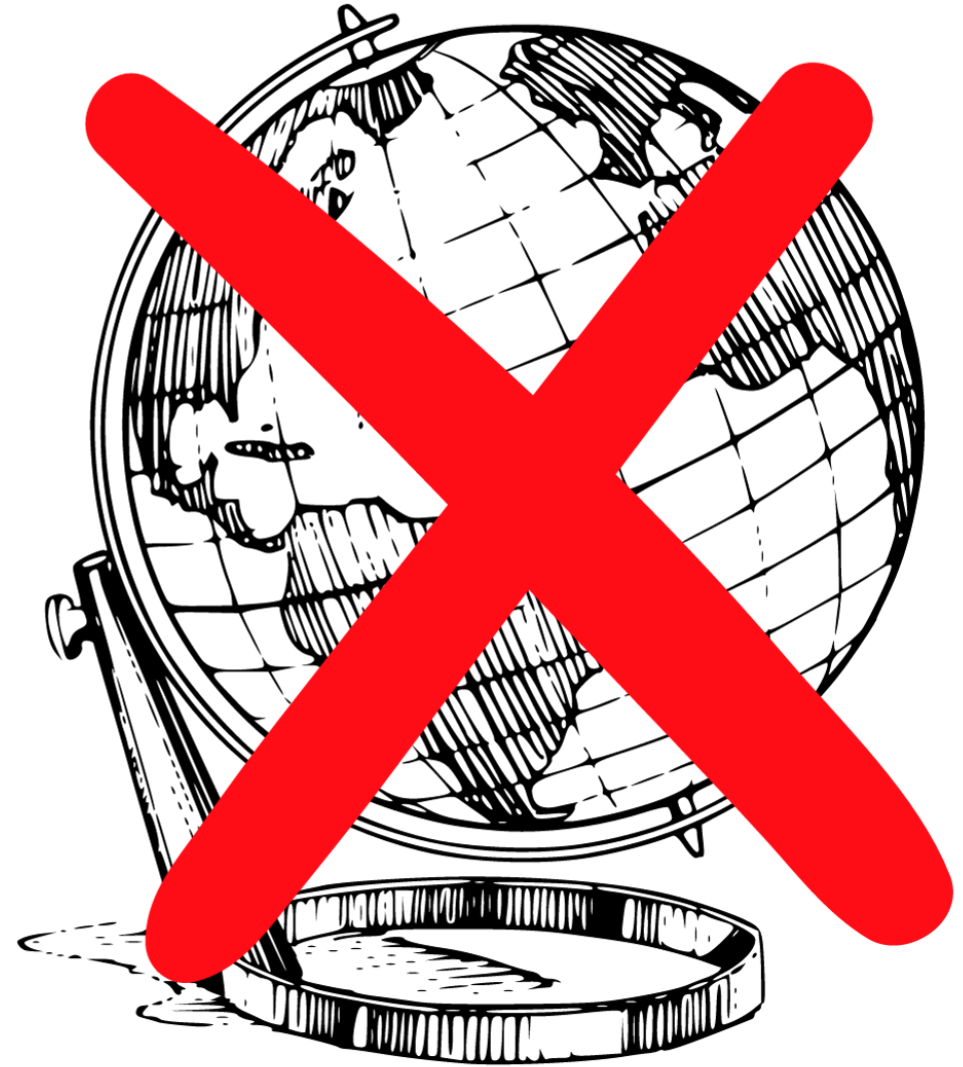
COVERED GEOGRAPHY

Includes locations, events, or circumstances over which the recipient exercised **substantial control** over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution.

- ✓ On campus or in a building owned or controlled
- ✓ Off-campus incident that occurs as part of the institution's operations
- ✓ Institution exercised substantial control over the respondent and the context of alleged sexual harassment that occurred off campus pursuant to § 106.44(a); or
- ✓ The incident of sexual harassment occurs at an off-campus building owned or controlled by a student organization officially recognized by a postsecondary institution

NOT COVERED GEOGRAPHY

- ✗ Off campus conduct, even if it has an impact on the educational program or activity;
- ✗ Conduct that occurs outside of the United States.



WOULD THIS FALL UNDER TITLE IX?

Jay, a 2nd year student, comes into the Title IX Office on Monday morning requesting a meeting, sharing that "Pat sexually assaulted me at a party on Saturday at the Theta Delta House."

Some members of the Theta Delta society rent a house off-campus and they frequently throw parties..

Jay is alleging "Pat sexually assaulted me when I was drunk at the Theta Delta House."

- Would this fall under Title IX?
- Why or why not?
- What other information would you need to find out to make this determination?



Required identity



COVERED INDIVIDUALS

ELIGIBILITY FOR TITLE IX'S PROTECTIONS:

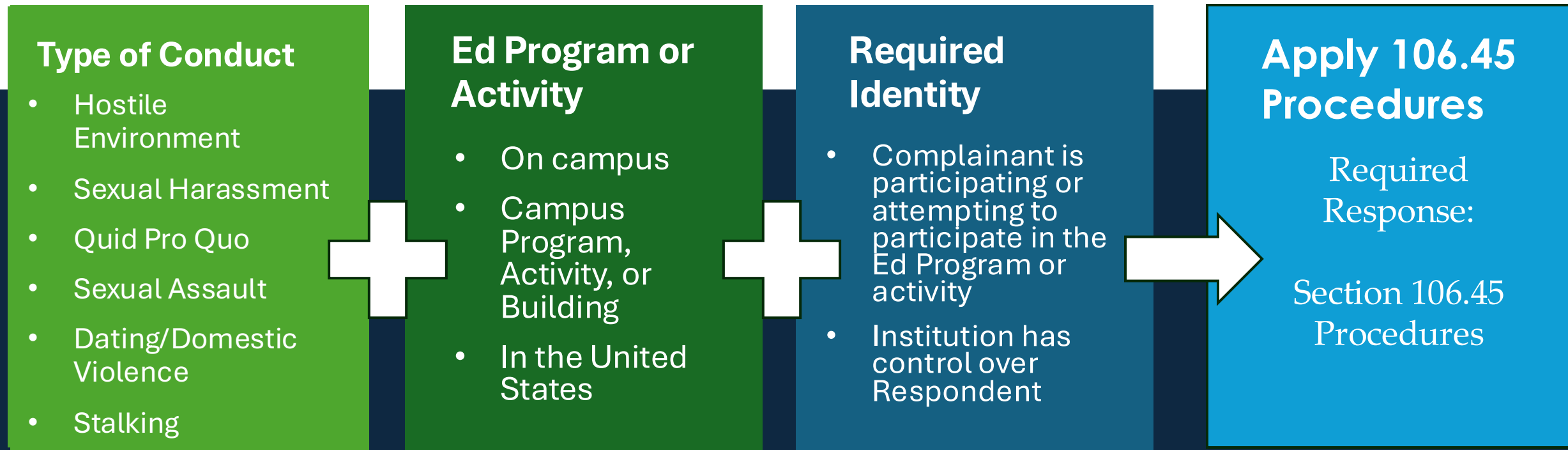
“At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the recipient with which the formal complaint is filed.” 34 C.F.R. § 106.30

- Applicant
- Enrolled or Employed
- Accepted or Hired



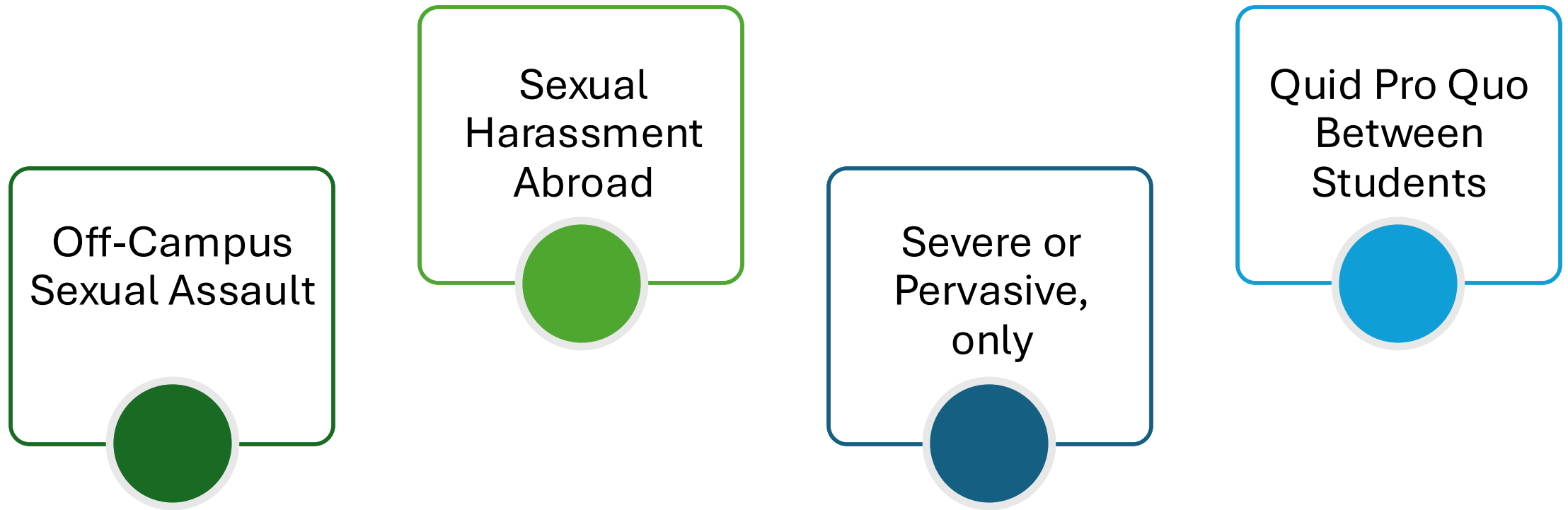
Title IX Application

(Post-May 2020)



Conduct Falling Outside the Scope of Title IX

- Apply other institutional policies and procedures
- Ensure that those policies and procedures comply with VAWA/Clery, other intersecting federal and state laws



Additional regulatory requirements



ACTUAL NOTICE

Institution must respond when it has:

“Actual Knowledge...”

- When “an official of the recipient who has authority to institute corrective measures” has notice
- e.g., Title IX Coordinator

...of “sexual harassment that occurred within the school’s “education program or activity...”

- “Includes locations, events, or circumstances over which the recipient exercised substantial control” over the respondent and the context in which the sexual harassment occurred
- Fact specific inquiry focused on control, sponsorship, applicable rules, etc.

...against a “person in the United States”

- So, not in the study abroad context

A Narrowed Scope of Institutional Responsibility



Initial Response Requirements



1. Receipt of Report

2. Outreach/Response from Title IX Coordinator

3. Support Measures, whether or not a Formal Complaint is filed

4. How to File

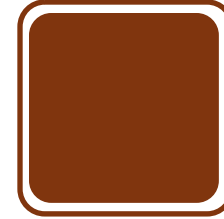
5. Options for Resolution

The Importance of Understanding the Potential Impact of Trauma

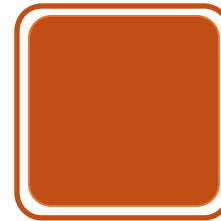


Misapplication of Trauma-Informed Practices

It is a misapplication of trauma-informed principles to allow potential evidence of trauma to:



1. Influence the interpretation of a specific item of evidence



2. Substitute for missing evidence



3. To serve as a justification for not doing a full and thorough investigation



4. Cause a biased belief in the veracity of one or more party

What is trauma?



Trauma

An event that is experienced as terrifying, horrifying, or life-threatening and that is coupled with an actual or perceived lack of control.

What is an example of an event that might cause a traumatic response?



Examples of Events that Might Trigger a Traumatic Response

Sexual assault

Physical assault by a stranger

Physical assault by an intimate partner

A car accident

Accident that causes serious injury or death

Robbery

Significant medical event

COGNITIVE IMPACT

When trauma occurs, there are very real changes in brain functioning that may impact a person's ability to form memories and to recount their experience.

Common Characteristics of Disclosures from a Trauma-Impacted Brain

Inconsistent

Non-linear

Fragmented

Lacking in detail

New information added

Affect is
unexpected

Trauma Affect=Lack of Credibility?

Historically, the seemingly inconsistent behaviors that frequently accompany disclosures of sexual assault and interpersonal violence resulted in the belief that the victim was being dishonest.

Inconsistencies

Lack of Detail

Non-Linear

Fragmented

New Information

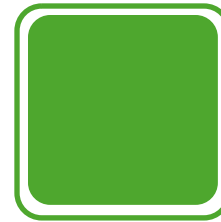


Viewed as
Not Credible;
Case Closed

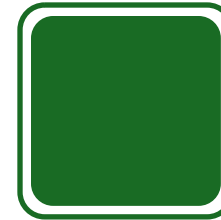
**When Practitioners develop
“trauma-informed”
systems, they are less likely
to:**



Make incorrect
assumptions about
credibility



Ask questions or make
decisions founded in
bias for either party or
witnesses

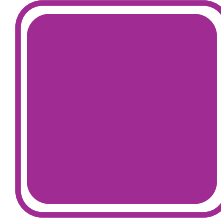


Cause additional harm

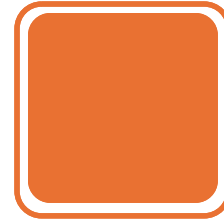


Jeopardize future reporting

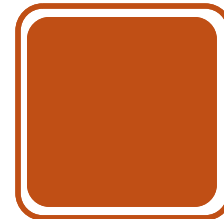
Trauma-informed practices provide tools & techniques for interviewing and engaging with the Complainant, Respondent, and Witnesses.



Format/Structure of the Interview



Format of Questions



Approach to Clarification

Trauma-Informed Practices are Designed to:

Encourage thorough and complete intakes

Assist with recollection

Assist with recounting

Reduce potential for false information

Minimize unnecessary re-traumatization

Reduce bias

ASKING THE RIGHT QUESTION

Trauma-informed systems ask the question
“What has happened to you?” rather than
“What is wrong with you?”

(ACHA, 2020)

GUIDING PRINCIPLES OF TRAUMA-INFORMED SUPPORT

- Safety
- Choice
- Collaboration
- Trustworthiness
- Empowerment



Adapted from The Institute on Trauma and Trauma-Informed Care (2015)

IMPACT OF TRAUMA EXPOSURE FOR TITLE IX PROFESSIONALS

- Trauma exposure also impacts each of us in our work
- Exposure to trauma may have both a negative and positive impact on each of us, including:
 - Negative - Secondary traumatic stress, burnout, and vicarious traumatization
 - Positive - Compassion satisfaction, resilience, and engagement
- Protective factors to prevent experiencing a negative impact may include:
 - Having a strong support system
 - Setting clear boundaries in your work
 - Developing a peer network to share about your experiences

Trauma-Informed takeaways

01

Trauma-informed systems are accessible for all parties

02

The impact of trauma exposure can negatively impact Title IX Coordinators

03

Burnout and trauma exposure can be related; it is important to develop protective factors

Intake and Assessment



CONDUCTING OUTREACH: BEST PRACTICES

- Identifying Complainant/Party
- Safety Concerns
- Policy Coverage
- Utilize Case Management Systems (where possible)
- Electronic/Email vs Phone Call
- Communication Styles and Outreach Content



ELEMENTS IN INITIAL OUTREACH

- Introduction of name/role/scope of your work/office
- Context for the outreach (why you are reaching out)
- Right to make a report
 - To institution
 - To police
 - No report at all
- Confidential/non-confidential resources
- On campus resources, community resources
- Invitation to meet
- Support Person
- Policy link
- VAWA Resources, if applicable

FOLLOWING UP

- How many follow-up outreaches do you conduct?
- Is there ever a time where you do more or less?
- How frequently do you conduct outreach?
- What do the follow-up attempts look like?



Intake Meeting

Meeting with the Party

PREPARING FOR THE INTAKE MEETING

- Familiarize yourself with names/parties
- Identify areas where you need additional information or clarity
 - What else do you need to know to connect conduct to policy?
- Review relevant policies
 - Does it appear that the Title IX Coordinator may need to move forward regardless of the Complainant's wishes?
- Threat assessment(emergency removal, timely warning)
- Check your bias
- Prepare mentally/emotionally for the conversation

ACTIVITY: INCIDENT REPORT

What follow-up questions would you want to ask during your initial intake? What context would be important to know?

I, Sam Mason, Resident Assistant for Skyward Hall was approached by my resident, Sara Ware, who stated that they were sexually assaulted by Sadie Lemon. Sara was extremely upset, and it was very difficult to understand as they were talking through their sobs. They stated that they and Sadie were at a party when they began to have an argument and decided to go outside to figure it out. Sara said that Sadie then sexually assaulted Sara when they went outside and no one else was around to witness the event. Sara said Sadie has done this before.

GOALS OF THE INTAKE MEETING

- Review supportive measures and pathways for resolution
- Gather enough information to connect conduct to policy
- Ask about the impact on the Complainant to determine supportive measures
- Discuss the options for resolution or retention of the complaint
- Be forthcoming about responsibility to move complaint forward (if applicable)
- Safety? Threat assessment referrals? Clery?



**How does an
investigative
interview differ
from an initial
intake meeting?**



Establishing rapport



TABLE TALK

- How can you establish rapport?
- What are some things that you should **not** say to build rapport?
- What are environmental elements/choices that are important for this meeting?



ESTABLISHING RAPPORT: VERBAL COMMUNICATION

- Verbal Communication
 - Ice-breaker questions/conversation
 - What to say and not to say
 - Tone of Voice
 - Restate the Purpose of the Meeting/Scope of the Meeting
- Ask open ended questions:
 - Help me understand...
 - Can you tell me more about...
- Be comfortable with silence



ESTABLISHING RAPPORT: VERBAL COMMUNICATION

WHAT ARE WORDS AND PHRASES TO AVOID?

- I believe you.
- I hope you are doing well
- How are your classes going this semester?
- Have a great weekend!
- Well, at least...
- Thank goodness...!
- What else?

ESTABLISHING RAPPORT: VERBAL COMMUNICATION

VERBAL AFFIRMATIONS

- Thank you for sharing your experience.
- I understand that this can be a lot of information. Ask as many questions as you need.
- This is your choice and you should do what you feel is best for you.
- I want to empower you to make a pathway that feels right for you, not anyone else.
- I can tell this is difficult for you because....(you are crying, you said you aren't sleeping regularly, etc)
- I understand this is a lot and if you need a moment we can take a break.

**What are the hard
questions for you to
ask?**



HOW TO ASK THE HARD QUESTIONS

- **Lay a foundation for the questions**
 - Explain why you are asking it
- **Be deliberate and mindful in your questions**
 - “Can you tell me more about....”
 - “Help me understand what you meant when you said...”
 - “Are you able to tell me more about...”
 - "Tell me more about how this has impacted you..."

ESTABLISHING RAPPORT: NON-VERBAL COMMUNICATION

- Non-Verbal Communication

- Body Posture
- Body Language
- Physical Touch
- Eye Contact
- Facial Expressions
- Tone of Voice
- Location of Parties



ESTABLISHING RAPPORT: ENVIRONMENTAL ASPECTS

- Environmental Aspects

- Set up the Meeting Environment so that the party is comfortable.
 - Privacy/Sound Awareness
 - A/C or Heat
 - Lighting
 - Configuration of Seating
 - Barriers Between You and the Party
- Be Prepared for a Support Person to Attend
- Have Water and Tissues available



Supportive Measures



SUPPORTIVE MEASURES

Non-Disciplinary

May not unreasonably
burden the other party

Designed to restore or
preserve equal access

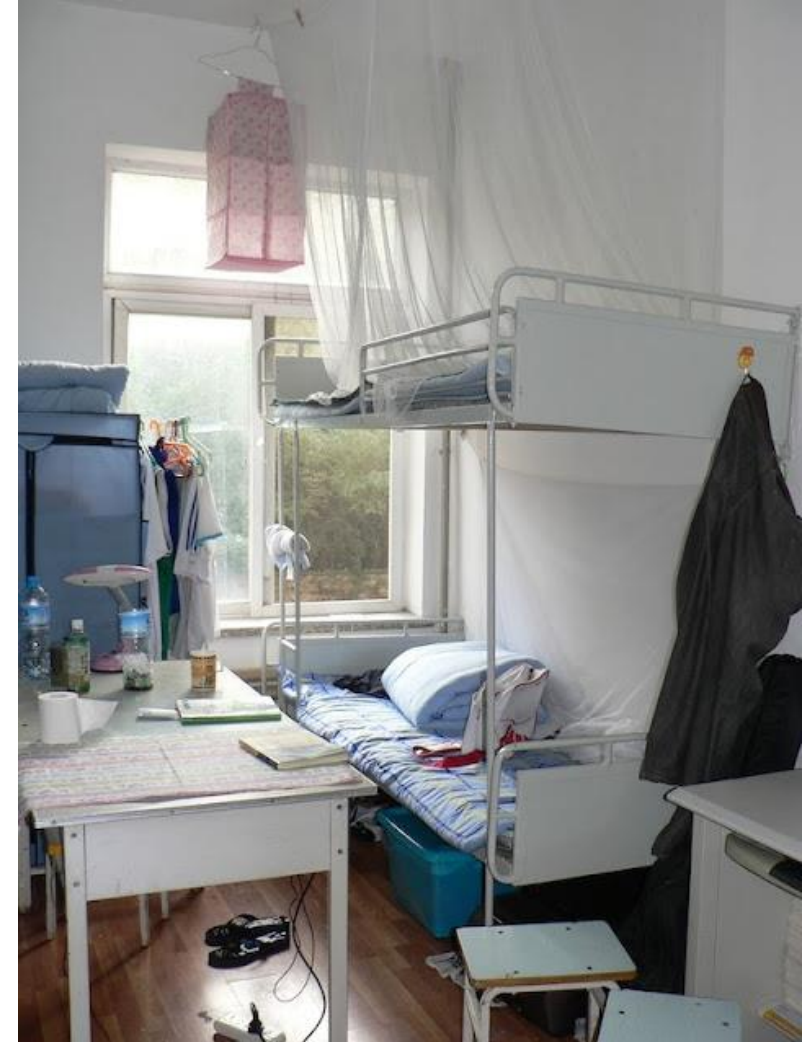
Non-punitive

As appropriate and
reasonably available

Confidential

EXAMPLES OF SUPPORTIVE MEASURES

- Assistance obtaining access to counseling, advocacy, or medical services;
- Assistance obtaining access to academic support and requesting academic modifications and supportive measures;
- Changes in class schedules;
- Assistance requesting changes in work schedules, job assignments, or other work accommodations;
- Changes in campus housing;
- Safety escorts;
- Leaves of absence;
- Mutual restrictions on contact between the Parties (“No-contact” directives).



Post Meeting Tasks

Document the meeting

Send a summary email with
resources, options, next steps

Follow up

Make connections

Provide the supportive
measures

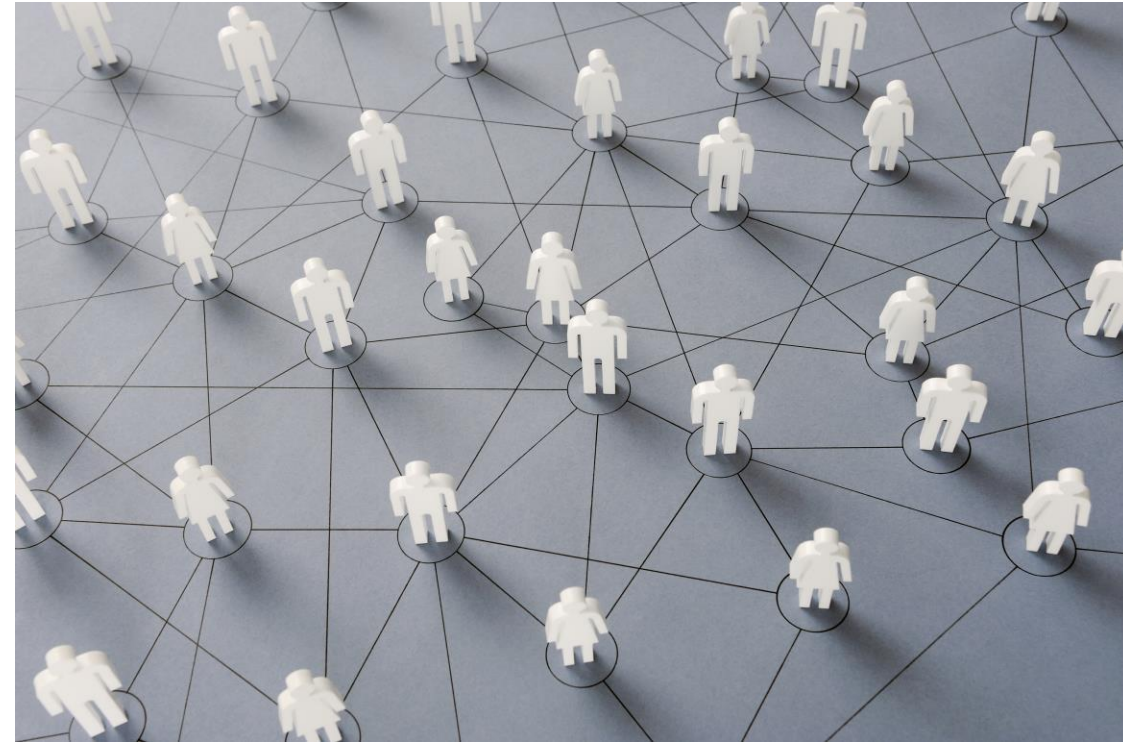
Document supportive measures
requested, provided, and not
provided. Where not provided,
indicate why.

Assessment & Allegations



CONNECTING CONDUCT TO POLICY

- The allegation is only as strong as your connection to the policy.
- Conduct/behavior needs to be correlated to the alleged policy violation.
 - If the behavior, as alleged is true, which policy would it fall under? Title IX? Other campus policy?



CONNECTING TO POLICY

If the conduct as alleged were substantiated, would this be violation of the following policy definition?

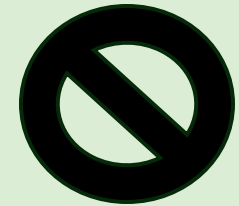
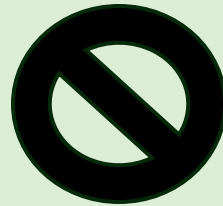
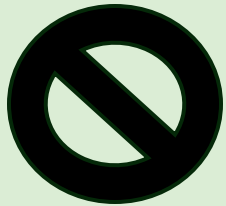
- Definition:
 - Stalking: Engaging in a course of conduct, on the basis of sex, directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or suffer substantial emotional distress.
- Intake Summary:
 - "They stared at me at the dining hall and are creepy." (Title IX Coordinator confirmed there were no additional instances of contact or attempted contact, threats, or physical contact.)

"They stared at me at the dining hall and are creepy."

Engaging in a course of conduct on the basis of sex

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.



CONNECTING TO POLICY

If the conduct as alleged were substantiated, would this be violation of the following policy definition?

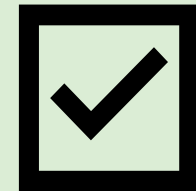
- Definition
 - Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity
- Summary of Intake:
 - My vice-president made several comments to me that were sexual in nature. They frequently make sexual comments about my body during one-on-one meetings. When I walk into a meeting, they always make a comment about my appearance. Last week, they sent me a text message asking, "would I ever consider a threesome?" I no longer feel comfortable attending departmental meetings or meeting with them in general. Honestly, coming to work is a challenge.

My vice-president made several comments to me that were sexual in nature. They frequently make sexual comments about my body during one-on-one meetings. When I walk into a meeting, they always make a comment about my appearance. Last week, they sent me a text message asking, "would I ever consider a threesome?" I no longer feel comfortable attending departmental meetings or meeting with them in general. Honestly, coming to work is a challenge.

Unwelcome sex-based conduct

that is so severe, pervasive, and objectively offensive

effectively denies a person equal access to the recipient's education program or activity.



What is a Notice of Allegation?

What should be included?



NOTICE OF ALLEGATION REQUIREMENTS (1)

- Notice of the allegations, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include:
 - the identities of the parties involved in the incident, if known,
 - the conduct allegedly constituting sexual harassment under § 106.30,
 - and the date and location of the alleged incident, if known.
- The written notice must include 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.

NOTICE OF ALLEGATION REQUIREMENTS (2)

- The written notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, under paragraph (b)(5)(iv) of this section, and may inspect and review evidence under paragraph (b)(5)(vi) of this section.
- The written notice must 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

ELEMENTS OF AN ALLEGATION

- Time, date, location, parties, and specific alleged behavior as it relates to the policy.
- Language to consider:
 - On or about
 - Approximately
 - Including
- On or about DATE, in LOCATION, it is alleged that Respondent BEHAVIOR.
 - *(On or about October 1st, 2024, in Grand River Hall, it is alleged that Respondent inserted their penis into Complainant's vagina without consent.).*
- What to Avoid
 - Blaming Language

LET'S PRACTICE

Complainant shared, "We were making out, which was fine, but then Alex grabbed my boob without asking and I was super freaked out. I think this was last Friday [October 11th, 2024] in my residence hall [Grand River Hall]".

What is the alleged policy violation?

Sexual Contact (Replaced Fondling):

On or about October 11th, 2024, at approximately 11:00 pm in Grand River Hall, it is alleged that Respondent grabbed Complainant's breast for the purpose of sexual gratification and without consent.

Report Resolution

Support-Based Only, Informal/Alternative, or Formal

How to Proceed?

Support-Based Only

No formal
process



Alternative/ Informal

Signed
agreement;
Voluntary;
What records?



Formal/ Investigation/H earing

All requirements
of 106.45



Support Based-Based Resolution



SUPPORT-BASED RESOLUTIONS

- Supportive Measures
- Targeted Education
- Educational Conversations



Formal complaint & notice requirements



Formal complaint filed

By Complainant

**By the Title IX
Coordinator**

Factors to Consider When Determining Whether to File a Formal Complaint



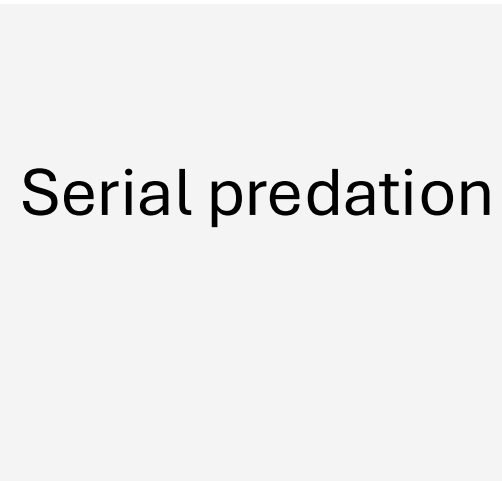
Allegations of
Violence



Threats



Use of
Weapons



Serial predation



A Formal Complaint must include

The Complainant's digital or physical signature, or an indication that the Complainant is the person filing the Formal Complaint;

An allegation of Prohibited Conduct as defined under this Policy. This may include:
Where the incident(s) occurred; what incident(s) occurred; when the incident(s) occurred;

Identity of Respondent, if known;

A request for a resolution or investigation.

Dismissing Complaints

Mandatory

- Not sexual harassment
- Did not occur in program or activity
- Not against person in the U.S.

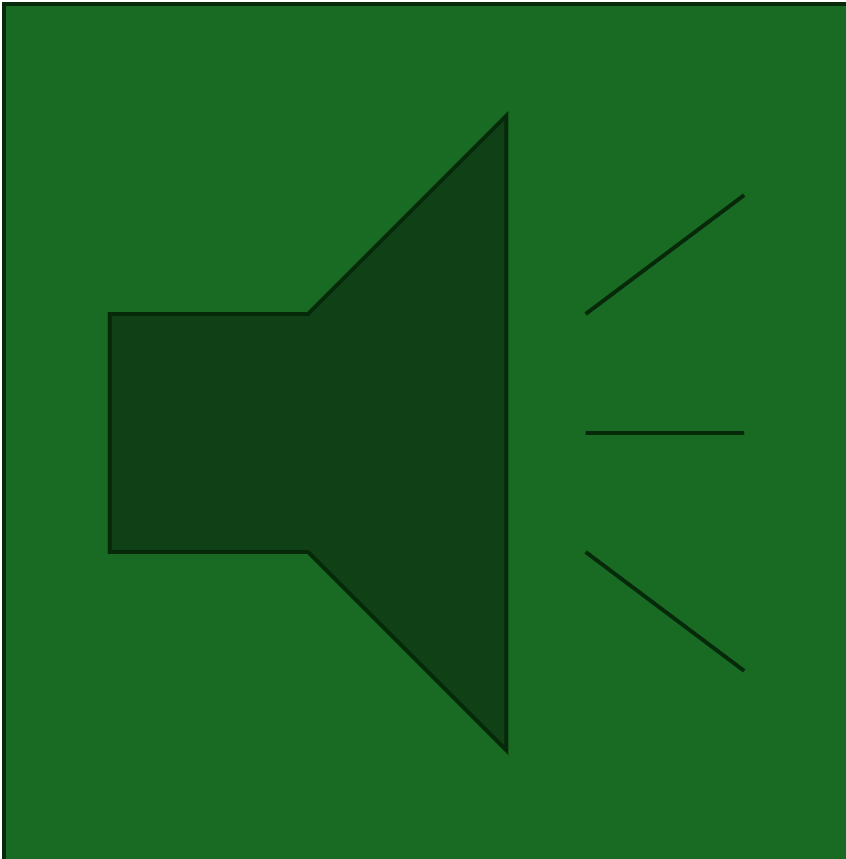
Discretionary

- Complainant withdraws complaint
- Respondent no longer enrolled/employed
- School unable to collect sufficient info

Can Proceed Under Other Policy



Notifying the Respondent



FIRST- SAFETY

Make sure Support Available

Written Notification Meetings and Sufficient Time to Prepare

Don't Send on a Friday

Don't send at 5pm

How will you notify?

Consider impact of notification on Respondent

Advisor of Choice



The advisor can
be anyone,
including an
attorney

Institutions
cannot place
restrictions on
who can serve

No training
required

Institution must
provide advisor for
the purposes of
questioning only.

INITIAL MEETING WITH RESPONDENT

- Prepare for the meeting
- Select appropriate space
- Build trust and rapport; empower
- Explain your role
- Discuss available supportive measures
- Supportive measures that were provided to complainant that impact them
- Answer questions
- Evidence collection/preservation
- Conclude with a discussion of next steps



Post Meeting Tasks

Document the meeting

Send a summary email with
resources, options, next
steps

Follow up

Make connections

Provide the supportive
measures

Document supportive
measures requested,
provided, and not provided.
Where not provided,
indicate why.

Complaint Resolution

Informal Resolution

- Formal Complaint Required
- Parties must agree
- Can withdraw from process
- Alternate Resolution/Mediation
- No appeal

Formal Resolution

- Investigation and Adjudication process in compliance with Section 106.45

Alternative Resolution



ALTERNATIVE RESOLUTION REQUIREMENTS

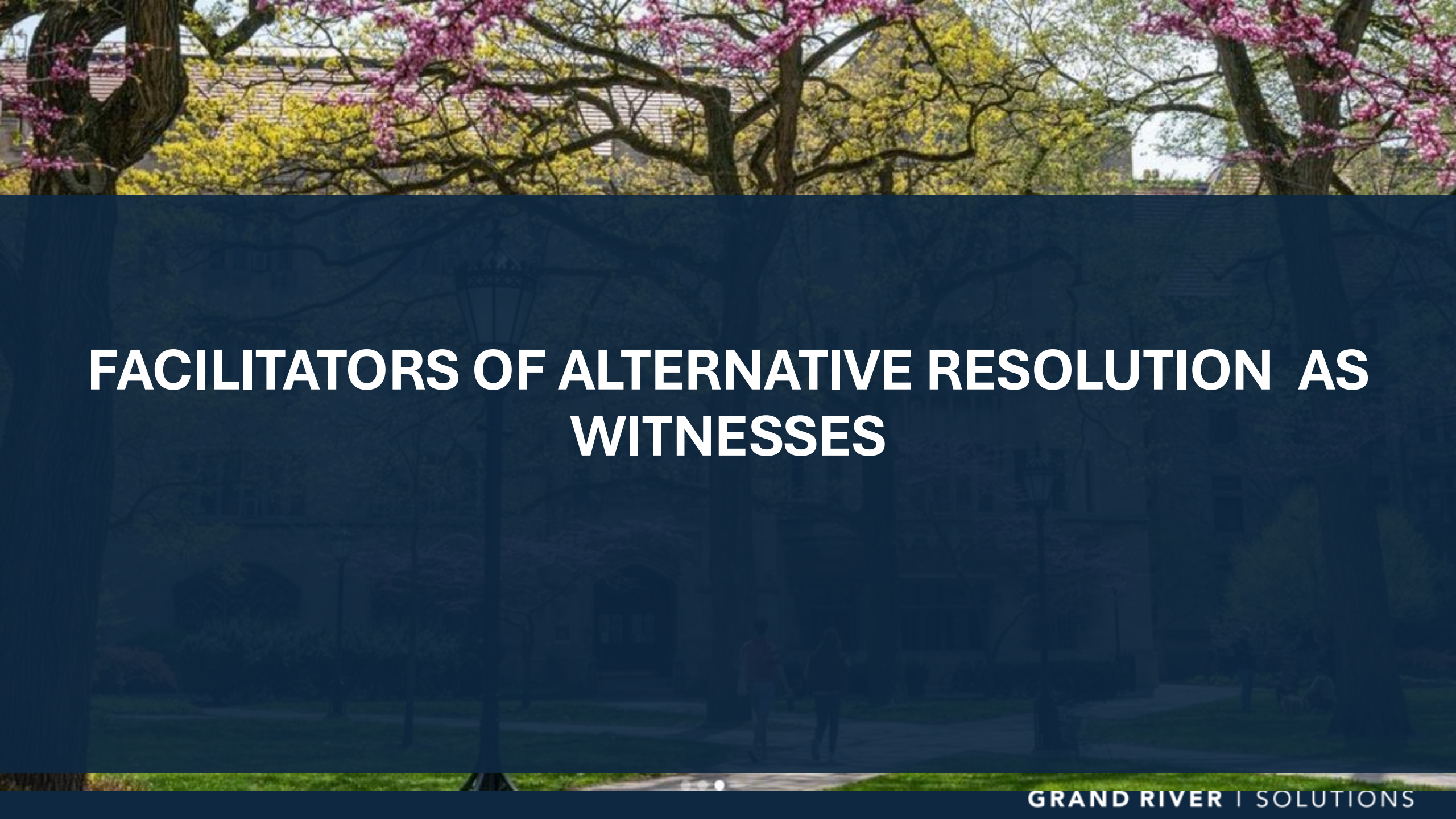
- Formal Complaint must be filed
- Participation in an alternative resolution must be voluntary
- Must occur prior to resolution via a formal process
- Parties must be permitted to withdraw and seek formal resolution
- Voluntary, written consent to the alternative resolution must be obtained
- Facilitators of alternative resolution must be trained



ALTERNATIVE RESOLUTION NOTICE REQUIREMENTS

- The allegations,
- The requirements of the alternative/informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the alternative resolution process
- And resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the alternative resolution process, including the records that will be maintained or could be shared;





FACILITATORS OF ALTERNATIVE RESOLUTION AS WITNESSES

**INFORMAL/ALTERNATIVE
RESOLUTION IS PROHIBITED TO
RESOLVE ALLEGATIONS THAT AN
EMPLOYEE SEXUALLY HARASSED A
STUDENT.**



Formal Resolution



Procedural Requirements for Investigations

Notice to BOTH parties

Equal Opportunity to Present
Evidence

An advisor of choice

Written notification of meetings,
etc., and sufficient time to
prepare

Opportunity to review all directly
related evidence, and 10 days to
submit a written response to the
evidence prior to completion of
the report

Report summarizing relevant
evidence and 10-day review of
report prior to hearing

TITLE IX COORDINATOR'S ROLE

In the Investigation

- Title IX Coordinator is permitted to conduct the investigation, though this is not favored
- If conducting the investigation, do so in accordance with the applicable institutional policy
- If not conducting the investigation, may serve as a support to the investigators
- May serve as a resource to the parties



Procedural Requirements for Hearings

Must be live, but can be conducted remotely

No Compelling participation

Standard of proof used may be preponderance of the evidence or clear and convincing; standard must be the same for student and employee matters

Cross examination must be permitted and must be conducted by advisor of choice or provided by the institution

Decision maker determines relevancy of questions and evidence offered

Written decision must be issued that includes finding and sanction

TITLE IX COORDINATOR'S ROLE

In the Adjudication

- Title IX Coordinator may not serve as the decision maker
- May serve to support the decision maker(s)
- May participate in the hearing to provide logistical support to decision makers
- Responsible for effective implementation of remedies imposed

FINAL RULE § 106.45(B)(8)

“Institutions must offer both parties an appeal from a determination regarding responsibility, and from a recipient’s dismissal of a formal complaint or any allegations therein.”

TITLE IX COORDINATOR'S ROLE

In the Appeal



- Title IX Coordinator may not serve as an appellate reviewer
- May serve to support the appellate reviewer/panel
- May provide logistical support
- May coordinate implementation of appellate findings, where appropriate.
- Responsible for effective implementation of remedies imposed

SOURCES OF COMPLIANCE OBLIGATION

Title IX Final Regulations

Violence Against Women Act

Other, Intersecting Federal
Laws

State Law

Institutional Policies

Resolution Agreements

Title IX Compliance Obligations



Designate a Title IX Coordinator



Disseminate Policy

Notification, Publication



Promptly respond to instances of sexual harassment occurring within the educational program or activity of which the institution has actual knowledge in a manner that is not deliberately indifferent;



Provide supportive measures in accordance with the requirements of section 106.30



For reports of sexual harassment utilize grievance procedures that comply with section 106.45



Require that individuals participating in the grievance process do so impartially and that they are trained in accordance with the 106.45(b)(1)(iii).



Maintain records regarding response to sexual harassment in accordance with 106.45 (10)



Comply with 106.71 prohibition against retaliation

An aerial, grayscale photograph of the Emporia State University campus. The image shows a large, multi-story building with a prominent entrance in the foreground, surrounded by trees and other campus buildings. A large, open area with a fountain is visible in the middle ground. The overall scene is a wide-angle view of the university grounds.

Hot Topics

Responded to emails and inquiries.

EMPORIA STATE
UNIVERSITY

TITLE IX VS KANSAS LAW

Jordan is a transgender woman attending a Kansas public university. Jordan transitioned before experiencing male puberty and provides medical documentation stating that she does not have an athletic advantage associated with male puberty. Jordan asks to try out for the University's women's cross-country and track teams. Her recent race times suggest that she could earn a roster position. The University denies the request based on the Kansas Fairness in Women's Sports Act, which requires women's intercollegiate teams at public universities to be limited based on biological sex. The University offers Jordan the opportunity to try out for the men's team, participate in club athletics, or serve as a team manager. Jordan also requests access to the women's locker room. The University denies that request under House Substitute for Senate Bill 244 and offers Jordan access to a nearby single-occupancy changing room with a private restroom and shower.

Jordan files a Title IX complaint alleging that:

- Excluding her from the women's team is sex discrimination;*
- The University should consider her individual medical history rather than apply a categorical rule;*
- Competing on the men's team would disclose her transgender status;*
- Requiring her to use a private changing room is stigmatizing; and*
- University employees improperly disclosed her transgender status and medical information.*

After Jordan's request becomes known, students post comments about her on social media. Some comments criticize transgender participation in women's sports. Other posts use Jordan's former name, identify her residence hall, and encourage students to photograph her near women's facilities. Jordan also receives a message stating that she should withdraw her complaint "before something happens." Two members of the women's team submit a separate complaint asserting that the University must protect their athletic opportunities and privacy. They also claim Jordan was allowed to enter the women's locker room. The University reviews the allegation and determines that Jordan entered a common team meeting area but not the women's locker room.

WHAT WILL YOU DO?

A report is filed by a student that states they no longer feel comfortable going to any bathroom on campus. The student explained, "Members of the Right to Freedom group have been camped outside of the bathrooms on campus harassing students that do not fit their gender stereotype for the bathroom. Today, Julie DeGrassi asked 3 people to prove they were female as she stood at the door of the bathroom. One student asked if she needed to see genitals and Julie stated she didn't know a different way to prove they were girls."

What is your action plan for response?

HOW WILL YOU RESPOND?

A group of female athletes have filed a petition for the institution's administration to create equity in the NIL (Name, Image, Likeness) compensation that student athletes are receiving. Last week you learned about a social media campaign that the women's soccer team created to bring awareness to the large gap in compensation between the female and male athletes. The petition and social media campaign also address concerns of the female athletic facilities when compared to the male athletic facilities. The students have planned a protest on campus next Saturday, which is the same day as the Homecoming game and Alumni weekend.

What is your action plan for response?

WHAT WILL YOU DO?

Jaz (she/her) reports that Austin is stalking her and she needs protection from Austin. Jaz explained that Austin is hanging around her residence hall and she has even seen Austin lingering around the hallway where her room is. Jaz stated, "When Austin started getting clingy, I tried just avoiding Austin, but Austin does not seem to care. I even tried just being rude and Austin still keeps hanging around. I think Austin is obsessed with me. Austin told me and my friends many times how pretty I am."

What is your action plan for response?

A photograph of three women in a modern office setting. The woman in the foreground, with red hair and a striped shirt, is smiling broadly and looking towards the camera. She is sitting at a dark table with a laptop open in front of her. Behind her, two other women are also smiling and looking towards the camera. The woman in the middle has long dark hair and is wearing a green top. The woman in the background has short dark hair and is wearing a dark top. On the table, there are several red mugs and a glass of water. The background is a bright, modern office with large windows and a white wall.

QUESTIONS?

GRAND RIVER | SOLUTIONS

THE RIVER CONNECT



A place to

communicate
share
educate
learn

for HIGHER EDUCATION
PROFESSIONALS working in

Title IX, Equity & Clery



THE RIVER CONNECT is a virtual community of experts and colleagues gathered together to help each other process the complexities of the work.





**Let Our Team Support The
Good Work You And Your
Team Are Doing.**

- Delegated Roles
- Investigations
- Hearings & Appeals
- Alternative Resolutions
- Program Review
- Policy & Procedures
- Consulting & Coaching



Resolution Services



[Resolution Services](#)

We work to resolve employee, faculty, and student cases at companies and educational institutions.

Our experienced practitioners are available to serve as facilitators of alternative resolutions, investigators, decision-makers, hearing officers, chairs, panel members, or appellate officers for all equity and discrimination cases.



Delegated Roles

Gap in staffing? We can help.
Interim or Long-Term Needs

- Title IX Coordinators and Staff
- Title VI Coordinators and Staff
- EO Director
- Equity Director
- ADA/504 Coordinators and Staff



[Delegated Roles](#)



ADA/504

ADA/504 Coordinator
Policy Development & Review
Training
Accessibility & Compliance Assessment
Investigations

Digital Accessibility

Policy Development & Review
Training
Consulting
Investigations



[ADA/504 Services](#)

Training and Training Membership

Please check out our wide selection of trainings and learn about our new unlimited training membership. ***Unlimited open training access for your whole campus, one annual fee.***



Equity
Titles VI, VII, IX



Clery
Stop Campus
Hazing Act



ADA/504
&
Digital Accessibility



[Explore Training](#)

Case Management Software

Case Tracker

Titles VI, VII, IX & Equity
Software Solution

by Grand River Solutions



**Designed for you,
by people like you**

We are experts and practitioners working in response and resolution for discrimination, harassment, & equity concerns.

Case Tracker allows you to:

- track and manage your cases
- communicate with campus stakeholders without compromising case privacy, and
- provide parties with the ability to follow the status of their case



[Schedule a Demo](#)



info@grandriversolutions.com



/Grand-River-Solutions



/GrandRiverSolutions



/GrandRiverSolutions



/GrandRiverSolutions.com



@titlexandequity.bsky.social

Connect with us

