

# Investigations in a Title IX Setting

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# Overview

- Title IX Recap
- Title IX Investigation
- Title IX Complaint Scenarios
- Questions?

# Title IX Recap

# Title IX Recap

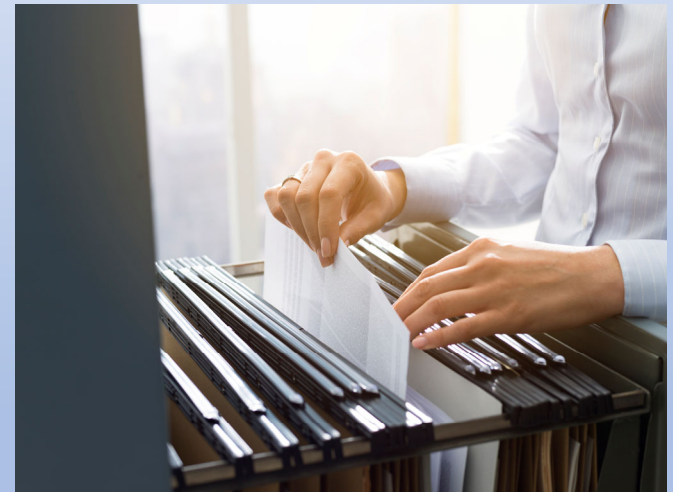
- “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program and activity receiving federal financial assistance.” *See* 20 U.S.C. § 1681.

# Title IX Recap

- History
  - 1972 – Signed into law
  - 1975 – Regulations first implemented (again in 1980)
  - 2006 – Amended regulations
  - 2020 – NEW Regulations implemented under Trump administration
  - 2022 – Announced NEW Regulations will be implemented under Biden administration

# Title IX Recap

- Title IX Complaint
  - Complaint vs. Report
  - Parties
  - Allegations
- Title IX Process
  - Investigation
  - Hearing + Decision
  - *Possible Appeal*



# Title IX Recap

- Title IX Applicability
  - Conduct *on the basis of sex* that is any of the following:
    - Quid Pro Quo
    - Hostile Environment
    - Sexual Assault/Domestic Violence/Stalking
  - Conduct that occurred in the College's educational programs or activities

## Title IX R

## Hostile Environment:

- Title IX Applied to:
    - Conduct on the campus of a school or institution of higher education, including the following:
      - Quid Pro Quo
      - Hostile Environment
      - Sexual Assault/Domestic Violence/Stalking
    - Conduct that occurred in the College's educational programs or activities
- (1) Unwelcome conduct
  - (2) On the basis of sex
  - (3) Determined by a reasonable person to be so severe, pervasive, and objectively offensive that it
  - (4) Effectively denies a person equal access to the school's education program or activity



# Title IX Investigation

# Title IX Investigation

- Title IX Investigator
  - Title IX Requirements
  - General Expectations
- Title IX Investigation
  - Steps (*see next slides*)



# Title IX Investigation

- Title IX Investigation Steps
  1. Review Complaint
    - Parties
    - Allegations
  2. Review College's Title IX Policy (Sample)
    - Procedures for Investigation
    - Definitions of Prohibited Conduct

# Title IX Investigation

- Title IX Investigation Steps
  3. Prepare for Investigation
    - Prepare Schedule of Interviews
    - Prepare Interview Questions
  4. Conduct Investigation
    - Gather Physical Evidence
    - Interviews

# Title IX Investigation

- Title IX Investigation

3. Prepare for

- Prepare School
- Prepare Interviews

4. Conduct Interviews

- Gather Physical Evidence
- Interviews

## Interview Questions with Hostile Environment Claim:

- (1) *Unwelcome Conduct* → Did the Complainant object to the statements? Did the Complainant also joke?
- (2) *On the Basis of Sex* → Why do you believe the Respondent failed to promote you?
- (3) *Severe, Pervasive, and Objectively Offensive* → How often did the conduct occur? What was the nature of the conduct? How did the Complainant perceive the conduct?
- (4) *Denies equal access to the school's education program or activity* → Explain what happened after the incident.

# Title IX Investigation

- Title IX Investigation Steps
  5. Provide All Evidence to Both Parties
    - 10 Days Before Investigative Report Issued
  6. Prepare Investigation Report
    - “Fairly summarizes the relevant evidence.”

# Title IX Investigation

- Title IX Tips:
  - Handling requests for confidentiality in interview.
  - Reaching out to parties/witnesses who aren't responding.
  - Focusing a witness on the allegations at issue.
  - Peeling back an investigation 'onion.'
  - Getting legal counsel involved.



**BREAK**



# Title IX Scenarios\*

\*Throughout these scenarios, names and pronouns are used that may suggest the Complainant or Respondent's sex. These are used solely as examples and are not meant to imply that one sex is more or less likely to be a Complainant or a Respondent. The Complainant or Respondent involved in Title IX complaints could be of any sex (male/female/non-binary).

# Title IX Scenarios

- Title IX Complaint Scenario #1
  - **Annie (Student)** alleges she was sexually assaulted by **Betty (Student)** in her dorm room last May. Annie doesn't provide any specifics about the sexual assault in her complaint documentation. Annie states she and Betty had been flirting with one another all last school year, but Annie was not looking to get in a relationship. Annie and Betty remained friendly with one another up until the beginning of September, when they had a big fight. Annie reported the sexual assault 2 weeks later. Annie states that she has not reported it until now because she was on summer break.

# Title IX Scenarios

- Title IX Complaint Scenario #1
  - Questions to Discuss Within Group:
    1. Is this covered by Title IX?
    2. What are the steps of my investigation?
    3. What types of questions should I be asking during my interviews?
    4. I am having concerns with Annie's recollection of events – it isn't adding up. What do I do?

# Title IX Scenarios

- Title IX Complaint Scenario #2
  - **Collin (Student)** alleges one of his former professors, **Professor Dean (Employee)**, was sexually inappropriate towards him. Collin states he met with Professor Dean, whose class he took two years ago, to ask her to write him a reference letter for his application to graduate school. Collin alleges that Professor Dean told him that he would have to show her “a lot more” than his good grades if he wanted a good recommendation letter. She then winked at him and asked him to come to her office at 10:00 p.m. next Friday to discuss his reference letter further. Collin states he feels silly telling anyone about what occurred, but thought it was strange.

# Title IX Scenarios

- Title IX Complaint Scenario #2
  - Questions to Discuss Within Group:
    1. Is this covered by Title IX?
    2. What are the steps of my investigation?
    3. What types of questions should I be asking during my interviews?
    4. If Collin has not been impacted by the incident, what should I do?

# Title IX Scenarios

- Title IX Complaint Scenario #3
  - **Eva (Employee)** alleges she has been subjected to a hostile environment for the last three years at the hands of her co-worker **Frank (Employee)**. Eva provides an extensive list of incidents that have occurred from name-calling, to sexually suggestive gestures, to invitations to engage in sexual conduct, to rumors being spread about her to co-workers, to several instances involving Frank making physical contact with her. She is quitting her job but wants to report Frank's conduct before leaving.

# Title IX Scenarios

- Title IX Complaint Scenario #3
  - Questions to Discuss Within Group:
    1. Is this covered by Title IX?
    2. What are the steps of my investigation?
    3. What types of questions should I be asking during my interviews?
    4. I am so overwhelmed by all of Eva's allegations, what do I do?

# Title IX Scenarios

- Title IX Complaint Scenario #4
  - **Grady (Student)** alleges they were sexually assaulted by **Hale (Student)** at an off-campus apartment. Grady states that Hale continued to message them sexually explicit messages via Snapchat after the incident. This has happened for about 3 weeks nearly every day, multiple times per day. Grady says they never respond to the messages. Grady has also had 3 of their friends submit Title IX complaints regarding Hale's "creepy" conduct toward Grady and other individuals over the last few months.



# Title IX Scenarios

- Title IX Complaint Scenario #4
  - Questions to Discuss Within Group:
    1. Is this covered by Title IX?
    2. What are the steps of my investigation?
    3. What types of questions should I be asking during my interviews?
    4. While I am interviewing the friends, they keep wanting to talk about how Hale acts “creepy” toward other individuals. What do I do?

# CONCERNS?

**THIS IS NOT EASY WORK!**

**REMEMBER:**

**Talk to your Title IX Coordinator  
Employee Assistance Program (EAP) Services**



QUESTIONS?