

Kelly Hendricksen, J.D.
Managing Counsel – Student Affairs,
SUNY Office of General Counsel

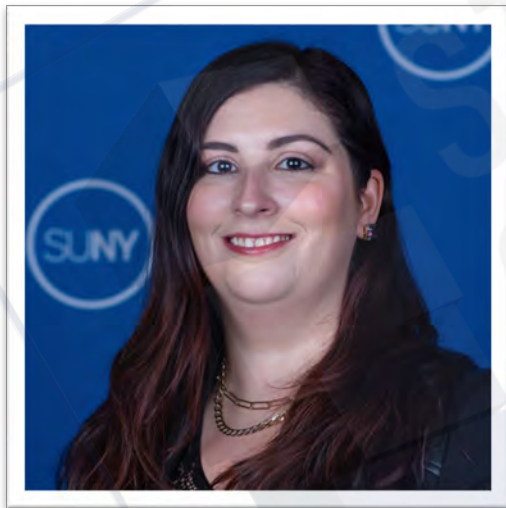
Rebecca Novick, J.D.
Staff Attorney,
SUNY Office of General Counsel

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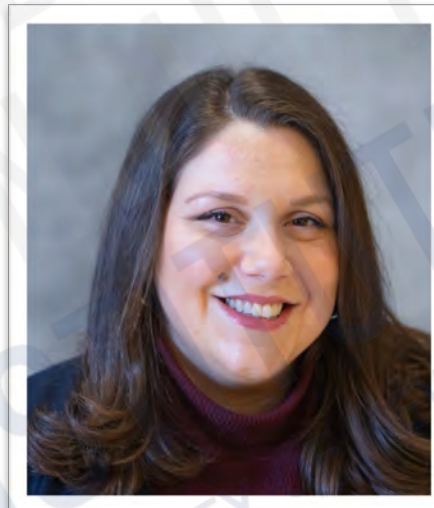
SCI

LIVE@ DISTANCE
BASIC COMPLIANCE TRAINING, TITLE
IX
DAY 1, PART 1

WELCOME TO DAY ONE – MEET YOUR TRAINERS



Kelly Hendricks, Esq.
Managing Counsel – Student Affairs
SUNY Office of General Counsel
Kelly.Hendricks@suny.edu



Rebecca Novick, Esq.
Staff Attorney – Student Affairs
SUNY Office of General Counsel
Rebecca.Novick@suny.edu

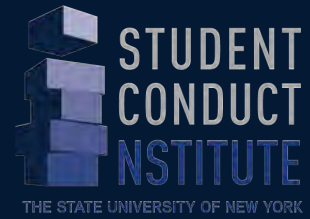
DISCUSSION ROADMAP



- ✓ **Key Components of Compliance**
- ✓ **Due Process Defined**
- ✓ **Title IX Sex-Based Harassment Grievance Process**
- ✓ **Key Takeaways / Best Practices**



The State University
of New York



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DUE PROCESS - DEFINED

Communication

Community

Clarity

Timeliness

Consistency

Transparency

EQUITY

Confidentiality/ Privacy

What Else????...

COMPLIANCE – KEY COMPONENTS

Communication

Community

Clarity

Timeliness

Consistency

Transparency

EQUITY

Confidentiality/ Privacy

What Else????...

CONSTITUTIONAL STANDARD- DUE PROCESS

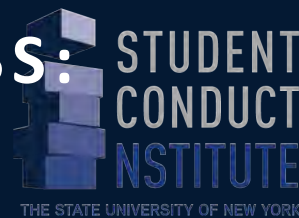


No state shall
“deprive any person of life,
liberty, or property, without
due process of law.”

*14th Amendment,
Section 1,
U.S. Constitution*



THE LEGAL FOUNDATIONS OF DUE PROCESS: CONSTITUTION, STATUTES & REGULATIONS



U.S. Constitution: 14th Amendment, Section 1

- *Prohibits the deprivation of life, liberty, or property*
- *Prohibits denial to any person the equal protection of laws.*

Statutes

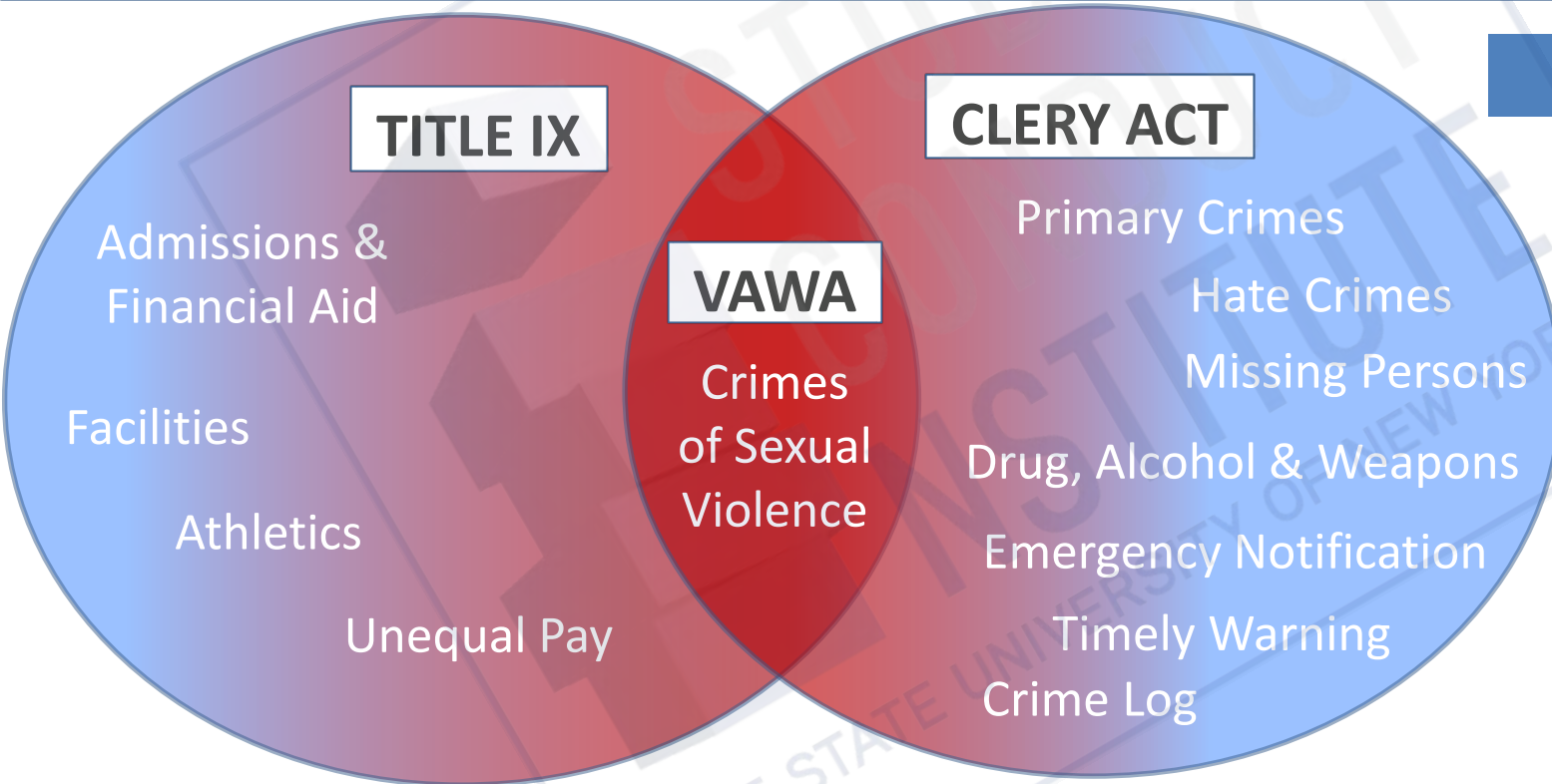
- Title IX of the Education Amendments of 1972
- The Clery Act (federal)
- Violence Against Women Act (VAWA) (federal)
- Family Educational Rights and Privacy Act (federal)
- NYS Education Law 129-B (state)
 - *(Sexual assault, dating violence, domestic violence and stalking prevention response policies and procedures.)*

Rules & Regulations: (State /Federal)

- Title IX of the Education Amendments of 1972



THE VIOLENCE AGAINST WOMEN ACT (VAWA) & CLERY ACT

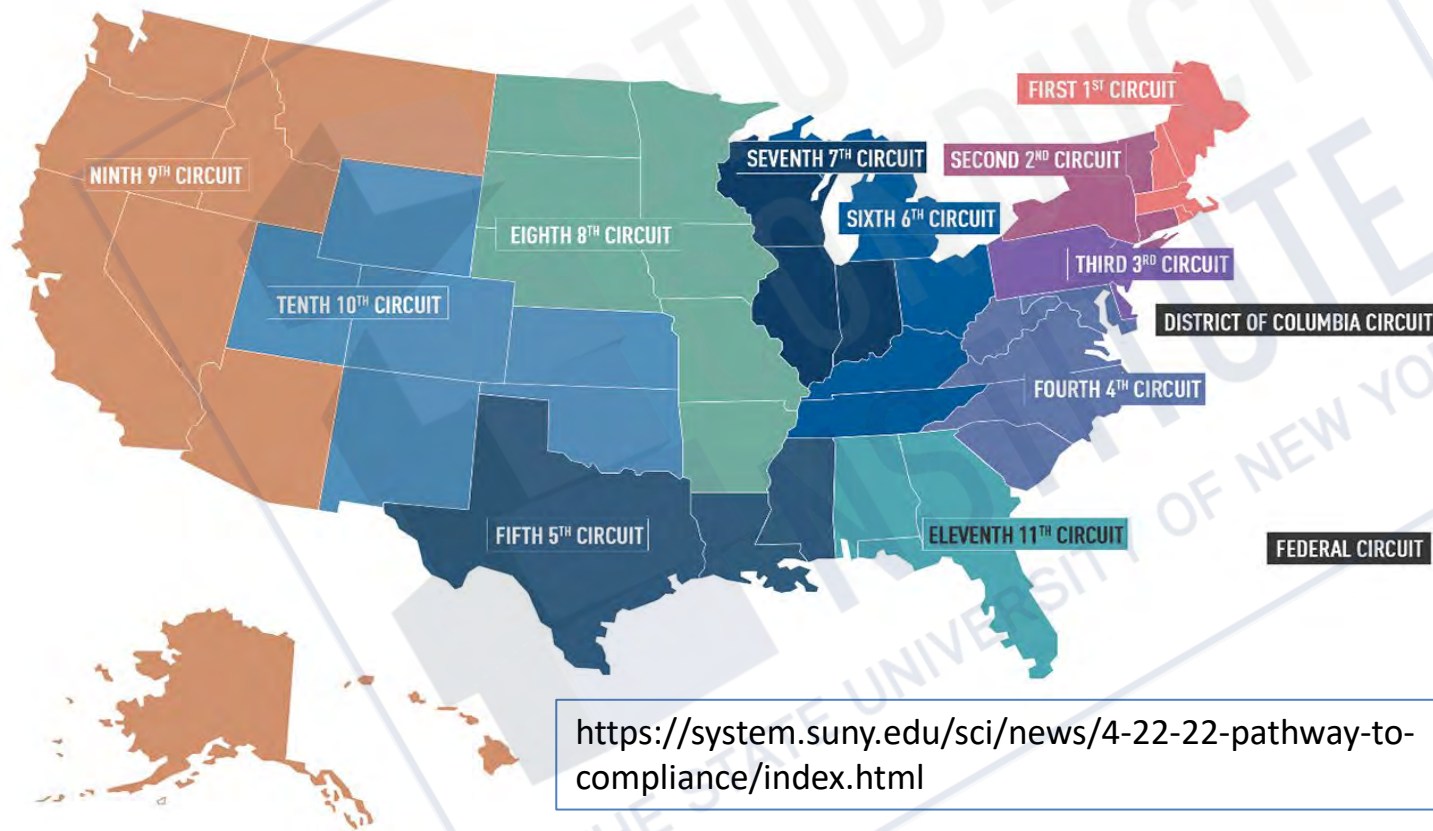
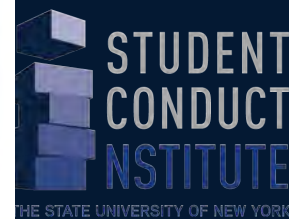


*** State Law?**

CIRCUIT COURTS

UNITED STATES COURTS OF APPEALS AND DISTRICT COURTS

CASE LAW



<https://system.suny.edu/sci/news/4-22-22-pathway-to-compliance/index.html>



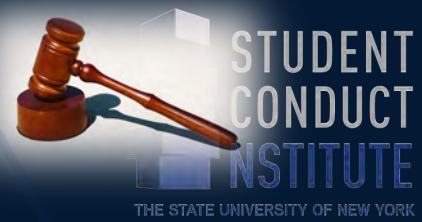
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CASE LAW SUMMARY

CASE	Court	KEY CONCEPT
Dixon v. Alabama	5 th Circuit	Notice & Opportunity to be heard
Goss v. Lopez	Supreme Court	Public education is a property interest
Goldberg v. Kelly	Supreme Court	Right to a full hearing & confront witnesses
Mathews v. Eldridge	Supreme Court	Balancing individual interests and government interests
Wisconsin v. Constantineau	Supreme Court	Right to be heard to defend reputation

LEGAL FOUNDATIONS- CASE LAW

Dixon v. Alabama, 293 F.2d 150 (5th Cir. 1961)



LANDMARK DECISION- Leading case on due process for students in public education
(Alabama, Florida Georgia, Texas, Louisiana, Mississippi)

Issue: Does due process require notice and an opportunity to be heard prior to expelling students for misconduct if the institution at issue is a public, tax supported college? YES!

Rule: If an action taken by a government entities harms an individual, the Constitution requires that such action be taken according to appropriate due process. The degree of procedural due process owed to an individual is dependent on the circumstances and interests of the parties.

Conclusion (Why???): The Court's decision against the students was reversed and remanded because the institution gave no notice, no statement of specific charges and/or grounds for expulsion. There appeared to be no fundamental element of fair play and due process prior to expulsion.

Goodbye to in loco parentis to discipline and expel students

LEGAL FOUNDATIONS- CASE LAW

Goss v. Lopez, 419 U. S. 565 (1975)



Issue: Is the suspension of students without prior hearing a violation of procedural due process? YES!

Rule: An institution's authority to prescribe and enforce standards of conduct in a school is broad but must be executed in a consistent manner in alignment with the constitution. Public education is a property interest protected by the due process clause. Interest may not be taken away without meeting its foundation requirements.

Conclusion (Why???): The liberty interest in education shouldn't be taken away without an opportunity to be heard, with flexibility to be given to a situation.

- **10+ Day suspension**- compulsory public schools must conduct a hearing before suspending a student for more than 10 days.
- **Fewer than 10 Days**- notice and a "hearing" is requirement prior to student suspension.
- U.S. Supreme Court's last word on due process in public schools

U.S. Supreme Court's last word on due process in public schools

LEGAL FOUNDATIONS – CASE LAW

GOLDBERG V. KELLY, 397 U.S. 254 (1970)



STUDENT
CONDUCT
INSTITUTE

THE STATE UNIVERSITY OF NEW YORK

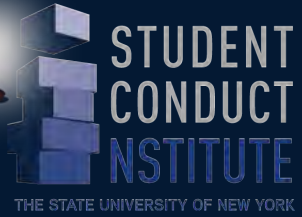
- **Established a due process right to a full hearing** before termination of welfare benefits.
- Hearing must be a meaningful time and manner with timely and adequate notice.
- Notice must detail reasons for termination and the individual must have an opportunity to defend oneself by confronting witnesses and presenting arguments and evidence.
- Individual interest in the benefit significantly outweighed the interest in the government to adjudicate eligibility in a more expedited manner.



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LEGAL FOUNDATIONS- CASE LAW

MATHEWS V. ELDRIDGE, 424 U.S. 319 (1976)

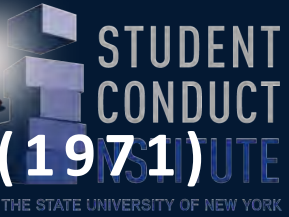


- Addressed whether due process would require the opportunity for an evidentiary hearing prior to the termination of social security disability (SSD) benefits. No!
- The Court determined that a person seeking SSD benefits was not as dire as welfare benefits.
- Procedural due process must be evaluated by balancing:
 - The interests of the individual
 - The interest of the government in limiting procedural burdens
 - The risk of curtailing individual interests under the current processes
 - The degree that additional procedures would reduce risk of error



LEGAL FOUNDATIONS- CASE LAW

WISCONSIN V. CONSTANTINEAU, 400 U.S. 433 (1971)



- An individual and his family through extension were exposed without notice or an opportunity to be heard as being or potentially becoming harmful/dangerous to the community.
- Established a due process right to notice and an opportunity to be heard where a person's **good name, reputation, honor or integrity** is at stake due to government action.



DUE PROCESS: WHEN & HOW MUCH?

Greater
Process
Owed

General Conduct Charge

Academic disciplinary charge
(e.g., Academic dishonesty)

Less
Process
Owed

Lack of academic progress dismissal
(e.g., Academic Performance)



DUE PROCESS: A BALANCING ACT

Student's Individual
Rights



Efficient Administration
of College's Programs
and Processes

COMPLIANCE ESSENTIALS TOOLKIT: REVISITED



NEUTRALITY : Always keep fairness, equity, and ethics at the forefront of all policy and decision making.

COMPETENCE: Know Your Policies and Codes- especially as related to student rights.

CONSISTENCY: Ensure policies and codes are maintained and routinely updated across facilities, departments, and programs.

ACCURACY: Ensure that all forms of media, including websites, social media, etc. reflect your current institutional details, policies, procedures, etc.

BALANCE: Strategically balancing student rights and responsibilities, employee rights and responsibilities, and administrative efficiency is key to long-term success.

FOUNDATIONAL DUE PROCESS: RIGHTS & PROTECTIONS

- RIGHTS

- Confidentiality/ Privacy (with caveats)
- Advisor
- Access to Disability Accommodations
- Equitable Treatment for Complainants AND Respondents
- Evidence Related to the Compliant
- Fair hearing process w/ opportunity to be heard
- Appeal (under specified circumstances)

- PROHIBITIONS:

- Conflicts of Interest and Bias
- Retaliation



TITLE IX: **PROHIBITED** CONFLICTS & BIAS



- For or against complainants and respondents generally
- For or against the specific parties
- Overlapping investigator, decision-maker, and appeals roles

TITLE IX: NOT *PER SE* CONFLICTS & BIAS



- Gender, research interests, work history
- Advocacy background
- Title IX Coordinator serving as Title IX Investigator
- Title IX Coordinator serving as facilitator in informal resolution process

ACTUAL VS. PERCEPTION OF BIAS

Actual bias is a high legal standard, BUT perception of bias is in the eyes of the parties to the process and should be avoided.

- *Liability* arises from:
 - ✓ truly lop-sided investigations and adjudications, or
 - ✓ statements of investigator or panelist showing presumption of responsibility based on sex stereotypes, or
 - ✓ misapplying trauma-informed practice to explain away all inconsistencies in complainant's statements



PROHIBITION AGAINST RETALIATION

ZERO TOLERANCE!

- ✓ Intimidation
 - ✓ Threats
 - ✓ Coercion
 - ✓ Discrimination
- ✓ Charges for a code of conduct violation for the purpose of interfering with any right or privilege secured by Title IX

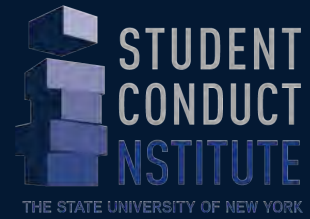
PROHIBITION AGAINST RETALIATION

ZERO TOLERANCE!

Title IX prohibits retaliation against people who seek to assert their Title IX rights.

- Where the individual has made a report or complaint
- Where the individual testified, assisted, or participated in the Title IX Grievance Process
- Where the individual refused to participate in any manner in the Title IX Grievance Process

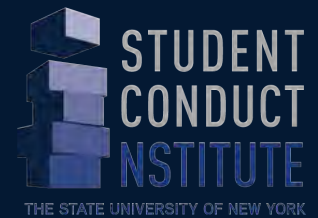
CAMPUS ADMINISTRATION/ STUDENT COLLABORATION



- Review your campus Title IX grievance policy and become very familiar with its associated definitions for sexual harassment.
- Students should know who the Title IX Coordinator is on campus and how to contact them
- Help students identify / clarify your campus policies
- Work with student groups that focus in this area
- Proactively encourage and cultivate a college environment of safety and for all



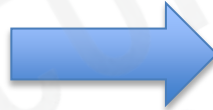
BREAK



TITLE IX OF THE EDUCATION AMENDMENTS 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.



- Denying admission in an educational program based on sex.
- Disqualifying individuals from candidacy for opportunities on the basis of sex -
- Providing unequal access to resources based on sex
- Engaging in gender-based or sexual harassment, such as unwelcome comments, advances, etc.

TITLE IX DISCRIMINATION PROHIBITION ON THE BASIS OF SEX IN EDUCATIONAL PROGRAMS/ACTIVITIES

Title 34 OF THE CFR Part 106 Subpart D

**Sexual harassment = Sex discrimination
in educational programs or activities**

**Effective implementation of
remedies for victims**

**Prompt & supportive
responses to alleged victims**

**Due process protections for alleged
victims & alleged perpetrators.**



Prompt resolutions to allegations

Predictable & fair grievance processes

TITLE IX: SEXUAL HARASSMENT DEFINITION/SCOPE

- **Quid Pro Quo** : A school employee conditioning education benefits on participation in unwelcome sexual conduct; or
- **Unwelcome conduct** that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the educational institution's education program or activity; or
- **Sexual assault** (as defined in the Clery Act), or
- **Dating violence, domestic violence, or stalking** (as defined in the Clery Act as amended by the Violence Against Women Act (VAWA))

TITLE IX: SEXUAL HARASSMENT SCOPE

- **Sexual Assault**
- **Dating Violence**
- **Domestic Violence**
- **Stalking**
- **Sex offenses**- *any sexual act directed against another person without the consent of the victim, including instances where the victim is incapable of giving consent.*
 - Rape
 - Sodomy
 - Sexual assault with an object
 - Fondling
 - Incest
 - Statutory Rape



SEXUAL HARASSMENT: KEY DEFINITIONS

“Sexual assault”- “an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.”

- 20 U.S.C. 1092(f)(6)(A)(v)

“Stalking” – “engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for his or her safety or the safety of others; or (b) suffer substantial emotional distress.”

- 34 U.S.C. 12291(a)(30)

(Consult with Institutional Counsel Regarding Application of the FBI Uniform Crime Reporting System definitions for Rape, Sodomy, Sexual Assault w/ an object, Fondling, Incest, and Statutory Rape)

SEXUAL HARASSMENT: KEY DEFINITIONS

“Dating violence”-


- Violence committed by a person who is or have been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such relationship shall be determined by on consideration of the following factors (i) the length of the relationship, (ii) the type or relationship, (iii) the frequency of interaction between the persons involved in the relationship.”
- 34 U.S.C. 12291(a)(11) see also 12291(a)(10)

SEXUAL HARASSMENT: KEY DEFINITIONS

“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, by 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.

- *34 U.S.C. 12291(a)(8)*

TITLE IX REQUIREMENTS: GRIEVANCE PROCESS KEY CONSIDERATIONS

- ✓ Actual Knowledge
 - ✓ The conduct must fall within the scope of the Title IX sexual harassment definitions
 - ✓ Jurisdiction
 - ✓ Educational Programs & Activities
 - ✓ Institutional control (Respondent and context in which the harassment occurs)
 - ✓ Formal Complaint
- 

TITLE IX: NOTICE TO COLLEGES & UNIVERSITIES “SCHOOLS” OF INCIDENT

Actual knowledge” of an incident is defined as:

Notice of sexual harassment or allegations of sexual harassment to:

A school’s Title IX Coordinator or

Any official of the school who has authority to institute corrective measures on behalf of the school



CONFIDENTIALITY CONSIDERATIONS

The college must protect student privacy to the extent possible under the law

- Institutions must inform employees and students of reporter and confidential employee designations.

The Coordinator must balance confidentiality with:

- Communications necessary to fulfill legal duties
- The safety of other members of the college community.
- Title IX Coordinators are not confidential employees!



PRIVATE

INTAKE PROCESS AND SUPPORTIVE MEASURES

Title IX Coordinator is responsible for “coordinating the effective implementation of supportive measures,” even where no formal complaint is filed. 34 C.F.R. § 106.30(a).

Examples of **supportive measures** (See, 85 Fed. Reg. 30026, 30401)

- ✓ counseling
- ✓ extensions of deadlines or other course-related adjustments
- ✓ modifications of work or class schedules and locations
- ✓ Campus escort services
- ✓ changes in housing locations
- ✓ Mutual restrictions on contact between parties
- ✓ increased security & monitoring of areas of the campus



PROACTIVELY OFFER HELP AND SUPPORT....

TITLE IX: EMERGENCY REMOVALS

CAUTION: Interim suspensions are prohibited for Title IX student-respondents

- Department of Education considers them disciplinary sanctions

Emergency Removal may be used where:

- Person poses threat of immediate **physical** harm
- Threat arises from allegations of sexual harassment
- Depends on individualized safety and risk assessment

Must provide opportunity for “immediate” opportunity to challenge the removal (need not be a formal hearing)



TITLE IX: FORMAL COMPLAINT

Institutions **must** investigate all “formal complaints” filed with the Title IX Coordinator

Who can file a formal complaint?

- A person who is currently participating in the education programs or activities of the institution
- A person who is **attempting** to participate in those programs or activities
- The Title IX Coordinator

Multiple complaints arising from same incidents can be consolidated



TITLE IX JURISDICTION

- Only within the United States
- Educational programs & activities: (on-campus/ off-campus)
 - Locations,
 - Events, or
 - Circumstances
- Over which the school exercised substantial control over both:
 - the respondent and
 - the context in which the sexual harassment occurs.

NOTE: Includes any building owned or controlled by institution and used by officially-recognized campus organization



MANDATORY VS. DISCRETIONARY DISMISSAL

MANDATORY DISMISSAL CRITERIA:

- 1) The formal complaint doesn't fall within the statutory criteria for the Title IX grievance process.

Note: Institution may still investigate through a non-Title IX process

DISCRETIONARY DISMISSAL CRITERIA:

- 1) Written notice to TIXC from complainant regarding desire to withdraw formal complaint or any allegations in it.
- 2) The respondent is not enrolled/employed by the institution
- 3) If specific circumstances prevent the institution from gathering evidence sufficient to reach a determination

NOTICE REQUIREMENTS: SUBSTANCE

- Allegations of sexual harassment
- Identities of parties, if known, including the complainant's name
- Date, time, and location of the incident, if known
- Parties' basic procedural rights
- Right to an advisor (may be an attorney)
- Presumption of non-responsibility



DUE PROCESS: DISABILITY RIGHTS CONSIDERATIONS

- Advise at intake or charge
- Equity vs. equality
- Fundamental alteration of programming is not a required accommodation.
- Disability cannot be the basis for discipline
- Disability does not excuse misconduct
- Individuals posing as a “direct threat” are not entitled to accommodation.



TITLE IX INVESTIGATION: PROMPT PROCESS- - UNJUSTIFIED DELAYS

All time frames must be published based on a specific number of days with room for “good cause” delay.

Balance prompt resolution and adequate time to prepare and respond to charges.

Courts have identified the following delays as unjustified:

- Year-long delay in finishing the investigation
- Attributable to winter/summer break
- Attributable to athletics events/eligibility
- Institutional operational/admin error
- Physical harm to respondent/complainant



INFORMAL RESOLUTIONS

When Informal Resolutions are allowed under the Final Rule:

- After a formal complaint;
- When all parties and the TIXC coordinator consent;
- Any party can withdraw at any time

Examples:

- Administrative resolution
- Restorative justice
- Mediation

Not allowed in cases involving employee respondents
TIXC *can* run the process, but it is not recommended



INVESTIGATIVE PROCESS

Evidence Collection

Interviews of parties & witnesses must take place after Notice of Allegations

Both inculpatory & exculpatory evidence must be collected

Evidence will be directly related to the allegations

The collection process may include evidence that institution does not intend to rely on

Evidence Sharing

Parties may review evidence with advisors present

May set reasonable rules around evidentiary review and sharing

Redaction of “irrelevant” evidence

Mandatory inspection process with 10-day min. review period

Investigative Report

Summarizes relevant evidence directly related to allegations

Cannot make determination regarding responsibility- sole role of the hearing panel

Parties must have opportunity to review at least 10 days before hearing

TITLE IX INVESTIGATION: IMPARTIAL PROCESS

Must collect BOTH *exculpatory* and *inculpatory* evidence

Exculpatory =
*increases probability of a finding
of
non-responsibility/non-liability*

Inculpatory =
*increases probability of a finding
of
responsibility/ liability*

TITLE IX INVESTIGATION: IMPARTIAL PROCESS

REMINDER:

Investigations and findings of innocence and guilt are not applicable to Title IX grievances. Title IX procedures are administrative processes and are not civil or criminal in nature!



LIVE HEARING PROCESS FUNDAMENTALS

All **parties, advisors, witnesses, and decision-makers** must be present at the same time either physically or remotely via secure technology.

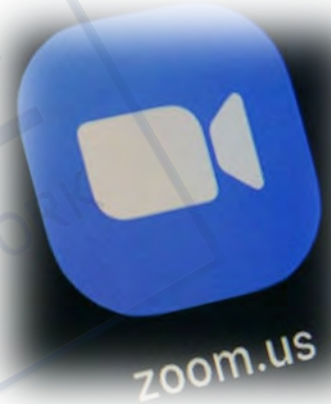
- Decision-makers

- ✓ Must be able to see and hear parties and witnesses (either physically or via secure technology).
- ✓ Ask questions of the parties and witnesses.
- ✓ Decide whether or not question is relevant.

- Advisors

- ✓ Ask relevant cross-examination questions. (*Does the question make a fact at issue more or less likely to be true?*)

“No Adverse Inference” Rule – No inference of responsibility from a student’s decision to not testify



LIVE HEARING: DECORUM



Colleges and universities “are in a better position than the Department to craft rules of decorum best suited to their educational environment” and build a hearing process that will reassure the parties that the institution “is not throwing a party to the proverbial wolves.”

See, 85 Fed. Reg. 30026, 30319.

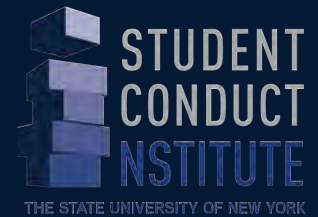
Advisors who violate the rules of decorum may be removed

LIVE HEARING: DECORUM CONSIDERATIONS



- Questions in neutral tone
- No accusatory questions
- Require parties and advisors to refer to other persons by the name and gender pronoun used by that person
- No "duty of zealous advocacy" inferred or enforced, even for attorney-advisors
- No abusive behavior: yelling, screaming, badgering, leaning in, or approaching witnesses/parties without permission
- No use of profanity or personal attacks
- No use of repetitive questions

BREAK



DECISION-MAKING PROCESS: EVIDENTIARY REVIEW CONSIDERATIONS



- ✓ Exclusion Status
- ✓ Relevance
- ✓ Authenticity
- ✓ Credibility/ Reliability
- ✓ Weight

EVIDENCE-BASED DECISION MAKING

- Must it be excluded?
- If no, is it relevant?
 - Plain and ordinary meaning. Does it tend to make a material fact more or less likely to be true?
- If yes, is it authentic?
- If yes, is it credible and reliable?
 - Why (or why not) is it worthy of belief?
- If yes, does the evidence have weight?
 - Consider: Specialized evidence types



LIVE HEARING PROCESS

SPECIFIC EXCLUSIONS- TITLE IX HEARINGS

- **“Rape Shield”** (with two exceptions). 34 C.F.R. § 106.45(6)(i).
 - Offered to prove someone else committed alleged conduct
 - Offered to prove consent
- **Privileged information.** 34 C.F.R. § 106.45(1)(x).
- **Undisclosed medical records.** *See*, 85 Fed. Reg. 30026, 30294
- **Duplicative questions.** *See*, 85 Fed. Reg. at 30331.



CREDIBILITY DETERMINATIONS: OBJECTIVITY



- Cannot be based on the party's status
- Cannot apply "predictive behaviors"
- But you may consider:
 - The party/witness' stake in outcome.
 - The potential conflict of interest where advisor is also witness.
 - Possible motive to fabricate testimony
 - Possible coaching

DECISION-MAKING PROCESS: WEIGHING TESTIMONY AND EVIDENCE

- ✓ Exclusion Status
- ✓ Relevance
- ✓ Authenticity
- ✓ Credibility/ Reliability
- ✓ Weight



WEIGHING TESTIMONY & EVIDENCE

Generally
more objective

Destruction of
evidence. 85 Fed.
Reg. 30300.

Contradictory
testimony or
evidence by others

Corroboration
of testimony

Consistency and
specificity of
testimony

Caution: more
subjective

Recall

Evasiveness

Inherent plausibility
("It just makes sense")

Demeanor and body
language (permissible
under Final Rules @
p. 30321)

WEIGHING TESTIMONY & EVIDENCE

Direct Evidence:

First-hand observations and evidence of the incident or its surrounding circumstances are direct evidence. This evidence is often given considerable weight at a hearing. This includes:

- Direct statements from the parties. For example:
 - A witness who provides testimony that they walked into a room at the party and observed the respondent engaging in sexual activity with the complainant, who was unresponsive, not moving, and had their eyes closed.
 - A witness who provides testimony that they did three shots of vodka with the parties.

Corroborating Evidence:

Statements or tangible materials that tend to confirm direct evidence regarding the incident may serve as corroborating evidence. This may include:

- Video evidence
- Text message threads
- Security Footage
- Swipe Card Records
- Business Records
- Medical Records

Circumstantial Evidence:

Statements or tangible materials that rely on an inference to connect it to a conclusion of fact. The weight that the decision-maker gives to circumstantial evidence will vary greatly depending on the surrounding evidence.

- Example: Investigators may obtain photographs of the scene of the alleged sexual assault which show several empty vodka bottles and overturned Solo cups. The presence of these items may be suggestive, though not determinative, of the parties' level of intoxication.

RESPONSIBILITY DETERMINATION PROCESS

- ✓ Identify the allegations potentially constituting sexual harassment;
- ✓ Describe the procedural steps taken;
- ✓ Identify findings of fact supporting the determination;
- ✓ Identify which section of the Grievance Policy respondent has/has not violated.
- ✓ For each allegation, provide statement of and rationale for:
 - the result, including a determination regarding responsibility;
 - any disciplinary sanctions imposed on the respondent; and
 - whether remedies designed to restore or preserve equal access to recipient's education program or activity will be provided to complainant; and
- ✓ Describe the recipient's appeal procedures

APPEALS PROCESS-

(3) MANDATED GROUNDS FOR APPEAL

1. Procedural irregularity that affected the outcome of the matter (i.e. a failure to follow the institution's own procedures);
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against an individual party, or for or against complainants or respondents in general, that affected the outcome of the matter.



CONDUCT RESPONSE ASSESSMENT: BUILDING THE FRAMEWORK

Knowledge/ Notice of Alleged Conduct *(Formal/ Informal)*

- ✓ What is the subject-matter of the overarching issue?
- ✓ Are there sub-parts to the issue?
- ✓ What is the harm alleged?
- ✓ What is the remedy sought?

Jurisdiction: People

- ✓ Who are the complainant/respondent?
- ✓ Are there other parties involved?

Jurisdiction: Place & Time *(on-campus/ off-campus)*

- ✓ Where and when did the conduct occur?
 - Buildings owned or controlled by the campus?
 - Used by officially recognized organizations?
 - Events?
 - Circumstances?
 - Public perception of affiliation?

CONDUCT RESPONSE ASSESSMENT: BUILDING THE FRAMEWORK

Institutional Responsibility *(Legally, Ethically, Etc.)*

- ✓ What is the institution's legal role and responsibility related to the matters at issue?
- ✓ What laws, policies, and procedures must be followed to fulfill the legal requirements?
- ✓ What is the institution's role and responsibility from of mission, values, vision, and/or ethics standpoint?

Due Process: Grievance Processes *(Formal/Informal)*

- ✓ Investigations
- ✓ Interviews/ Meetings
- ✓ Panels/ Hearings
- ✓ Communications/ Notices

Support & Remedy Mechanisms

- ✓ Supportive Measures
- ✓ Interim/Emergency Removals/ Suspensions
- ✓ Informal Resolutions/ Sanctions

2024 TITLE IX Final Rule – Key Changes

- The definition of “sexual harassment” changes to “sex-based harassment”
- “Sex discrimination” includes “sex-based harassment”
- The formal complaint requirement is removed.
- The geographic coverage is expanded
- The Title IX Coordinator’s role is expanded
- The live hearing requirement is relaxed
- Removes the “deliberate indifference standard”
- Expands training requirements



QUESTIONS



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