



OPERATING AN EDUCATION PROGRAM FREE FROM SEX DISCRIMINATION

LIN-CHI WANG



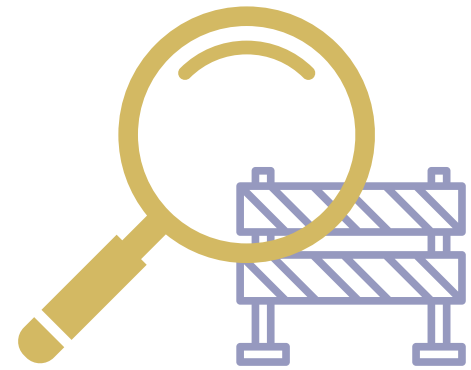


GENERAL

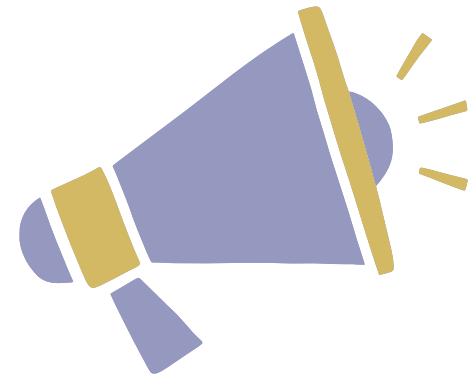
“(1) A recipient with knowledge of conduct that reasonably may constitute sex discrimination in its education program or activity must respond promptly and effectively; and (2) A recipient must also comply with this section to address sex discrimination in its education program or activity.”

106.44 Recipient's Response to Sex Discrimination

106.44 - Recipient's Response



Barriers to reporting



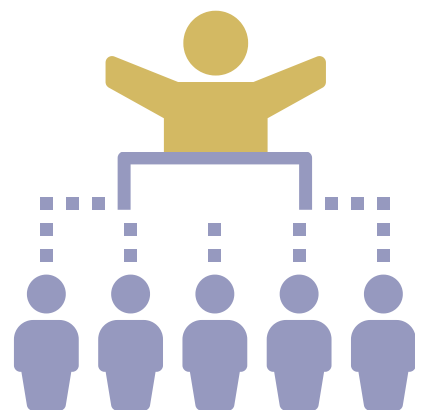
Notification requirements



Confidential employee requirements



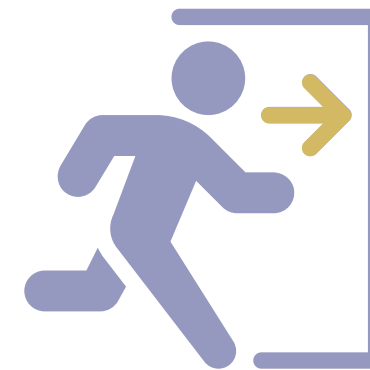
Public awareness events



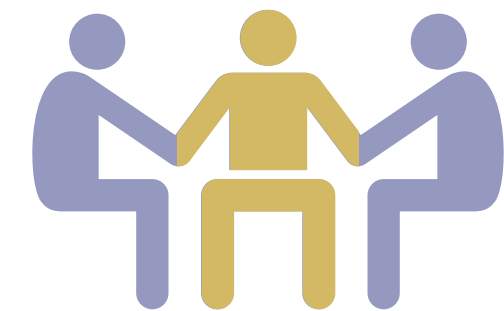
Title IX Coordinator requirements



Supportive measures



Emergency removal



Discretion to offer informal resolution

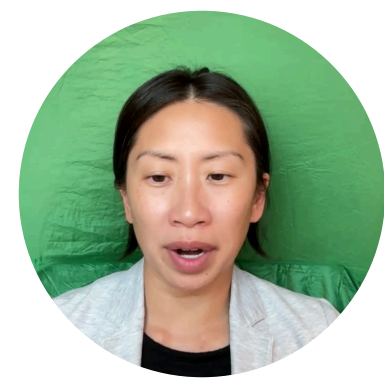
106.44 - Recipient's Response



NOTED CHANGES

- Title IX Coordinator must monitor and address barriers to reporting
- Specifies employees who must report sex discrimination to the Title IX Coordinator and what they must report or otherwise provide:
 - Confidential Employee
 - Non-confidential employee who has authority
 - All other employees
- Public awareness events not subject to reporting requirement unless it indicates an imminent and serious threat to health or safety

106.44 - Recipient's Response



NOTED CHANGES

- 106.44(f): Title IX Coordinator must take action to promptly and effectively end sex discrimination, prevent its recurrence, and remedy its effects, including:
 - Offering/coordinating supportive measures
 - Offer informal resolution and grievance procedure options
 - Determine whether to initiate complaint
- Supportive measures must not unreasonably burden either party and must be designed to protect the safety parties or educational environment; provide support during grievance procedures or informal resolution process; must not be imposed for punitive or disciplinary reasons.

106.44 - Recipient's Response



NOTED CHANGES

- Must allow for challenge to supportive measures to someone impartial other than individual who made challenged decision
- Non-disclosure considerations for supportive measures
- Specific considerations for complainants/respondents who may be a student with a disability
- Emergency removal and administrative leave allowed.
- Informal Resolution requirements, if offered, and potential terms: i) restrictions on contact; ii) restrictions on respondent including potential disciplinary sanctions had respondent been found responsible



POLICY POINT

Nothing in this 106.44 is required to be in policy, but review carefully for compliance requirements. (Policy requirements are detailed in 106.8(b)–(c), 106.45 and 106.46.)

106.71 – Retaliation



DEFINITION

“A recipient must prohibit retaliation, including peer retaliation, in its education program or activity. When a recipient has information about conduct that reasonably may constitute retaliation under Title IX or this part, the recipient is obligated to comply with § 106.44. Upon receiving a complaint alleging retaliation, a recipient must initiate its grievance procedures under §106.45, or, as appropriate, an informal resolution process under §106.44(k). As set out in §106.45(e), if the complaint is consolidated with a complaint of sex-based harassment involving a student complainant or student respondent at a postsecondary institution, the grievance procedures initiated by the consolidated complaint must comply with the requirements of both §106.45 and 106.46.”