FROM ONE TITLE IX COORDINATOR TO ANOTHER:

A Practical Approach to Navigating Beyond Compliance

Jessica Brown and Molly O'Malley

August 3-4, 2026

GRAND RIVER | SOLUTIONS

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ABOUT US

Vision

We exist to create safe and equitable work and educational environments.

Mission

To bring systemic change to how school districts and institutions of higher education address their Clery Act & Title IX obligations.

Core Values

- Responsive Partnership
- Innovation
- Accountability
- Transformation
- Integrity

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Jessica Brown

Jessica Brown is a member of Grand River Solutions' Coordinator & Director Services Team, where she serves in quality assurance and as Request for Proposal Coordinator. She has also served as a civil rights investigator, hearing officer, training facilitator, and Title IX coordinator. Jessica brings more than a decade of experience in legal and higher education settings, including leadership roles with the California State University Chancellor's Office, Baylor University, and Lafayette College.

Molly O'Malley

Molly O'Malley is a member of Grand River Solutions' Coordinator & Director Services Team, serving as a Title IX Coordinator/EEO Coordinator and Intake Coordinator for institutions nationwide. She also facilitates Grand River Solutions' Level I Title IX Coordinator training.

Molly brings more than 10 years of higher education experience and most recently oversaw Title IX compliance at Northeast Ohio Medical University. She holds degrees from Walden University and Youngstown State University.

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Let's Take a Moment.
Title IX Coordinator to Title IX Coordinator.

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THE EVER-EVOLVING LANDSCAPE OF TITLE IX

01

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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).

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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

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THE HISTORY OF TITLE IX

A TIMELINE

1972: Title IX is passed

1979: Cannon v University of Chicago

1992: Franklin v Gwinnett

1998: Gebser v Lago Vista

1999: Davis v Monroe

2001: Revised Sexual Harassment Guidance

2011: Dear Colleague Letter ("DCL")

2014: Q&A

2016: DCL on Transgender Students

2017: 2017 DCL guidance & 2016 DCL on Transgender Students Rescinded

2018: DCL and Q&A

2020 Regulations Withdrawal of 2001 Guidance

2021/2022: Q&A

2023 Proposed Athletics Regs Q&A

2024 Regs Implemented Athletics Regs Withdrawn

2024 Regs Vacated

2025 DCL

1972 | 2011 | 2017 | 2020 | 2025

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WHERE WE ARE

U.S. District Court for the Eastern District of Kentucky

- One of the 7 lawsuits about the regs
- Already issued a preliminary injunction on June 17, 2024
- Vacated the regulations on January 9, 2025

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WHAT IS VACATUR?

- Vacatur is Latin for "it is vacated"
- "Vacatur operates on the rule itself and prevents the rule's application to all who would otherwise be subject to its operation"
- "A vacatur order takes the unlawful agency action off the books—an entirely appropriate response when a plaintiff successfully establishes that the agency's conduct violates the law"
- "The entire Final Rule and corresponding regulations are invalid and must be set aside"

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THE TITLE IX REGULATIONS

SEXUAL HARASSMENT ONLY

1. Narrows the definition of sexual harassment;
2. Narrows the scope of the institution's educational program or activity;
3. Narrows eligibility to file a complaint;
4. Develops procedural requirements for the investigation and adjudication of sexual harassment complaints, only.

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TYPES OF CONDUCT

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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.

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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).

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“SPECIFIC OFFENSES” (VAWA)

These are conformed to VAWA Amendments to the Clery Act

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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"

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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

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SEXUAL ASSAULT

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

These definitions come from the FBI.

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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.

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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.

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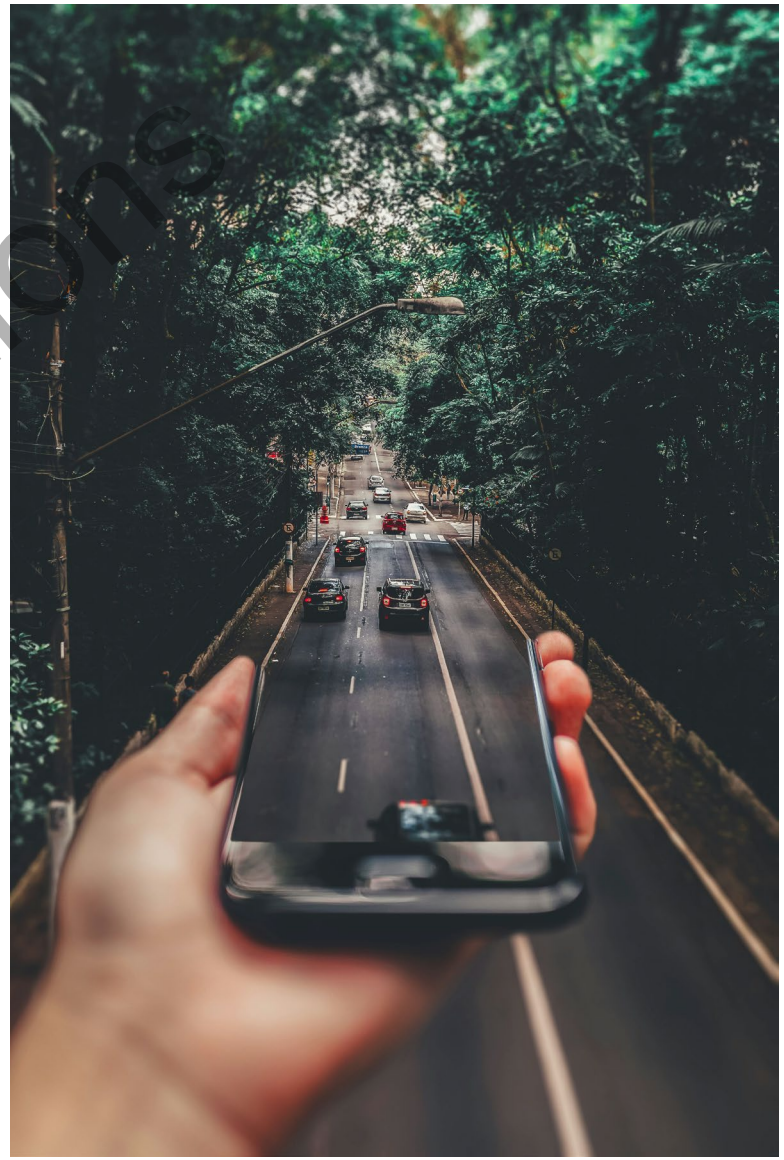
EXAMPLE: STALKING

- 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?



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LOCATION AND GEOGRAPHY

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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

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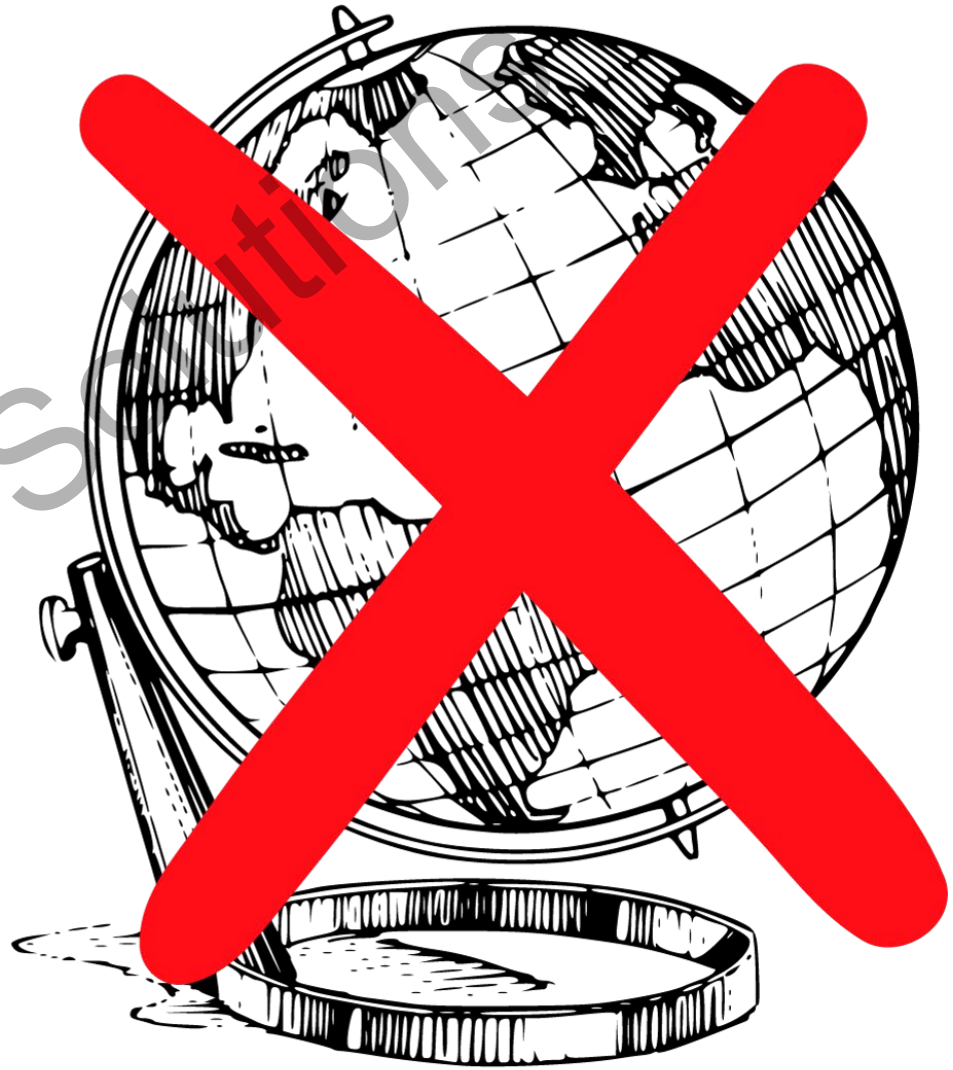
NOT COVERED GEOGRAPHY

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



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WOULD THIS FALL UNDER TITLE IX?

Taylor, a 2nd year student, comes into the Title IX Office on Monday morning requesting a meeting, sharing that "Alex raped me at a party on Saturday at the 'A Capella House'."

Some members of the A Capella club rent a house off-campus and they frequently throw parties..

Taylor is alleging "Alex raped me when I was drunk at the A Capella House."

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

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REQUIRED IDENTITY

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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

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TITLE IX APPLICATION
(POST-MAY 2020)

Type of Conduct
- Hostile Environment
- Sexual Harassment
- Quid Pro Quo
- Sexual Assault
- Dating/Domestic Violence
- Stalking

+

Ed Program or Activity
- On campus
- Campus Program, Activity, or Building
- In the United States

+

Required Identity
- Complainant is participating or attempting to participate in the Ed Program or activity
- Institution has control over Respondent

→

Apply 106.45 Procedures

Required Response:

Section 106.45 Procedures

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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

Off-Campus Sexual Assault

Sexual Harassment Abroad

Severe or Pervasive, only

Quid Pro Quo Between Students

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IS THIS TITLE IX SEXUAL HARASSMENT?

You receive a 3rd party report from a Coach who heard some rumors about a student on their team, Dani.

Dani is constantly receiving sexually explicit photos via Snapchat from another teammate. Dani has asked them to stop numerous times. When they are at practice together, this individual often approaches Dani to make jokes of a sexual nature. This has happened about 3 times so far this week. Dani usually laughs it off. Dani emailed me saying they needed to miss practice today because they are "sick".

Why? Why not? What other information would you need to know?

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ADDITIONAL REGULATORY REQUIREMENTS

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ACTUAL NOTICE

Institution <u>must</u> respond when it has:

"Actual Knowledge…"

- When "an official of the recipient <u>who has authority to institute corrective measures</u>" 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

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INITIAL RESPONSE REQUIREMENTS

1. Receipt of Report
2. Outreach/Response from Title IX Coordinator
3. Support Measures, whether or not Formal Complaint is filed
4. How to File
5. Options for Resolution

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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

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PROCEDURAL REQUIREMENTS FOR HEARINGS

Must be live, but can be conducted remotely

Cannot compel participation of parties or witnesses

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

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K-12: HEARINGS OPTIONAL

- Schools have the flexibility to allow for no hearings or for hearings in limited circumstances that they may define by policy
- Whatever policy requires, rules adopted must apply equally to all parties
- If hearings are permitted, the procedures set forth in the Regulations are not required; use a hearing process that is age/school appropriate

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K-12: THREE REQUIREMENTS

1. Before any determination of responsibility is made, the decision-maker(s) must afford each party "the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party."
2. Questions about the Complainant's prior sexual history predisposition or behavior are not permitted except under certain circumstances.
3. The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant.

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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."

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APPEALS: MANDATORY GROUNDS

(A) Procedural irregularity that affected the outcome of the matter;

(B) 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; and/or

(C) The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

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OTHER REQUIREMENTS OF THE REGULATIONS

- Designation of a Title IX Coordinator
- Dissemination of policy
- Separation of Responsibilities
- Training and posting of training
- Impartiality
- Record Keeping

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BUILDING A FOUNDATION FOR SUCCESS

02

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FINAL RULE, SECTION 106.8

Designation of Coordinator, Dissemination of Policy, and Adoption of Grievance Procedures

"Each recipient must designate and authorize at least one employee to coordinate its efforts to comply with its responsibilities under this part, which employee must be referred to as the Title IX Coordinator."

Additionally:

- The recipient must notify [everyone] of the name or title, office address, email address, and telephone number of the coordinator(s).
- Any person may report in person, by mail/email, telephone using the contact information.
- Reports can be made at anytime.

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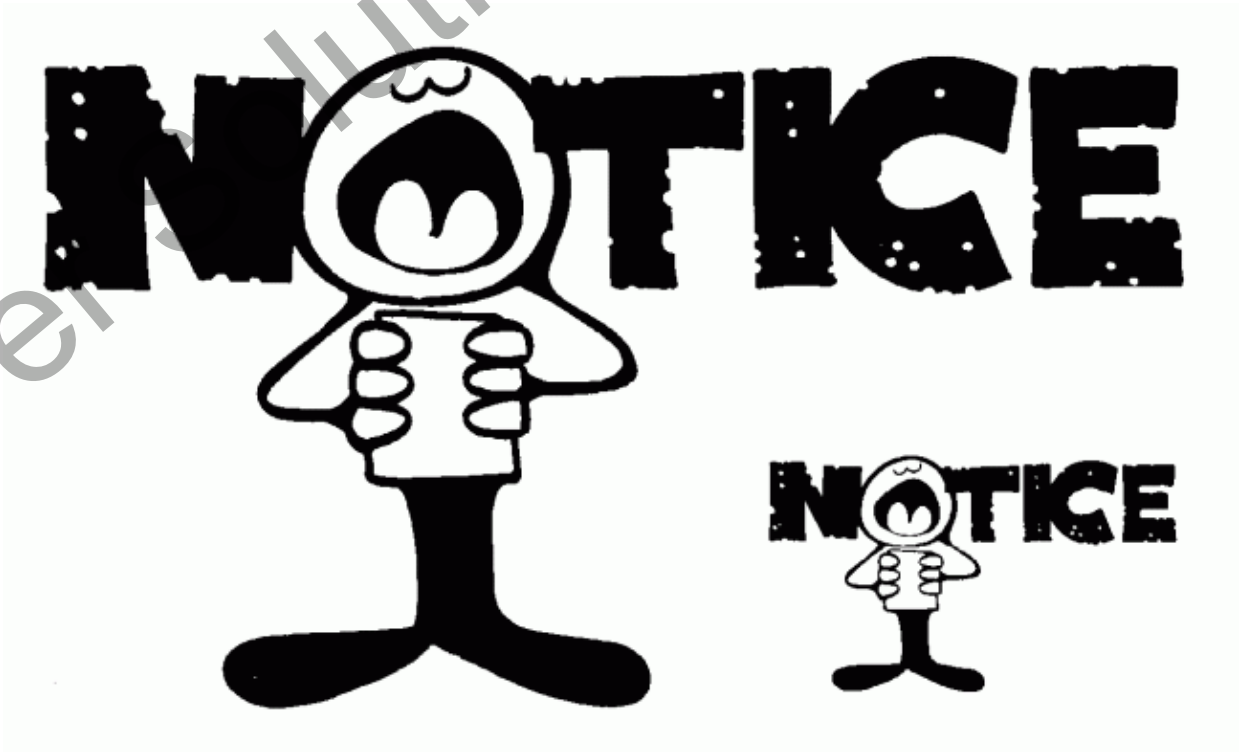
FINAL RULE, SECTION 106.8 (a)

The institution must notify applicants and all members of the community of the Title IX Coordinator's:

1. **Name or Title**
2. **Office address**
3. **Email address**
4. **Phone number**

Any person may report , at any time, sex discrimination, including sexual harassment in person, by mail, by telephone, by email, or any other means using the contact information listed



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RESPONSIBILITIES REQUIRED UNDER TITLE IX AND THE REGULATIONS

- Serve as the primary pathway for receipt of reports of sex discrimination and sexual harassment
- Upon receipt of a report, promptly contact the complainant to discuss the availability of supportive measures and to explain the process of filing a formal complaint
- Coordinate the effective implementation of supportive measures
- Where a report is made, but a formal complaint is not filed by the complainant, determine whether a formal complaint should be filed and sign that formal complaint
- Effective implementation of any remedies imposed by a decision maker at the conclusion of a grievance process

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RESPONSIBILITIES OFTEN DELEGATED TO THE TITLE IX COORDINATOR

- Ensuring that the institutional policies and procedures are compliant with Title IX
- Ensuring dissemination of the policy
- Overseeing the grievance process to ensure it is compliant
- Coordinating a compliant grievance process
- Staffing various roles
- Ensuring training requirements are met
- Record keeping
- Compliance with intersecting federal and state laws
- Education and prevention efforts

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THE THREE ESSENTIAL FUNCTIONS OF TITLE IX COMPLIANCE

01

Response

02

Education & Prevention

03

Compliance

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ANOTHER MOMENT, PLEASE...

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A SUCCESSFUL TITLE IX COORDINATOR…

C **Consistent**

A **Adheres** to policies and procedures

R **Records** or documents everything

E **Engages** meaningfully with the community

S **Strategizes** for success

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CONSISTENCY

- Creation of Forms and Templates
- Development of Annual Plans for Training
- Development of Annual Plans for Compliance
- Comprehensive Policies & Procedures

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ADHERENCE

- Adhere to policies and procedures
- Implement training plans
- Stick to compliance plans
- Use the forms that are developed

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RECORD KEEPING

Document, Document, Document!

1. **Compliance**
   1. Maintain old policies
   2. Keep records of all responses to reporting requirement
2. **Training**
   1. Dates, times, locations
   2. Attendees
   3. Training materials
   4. Reason for the training
3. **Response**
   1. EVERYTHING

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ENGAGEMENT

- Understand the needs of the community you serve
- Build awareness
- Build trust
- When you engage, others engage
- Can assist with workload

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STRATEGY

- Conduct your own review: Evaluate the institution's state of compliance, strengths, and opportunities in all areas
- Develop plans for success in every area
- Prioritize the implementation and execution of those plans

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SUCCESSFUL COORDINATORS APPROACH ALL ASPECTS OF THE WORK…

Impartially

Utilizing Best Practices

With Empathy

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IMPARTIALITY

Avoiding Prejudgment and Bias

"The Department's interest in ensuring impartial Title IX proceedings that avoid prejudgment of the facts at issue necessitates a broad prohibition on sex stereotypes so that decisions are made on the basis of individualized facts and not on stereotypical notions of what ''men'' or ''women'' do or do not do." 85 Fed. Reg. 30254 (May 19, 2020).

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IMPARTIALITY: AVOIDING PREJUDGMENT AND BIAS

Do not rely on cultural "rape myths"

Do not rely on cultural stereotypes about how men or women purportedly behave

Do not rely on gender-specific research data or theories to decide or make inferences of relevance or credibility in particular cases

Recognize that anyone, regardless of sex, gender, gender identity or sexual orientation, can be a victim or perpetrator of sexual assault or other violence

Avoid any perception of bias in favor of or against complainants or respondents generally

Employ interview and intake approaches that demonstrate a commitment to impartiality

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IMPARTIALITY

Avoiding Bias

- "Department encourages [schools] to apply an objective (whether a reasonable person would believe bias exists), common sense approach to evaluating whether a particular person serving in a Title IX role is biased" WHILE

- "exercising caution not to apply generalizations that might unreasonably conclude that bias exists (for example, assuming that all self-professed feminists, or self-described survivors, are biased against men, or that a male is incapable of being sensitive to women, or that prior work as a victim advocate, or as a defense attorney, renders the person biased for or against complainants or respondents"

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IMPARTIALITY
Avoiding Conflicts of Interest

- Simply having an affiliation with an institution in itself is NOT a conflict of interest:
  - "Department's authority is over schools, not individual investigators and other personnel, so Department will focus on holding school's responsible for impartial end result of process, without labeling certain administrative relationships as per se involving conflicts of interest."

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IMPARTIALITY

Avoiding Prejudgment, Bias, and Conflicts of Interest

Bottom Line

- Follow facts of every individual case
- Investigate in manner that will not allow even a perception of prejudgment or bias for or against any party

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COMPLIANCE

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SOURCES OF COMPLIANCE OBLIGATION

- Title IX Final Regulations
- Violence Against Women Act
- Other, Intersecting Federal Laws
- State Law
- Institutional Policies
- Resolution Agreements

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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

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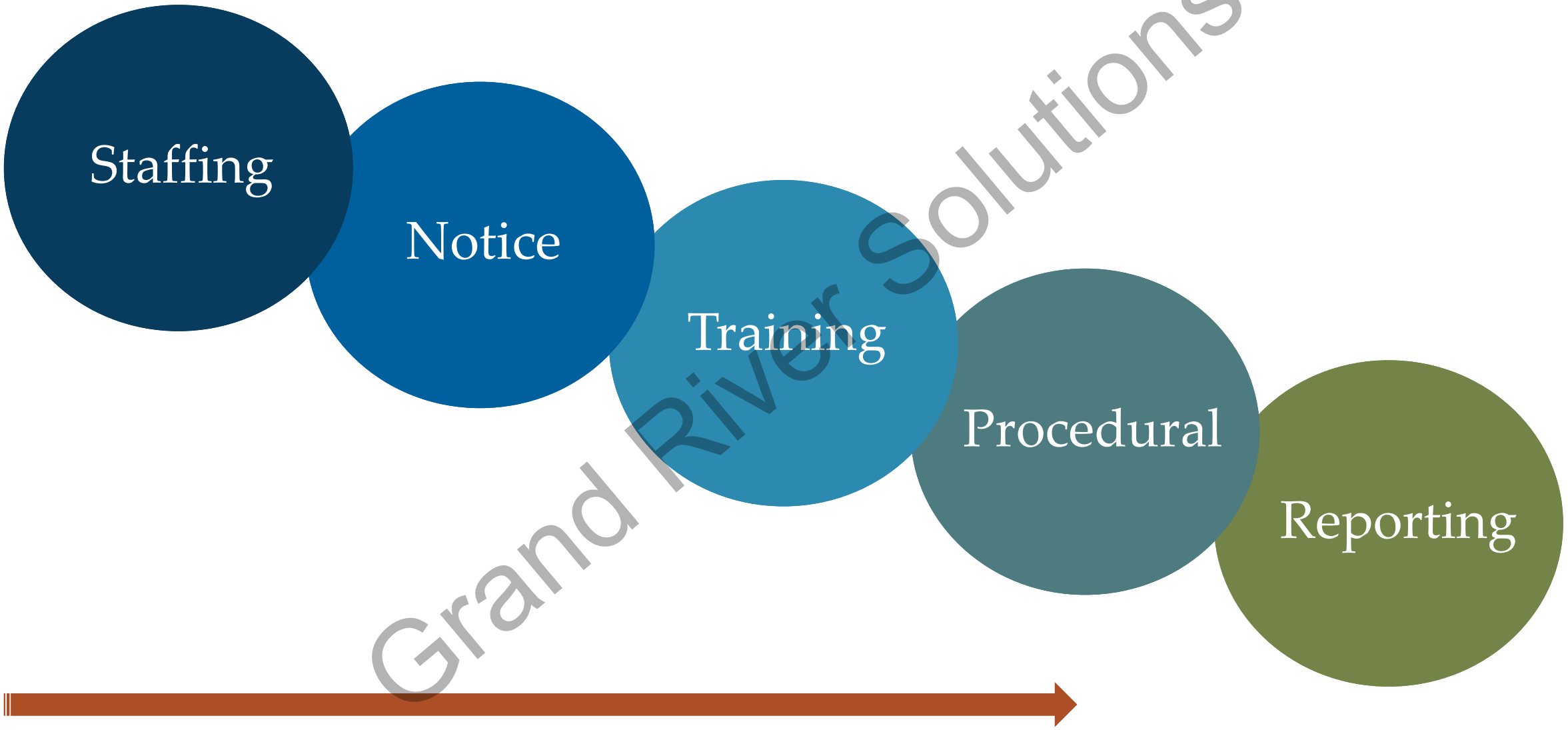
Categories of Compliance Requirements



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DEVELOPING A STRATEGY FOR COMPLIANCE

1. Identify Compliance Obligations
2. How you will prove that you are compliant
3. Record Keeping

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IMPLEMENTING THE STRATEGY FOR COMPLIANCE

Partnerships

Record Keeping Databases

Calendar

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TRAINING & EDUCATION

Educating ourselves and our communities

04

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SOURCES OF TRAINING REQUIREMENTS

- Title IX Final Regulations
- Violence Against Women Act
- State Law
- Resolution Agreements

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TRAINING AND EDUCATION: TWO AREAS OF FOCUS

01 → Institutional Response to Sex Discrimination

02 → Prevention Education

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INSTITUTIONAL RESPONSE TRAINING

1. Institutional Policies and Procedures
2. Prohibited Conduct
3. Options for Confidential Support
4. The Identify, Role, and Requirements of the Responsible Employee
5. Options and methods for Reporting
6. The Grievance Process
7. The Role of the Title IX Coordinator

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A REALLY IMPORTANT MOMENT. LISTEN UP. IT'S OKAY…

To not know the answer to every question thrown your way

To say, "I don't know," "I'd like to think about that," "I'll get back to you," "Thank you for sharing your perspective."

To decline to answer a question

To recognize and assert your expertise

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WHO MUST BE OFFERED TRAINING?

Title IX Staff*

- Coordinators
- Investigators
- Decision Makers (hearings and appeals)
- Facilitators of Informal Resolution

Faculty

- New faculty
- Existing faculty
- Adjunct Faculty
- Supervising faculty

Students

- New Students
- Existing Students
- Specialized populations
- Student staff

Staff

- New/existing staff
- Senior leadership
- Public Safety/campus law enforcement
- Health care workers

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*"Those who are charged with ensuring a prompt, fair, and impartial investigation and result." (VAWA)

COMMUNITY PARTNERS?

Boards of Trustees

Law Enforcement

Advocacy Groups

Health Care Providers

Attorneys

Media

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TRAINING FOR TITLE IX STAFF

- The scope of the institution's education program or activity (i.e., its Title IX "jurisdiction")
- How to conduct the grievance process
- How to serve impartially
- The technology to be used at a live hearing *
- Issues of relevance of questions and evidence *
- Rape shield protections; and, *
- Issues of relevance in creating an investigation report. *

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EMPLOYEE REPORTING OBLIGATIONS

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SPECIAL CONSIDERATIONS FOR TRAINING & EDUCATION

- Explaining the narrowed scope of Title IX
- Explaining the institutional decision for two processes/procedures
- Responsible Employee challenges
- Burden of proof challenges
- Length of Training
- Time for questions/community processing

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PREVENTION EDUCATION: TITLE IX REGULATIONS

"And while the Department does not mandate educational curricula, nothing in the final regulations impedes recipients' discretion to provide students (or employees) with educational information."

85 Fed. Reg. 30063 (May 19, 2020).

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PREVENTION EDUCATION: VIOLENCE AGAINST WOMEN ACT (VAWA)

A primary prevention and awareness program [which includes bystander intervention] aims to prevent dating violence, domestic violence, sexual assault, and stalking.

Ongoing prevention and awareness campaigns.

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ELEMENTS OF ANNUAL TRAINING STRATEGY

- Identify population to be trained
- Determine topic
- Schedule the training
- How will you deliver the training
- Partnerships
- Communications
- Community input/feedback
- Engagement as passive education

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ONGOING ASSESSMENT OF TRAININGS

- Pre and Post Surveys
- Observation
- Opportunities for Feedback and Suggestions
- Engage and Listen

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TRAINING COMMUNICATION

Annual Report

On Your Website

When training

In conversations

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PREGNANCY OR RELATED CONDITIONS

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TITLE IX

Title IX prohibits discrimination on the basis of sex, which includes pregnancy and related conditions– in educational programs and activities.

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TITLE IX & PREGNANCY

Cannot exclude or treat students (or employees or applicants) differently based on pregnancy or related conditions.

"Related conditions" include "childbirth, false pregnancy, termination of pregnancy, or recovery therefrom"

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TITLE IX OBLIGATIONS

Summary of the obligations relating to pregnant students

- Allow them to make up any missed work without penalty
- Treat them similarly to students with a temporary disability.
- They must be allowed to return to the same academic and extracurricular status as before their medical leave began.
- Must provide reasonable adjustments, like a larger desk, elevator access, or allowing frequent trips to the restroom

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ALLOW MODIFICATIONS

Non-Exhaustive

1

BREAKS

For health needs; expressing milk

2

ABSENCES

To attend medical appts

3

ACADEMIC ADJUSTMENTS

Course sequence, scheduling, extensions

4

SERVICES

Counseling

5

PHYSICAL SPACE

And supplies

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NOW WHAT?

- A student in a science program asks a faculty member if they can be excluded from a series of lab sessions involving chemicals that may be harmful for pregnant people. The instructor is insistent that they must complete these labs in order to not fail the class:
    - As Title IX Coordinator, what are your next steps?
    - Who else are you bringing into the conversation?
    - How can we be creative to ensure equal access for this student?

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DAY 2 AGENDA

01

Receipt of Reports

Actual Knowledge, Report Response, Initial Assessments, & Supportive Measures

02

Complainant Intake & Supportive Measures

03

Report Resolution

Support-Based Based, Alternative/Informal, or Formal

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RECEIPT OF REPORTS

Actual Knowledge, Report Response, Initial Assessments, and Supportive Measures

01

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INFRASTRUCTURE FOR REPORTING

Develop methods/avenues for reporting

Communicate reporting methods and what folks should expect after submitting a report

Develop a plan for receiving and reviewing the reports

Develop a protocol that ensures a prompt response to reports

Develop and adhere to a practices for documenting reports and responses

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REGULATORY REQUIREMENTS

- Notice to College/University
- Outreach/Response from Title IX Coordinator
- Support Measures, whether or not Formal Complaint is filed
- How to File
- Options

Grand River Solutions

RECEIVING REPORTS AND INITIATING THE RESPONSE

1. Review the report

2. Determine the appropriate initial response

3. Promptly initiate that response

4. Document/record the receipt of the report and the response thereto

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INITIAL OUTREACH

- First: Safety
- Email: Create Forms
- Phone
- In person: Use RA, Campus Safety
- Follow Up Emails

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SCENARIO: EMERGENCY REMOVAL OF STUDENT

- High threshold
- Not a determination of responsibility
- Whether or not grievance is underway
- Individualized
- Immediate threat (physical)
- Opportunity to challenge

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THE TITLE IX OFFICE RECEIVES THE FOLLOWING ANONYMOUS REPORT VIA YOUR INSTITUTION'S ONLINE REPORTING FORM:

"Riley Smith is in trouble. I live on their floor in River Hall and I constantly hear fighting and crying coming from their room at night. Every time I see Riley with their partner, they seem really submissive and nervous and I have noticed bruises on Riley the mornings after the biggest fights. The RA and Riley's partner are friend and so the RA doesn't do anything about it. It's getting so bad that some of the other people on the floor are talking about intervening, but we are afraid of Riley's partner too."

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THE TITLE IX OFFICE RECEIVES THE FOLLOWING EMAIL FROM A RESPONSIBLE EMPLOYEE:

"My name is Professor Jones. One of my students shared that they were raped last weekend at a party by another student. They don't want the school starting an investigation, and so I am not going to share their name or the details with you. They are thinking about talking to the police but are not sure who to contact. Can you please provide me with information that I can share with the student?"

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COMPLAINANT INTAKE & SUPPORTIVE MEASURES

02

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INITIAL MEETING WITH THE COMPLAINANT

- Prepare for the meeting
- Select appropriate space
- Build trust and rapport; empower
- Explain your role
- Discuss available support
- Options for reporting
- Answer questions
- Evidence collection/preservation
- Conclude with a discussion of next steps

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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

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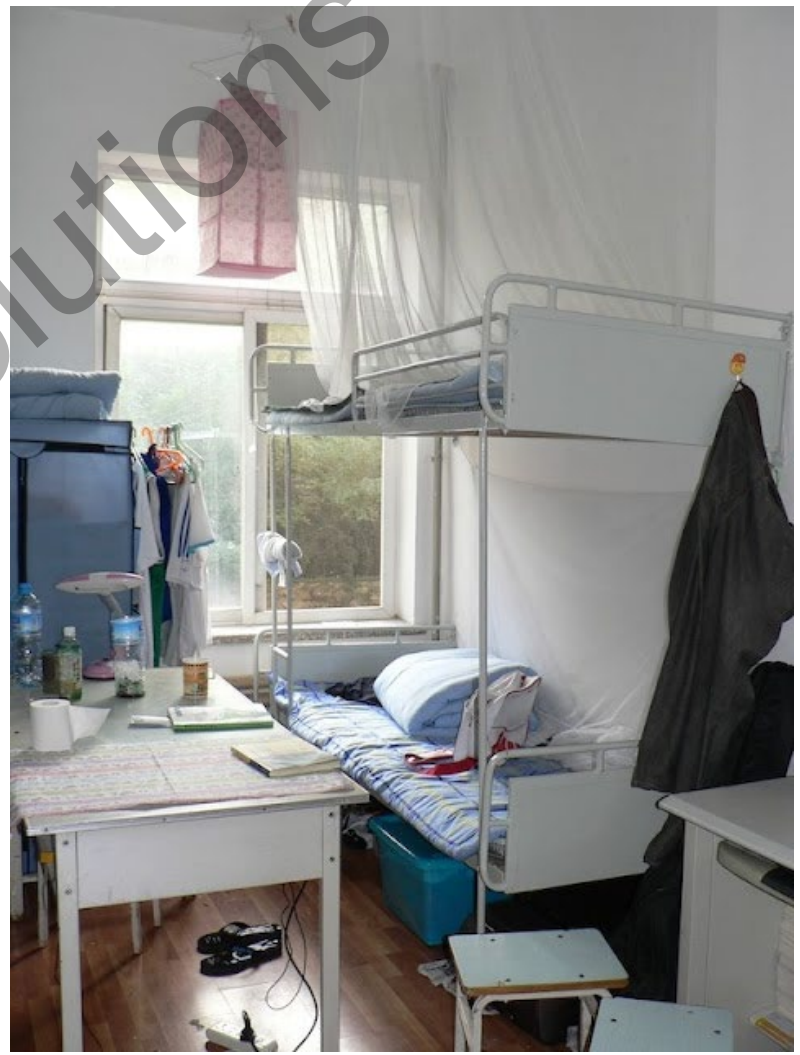
EXAMPLES OF SUPPORTIVE MEASURES

- 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" orders).



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"MUTUAL RESTRICTIONS ON CONTACT BETWEEN THE PARTIES"

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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.

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REPORT RESOLUTION

Support-Based Only,
Informal/Alternative, or Formal

03

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HOW TO PROCEED?

Support-Based Only

No formal process

Alternative/ Informal

Signed agreement;
Voluntary;
What records?

Formal/ Investigation/ Hearing

All requirements of 106.45

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SUPPORT BASED-BASED RESOLUTION

3(a)

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SUPPORT-BASED RESOLUTIONS

- Supportive Measures
- Targeted Education
- Educational Co nversations

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FORMAL COMPLAINT & NOTICE REQUIREMENTS

03(b)

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FORMAL COMPLAINT FILED

By Complainant

By the Title IX Coordinator

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FACTORS TO CONSIDER WHEN DETERMINING WHETHER TO FILE A FORMAL COMPLAINT

Allegations of Violence

Threats

Use of Weapons

Serial predation

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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.

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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

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CAN PROCEED UNDER OTHER POLICY

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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.

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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

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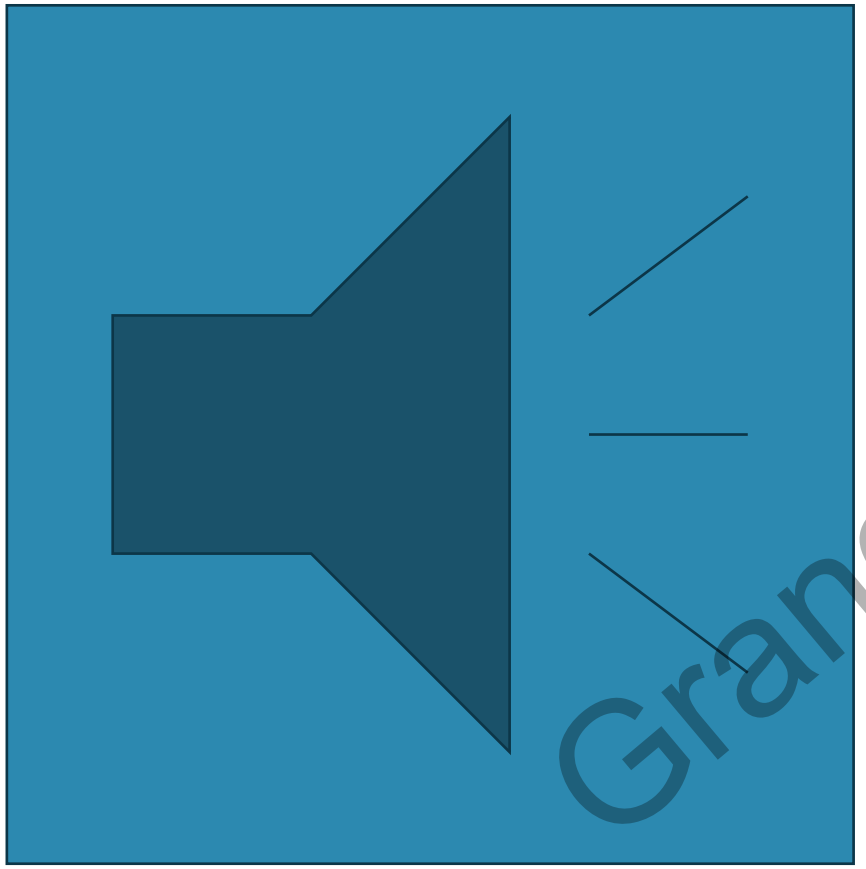
NOTIFYING THE RESPONDENT



- 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

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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.

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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

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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.

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COMPLAINT RESOLUTION

Informal Resolution

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

Formal Resolution

- Investigation and Adjudication process in compliance with Section 106.45

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ALTERNATIVE RESOLUTION

03(c)

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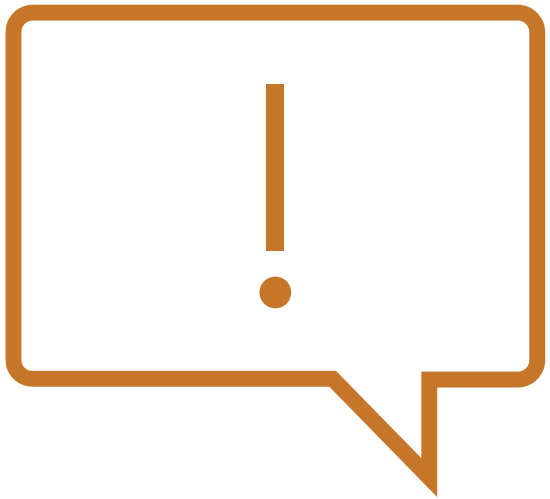
ALTERNATIVE RESOLUTION REQUIREMENTS

- 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



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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;

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FACILITATORS OF ALTERNATIVE RESOLUTION AS WITNESSES

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

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FORMAL RESOLUTION

03(d)

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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

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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

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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

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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

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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."

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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

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Putting it all together

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THE RIVER CONNECT

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

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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

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Designed for you, by people like you

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

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- track and manage your cases
- communicate with campus stakeholders without compromising case privacy, and
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