



D. STAFFORD
& ASSOCIATES

Title IX Coordinator- Law and Policy (Tier 1)

Presented by DSA Associates:

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Title IX Coordinator

Tier 1 – Law and Policy

- The Law
- Subpart A: Introduction
- Subpart B: Coverage
- Subpart C: Admission & Recruitment
- Subpart D: Educational Programs or Activities
- Subpart E: Employment
- Subpart F: Retaliation
- Clery Act (VAWA) Procedural Requirements



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Adrienne Meador Murray, Vice President, Equity Compliance and Civil Rights Services



In January 2014, Adrienne Meador Murray joined D. Stafford & Associates where she currently serves as the Vice President, Equity Compliance and Civil Rights Services after having been affiliated with D. Stafford & Associates as a part-time Associate since 2012 and the National Association of Clery Compliance Officers & Professionals (NACCOP) where she currently serves as Director of Training and Compliance Activities. Murray began her career in municipal law enforcement as a civilian employee with the City of Richmond Police Department (Virginia). She graduated from the Virginia Commonwealth University Police Training Academy and began her career as a sworn police officer for the University of Richmond (UR) Police Department (Virginia). At UR, Murray progressed through the ranks from a night shift patrol officer to Operations Lieutenant (overseeing criminal investigations, crime prevention and patrol) over the span of a decade before becoming the Chief of Police at Davidson

College in North Carolina. Most recently, Murray served as Chief of Police at Trinity Washington University (in Washington, D.C.).

As the Executive Director, Equity Compliance and Civil Rights Services for DSA, Murray builds on her 17-year career in law enforcement in which she became a nationally recognized expert in the field of best practice postsecondary institutional response to the sexual victimization of college women in the United States and in Canada. She is also a trained civil rights investigator and is well respected throughout the country for her ability to aid institutions in understating how to do best practice criminal and civil rights investigations concurrently. She is well known for her work in having provided support, advocacy and criminal investigative services for victims of sexual assault, stalking and intimate partner violence and is a sought-out speaker and investigator. She has expertise in the construction of best practice law enforcement standard operating procedures and training police officers to respond in best practice and trauma-informed ways to victims of sexual assault and intimate partner violence. In her current role, Murray coordinates curriculum development and instruction for national classes, including basic and advanced sexual misconduct investigation classes; an investigation of dating violence, domestic violence and stalking class; and a Title IX Coordinator/Investigator class offered through D. Stafford & Associates. To date, Murray has trained more than 3,500 criminal and civil rights investigators throughout the U.S.

Drawing on her experiences as a trained criminal and civil rights investigator, Murray also oversees independent investigations of complex sexual misconduct cases; conducts audits of Title IX/VAWA



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Compliance; drafts institutional sexual misconduct policies and procedures; and conducts campus-based trainings pertaining to the resolution of sexual misconduct offenses on college and university campuses. Murray frequently presents at regional and national conferences on topics such as the *Sexual Victimization of College Women*, *Understanding Consent and Incapacitation*, and *Responding to Sexual Assault on Campus: Clery Act and Title IX Implications*. Murray also conducts provincially specific sexual misconduct trainings throughout Canada.

Murray is a graduate of the University of Richmond, where she received her Bachelor's Degree in Applied Studies in Human Resource Management and of New England College, where she received her Master's Degree in Campus Public Safety Administration. Murray is also a graduate of the 235th session of the prestigious FBI National Academy where she was awarded a graduate certificate in Criminal Justice from the University of Virginia. She has authored numerous journal articles.

Catherine Cocks, M.A.
Consultant, Student Affairs, Title IX, and
Equity Compliance Services



Ms. Cocks has been a higher education professional for over thirty years. Her work with D. Stafford & Associates focuses on Title IX investigations and training; assessment of student affairs policies, practices and services; and behavioral threat assessment. Cathy was the Director of Community Standards for the University of Connecticut for 14 years where she managed the student conduct process, which included managing all Title IX cases involving student respondents and chaired the University's student threat assessment team. Prior to that, she held several positions within Residential Life at the University of Connecticut and Roger Williams University.

She is a faculty member for the Association for Student Conduct Administration's (ASCA) Donald D. Gehring Academy teaching on subjects such as ethics, governance, threat assessment, media relations, and higher education trends. She was an affiliated faculty

member for many years in the University of Connecticut's Higher Education and Student Affairs Master's program teaching "The Law, Ethics, and Decision-Making in Student Affairs."

Cathy has co-authored the "Philosophy of Student Conduct" chapter in the 2nd edition of "Student Conduct Practice" (2020) and was a member of the writing team for CAS Standards' Cross-functional Framework for Identifying and Responding to Behavioral Concerns.

Cathy is a Past President of ASCA. She has also served as a Circuit representative, co-chair of the Public Policy and Legislative Issues Committee, and as a member of the ASCA Expectations of Members Task Force. Cathy has served in a variety of leadership roles in NASPA Region I.

She was the 2015 recipient of ASCA's Donald D. Gehring Award. She is a past recipient of the NASPA Region I Mid-Level Student Affairs Professional Award and the NASPA Region I Continuous Service Award.

She earned her Master's degree in Higher Education Administration from the University of Connecticut and Bachelor's degree in Communications/Media from Fitchburg State University.

Ann Todd
Consultant, Equity Compliance and Civil Rights Investigations



Ann Todd, Esq is a seasoned civil rights investigator in higher education for D. Stafford & Associates (DSA). Ms. Todd is a graduate of Davidson College with a degree in psychology and holds a JD from the University of Nebraska. Prior to joining DSA, she practiced law in Charlotte, NC, specializing in employment and civil rights and worked for a number of non-profit organizations. She returned to her alma mater (Davidson College) in 2008 and worked there through March of 2016 serving as the Assistant Director of Human Resources with the responsibility of managing employee relations and the learning and development function while also serving as the deputy Title IX Coordinator.

Ms. Todd joined the DSA in 2015 and currently serves as the Consultant, Equity Compliance and Civil Rights Investigations. She is the Senior Investigator for the DSA Title IX Investigation Team. She conducts external investigations on behalf of colleges and universities, specializing in investigating student allegations of sex discrimination, sexual assault, intimate partner violence, and stalking. Additionally, she brings a strong Human Resources background to investigating a range of employee misconduct—from performance issues to discrimination.

In addition to conducting investigations, Ms. Todd is a frequent speaker and consultant on Title IX investigations, conducting 20-30 courses every year on best practices for investigating sex discrimination and sex crimes on campus. She works with schools to draft policies and processes that provide equity and fairness to



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all parties involved and is adept at facilitating discussions with institutions to ensure the end product represents the values of the campus community.

Ms. Todd is licensed private investigator and a member of the NC Bar. She is a Certified Clery Compliance Officer through the National Association of Clery Compliance Officers and Professionals (NACCOP) and she is also a certified 360 facilitator through the Center for Creative Leadership. Ms. Todd lives in Davidson, NC where she volunteers on a number of local and town boards.



TITLE IX

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ISSUANCE OF CERTIFICATES FOR COMPLETION

To receive a certificate, attendees must attend the majority of the class and have paid class invoice in full. This applies to both in-person classes and virtual classes. We understand that attendees may need to miss class for a legitimate reason for longer periods of time or may need to leave the room during a class for a few minutes to take a phone call or attend to other business. If an attendee misses a significant amount of the class (depending on the length of the class) or they miss an attendance poll, they will not be issued a certificate of completion for the class.

Attendees should report each absence using the online form provided (each class has its own unique form that is sent to all attendees via email prior to class). Attendees should complete the form twice for each absence: once to record their departure, and again to record their return. Attendees should complete the form immediately before leaving class and as soon as practicable upon their return. If an attendee signs out but does not sign back in, they will be marked absent for the remainder of the day.

The criteria for receiving a certificate is determined based on missed class time and participation in the Attendance Polls that will be launched throughout each day of class. Attendance polls are left up for approximately 5 minutes and the instructor notifies the attendees that a poll is being launched to ensure that everyone who is present can respond to the poll. If an attendee is unable to respond to the attendance poll, the attendee would need to **immediately post "I am here"** in the chat feature within the Zoom platform. That way we can give the attendee credit for being in attendance for that specific poll. Notifying us after the attendance poll has been closed will not allow us to give the attendee credit for being in class during the poll.

Some of our classes may qualify for credit toward a Master's Degree at New England College (and regardless if you decide to seek credit or not, accreditation requirements mandate that we follow the same standards for all class attendees), so we have strict attendance standards that we follow for issuance of a certificate. For DSA & NACCOP, issuance of a Certificate of Completion is verification of attendance.

INVESTIGATION CLASS ACRONYMS

- ASR:** Annual Security Report (often used as a reference to the Annual Security Report and/or the Annual Security and Fire Safety Report) that must be published by each institution of higher education.
- CSA:** Campus Security Authority—Individuals on each campus who have been identified by the Department of Education as persons who are required to report crimes that they become aware of to the Reporting Structure at each institution.
- DCL:** Dear Colleague Letter—this is a formal name of the method of communication from the Department of Education to college campuses. It is like naming their official “memo” to campuses.
- FERPA:** Family Educational Rights and Privacy Act—governs the confidentiality of student records.
- FNE:** Forensic Nurse Examiners
- GO:** General Order—some departments describe their operating procedures as general orders
- HEOA:** Higher Education Opportunity Act—the broader law that contains the Clery Act language and the fire safety and missing person language that is in the law but not contained within the “Clery Act” portion of the law.
- HIPAA:** Health Insurance and Privacy and Portability Act—governs privacy of medical records.
- MOU:** Memorandum of Understanding—an official agreement developed between agencies.
- NIBRS:** National Incident-Based Reporting System. 1 of 2 crime reporting systems developed by the FBI, but not the system that you are required to use for Clery Reporting—the only portion of this system that is used for Clery Act purposes are the 4 forcible and 2 non-forcible sex offense definitions.
- OCR:** Office of Civil Rights—the unit of the Department of Education that oversees Title IX Compliance.
- PD:** Police Department
- PS:** Public Safety
- PNG:** Persona-non-Grata—process used by some campuses not keep students from entering certain areas of the campus or the entire campus (administrative process) versus legal bar notice or trespass warning.
- SACC:** Sexual Assault Crisis Center, also known as Women’s Center.
- SANE:** Sexual Assault Nurse Examiner

SART: Sexual Assault Response Team

SOP: Standard Operating Procedures—some departments describe their operating procedures as Standard Operating Procedures. Some call them General Orders, etc...

SWA: Senior Women's Administrator (Athletics)

TWN: Timely Warning Notice

UCR: Uniformed Crime Report. This is 1 of 2 crime statistics reporting systems developed by the FBI. Institutions are required to use UCR Standards for counting and classifying crimes for reporting the Clery statistics.

VAWA: Violence Against Women Act



TITLE IX COORDINATOR - LAW & POLICY



1



A NOTE ON TRAINING

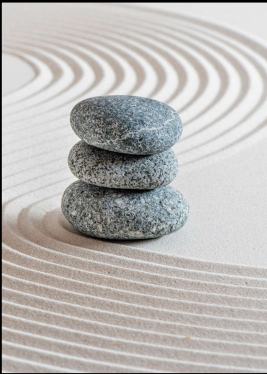


**This is not legal advice,
consult your lawyer!**

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2

2





AGENDA

- The Law
- Subpart A: Introduction
- Subpart B: Coverage
- Subpart C: Admission & Recruitment
- Subpart D: Educational Programs or Activities
- Subpart E: Employment
- Subpart F: Retaliation
- Clery Act (VAWA) Procedural Requirements

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3

3

THE LAW

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4

4

FEDERAL LAW

Statutes

20 U.S.C.D.
§ 1681-1689

Regulatory Guidance

34 C.F.R. § 106

Sub-Regulatory Guidance

DCLs
Preamble to Regs
Executive Orders
OCR Website

Case Law

Circuit courts
District courts

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5

5

STATUTES

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6

6

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TITLE IX, EDUCATION AMENDMENTS OF 1972,
20 U.S.C. § 1681

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.

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7

7

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§ 1681(a) – EXCEPTIONS

- Admission policies
- Institutions changing from single-sex status
- Religious institutions
- Military services or merchant marines
- Public traditional single-sex institutions

- Social fraternities or sororities
- Voluntary youth organizations
- Boy or girl conferences
- Father-son/mother-daughter activities
- “Beauty” pageants
- Housing

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8

8

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REGULATIONS



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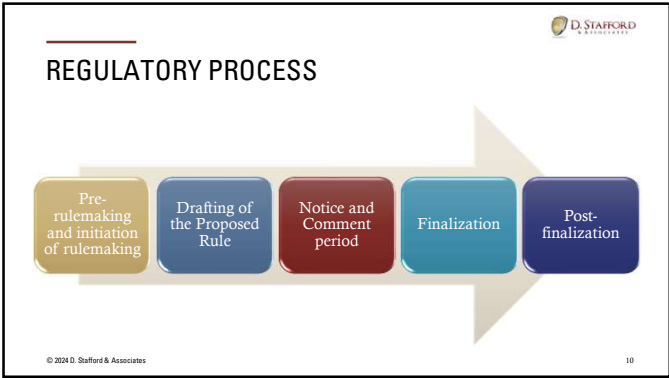
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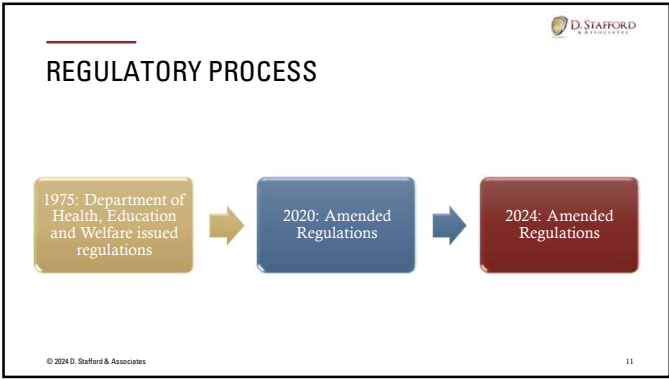
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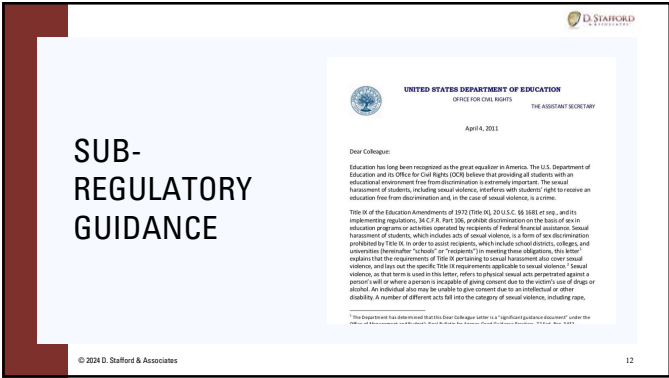
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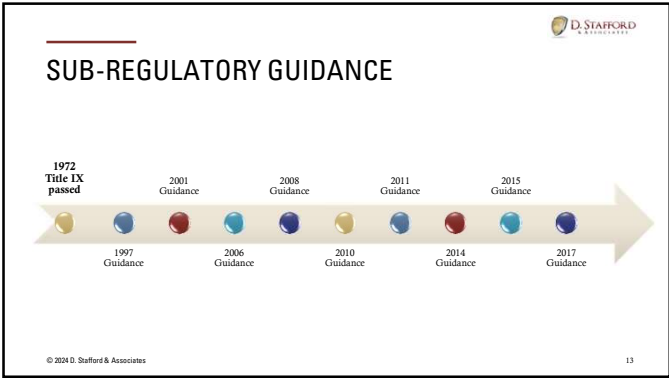
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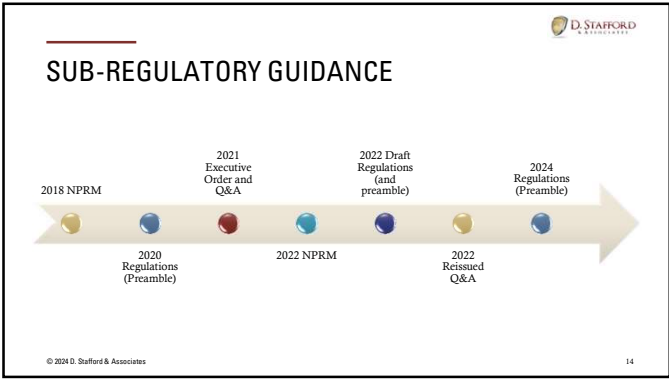
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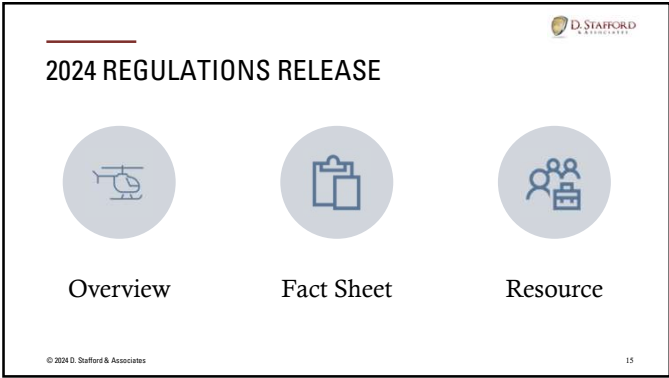
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13



14



15

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A RESEARCHER

2024 REGULATIONS



Amendments to
Regulations: 15 pages



Amendments and
Preamble: 423 pages

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16

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A RESEARCHER

CASE LAW

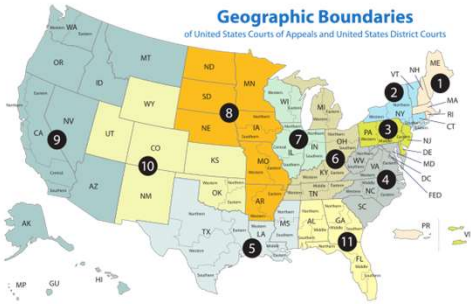


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17

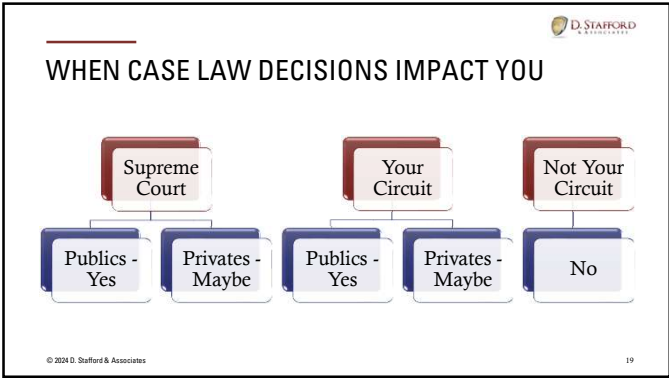
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A RESEARCHER

Geographic Boundaries
of United States Courts of Appeals and United States District Courts

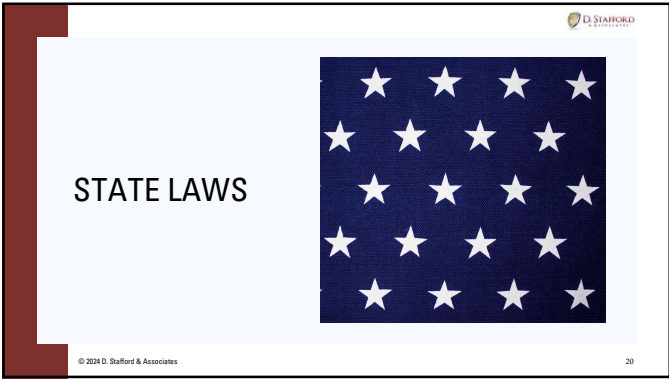


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18



19



20



STATE LAWS AND THE REGULATIONS

§ 106.6(b) Effect of State or local law or other requirements. The obligation to comply with Title IX and this part is not obviated or alleviated by any State or local law or other requirement that conflicts with Title IX or this part.

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21

OVERVIEW OF
THE 2024 TITLE
IX REGULATIONS



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22

22

Sex
Discrimination

Sex-Based Harassment

- Sexual Assault
- Dating/Domestic Violence
- Stalking
- Hostile Environment
- Quid Pro Quo

Sex Discrimination

- Sex stereotypes
- Sex characteristics
- Pregnancy or related conditions
- Sexual orientation
- Gender identity

Applies in . . .

Admission, Employment, Educational Programs, and Activities

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MISCONCEPTIONS



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24

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8



IMPLEMENTATION DATE: AUGUST 1, 2024



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25

25



TECHNICAL ASSISTANCE FROM THE DEPARTMENT

Office for Civil Rights (To assist with compliance)
<https://ocrcas.ed.gov/contact-ocr>

Student Privacy Policy Office (FERPA Questions)
<https://studentprivacy.ed.gov/?src=fpco>

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26

26



FIRST AMENDMENT



§ 106.6(d) Constitutional protections.
Nothing in this part requires a recipient to:
(1) Restrict any rights that would otherwise be protected from government action by the First Amendment of the U.S. Constitution

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27

27

34 C.F.R. § 106 – SUBPARTS

- Subpart A: Introduction (106.1 – 106.9)
- Subpart B: Coverage (106.11 – 106.18)
- Subpart C: Admission and Recruitment (106.21 – 106.24)
- Subpart D: Education Programs/Activities (106.31 – 106.46)
- Subpart E: Employment (106.51 – 106.62)
- Subpart F: Retaliation (106.71 – 106.72)
- Subpart G: Procedures (106.81 – 106.82)

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28

28

SUBPART A: INTRODUCTION

Hello,
My name is _____

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29

29

SUBPART A: A FEW FYIs...

§ 106.2
Definitions

§ 106.3(a)
Remedial Action

§ 106.3(b)
Affirmative Action

§ 106.6
Preservation of rights

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30

30

§ 106.2 – DEFINITIONS

Admission

Applicant

Party

Postsecondary institution

Pregnancy or related conditions

Program or activity

Recipient

Student

Student with a disability

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31

31

§ 106.2 – DEFINITIONS

Complaint

Complainant

Confidential employee

Disciplinary sanctions

Peer retaliation

Sex-based Harassment

Relevant

Remedies

Respondent

Retaliation

Supportive measures

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32

32

NOT DEFINED

Credibility

Consent

Employee

Sex Discrimination

Sexual assault (but link)

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33

33

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11

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§ 106.2 – DEFINITIONS: PARTIES

Complainant

- A student or employee, or
- Non-student/employee who was participating/attempting to participate at the time of the alleged sex discrimination

Respondent

- A person who is alleged to have violated the recipient's prohibition on sex discrimination

Party

- A complainant or respondent

34

34

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SEX-BASED HARASSMENT DEFINITIONS



35

35

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§ 106.2 – SEX-BASED HARASSMENT

Sex-based harassment prohibited by this part is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the bases described in § 106.10, that is:

1. Quid pro quo

2. Hostile Environment

3. Specific offenses

36

36

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12



RECOMMENDED LANGUAGE

Sex-based harassment prohibited by this part is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity:

- 1. Quid pro quo*
- 2. Hostile Environment*
- 3. Specific offenses*

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37

37



QUID PRO QUO HARASSMENT

An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under the recipient's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.

§ 106.2
38

38



QUID PRO QUO NOTES



Unwelcome



Explicit and implicit



Aid, benefit, or service



Employee, agent, or other person

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39

39



HOSTILE ENVIRONMENT HARASSMENT

“Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from the recipient’s education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:...”

§ 106.2

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40



UNPACKING HOSTILE ENVIRONMENT



```

graph TD
    A[Unwelcome] --- B[Sex-based]
    B --- C[Totality of Circumstances]
    C --- D[Subjective and Objective]
    C --- E[Severe or Pervasive]
    C --- F[Limits or Denies]
    
```

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41



HOSTILE ENVIRONMENT “FACT-SPECIFIC INQUIRY”



Degree affected educational access



Type, frequency, duration



Parties’ ages, roles, previous interactions, other factors



Location and context in which occurred



Other sex-based harassment in educational setting

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42

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HOSTILE ENVIRONMENT NOTES



Jurisdiction



Beyond Sexual Harassment

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43

43

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SPECIFIC OFFENSES

Sexual assault

Dating violence

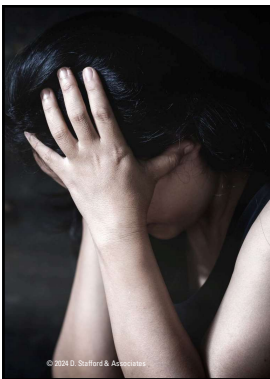
Domestic violence

Stalking

§ 106.2

44

44



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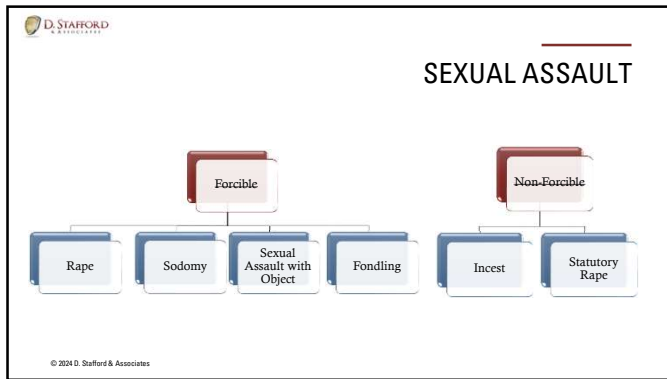
SEXUAL ASSAULT

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

§ 106.2

45

45



46

NON-CONSENSUAL SEXUAL PENETRATION

Rape - (Except Statutory Rape) The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity

Sodomy - Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity

Sexual Assault With An Object - To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity

FBI, Uniform Crime Reporting Program: National Incident-Based Reporting System (2018)

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NON-CONSENSUAL SEXUAL TOUCHING

Fondling - The touching of the private body parts of another person for the purpose of sexual gratification without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity

FBI, Uniform Crime Reporting Program: National Incident-Based Reporting System (2018)

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48



INCEST AND STATUTORY RAPE

Incest - Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law

Statutory Rape - Nonforcible sexual intercourse with a person who is under the statutory age of consent

FBI, Uniform Crime Reporting Program: National Incident-Based Reporting System (2018)

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49



DATING VIOLENCE

Dating violence means violence committed by a person:

- (A) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (B) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - (1) The length of the relationship;
 - (2) The type of relationship; and
 - (3) The frequency of interaction between the persons involved in the relationship

§ 106.2

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50



DOMESTIC VIOLENCE

Domestic violence meaning felony or misdemeanor crimes committed by a person who:

- (A) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;
- (B) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
- (C) Shares a child in common with the victim; or
- (D) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction

§ 106.2

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51



STALKING

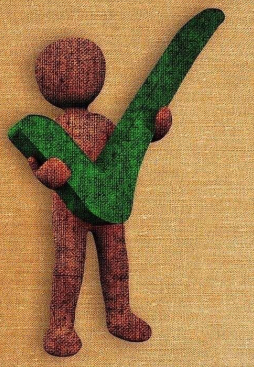
Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

- (A) Fear for the person's safety or the safety of others; or
- (B) Suffer substantial emotional distress.

§ 106.2

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52





NOTE ON CONSENT

The Assistant Secretary will not require a recipient to adopt a particular definition of consent, where that term is applicable with respect to sex-based harassment.

§ 106.2

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53

TITLE IX
COORDINATOR
AND NOTICE OF
POLICIES



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54

54

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§ 106.8(a)(1)-(a)(2) – DESIGNATION OF COORDINATOR

Designate	“Designate and authorize” at least one employee
Delegate	May delegate “specific duties”
But...	One person must retain “ultimate oversight”

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55

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§ 106.8(b)(1) – NONDISCRIMINATION POLICY

Adopt

↓

Publish

↓

Implement



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56

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§ 106.8(b)(2) – GRIEVANCE PROCEDURES

Adopt

↓

Publish

↓

Implement



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57

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§ 106.8(c) – NOTIFICATION OF NONDISCRIMINATION

Who [§ 106.8(c)]

- Students
- Parents, guardians, legal reps (K-12)
- Employees
- Applicants for admission or employment
- Unions and professional organizations

What [§ 106.8(c)(1)(i)]

- Does not discriminate
- Inquiries to Title IX or OCR
- Name **or** title, office, email, telephone
- How to locate policy and procedures
- How to report or make a complaint

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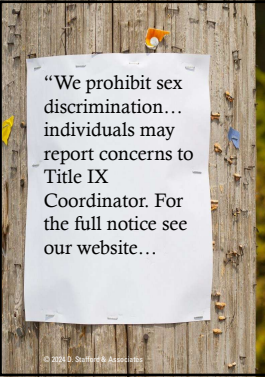
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§ 106.8(c)(2) – PUBLICATIONS

- Website
- Each handbook, catalog, announcement, bulletin and application form for recruitment
- One sentence option
- Cannot say people are treated differently on the basis of sex

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59



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§ 106.8(d)(1)
ALL EMPLOYEE
TRAINING
REQUIREMENTS

*"promptly upon hiring or
change of position that alters
duties under Title IX and
annually thereafter"*



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ALL EMPLOYEE TRAINING

Prohibit Sex Discrimination

Prohibited Conduct

Duty to provide contact info to pregnant students

Duty to report or provide contact info

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PREVENTION PROGRAMS FOR STUDENTS

- Not required under Title IX
- Is required under Clery/VAWA
- May be required by
 - State law
 - NCAA (if athletics)

The Clery Act (VAWA Amendments)

34 CFR § 668.46(j) “primary prevention and awareness programs for all incoming students and new employees”

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§106.8(d)(2)-(4) – TRAINING PERSONS WHO ARE RESPONSIBLE FOR IMPLEMENTING PROCEDURES

- Title IX Coordinator and Designees
- Investigators
- Decisionmakers (including appeals of determination and dismissal)
- Informal Resolution Facilitator
- Person with authority to modify/terminate Supportive Measures
- Others?

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63

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§106.8(e) – STUDENTS WITH DISABILITIES

- An individual with a disability, as defined in the Rehabilitation Act of 1973 or a child with a disability, as defined in the Individuals with Disabilities Education Act
- The Title IX Coordinator may consult, as appropriate, with the individual or office designated to support students with disabilities to determine compliance with disability law.

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SUBPART B: COVERAGE

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TITLE IX'S COVERAGE OF SEX DISCRIMINATION

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66





§ 106.10 – SCOPE

“Discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.”

67





§ 106.11 – APPLICATION

- Sex discrimination in education program or activity
- Sex-based hostile environment even when some contributing conduct occurred off campus
- Could be broadened by “disciplinary authority”

68



§ 106.12 – EDUCATIONAL INSTITUTIONS CONTROLLED BY RELIGIOUS ORGANIZATIONS

May submit in writing seeking assurance of the exemption

Must identify the provision and explain how it conflicts with a specific tenet

Not required to seek assurance

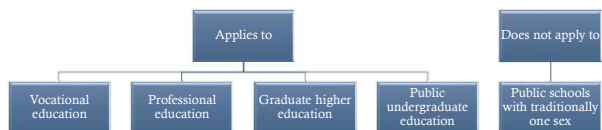
May raise its exemption at any time

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- **Subpart B (Exceptions):** Undergraduate private institutions can discriminate
- **Subpart C (Admissions):** Everyone else cannot discriminate in admissions
- **Subpart D (Programs or Activities):** Once they are in, discrimination is prohibited, except, again with admissions...





§ 106.21 & § 106.23 – ADMISSION & RECRUITMENT

No limits or proportions	No ranking separately	Testing cannot have adverse effect
Pregnancy	Parenting or marital status	Recruitment from single-sex high schools
Can ask gender but...		

73





SUBPART D: EDUCATION PROGRAMS OR ACTIVITIES

74



§ 106.31(a)(2) – EDUCATION PROGRAMS OR ACTIVITIES

(1) “Except as provided elsewhere...no person, on the basis of sex...

(2) “in the limited circumstances...this part permits different treatment ...on the basis of sex, ...must not carry out such different treatment or separation in a manner that discriminates on the basis of sex by subjecting a person to more than de minimis harm, except as permitted Adopting a policy or engaging in a practice that prevents a person from participating...consistent with the person’s gender identity subjects a person to more than de minimis harm on the basis of sex.”

75

"EXCEPT AS PERMITTED BY..."



Religious exemption

Military and merchant marine educational institutions

Fraternities and sororities

YMCA/YWCA/Girl Scouts/Boy Scouts/Camp Fire Girls

Voluntary youth service organization

Undergraduate private admissions

Sex-separate housing

Sex-separate athletic teams

§ 106.31(a)(2) & § 106.31(a)(3)

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76

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PERMISSIBLE DIFFERENT TREATMENT CAN'T CAUSE MORE THAN "DE MINIMIS HARM"







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§ 106.31(b) – SPECIFIC PROHIBITIONS



Aid, Benefit, or Service Requirement or Condition
Provide or deny
Right or privilege
Advantage or opportunity



Academic, Extracurricular, Research, Occupational Training
Eligibility for instate tuition
Rules of behavior, sanctions

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78

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§ 106.37 – FINANCIAL ASSISTANCE



§ 106.37(a) – Can't discriminate in financial assistance



§ 106.37(b) Exceptions to rule that can't have single-sex scholarships



§ 106.37(c) – Athletic scholarships allocated proportionally based on participation numbers

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§ 106.31(b)(4) – EQUITY IN DISCIPLINE

Rules of Behavior

Sanctions

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§ 106.32 – HOUSING

A recipient shall not, on the basis of sex, apply different rules or regulations, impose different fees or requirements, or offer different services or benefits related to housing, except as provided in this section (including housing provided only to married students).

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§ 106.33 – COMPARABLE FACILITIES

A recipient may provide separate toilet, locker room, and shower facilities on the basis of sex, but such facilities provided for students of one sex shall be comparable to such facilities provided for students of the other sex.

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§ 106.40 – PARENTAL, FAMILY, OR MARITAL STATUS; PREGNANCY OR RELATED CONDITIONS (STUDENTS)

No policies, practices, or procedures treating a student's current, potential, or past parental, family, or marital status differently
§ 106.40(a)

No discrimination against students on the basis of pregnancy or related conditions
§ 106.40(b)(1)

Responsibility to provide Title IX Coordinator's contact and other information
§ 106.40(b)(2)

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§ 106.40(b)(3) – SPECIFIC ACTIONS

Information about the institution's obligations

Reasonable modifications

Provide voluntary access to separate and comparable portion of program or activity

Voluntary leaves of absence

Lactation space

Limitation on supporting documentation

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84

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§ 106.40(b)(4-5) – COMPARABLE TREATMENT AND CERTIFICATIONS

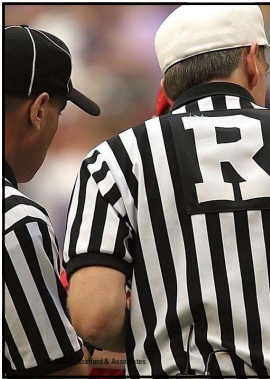
Must treat in the same manner and under the same policies as any other temporary medical conditions

Must not require a certification from a healthcare provider or any other person that the student is physically able to participate

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§ 106.41(a) – ATHLETICS

No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by a recipient, and no recipient shall provide any such athletics separately on such basis.

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§ 106.41 – ATHLETICS





Applies to intercollegiate, club, & intramural

Separate Teams are permitted

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§ 106.41(c) – EQUAL OPPORTUNITY

1. Accommodate the interests
2. Equipment and supplies
3. Scheduling (games and practice)
4. Travel and per diem
5. Coaching and tutoring
6. Assignment and compensation for above
7. Locker room and other facilities
8. Medical and training services
9. Housing and dining services
10. Publicity

88

§ 106.44 RESPONSE TO SEX DISCRIMINATION





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§ 106.44 – RESPONSE

- § 106.44(a) General
- § 106.44(b) Barriers to reporting
- § 106.44(c) Notification requirements
- § 106.44(d) Confidential employee requirements
- § 106.44(e) Public awareness events
- § 106.44(f) Title IX Coordinator requirements
- § 106.44(g) Supportive measures
- § 106.44(h) Emergency removal
- § 106.44(i) Administrative leave
- § 106.44(j) Prohibited disclosures of PII
- § 106.44(k) Discretion to offer informal resolution



90

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§ 106.44(a) – GENERAL (RESPONSE)

If knowledge of conduct that reasonably may constitute sex discrimination



PromptlyEffectivelyCompliantly

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§ 106.44(c)(2)(ii) – NOTIFICATION REQUIREMENT

(A) Notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination under Title IX...

(B) Provide the contact information of the Title IX Coordinator and information about how to make a complaint of sex discrimination...

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REPORTING REQUIREMENTS

2001 Guidance

2020 Regulations

2024 Regulations

Responsible Employees: Employee with authority to take action; given the duty of reporting misconduct; or student would reasonably believe has this authority

Officials with Authority to institute corrective measures

Employees with authority to take corrective action or responsibility for administrative leadership, teaching, or advising. (BUT ALL NON-CONFIDENTIAL MUST DO SOMETHING!)

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93

§ 106.44(c)(2) – NOTIFICATION REQUIREMENTS

Type of Employee	Notify Title IX	Provide Title IX contact and how make complaint
Confidential Employee	No	Yes (and more!)
Category 1: Employee with ability to institute corrective measures OR responsible for administrative leadership, teaching, or advising	Yes	
Category 2: All other employees	Either or (SCHOOL DECIDES)	

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STUDENT EMPLOYEE REPORTING REQUIREMENTS

“A postsecondary institution must reasonably determine and specify whether and under what circumstances a person who is both a student and an employee is subject to [the reporting requirements]...”

§ 106.44(c)(3)

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§ 106.2 – CONFIDENTIAL EMPLOYEES DEFINED

Privileged
(in role)

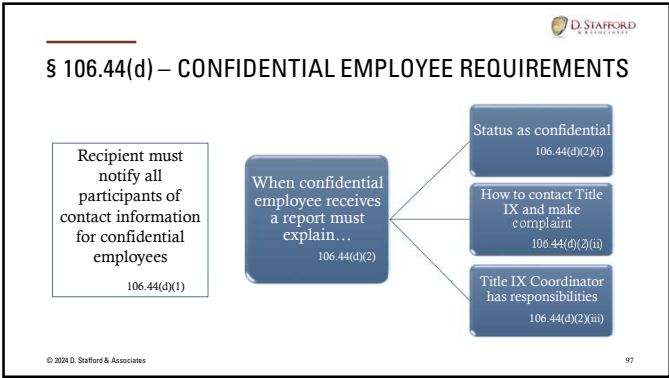
Designated
(when providing services)

Human-subjects research
on sex discrimination

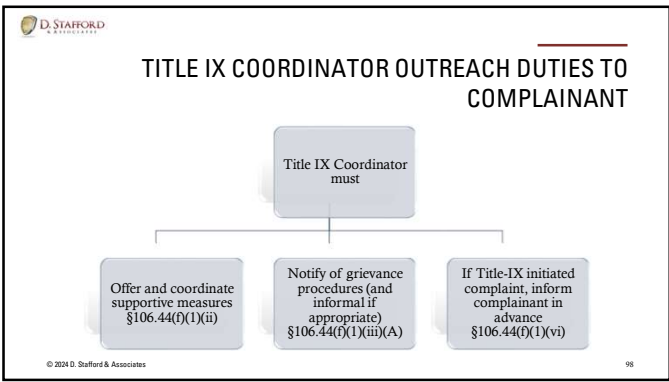
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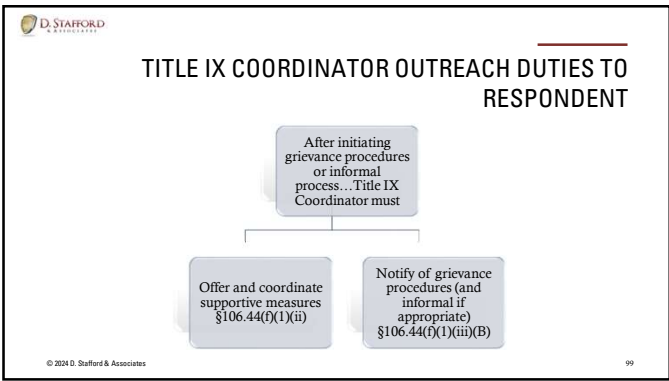
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97



98



99

§ 106.44(f)(1) – Title IX Coordinator Requirements

Treat both parties equitably
106.44(f)(1)(i)

If requested, initiate grievance procedures or informal process
106.44(f)(1)(iv)

Determine if need to initiate grievance procedures in absence of complaint
106.44(f)(1)(v)

Take other appropriate prompt and effective steps
106.44(f)(1)(vii)

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§ 106.44(f)(1)(v) – TITLE IX-INITIATED COMPLAINTS

In the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process, determine whether to initiate a complaint of sex discrimination

(A) To make this fact-specific determination, the Title IX Coordinator must consider, at a minimum, the following factors:

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EIGHT FACTORS TO CONSIDER

Complainant's request

Safety concerns

Risk of additional acts

Severity of allegation

Age and relationship

Scope and pattern

Evidence

Alternatives to resolve

§ 106.44(f)(1)(v)(A)

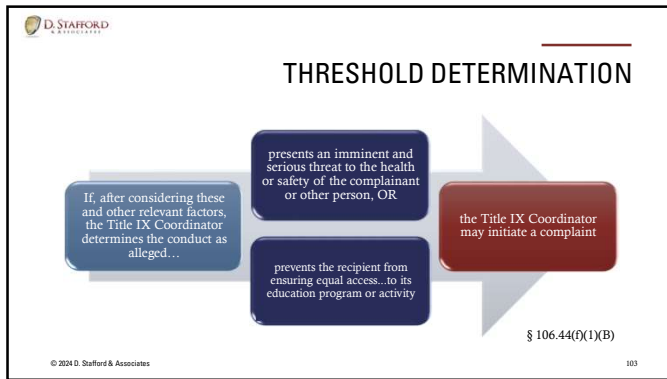
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102

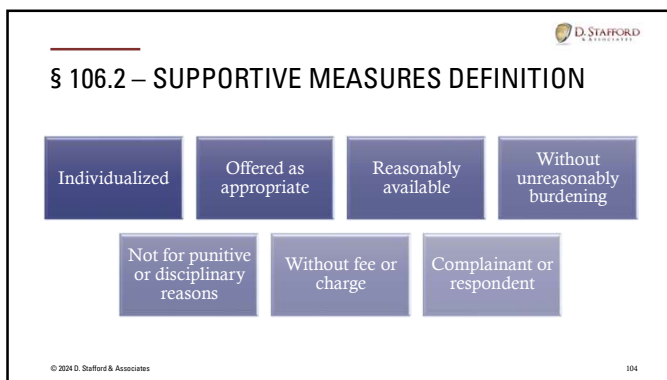
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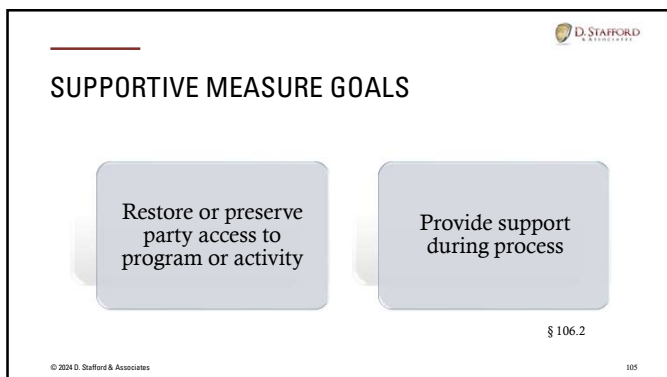
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103



104



105

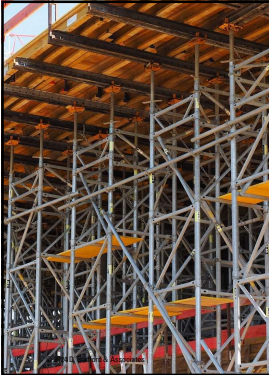


§ 106.44(g)(1) – SUPPORTIVE MEASURE EXAMPLES

- Counseling
- Extensions of deadlines and other course-related adjustments
- Campus escort services
- Increased security and monitoring of certain areas of the campus
- Restrictions on contact applied to one or more parties
- Leaves of absence
- Changes in class, work, housing, extracurricular or other
- Training and education

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106.44(g)(2) – SUPPORTIVE MEASURES EXPLAINED

- Must not unreasonably burden either party
- Must be designed to
 - protect safety of parties or
 - safety of educational environment or
 - Provide support during grievance procedures or informal process
- Must not be imposed for punitive or disciplinary reasons

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OTHER CONSIDERATIONS FOR SUPPORTIVE MEASURES

§106.44(g)(3) May modify, terminate, or continue at conclusion of grievance procedures or informal process.

§106.44(g)(4) Must provide timely opportunity to challenge supportive measure decision

§106.44(g)(5) Must not disclose unless need to provide measure, restore/preserve access or exception applies

§106.44(g)(6)(ii) Title IX may consult with disability office when implementing

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LEAVE OPTIONS



Emergency removal



Administrative leave

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§ 106.44(h) – EMERGENCY REMOVAL



Imminent and serious threat to the health or safety of any persons



Arises from the allegations



Provide notice and opportunity to challenge immediately following the removal



Cannot modify any rights under IDEA, Section 504, or the ADA

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§ 106.44(k) – INFORMAL RESOLUTION



Allowed for employee/student in postsecondary



Discretion to offer or decline



Voluntary for parties



Provide notice



Facilitator must not be investigator or decisionmaker



Can include restrictions

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§ 106.44(k)(3) – INFORMAL NOTICE

Allegations

Requirements

Right to withdraw

Cannot initiate or resume grievance procedures once final

Potential terms

Information that will be maintained

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112

ADDITIONAL RESPONSE REQUIREMENTS



Monitor for Barriers to reporting § 106.44(b)(1)



Take steps to Remove Barriers § 106.44(b)(1)



Response to disclosures at Public Awareness Events § 106.44(c)



Prohibited Disclosures of PII § 106.44(j)

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§ 106.45
GRIEVANCE
PROCEDURES FOR
SEX
DISCRIMINATION



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§ 106.45 – GRIEVANCE PROCEDURES

§ 106.45(a)(1) General

§ 106.45(a)(2) Complaint

§ 106.45(b) Basic requirements for grievance procedures

§ 106.45(c) Notice of allegations

§ 106.45(d) Dismissal of a complaint

§ 106.45(e) Consolidation of complaints

§ 106.45(f) Complaint investigation

§ 106.45(g) Questioning parties and witnesses

§ 106.45(h) Determination whether sex discrimination occurred

§ 106.45(i) Appeals

§ 106.45(j) Additional provisions

§ 106.45(k) Informal resolution

§ 106.45(l) Provisions limited to sex-based harassment complaints



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§ 106.45(a)(2) – COMPLAINT

Sex discrimination other than sex-based harassment

• Complainant

• Parent or other

• Title IX Coordinator

• Any student or employee

• Other person participating

Sex-based harassment

• Complainant

• Parent or other legal representative

• Title IX Coordinator



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§ 106.45(b) – BASIC REQUIREMENTS FOR GRIEVANCE PROCEDURES

Treat complainants and respondents equitably

Free of bias and conflict of interest

Presumption of not responsible

Reasonably prompt timeframes with extensions for good cause

Reasonable steps to protect privacy

Objective evaluation of all evidence that is relevant

Exclude certain evidence as impermissible

Articulate consistent principles for applying grievance procedures



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117

117





TITLE IX PERSONNEL

The decisionmaker may be the same person as the Title IX Coordinator or investigator.

§ 106.45(b)(2)

118

§ 106.45(c)(2) – Additional Allegations



If decided to investigate additional allegations, must provide notice of to parties whose identities are known.

119



§ 106.45(d)(1)(i-iv) – DISMISSAL OF A COMPLAINT

Unable to identify respondent	Respondent is not participating or employed
May dismiss if..	
Complainant voluntarily withdraws complaint	Conduct, if proven, would not constitute sex discrimination

120

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DUTIES BEFORE DISMISSAL

Unable to identify the respondent	• Reasonable steps to identify respondent
Complainant withdraws allegation(s)	• Must consider initiating the complaint
Allegation if proven not discrimination?	• Prior to dismissing, must clarify with the complainant

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ADDITIONAL DISMISSAL NOTES



Notice



Appeal



Support



Stop

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§ 106.45(e) – CONSOLIDATION OF COMPLAINTS

Multiple respondents

More than one complainant against one or more respondent

One party against another party

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§ 106.45(b)(7) – RELEVANT AND NOT OTHERWISE IMPERMISSIBLE EVIDENCE



Privileged information



Physician/psychologist records



Complainant's sexual interest or prior sexual conduct

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124

124



PROTECTING THE PRIVACY OF PERSONS

§ 106.44(j)

- Must not disclose personally identifiable information obtained except...
 - With prior written consent
 - To carry out the purposes of this part

§ 106.45(b)(5)

- Take reasonable steps to protect the privacy of the parties and witnesses
- Steps cannot restrict the ability of the parties to:
 - Obtain and present evidence, including by speaking to witnesses
 - Consult with their family members, confidential resources, or advisors
 - Otherwise prepare for or participate in the grievance procedures

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PROTECTING THE PRIVACY OF INFORMATION

§ 106.44(k)(3)

- Before the initiation of an informal process, provide notice that explains...
 - What information will maintain
 - How the institution could disclose for use in grievance procedures

§ 106.45(f)(4)(iii)

- Take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence solely through the grievance procedures

§ 106.46(e)(6)(iii)

- Parties' and their advisors' unauthorized disclosure

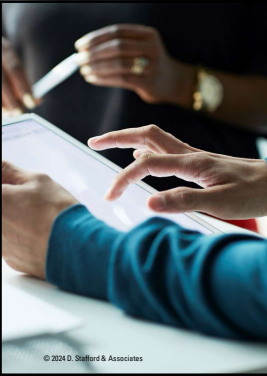
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42





MINIMUM REQUIREMENTS UNDER § 106.45

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graph TD
    A[Complaint] --> B[Notice]
    B --> C[Investigate]
    C --> D[Written Determination]
            
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§ 106.45(f) – COMPLAINT INVESTIGATION

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graph LR
    A[Investigator gathers evidence] --> B[Parties present fact witnesses and evidence]
    B --> C[Investigator reviews evidence for relevancy]
    C --> D[Investigator provides access to relevant evidence]
    D --> E[Parties have a reasonable opportunity to respond]
            
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128



ADMISSIBILITY OF WITNESSES

Always admissible	Discretionary admissibility	
 Fact Witness § 106.45(f)(2)	 Expert § 106.46(e)(4)	 Character Preamble

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§ 106.45(f)(4) – Access to evidence

Evidence Option

Description Option

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130

§ 106.45(g)-(h) – DECISIONMAKERS

(g). Question parties and witnesses to assess credibility

(h)(1) Determine whether sex discrimination occurred

(h)(2) Notify parties of outcome in writing

(h)(3) If occurred, provide remedies, sanctions and prevent future acts

(h)(5) No discipline for false statement based solely on determination

(i) Offer appeal if offer in all other comparable proceedings

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131

131

§ 106.45(h)(1) – STANDARD OF PROOF

Preponderance of the evidence

➡

Unless use clear and convincing in all other proceedings then MAY

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132

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WRITTEN DETERMINATION

Notify the parties in writing of the determination whether sex discrimination occurred under Title IX or this part including the rationale for such determination, and the procedures and permissible bases for the complainant and respondent to appeal, if applicable

§ 106.45(h)(2)

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133



FINAL POLICY NOTES ON § 106.45

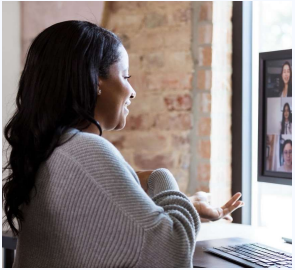
- Written Policy/Procedures
- Single-investigator model is an option
- Informal resolution option before or after complaint
- If harassment - range of supportive measures
- If harassment - list of sanctions

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134



§ 106.46 GRIEVANCE PROCEDURES SEX-BASED HARASSMENT INVOLVING STUDENTS



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135

	§106.45(c) not required to be in writing	§106.46(c) required to be in writing
Grievance Procedures	YES	YES
"Sufficient information" (parties, conduct, date, location)	YES	YES
Statement that retaliation prohibited	YES	YES
Access to relevant evidence	YES	YES
Respondent is presumed not responsible		YES
Right to advisor of choice		YES
Prohibition on false statements		YES

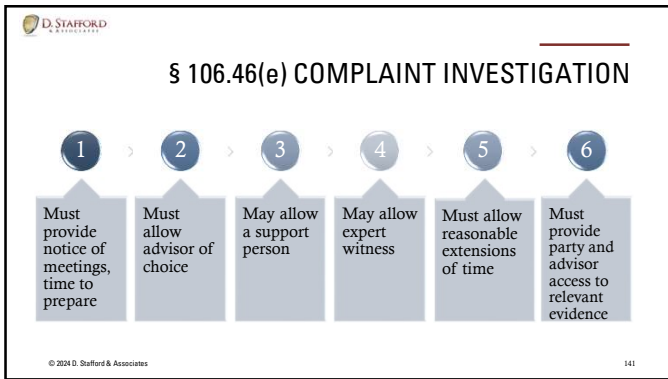
139



§ 106.46 TWEAKS

AMENDED NOTICE: Must be in writing §106.46(c)(2)	NOTICE: May reasonably delay providing notice if safety concern §106.46(c)(3)
DISMISSAL: Written simultaneous notice of dismissal of a complaint §106.46(d)(1)	DISMISSAL: Obtain complainant's voluntary withdrawal in writing §106.46(d)(2)

140



141

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ADVISOR OF CHOICE



May be but is not required to be an attorney
106.46(e)(2)



May accompany to any meeting or proceeding
106.46(e)(2)



Institution may restrict participation
106.46(e)(2)



Receives access to relevant evidence
106.46(f)(ii)(B)



May conduct cross-examination at hearing if allowed
106.46(1)(f)(ii)(B)

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§ 106.46(e)(6)(i) – Access to evidence



Evidence Option



Investigative Report Option

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143

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REVIEW AND RESPOND TO EVIDENCE

A postsecondary institution must provide the parties with a reasonable opportunity to review and respond to the evidence or the investigative report...

§ 106.46(e)(6)(ii)

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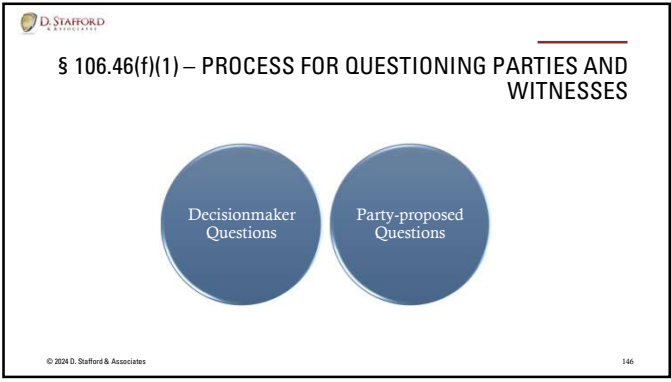
144

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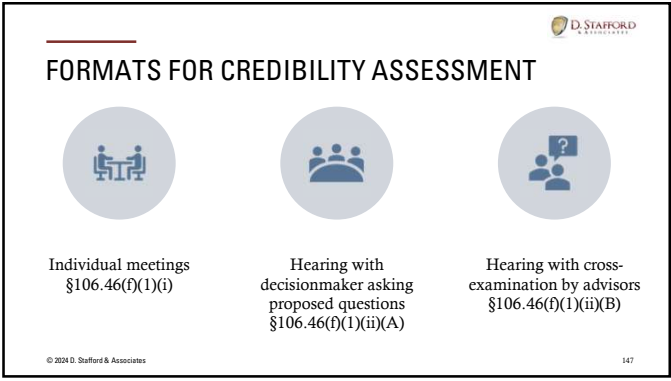
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145



146



147



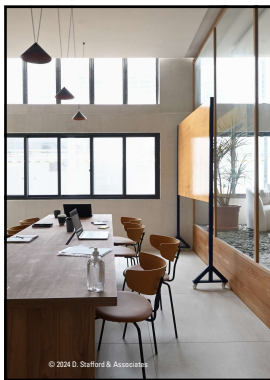
§ 106.46(f)(1)(i) – NON-HEARING OPTION

- Must hold individual meetings with the complainant, respondent, and any witnesses
- The investigator or decisionmaker may ask relevant and permissible questions
- Each party may propose relevant and permissible questions to be asked by the investigator or decisionmaker
- Provide each party with the recording or transcript with an opportunity to propose follow-up questions
- There could be several rounds of meetings

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148

148



§ 106.46(f)(1)(ii) –HEARING OPTION

- The decisionmaker may ask relevant and permissible questions
- Each party may propose relevant and permissible questions to be asked by the decisionmaker
- No questions may be asked directly by a party
- If the institution uses advisor-conducted questioning and a party does not have an advisor, the institution must provide one without charge (cannot be a confidential employee)

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149

149



LIVE HEARING

The decisionmaker must determine whether a proposed question is relevant ... prior to the question being posed and must explain any decision to exclude a question as not relevant or otherwise impermissible.

... must not permit questions that are unclear or harassing

... must give a party an opportunity to clarify or revise a question that ... is unclear or harassing

...may also adopt and apply other reasonable rules regarding decorum, provided they apply equally to the parties.

§ 106.46(f)(3)

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150



§ 106.46(g) – LIVE HEARING PROCEDURES



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151

151



REFUSAL TO RESPOND TO QUESTIONS

A decisionmaker may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The decisionmaker must not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

§ 106.46(f)(4)

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152

152



§ 106.46(g) – LIVE HEARING PROCEDURES



Audio

Video

Transcript

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153

153



SANCTIONS AND REMEDIES



Disciplinary Sanctions
"consequences ...following a determination"



Remedies
"Restore or preserve access"

§ 106.2

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154



§ 106.46(h) – DETERMINATION REGARDING RESPONSIBILITY

- Description of alleged sex-based harassment
- Policies and procedures used to evaluate allegations
- Evaluation of evidence and determination
- Disciplinary sanctions or remedies if sex-based harassment occurred
- Appeal procedures

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155



§ 106.46(i) – APPEALS

Must offer the parties an appeal from a determination whether sex-based harassment occurred and from a ... dismissal of a complaint or any allegation therein, on the following bases:

Procedural irregularity that would change the determination of whether sex-based harassment occurred

New evidence that would change the outcome of the matter and that was not reasonably available at the time the determination of whether sex-based harassment occurred or dismissal was made

Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias that would change the outcome

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156



§ 106.47 – ASSISTANT SECRETARY REVIEW OF SEX-BASED HARASSMENT COMPLAINTS

The Assistant Secretary will not deem a recipient to have violated this part solely because the Assistant Secretary would have reached a different determination in a particular complaint alleging sex-based harassment than a recipient reached under § 106.45, and if applicable § 106.46, based on the Assistant Secretary's independent weighing of the evidence.

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157

157



SUBPART E: EMPLOYMENT



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158

158



§106.51-61 – EMPLOYMENT

§ 106.7 Effect of employment opportunities	§ 106.51 Employment	§ 106.52 Employment criteria	§ 106.53 Recruitment	§ 106.54 Compensation
§ 106.55 Job classification and structure	§ 106.56 Fringe benefits	§ 106.57 Marital or parental status	§ 106.58 Effect of other laws	§ 106.59 Advertising
§ 106.60 Pre-employment inquiries		§ 106.61 Sex as a bona-fide occupational qualification		

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159

159

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53



§ 106.2 – RETALIATION DEFINITION

Retaliation means intimidation, threats, coercion, or discrimination against any person for the purpose of interfering with any right or privilege secured by Title IX or this part, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part...

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163

163



WHO CAN RETALIATE?





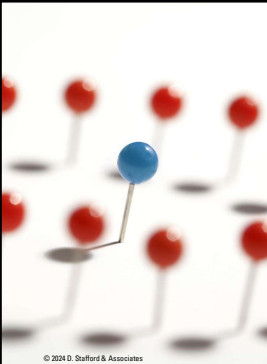

Recipient
 Student
 Employee
 Other

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164

164



§ 106.2 – PEER RETALIATION



Peer retaliation means retaliation by a student against another student.

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165



§ 106.71 – RETALIATION

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 ... 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, ... an informal resolution

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166

166



RETALIATION NOTES

Interference clause

Participation clause

Employee participation

False statements and retaliation

Adverse Action

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167

167



§106.8(f) – RECORDKEEPING (7 YEARS)


Process and Outcome for Complaints


Actions taken for Reports


Materials upon request for training

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168

168

CLERY ACT
(VAWA)
PROCEDURAL
REQUIREMENTS



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169

169

OVERLAPPING CONDUCT ALLEGATIONS

TITLE IX

Quid Pro Quo
Hostile Environment

CLERY

Non-VAWA
Clery Offenses
(Assault etc.)

Hate Crimes
Arrests and Referrals:
Drug, Liquor, Weapons

Title VII
Other sex-
based
behaviors

Sexual Assault
Dating Violence
Domestic Violence
Stalking
Gender-based Hate Crimes

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170

170

34 C.F.R. § 668.46(c) – VAWA OFFENSES



Rape



Fondling



Incest



Statutory
Rape



Dating
Violence



Domestic
Violence



Stalking

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171

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§ 668.46 – RESPONSE REQUIREMENTS FOR VAWA OFFENSES

Procedures victims of VAWA Offenses should follow

↓

Procedures an institution will follow when offense reported

↓

and make sure it is all in WRITING.

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§ 668.46(b)(11)vii) – WRITTEN EXPLANATION OF STUDENT OR EMPLOYEE'S RIGHTS

When a student or employee reports to the institution that the student or employee has been a victim of dating violence, domestic violence, sexual assault, or stalking, whether the offense occurred on or off campus, the institution will provide the student or employee a written explanation of the student's or employee's rights and options, as described in paragraphs (b)(11)(i) through (vi) of this section. . .

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§ 668.46(b)(11)(ii) – WRITTEN EXPLANATION OF RIGHTS AND OPTIONS

1. The importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order

- Not required but recommended: Where to obtain forensic exams, contact info, does not require police report and can have exam now, decide later

2. How and to whom the alleged offense should be reported

- List any person or organization that can assist the victim
- Recommended: Also include community organizations

174

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§ 668.46(b)(11)(ii) – WRITTEN EXPLANATION OF RIGHTS AND OPTIONS

3. Notification of the victim’s option to

- Notify proper law enforcement authorities, including on-campus and local police
- Be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses
- Decline to notify such authorities

4. The rights of victims and the institution’s responsibilities for

- Orders of protection
- “No contact” orders
- Restraining orders
- Similar lawful orders issued by a criminal, civil, tribal, or institutional

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175

175



§ 668.46(b)(11)(ii) – WRITTEN EXPLANATION OF RIGHTS AND OPTIONS

5. To students AND employees about existing

- Counseling, health, mental health services
- Victim Advocacy
- Legal Assistance
- Visa and Immigration Assistance
- Student Financial Aid
- Other services available for victims

6. Options for, available assistance in, and how to request changes to (if requested and reasonably available)

- Academic, living, transportation, working

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176

176



§ 668.46(b)(11)(ii) – WRITTEN EXPLANATION OF RIGHTS AND OPTIONS

7. Confidentiality

- Publicly available recordkeeping has no personally identifying information about the victim (not required for respondent but best practice in most cases)
- Accommodations and protective measures are confidential (to the extent they can be without impairing the ability to provide them)

8. Disciplinary Procedures

- An explanation of the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking, as required

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177

177

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59



RESPONSE TO "KNOWLEDGE"

Title IX

- Respond "promptly and effectively"
 - Offer and/or implement supportive measures
- Notify of grievance procedures and informal process if applicable
- Take other appropriate steps

Clery Act

- Written explanation of victim's rights and options
- Assess for Timely Warning Notice or Emergency Notification

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178

178



CLERY ACT REQUIREMENTS FOR DISCIPLINARY PROCEEDINGS



Anticipated timelines ("reasonably prompt")



Decision-making process



How to and options for filing a school complaint (with contact info)



How school determines which process to use



Who makes decisions



Include employee procedures



Use procedures regardless of Clery geography

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179

179



§ 668.46(k)(2)(iii-iv) – ADVISORS

- *Provide the accuser and the accused with the same opportunities to have others present during any institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice*
- *Not limit the choice of advisor or presence for either the accuser or the accused in any meeting or institutional disciplinary proceeding; however, the institution may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties*

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180

180



INFORMAL RESOLUTIONS

Title IX

- Can offer, but may not require
- Can decline even if the parties request
- Party may withdraw up to a point

Clery Act

- Written information about procedures the institution will follow for VAWA offenses (does not differentiate between formal vs informal)

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181

181



GRIEVANCE PROCEDURES FOR COMPLAINTS

Title IX

- Prompt and equitable
 - Laundry list of items...

Clery Act

- Prompt, fair and impartial investigation and resolution
 - Anticipated timeframes
 - List all possible sanctions for each offense (employees and students)
 - Consistent with policy and transparent
 - Not required to list all protective measures

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182

182



WRITTEN DETERMINATION

Title IX

- 106.45 Procedures
 - Result (include any sanctions and rationale for results and sanction)
 - Appeals procedures
 - Any change to the result
 - When such results become final
- 106.46 Procedures
 - Information about policies and procedures used
 - Evaluation of relevant evidence

Clery Act

- Result (include any sanctions and rationale for results and sanction)
- Appeals procedures
- Any change to the result
- When such results become final

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183

183

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61



§ 668.46(k)(2)(iii-iv) – BIAS FREE AND TRAINING FOR “OFFICIALS”

Annual training on the issues related to dating violence, domestic violence, sexual assault and stalking and on how to conduct an investigation and hearing process that protects the safety of the victims and promotes accountability

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184

184



APPEALS

Title IX	Clery Act
• Must offer both parties an appeal • Based on specific grounds	• Not required (but must provide notice if allowed along with appeal procedures) • Simultaneous written decision describing result, sanction, any changes to the result, when it becomes final

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185

185





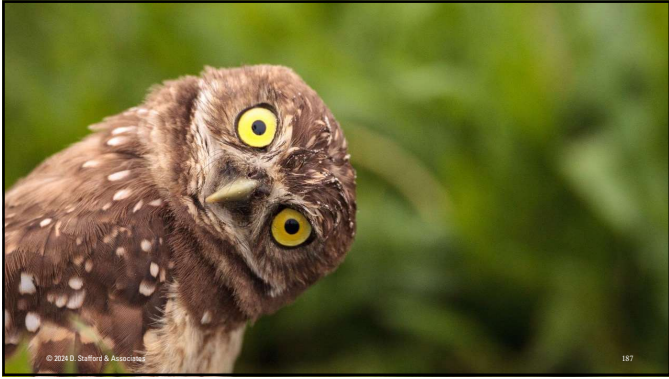
POLICY CONSIDERATIONS

- Student conduct codes
- Employee handbooks
- Non-discrimination policies and procedures
- Incidents occurring before August 1, 2024

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186

186



187



188



Bibliography

- ABC. (n.d.). *Schoolhouse Rock - "I'm just a bill"*. YouTube. Retrieved January 21, 2022, from <https://www.youtube.com/watch?v=l6MinvU93kl>
- Alexander, M. (2012). *The New Jim Crow*. New Press.
- American Council on Education. (2020, September 10). *Race and ethnicity of college and university presidents over time*. Race and Ethnicity in Higher Education. Retrieved January 21, 2022, from <https://www.equityinhighered.org/indicators/postsecondary-faculty-and-staff/race-and-ethnicity-of-college-and-university-presidents-over-time/>
- Anderson, M., Vogels, E. A., & Turner, E. (2020, October 2). *The Virtues and Downsides of Online Dating*. Pew Research Center: Internet, Science & Tech. Retrieved from <https://www.pewresearch.org/internet/2020/02/06/the-virtues-and-downsides-of-online-dating/>
- Anderson, N., & Clement, S. (2015, June 12). *Poll shows that 20 percent of women are sexually assaulted in college*. The Washington Post. Retrieved from <https://www.washingtonpost.com/sf/local/2015/06/12/1-in-5-women-say-they-were-violated/>
- Anti-Defamation League. (n.d.). A Brief History of Disability Rights Movement. Retrieved January 17, 2022, from <https://www.adl.org/education/resources/backgrounders/disability-rights-movement>
- Areen, J., & Lake, P. F. (2014). *Higher Education and the Law*. Foundation press.
- Barlow, J. N. (2020, February). *Black women, the forgotten survivors of sexual assault*. American Psychological Association. Retrieved from <https://www.apa.org/pi/about/newsletter/2020/02/black-women-sexual-assault>
- Bedera, N. (2017). Moaning and Eye Contact: College Men's Negotiations of Sexual Consent in Theory and in Practice. <https://doi.org/10.31235/osf.io/eqfya>
- Boyle, K. M. (2015). Social Psychological Processes that Facilitate Sexual Assault within the Fraternity Party Subculture. *Sociology Compass*, 9(5), 386–399. <https://doi.org/10.1111/soc4.12261>
- Brown, J. T. (2012). *The parent's guide to college for students on the autism spectrum*. Autism Asperger Pub. Co.
- Bryant, J. (2021, November 11). *How many Americans have a college degree? BestColleges*. BestColleges.com. Retrieved January 21, 2022, from <https://www.bestcolleges.com/news/analysis/2021/07/01/how-many-americans-have-college-degrees/>

- Campbell, R., Bybee, D., Townsend, S. M., Shaw, J., Karim, N., & Markowitz, J. (2014). The Impact of Sexual Assault Nurse Examiner Programs on Criminal Justice Case Outcomes. *Violence Against Women*, 20(5), 607–625. <https://doi.org/10.1177/1077801214536286>
- Canan, S. N., Jozkowski, K. N., & Crawford, B. L. (2016). Sexual Assault Supportive Attitudes: Rape Myth Acceptance and Token Resistance in Greek and Non-Greek College Students From Two University Samples in the United States. *Journal of Interpersonal Violence*, 33(22), 3502–3530. <https://doi.org/10.1177/0886260516636064>
- Cantor, D., Fisher, B., Chibnall, S., Townsend, R., Lee, H., Bruce, C., & Thomas, G. (2017, October 20). *Report on the AAU Campus Climate Survey on Sexual Assault ...* Retrieved from <https://www.aau.edu/sites/default/files/AAU-Files/Key-Issues/Campus-Safety/AAU-Campus-Climate-Survey-FINAL-10-20-17.pdf>
- Center for Applied Special Technology. (2020, September 25). *Timeline of Innovation*. CAST. Retrieved from <https://www.cast.org/impact/timeline-innovation>
- Center for Applied Special Technology. (n.d.). *UDL On Campus*. UDL On Campus: Home. Retrieved from <http://udloncampus.cast.org/home>
- The Centers for Disease Control and Prevention. (2010). *NISVS: An Overview of 2010 Findings on Victimization by Sexual Orientation*. National Intimate Partner and Sexual Violence Survey (NISVS): 2010 Findings on Victimization by Sexual Orientation. Retrieved from https://www.cdc.gov/violenceprevention/pdf/cdc_nisvs_victimization_final-a.pdf
- Centers for Disease Control and Prevention. (2019). Centers for Disease Control and Prevention. Retrieved from <https://www.cdc.gov/violenceprevention/publichealthissue/social-ecologicalmodel.html>
- Centers for Disease Control and Prevention. (2020, June 1). *Sexual Violence and Intimate Partner Violence Among People with Disabilities | Violence Prevention | Injury Center | CDC*. Centers for Disease Control and Prevention. Retrieved from <https://www.cdc.gov/violenceprevention/datasources/nisvs/svandipv.html>
- Chambers, J. C., Horvath, M. A. H., & Kelly, L. (2010). A Typology of Multiple-Perpetrator Rape. *Criminal Justice and Behavior*, 37(10), 1114–1139. <https://doi.org/10.1177/0093854810377971>
- Cho, H., Seon, J., Choi, G.-Y., An, S., Kwon, I., Choi, Y. J., Hong, S., Lee, J. O., Son, E., & Yun, S. H. (2020). Gender Differences in Intimate Partner Violence Victimization, Help-Seeking, And Outcomes Among College Students. *Advances in Social Work*, 20(1), 22–44. <https://doi.org/10.18060/23675>
- Civil Rights Act of 1964 § 7, 42 U.S.C. § 2000e et seq (1964) (n.d.).
- Coaston, J. (2019, May 20). *The intersectionality wars*. Vox. Retrieved from <https://www.vox.com/the-highlight/2019/5/20/18542843/intersectionality-conservatism-law-race-gender-discrimination>

- Cocks, C. L., & Brown, F. C. L. (2020). The Philosophy of Student Conduct and the Student Conduct Professional. In *Student conduct practice: the complete guide for student affairs professionals* (pp. 23–35). essay, Stylus Publishing.
- Congressional Research Service, & McCallion, G., History of the Clery Act: Fact sheet (2014). Washington, DC; Congressional Research Service.
- Congressional Research Service, & Sacco, L. N., The Violence Against Women Act (VAWA): Historical Overview, Funding, and Reauthorization (2019). Washington, DC; Congressional Research Service.
- Crager, M., Cousin, M., & Hardy, T. (2003, April). *Victim-Defendants: An Emerging Challenge in Responding to Domestic Violence in Seattle and the King County Region*. King County Coalition Against Domestic Violence. Retrieved from <https://endgv.org/wp-content/uploads/2016/03/victimdefendantfinalreport111.pdf>
- Crenshaw, K. (2018). Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory, and Antiracist Politics [1989]. *Feminist Legal Theory*, 57–80. <https://doi.org/10.4324/9780429500480-5>
- Cruz, J. V. (2018, December 24). *Five Things to Know When Working with Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) Sexual Violence Survivors*. Justice Clearinghouse. Retrieved from <https://www.justiceclearinghouse.com/resource/five-things-to-know-when-working-with-lesbian-gay-bisexual-transgender-and-queer-lgbtq-sexual-violence-survivors/>
- Dannells, M. (1997). *From discipline to development: rethinking student conduct in higher education*. EIC Clearinghouse on Higher Education, Institute for Education Policy Studies, Graduate School of Education and Human Development, the George Washington University.
- daSilva, T., Harkins, L., & Woodhams, J. (2013). Multiple perpetrator rape: An international phenomenon. *Handbook on the Study of Multiple Perpetrator Rape*, 30–56. <https://doi.org/10.4324/9780203083406-9>
- daSilva, T., Woodhams, J., & Harkins, L. (2017). “An Adventure That Went Wrong”: Reasons Given by Convicted Perpetrators of Multiple Perpetrator Sexual Offending for Their Involvement in the Offense. *Archives of Sexual Behavior*, 47(2), 443–456. <https://doi.org/10.1007/s10508-017-1011-8>
- Dating App Revenue and Usage Statistics (2021)*. Business of Apps. (2021, January 25). Retrieved from <https://www.businessofapps.com/data/dating-app-market/>
- Davis, D.-M. (2020, December 24). *24 slang words teens and Gen Zers are using in 2020, and what they really mean*. Business Insider. Retrieved from <https://www.businessinsider.com/slang-words-terms-teens-current-2019-8#extra-to-be-extra-is-to-be-unnecessarily-dramatic-and-over-the-top-1>

- DiAngelo, R. J. (2018). *White Fragility: Why It's So Hard for White People to Talk about Racism*. Beacon Press.
- Durham, J. J. (2018, November 27). *The Differences and Similarities of Restorative Justice and Mediation*. Pathways to Restorative Communities. Retrieved from <https://www.pathways2rc.com/news/2018/10/24/the-differences-and-similarities-of-restorative-justice-and-mediation>
- Electronic Privacy Information Center. (n.d.). *Family educational rights and privacy act (FERPA)*. Family Educational Rights and Privacy Act (FERPA). Retrieved January 19, 2022, from <https://epic.org/family-educational-rights-and-privacy-act-ferpa/>
- Federal Register. Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 CFR 106. (2019).
- FIRE. (n.d.). *Campus rights: What we defend*. FIRE. Retrieved January 16, 2022, from <https://www.thefire.org/about-us/campus-rights/>
- Foubert, J. D., Brosi, M. W., & Bannon, R. S. (2011). Pornography Viewing among Fraternity Men: Effects on Bystander Intervention, Rape Myth Acceptance and Behavioral Intent to Commit Sexual Assault. *Sexual Addiction & Compulsivity*, 18(4), 212–231. <https://doi.org/10.1080/10720162.2011.625552>
- Foubert, J. D., Clark-Taylor, A., & Wall, A. F. (2019). Is Campus Rape Primarily a Serial or One-Time Problem? Evidence From a Multicampus Study. *Violence Against Women*, 107780121983382. <https://doi.org/10.1177/1077801219833820>
- Gehring, D. D. (2001). The Objectives of Student Discipline and The Process That's Due: Are They Compatible? *Journal of Student Affairs Research and Practice*, 38(4), 466–481. <https://doi.org/10.2202/1949-6605.1155>
- Gladwell, M. (2019). *Talking to strangers: what we should know about the people we dont know*. Little, Brown and Company.
- Goldman, T., & Chappell, B. (2019, January 10). *How Bernice Sandler, 'godmother of title IX,' achieved landmark discrimination ban*. NPR. Retrieved January 21, 2022, from <https://www.npr.org/2019/01/10/683571958/how-bernice-sandler-godmother-of-title-ix-achieved-landmark-discrimination-ban>
- Gravelin, C. R., Biernat, M., & Bucher, C. E. (2019). Blaming the Victim of Acquaintance Rape: Individual, Situational, and Sociocultural Factors. *Frontiers in Psychology*, 9. <https://doi.org/10.3389/fpsyg.2018.02422>
- Greenhouse, M., BrckaLorenz, A., Hoban, M., Huesman, R., Rankin, S., & Stolzenberg, E. B. (2018, August). *Queer-Spectrum and Trans-Spectrum Student Experiences in American Higher Education*. Tyler Clementi Center for Diversity Education and Bias Prevention. Retrieved from

<https://clementicenter.rutgers.edu/research-insights-and-events/campus-climate-queer-spectrum-and-trans-spectrum-higher-education>

Harris, J. C., & Linder, C. (2017). *Intersections of identity and sexual violence on campus: centering minoritized students experiences*. Stylus Publishing.

Hegji, A. (2021, August 17). The Higher Education Act (HEA): A Primer. Retrieved January 21, 2022, from <https://sgp.fas.org/crs/misc/R43351.pdf>

Hirsch, J. S., & Khan, S. (2020). *Sexual Citizens: A Landmark Study of Sex, Power, and Assault on Campus*. W. W. Norton & Company.

Human Rights Campaign. (n.d.). Sexual Assault and the LGBTQ Community. Retrieved from <https://www.hrc.org/resources/sexual-assault-and-the-lgbt-community>

International Institute for Restorative Practices. (n.d.). Retrieved from <https://www.iirp.edu/>

Interrogation: A Review of the Science HIG Report. (2017, March 23). Retrieved from <https://www.fbi.gov/file-repository/hig-report-interrogation-a-review-of-the-science-september-2016.pdf/view>

Irving, D. (2018). *Waking up White: And Finding Myself in the Story of Race*. Elephant Room Press.

Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1990, 20 U.S.C. §1092. (n.d.).

Jeanne Shaheen. (2022, January 12). *Shaheen, Hassan introduce Bill to combat sexual violence against students with disabilities*. U.S. Senator Jeanne Shaheen of New Hampshire. Retrieved January 17, 2022, from <https://www.shaheen.senate.gov/news/press/shaheen-hassan-introduce-bill-to-combat-sexual-violence-against-students-with-disabilities>

Johnson, P. A., Widnall, S. E., & Benya, F. F. (2018). *Sexual harassment of women: climate, culture, and consequences in academic sciences, engineering, and medicine*. The National Academies Press.

Judge, J., & O'Brien, T. (2012). *Equity and Title IX in Intercollegiate Athletics: A Practical Guide for Colleges and Universities*. NCAA Publications. Retrieved from www.NCAA.org/gender_equity

Kaplin, W. A., Lee, B. A., Hutchens, N. H., & Rooksby, J. H. (2020). *Law of Higher Education: Student Version* (Sixth). Jossey-Bass.

Kendi, I. X. (2021). *How To Be An Antiracist*. Vintage.

Kidder, R. M. (2006). *Moral courage*. Harper.

Kidder, R. M. (2009). *How good people make tough choices: resolving the dilemmas of ethical living*. Harper.

- Koss, M. P., Dinero, T. E., Seibel, C. A., & Cox, S. L. (1988). Stranger and Acquaintance Rape: Are There Differences In the Victim's Experience? *Psychology of Women Quarterly*, 12(1), 1–24. <https://doi.org/10.1111/j.1471-6402.1988.tb00924.x>
- Krebs, C. P., Lindquist, C. H., Warner, T., Fisher, B. S., & Martin, S. L. (2007, December). The Campus Sexual Assault (CSA) Study. Retrieved from <https://www.ncjrs.gov/pdffiles1/nij/grants/221153.pdf>
- Lacey, A., & Murray, C. (2015). *The Nuts and Bolts of Reauthorization*. Career Education Review. Retrieved from <https://www.thompsoncoburn.com/docs/default-source/publication-documents/the-nuts-and-bolts-of-reauthorization.pdf?sfvrsn=0&sfvrsn=0>
- Lake, P. F. (2009). *Beyond Discipline: Managing the Modern Higher Education Environment*. Hierophant Enterprises, Inc.
- Lake, P. F. (2011). *Foundations of Higher Education Law & Policy: Basic Legal Rules, Concepts, and Principles for Student Affairs*. NASPA.
- Lake, P. F. (2013). *The Rights and Responsibilities of the Modern University: The Rise of the Facilitator University*. Carolina Academic Press.
- Lancaster, J. M. (2006). *Exercising Power with Wisdom: Bridging Legal and Ethical Practice with Intention*. College Administration Publications.
- Legal Momentum. (n.d.). *History of VAWA*. History of VAWA | Legal Momentum. Retrieved January 16, 2022, from <https://www.legalmomentum.org/history-vaawa>
- Martin, G. (2020, May 28). *What are Gender Pronouns? Why Do They Matter?* National Institutes of Health. Retrieved from <https://www.edi.nih.gov/blog/communities/what-are-gender-pronouns-why-do-they-matter>
- McClish, M. (2001). *I know you are lying: detecting deception through statement analysis*. Marpa Group, Inc.
- Mcleod, S. (2019, October 24). *Social Identity Theory*. Social Identity Theory | Simply Psychology. Retrieved from <https://www.simplypsychology.org/social-identity-theory.html>
- Mechanic, M. B., Resick, P. A., & Griffin, M. G. (1998). A comparison of normal forgetting, psychopathology, and information-processing models of reported amnesia for recent sexual trauma. *Journal of Consulting and Clinical Psychology*, 66(6), 948–957. <https://doi.org/10.1037/0022-006x.66.6.948>
- Meloy, J. R., Mohandie, K., & Green, M. (2011). The Female Stalker. *Behavioral Sciences & the Law*, 29(2), 240–254. <https://doi.org/10.1002/bsl.976>
- National Council on Disability. (2018, January 30). *Not on the Radar: Sexual Assault of College Students with Disabilities*. National Council on Disability. Retrieved from https://ncd.gov/sites/default/files/NCD_Not_on_the_Radar_Accessible_01292018.pdf

- National District Attorneys Association - Women Prosecutors Section. (2017, July 17). *National Domestic Violence Prosecution Best Practices Guide*. NATIONAL DOMESTIC VIOLENCE PROSECUTION BEST PRACTICES GUIDE. Retrieved from <https://ndaa.org/wp-content/uploads/NDAA-DV-White-Paper-FINAL-revised-July-17-2017-1.pdf>
- National Sexual Violence Resource Center and Pennsylvania Coalition Against Rape. (2012). *Sexual Violence & Individuals Who Identify as LGBTQ*. NSVRC_Research-Brief_Sexual-Violence-LGBTQ. Retrieved from https://www.nsvrc.org/sites/default/files/Publications_NSVRC_Research-Brief_Sexual-Violence-LGBTQ.pdf
- National Women's Law Center. (2000). *A Basic Guide to Title IX*. National Women's Law Center. Retrieved from <https://www.nwlc.org/sites/default/files/pdfs/ABasicGuidetoTitleIX.pdf>
- Natow, R. S. (2017). *Higher education rulemaking: the politics of creating regulatory policy*. Johns Hopkins University Press.
- Ohio Alliance to End Sexual Violence. (n.d.). The Violence Against Women Act of Reauthorization of 2021. Retrieved January 17, 2022, from https://oaesv.org/wp-content/uploads/2021/04/factsheet_vawa_2021.pdf
- Orantes, E., & Sharma, A. (2019, March 4). *Title IX Compliance Creates Hurdles for Collegiate eSports Programs*. JD Supra. Retrieved from <https://www.jdsupra.com/legalnews/title-ix-compliance-creates-hurdles-for-99240/>
- Orcutt, M., Petrowski, P. M., Karp, D. R., & Draper, J. (2020, June). *The Journal of College and University Law*. RESTORATIVE JUSTICE APPROACHES TO THE INFORMAL RESOLUTION OF STUDENT SEXUAL MISCONDUCT. Retrieved from https://jcul.law.rutgers.edu/wp-content/uploads/2020/08/45_jcul_No2_FULL.pdf
- Pacheco, R. (2020, May). Not Online. Not on Campus: Addressing Sexual Violence and Technology-Facilitated Violence on Campuses. Retrieved from <https://ywcacanada.ca/wp-content/uploads/2020/08/Not-Online.-Not-On-Campus.-Report.pdf>
- Paine, L. S. (2014, August 1). *Managing for Organizational Integrity*. Harvard Business Review. Retrieved from <https://hbr.org/1994/03/managing-for-organizational-integrity>
- Partners in Leadership. (2019, May 29). *The Three Values of Organizational Integrity*. Culture Management Experts. Retrieved from <https://www.partnersinleadership.com/insights-publications/the-three-values-of-organizational-integrity/>
- Pew Research Center. (2020, June 5). *Demographics of Social Media Users and Adoption in the United States*. Pew Research Center: Internet, Science & Tech. Retrieved from <https://www.pewresearch.org/internet/fact-sheet/social-media/>
- Practical Psychology. (2020, April 15). *Ebbinghaus Forgetting Curve (Definition + Examples)*. Practical Psychology. Retrieved from <https://practicalpie.com/ebbinghaus-forgetting-curve/>

- The Pregnant Scholar. (2020, September 29). *The Pregnant Scholar Homepage: Tools to support student parents*. The Pregnant Scholar. Retrieved from <https://thepregnantscholar.org/>
- Public policy recommendation: Addressing campus sexual ...* (n.d.). Retrieved from <https://www.atsa.com/pdfs/Policy/Addressing%20Campus%20Sexual%20Misconduct%20FINAL.pdf>
- Rothstein, R. (2018). *The Color of Law: A Forgotten History of How Our Government Segregated America*. Liveright Publishing Corporation, a division of W.W. Norton & Company.
- Seabrook, R. C., Ward, L. M., & Giaccardi, S. (2018). Why is fraternity membership associated with sexual assault? Exploring the roles of conformity to masculine norms, pressure to uphold masculinity, and objectification of women. *Psychology of Men & Masculinity*, 19(1), 3–13. <https://doi.org/10.1037/men0000076>
- Seelye, K. Q. (2019, January 8). *Bernice Sandler, 'godmother of title IX,' dies at 90*. The New York Times. Retrieved January 21, 2022, from <https://www.nytimes.com/2019/01/08/obituaries/bernice-sandler-dead.html>
- Sex Offender Management Assessment and Planning Initiative*. (2017, April). Retrieved from https://smart.gov/SOMAPI/pdfs/SOMAPI_Full%20Report.pdf
- Sloan, J. J., & Fisher, B. (2011). *The Dark Side of the Ivory Tower: Campus crime as a social problem*. Cambridge University Press.
- Stanford Journalism. (2019). *Celebrating 47 Years of Title IX and Bernice Sandler*. YouTube. Retrieved January 21, 2022, from https://youtu.be/F_B7-HwaqP4.
- Stark-Mason, R. (2020, February 26). *Name, Image, Likeness*. NCAA.org - The Official Site of the NCAA. Retrieved from <http://www.ncaa.org/champion/name-image-likeness>
- Steinfeld, E., & Maisel, J. (2012). *Universal Design Creating Inclusive Environments*. John Wiley & Sons.
- Stoner, E. N., & Lowery, J. W. (2004). Navigating Past The “Spirit of Insubordination”: A Twenty-First Century Model Student Conduct Code. *Journal of College and University Law*, 31(1), 1–78.
- Title IX of The Education Amendments of 1972, 20 U.S.C. A§ 1681 Et. (n.d.).
- Toure, K., & Hamilton, C. V. (1992). *Black Power: The politics of liberation in America*. Vintage Books.
- Tracy, C. E., Fromson, T. L., Long, J. G., & Whitman, C. (2012, June 5). *Rape and Sexual Assault in the Legal System*. Women's Law Project. Retrieved from <https://www.womenslawproject.org/wp-content/uploads/2016/04/Rape-and-Sexual-Assault-in-the-Legal-System-FINAL.pdf>

- Tumulty, K. (2004, May 17). *Evaluating the success of the Great Society*. The Washington Post. Retrieved January 21, 2022, from <https://www.washingtonpost.com/wp-srv/special/national/great-society-at-50/>
- U.S. Department of Education (ED). (2020, January 10). *Know Your Rights: Pregnant or Parenting? Title IX Protects You From Discrimination At School*. Home. Retrieved from <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-know-rights-201306-title-ix.html>
- U.S. Department of Education (ED). (2020, January 10). *Students with disabilities preparing for postsecondary education*. Office of Civil Rights. Retrieved January 17, 2022, from <https://www2.ed.gov/about/offices/list/ocr/transition.html>
- U.S. Department of Education (ED). (2021, August 20). *Title IX and sex discrimination*. Title IX. Retrieved January 21, 2022, from https://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html
- U.S. Department of Education. (2002, June 1). *Legislative history of major Ferpa provisions*. Legislative History of Major FERPA Provisions I Protecting Student Privacy. Retrieved January 19, 2022, from <https://studentprivacy.ed.gov/resources/legislative-history-major-ferpa-provisions>
- U.S. Department of Education. (2012, October). *Title IX and access to courses and programs in STEM*. Office for Civil Rights, Department of Education Revised October 2012. Office of Civil Rights Presentations. Retrieved from <https://www2.ed.gov/about/offices/list/ocr/presentations/stem-t9-powerpoint.pdf>
- U.S. Department of Education. (n.d.). *The NCES Fast Facts Tool provides quick answers to many education questions (National Center for Education Statistics)*. National Center for Education Statistics (NCES) Home Page. Retrieved January 17, 2022, from <https://nces.ed.gov/fastfacts/display.asp?id=60>
- U.S. Department of Education. (n.d.). *The NCES Fast Facts Tool provides quick answers to many education questions (National Center for Education Statistics)*. National Center for Education Statistics (NCES) Home Page. Retrieved January 21, 2022, from <https://nces.ed.gov/fastfacts/display.asp?id=93>
- U.S. Government. (n.d.). *U.S. Federal Courts Circuit Map - United States Courts*. U.S. Federal Courts Circuit Map. Retrieved January 21, 2022, from https://www.uscourts.gov/sites/default/files/u.s._federal_courts_circuit_map_1.pdf
- University of Buffalo. (2020, February 24). *Universal Design*. IDEA Center. Retrieved from <https://idea.ap.buffalo.edu/about/universal-design/>
- Vallano, J. P., & Schreiber Compo, N. (2015). Rapport-building with cooperative witnesses and criminal suspects: A theoretical and empirical review. *Psychology, Public Policy, and Law*, 21(1), 85–99. <https://doi.org/10.1037/law0000035>
- Varnell, S. (2013). *Statement analysis: an lss course workbook*. Steven Varnell.

- Vector Solutions. (n.d.). Title IX: 5 ways it changed education for the better. Retrieved January 21, 2022, from <https://www.vectorsolutions.com/resources/blogs/title-ix-positive-changes/>
- Wachtel, T. (2016, November). *Defining Restorative*. International Institute for Restorative Practices. Retrieved from <https://www.iirp.edu/defining-restorative/restorative-practices/defining-restorative/>
- Waryold, D. M., & Lancaster, J. M. (2020). *Student Conduct Practice: The Complete Guide for Student Affairs Professionals*. Stylus Publishing.
- Williamsen, D. K. K., Karp, D., & Williamsen, K. (2020, March 12). 5 Things Restorative Justice Sexual Harm. Retrieved from <https://www.naspa.org/report/five-things-student-affairs-administrators-should-know-about-restorative-justice-and-campus-sexual-harm>
- Woodhams, J., Taylor, P. J., & Cooke, C. (2020). Multiple perpetrator rape: Is perpetrator violence the result of victim resistance, deindividuation, or leader–follower dynamics? *Psychology of Violence*, 10(1), 120–129. <https://doi.org/10.1037/vio0000255>
- Yoshino, K. (2006). *Covering: The hidden assault on American civil rights*. Random House.