

Title IX Compliance Training for Higher Education

August 5, 2026

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Agenda

Background on Title IX Regulations
Key Definitions
Title IX Jurisdiction
Board Policy
Reporting & Response
Avoiding Conflicts of Interest & Bias
Grievance Process for Formal Complaints
Record-Keeping



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Background on Title IX

- “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 educational program or activity receiving Federal financial assistance...” 20 U.S.C. § 1681(a); 34 C.F.R. § 106.31(a).



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Although the information contained herein is considered accurate, it is not, nor should it be construed to be legal advice. If you have an individual problem or incident that involves a topic covered in this document, please seek a legal opinion that is based upon the facts of your particular case.

What About Sexual Harassment?

- Although Title IX does not expressly mention sexual harassment, Congress, federal agencies, and courts have interpreted the statute to prohibit sexual harassment in education programs and activities.



Other Laws Relevant to Sex Discrimination

Title VII of the Civil Rights Act of 1964 (“Title VII”)

Illinois Human Rights Act (“IHRA”)

Preventing Sexual Violence in Higher Education Act (“PSVHEA”)

Jeanne Clery Campus Safety Act (“Clery Act”)

Violence Against Women Act (“VAWA”)

Pregnant Workers Fairness Act / PUMP Act / Nursing Mothers in the Workplace Act

Key Definitions



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Title IX Sexual Harassment

- 1 Quid pro quo harassment by a College employee
- 2 Unwelcome conduct on the basis of sex that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access
- 3 Any instance of sexual assault, dating violence, domestic violence, or stalking

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Title IX Sexual Harassment: **Quid Pro Quo**

- When an employee of the College conditions aid, benefits, pay, a position or other opportunities for advancement on an individual's submission to unwelcome sexual conduct.

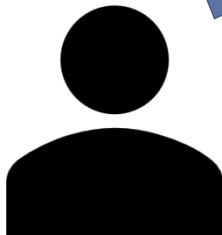


"My math teacher offered extra credit if I sent him inappropriate sexual pictures of myself."

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Title IX Sexual Harassment: **“Hostile Environment”**

"My classmate is always making sexual comments and gestures at me. It's so bad that I am considering switching sections so I won't have to interact with him in class."



- Unwelcome conduct
- Severe and pervasive and objectively offensive
- Denial of equal educational access

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Title IX Sexual Harassment Hostile Environment

Compare with Title VII definition for workplace hostile environment:

- Unwelcome sexual advances and other conduct of a sexual nature having the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.



Title IX Sexual Harassment Hostile Environment

Compare with IHRA definition:

- Any conduct of a sexual nature exhibited by an education representative toward a student, when such conduct has the purpose of substantially interfering with the student's educational performance or creating an intimidating, hostile or offensive educational environment.

Title IX Sexual Harassment: **Specific Acts**

- Sexual Assault
- Dating Violence
- Domestic Violence
- Stalking



**As defined under the Clery Act/VAWA*

Title IX Sexual Harassment: **Specific Acts**

Sexual Assault

- An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting program.

Dating Violence

- Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

Stalking

- Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - Fear for the person's safety or the safety of others; or
 - Suffer substantial emotional distress.

Title IX Sexual Harassment: **Specific Acts**

Domestic Violence

- 1) Felony or misdemeanor crimes committed by a current or former spouse or intimate partner under the laws of the jurisdiction and, in the case of victim services, includes the use or attempted use of physical abuse or sexual abuse.
- 2) A pattern of any other coercive behavior (not necessarily criminal) committed, enabled, or solicited to gain or maintain power and control over a victim, by a person who:
 - is a current or former spouse or intimate partner, or person similarly situated to a spouse of the victim;
 - is cohabitating or has cohabitated with the victim as a spouse or intimate partner;
 - shares a child in common with the victim; or
 - commits acts against an adult or youth victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.



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Preventing Sexual Violence in Higher Education Act: Sexual Violence

- Physical sexual acts attempted or perpetrated against a person's will or when a person is incapable of giving consent, including without limitation:
 - Rape;
 - Sexual assault;
 - Sexual battery;
 - Sexual abuse; and
 - Sexual coercion.



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Preventing Sexual Violence in Higher Education Act: Consent

- The PSVHEA requires a policy which includes a definition of consent consistent with the Act, 110 ILCS 155/10.
- Consent:
 - Must be freely given
 - May not be inferred from lack of verbal or physical resistance, from submission resulting from the use of threat or force, from a person's manner of dress, from a person's consent to past sexual activity, or from a person's consent to engage in sexual activity with another person
 - May be withdrawn at any time
 - Cannot be given by a person who is unable to understand the nature of the activity or give knowing consent due to circumstances (i.e. incapacitation due to alcohol or drugs, age, incapacitation due to mental disability)



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Potential *PSVHEA* Legislation – HB 4990

- Did not pass during the Spring 2026 legislative session, but is gaining support – one to watch for Fall veto session
- Would significantly expand the scope of the *Preventing Sexual Violence in Higher Education Act* and Colleges' Sex-Based Misconduct policies, by making the following changes:
 - Adds a definition of "sexual harassment" that is much broader than the Title IX definition and requires its inclusion in College policy
 - Adds a definition of "digital sexual harassment"
 - Adds a definition of "retaliation" and requires colleges to include in its policy information about reporting retaliation and its response retaliation
 - Reiterates survivor's right not to participate in any investigation



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Potential *PSVHEA* Legislation – HB 4990

- Additional provisions regarding supportive measures, including the limited circumstances when supportive measures may burden one party, examples of supportive measures, and examples of reasons that are not appropriate for denying the provision of a supportive measure
- Must update comprehensive policy on or before August 1, 2027
- Creates a legal cause of action against institutions for their substantial failure to act in accordance with their comprehensive policy
 - Institution must have willfully violated its policy or willfully disregarded the safety of the aggrieved party
 - 7-year statute of limitations
- Adds a “complaint advisor” similar to an advisor under Title IX and a requirement that a complaint advisor be appointed for a party if they do not have one and Title IX requires allowing cross-examination by advisors



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HB 4990

Defines “sexual harassment” as:

“Unwelcome sex-based conduct, including, but not limited to,

- *unwanted sexual advances,*
- *unwanted requests for sexual favors, or*
- *unwanted verbal, nonverbal, or physical conduct that is sex-based or that is related to a person’s sex, sexual orientation, or gender identity,*

toward a student that

- (i) *a reasonable person would view as substantially interfering with the student’s educational performance or participation in a program or activity of a higher education institution, including, but not limited to,*

- *any mental or physical health impacts,*
- *any new or increased challenges with focusing on academics or activities,*
- *any fear or anxiety about attending class or activities, or*
- *the need to alter routines or class or activity schedules to avoid another student, or*

- (ii) *creates an environment that reasonable person would consider to be intimidating, hostile, or offensive.”*



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Key Definitions: **Hypothetical**



- You receive a report of a student being punched repeatedly by her ex-boyfriend, another student, while on an overnight school-sponsored field trip.
- Which category of sexual harassment might this be?

Key Definitions: **Hypothetical**

- A student member of the Debate Club reports that they were sexually harassed by the Club advisor.
- What types of evidence/information would be relevant to determining whether the alleged harassment was severe, pervasive, and objectively offensive?

Title IX Jurisdiction



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Title IX Jurisdiction

- The 2020 Title IX regulations apply only to alleged sexual harassment that occurs in the College's "education program or activity, against a person in the United States."



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Title IX Jurisdiction

“Education Program or Activity”

Locations, events, or circumstances over which the College exercised substantial control over both:

- the respondent and
- the context in which the sexual harassment occurred.

Title IX Jurisdiction:

“Education Program or Activity”

- Examples for discussion:
 - An athletic van while traveling to an out-of-state competition
 - Off-campus clinical site
 - On campus at 2:00 am on the weekend
 - Social media



Jurisdiction: “... in the United States”

- To fall under Title IX, the alleged misconduct must have occurred in the United States.
 - If not, look to other applicable laws/policies
- Example: Sexual assault during study abroad program?

Jurisdiction: Hypothetical

- Compare:
 - A faculty member allegedly sexually assaults a student while at an off-campus academic conference
 - A faculty member allegedly sexually assaults another faculty member while at a third faculty member's home for a birthday party
- Which type of alleged misconduct falls under Title IX?
- What are the College's response obligations with regard to each type of alleged misconduct?

Policy Prohibiting Sex-Based Misconduct



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Policy Prohibiting Sex-Based Misconduct

- Prohibits all forms of “sex-based misconduct,” including but not limited to:
 - Sex discrimination
 - Sexual harassment
 - Sexual violence
 - Domestic violence
 - Dating violence
 - Stalking

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Policy Prohibiting Sex-Based Misconduct

- Prohibits retaliation against any person reporting alleged sex-based misconduct or participating in an investigation of alleged sex-based misconduct
- Directs the administration to establish, maintain and publish procedures implementing the College's Sex-Based Misconduct Policy.



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Policy Prohibiting Sex-Based Misconduct Jurisdiction

- Procedure applies to alleged sex-based misconduct whenever the alleged misconduct occurs:
 - On campus; or
 - Off campus property if:
 - The conduct was in connection with a College or College-recognized program or activity; or
 - The conduct may have the effect of creating a hostile environment for a member of the College community.
- Broader than Title IX jurisdiction



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Policy Prohibiting Sex-Based Misconduct

- Applies to:
 - Students
 - Employees & independent contractors
 - Volunteers
 - Visitors
 - Board members

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Role of Title IX Coordinator

- Coordinate the College's compliance with Title IX and related laws.
- Oversee the College's response to all reports of alleged sex-based misconduct.
- Analyze reports to determine appropriate method for processing and reviewing.
- Oversee grievance process for formal Title IX/PSVHEA complaints.
- Coordinate the provision of supportive measures and implementation of remedies.
- Ensure adherence to policies/procedures.
- Ensure appropriate training is provided to students, faculty and staff.

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Options for Assistance Following Incident of Sex-Based Misconduct

- Emergency Response
 - Anyone who experiences or observes an emergency situation should immediately contact local law enforcement by calling 911.
 - Encourage all individuals to report suspected criminal activity to law enforcement; however, victims are not required to report to police.
- Health care, crisis centers, and mental health resources
 - National resources
 - Illinois resources
 - Local/college-specific resources
- Illinois Department of Human Rights sexual harassment and discrimination helpline



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Reporting Alleged Sexual Harassment



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Reporting

More Key Definitions

Complainant:

- Individual who is alleged to be the victim of conduct that could constitute sexual harassment

Respondent:

- Individual who has been reported to be the perpetrator of the conduct that could constitute sexual harassment

Reporting Generally

Who can report?

- Anyone – including students, employees and community members
- Need not be the person who is alleged to be the victim of the misconduct

To whom should reports be made?

- Title IX Coordinator
- Any “responsible employee” (students only)

Student Reporting

Confidential Reporting

- Confidential Advisors are not required to report any information about an alleged incident to the Title IX Coordinator without the student's permission.



Reporting: Confidentiality of Reports

Do not promise confidentiality.

Reports will be confidential to the greatest extent practicable, subject to the College's duty to investigate and maintain an educational program or activity that is productive, respectful, and free of sexual harassment.

Student Reporting

- Anonymous and/or Electronic Reporting
- Students may report anonymously online.
- Before the student enters information, the system will notify the student that entering personally identifiable information may serve as notice to the College for purposes of triggering an investigation.



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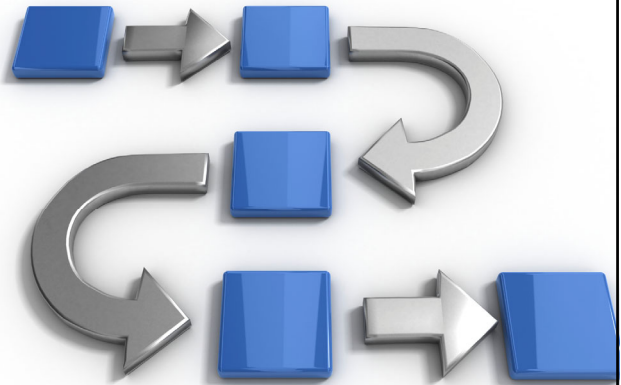
Employee Reporting

- Employees should report to:
 - Title IX Coordinator
 - Department of Human Resources



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Initial Response to Reports Alleging Sexual Harassment



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Initial Response

More Key Definitions

Once the College has “actual knowledge” of alleged sexual harassment, the College must respond to the allegations promptly in a manner that is not “deliberately indifferent.”

Actual Knowledge:

- Notice about sexual harassment or allegations of sexual harassment to any College employee/official “who has authority to institute corrective measures” on behalf of the College.

Deliberately Indifferent:

- Clearly unreasonable in light of the known circumstances.

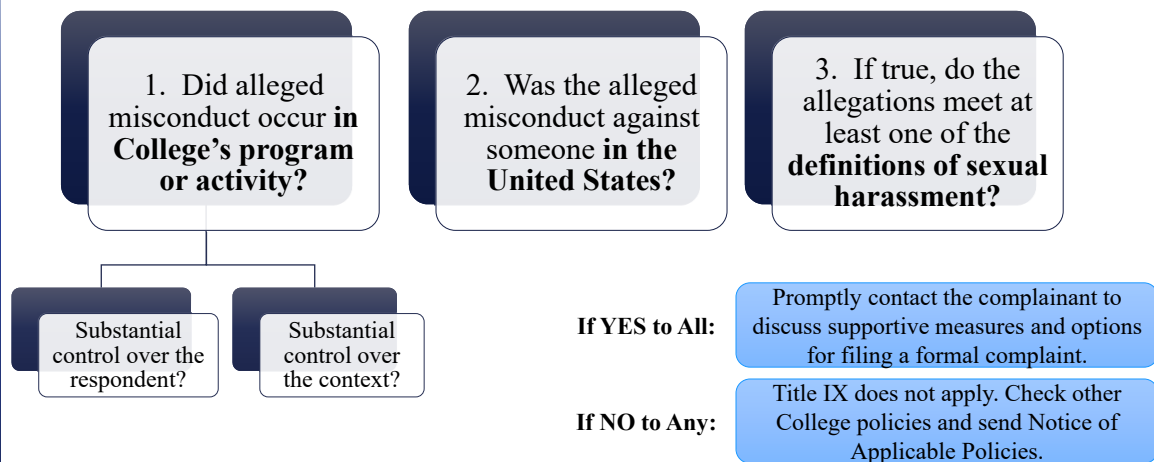
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Initial Response Process: Analyze Report

The Title IX Coordinator will analyze the report to determine whether there is another or an additional appropriate method(s) for processing and reviewing it.

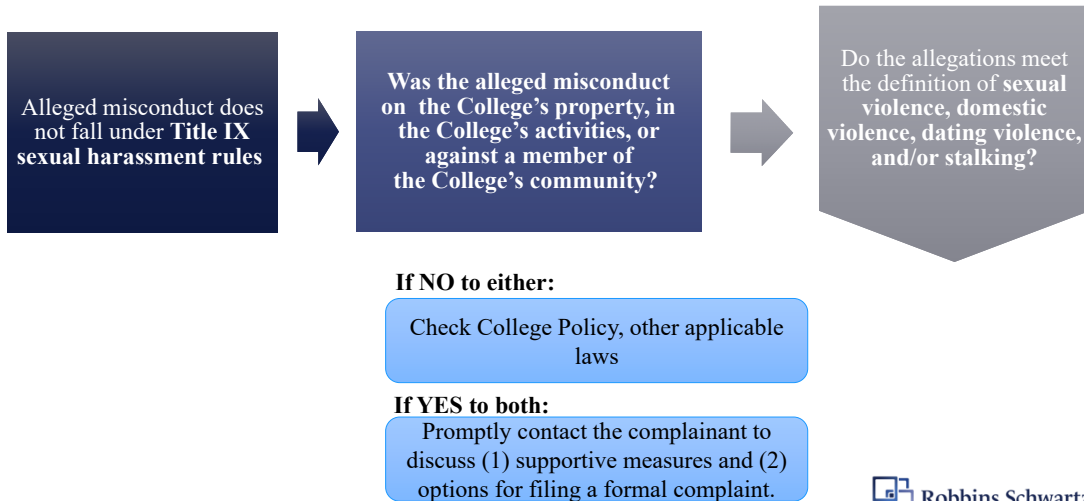
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Title IX Jurisdiction Analysis



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Preventing Sexual Violence in Higher Education Act: Jurisdiction Analysis



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Initial Response Process

Contact Complainant

- Reminder: Complainant is the individual who is alleged to be the victim of alleged sex-based misconduct
- For any report alleging Title IX sexual harassment, a Title IX Coordinator should meet with the complainant and:
 - discuss and offer supportive measures,
 - consider the complainant's wishes with respect to supportive measures,
 - explain that supportive measures are available with or without filing a formal complaint, and
 - explain the process for filing a formal complaint.



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Initial Response: Supportive Measures

Supportive Measures:

- Non-disciplinary, non-punitive individualized services
- Offered as appropriate, as reasonably available, and without fee or charge
- Offered to the complainant or the respondent before or after a formal Title IX sexual harassment complaint is filed or where no formal Title IX sexual harassment complaint has been filed



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Initial Response Process Supportive Measures

• Examples of supportive measures:

- Schedule changes
- Counseling services



- Extensions or other academic or work accommodations
- Mutual no-contact directives

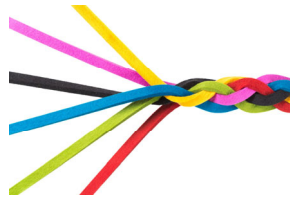


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Initial Response Process

Supportive Measures

- The Title IX Coordinator is responsible for coordinating appropriate supportive measures.
- Such coordination may require consultation with other College personnel.



Supportive Measures: Hypothetical

- You are a statistics faculty member. One of your students, Alex, contacts you to report that another student, Sam, has been making inappropriate comments and gestures toward Alex during class. Alex says she asked Sam to stop, but his behavior has only gotten worse. Alex says she is having trouble concentrating during class and asks if you can move Sam to a different class section.
 - How should you respond to Alex?
 - Should you move Sam into a different class section? Why or why not?

Reporting & Response: Hypothetical #1

- You overhear the girls' basketball coach telling one his players that she reminds him of his favorite model. You ask the student about it, and she says that the coach has told her this several times. She also tells you that the coach refers to her by the model's name and calls her "Babe" when she plays well in a game. The coach also sometimes rubs the student's shoulders after practice. The student says she appreciates that the coach pays attention to her, but she has starting growing uncomfortable, especially since other players seem to notice how the coach treats her and have stopped inviting her to team get-togethers.
- Assuming the allegations are true, could the coach's conduct meet the definition of sexual harassment?
- How would you respond in this situation?



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Reporting & Response: Hypothetical #2

- You are a Dean. One of the faculty in your division contacts you to report that her students are referring to her as their "girlfriend" during class. In addition, she notes that several students have jokingly asked to take her on a date after class in front of the other students. The faculty member reports that she typically responds to the comments and jokes by laughing or saying, "I'm married," but that the comments and jokes are making her feel increasingly uncomfortable.
- Could the students' alleged conduct constitute sexual harassment?
- Should you report the faculty member's allegations?



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Break



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Avoiding Conflicts of Interest & Bias



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Conflicts of Interest & Bias

- Title IX Regulations provide that any individual designated to serve as the Title IX Coordinator, investigator, decision-maker, or appellate decision-maker must not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.
- Can be a basis for appeal if the conflict of interest or bias affects the outcome.

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Conflicts of Interest

- Key question:
 - Does the Title IX team member's prior or existing relationship with or knowledge of a party prevent the team member from serving impartially?

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Conflicts of Interest

- Where a Title IX team member self-identifies a conflict of interest, they should notify the Title IX Coordinator that they will need to recuse themselves.
- Where a party believes that a team member has a prohibited conflict of interest, the party must contact the Title IX Coordinator to request a substitution.
 - The Title IX Coordinator may request information from the team member to help them evaluate the claim.

Bias

- Title IX Regulations prohibit bias for or against:
 - Complainants or respondents generally; and/or
 - An individual complainant or respondent.



Bias

- **How** might bias be exhibited in the context of Title IX proceedings?
 - Making decisions based upon stereotypes, personal opinions, or something other than the facts/evidence.
 - Treating the complainant and respondent differently based upon their sex or other protected characteristic.

Bias

- **When** might bias be exhibited in the context of Title IX proceedings?
 - Deciding whether to sign a formal complaint against a respondent?
 - Considering what supportive measures are appropriate?
 - Conducting investigatory interviews?
 - Providing the parties with access to evidence?
 - Assessing the parties' credibility?

Tips for Promoting Objectivity/Impartiality

- Avoid pre-judging the facts.
 - Wait until all evidence is presented to determine whether a policy violation occurred.
- Create and follow checklists.
 - Procedural requirements
 - Allegations to be proven/disproven
- Document treatment of both parties.
 - Opportunities to provide evidence
 - Details of the parties' interviews (time to prepare, breaks, advisors' roles, etc.)
 - Access to relevant evidence
 - Offering flexibility or granting requests for accommodations
- Document rationale for credibility determinations.



Conflicts of Interest & Bias: Hypothetical

- You serve on the College's threat assessment team. At a threat assessment team meeting several months ago, you took part in a decision to remove a respondent from the College's educational program on an emergency basis. The College subsequently conducted a Title IX investigation with respect to that respondent, and you have just been appointed to serve as the hearing officer for the case.
 - Do you have a prohibited conflict of interest?

Grievance Process for Formal Title IX Sexual Harassment Complaints



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Grievance Process for Formal Complaints

- Formal complaint:
- Document filed by a complainant or signed by Title IX Coordinator alleging
 - (a) sexual harassment in violation of Title IX and/or
 - (b) sexual violence, domestic violence, dating violence or stalking in violation of the PSVHEA.
- At the time the complainant files a formal complaint, the complainant must be participating in or attempting to participate in the College's education programs or activities (either as a student or an employee).

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Grievance Process

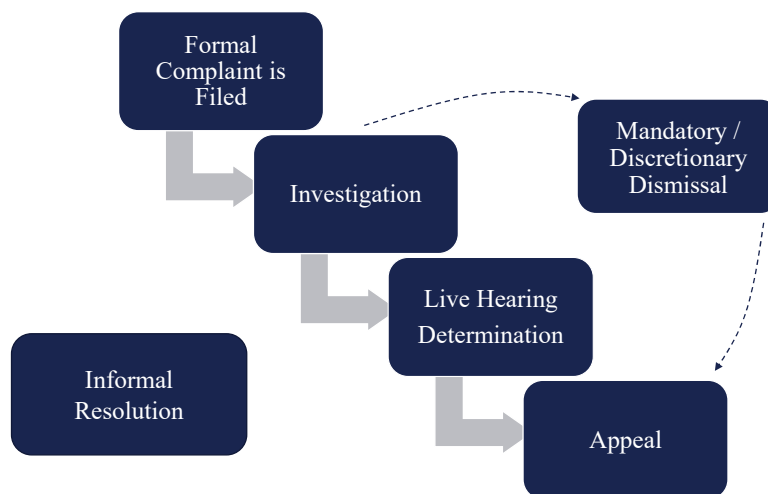
Key Principles for Procedures

- Treat complainant and respondent equitably
- Objective evaluation of relevant evidence
- Presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility
- Compliance with grievance process before any disciplinary actions against a respondent
- Include reasonably prompt timeframes for conclusion of the grievance process
- Base all decisions upon the preponderance of evidence standard

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Grievance Process

Overview



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Formal Complaint Hypothetical

- Paula graduates in June. In July, Paula applies for a research assistant position at the College for the next semester. Paula finds out that the faculty member assigned to review her application is her former Biology instructor, who made inappropriate and offensive sexual comments toward Paula when she was in his class. Paula contacts the Title IX Coordinator and states that she would like to file a formal Title IX sexual harassment complaint.
- Can Paula file a formal Title IX complaint? Why or why not?



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Grievance Process

Notice of Allegations

- Must be sent simultaneously to both parties (or the parties' parent(s)/guardian(s)) after Title IX Coordinator's receipt of formal complaint.
- Informs the parties of:
 - The grievance process, including informal resolution
 - Notice Regarding Informal Resolution should be enclosed
 - The allegations
 - The presumption of non-responsibility on the part of the respondent
 - The parties' right to an advisor
 - The parties' right to inspect and review evidence
 - The prohibition on knowingly making false statements or submitting false information during the grievance process.



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Grievance Process

Emergency Removals and Administrative Leave

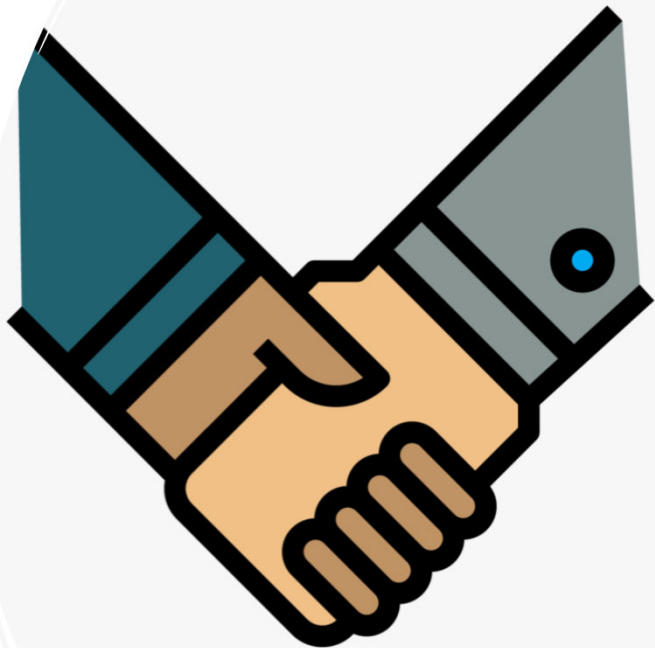
- The College may remove a respondent from its education program or activity on an emergency basis before completing the grievance process only if it determines:
 - Based on an individualized safety and risk analysis, an immediate threat to the physical health or safety of an individual arising from the allegations of sexual harassment justifies removal.
- Respondent must receive notice and an opportunity to challenge the decision immediately following the removal.
 - For employees: Be mindful of any CBA requirements, but Title IX allows placing a respondent on administrative leave.



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Informal Resolution

- Requires both parties' voluntary, written consent.
- May occur at any time after the parties receive the initial notice of allegations and prior to a determination regarding responsibility being reached.
- Party may withdraw at any time prior to reaching a resolution.
- Not permitted in allegations of employee sexual misconduct toward a student.



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Consolidation of Formal Complaints

- Title IX Coordinator may consolidate formal complaints where the allegations of sex-based misconduct arise out of the same facts or circumstances.

Dismissal of Formal Complaints

Mandatory Dismissal

- The College must dismiss a formal complaint for Title IX purposes where the Title IX Coordinator or designated investigator determines that the conduct alleged in the formal complaint:
 - (a) Does not meet Title IX's definition of sexual harassment; and/or
 - (b) Does not satisfy Title IX's jurisdictional requirements.
- *Note: Dismissal does not preclude action altogether—just for purposes of Title IX.*

Dismissal of Formal Complaints

Discretionary Dismissal

- The College may dismiss a formal complaint, but is not required to, where:
 - The complainant gives written notification of their desire to withdraw the formal complaint or certain allegations;
 - The respondent is no longer enrolled in or employed by the College; or
 - Specific circumstances prevent the College from gathering evidence sufficient to reach a determination.

Dismissal of Formal Complaints

- A party may appeal a decision to dismiss a formal complaint or allegations therein.



Quiz Time

- In each of the following scenarios, is dismissal mandatory or discretionary?
 1. The respondent resigns from employment at the College.
 2. The respondent gets arrested and is being held without bond pending their criminal trial.
 3. After initiating the investigation, the investigator determines that all of the conduct alleged by the complainant occurred while the parties were on a school-sponsored trip to Spain.

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Investigation of Formal Complaints



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Investigations: Written Notice

Required written notices

- Notice of allegations (upon receipt of a formal complaint)
- Notice of investigative interview, meeting, or hearing
- Notice of (mandatory or discretionary) dismissal



Investigations: Evidence

- Equal opportunity for parties to provide:
 - Fact and expert witnesses
 - Inculpatory and exculpatory evidence
- No gag orders



Investigations: Advisors

- Both parties may select an advisor of their choosing
 - May, but need not be, an attorney
- Advisor's role is to provide support, guidance, advice
- May not speak on behalf of the party



Investigation: Access to Evidence

- Both parties must have equal access to inspect and review all evidence that is directly related to the complaint allegations.
- At the conclusion of the investigation and prior to the completion of the investigator's report, the investigator must send both parties a copy of all relevant evidence.
 - Be mindful of FERPA and student privacy considerations.
 - Notify parties of parameters/limitations on re-disclosure of records and evidence.

Investigation: Response to Evidence

- The parties will have 10 business days* to submit a written response to the evidence, which the investigator must consider prior to completion of his/her investigative report.
- Investigator must also send a copy of each party's written response to the other party.



Investigation: Investigative Report

- After receiving/reviewing the parties' written responses, the investigator must create an investigative report that fairly summarizes the relevant evidence, which will be forwarded to the decision-maker.
- Upon receipt of the investigator's report, the Title IX Coordinator will schedule a hearing.



Investigation: Report and Response

- At least 10 business days* prior to the hearing, the Title IX Coordinator will:
 - Provide both parties with written notice of the hearing date, time, location, participants and purpose of the hearing; and
 - Send to each party (and advisors) the investigative report.
 - Allow parties 10 business days* to submit a written response to the report.



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Live Hearings



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Live Hearings: Process

- Conducted by designated Hearing Officer
 - Assigned by Title IX Coordinator
- A party may request a substitution if the participation of the Hearing Officer poses a conflict of interest.
 - Must contact the Title IX Coordinator within 3 business days* after the party's receipt of the hearing notice to make such a request.

Live Hearings: Process

- Upon request, parties can be separated – requires appropriate technology
 - Must be requested at least 3 business days* prior to hearing
 - Must allow parties to simultaneously see and hear each other



Live Hearings: Advisors

- Advisor from the College appointed if none available
 - 3 business days' notice required

Live Hearings: Technology

- Technology considerations:
 - Parties must be able to hear and see each other.
 - Parties and Hearing Officer must be able to view evidence being presented.
 - Consider screen-sharing and/or sending documents electronically in advance.
 - Parties should have ability to communicate with their respective advisors in private.
 - Consider “breakout rooms.”

Issues for Hearing

- Hearing Officer's role is to determine:
 - Whether facts presented establish that the alleged conduct occurred;
 - Whether that conduct constitutes Title IX sexual harassment, sexual violence, domestic violence, dating violence or stalking; and
 - If the answers to the above are "yes," which sanctions (if any) and remedies are appropriate.
- The evidence presented must be relevant to one or more of the issues above.

Considering Evidence

- Relevant documents may include, but are not limited to:
 - The formal complaint
 - The initial written notice of the allegations
 - Written statement(s) and responses by the parties and/or witnesses
 - The investigation report
 - The parties' written questions and answers
 - Police reports, photographs, video footage (if any)
 - Prior discipline records
 - Only relevant to issue of appropriate sanction



Live Hearings: Cross-Examination

- Advisors are permitted to ask opposing party and witnesses all relevant questions and follow-up questions.
 - Relevance determined by Hearing Officer.
- August 2021 Letter to Stakeholders: A hearing officer may rely upon statements by an individual who does not submit to cross-examination in reaching a determination.



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Live Hearing

Rape Shield Protections

- Questions about the complainant's sexual pre-disposition or prior sexual behavior are not permitted unless:
 - Offered to prove that someone other than the respondent committed the alleged conduct; or
 - Questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.



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Written Determination



Preponderance of the Evidence Standard

- “More likely than not”
- Whether the facts supporting the allegations have greater weight/strength than the facts presented in denial of the allegations
- If 50/50, no violation.

Written Determination

Issued to both parties simultaneously within 7 business days of decision being reached.



Written Determination

- Must include:
 - Identification of allegations
 - Description of procedural steps taken
 - Findings of fact supporting determination
 - Conclusions regarding application of conduct standards
 - Statement & rationale for result of each allegation, including:
 - Determination of responsibility
 - Disciplinary sanctions being imposed
 - Whether any remedies will be provided to the complainant
- Procedures and permissible bases for complainant and respondent to appeal

Appeals



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Appeals

Both parties have right to appeal any:

- Determination regarding responsibility
- Dismissal of any formal complaint or allegations therein

Party must submit written appeal request to Title IX Coordinator

- Within 7 business days* of receipt of written determination or dismissal

Title IX Coordinator must forward request to appellate decision-maker



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Appeals

Grounds to Appeal

- Procedural irregularity that affected the outcome
- New evidence or information exists that could affect the outcome but that was not reasonably available at the time the determination was made
- Conflict of interest or bias on the part of the Title IX Coordinator, investigator, or decision-maker that affected the outcome
- Sanction disproportionate to violation



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Appeals: Process

- Appellate decision-maker must afford both parties the opportunity to submit a statement
- Written decision issued to both parties simultaneously within 7 business days of conclusion of the review
 - Describes outcome and rationale
- Includes statement that decision is final



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Record-Keeping



Record-Keeping

- For at least seven (7) years, create and maintain records of:
 - The sexual harassment investigation, including any determination regarding responsibility, any sanctions imposed on the respondent and any remedies provided to the complainant;
 - Any appeal and its result; and
 - Any informal resolution and its result.

Contact Us



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MICHELLE L. WEBER

Partner, Chicago

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PRACTICE AREAS

Board Governance
Education
Special Education
Student Rights

EDUCATION

J.D., Loyola University
College of Law

M.A., Loyola Marymount
University

B.A., Trinity College

ADMITTED TO PRACTICE

U.S. District Court for the
Northern District of
Illinois

Supreme Court of Illinois

Michelle L. Weber practices in education law, with a primary focus on special education and student matters. Michelle brings a wealth of experience to her role at Robbins Schwartz, representing educational institutions, including school districts, community colleges and private schools. Michelle works with clients on a wide range of student-related legal issues, including special education, student discipline, student records, free speech, and board policy development. Michelle is also a member of the firm's Freedom of Information Act and Title IX working groups and provides counsel to clients in these areas as well.

Michelle is passionate about education and her strengths lie in finding creative and practical solutions to complex legal issues. Prior to joining Robbins Schwartz, she served as an in-house attorney for Waukegan Public Schools and Chicago Public Schools, focusing on special education. Michelle began her career as a Teach for America Corps Member and middle school language arts teacher; an experience that significantly influenced her career trajectory. Drawing on her experience as a classroom teacher, Michelle offers clients a unique perspective, aiming to partner with them to achieve their goals while prioritizing the best interests of students.

Beyond her legal practice, Michelle actively contributes to the community. She serves on the Board of Directors of North Park Elementary School, expanding her commitment to education and experience in the field. Outside of her professional pursuits, Michelle enjoys running, yoga, hiking, and spending quality time with her family.

Publications

"DeVos Rollbacks Could Hit Schools Hard," *Chicago Daily Law Bulletin* (2017)

Presentations

The Last Word: Discipline, Residency, and UGP Complaints, IASB/IASA/IASBO Joint Annual Conference (November 2025)

Friend or Foe? Collaborating with Educational Advocates in the IEP Process, IAASE Fall Conference (October 2025)

Student Discipline and Trauma-Informed Practices for School Boards, Illinois State Board of Education Approved Professional Leadership Development Training (May 2023)

Navigating the IEP Process when DCFS is Involved, IAASE Winter Conference (February 2023)



ORGANIZATIONS

Chicago Bar Association

Hellenic Bar Association

Illinois Council of School
Attorneys

Illinois Local Government
Lawyers Association

Illinois State Bar
Association

LEADERSHIP

Student Rights and Special
Education Practice Group
Leader





CLAIRE E. BUFALINO

Associate, Chicago

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PRACTICE AREAS

Education
Special Education
Student Rights

EDUCATION

M.P.P., Loyola University
Chicago

J.D., Loyola University
Chicago

B.F.A., New York
University

ADMITTED TO PRACTICE

U.S. District Court for the
Northern District of
Illinois

Supreme Court of Illinois

ORGANIZATIONS

Chicago Bar Association

Illinois State Bar
Association

Claire E. Bufalino is an attorney at Robbins Schwartz, focusing on Special Education and Student Rights. She counsels school districts regarding IDEA and Section 504, student discipline, Title IX, student records issues and policy development. She assists school districts in responding to complaints from the Office for Civil Rights, Office of the Attorney General and Illinois State Board of Education, and she represents public school districts at IEP meetings, due process hearings, mediations, student discipline hearings and residency hearings.

Before practicing law, Claire worked as a program analyst at the U.S. Department of Housing and Urban Development, where she researched federal housing policy and worked in legislative and regulatory analysis and development. This role strengthened her ability to analyze complex legal and policy issues and reinforced her commitment to ensuring institutions have the knowledge and tools to stay compliant while supporting their communities.

Her interest in education law grew from early experiences working with children in nonprofits, music education, and childcare roles. Seeing how institutions shape opportunities, she pursued a legal career to support schools in creating equitable learning environments. In law school, she worked with students with disabilities in special education matters, which deepened her commitment to education law.

Outside of work, Claire is a dedicated runner who has completed the Chicago Marathon twice. She also enjoys exploring new restaurants across the city. A lesser-known fact about Claire is that she originally studied music, which shaped her understanding of how storytelling influences law, policy, and institutions.

Presentations

Clarity in Crisis: Understanding ISBE's Updated RTO Guidance, IAASE Winter Conference (March 2026)

Lessons Learned from ISBE Cyclical Monitoring & Compliance, IAASE Fall Conference (October 2025)

