


Title IX Coordinator Training

Part 2 of 3

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1. An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
 2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or
 3. "sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8) "stalking" as defined in 34 U.S.C. 12291(a)(30)


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- Applies solely to an employee respondent
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- *“Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient’s education program or activity”*
- *directed at verbal or expressive conduct*
- *evaluated under the “reasonable person standard” taking into consideration the characteristics of the alleged victim*

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- “sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v),
 - “dating violence” as defined in 34 U.S.C. 12291(a)(10),
 - “domestic violence” as defined in 34 U.S.C. 12291(a)(8)
 - “stalking” as defined in 34 U.S.C. 12291(a)(30).


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- Sexual assault means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation
 - Includes any sexual act directed against another person without their consent, including rape, sodomy, sexual assault with an object, fondling, incest and statutory rape




- What is key with sexual assault is CONSENT, or the lack thereof
- The new regs DO NOT DEFINE CONSENT; this is left up to institutions
- Some states do have laws that mandate a specific definition of CONSENT
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- (10) DATING VIOLENCE The term “dating violence” means violence committed by a person—

• (A) ~~California Penal Code Section 26300.5, effective January 1, 2019, Tw -182~~ social r



8) DOMESTIC VIOLENCE THE term “[domestic violence](#)” includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult [youth](#) victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.


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- (30) STALKING THE term “[stalking](#)” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for his or her safety or the safety of others; or
 - (B) suffer substantial emotional distress.





“No recipient or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege under Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner.”





Who? What? When? Where? Why?

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- Locations, events, or circumstances where the school exercises substantial control over both:
 - the Respondent
 - the context in which the alleged sexual harassment or discrimination occurs
 - includes any building owned or controlled by the school or by a student organization that is officially recognized by the school.

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- A formal complaint is a *“document filed by complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting recipient investigate the allegation of sexual harassment”*
 - Schools should not take the requirement of a written formal complaint to create “bureaucratic loopholes” or technicalities to avoid initiating the grievance process

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- only the Title IX Coordinator may initiate a complaint if the complainant does not want to
 - the decision to move forward is made on behalf of the school, not the complainant
 - school has an obligation to uphold and comply with Title IX and an obligation not to act with deliberate indifference
 - if the allegations would warrant disciplinary action, the school cannot institute punitive or disciplinary action without first going through the grievance process

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- regulations do not prohibit schools from implementing anonymous reporting
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- Emergency: Immediate Threat to Physical Health or Safety
 - Arising out of the Allegations of Sexual Harassment
 - Based on an Individualized Risk and Safety Assessment
 - Must Allow for Immediate Challenge
 - 106.44(d) Authorizes Administrative Leave for Employees

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- implement supportive measures $iA_{int} = 3e^{-T_c} T_w = 312s$ T-5




Supportive Measures


- Referral to counseling/medical/health services
- Referral to employee assistance program
- Mutual no-contact orders


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- 1. would not constitute sexual harassment as defined in 106.30, even if proved,*
 - 2. did not occur in the recipient's educational program or activity,*
 - 3. or against a person in the United States*

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1. Complainant notifies the Coordinator in writing that they would like to withdraw the complaint, or any allegation therein
 2. The respondent is no longer enrolled or employed by the school
 3. Specific circumstances prevent the school from gathering evidence sufficient to reach a determination as to the formal complaint

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- apply to individual allegations or to an entire complaint
 - the parties must receive written notification and reasons for any dismissal
 - mandatory dismissals are appealable

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- Can only be offered after a formal complaint is filed
 - Must provide written notice disclosing allegations, details and consequences of the process
 - Both parties must voluntarily consent in writing to the informal process
 - Cannot be used in cases where respondent is an employee
 - Either party may withdraw from the informal process, which would trigger the formal grievance process
 - Facilitators must be trained and impartial, free from conflicts & bias
 - School may not pressure/condition informal resolution on enrollment or employment

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- School determines timeframes as long as it is reasonably prompt
 - Must balance due process and fundamental fairness with prompt resolution
 - Includes appeals and formal resolution processes
 - Administrative delay is not sufficient “good cause”




Delays & Extensions

- Must be Temporary, Limited & for Good Cause
- Must provide written notice to parties

- Administrative Delay
 - *School's inefficiency not good cause*
- Availability of Parties & Witnesses
- Law Enforcement Activity
- Accommodations foDisabilities
- Language Assistance



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1. *A school must respond if the allegations meet the definition of sexual harassment, the conduct occurred in the scope of the school's educational program or activity, in the US, and both the respondent and complainant are enrolled/engaged or under the school's control*
 2. *Once triggered the school must respond with supportive measures that ensure complainant's continued access to the educational program or activity, whether or not, a formal complainant*

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