

I. Title IX Overview

- a. A federal law that prohibits sex discrimination, including sexual harassment in schools that accept federal funding
- b. Defines the scope of sexual misconduct covered by the law
- c. Mandates how institutions must respond
- d. Title IX does not prevent schools from having policies that prohibit additional conduct or provide additional guidelines beyond those minimally required by Title IX regulations; your school's policies may address a broader range of prohibited conduct and situations
- e. **Discrimination:** the unfair or unequal treatment of a person or group based on any characteristic defined as a protected status
- f. **Harassment:** discrimination in the form of unwelcome conduct directed towards someone based on their protected status. Can include:
 - i. Derogatory or threatening comments
 - ii. Displays of offensive material
 - iii. Unwelcome physical contact including sexual touching, physical violence, or stalking
- g. **Examples of protected characteristics:**
 - i. Race
 - ii. Color
 - iii. Religion
 - iv. Sex (including pregnancy, sexual orientation, and gender identity)
 - v. National origin
 - vi. Age (40 and older)
 - vii. Disability
 - viii. Genetic information
 - ix. State or local laws or your school's policy may designate additional protected statuses
- h. Title IX requires schools to:
 - i. Disseminate their non-discrimination policy
 - ii. Designate a Title IX coordinator
 - iii. Post the Title IX coordinator's contact information
 - iv. Post the Title IX training materials

II. Other Federal Anti-Discrimination Laws

- a. **Title VII:** prohibits employment discrimination based on race, sex, color, national origin, and religion
- b. **Title VI:** prohibits discrimination based on race, color, and national origin in programs receiving federal financial assistance
- c. **Pregnancy Discrimination Act:** prohibits sex discrimination on the basis of pregnancy

- d. **Age Discrimination in Employment Act:** prohibits age discrimination against anyone over 40
- e. **Americans with Disabilities Act:** prohibits discrimination against people with disabilities
- f. State or local laws or policies at your institution may apply as well

III. Scope of Title IX

- a. Title IX applies to conduct that takes place in an education program or activity of a college or university directed against a person in the United States including:
 - i. On campus
 - ii. Off campus in buildings controlled by the school or its organizations
 - iii. Other locations, events or circumstances in which the institution exercises substantial control in the United States
- b. The law protects
 - i. Students
 - ii. Faculty and staff members
 - iii. Other school employees
- c. Your school policy may apply to additional locations and people that are not covered under Title IX

IV. Sexual Harassment

- a. Under Title IX, three types of conduct constitute sexual harassment:
 - i. Quid pro quo harassment by an employee
 - ii. Unwelcome conduct so severe, pervasive, and objectively offensive that it effectively denies a person equal access to an educational program or activity
 - iii. Sexual assault, dating violence, domestic violence, or stalking
- b. This Title IX definition of sexual harassment is narrower than the standard that has been widely used in the past, many schools still use a broader definition of prohibited behavior in their sexual misconduct policies.
- c. Title IX requires schools implement policies and procedures to prevent sexual harassment and to receive and process sexual harassment complaints

V. Reporting

- a. A school is considered to have actual knowledge of sexual harassment when a report is made to:
 - i. The Title IX coordinator or
 - ii. Another "official with authority"
 - 1. Possibly deans and supervisors
 - 2. Probably not most professors, administrators, or staff
- b. Once a school receives a report of sexual harassment, it is required to take certain actions, including offering supportive measures, such as

counseling, leaves of absence, modified class or work schedules, et cetera.

- c. While Title IX might not require an individual to report, a school's policy may require it

VI. **Complaints**

- a. Upon receiving a report of Title IX sexual harassment, the Title IX Coordinator will let the complainant know they have a right to file a formal complaint.
- b. A formal complaint starts the grievance process, which includes:
 - i. Providing written notice to the involved parties
 - ii. Investigating the complaint
 - iii. Adjudicating the complaint
- c. Schools cannot discipline respondents without going through the grievance process
- d. **Complainant:** individual who is alleged to be the victim of conduct that could constitute sexual harassment
- e. **Respondent:** individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment

VII. **Retaliation**

- a. Title IX prohibits retaliation against any individuals participating (or refusing to participate) in the grievance process. This includes complainants, respondents, and witnesses
- b. It is unlawful to retaliate against someone for:
 - i. Filing a Title IX report or complaint
 - ii. Participating in an investigation, proceeding, or hearing
 - iii. Refusing to participate in any manner in any investigation, proceeding, or hearing
- c. Examples of retaliation:
 - i. Professor giving student a poor grade
 - ii. Supervisor moving an employee to a less desirable shift
 - iii. Staff members excluding a coworker from meetings

VIII. **Sexual Misconduct**

- a. Sexual misconduct is a form of sex discrimination
- b. It can be sexual in nature, but doesn't have to be
- c. Types of sexual misconduct include:
 - i. Sexual assault
 - ii. Sexual harassment
 - iii. Sexual intimidation
 - iv. Dating violence/domestic violence
 - v. Sexual exploitation
 - vi. Stalking
- d. State laws and school policies may vary in their specific definitions of sexual misconduct

e. **Sexual Assault**

- i. A forcible or nonforcible sex offense including:
 - 1. Rape
 - 2. Sodomy
 - 3. Sexual assault with an object
 - 4. Fondling
 - 5. Incest
 - 6. Statutory rape

f. **Sexual Harassment**

- i. Under Title IX, these three types of conduct constitute sexual harassment:
 - 1. Any instance of quid pro quo harassment by a school employee
 - 2. Any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it effectively denies a person equal access to an educational program or activity
 - 3. Any instance of sexual assault, dating violence, domestic violence, or stalking

g. **Sexual Intimidation**

- i. Threatening or coercive behavior of a sexual nature, including:
 - 1. Exposing oneself
 - 2. Sexual extortion
- ii. Not explicitly prohibited by Title IX, but acts of sexual intimidation are in violation of school policy

h. **Dating Violence/Domestic Violence**

- i. **Dating violence:** violence committed by a person who is, or has been, in a romantic or intimate relationship with the complainant
- ii. **Domestic Violence:** violence committed by a current or former spouse or intimate partner of the complainant

i. **Sexual Exploitation**

- i. Taking sexual advantage of someone without their consent
 - 1. Prostituting someone
 - 2. Sharing images of another person's sexual activity or nudity without their consent

j. **Stalking**

- i. 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
- ii. Can include physical, verbal, or electronic contact
 - 1. Following someone
 - 2. Sending unwanted social media posts

IX. **Consent and Incapacitation**

- a. **Consent:** mutual agreement to engage in sexual activity
- b. **Incapacitation:** condition where a person does not have the capacity to consent to sexual activity
 - i. Sleep
 - ii. Unconsciousness
 - iii. Intoxication
 - iv. Disability
 - v. Injury
- c. **The Role of Alcohol**
 - i. Alcohol does not cause sexual assault but:
 - 1. Alcohol is the number one drug used to facilitate sexual assault
 - 2. Alcohol can lead to misreading of social cues/communication
 - 3. Alcohol is the primary cause of incapacitation
 - ii. Alcohol is the most commonly detected substance in drug-facilitated sexual assaults
 - iii. About half of all college sexual assaults involve alcohol

X. **Effects of Sexual Assault on Survivors**

- a. Sexual assault can impact survivors:
 - i. Psychologically
 - ii. Emotionally
 - iii. Physically
- b. Survivors may experience:
 - i. PTSD
 - ii. Flashbacks
 - iii. Depression
 - iv. Sleep disorders
 - v. Substance abuse
 - vi. Self-harm and suicidal thoughts
- c. How to support someone who reveals they have been sexually assaulted:
 - i. Be aware they may be experiencing negative effects
 - ii. Avoid judgmental language
 - iii. Show compassion
 - iv. Listen
 - v. Encourage them to seek help
 - vi. Check your school's policy
 - vii. Be prepared to refer them to resources

XI. **Bystander Intervention**

- a. Depending on your role at the school and the school's policy, you may have an explicit responsibility to address harassing or discriminatory behavior
- b. If you don't feel comfortable or safe intervening directly, there are other ways to help:
 - i. Disrupt the behavior with a distraction. For example, change the subject or get the offender or the target to step away by telling them they're needed elsewhere
 - ii. Enlist the help of others
- c. When intervening, do not do anything to escalate the situation