Title IX Coordinators

THE TRUST

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Presented by

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1

Disclaimer

The information provided in this document is for informative purposes only and should not be used in place of legal advice.

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Introductions

- Meet your table mates.
- We encourage questions!

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Learning Objectives

- Review Title IX coverage
- Detail Title IX procedures for Title IX Coordinators
- Practical application of procedures to typical Title IX scenarios

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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 education program or activity receiving federal financial assistance."

U.S. Congress, 1972

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Title IX Coordinator

You are the front line for preventing the college's liability.

You are critical to successful implementation of Title IX regulations.

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Tips

- Title IX Packet
- Resources
  - Templates
- College's Policies for Sexual Harassment, Title IX, Bullying

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College's Obligations

- Title IX Policies
- Staff trained to recognize potential Title IX violations and importance of reporting to Title IX Coordinator
- Process to report to Title IX Coordinator

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Coordinator's Analysis: Is it Title IX?

- Is it sex discrimination, sexual harassment, or sexual violence?
- Does it occur in an educational program that is an operation of the College?

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Title IX Sexual Harassment or Sexual Violence

- 3 Types
- All three require:

Unwelcome sexual conduct

(no consent)

+

Conduct effectively denies (or limits) a person's equal access to educational activity

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Type 1: Quid Pro Quo

An employee of the recipient (College) conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct.

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Type 2: Severe, Pervasive and Objectively Offensive

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 (College's) education program or activity

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Type 3: Sexual Assault or Violence

- 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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Is it Title IX?

A student reports that when meeting with their T.A. about the course, the T.A. suggested a dating app for the student and sent a link to a blog that was sexual in nature.

- Is it potentially Title IX?
- What are your first steps as Coordinator?

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Is it Title IX?

Student A reports that a peer, Student B, from a club they joined asked them on a date and they said no. After that, Student A state Student B consistently "runs into them" around campus – outside of classes, at the bookstore, before activities.

- Is it potentially Title IX?
- What are your first steps as Coordinator?

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Is it Title IX?

- Student A reports to the College that Student B told her that Student C is showing inappropriate photos of her to others.
- Student A discloses two years prior as Seniors in high school she took nude photos and sent them to her then boyfriend, Student C.

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Continued…

- Students B and C are members of the College's track team. Student C told Student A that after practice in the locker room Student B showed other teammates the photos.
  - What do you advise should be done?
  - Is it Title IX?

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Reminder: College Liability

A school will violate Title IX where it has ***actual knowledge*** of an allegation of sexual harassment experienced by *an individual in the educational program* and the school acts with ***deliberate indifference*** to that notice.

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ACTUAL KNOWLEDGE?

Student A reports to her academic advisor she wants to move classes because she doesn't like the teacher. The advisor doesn't ask further information as to what it is she doesn't like and moves the class. Months later, Student B comes forward and reports her teacher – the same one - makes her uncomfortable and she requests to move classes. She says he makes comments about her going on a date with him or getting married. The advisor tells the Dean.

- When did the school have actual knowledge?

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Deliberate Indifference Response?

In an online course, students are required to submit weekly discussion posts based on the readings. One student consistently posts comments demeaning female authors of articles. The professor sees the comments, but does not acknowledge them thinking the best approach is to just ignore it and the comments continue.

Is this the appropriate response? Is it deliberate indifference?

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Deliberate Indifference?

A group project is assigned in one of the courses. Student A takes the lead for their group and makes sexually suggestive comments about others. The students are given a few minutes the end of each lecture to discuss their projects. The professor has never heard the comments made by Student A, but Student B reported them to the professor. The professor does nothing because the semester is almost over.

Is this deliberate indifference?

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Education Program or Activity?

In the same course in the prior example, the students often meet outside of the class time to work on the project and prepare for the presentation. Their group tends to meet at the local coffee shop near campus. Student A makes suggestive and explicit comments during these meetings.

It's off campus, so is it in the College's education program or activity?

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What would you do?

Marcy is a high school student taking courses at the College. Marcy's mom reports to the College that the professor has Marcy's phone number and often sends her text messages and gifts. Marcy's mom reports this to the police but the police report states there is no crime. Marcy's mom, not happy with this, files a Title IX formal complaint.

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Title IX Coordinator

- Must have the actual title and be authorized to initiate the grievance procedure against a respondent
- Must have authority to provide supportive measures that will restore or preserve "equal access"
- Must be trained and is responsible for ensuring that other relevant individuals are trained

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Title IX Coordinator

- Cannot have a conflict of interest
  - Must ensure others involved in grievance process do not have a conflict of interest
- Trained to act impartially throughout the process
- Does not prejudge the alleged facts
- Thoroughly understands the definition of sex discrimination and sexual harassment under Title IX

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Title IX Coordinator

- Receives notice of allegations of sexual harassment
- Coordinates implementation of supportive measures
- Helps draft and accepts Complaints

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Title IX Coordinator

- Decides whether to sign Complaint if a victim refuses
- Issues written notice when there is a Complaint
- Determines whether Complaint must be dismissed or, if dismissal is permitted, whether to dismiss it
- Offers informal resolution where appropriate

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Title IX Coordinator

- May conduct the investigation
- Monitors the implementation of the grievance procedure (tracks deadlines, maintains records, etc.)
- Effectively implements remedies where there has been a determination of responsibility

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Impartiality is Required by Regulations

AVOIDING BIAS AND PREJUDGMENT

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Avoiding Bias is Critical to Implementing Regulations

- Following grievance procedures that meet requirements of the regulations is important step to showing non-bias
- Recognize and acknowledge allegations of sexual harassment no matter who the alleged victim is
  - Do not adopt stereotypes about who may or not be subjected to sexual harassment

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Avoiding Bias is Critical to Implementing Regulations

- Appearance of Impropriety
- Relatives or close friends
- Close professional colleagues

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Title IX Coordinator's Role

RECEIVE NOTICE OF ALLEGATIONS OF SEX DISCRIMINATION

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What is Notice?

- A report to ANY school employee
- Report to the Title IX Coordinator made at any time via any method of communication

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All Notice Triggers Responsibility

Contact alleged victim promptly to discuss:

- Whether the Complainant wants **supportive measures**
- Advise Complainant that supportive measures are available regardless of whether a Title IX complaint is made
- Explain the process for making a formal complaint

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Formal Complaint

- Document filed by complainant or signed by Title IX Coordinator alleging sexual harassment against a respondent and requesting an investigation.
- Complainant must be participating in or attempting to participate in the education program at the time of filing.
- Document or electronic submission that contains physical or digital signature of complainant.

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Formal Complaint Triggers the Investigation

- Formal Complaint triggers responsibility to conduct an investigation that complies with the adopted grievance process
- Upon notice of a formal complaint, the Title IX Coordinator will provide a written notice to parties explaining basic rights during the process and will assign an investigator

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Supportive Measures

- Designed to restore or preserve equal access to education program or activity
  - Equal access means the same access someone who has not experienced sexual harassment has
- Non-disciplinary or punitive
- Offered without charge
- Cannot unreasonably burden either complainant or respondent

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Supportive Measures

- Provide complainant and respondent timely opportunity to seek modification or reversal of supportive measures decisions that apply to them
  - Ex: Respondent can challenge a safety plan in place, but cannot challenge counseling offered to complainant
- Impartial employee to review and have authority to modify or reverse decision
  - Cannot be the employee who initially determined the supportive measure(s)

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Supportive Measures

- Non-disciplinary
- Non-punitive
- Individualized to the person and situation
- Offered as appropriate and without charge

- Must be offered to Complainant
- May be offered to respondent if appropriate
- Do not unreasonably burden either a complainant or respondent

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Examples of Supportive Measures

- Counseling
- Modify courses
- Change schedule
- Repeat course
- Increase monitoring or supervision of students
- No contact order (mutual or individual)

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Supportive Measures

- If respondent is an employee, you may send employee home on administrative leave as a supportive measure – not considered disciplinary.
- If respondent is a student you ***cannot*** remove them from an educational activity as a supportive measure ***UNLESS*** there is need for an emergency removal - necessary to protect an individual from IMMEDIATE THREAT TO **PHYSICAL** HEALTH OR SAFETY

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Appropriate Supportive Measure?

- Student A reports the President of a Club they are a part of made inappropriate sexual comments during meetings, which Student A reported to you.
- Supportive Measure: Student A is advised to just not participate in the club.
- Is that an appropriate supportive measure? Why or why not?

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Crafting an Appropriate Supportive Measure

- Under these facts, what would you have provided as supportive measures?

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When Respondent is an Employee

- School may send an employee home on paid administrative leave as a supportive measure "during the pendency of the grievance process"
- Employee may also choose Title VII, as part of the HR process
- Can reassign the employee to another role/site (Be careful)

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EMERGENCY REMOVAL OF STUDENT

- Requires an individualized safety and risk analysis (threat assessment)
- Requires "immediate threat to the physical health or safety of any student or other individual arising from the allegation of sexual harassment."

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EMERGENCY REMOVAL

- Requires "notice and an opportunity to challenge the decision immediately following the removal"
- If they challenge the removal, a neutral party should address that, not the person who made the decision to emergency remove (aka not you) and not the Title IX investigator or Decisionmaker.

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Title IX Coordinator's Role

AFTER COMPLAINT

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Complaint

Complaint triggers Coordinator's responsibilities to:

- Provide notice to the Respondent (form)
- Conduct investigation that complies with the College's grievance procedures

If Complainant does not wish to file a complaint, or wants to withdraw complaint, Title IX Coordinator must determine whether to file/continue complaint.

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Mandatory Dismissal of Formal Complaints

- The complaint does not state an allegation of **sexual harassment**, even if all facts are found to be true
- The sexual harassment, even if it did occur, did not occur in the **school's program or activity**
- The sexual harassment did not occur against **a person in the United States**

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Permissive Dismissal of Formal Complaints

- If the Complainant notifies the Title IX Coordinator that s/he wants to withdraw the complaint
- If the Respondent's employment or enrollment with the school ends
- If circumstances, such as several years between the conduct and the complaint or a complainant's refusal to cooperate, prevents the gathering of evidence sufficient to render a determination

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Determining When Title IX Coordinator Proceed w/o Complainant

- The Title IX Coordinator may sign a formal complaint on behalf of the complainant, and/or may decide not to dismiss allegations or a complainant even if complainant requests dismissal.
- Consider whether College would be deliberately indifferent to the notice of potential sexual harassment if you don't proceed.

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Considerations

To make the determination, the Title IX Coordinator may consider:

- Complainant's request not to proceed
- Complainant's reasonable safety concerns regarding initiation of complaint
- Risk that additional acts of sex discrimination would occur if complaint is not initiated
- Severity of the alleged sex discrimination
- Age and relationship of the parties, including whether the respondent is an employee

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Considerations Cont.

- Scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination or sex discrimination alleged to have impacted multiple individuals
- Availability of the evidence to assist a decisionmaker
- Whether the recipient could end the alleged sex discrimination and prevent its recurrence without initiating the grievance procedures

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Should you File?

- Paul alleges Steven grabbed his testicles during a football practice. You get this information in an actual knowledge report from the coach. You reach out to Paul, who says, "No big deal. We were just messing around."
- Do you open a Title IX investigation?

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Should You File?

- Ashley tries out for the soccer team and attends all three days of try outs. She doesn't perform very well and on the third day, the coach pulls her aside after and says, "I know today was tough, why don't we go grab dinner and talk about it. I'll make sure your name is on the roster tomorrow."
- Ashley goes and sure enough the next day her name is on the roster. She feels weird about it though and reports it..

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Should You File?

- What if Ashley doesn't go, but she still makes the team?
- What if you find out prior to making the dinner offer, the Coach has been commenting to Ashley how she "looks so good" and "really like being around her a lot." The Coach also bought her a pair of cleats because Ashley said hers were worn out, but couldn't afford new ones.

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Should You File?

- What if during the dinner the Coach rubbed Ashley on her thigh under the table?
- What if the Coach is female? What if the coach is male? Does it matter?

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If Complaint Declines Title IX Process, and Coordinator Decides Not To Open

- Document (for your records)
  - That you offered supportive measures and what was offered/accepted
  - That you explained Complaint procedure
  - That the Complainant(s) declined

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Written Notice Requirements: Formal Complaint

Provide written notice of the College's grievance procedure to both parties, including information about informal resolution process, if the College adopts one

Written notice must:

- Include a statement that the respondent is presumed not responsible for conduct and that a determination will not be made until the conclusion of the grievance process
- Include a copy/reference to the grievance process

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Written Notice Requirements Cont.

- Inform parties that they may have an advisor of their choice
  - Advisor may be an attorney, but doesn't have to be
- Inform parties that they may access the evidence, or an investigative report that summarizes the evidence. If only the report is provided, parties are entitled access to the evidence upon request.
- Inform parties of any provision of college policy/procedures re: conduct that prohibits making false statements or knowingly submitting false evidence

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Written Notice Requirements Cont

Notice of the allegations of sexual harassment provided to the parties must include sufficient details, and be provided in enough time, to allow preparation of a response prior to initial interview

Sufficient notice includes, if known:

- Identities of the parties involved
- The conduct alleged to constitute sexual harassment
- The date(s) and location(s) of the alleged incident

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Written Notice Requirements Cont.

If, during the course of the investigation, the school decides to investigate additional allegations about complainant or respondent that were not included in initial notice, Title IX Coordinator must provide written notice of the additional allegations to the parties.

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Drafting an Allegation

The allegation(s) should be pared down from what may be written in the formal complaint received.

Each allegation should:

- Be short
- Provide relevant details of the *conduct* alleged
- Provide date(s), time(s), and location of the *conduct* alleged
- Be separated into multiple allegations if necessary
- Exclude extraneous information

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Drafting an Allegation

Your formal complaint received may look like this:

"Gifts were given to me by a teacher including fast food, baked goods, money, Christmas and Valentines gifts with possible personalized notes. Text messages exchanged since March 2025...

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Drafting an Allegation

...He requested I visit his house. It was an inappropriate request due to his job title, age, and authority role, which clearly crossed boundary... and he clearly is using the topic of his daughter's to engage with me and it's uncomfortable... and he a

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Drafting an Allegation

Should all of that information be included in the allegation for your written notice?

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Drafting an Allegation

Allegation in Written Notice Option 1:

"Since the fall of 2024, Respondent (or name) used his position a teacher to develop an inappropriate relationship with Complainant (or name), by engaging in conduct including providing her gifts, exchanging text messages, and requesting she visit his home."

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Drafting an Allegation

Allegation in Written Notice Option 2:

"Since Fall 2024, Respondent (or name) used his position as a teacher to develop an inappropriate relationship with Complainant (or name) by:

1. Providing gifts including fast food, baked goods, money, and pajamas.
2. Sending multiple text messages to Complainant.

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Drafting an Allegation

3. Requesting Complainant visit his house.
4. Using his role as her teacher to engage in inappropriate conduct and conversation.

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Group Activity

Drafting Allegations

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Consolidation of Complaints

- Complaints may be consolidated:
  - Against one or more respondents;
  - By one or more complainants; or
  - By one party against another party
- ***IF*** the allegations of sex discrimination rise out of the same facts or circumstances
- Be careful to assess privacy and confidentiality concerns when determining whether to consolidate

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Good Cause Delay

- Reasonable extension of "prompt" timeframes may be allowed on a case-by-case basis for good cause
- Good cause = concurrent law enforcement activity; unavailability of respondent; school break
  - It is **not** good cause to delay because Coordinator, Investigator, or Decisionmaker are unavailable

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Good Cause Delay

- Delay may be needed for:
  - Evaluation of whether to dismiss or investigate complaint
  - Investigation overall or any specific portion
  - Decision of determination of responsibility
  - Appeal
- Must provide written notice to parties if there will be a good cause delay and include the reason for the delay

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Title IX Coordinator's Role

DECIDE WHETHER COMPLAINT WILL BE INVESTIGATED

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Title IX Coordinator Critical Role in Initial Fact Analysis

When you receive notice of a potential Title IX violation, you will need to determine whether the allegations, as presented, and if presumed to be true, rise to the level of Title IX.

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Title IX Sexual Harassment or Sexual Violence

- 3 Types
- All three require:

Unwelcome sexual conduct

(no consent)

+

Conduct effectively denies (or limits) a person's equal access to educational activity

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Type 1: Quid Pro Quo

An employee of the College conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct.

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Is it Quid Pro Quo?

- Reese attends office hours for her chemistry class because she is struggling with the topic of atomic structures. During office hours, the T.A. tells her not to worry about the upcoming test because she'll pass as long as she kisses the T.A. Reese, not feeling confident about the tet, does engage in kissing with the T.A. and sure enough, passes the test.

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Is it Quid Pro Quo?

- What if Reese didn't kiss the T.A., and also doesn't pass the test?
- What if Reese kisses the T.A., but doesn't pass the test?
- What if Reese doesn't kiss the T.A., but does pass the test?

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Type 2: Severe, Pervasive and Objectively Offensive

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 (school's) education program or activity

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Severe and Pervasive

- No specific definitions in the regulations, but the more severe the conduct, the less need to show pervasiveness.
- Pervasive means widespread, persistent, and/or exists throughout an entire system or institution.
- They work in tandem so that if something is more severe, it may be less pervasive and still meet Title IX and vis versa.

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Objectively Offensive

- Whether a reasonable person in similar circumstances would find it offensive, hostile, or intimidating.
- Subjective feelings or interpretations may not be the sole basis for evaluating whether a Title IX violation has occurred.

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Is it Severe, Pervasive, Objectively Offensive?

- Jeremy is using the urinal and Gavin is also in the bathroom standing behind him and says, "I'm rock hard."
- Daxton looks at girls in bikinis during class and Bethany can see his phone. One time, Daxton showed one of the pictures to Bethany and asked if she thought the girl in the picture was "hot".

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Is it Severe, Pervasive, Objectively Offensive?

- Student A sits by Students B, C, and D in class. Students B and C are constantly asking her if she has sex with her boyfriend and talking about the type of sex acts they probably do. Student A doesn't make comments, but does always laugh about it.
- Is it Title IX severe, pervasive, objectively offensive? For all 3 students?

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Type 3: Sexual Assault or Violence

- Sexual assault as defined in 20 U.S.C. 1092(f)(6)(A)(v)
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Sexual Violence

- Sexual assault: an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.
- Stalking: means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: 1) fear for his or her safety or the safety of others; or 2) suffer substantial emotional distress.

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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 and 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;
3) the frequency of interaction between the persons involved in the relationship

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Domestic Violence

Violence committed by a current or former spouse or intimate partner of the victim, a person 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 Arizona, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction

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Mandatory Dismissal of Formal Complaints

- The complaint does not state an allegation of **sexual harassment**, even if all facts are found to be true
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Permissive Dismissal of Formal Complaints

- If the Complainant notifies the Title IX Coordinator that s/he wants to withdraw the complaint
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Title Coordinator's Role

INFORMAL RESOLUTION

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Informal Resolution

- College is not required to use informal resolution, but if it choses to use it, then it is appropriate to offer if:
  - Formal Complaint is filed
  - Both parties voluntarily agree to participate in writing
  - The Respondent is NOT an employee and the Complainant a student

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Informal Resolution

- Cannot be required and either party can withdraw at any time
- Process may include arbitration, mediation, or restorative justice
- Must have reasonably prompt time frame to complete the process
- Pauses the grievance process at the time of request/voluntary agreement

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Informal Resolution

- Decide whether confidentiality can be a term of an informal resolution and include that information in written notice
- If the informal resolution facilitator may be called as a witness in investigation, must disclose that possibility to the parties in the written notice
- Facilitator must not have a conflict of interest, must be trained in these regulations, and must be free of bias

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Informal Resolution

- Suggested that facilitator be trained in mediating sexual harassment situations
- Be aware of power dynamics when implementing an informal resolution
  - Should there be a face-to-face meeting?
  - Is someone manifesting signs of trauma?
  - Should facilitator press parties on facts?

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Why Parties May Prefer Informal Resolution

- Parties may be more satisfied if they had a say in creating the outcome
- Process may be less adversarial
- They can control the outcome
- Resolutions can include creative solutions
- Process is shorter and does not involve a full investigation and determination

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What is the Process?

- Process is voluntary for all parties
- Mediation
- Restorative process = repair harm done (restore access to educational program or activities)
- Consider: issues with apologies
- Have parties sign consent to informal resolution

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What is mediation?

- Using a third party to facilitate resolution between the parties
- Recommend written agreement
- Confidential
- Prefer in-person, but back up could be Zoom or email

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Before the mediation

Informal resolution facilitator can reach out to the parties and get a preliminary understanding of what might resolve the matter—confirm what you can share with the other party

- Start with complainant
- Then to respondent
- Prepare a draft agreement from template

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"Shuttle Diplomacy"

- Usually keep parties separate—may be exceptional circumstances
- Allow each party to tell "the story" and present that party's perspective on the underlying dispute
- Ask each party what they want from the other party
- Ask each party what they want from the process

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At the Mediation

- Explain the mediation process
- Remind parties that the process is voluntary

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Questions Facilitator May Ask Parties

- What would make you feel safe?
- What can the school do to make you feel safer?
- What can the other party do to make you feel safer?

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Supportive Measures

- Supportive measures in place—should they continue?
- Should they be modified?
- New class schedule
- No contact agreement
- No classes together
- Counseling
- Training

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How to get Parties "Unstuck"

- Remind the parties that if this goes back to the formal Title IX process, you will not have control over the outcome, and there is a possibility that the Decision Maker will find you in violation of Title IX or determine that no violation of Title IX occurred

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Determine Common Ground

- You will need to go back and forth until a resolution can be reached
- Make sure both parties agree to the same terms and that you have their agreement
- Make sure that the College can implement
- Remember to provide terms for:
  - Who can be told about the agreement?
  - Do you need to set a time to review with parties?

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Drafting the Agreement

- Use your template
- Anticipate problems of enforcement
- Make sure that the College can implement
- Remember to provide terms for:
  - Who can be told about the agreement?
  - Do you need to set a time to review with parties?

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Signing the Agreement

- Have the parties sign at the meeting if at all possible (at minimum provide a clear deadline for signing)
- Make a copy for all parties and appropriate District administrators

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Closing the Process

- Thank parties for cooperation
- Decide whether it would be productive for parties to get together

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Informal Resolution Outcome

- If successful, results in a dismissal of the Complaint without adjudication
- If unsuccessful, grievance process picks up where it was left off

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Title IX Coordinator's Role

OVERSEE INVESTIGATION AND DECISION

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110

Assignment to Investigator

- If you are not going to investigate, assign to a trained investigator
- Ensure that investigator does not have a conflict of interest
- Continue to monitor deadlines and be a resource to the investigator (definition of sexual harassment, course of investigation, etc.)
- Provide with District's Templates & Forms

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Investigator Procedure Reminders

Redact personally identifiable information such as: student ID #, phone #, address, etc.

- Complainant and Respondent names are **never** redacted (but what if District files the Complaint?)
- Redact student witness names through creation of a legend – ABC, 123, etc. for aliases
- Determine who gets legend in addition to Coordinator and Investigator (parties or just decision maker - talk to counsel)

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Investigator Procedural Reminders

- Non-disclosure Agreements for Parties
  - Non-disclosures signed
    - Have investigator sign at interviews vs. asking for non-disclosure right before sending evidence
    - Contact before interviewing
  - Non-disclosures cannot preclude parties from building or investigating their own case
  - If party does not sign non-disclosure Coordinator facilitates their access to review evidence

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Advise your Investigators to Plan, Plan, Plan

- Map out a plan for investigation
- Understand the allegations
- Understand definition of sexual harassment to determine what elements must be established

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114

Advise your Investigators to Plan, Plan, Plan

- Who to interview?
  - Notification to parent of interview for witness students
- What documents must be gathered?
  - Assist investigator as needed
- Necessary for IT to run a server search? (Coordinator facilitates)
- Need recordings from surveillance cameras? (Coordinator facilitates)

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Assign Decision Maker

- Assign to a trained decisionmaker
- Ensure that decision maker does not have a conflict of interest
- Continue to monitor deadlines and be a resource to the decision maker (definition of sexual harassment, course of investigation, etc.)
- Provide with College's Templates & Forms
- Ensure the appropriate questioning/hearing process is provided.

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Title IX Coordinator's Role

REMEDIES AND WRAPPING UP

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117

Remedies

- If a determination of responsibility, you will oversee implementing remedies
- If a determination of non-responsibility, continue to provide supportive measures as needed
- Continue to be a resource for both parties as needed
- No discipline until time for appeal has run

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Appeals

The Regulations provide Parties the opportunity to appeal the following:

- Dismissal of Complaint
- Determination of Responsibility Decision

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Appeals

- Three grounds for appeals
  1. A procedural irregularity that would change the outcome;
  2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that would change the outcome; and
  3. The Title IX Coordinator, investigator(s), and/or Decision Maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.

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Appeals

College can include additional bases to appeal in policy.

A school must:

- Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
- Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator or the Title IX Coordinator;

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Appeals

- Decision-maker(s) for the appeal can be a single Appeal Officer or an Appeal Panel
- If an appeal is filed, ensure that the decision-maker on appeal has no conflict or bias and receives all necessary documents
- Decisionmaker on appeal must be trained in definitions, procedures, etc.
- Monitor timelines and competition of that process and ensure that notices are sent to the parties

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122

Appeals

- The written determination on responsibility and sanctions, if applicable, are postponed until the decision on the appeal is sent to the parties. §106.45(b)(7)(iii).
  - Keep supportive measures in place during appeal period to maintain status quo between the parties and ensure equal access to education.
  - Can revisit emergency removal if necessary.

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Discipline

- Unless the Respondent waives the appeal, let the time for appeal run before initiating discipline

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Records Retention

- All records related to Title IX complaints must be maintained for a minimum of 7 years, including records substantiating remedies and supportive measures
- Title IX records retained separately and confidentially.
- Training materials must be posted on the College's website

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Questions?

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126

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127

Title IX Training for Coordinator
Scenario

Angela reports to an on campus counselor that Bernard has AI generated nude photos of her that he has been sharing with other students. Angela reports that she has been teased relentlessly by Bernard and other male classmates. The images were shared on Snapchat, an app that deletes messages seconds after they are viewed. Angela told the counselor that she was so embarrassed that she is unable to attend class. The dean tells you that she doubts the images ever existed.

Angela presents a Title IX complaint to you as the Title IX coordinator. She writes:

"On January 6, 2026, I was with a group of female friends at a table in the student union. The male students at the table beside us started laughing and pointing at me as they looked at their phones. One of the students, Chad, told my friend, Darla, that Bernard took photos of me and used AI to make a nude photo that looked like it was me. I have not seen the photo but I know it is true. I am so upset that I cannot eat and I cannot attend go to school. On January 7, 2026, a male friend, Ennis, texted me that he saw a naked photo of me on Snapchat and that I looked "smoking hot."

You meet with Angela. She tells you that the male students at the nearby table on January 6 are Frank, George, Harold, and Ivan.

Discussion Questions:

1. Does this behavior implicate Title IX? How do you know?
2. Who would be the Respondent or Respondents?
3. How would you draft the allegations? If you have more than one Respondent, write allegations for each.