



Title IX Coordinator & Administrator Training

Ruthie White | Partner | Houston



Disclaimer



- This presentation and its accompanying materials provide general coverage of its subject area and is presented for informational purposes only.
- The information in this presentation is not a substitute for legal advice as the information may not be suitable in a particular situation.
- Consult your attorney for legal advice. No attorney client relationship is intended or implied by making this presentation.

Agenda

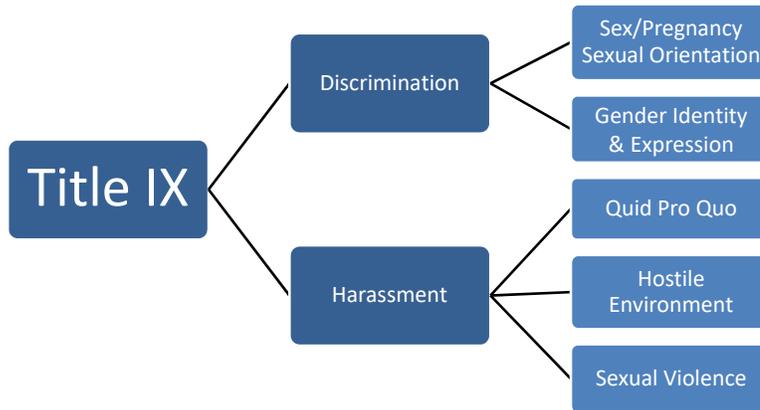


- Title IX Prohibition
- Title IX Definitions
- Title IX Complaint Process
- Retaliation
- Conducting an Investigation
- Avoiding Biases or Conflicts

Title IX Prohibition

- “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.”
- **OCR:** The U.S. Department of Education Office for Civil Right (“OCR”) is the federal agency responsible for enforcing Title IX

Title IX Prohibition



Title IX Required Training



- **Required Participants:**
 - Title IX Coordinators, Investigators, Decision-Makers, Appeals Decision-Makers
- **Required Topics:**
 - Definition of Sexual Harassment
 - Scope of Educational Program or Activity
 - Title IX Formal Complaint Process
 - How to Conduct an Investigation
 - Informal Resolution Process
 - Avoiding Biases & Conflicts
 - No Retaliation

Key Title IX Definitions



Definition: Title IX Roles

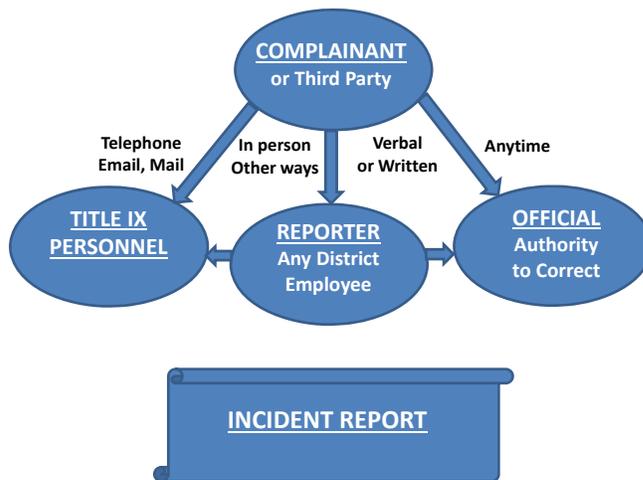


- Complainant
- Respondent
- Reporter
- Title IX Coordinator
- Area Title IX Administrator
- Informal Resolution Mediator
- Advisor
- Investigator
- Decision-Maker
- Appeals Decision-Maker

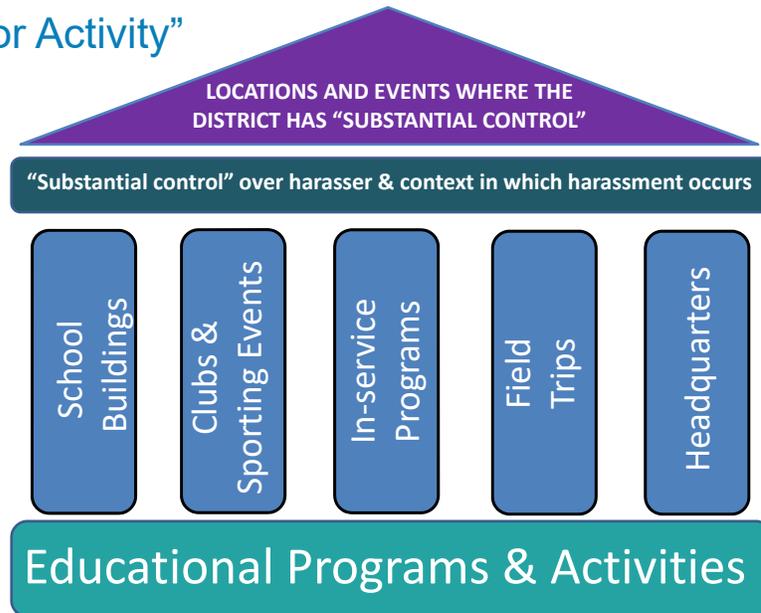
Traits - Title IX Roles



Definition: Actual Knowledge



Definition: “Educational Program or Activity”



Definition: Consent



- **Consent:** affirmative, conscious and voluntary agreement to engage in sexual activity, except when the Complainant is a minor and incapable of granting consent
- Consent is:
 - Free from coercion
 - Free from intimidation
 - Free from threats
 - Not assumed
 - Revocable

Definition: Relevance



- **Relevance** - having any tendency to make the existence of sexual harassment more probable or less probable than it would be without the evidence.
 - Must adhere to the rape shield law

Standard of Liability



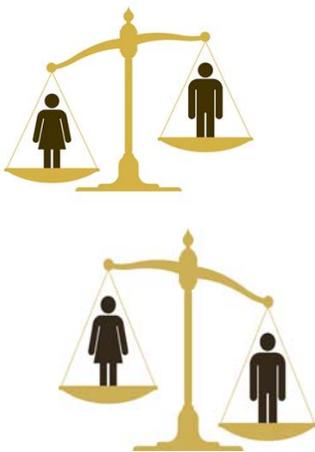
- **Deliberate Indifference**
 - Clearly unreasonable in light of the known circumstances
 - Once absolute knowledge exists

Standard of Proof



- **Preponderance of the evidence** - more likely than not that the sexual harassment or violence occurred

Definition: Sex/Gender Discrimination



- Treating someone (applicant, employee, admitting or current student) unfavorably because of that person's sex or gender.
- Includes, but is not limited to:
 - Pregnancy discrimination
 - Sexual orientation discrimination
 - Gender identity/expression discrimination
 - Sexual harassment

Definition: Sexual Harassment

Quid Pro Quo

Sexual
Violence

HWE
Harassment

Educational Program or Activity

Harassment: (Quid Pro Quo)



- **Quid Pro Quo** – Latin, “this for that”
 - Unwelcome sexual conduct
 - Submission to which is made either explicitly or implicitly
 - Affects a term or condition of an individual’s employment or access to educational program or activity
 - Can only be done by employees against students, or managers/supervisors against employees

When is Conduct Unwelcomed?



- Voluntary ≠ Welcome (imbalance of power)
- What may have been welcome on one occasion (e.g. because of a prior consensual relationship) may not be welcome on another occasion.

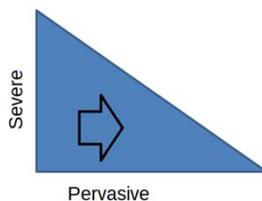
Break



Harassment (Hostile Work Environment)

- 1 • **Unwelcome conduct**
 - based on sex
- 2 • **Severe, pervasive, and objectively offensive**
- 3 • **Reasonable Person Standard**
- 4 • **Denies equal access to education program or activity**

Severe, Pervasive and Objectively Offensive



- **Pervasive:** frequency of the conduct
 - generally, a single or isolated incident is not enough to establish harassment
- **Severe:** nature of the conduct
 - a single comment or misconduct may be sufficient to create harassment, particularly when the harassment is physical.
- **Objectively Offensive:** surrounding circumstances
 - Would a reasonable person in the position be offended

Reasonable Person



- Judged from the perspective of:
 - Subjectively – from the perspective of the Complainant **and**
 - Objectively – from the perspective of a reasonable person in the Complainant's position
- NOT judged from the perspective of the alleged harasser

Sexual Violence



- **Sexual assault**
 - Any sexual act directed against a person, without consent
 - Ex. rape, fondling, incest, statutory rape
- **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
- **Domestic violence**
 - Violence committed by a spouse or former spouse, person with whom the Complainant shares a child, with whom the Complainant shares a residence, by persons covered by the domestic or family violence laws of the jurisdiction
- **Stalking**
 - Persistent watching, following, contacting or observing a person, motivated by what the stalker believes is love, sexual obsession or hostility, but would place a reasonable person in fear

Harassment Includes:



- **Physical:** touching, fondling, hugging, massaging, sexual intercourse, unnecessary closeness
- **Written:** words (spoken or written), emails, social media
- **Verbal:** discriminatory comments, slurs, insults, jokes
- **Visual:** pictures, posters, cartoons, Snapchat, Instagram, indecent gestures or objects
- **Non-verbal:** actions, gestures, staring or leering

Excuses that don't work



- I thought it was consensual
- I didn't mean to harass anyone
- I was only trying to be funny
- He/she never complained
- I didn't think anyone else would see that text or e-mail

Title IX Formal Complaint Process

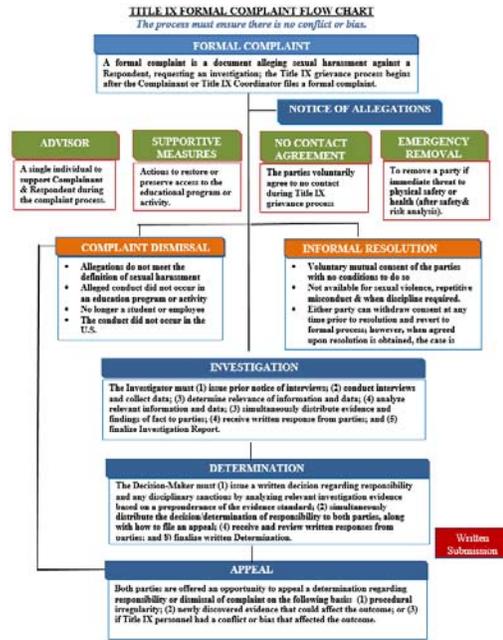


Reporting Protocol

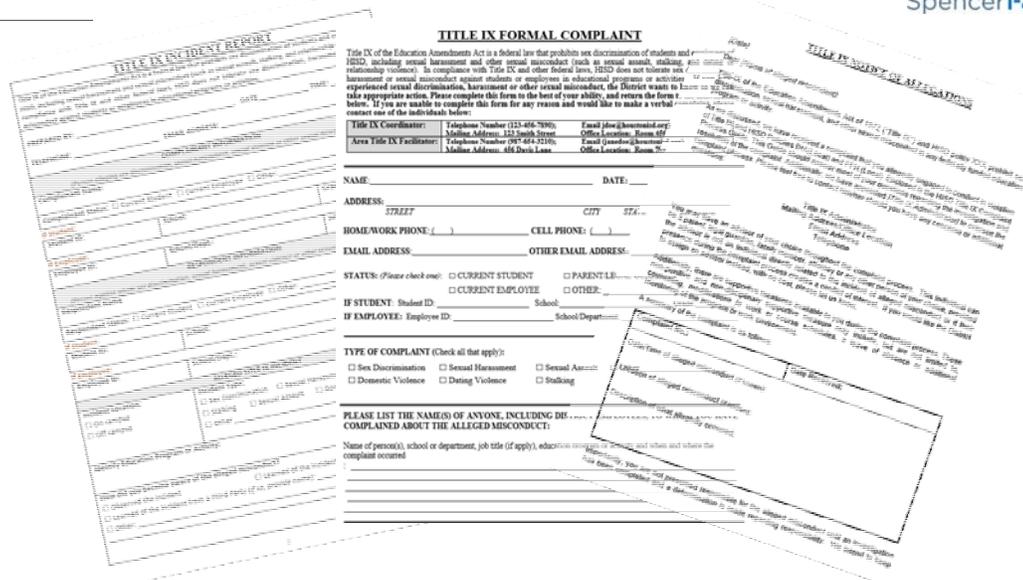
- All employees: all employees must report allegations of sexual harassment to the Title IX Coordinator or Title IX Administrator
- Potential violations of law: the Title IX Coordinator/Title IX Administrators must follow district protocol if the reporting allegations require contacting CPS or law enforcement (HISD PD)
- Anonymous reports – the Title IX Coordinator/Administrators should make a concerted effort to obtain as much information as possible to thoroughly investigate the allegations.

Formal Complaint Process

Reasonably Prompt Time Frames
 Allowances for short-term good cause delays



1. Incident Report → Formal Complaint → Notice of Allegations



2. Other Considerations

- **Advisor**
 - A single individual to support Complainant & Respondent during the complaint process
- **Supportive Measures**
 - Actions to restore or preserve equal access to the educational program or activity
 - Without being disciplinary or punitive or unreasonably burdening the other party
 - Fact-specific analysis; consider Complainant's wishes
 - If not offered to Complainant, must document reason why not in writing
- **No Contact Agreement**
 - Mutually agreed upon
 - To restore or preserve access to the educational program or activity
 - A one-way no contact agreement may be appropriate under certain circumstances
- **Emergency Removal**
 - To remove a party if immediate threat to physical safety or health (after safety & risk analysis)
 - Removed party must receive notice and an opportunity to challenge once removed

3. Formal Complaint Dismissal?



- **Mandatory Dismissal**
 - Does not meet sex discrimination definition
 - Does not involve educational program or activity
 - Conduct did not occur in the U.S.
- **Discretionary Dismissal**
 - At Complainant's request
 - Respondent no longer enrolled/employed
 - Specific circumstances to prevent gathering sufficient evidence to reach a determination regarding allegations
- Requires written notice of dismissal and reason for dismissal to complainant and respondent
- Does not preclude taking action under the Code of Conduct

T9C Checklist



TITLE IX COORDINATOR CHECKLIST			
<p>The checklist below is not exhaustive, but includes recommended actions that most likely should be taken during the Title IX grievance process. Additional action items may be necessary, on a case-by-case basis.</p>			
Incident/Complaint No.:		Date:	
Complainant (Name & ID#):		Respondent (Name & ID#):	
YES	NO	AFTER RECEIPT OF FORMAL COMPLAINT	DATE
<input type="checkbox"/>	<input type="checkbox"/>	Obtain completed formal complaint from Complainant or Title IX Coordinator and assign a complaint number.	
<input type="checkbox"/>	<input type="checkbox"/>	Determine if the formal complaint requires mandatory Title IX dismissal based on: <ul style="list-style-type: none"> Allegations do not meet the definition of sexual harassment Alleged conduct did not occur in an education program or activity Alleged conduct did not occur in the U.S. Confer with Legal before any mandatory Title IX dismissals. If a mandatory dismissal of a Title IX formal complaint is issued, decide if the allegations indicate a potential Code of Conduct violation and whether further actions are needed.	
<input type="checkbox"/>	<input type="checkbox"/>	If the formal complaint is not dismissed, issue the notice of complaint.	
YES	NO	NOTICE OF ALLEGATIONS	DATE
<input type="checkbox"/>	<input type="checkbox"/>	Distribute Notice of Complaint to Complainant and Respondent. Remember: The district cannot restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.	
<input type="checkbox"/>	<input type="checkbox"/>	Provide a copy of the Title IX Grievance Process Booklet to Respondent, which includes: <ol style="list-style-type: none"> Title IX & HISD policy prohibitions against sex discrimination; No retaliation for reporting incident; Overview of Title IX grievance process: <ol style="list-style-type: none"> How to file a formal complaint; Presumption Respondent is not responsible until determination regarding responsibility Informal resolution option (if eligible); Confidentiality parameters; Overview of investigation phase, relevance and preponderance of the evidence standard Overview of Determination and Appeal phase; and Range of possible remedies and/or disciplinary sanctions Obtain signed acknowledgment that booklet has been received.	
<input type="checkbox"/>	<input type="checkbox"/>	Did Respondent have an opportunity to provide a written response to the Formal Complaint? If not, inform the Respondent that he/she may respond if he/she chooses.	

T9C Checklist



<input type="checkbox"/>	<input type="checkbox"/>	Explain availability of Supportive Measures with or without filing a formal complaint. (Supportive measures are appropriate and reasonably available measures to preserve or restore access to educational programs and activities; may include counseling, extensions of deadlines, course-related adjustments, modification of work or class schedules, no contact between the parties, leaves of absence, increased security or monitoring or similar measures; non-disciplinary and non-punitive; consider Complainant's wishes)	
<input type="checkbox"/>	<input type="checkbox"/>	Explain availability of an Advisor (an advisor is a single individual to support Complainant & Respondent during the Title IX process)	
<input type="checkbox"/>	<input type="checkbox"/>	Select Advisor and arrange for Advisor to connect with Respondent. If the Respondent is a student, obtain a completed FERPA permission form, to obtain permission for the advisor to attend the interviews and be privy to information communicated to the parties during the grievance process.	
<input type="checkbox"/>	<input type="checkbox"/>	Decide appropriate supportive measures and/or delegate others to initiate them. Request confirmation when supportive measures are in place.	
<input type="checkbox"/>	<input type="checkbox"/>	Determine if No Contact Agreement is necessary (Parties agree to have no contact during the Title IX Grievance Process). If so, obtain NCA from the parties.	
<input type="checkbox"/>	<input type="checkbox"/>	Determine if Emergency Removal is necessary (after an individualized safety/risk analysis, is necessary due to an immediate threat to the physical health or safety of any individual arising from the alleged incident). Inform the Complainant when in place.	
<input type="checkbox"/>	<input type="checkbox"/>	Determine if a leave of absence is necessary for an employee, if any, during the pendency of the Title IX complaint?	
<input type="checkbox"/>	<input type="checkbox"/>	Determine if the formal complaint requires discretionary Title IX dismissal based on: <ul style="list-style-type: none"> Complainant's request Respondent is no longer enrolled/employed Specific circumstances to prevent gathering sufficient evidence to reach a determination regarding allegations Confer with Legal before any discretionary dismissals. If a discretionary dismissal of the Title IX formal complaint is issued, decide if the allegations indicate a potential Code of Conduct violation and whether further actions are needed.	

4. Informal Resolution

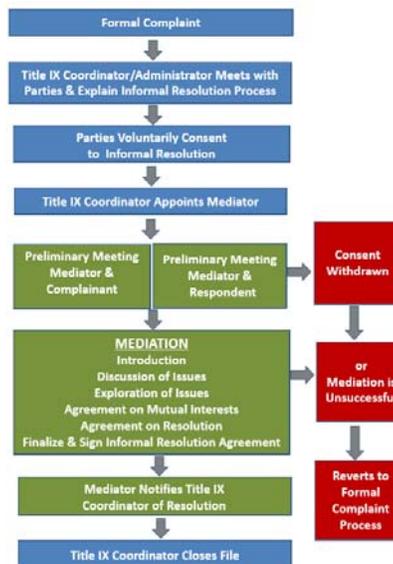


- Not available for:
 - (1) any allegations of sexual assault, domestic violence, and/or sexual harassment by an HISD employee involving a student;
 - (2) repetitive misconduct found to violate Title IX and HISD's anti-discrimination and anti-harassment policies; and
 - (3) misconduct that requires a disciplinary action.
- Requires voluntary, written consent from both Complainant and Respondent
- Failure to consent will not result in punitives
- After consent, a mediator will attempt to resolve the complaint, resulting in an informal resolution agreement
- The formal complaint will revert back to the formal complaint process if either party withdraws consent or if mediation is unsuccessful

Informal Resolution Process



TITLE IX INFORMAL RESOLUTION FLOW CHART



T9C Checklist



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The checklist below is not exhaustive, but includes recommended actions that most likely should be taken during the Title IX grievance process. Additional action items may be necessary, on a case-by-case basis.			
Incident/Complaint No.:		Date:	
YES	NO	INFORMAL RESOLUTION	DATE
<input type="checkbox"/>	<input type="checkbox"/>	If the formal complaint is <u>not dismissed</u> , determine if the alleged incident is eligible for informal resolution (not available for sexual violence, repetitive misconduct or conduct that warrants disciplinary sanctions). Consult with Legal before requesting informal resolution.	
<input type="checkbox"/>	<input type="checkbox"/>	If eligible for the informal process, provide parties with the Informal Resolution Request form and explain the informal resolution process. Emphasize nothing punitive will happen, if they decide to forgo this option.	
<input type="checkbox"/>	<input type="checkbox"/>	If both parties voluntarily agree to informal resolution, obtain completed and signed forms from each party.	
<input type="checkbox"/>	<input type="checkbox"/>	Select mediator. Establish the mediator does not have a bias or conflict. If there is a conflict or bias, select another mediator. Ensure the mediator will not participate as an investigator, decision-maker or appeals panelist for the same complaint.	
<input type="checkbox"/>	<input type="checkbox"/>	Periodically check with the mediator for status. If the timeline is different from what <u>was initially provided</u> to the parties, provide an updated timeline or ask the mediator to do so. [Delays for good cause allowed with written notice to the complainant and respondent of the delay and the reason for the delay. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities]	
<input type="checkbox"/>	<input type="checkbox"/>	If the informal resolution process is successful, obtain the completed and signed informal resolution agreement from each party for your files. Explain the grievance process is now closed. Advise them to contact Title IX Coordinator if any party fails to adhere to the agreement.	
<input type="checkbox"/>	<input type="checkbox"/>	If the informal resolution process is not available, not successful or any party withdraws consent before an agreement is <u>reached</u> , revert the complaint to the formal Title IX grievance process, requiring an investigation.	

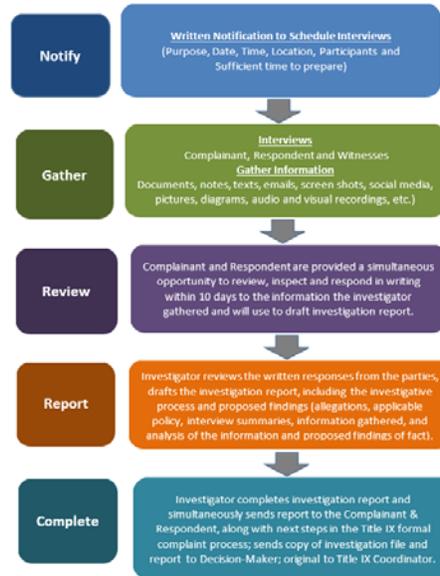
5. Investigation



- Requires equitable treatment of Complainant and Respondent equitably
- District has the burden of gathering evidence
 - the parties may also gather evidence
- Must provide notice of interviews with sufficient time to prepare
- Investigator:
 - conducts interviews & collect data
 - evaluates relevant evidence,
 - drafts investigation report
 - simultaneously distribute draft report and evidence to Complainant and Respondent
 - allows Complainant and Respondent 10 days to provide a written response
 - review written responses to determine if report should be revised
 - finalize the investigation report after reviewing the written responses

Title IX Investigation

TITLE IX INVESTIGATION FLOW CHART



Investigation



- 1. Investigation Plan
- 2. Review/Analyze Documents
- 3. Interview Complainant
- 4. Interview Witnesses
- 5. Interview Respondent
- 6. Finalize Investigation

Sample Questions



- What happened? (Describe what was said/done in order of how it was said/done)
- When and where did this happen? Why do you believe it happened?
- What were the circumstances leading up to the incident?
- Was there physical contact? Describe it.
- What did you do in response to the incident? What did you say in response to the incident?
- Did anyone else see or hear what happened? Who? How? What did they do/say?
- Is there any other evidence (documents, text messages, photos, emails, Instagram, etc.) to support your account of what happened?
- Is there anyone else we should talk to who had knowledge of the incident or the circumstances surrounding it?
- Have you talked to anyone about the incident? Who? When? Where? What did you tell them? What was their response?
- Has the incident impacted your job/school activities in any way? How?
- What do you want to see happen as a result of this investigation
- Is there anything else I need to know?
- Is there anything else you want to tell me that I haven't asked you?
- Please let me know if you think of additional information that will be helpful in this investigation.

T9C Checklist



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Incident/Complaint No.:		Date:	
Complainant (Name & ID#):		Respondent (Name & ID#):	
YES	NO	INVESTIGATION	DATE
<input type="checkbox"/>	<input type="checkbox"/>	Select an investigator. Establish the investigator does not have a bias or conflict in conducting the investigation. If there is a conflict or bias, select another investigator. Remember the investigator cannot act as a decision-maker or appeals panelist for the same complaint.	
<input type="checkbox"/>	<input type="checkbox"/>	Ensure investigator possesses the following at the onset: Title IX Grievance Process Booklet, Incident Report, Formal Complaint, Notice of Complaint, Respondent's Response to Complaint, Investigator Checklist and link to Investigation Report Template	
<input type="checkbox"/>	<input type="checkbox"/>	Provide the name and contact information of the investigator to the parties and their advisors.	
<input type="checkbox"/>	<input type="checkbox"/>	Periodically check with Investigator to determine status. If the timeline is different than what was initially provided to the parties, provide an updated timeline. [Delays for good cause allowed with written notice to the complainant and respondent of the delay and the reason for the delay. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.]	
<input type="checkbox"/>	<input type="checkbox"/>	Ensure complainant and respondent are provided written notice of any interviews or meetings during the process, including the date, time, location, participants, and purpose of the interview or meeting, with sufficient time for the party to prepare to participate.	
<input type="checkbox"/>	<input type="checkbox"/>	Remind the investigator that (a) he/she may consult with Legal if necessary (ex. need to clarify what is relevant); (b) he/she should contact the Title IX office if the advisor becomes disruptive to the process.	

6. Determination



- Determination - written decision regarding responsibility, with remedies (including disciplinary sanctions, if appropriate)
- Decision-maker will:
 - Affirm or dispute proposed findings of fact
 - Apply policy to affirmed facts
 - Review relevant evidence under a preponderance of the evidence standard
 - Recommend disciplinary sanctions, if required
 - Simultaneously distribute draft determination to Complainant & Respondent
 - Allow the parties an opportunity to provide a written response within 10 days
 - Finalize Determination
 - Provide information on how to appeal

Determination



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- Decision-maker will:
 - Affirm or dispute proposed findings of fact
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 - Review relevant evidence under a preponderance of the evidence standard
 - Recommend disciplinary sanctions, if required
 - Simultaneously distribute draft determination to Complainant & Respondent
 - Allow the parties an opportunity to provide a written response within 10 days
 - Finalize Determination
 - Provide information on how to appeal

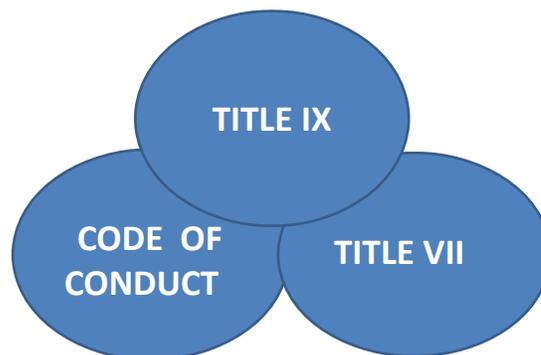
Evaluate Evidence



- **Evidence Analysis**

- Credibility
- Motive
- Facts vs. Rumors/opinions
- Inconsistencies vs. corroborated facts
- Reasonable & logical conclusions?

Factors to Consider



Report & Determination



- Issue Investigation Report or Determination
- Provide report and determination, basis of outcome to Complainant and Respondent
- Review written response from Complainant and Respondent
- Finalize report and determination

Possible Determinations

- More likely than not the event happened
- More likely than not that the event did happen, for the most-part, as described
- More likely than not that the event did not happen to any reasonable extent as described
- More likely than not the event did not happen ▫

To restore/preserve access to educational programs and activities

- Continue with Support Measures
- No contact agreement
- Adjust class/work schedule
- Counseling
- Adjust reporting lines
- Other academic accommodations
- Increased monitoring
- Leave of absence
- Increased security
- Escort services
- Expulsion/Termination
- Other disciplinary sanctions

T9C Checklist

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Incident/Complaint No.:		Date:
Complainant (Name & ID#):		Respondent (Name & ID#):
YES	NO	DETERMINATION
<input type="checkbox"/>	<input type="checkbox"/>	Select a decision-maker. Establish the decision-maker does not have a bias or conflict in making the determination. If there is a conflict or bias, select another decision-maker. Remember the decision-maker cannot act as an appeals panelist for the same complaint.
<input type="checkbox"/>	<input type="checkbox"/>	Provide the name of the decision-maker and contact information to the parties and their advisors. Issue a modified timeline, if necessary. [Delays for good cause allowed with written notice to the complainant and respondent of the delay and the reason for the delay. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.]
<input type="checkbox"/>	<input type="checkbox"/>	Ensure the decision-maker possesses the following at the onset: Title IX Grievance Process Booklet, Incident Report, Formal Complaint, Notice of Complaint, Respondent's Response to Complaint, Investigation file and decision-maker checklist.
<input type="checkbox"/>	<input type="checkbox"/>	Periodically check with decision-maker to determine status. If the timeline is different from what was initially provided to the parties, provide an updated timeline. Delays for good cause allowed with written notice to the complainant and respondent of the delay and the reason for the delay. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.]
<input type="checkbox"/>	<input type="checkbox"/>	Remind the decision-maker that (a) he/she may consult with Legal if necessary (ex. need to clarify what is relevant, preponderance of the evidence standard, etc.).
<input type="checkbox"/>	<input type="checkbox"/>	Once the determination has been made, obtain a copy of the determination file (ex. investigation file, draft determination, the parties' response to the draft determination, final determination, and recommended remedies). Ensure the file is complete.
<input type="checkbox"/>	<input type="checkbox"/>	The original determination file remains in the Title IX office. If a party wants to appeal, a copy of the determination file in its entirety (with the exception of privileged communications), is maintained in the Title IX office, unless there is an appeal.

7. Appeals Process



- **Mandatory appeal:**
 - Procedural irregularity
 - New Evidence
 - Bias or Conflicts
 - Reasonable Person Standard**BUT ONLY IF IT AFFECTS THE OUTCOME**
- **Discretionary Appeal**
 - By written submission, appealing the remedies (including disciplinary sanctions) only

Appeals Process

- Review Formal Complaint & Respondent's Response
- Review Investigation File (including Investigation Report, the parties' responses and related evidence)
- Review Decision-Maker's File (including Determination, the parties' responses and related evidence)
- Review remedies, including disciplinary sanctions
- Issue Appeals Decision either affirming or rejecting Determination

T9C Checklist



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Incident/Complaint No.:		Date:	
Complainant (Name & ID#):		Respondent (Name & ID#):	
YES	NO	APPEAL	DATE
<input type="checkbox"/>	<input type="checkbox"/>	Obtain request to appeal (by mail, email, telephone, in person or other means) from either party. If request is verbal, obtain signed request to appeal form.	
<input type="checkbox"/>	<input type="checkbox"/>	Grant request for appeal if the following: <ul style="list-style-type: none"> • Procedural irregularity that affected outcome • Newly discovered evidence that could affect the outcome; • Title IX personnel had a conflict or bias that affected the outcome. Confer with Legal before granting an appeal.	
<input type="checkbox"/>	<input type="checkbox"/>	If request for appeal is granted, suspend implementation of remedies. Inform the parties that an appeal is underway and advise time line for completion of appeal.	
<input type="checkbox"/>	<input type="checkbox"/>	Select appeals panel. Establish the appeals panel does not have biases or conflicts in conducting the investigation. If there is a conflict or bias, select another panelist or panel. Ensure each panelist has not participated in any other aspect of the grievance process for the same complaint.	
<input type="checkbox"/>	<input type="checkbox"/>	Ensure the panel possesses investigation file, determination file, request for appeal, grant of appeal documents, including reason for grant.	
<input type="checkbox"/>	<input type="checkbox"/>	Provide the Complainant and Respondent been an opportunity to submit a written statement in support of or challenging the determination.	
<input type="checkbox"/>	<input type="checkbox"/>	Appeals panel reviews and analyzes the process utilized and the investigation file, the parties' written responses to support or challenge the determination and either affirm or reject the determination, along with rationale for the result.	
<input type="checkbox"/>	<input type="checkbox"/>	Ensure Appeals panel has conferred with Legal before issuing decision.	
<input type="checkbox"/>	<input type="checkbox"/>	If appeals panel affirms the determination, inform the parties of the decision: <ul style="list-style-type: none"> • If appeal granted due to procedural irregularity, it did not affect the outcome • If appeal granted due to newly discovered evidence, it did not affect the outcome • If appeal granted because Title IX personnel had a conflict or bias, it did not 	

8. Document Retention



- **Seven Years**
 - Investigation records
 - Determinations
 - Remedies provided
 - Disciplinary sanctions imposed
 - Appeal records
 - Training Materials

Break



Retaliation



Retaliation

Three Prongs in Retaliation Claims	
Phase 1	Complainant engages in protected activity by either (1) opposition – good faith complaint about an alleged discriminatory practice or action or (2) participation – assisting or participating in any manner in an investigation under an anti-discrimination statute
Phase 2	After engaging in protected activity, Complaint suffers a materially adverse employment action or denial to access to educational program or activity
Phase 3	Complainant demonstrates a causal connection between alleged materially adverse action and the protected activity

Retaliation

- Discipline for materially false information is not retaliation
- Punishing a party for false statement solely on the determination may be retaliation
- Charging a code of conduct violation that do not involve sex discrimination or sexual harassment, but arise out of the same fact or circumstances as the formal complaint
- Charging a code of conduct violation for making a materially false statement in bad faith in the course of the formal complaint process does not constitute retaliation.
- Punishing a party for making false statements in the course of the formal complaint process would constitute retaliation where the conclusion that false statements were made is based solely on the determination regarding responsibility.

Conflicts & Biases

CONFLICT
OF INTEREST



Definition: Conflicts of Interest



- When an individual has a personal interest (whether actual, potential or perceived) that compromises or conflicts with the interests of his or her responsibilities in the Title IX process or with the district
- Eliminate conflicts to avoid compromising the integrity of the formal complaint process
- Some COI examples:
 - The complainant or respondent is or was a supervisor or friend
 - The complainant or the respondent is a family member, dating a family member or married to a family member
 - You were hired by the complainant or respondent
 - Your best friend is dating the complainant or respondent
 - You have a personal stake in the outcome

Types of Conflicts

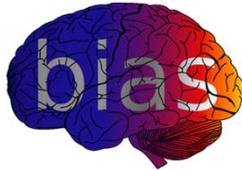
- Direct
 - an interest directly tied to the individual, his or her family or career
- Indirect
 - the interest of a group, person or business the employee is or was closely connected to (ex. a friend of a friend, the employee's fraternity, the employee's previous employer)
- Financial
 - monetary gain or loss
- Non-financial
 - favoritism or prejudice resulting from friendship, animosity, or other personal involvement with another person or group

Conflicts

- Failure to immediately disclose a conflict may result in disciplinary action, up to and including termination.
- Title IX Coordinator is required to immediately disclose conflicts to the Superintendent
- Other Title IX personnel are required to immediately disclose conflicts to the Title IX Coordinator
- If there is a conflict, transfer the formal complaint to Title IX personnel without a conflict

Implicit Bias

*if you have a brain,
you have bias*



- The brain takes in 11 million bits of information at any one point in time but
- The brain can process only 40 bits of information per second
- Therefore, we take mental shortcuts (or make quick judgments) based on our experiences
- No one is immune from bias

Implicit Bias

- I cnduo't bvlleiee taht I culod aulacly uesdtannrd waht I was rdnaieg. Unisg the icndeblire pweor of the hman mnid, aocdcnig to rseecrah at Cmabrigde Uinervtisy, it dseno't mtttaer in waht oderr the lterets in a wrod are, the olny irpoamtnt tihng is taht the frsrit and lsat ltteer be in the rhgit pclae. The rset can be a taotl mses and you can sitll raed it whoutit a pboerlm. Tihs is bucseae the huamn mnid deos not raed ervey ltteer by istlef, but the wrod as a wlohe. Aaznmig, huh?

Implicit Bias

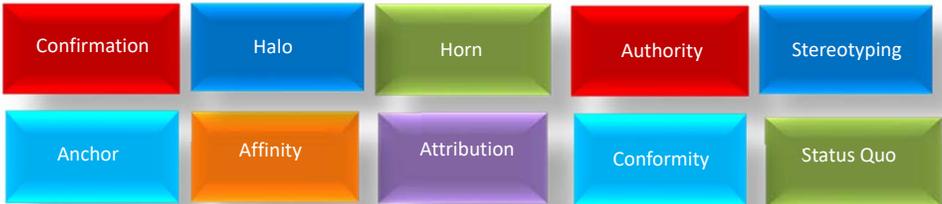


Implicit Bias



- What might we use to fill in the blanks?
 - Family history
 - Personal experiences
 - Personal values
 - Educational experiences
 - Historical influences
 - Cultural influences – e.g., in media
- In some cases, the filters may be helpful
 - (i.e. smoke may mean fire)
- In some cases, the filters may be harmful
 - (stereotyping)

Types of Implicit Biases



Implicit Bias



Implicit Bias

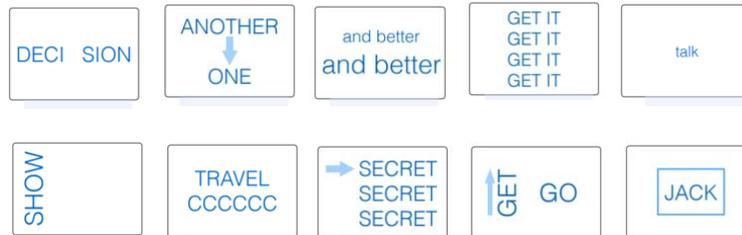


- A man buys a new car and goes home to tell his wife. He goes the wrong way up a one-way street, nearly runs into 7 people, goes onto the sidewalk, and takes a shortcut over the median. A policeman sees all this and still doesn't arrest him. Why not?
- One house is made of red bricks, one of blue bricks, one of yellow bricks, and one of purple bricks. What is the green house made of?
- You drive past a bus stop and see 3 people waiting for the bus: an old lady who is about to die, an old friend who saved your life, and your perfect partner. Knowing you can only have one passenger in your car, what would you do?
- How much dirt is there in a hole 3 feet deep, 6 feet long, and 4 feet wide?
- Your friend says he can predict the exact score of every football game before it begins. He's right every time. How is that possible?

Implicit Bias

R R O A D A D	ECNALG	JOBINJOB	CYCLE CYCLE CYCLE	FAREDCE
TAILR RIALT AIRTL TLRIA	COVER COVER HEAD COVER COVER	R E A D I N G	ECONOMY	GIVE GET GIVE GET GIVE GET GIVE GET

Implicit Bias



Bias Busters



- Avoid snap judgments – put first impressions aside
 - If I put aside my first impressions, would I make the same decision?
- Focus on the facts
 - Make conclusions after you have explored the facts
- Challenge yourself to slow down and make measured decisions
- Harvard Implicit Association Test (implicit.harvard.edu).
 - 76% associate men with career and women with family
 - 75% prefer white people over black people (half are black)

Thank you!

