

# TITLE IX

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GOES INTO EFFECT AUGUST 14, 2020

# UNDER TITLE IX OF THE EDUCATION AMENDMENTS OF 1972:

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“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.”

\*Includes sexual harassment and sexual violence.\*

# 9 THINGS TO KNOW ABOUT TITLE IX

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1. Title IX is a civil right that prohibits sex discrimination in education.
2. Title IX applies to ALL students regardless of gender identity.
3. Schools may not retaliate against someone filing a complaint and must keep complainants safe from other retaliatory harassment.
4. Schools should ensure that no student has to share campus spaces (such as dorms, classes, and workplaces) with their abuser.
5. Schools can issue no-contact directives to prevent accused students from approaching or interacting with their victim(s).

# 9 THINGS TO KNOW ABOUT TITLE IX....

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6. Schools must be proactive in ensuring that your campus is free from sex discrimination.
7. Schools cannot discourage you from continuing your education.
8. All schools receiving federal funding, including public K-12 schools and the majority of colleges, are subject to Title IX.
9. Schools must have an established procedure for handling complaints of sexual discrimination, harassment and violence.

# ALL SCHOOLS MUST:

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- Disseminate a notice of this policy and make it easily accessible
  - The policy must be online and available in print across campuses
  - Policy must include enough detail so that members of the campus community can realize sexual harassment and sexual violence are prohibited forms of sex discrimination
  - Policy's are typical found in the student code of conduct

# WHERE MUST THE INCIDENT(S) OCCUR?

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- Educational programs or activities
  - May be on campus or off campus OR any space owned/controlled by a recognized student organization (ex: Fraternity houses)
- Incidents that occur outside of the United States are not consider reportable under Title IX (ex: study abroad programs → options available under VAWA or the Clery Act)
- Grey Area:
  - Online Harassment

# WHO TO REPORT TO?

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- Every educational institution receiving federal funding must have a **Title IX Coordinator**
  - The name and contact of the Coordinator should be in the nondiscrimination notice
  - Both a victim and/or a third party can contact the Coordinator to report incidents of sex discrimination, sexual harassment or sexual violence
- **Campus Security Authority**
  - Title IX Coordinator is one of these persons, other faculty could be designated but it is not required
- Eliminates “Responsible Employee” concept and takes away burden of reporting from employees who are not designated as CSAs or Title IX Coordinator

# WHAT DOES THE TITLE IX COORDINATOR DO?

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- Ensure schools are compliant with Title IX
- Coordinates the investigation of complaints and disciplinary process
- Looks for patterns or systemic problems with compliance to ensure schools fulfill all federal obligations
- Coordinator must not have another job at the school that conflicts with Title IX obligations and responsibilities
- Must provide student with information about requesting confidentiality AND information about confidential advocacy, counseling and/or other outside support services
- Must tell students of their right to file a Title IX complaint with the school and/or report the crime to campus or local law enforcement



# REPORTING OPTIONS

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- Schools must notify victims of their right to report to police and facilitate that process if desired by the victim
- Victims have the right to NOT report to police
  - If victims choose not to report to police they can still file a Title IX complaint
- Third Party Reporting

# GRIEVANCE PROCEDURES:

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- Schools must adopt and publish a grievance procedure outlining the complaint, investigation, and disciplinary process for addressing sex discrimination, sexual harassment, and sexual violence within education programs.
  - Should have clearly defined procedures when perpetrator is a student, employee or third party
  - School security and/or law enforcement personnel must notify victims of their rights to use the school's grievance procedure in addition to filing a criminal complaint

# GRIEVANCE PROCEDURES CONTINUED:

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- School's process should be “prompt and equitable”
  - Meaning it must be timely and provide both parties equivalent rights during the disciplinary process rather than having one-sided due process
    - Ex: If the accused student has an attorney, the complaining student has the right to have an attorney too

# EQUITABLE COMPLAINT PROCESSES

BOTH VICTIM AND PERPETRATOR HAVE THE RIGHT TO:

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- Have an adviser of choice present during the process (this includes an attorney)
- Present evidence or have witnesses speak on their behalf
- Have timely access to information that will be used at the hearing
- Have access to resources and supportive measures (with or without formal complaint)
- Be present at pre-hearing meetings that provide an opportunity to present their testimony
- Receive the final hearing decision in writing at the same time as the other party *without being required to sign a non-disclosure agreement*
- Have the right to appeal a final decision

# SUPPORTIVE MEASURES

NON-DISCIPLINARY SERVICES OFFERED AS APPROPRIATE AND AVAILABLE, FREE, TO BOTH THE ACCUSED AND THE VICTIM

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- Housing
- Academic Resources
- Transportation
- Job Assistance
- Protective Measures both on and off campus
- Legal Advocacy and Assistance
- Visa and Immigration Resources
- ETC.

# EMERGENCY REMOVAL

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- Institutions can remove the accused on an emergency basis if:
  - The institution assesses individual safety and risk
  - Determines there is an immediate threat to the physical health or safety of any student or another individual arising from the allegations
  - AND provides the respondent with notice and an opportunity to challenge the decision immediately following the removal
- Campus *does not* have to issue an emergency notification each time someone is removed

# DECISIONS ARE DETERMINED BY:

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- “Preponderance of the evidence”
  - A hearing must determine whether a complaint of sex discrimination is “more likely than not” to have occurred or 51% likely to have occurred
- Rather than a criminal case which requires “beyond a reasonable doubt”

# ADDITIONAL INFO & ALTERNATIVE RESOLUTIONS:

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- Title IX protects victims from **retaliation** including any adverse consequences, harassment, intimidation, or discrimination
  - Includes employees and third party reports
  - Schools must protect against other employees or students retaliating against the reporting party when it “knows or should know” about the retaliatory behavior
- Complaints *may be* resolved through informal mechanism (such as mediation), but are **not required** to use informal methods and **should not be pressured** into that process