

# Ongoing Training Needs for Investigators and Decision Makers

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# Our Hopes...

## What this workshop is:

1. Unpack legal requirements
2. Identify what needs to change in your policy
3. Networking/discussion with colleagues/expert faculty

## What this workshop is not:

1. Not legal advice
2. Not a “how to” operationalize roles – focus is on integrating mandates into policy
3. Not a “one-size-fits-all” given institutional context





# LEARNING OUTCOME

## After participating...

...you will be able to identify and plan the training needs for your Title IX investigators, decision makers and the rest of your Title IX team.

# THE TITLE IX TEAM










# Title IX Team

- Investigators
  - May employ a dual investigator model.
  - Title IX Coordinator may serve as an investigator

**INVESTIGATOR:**The Investigator is a trained, neutral, fair, and objective individual(s) who is either employed by the University or from outside the University who is responsible for gathering information about the alleged Sexual Harassment.

# Title IX Team

- Advisors
  - Each party is permitted to have an advisor of their choice, who may or may not be an attorney, to be present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding. 106.45(b)(5)(iv).
  - If a party does not have an advisor present at the live hearing, the institution must provide an advisor to conduct cross-examination on behalf of that party. 106.45(b)(6)(i).
  - No requirement that advisors be free of bias or conflict of interest.



ADVISOR: Both the Complainant and the Respondent have the right to an Advisor of their choice (who may be, but need not be, an attorney) relating to any report of Sexual Harassment to support the Party and assist the Party in navigating the Grievance Procedure.

# Title IX Team

- Decision-maker(s)
  - Hearing Officer/Hearing Panelists
  - Appeal Officer(s)
    - Appeal of determination of responsibility
    - Appeal of mandatory and discretionary dismissals

The Hearing Panel is a trained group of University and/or non-University individuals that hears Formal Complaints of Sexual Harassment, determines whether a Preponderance of the Evidence exists to find that the Respondent is Responsible for violating the Policy, and, if the Respondent is found Responsible, imposes a Sanction. The Hearing Panel includes two panelists and the Hearing Chair. onPanel iha tnc

**HEARING CHAIR**The Hearing Chair oversees the Hearing Process as described in Section \_\_\_\_, including chairing the Hearing Panel. The Hearing Chair serves as one of the hearing panelists, attending the hearing and voting during hearing panel deliberations.

**APPEAL OFFICER:**The Appeal Officer is a trained individual that hears appeals filed by a Complainant or Respondent relating to a finding of responsibility or dismissal decision. Appeal Officers are independent of the previous grievance procedure or process, including from any dismissal appeal that may have been heard earlier in the process. The Appeal Officer has final decision - making authority over determinations of responsibility and dismissals.



## Title IX Team

- Other potential Title IX team members:
  - ) Facilitators of informal resolution
  - ) Hearing facilitator
  - )



# QUESTIONS



# Required Training

## 106.45(b)(1)(iii)

- §106.45(b)(1)(iii) imposes extensive and ongoing training requirements for Title IX Coordinators, investigators, decision-makers and facilitators of informal resolutions.
- OCR believes the robust training and impartiality requirements will effectively:
  - Promote the reliability of fact -finding and the overall fairness and accuracy of the grievance process, and
  - Promote consistent and reliable outcomes.
- Flexibility provided to institutions to determine how to meet training requirements

# Required Training

## 106.45(b)(1)(iii)

- §106.45(b)(1)(iii) requires that all materials used to train Title IX personnel:
  - Must not rely on sex stereotypes
  - Must promote impartial investigations and adjudications of formal complaints of sexual harassment.
- Reminder - §106.45(b)(10)(i)(D) requires trainings for Title IX personnel to:
  - Be made publicly available on the institution's website, or if the institution does not maintain a website these materials must be made available upon request for inspection by

## Required Training 106.45(b)(1)(iii)

- Title IX Coordinators, investigators, decision -makers, and

## Required Training

### 106.45(b)(1)(iii)

- How to investigate and conduct a grievance process, including hearings, appeals and informal resolutions
- How to serve impartially, including by avoiding prejudgment of the facts at issue
- How to avoid conflicts of interest and bias (including implicit or unconscious biases)

## Required Training

### 106.45(b)(1)(iii)

- Decision-makers must receive training on any technology to be used at a live hearing
- Decision-makers must receive on issues of relevance of questions and evidence, including when questions and evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant
- Investigators must receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence



What is your greatest challenge in coordinating training efforts for your Title IX Team?



# QUESTIONS

# RECOMMENDED TRAINING

## Recommended Training

- Other recommended training topics for Title IX Team members:
  - Trauma-informed approaches and practices
  - Evidence collection and evaluation, including how to assign weight to a given type of relevant evidence
  - Evaluating credibility
  - Individualized safety and risk analysis
  - Post-removal challenge proceeding following an emergency removal
  - Mediation and/or Restorative Justice facilitation



## Recommended Training

- Role specific training:
  - Title IX Coordinators need training on all aspects of Title IX compliance, including the Final Regulations and recordkeeping.
  - Investigators need training on how to investigate sexual harassment and discrimination, including how to effectively interview parties and witnesses.

## Recommended Training

- Role specific training:
  - Decision-makers need training on how to identify questions parties and witnesses, hear cases relating to sexual harassment, conduct credibility assessments, how to write a thorough, concise and evidence-based rationale, and arrive at an appropriate sanction and situation -specific remedies.
  - Informal resolution facilitators must be trained in the parameters and processes, consequences and confidentiality implications of informal resolution.

# Recommended Training

- What about advisors?
  - The Final Regulations require no training for advisors
  - “The Department declines to require training for as



## Recommended Training

- There is nothing in the Final Regulations that precludes institutions from providing training for their appointed advisors.
- Training topics should include:
  - “Relevance”
  - How to utilize cross- examination as a “truth -seeking” tool
  - How to identify the “prior statements” by the other party and witnesses to probe
  - How to perform cross-e xamination in a respectful and non-abusive manner
  - Hearing Rules and Procedures

# Recommended Training

- §106.45(b)(1)(iii) only addresses training requirements for the Title IX team.
- §106.8 requires institutions to train their students and employees on:
  - The policy of non-discrimination under Title IX,
  - The Title IX Coordinator's contact information,
  - How to report and file complaints of sex discrimination,
  - How to report and file formal complaints of sexual harassment, and
  - The sexual harassment grievance procedure and processes.

## Recommended Training

- Other individuals (unofficial Title IX team members) who need specialized training relating to the Final Regulations:

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Besides members of your Title IX Team, who is the next group of individuals you will train?



# QUESTIONS

# TRAINING CONSIDERATIONS

# Training Considerations

- How much training is required and how often?
  - The Final Regulations do not impose an annual or other frequency condition on the mandatory training required in § 106.45(b)(1)(iii).
  - The only requirement is that any Title IX Coordinator, investigator, decision -maker, or person who facilitates an informal resolution process will, when serving in such a role, be trained to serve in that role.
  - However, OCR estimates 8 hours of training for each team member with additional training each subsequent year.

# Training Considerations

- Who should conduct the training?
  - OCR does not weigh in on the individuals or entities that provide Title IX -related training to institutions.
  - Recommended to use training sources who rely on qualified, experienced professionals likely to result in best practices for effective and impartial grievances procedures and processes.
  - Whether or not an institution has complied with §106.45(b)(1)(iii) is not determined by the source of the trainers or training materials utilized.





# CHAT

Think about your training experiences. What about them made them memorable and effective?



# RESOURCE






# RESOURCE

Bookmark this page:

<https://www.academicimpressions.com/get-up-to-speed-on-title-ix-and-compliance/>



On-Campus  
Workshop: Let us  
bring our Title IX  
training to your  
campus – virtually!

Conference: Join us  
at our Title IX  
(virtual) conferences  
with colleagues  
across the nation!

- Foundations  
Investigator
- Advanced  
Investigator
- Hearing Panel
- TIX Coordinator
- Appellate Officer\*
- Mediator\*
  - \*new





# EVALUATION

## Thank you!

Please remember to complete the event evaluation. Your comments will help us continually improve the quality of our programs.

