

Demystifying the Title IX - Civil Rights Process

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System and University Regulation

- **System Regulation 08.01.01** This regulation establishes system-wide standards for receipt and processing of reports, complaints, formal complaints, investigations, adjudication, appeals, and use of informal resolution in cases involving allegations of discrimination, harassment and/or related retaliation based on a protected class (discrimination), including complaints made by employees, students and/or third parties.
- **University Rule 08.01.01.R2** This rule provides guidance in complying with local, state and federal civil rights laws and regulations as directed by System Policy 08.01 and Regulation 08.01.01.

Definition of Title IX

- A federal law designed to protect people from discrimination based on sex with respect to educational opportunities and activities at the University.
- Discrimination includes harassment (based on both hostile environment and quid pro quo) and retaliation based on a legally protected category.
- Sex-based misconduct – unwelcome conduct on the basis of sex that is severe, persistent, or pervasive enough to create a work, educational, or campus living environment that a reasonable person would consider intimidating, abusive, or offensive.

Key Personnel

- **Investigator** – *trained individual who conducts formal investigations of allegations. Investigators are fact finders who must discover and examine facts of an allegation.*
- *For complaints of sex-based behaviors, the investigator will be fact finders only, and will not make determinations of the merits of the allegations. For all other complaints, the investigator will determine whether allegations are substantiated, unsubstantiated, or insufficient evidence.*
- *Duties include: interview parties and witnesses, review documentation and other evidence, write formal investigative reports, present the investigative report at hearing board proceedings (for sex-based cases only).*

Key Personnel

- **Designated administrator** – *Director level or above.*
Designated administrators will review the investigative report, render a decision on the merits, and impose sanctions for cases that are substantiated. Student sex-based cases will be decided by the student conduct hearing board.

Key Personnel

- **Advisor** – *an individual selected by each party to provide guidance throughout the process. During a live hearing, the advisor will conduct cross-examination (ask questions) on behalf of the party. If the party does not have an advisor, a trained advisor will be appointed in advance of the live hearing.*

Key Personnel

- **Complainant:** individual who is alleged to have been subjected to discrimination
- **Respondent:** individual who has been alleged to have engaged in discriminatory conduct, as defined under system policy and regulation

The Process: Intake

- The Civil Rights Administrator will meet with the potential complainant to learn the basic allegations and discuss options for next steps – *Supportive measures only, informal resolution, complaint, formal complaints*
- The complainant is the driving force to decide the next steps

The Process: Supportive Measures

- Non-disciplinary, non-punitive individualized services offered as appropriate for each situation. Examples include counseling, no contact orders (for both parties), extension of course deadlines, change in housing location

The Process: Informal Resolution

- Resolution of a civil rights complaint without a formal hearing.
- This is a voluntary process that both parties must agree to participate
- In Title IX cases, a formal complaint must be signed before Informal Resolution can be offered
- Includes mediation, restorative conferences, and shuttle facilitation

The Process: Formal Complaint

- Investigators are assigned to investigate the facts by interviewing the parties, interviewing witnesses, and reviewing documents or other evidence
- Investigators write the investigative report. In non-sex based cases, the investigators make a determination on the merits of the allegations.

The Process: Disciplinary Outcomes

- With student respondents, decision-making is left up to the hearing board for determining if the conduct occurred, if a policy violation occurred, and the appropriate sanctions
- Designated administrators will determine appropriate sanctions for employee respondents

The Process: Appeals

- In both student and employee processes, a panel will do a records review to determine if there was
 - New information that was not previously available
 - Substantial due process error/procedural irregularity that affected the outcome
 - Conflict of interest or bias for/against the parties that affected the outcome
 - Appropriateness or severity of the sanctions
- An appeal is not a new hearing

Common Questions

- Supervisors cannot take one-sided “preventative” employee actions prior to a final decision
- Tenured employees may be terminated for cause
- This is a process that takes time and cannot always be completed quickly

Questions?



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