

Title IX Informal Resolution Facilitator Course



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Introduction

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Overview of the Course



- Lesson 1: Introduction and Overview
- Lesson 2: Sexual Harassment/Scope of Education Program/Activity
- Lesson 3: Formal Title IX Grievance Process and IR Process
- Lesson 4: Role of Informal Resolution Facilitator/Serving Impartially
- Lesson 5: Types of Informal Resolution
- Lesson 6: Wrap Up and Assessment

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Learning Objectives



- ✓ Understand the law and regulations
- ✓ Explain Title IX process on campus
- ✓ Understand the IR process within the formal Title IX grievance process
- ✓ Recognize and evaluate sexual harassment and program or activity
- ✓ Explain importance of serving impartially in your role
- ✓ Understand your role as an IR facilitator, including the role of a neutral

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Disclaimers



- ✓ Not legal advice
- ✓ Cannot possibly cover everything

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See you in Lesson 2!



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Lesson 2
**Sexual
Harassment and
Scope of
Program/Activity**



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THE LAW

**Title IX of the Education
Amendments of 1972 prohibits
discrimination on the basis of
sex in educational programs or
activities operated by recipients
of Federal financial assistance.**

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Title IX Applies to...

- Student on Student Sexual Harassment
- Employee on Employee Sexual Harassment
- *Employee on Student Sexual Harassment*
- Student on Employee Sexual Harassment


TITLE IX
UNIVERSITY

ALL EMPLOYEES

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Title IX
Coordinator




Investigator(s)
Decision-Maker(s)
Appellate Member(s)
Informal Resolution Facilitator(s)
Advisor(s)

THE LAW

Title IX Team

- Informal Resolution Optional for Institutions
- No one way to conduct an IR

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Important Terms

Complainant: Individual who is alleged to be the victim of conduct that could constitute sexual harassment

Respondent: Individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment

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Sexual Harassment + Education Program or Activity



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Sexual Harassment

- Conduct on the basis of sex that satisfies one or more of the following:
 - An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
 - 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 education program or activity; or
 - "Sexual Assault," "Dating Violence," "Domestic Violence" or "Stalking" as defined in the Clery Act.

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SEXUAL ASSAULT

Sexual Assault: An offense that meets the definition of rape, fondling, incest or statutory rape as used in the FBI's Crime Reporting system.

A sex offense is any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.

*FBI/UCR include forcible and non forcible categories for Sexual Assault.

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Dating Violence

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. The existence of such a relationship shall be based upon the reporting party's statement with consideration of the following factors:

- (i) The length of the relationship
- (ii) The type of relationship
- (iii) The frequency of interaction between the persons involved in the relationship.

Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

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Domestic Violence

Domestic Violence: A felony or misdemeanor crime of violence committed

- by a current or former spouse or intimate partner of the victim;
- by a person with 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 the jurisdiction in which the crime of violence occurred; 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 in which the crime of violence occurred.

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STALKING

Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to

- (1) Fear for the person's safety or the safety of others; or
- (2) Suffer substantial emotional distress.

For purposes of this definition:

Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

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JURISDICTION

Education Program or Activity

- Locations, events, or circumstances (operations) in the U.S.
- Institution exercised substantial control over both the respondent AND the context in which the sexual harassment occurs
- Includes any building owned or controlled by student organization that is OFFICIALLY RECOGNIZED by institution
- Includes online sexual harassment but it must be analyzed to determine if it occurs in education program or activity
- Does not create or apply a geographic test, does not draw a line between "off campus" and "on campus," and does not create a distinction between sexual harassment occurring in person versus online.

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See you in Lesson 3!



Lesson 3

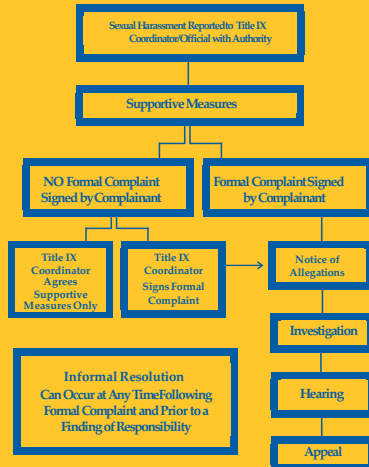
The Formal Title IX Grievance Process/ IR Process



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General Process Flow Chart



*A Formal Complaint MUST be dismissed if it does NOT meet definition of Sexual Harassment, occur in education program or activity, or in the U.S.
 *A Formal Complaint MAY be dismissed at request of Complainant, if Respondent no longer at institution or institution is precluded from gathering evidence.

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TITLE IX INFORMAL RESOLUTION PROCESS



**Cannot occur in Employee on Student case*

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Informal Resolution CANNOT be used when the Respondent is an employee and the Complainant is a student



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Report of Title IX Sexual Harassment to Official with Authority

- Supportive measures
- Options explained
- No option for informal resolution YET



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Formal Complaint

- Signed by Complainant or Title IX Coordinator
- Notice of Allegations
 - Includes notice of grievance process and informal resolution process
 - Sent to both parties
- Cannot have informal resolution without Formal Complaint



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Notice of Allegations (Complainant)

DEAR INSERT NAME:

You have alleged that INSERT RESPONDENT NAME engaged in Sexual Harassment in violation of the Title IX Sexual Harassment Policy. The allegations specifically include that on INSERT DATE/TIME at INSERT LOCATION the following occurred: INSERT NARRATIVE

INSTITUTION NAME takes reports of alleged Sexual Harassment seriously. Thus, there is a formal process for investigation and resolution of such allegations. A copy of the entire INSTITUTION Title IX grievance process can be found here: INSERT LINK. Allegations of Sexual Harassment can also be resolved through an informal resolution of these allegations by the parties and the Title IX Coordinator. The informal resolution process can be found here: Insert LINK.

Throughout the entire grievance process, you are entitled to have an advisor of your choice, who may be, but is not required to be, an attorney. This advisor may attend meetings with you and suggest and/or use evidence provided during the grievance process. More information about the role of an advisor in the grievance process can be found here: INSERT LINK. Insert to section of policy re: advisor's role.

INSERT RESPONDENT is presumed not responsible for the alleged Sexual Harassment. A determination regarding responsibility is made at the conclusion of the grievance process.


The INSTITUTION Employee/Student Code of Conduct prohibits knowingly making false statements or knowingly submitting false information during the grievance process. Applicable Code of Conduct sections can be found here: LINK TO CODE SECTIONS. The entire Title IX Policy and a document with your rights and responsibilities as a Complainant are attached to this email as a PDF file for your review.

You have been precluded to attend an investigation meeting related to these allegations on INSERT DATE/TIME AND LOCATION. Title IX investigator (INSERT NAME) will be present during that meeting. At noted precludes, you are permitted to bring an advisor of your choice to all meetings in the Title IX process.

INFO:
Please notify me if you have any questions. You may reach me at INSERT CONTACT INFO.

Thank you.

SIGNATURE
Title IX Coordinator



Notice of Allegations (Respondent)

Dear INSERT NAME:

It has been alleged that you engaged in Sexual Harassment against INSERT NAME in violation of the Title IX Sexual Harassment Policy. The allegations specifically include that on INSERT DATE/TIME at INSERT LOCATION the following occurred: INSERT NARRATIVE

INSTITUTION NAME takes reports of alleged Sexual Harassment seriously. Thus, there is a formal process for investigation and resolution of such allegations. A copy of the entire INSTITUTION Title IX grievance process can be found here: INSERT LINK. Allegations of Sexual Harassment can also be resolved through an informal resolution of these allegations by the parties and the Title IX Coordinator. The informal resolution process can be found here: INSERT LINK.

Throughout the entire grievance process, you are entitled to have an advisor of your choice, who may be, but is not required to be, an attorney. This advisor may attend meetings with you and suggest and/or use evidence provided during the grievance process. More information about the role of an advisor in the grievance process can be found here: INSERT LINK. Insert to section of policy re: advisor's role.

You are presumed not responsible for the alleged Sexual Harassment. A determination regarding responsibility is made at the conclusion of the grievance process. The INSTITUTION Employee/Student Code of Conduct prohibits knowingly making false statements or knowingly submitting false information during the grievance process. Applicable Code of Conduct sections can be found here: LINK TO CODE SECTIONS. The entire Title IX Policy and a document with your rights and responsibilities as a Respondent are attached to this email as a PDF file for your review.

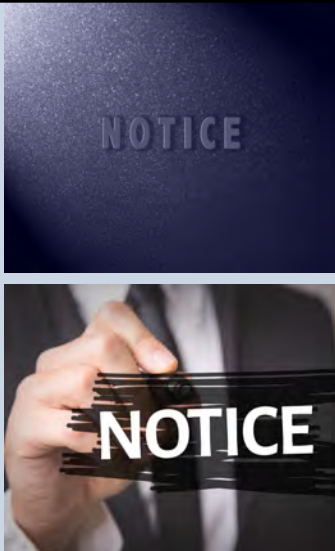
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INFO:
Please notify me if you have any questions. You may reach me at INSERT CONTACT INFO.

Thank you.

SIGNATURE
Title IX Coordinator

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Notice of Informal Resolution Process

- When:
 - Requested by one or both parties and/or recommended by Title IX Coordinator (cannot be coerced, forced or required by Institution) **AND**
 - Agreed by all parties
 - After Formal Complaint and before determination regarding responsibility
- Includes:
 - Allegations
 - Requirements of informal resolution process including circumstances under which it precludes parties from resuming Formal Complaint from the same allegations
 - Right to withdraw
 - Consequences including records that will be maintained or could be shared
 - Voluntary written consent to the informal resolution process



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Reasons a Title IX Coordinator May Choose Not to Agree to Informal Resolution

- Severity of the allegations
 - Some policies/institutions prohibit IR when Sexual Assault (Rape) is alleged
- Multiple allegations against the same Respondent
- Multiple Respondents in the same allegations
- Use of a weapon
- **MUST** not allow when Respondent is employee and Complainant is a student



ICS Signed Agreement to Enter Informal Resolution Process

INSERT COMPLAINANT NAME and **INSERT RESPONDENT NAME** agree to participate in the Informal Resolution Process to attempt to resolve the allegations against **INSERT RESPONDENT**.

The allegations include **INSERT NARRATIVE** including parties, date, time, location, and allegations.

The requirements of the Informal Resolution Process can be found **INSERT LINK or Section number of Policy and link to full policy**.

If a resolution is reached through the Informal Resolution Process, parties may not appeal the agreement, or resume the Formal Grievance Process related to the same allegations. However, either party, at any time prior to the resolution may withdraw from the Informal Resolution Process and resume the Formal Grievance Process with respect to the Formal Complaint.

Records from the Informal Resolution Process will be maintained by **INSERT INSTITUTION** for seven (or more) years but will not be used as part of the investigation or resolution of the Formal Grievance Process is resumed. Records will be shared between the parties during the Informal Resolution Process as determined and communicated by the informal resolution facilitator.

Complainant _____ Date _____ Respondent _____ Date _____

Title IX Coordinator _____ Date _____





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Informal Resolution Process

- Broad options and opportunities
- As long as within the scope of your policy
- Does NOT require full investigation or adjudication



Informal Resolution Agreement

- Can include anything as long as agreed to by the parties, up to and including expulsion
- Remedies
- Impact statements
- Apologies
- Acceptance of responsibility
- Restorative justice practices
- Etc.

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Withdraw From Informal Resolution Process and Return to Formal Grievance Process

- Requested by either party
- Any time prior to agreement
- No explanation necessary
- What records can be used in formal process when transitioning back?
- Written notice when resuming formal process

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Notice of Outcome

- Includes signed agreement
- Expectations of parties
- Deadlines
- Follow up requirements
- Appeal options (if any)
- How records will be maintained
- Who to contact if questions





Informal Resolution Outcome (Respondent)


Dear **INSERT NAME**

Attached to this email you will find the signed Informal Resolution Agreement. As we have discussed, this agreement is final. You must complete all requirements within the agreement or be subject to discipline under the **INSTITUTION** Code of Conduct.

Please let me know if you have any questions.

Thank you,

Signature
Title IX Coordinator



Informal Resolution Outcome (Complainant)

Dear **INSERT NAME**


Attached to this email you will find the signed Informal Resolution Agreement. As we have discussed, this agreement is final. The Respondent will complete all requirements within the agreement or be subject to discipline under the **INSTITUTION** Code of Conduct.

The supportive measures for you will remain in place and the following remedies have been instituted. (Include them in the body of the email).


Please let me know if you have any questions.

Thank you,

Signature
Title IX Coordinator



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See you in Lesson 4!



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Lesson 4 Informal Resolution Facilitator's Role



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REVIEW: TITLE IX INFORMAL RESOLUTION PROCESS



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What is Your Role?

- Establish expectations
 - For you
 - For the parties
- Define goals/objectives
- Listen
- Document
- Receive permission before sharing
- Stay flexible
- Remain neutral
- Serve as the "go between"

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Informal Resolutions Will Take Significant Time



- Discussion between parties
 - through you
 - in person
 - in writing
- Be patient, don't rush
- Set deadlines



Put in the Effort

- If parties request and agree to this process, they will have to put in the work...and so will you.
- Every outcome will look different.
- It may get messy.
- Give breaks during meetings with either or both parties.
- Parties may put up walls- therefore, you may have to resume the Formal Grievance Process.



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- Be Kind
- Be Patient
- Be Understanding
- Include/ Update Supportive Measures

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Serving Impartially

- Avoiding Conflicts of Interest and Bias
- Reserving Judgment



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CONFLICTS OF INTEREST/ BIAS

- Generally toward Complainants/Respondents
- In a specific case
- Legal Definition of conflict of interest
 - A conflict between the private interests and the official or professional responsibilities of a person in a position of trust.
 - A conflict between competing duties (as in an attorney's representation of clients with adverse interests).

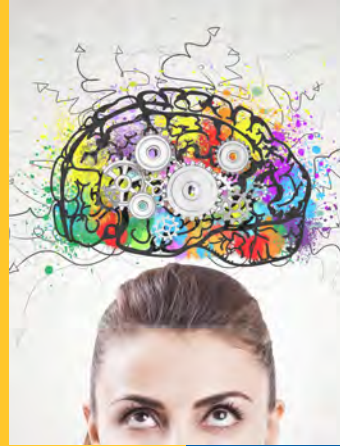


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Explicit Bias

- "Explicit bias" refers to the attitudes and beliefs we have about a person or group on a conscious level.
 - Expressed directly
 - Aware of bias
 - Operates consciously
- Example: Statement- "I don't think a woman would make a good CEO... Women are too emotional."



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Implicit Bias



- "Implicit bias" refers to the attitudes or stereotypes that affect our understanding, actions, and decisions in an unconscious manner.
 - Expressed indirectly
 - Unaware of bias
 - Operates subconsciously
- Example: Assuming that a woman entering a hospital room is a nurse instead of a doctor because of her gender.



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**Suspend
Your
Mind**

**Withhold/
Reserve
Judgment**



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**TITLE IX
UNIVERSITY**

See you in Lesson 5!



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Lesson 5
Types of
Informal
Resolution



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1

Resolution Agreement



- Respondent accepts responsibility
- Title IX Coordinator recommends sanction and remedies
- Parties agree to sanctions and remedies as recommended



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2

Facilitated Dialogue

Structured conversation between the Complainant and Respondent led by a facilitator with the possibility of reaching an agreeable outcome.



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3

Mediation

- Procedure in which the parties discuss disputes with the assistance or aid of an Informal Resolution Facilitator who helps them in reaching settlement.
 - Parties talk privately about their thoughts, feelings and experiences
 - Consider what actions could meaningfully resolve the situation
 - Explore mutually agreeable solution
 - Negotiate an agreement



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4



Shuttle Negotiation/ Conversation

Conversation that is indirect and facilitated by Informal Resolution Facilitator.



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5



Restorative Justice Practices

- Emphasis on repairing the harm caused by the behavior
- Best accomplished through cooperation
- Can lead to transformation of people, relationships, and communities
- Can be used in any type of resolution



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6

See you in Lesson 5!





Lesson 6 Wrap Up & Assessment

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REMINDER!!



- ✓ No one way to do IR
- ✓ This is an introductory course
 - a lot to being a neutral
 - seek out learning opportunities!
- ✓ No one has done this before!

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Learning Objectives



- ✓ Understand the law and regulations
- ✓ Explain Title IX process on campus
- ✓ Understand the IR process within the formal Title IX grievance process
- ✓ Recognize and evaluate sexual harassment and program or activity
- ✓ Explain importance of serving impartially in your role
- ✓ Understand your role as an IR facilitator, including the role of a neutral

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Questions???



- ❖ Contact your Title IX Coordinator
- ❖ We are here for you!
(info@titleixu.com)

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ASSESSMENT OF KNOWLEDGE

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