Student Conduct Hearing Administrator Training

Department of Student Conduct and Community Standards
Title IX Office
Human Resources
Ethics and Compliance
Office of the General Counsel
Victim Advocate Program
Title IX Investigations

Office of Title IX
Health & Wellness Center
960 Learning Way, Suite 3501
850-645-2741

knowmore.fsu.edu
Learning Objectives:

• Defining the jurisdiction/purview/scope of the Title IX Compliance policy.

• Explaining prohibitive conduct that is considered Sexual Harassment and how Consent is defined.

• Roadmap of Title IX Compliance complaint/grievance and resolution process.
Educational Programs or Activities

Under the Title IX Compliance policy, sexual harassment is prohibited in all FSU educational programs or activities.

An Educational Program or Activity occurs:

• within the United States.

• wherein FSU exercises substantial control over the locations, events, and circumstances including: the complainant, the respondent, and the context in which the sexual harassment occurs.
  
  – The complainant and respondent must be participating in (or attempting to participate in) the educational program or activity.
  
  – We can consider, as part of the location/event analysis, whether we funded, promoted, or sponsored the event, but no one factor is determinative.

• in buildings owned or controlled by recognized student organizations; or

• on FSU campuses.
Educational Programs or Activities

Within the scope of an Educational Program or Activity, this policy is applicable to:

- University Employees (faculty, staff, and OPS)
- Students
- Vendors/3rd Party Contractors
- Visitors/Guests
Defining Sexual Harassment

Under the Title IX Compliance policy, Sexual Harassment is an umbrella term that includes the following prohibitive conduct.

- **Sexual Assault**, specifically including:
  - Forcible Rape
  - Forcible Sodomy
  - Sexual Assault with an Object
  - Forcible Fondling
  - Incest
  - Statutory Rape

- **Dating Violence**
- **Domestic Violence**
- **Stalking**
- **Quid Pro Quo**
- **Hostile Environment**
Consent to Sex (and Touching)

In order to understand conduct that constitutes sexual harassment, it is critical to know how consent is defined.

Consent = intelligent, knowing, unambiguous, and voluntary.

• Consent is active, not passive. Failure to say ‘no’ does not mean ‘yes’.
• Consent can be withdrawn at any time and prior consent does not mean future consent.
• Someone can not give consent if they are:
  • Significantly impaired by drugs/alcohol
  • Asleep/unconscious/mentally impaired
  • Under 18
  • Coerced (bribed, threatened, physically forced)
Title IX Complaint/Resolution Process

General Key Elements:
• Complainant has right to choose if to proceed
• Notifications/Transparency
• Supportive measures for ALL parties
• Due Process for Complainant/Respondent
• Live hearings
• Appeal rights

Investigatory Key Elements:
• Formal Complaint – Signed by Complainant
  • Investigation or Informal Resolution
• Both parties:
  • notified simultaneously;
  • can submit statement/interview, documentation, and witnesses; and,
  • review evidentiary file before finalized and provide feedback.
• Refer to Department of Student Conduct and Standards

*See Title IX Flow Chart
Overview of Title IX Compliance
Complaint & Resolution Process
(pursuant to Title IX Compliance Policy will be assessed at each decision point)

1. Receipt of Incident Report
   - Outreach to potential Complainant
     - Yes: Schedule/Hold an information session
     - No Response: Do the allegations meet exigent circumstances?
       - Yes: Close the Title IX Case and refer to alternate process, if appropriate
       - No: Initiate Alternative Dispute Resolution Process

2. Files Complaint (Formal)
   - Requires Investigation
     - Obtain Complainant Statement/Documentation & Conduct Threshold Analysis
       - Does Not Pass Threshold: Dismiss Case, in writing, and refer to alternate process, if appropriate
       - Passes Threshold: Notify the Complainant/Respondent in writing of intent to Investigate

3. Schedule/Hold an information session
   - Document Only (Confidential)
     - Files Complaint (Informal)
       - Mediation

4. Obtain Complainant Statement/Documentation & Conduct Threshold Analysis
   - If Threshold Passes:
     - Notify Complainant/Respondent of allegations/live hearing
     - Obtain Statements/Documentation from the Complainant's Witness(es)
     - Release Evidence/Explain File Review w/ Both Parties
     - Complainant/Respondent review/respond (10 days)
     - Finalize Investigatory Report
     - Charges Warranted:
       - Conduct Live Hearing
       - Decision maker writes decision letter and notifies parties
       - Notify Parties of Appeal Process
     - No Charges:
       - Forward to Student Conduct and Comm. Standards for review/charging.

5. Obtain Respondent Statements/Documentation
   - Release Evidence/Explain File Review w/ Both Parties
   - Complainant/Respondent review/respond (10 days)
   - Dismiss Case, in writing, and refer to alternate process, if appropriate

6. Initiate Alternative Dispute Resolution Process
   - Restorative Justice
   - Mediation