



Title IX of the Education Amendments Act of 1972

**Nondiscrimination on the Basis of Sex in Education Programs or Activities
Receiving Federal Financial Assistance based on Title IX 2020**

ST9T Training (#1)



Disclaimer of Title IX 2024

- On January 9, 2025, a federal district court issued a decision vacating the 2024 Final Rule. **Consistent with the court's order, the 2024 Title IX regulations and these resources are not effective in any jurisdiction.**
- The U.S. Department of Education stated that it would revert to enforcing Title IX based on the rules established in 2020 under the Trump administration.
- Due to the legal reversal, the 2020 Title IX regulations are now the binding standard for all educational institutions, and training must accurately reflect this change.
- A comprehensive summary for 2025 of the changes are available from the U.S. Department of Education's web site:
<https://www.ed.gov/laws-and-policy/civil-rights-laws/title-ix-and-sex-discrimination/sex-discrimination-overview-of-law>



Staff Annual Training #1
Title IX 2020

Title IX Regulations

Staff Annual Training #1

This School Staff Annual Training #1 developed by the School Title IX Team (ST9T) complies with the Title IX of the Education Amendments Act of 1972, 34 CFR P106, Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance. The training also provide the Title IX designated personnel with the tools needed to serve **impartially and without bias such that the prior professional experience of a person** whom a recipient would like to have in a Title IX role **need not disqualify the person** from obtaining the requisite training to serve impartially in a Title IX role” (30252). The training covers:

1. **School Title IX Team (ST9T) Distributed Model and Members Characteristics**
2. **Review of Rule Concepts;**
3. **School Non-discrimination Policy;**
4. **Title IX Sexual Harassment Definitions;**
5. **School in Notice;**
6. **Response the School Must Provide**
7. **How To File A Formal Complaint Regarding Sexual Harassment;**
8. **Grievance Procedures And Requirements;**
9. **Walking Through The Grievance Process;**
10. **School Staff Annual Training; and**
11. **References.**

Regardless of the annual training the school gives to its employees, the Department of Education will hold the school accountable for meeting its response obligations under § 106.44(a) and for designating and authorizing a Title IX Coordinator who has been trained to serve free from bias.



**School Title IX Team (ST9T)
Distributed Model and
Members Characteristics**

Title IX Regulations Training

School Providing for Live Hearings in a Title IX Grievance

In compliance with the Title IX 2020 regulations Advance Science International College (the School), as a postsecondary institution and the recipient of a grievance process, that could occur, the School must provide for a **live hearing** where all witnesses are present and subject to a **cross-examination** which allows the opposing party to question the witness directly and assess their demeanor and responses in real-time.

A witness **live testimony** is central to a live cross-examination hearing to allow for immediate assessment of credibility. Therefore, at the live hearing the School's decision-maker(s) must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such **cross-examination** at the **live hearing** must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally, notwithstanding the discretion of the recipient to otherwise restrict the extent to which advisors may participate in the proceedings.

Live hearings may be conducted with all parties physically present in the same geographic location or, at the recipient's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other. Recipients must create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.

Notice: given the importance of a grievance process for any live hearing that could occur, physically or virtually, the School's advisor of choice is:

Attorney Bob Harris ESQ

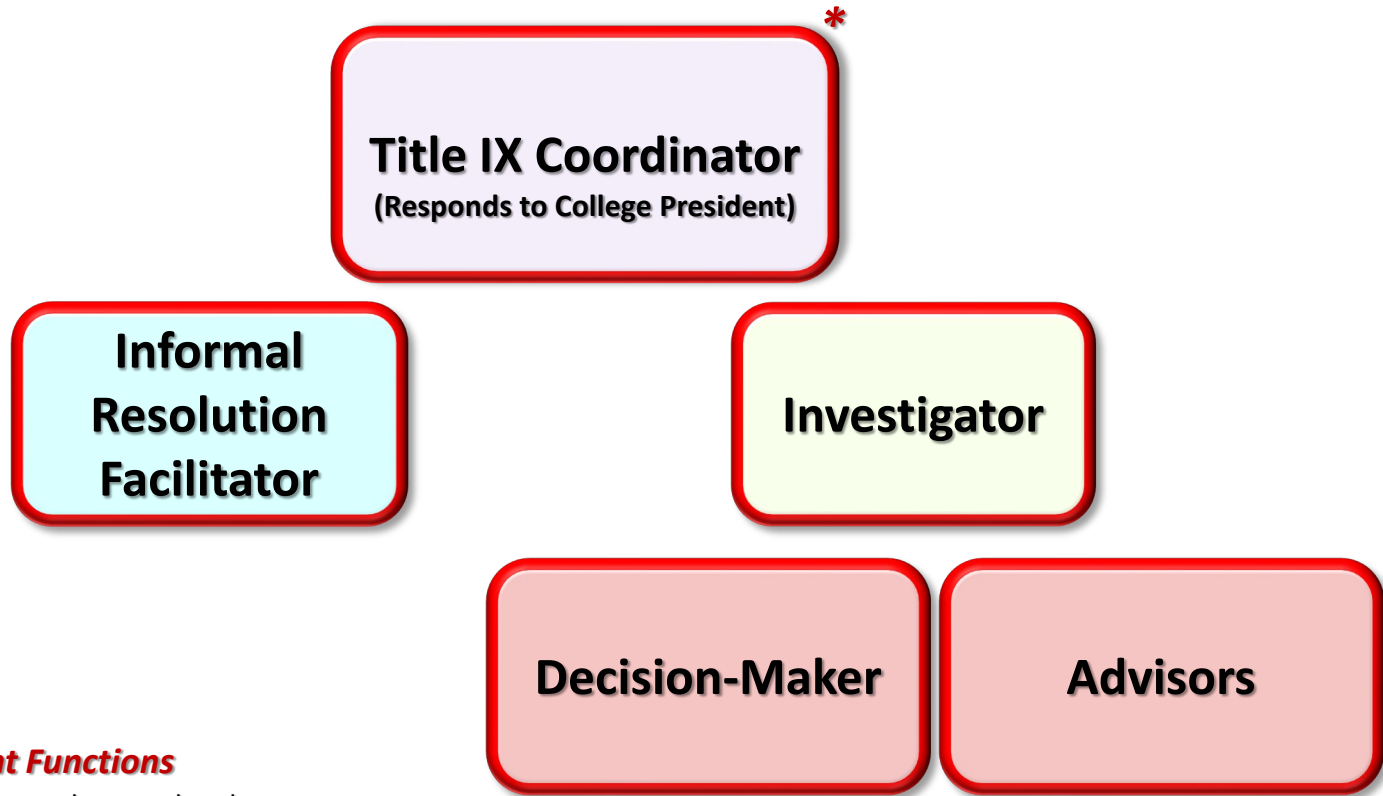
bharris@lawfla.com

850.425-5210

<https://www.lawfla.com/attorney/bob-l-harris/>

Title IX Regulations Training

School Title IX Team (ST9T) Distributed Model



****Separated Independent Functions***

Once triggered each function must be completed autonomously and protected from any type of retaliation

Because the stakes are so high in a T9 investigation case, with potentially life altering consequences that may flow from a decision in favor of either party, the ST9T distributed model separates Investigation from Decision Making as an important way to promote an overall fair and unbiased process.

Title IX Regulations Training

Title IX Coordinator Characteristics

ST9T Team Title	Responsibilities	Must Receive Training On	Organization Status
<ul style="list-style-type: none"> ❖ Title IX Coordinator ❖ Deputy Title IX Coordinator 	<ul style="list-style-type: none"> ❖ Coordinate T9 actions ❖ Intake reports and complaints ❖ Conduct T9 analysis ❖ Initiate a formal complaint ❖ Implementing supportive measures 	<p>ST9T Training (#1)</p> <ul style="list-style-type: none"> ❖ Sexual harassment ❖ How to conduct an investigation and grievance process including: <ul style="list-style-type: none"> (a) Hearing process (b) Appeals process as applicable (c) Informal resolution process as applicable (d) Serving impartially avoiding prejudgments of the facts at issue, conflicts of interest, and without bias ❖ Legally Privileged Information ❖ Issues of relevancy 	<ul style="list-style-type: none"> ❖ Must be an employee ❖ May not serve as decision makers

Title IX Regulations Training

Investigator Characteristics

ST9T Title	Responsibilities	Training	Organization Status
❖ Investigator	<ul style="list-style-type: none"> ❖ Conduct fair, objective and impartial investigation ❖ Differentiate between Related & Relevant Evidence ❖ Observe Issues of individual Privilege 	<p>ST9 Training (#1)</p> <ul style="list-style-type: none"> ❖ Sexual harassment ❖ How to conduct an investigation and grievance process including: <ul style="list-style-type: none"> (a) Hearing process (b) Appeals process as applicable (c) Informal resolution process as applicable (d) Serving impartially avoiding prejudgments of the facts at issue, conflicts of interest, and without bias ❖ Legally Privileged Information ❖ Issues of relevancy <p>ST9 Training (#2)</p> <ul style="list-style-type: none"> ❖ Report-writing 	<ul style="list-style-type: none"> ❖ Staff Or External ❖ May not serve as decision makers

Title IX Regulations Training

Decision-Maker Characteristics

ST9T Title	Responsibilities	Training	Organization Status
❖ Decision Maker	<ul style="list-style-type: none"> ❖ Evaluate evidence ❖ Rule on relevancy during cross examination process ❖ Make and write Decision 	<p>ST9 Training (#1)</p> <p>ST9 Training (#3)</p> <ul style="list-style-type: none"> ❖ <u>Live Cross-Examination</u> and Practice. ❖ Relevancy in <u>Live Cross-examination</u> ❖ The Hearing Procedures ❖ Hearing Cross-Examination by Advisors ❖ Recording the Hearing ❖ Evaluating Relevant Evidence and Resolving Credibility Disputes ❖ Objectively Evaluating Relevant Evidence ❖ Approaches During Cross-Examination ❖ Written Determination Regarding Responsibility 	<ul style="list-style-type: none"> ❖ Staff or External ❖ Cannot serve in any other capacity

Title IX Regulations Training

Advisor and Informal Resolution Facilitator Characteristics

ST9T Title	Responsibilities	Training	Organization Status
❖ Advisor	<ul style="list-style-type: none"> ❖ Question opposing party and witnesses ❖ Appropriately prevents personal confrontation between the parties 	❖ None Required	<ul style="list-style-type: none"> ❖ Party provided ❖ Staff or External
❖ Informal Resolution Facilitator	❖ Conduct an Informal Resolution Process	ST9 Training (#4) ❖ Informal Resolution Process	❖ Staff or External

Regardless of the training the School gives to its employees, the Department of Education will hold the school accountable for meeting its response obligations under § 106.44(a).



Review of Rule Concepts

Title IX Regulations Training

How to Serve Impartially

Including by avoiding prejudgment of the facts at issue, bias and conflicts of interest

To Be Impartial

Is to be objective, so you don't mind one way or another how something is going to turn out. It's important for **School Title IX Team (ST9T)** members to be impartial when reaching a verdict, rather than allowing biases and preconceptions affect their judgment of facts.

How to show impartiality when serving in the ST9T?

1. Not pre-judging facts
2. Taking into account individual needs and requirements in all actions.
3. Understanding that treating everyone fairly does not mean everyone is treated the same.
4. Always giving people an equal opportunity to express their views.
5. Communicating with everyone, making sure the most relevant message is provided to all.

Always keep on mind that a party should not be “unfairly judged” due to inability to recount the details of an alleged incident, or doubt such inability due to trauma, the effects of drugs or alcohol, or simple fallibility of human memory.

Title IX Regulations Training

Avoiding Bias

Bias Definition

Is prejudice in favor of or against one thing, person, or group compared with another, usually in a way considered to be unfair. It is also an undue favor, support or backing extended to a person, group or race or even an argument against another.

Based on anecdotal evidence from commenters asserting specific instances that ostensibly reveal a recipient's Title IX personnel exhibiting bias for or against men, women, complainants, or respondents, the Department believes that bias, **especially sex-based bias**, is a particular risk in Title IX proceedings and aims specifically to reduce and prevent bias from influencing how the school responds to sexual harassment including through required training for Title IX personnel.(p. 30252)

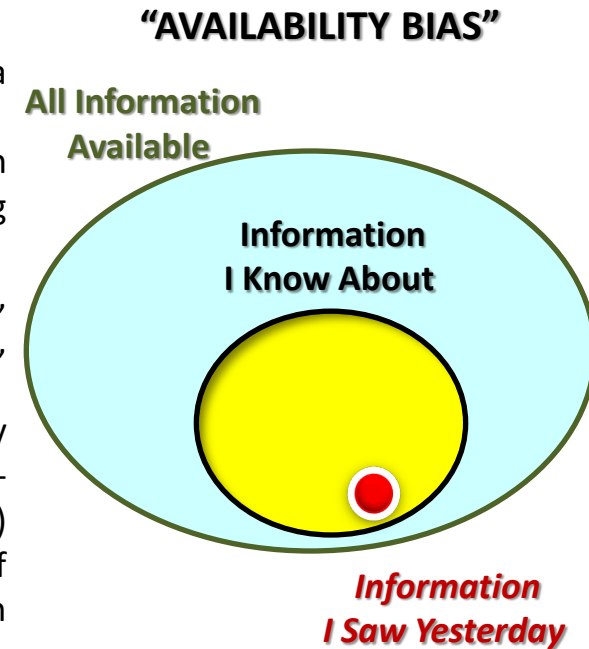
The Department declines to narrow or widen its training provision by specifying whether conflicts of interest or bias must be "actual" or "perceived"... the topic of sexual harassment inherently involves issues revolving around sex and sexual dynamics such that a standard of 'appearance of' or 'perceived' bias might lead to conclusions that most people are biased in one direction or another by virtue of being male, being female, supporting women's rights or supporting men's rights, or having had personal, negative experiences with men or women." (p. 30252)

Title IX Regulations Training

Avoiding Bias

Examples of Bias

- ❖ Using the most recent information available, the most referenced information, and/or the information felt most strongly about.
- ❖ Situations where information was already heard from a witness or party in a prior case and it made a credibility determination referencing that person;
- ❖ Situations where information “assembled” by one school member is shared with another member outside the grievance process (in meetings to discuss pending cases, in passing while at work, etc.)
- ❖ Not embracing the fact that everyone present will exhibit the availability bias, and encourage a better outcome by inviting a more diverse range of people, memories and thinking.
- ❖ Not recalling that **Our brains love free association**: When doing any brainstorming or ideation for strategic options, help people fight the tide of cue-dependent forgetting (the failure to recall information without memory cues) and help them get out of the regular thinking rut by having a wide variety of photos and other visual cues up on the wall, to stimulate ideas by association (the more random the better).
- ❖ Allowing **Bystander Apathy**: the more people there are available to do something, the less responsibility each person feels to do anything.
- ❖ Drifting into failure.



Avoiding Pre-Judgment of Facts at Issue is a good way to avoid bias and ensure impartiality by:

- ❖ Keep an open mind when approached
- ❖ Do not assume and actively listen to all the information presented by complainants
- ❖ Recall that each case is unique, different, and serious

Title IX Regulations Training

Avoiding Bias

Concerns Raised

- ❖ Are all paid staff members biased in favor of the institution that employs them?
- ❖ Was an institutional history of covering up issues enough for bias?
- ❖ Were past tweets or public comments that appear to support complainants or respondents sufficient to show bias?
- ❖ Is identifying as a feminist enough to show bias?
- ❖ Should bias extend to “perceived bias” or did it require actual bias?

Response of Department to Perceived vs. Actual Bias

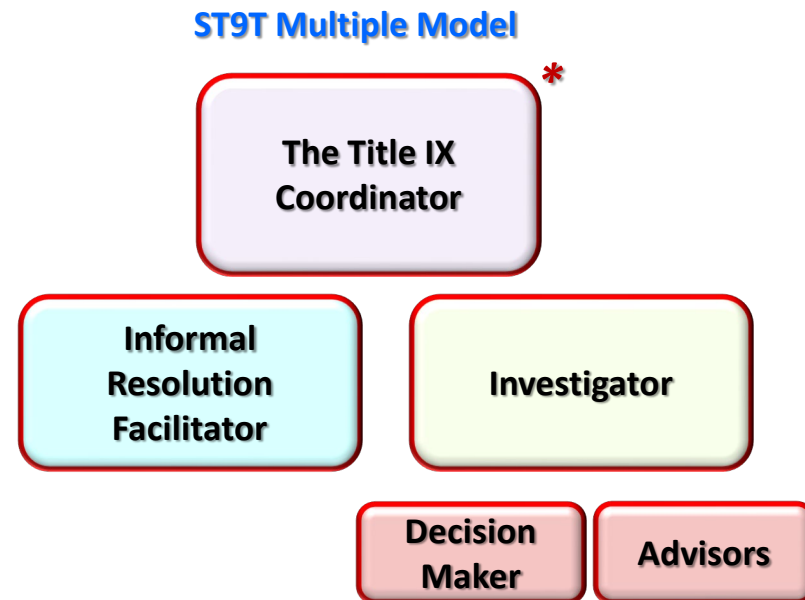
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Title IX Regulations Training

Avoiding Bias

How A Multiple ST9T Model with Independent Functions Minimizes Bias

1. No single-investigator model (34 C.F.R. 106.45(b)(7)(i)) to avoid acting improperly and/or relying on triple hearsay.
2. Not using the single investigator model would reinforce a genuine **live hearing** process with cross-examination and not a “heavy thumb on the scale.”
3. A Decision-maker and the Investigator **must not** serve as the Title IX Coordinator or investigator (30367).
4. Using a multiple model assures independent actors in a **live hearing** where parties can probe each other’s credibility, and having opportunity for parties to know what evidence the investigator is considering before rendering an ultimate decision.
5. Fundamental unbiased fairness to both parties requires that the intake of a report and formal complaint, the investigation (including party and witness interviews and collection of documentary and other evidence), drafting of an investigative report, and ultimate decision about responsibility should not be left in the hands of a single person (or team of persons each of whom performed all those roles).



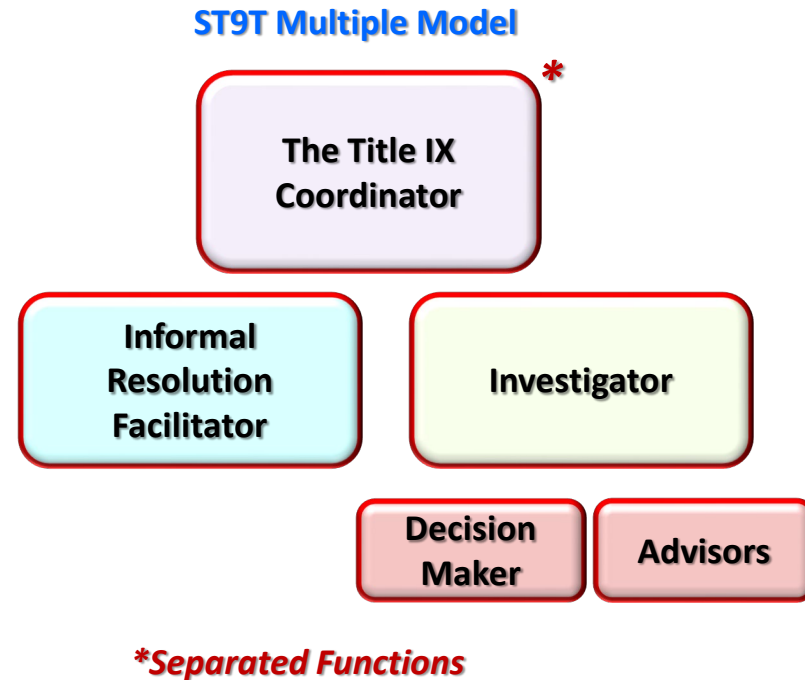
***Separated Functions**

Title IX Regulations Training

Avoiding Bias

How Multiple ST9T Structure Minimizes Bias

6. After the recipient (school) has conducted its impartial investigation, a separate decision-maker must reach the determination regarding responsibility; that determination can be made by one or more decision-makers (such as a panel), but no decision-maker can be the same person who served as the Title IX Coordinator or investigator.
7. Avoiding combination of the investigative and adjudicative functions in a single individual increases the accuracy of the determination regarding responsibility, because individuals who perform separate roles may not have **confirmation bias** and **other prejudices** that might taint the proceedings, hence separating those functions helps prevent bias and prejudice from impacting the outcome.
8. Additionally the institution may consider external or internal investigator or decision-maker or outsource.



The School Have

- ❖ **P&P objective rules for determining** when a Decision Maker or Title IX Coordinator, or investigator, or person who facilitates an informal resolution is **biased**; **and how best** to implement the prohibition on conflicts of interest and bias..." (30250).
- ❖ The discretion to have a process to raise bias during the investigation.
- ❖ Basis for appeal of decision-maker's determination per 34 C.F.R. 106.45(b)(8)(i)(C).

Title IX Regulations Training

Conflicts of Interest

Including by avoiding prejudgment of the facts at issue, bias and conflicts of interest

Conflict of Interest

- ❖ Is a situation in which the concerns or aims of two different parties are incompatible.
- ❖ A situation in which a person is in a position to derive personal benefit from actions or decisions made in their official capacity.
- ❖ A **conflict of interest occurs** when an individual's personal interests – family, friendships, financial, or social factors – could compromise his or her judgment, decisions, or actions in the workplace.
- ❖ A conflict of interest occurs when a party has competing interests or loyalties because of their duties to more than one person or organization.
- ❖ A person with a conflict of interest can't do justice to the actual or potentially conflicting interests of both parties.

The Florida State statutes: a conflict of interest exists if there is "any matter that the officer knows would inure to his or her special private gain or loss." "'Special private gain or loss' means an economic benefit or harm that would inure to the officer, his or her relative, business associate, or principal, unless the measure affects a class that includes the officer, his or her relative, business associate, or principal." Fla. Stat. Ann. § 112.3143.

Concerns About Conflict of Interest

Does a decision-maker with financial and reputational interests aligned with institution create a conflict?

Would the Title IX Coordinator directly supervising the decision-maker create a conflict?

Does past advocacy for a survivor's or respondent's rights group create conflict (also comes up in bias)?

Are perceived conflicts of interest sufficient or do the conflicts have to be actual conflicts?

Title IX Regulations Training

Bias and Conflicts of Interest

Concerns Raised

- ❖ Similar to those raised regarding bias:
- ❖ Does a decision-maker with financial and reputational interests aligned with institution create a conflict?
- ❖ Would the Title IX Coordinator directly supervising the decision-maker create a conflict?
- ❖ Does past advocacy for a survivor's or respondent's rights group create conflict (also comes up in bias)?
- ❖ Are perceived conflicts of interest sufficient or do the conflicts have to be actual conflicts?

Response of Department

- ❖ Final regulations “leave recipients (school) **flexibility to use their own employees, or to outsource** Title IX investigation and adjudication (decision making) functions, and the Department encourages recipients to pursue alternatives to the inherent difficulties that arise when a recipient's own employees are expected to perform functions free from conflicts of interest and bias.” (30251).
- ❖ No *per se* prohibited conflicts of interest under 106.45(b)(1)(iii) in using employees or administrative staff. (30352)—including supervisory hierarchies (but see portion about decision-makers and Title IX Coordinator as supervisor)
- ❖ No *per se* violations of 106.45(b)(1)(iii) for conflict of interest or bias for professional experiences or affiliations of decision-makers and other roles in the grievance process. (30353).
- ❖ Cautions against using generalizations to identify bias and conflict of interest and instead recommends using a reasonable-person test to determine whether bias exists.

“For example, assuming that all self professed **feminists**, or self-described **survivors**, are biased against men, or that a **male** is incapable of being sensitive to women, or that prior work as a **victim advocate**, or as a **defense attorney**, renders the person biased for or against complainants or respondents” is unreasonable (30252)

Title IX Regulations Training

Avoiding Sex Stereotypes

Examples of Sex Stereotypes:

1. Women have regret sex and lie about sexual assaults.
2. Men are sexually aggressive or likely to perpetrate sexual assault.
3. Consideration of marginalized groups:
 - ❖ People With Disabilities
 - ❖ People Of Color
 - ❖ People Who Identify In The “LGBTQ” Community (30259-30260)
4. Treating someone differently (including harassing behaviors) because he or she does not act masculine or feminine enough based on predetermined ideas of what it means to be either masculine or feminine. This example is possibly the most prevalent: having preconceived notions of how people should behave based on their gender and then treating them differently if they do not meet the expectations. Common gender stereotypes include things like expecting males to be tough, aggressive, or unattached or expecting females to be more sensitive, more emotional, and not aggressive.
5. Expecting, without a clear business justification, that a person’s attire will confirm to stereotypical male or female dress standards.
6. Treating someone differently because his or her interpersonal relationships do not conform to perceived hetero-normative culture.
7. Having different policies, without business justification, for men and women when it comes to things like appropriate attire, hairstyles, or makeup.
8. Asking only persons of one gender to perform duties that are stereotypically assigned to that gender. For example, if extra cleaning is needed around the workplace, it would be a sex stereotype to assume that the women in the workplace would be better suited for those duties. Or, if outdoor maintenance activities are required, it would be a sex stereotype to assume that only the men in the workplace could perform that role.²¹

Title IX Regulations Training

Legally Privileged Information

Legally Privileged Information

1. The School Title IX Team (ST9T) cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the ST9T obtains that party's voluntary, written consent to do so for a grievance process under this section." Section 106.45(b)(5)(i) (see also 30317).
2. A ST9T grievance process ***must...not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of,*** information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. Section 106.45(b)(1)(x).
3. Other typical privileges recognized across jurisdictions but with variations (will want to involve your legal counsel for definitions in your jurisdiction):
 - ❖ Attorney-client communications
 - ❖ Implicating oneself in a crime
 - ❖ Confessions to a clergy member or other religious figures
 - ❖ Spousal testimony in criminal matters
 - ❖ Some confidentiality/trade secrets

Title IX Regulations Training

Review of Issues of Relevancy

Traditional Theories Of Relevance

1. Until recently, a respondent who asserted a defense routinely would offer evidence, assuming such evidence existed or could be manufactured," of the complainant's prior to any type of sexual activity.
2. A defendant might elicit such information by cross-examining the complainant about her prior sexual activity, by calling one or more men to testify about their prior sexual relations with her, or by calling witnesses to testify about the complainant's reputation of no chastity or promiscuity.
3. Even if such evidence had no direct relevance to the specific facts of the case, it was considered relevant for the following reasons:

Credibility. It was considered "a matter of common knowledge that the bad character of a man for chastity does not even in the remotest degree affect his character for truth... while it does that of a woman." In other words, evidence that a woman was unchaste was thought relevant to prove that she was also a liar.

Consent; the "yes/yes inference." Evidence that the complainant engaged in non-marital sex was considered relevant to support a defendant's claim that she consented to have sex with him on the occasion in question because "common experience teaches us that the woman who has once departed from the paths of virtue is far more apt to consent to another lapse than is the one who has never stepped aside from that path.

Defendant's reasonable belief that complainant consented. Even if the complainant did not in fact consent to intercourse, information concerning the complainant's prior sexual activity, *if known to the defendant* prior to the events giving rise to the rape accusation, was considered relevant on the question whether the defendant reasonably believed that she consented.

Title IX Regulations Training

Review of Issues of Relevancy

"Rape Shield" Legislation

In the past three decades, this evidentiary use of the complainant's prior sexual behavior has been harshly criticized in four basic ways:

1. **First**, the attitudes underlying the "credibility" and "consent" theories of relevance, previously accepted as "common knowledge," became recognized as factually questionable and, eventually, politically unacceptable.
2. **Second**, indulgence in such beliefs had an unacceptable cost: a rape defendant could subject the complainant to public embarrassment and humiliation by eliciting evidence concerning her prior sexual conduct. This not only compounded the trauma of the rape, but also discouraged many victims from coming forward in the first place.
3. **Third**, such evidence injected collateral matters which prolonged the trial and distracted the jury from the facts at issue.
4. **Fourth**, admission of such evidence too often resulted in acquittals of men who should have been convicted.

The federal government and most states responded to the criticisms and enacted "rape shield laws", to restrict the use of evidence of a complainant's prior sexual conduct in prosecutions for sex offenses and related crimes. As a result, the general principle excluding evidence of the complainant's prior sexual conduct if its only theory of relevance is the "yes/yes inference" has won near-universal acceptance.

Many rape shield statutes also require a defendant to provide advance written notice of the intent to use such evidence and provide for an in camera pretrial hearing to determine its admissibility. Rule 412 of the Federal Rules of Evidence is typical of such statutes.

Title IX Regulations Training

Review of Issues of Relevancy

"Relevancy" and "Prejudice"

1. After a court determines that evidence of the complainant's prior sexual behavior has sufficient special relevance to merit consideration, the court must assess that relevance against the risk of unfair prejudice, embarrassment, humiliation, and other similar factors.
2. General evidence principles dictate that if evidence is relevant on a contested issue, courts should admit it unless "the danger of unfair prejudice, confusion of the issues, or misleading the jury" substantially outweighs its legitimate probative value.
3. A number of rape shield statutes explicitly incorporate such language.

The application of the term "relevant" or "probative value" in this context needs no detailed explanation. Simply, a court should require a defendant to specify the issue or issues the evidence is intended to address and demonstrate how the evidence is truly probative on those issues exclusive of the forbidden "yes/yes inference." Application of the term "**prejudice,**" however, causes some confusion in this context.. The Supreme Court of Washington, in *State v. Hudlow*," stated this concept succinctly:

1. The issue is not whether evidence is prejudicial in the sense that it is detrimental to someone involved in the trial.
2. *Rather, the question is whether the evidence will arouse the jury's emotions of prejudice, hostility, or sympathy. Arguments that sexual history evidence is inadmissible because of its prejudicial impact on the rape victim miss the point.*
3. *Adverse psychological effects suffered by crime victims, although regrettable, are not grounds for excluding probative evidence.*

Title IX Regulations Training

Review of Issues of Relevancy

Reputation and Opinion Evidence

1. Most rape shield statutes now regulate the use of evidence of the complainant's general reputation for no chastity or promiscuity on the issue of whether she consented to sexual intercourse with the defendant on the occasion in question.
2. Exclusion of reputation and **live testimony** constitutes a legislative finding that evidence of a woman's reputation regarding sexual behavior **is never relevant enough** to be admitted.
3. This finding effects a worthwhile change, not merely in the law of evidence, but the substantive law of rape as well: a **defendant can no longer rely** upon what he had heard about the complainant to justify a reasonable belief that she consented to have sex with him.
4. Defendants occasionally offer expert **live testimony** on complainant's competency and credibility. Courts are divided on whether a court has authority to order a sexual offense complainant to undergo a mental examination to determine her competency or credibility.

Note: A witness's **LIVE TESTIMONY** is central to a **live cross-examination hearing** to allow for immediate assessment of credibility, though alternatives like affidavits for direct examination can be used with consent. A "live" hearing typically means the witness is present and subject to cross-examination, which allows the opposing party to question the witness directly and assess their demeanor and responses in real-time.

Title IX Regulations Training

Review of Issues of Relevancy

Admissibility Of Complainant's Past Sexual Conduct To Rebut Physical Evidence

1. Most rape shield statutes authorize the trial judge to admit evidence of the complainant's prior sexual conduct if relevant to rebut physical evidence, such as evidence of the source of semen or injury, offered **by** the prosecution.
2. 80 FRE 412(b)(1)(a), for example, states that if a defendant provides pretrial notice, he may offer "evidence of specific instances of sexual behavior of the alleged victim.., to prove that a person other than the accused was the source of semen, injury, or other physical evidence.
3. Some corresponding state provisions are worded more broadly **by** also permitting the introduction of evidence regarding pregnancy and disease.
4. Courts in states whose statutes lack such a provision acknowledge that, in appropriate circumstances, admission of such evidence is constitutionally required.

Per 34 C.F.R. 106. 45(b)(6)(i)

- “Only relevant cross-examination and other questions may be asked of a party or witness.”
- “**Cross examination** must focus only on questions that are relevant to the allegations in dispute.” (30319)
- Party or witness **cannot** answer a question until the Decision-Maker determines whether it is relevant. Requires decision-makers to make “on the spot” determinations and explain the “why” if a question or evidence is not relevant (30343)



Title IX Regulations Training

School Non-Discrimination Policy

Title IX Regulations Training

School Non Discrimination Policy

Title IX prohibits discrimination on the basis of sex in education programs or activities by recipients of federal financial assistance. Specifically, the Title IX regulations require the school to designate a Title IX coordinator, adopt and disseminate a nondiscrimination policy, and put grievance procedures in place to address complaints of discrimination on the basis of sex in educational programs and activities. Hence, in compliance with the U.S. Department of Education Office for Civil Rights (OCR), the school publishes the following statement:

Notice of Non Discrimination

The Advance Science International College (ASICollege) does not discriminate on the basis of race, color, national origin, sex, disability, pregnancy, or age in its programs and activities and provides equal access to the public. The following persons has been designated to handle inquiries regarding the non-discrimination policies:

Leticia Quan

Financial Director

Title IX Coordinator

15485 Eagle Nest Lane, Suite 210, Miami Lakes, FL 33014

305.626.6007

lquan@asicollege.edu

Maritza Leyva

Admissions Director

Deputy Title IX Coordinator

15485 Eagle Nest Lane, Suite 210, Miami Lakes, FL 33014

305.626.6007

mleiva@asicollege.edu

Additional questions regarding Title IX may be referred to the school's Title IX coordinator or the Deputy Title IX coordinator or to the U.S. Department of Education Office for Civil Rights.

Title IX Regulations Training

Distribution of School Non Discrimination Policy

The notice of Non Discrimination is widely distributed to all applicants for school admission, applicants for employment, students and parents or guardians , employees, sources of referral of applicants for admission and employment, and all unions or professional organizations holding collective bargaining or professional agreements with the recipient. The notice will also be prominently posted on ASI College's:

- ❖ **College Website;**
- ❖ **College Catalog;**
- ❖ **At Campus Board Bulletins;**
- ❖ **During Orientation Meetings;**



Title IX Sexual Harassment Definitions

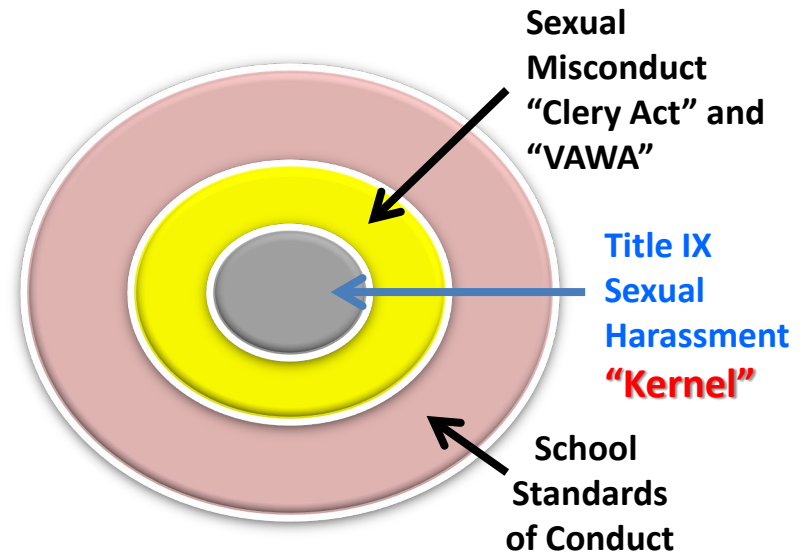
Title IX Regulations Training

What is Sexual Harassment for Title IX?

Sexual harassment definition for Title IX purpose means **conduct on the basis of sex** that satisfies one or more of the following:

- i. **“Quid Pro Quo” harassment:** a school employee conditioning education benefits on participation in unwelcome sexual conduct; or
- ii. **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 school’s education program or activity; or
- iii. **Sexual assault, dating violence, domestic violence, or stalking** as those terms are defined under other Federal laws called the **“Clery Act”** and the **“Violence Against Woman Act (VAWA).”**

Title IX in School Context

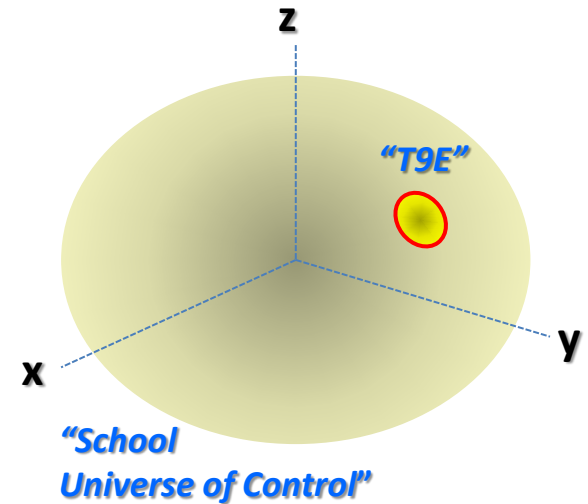


Title IX Regulations Training

Scope in the “School Universe of Control”

a. Title IX covers sexual harassment events (T9E) that happens in all the school **“education programs or activities”**

- ❖ Communicating and/or visiting Campus
- ❖ Admissions procedures
- ❖ Orientation meeting
- ❖ Theory and lab classes on campus and/or on line;
- ❖ Advising sessions;
- ❖ Clinical rotation classes;
- ❖ Simulation sessions;
- ❖ Activities in the Learning Resource System;
- ❖ Break times;
- ❖ Extra educational activities and/or reviews;
- ❖ School activities scheduled or not in any campus facilities; and
- ❖ When in the parking lot;



b. In addition and most importantly, Title IX covers sexual harassment **“beyond on campus situation”**

- ❖ Any location, events, and circumstances **“where a school exercises substantial control”** over the context of the alleged harassment and the person accused of committing sexual harassment; and
- ❖ Any building owned or controlled by a student organization that is officially recognized the school (as a postsecondary institution).

**The Moment a “T9 Event” occurs on or within the “School Universe of Control”
The Title IX Sexual Harassment Regulations Take Over**



School in Notice

Title IX Regulations Training

When Does School Have Notice of Sexual Harassment?

Actual knowledge means notice of *sexual harassment* or *allegations of sexual harassment* submitted to:

- a. A school's Title IX Coordinator ,whose ***contact information is provided*** in the Published School Catalog, Enrollment Contract, Website, and during the Orientation Meeting (conducted before the first day of classes); or
- b. Any official of the school who has authority to institute connective measures on behalf of the school; or
- c. Information submitted to the school by any person, whether the alleged victim or a parent, friend, or bystander, which has the right to report sexual harassment to put the school on notice.

Important

Any person may report sex discrimination, including sexual harassment, whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment:

- ❖ **In person; or**
- ❖ **By mail; or**
- ❖ **By telephone; or**
- ❖ **By electronic mail using the contact information listed for the Title IX Coordinator; or**
- ❖ **By any other means that results in the Title IX Coordinator receiving the person's verbal or written report**

- d. In elementary and secondary schools, telling any school employee always put the school on notice.

Once The School Has Actual Knowledge Of "Sexual Harassment" Or "Allegations Of Sexual Harassment" Occurring In Its "Education Program Or Activity" And "In The United States" The School Has To Respond And Take Action

Golden Rule



Response the School Must Provide

Title IX Regulations Training

What Kind of Response Must the School Provide?

- a. The school can't be **“deliberately indifferent”** before a report or allegation of sexual harassment. That also means that the school and all its employees can't be **“clearly unreasonable”** in light of the known circumstances.
- b. The school must notify applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, employees, and all unions, of the name or title, office address, electronic mail address, and telephone number of the employee or employees designated as the Title IX Coordinator.
- c. According to mandatory response obligations, the school Title IX Coordinator, must provide information to any individual concerning:
 1. **The availability of supportive measures**
 2. **Implementing supportive measures**
 3. **The right to file a complaint; and**
 4. **How to file a formal complaint**
 5. **School contacts to file a formal complaint**

**The School's Instructors, Administrators, and the Support Staff
Can't Be “Cavalier” With Any Sexual Harassment Known Circumstances**

Golden Rule

Title IX Regulations Training

C.1. The Availability Of Supportive Measures

- a. Required in all cases, supportive measures are free, confidential, individualized services designed to restore or preserve equal access to education, protect safety, or deter sexual harassment.
- b. There doesn't need to be a formal complaint for an alleged victim to receive supportive measures.
- c. Support a student, and they are not punitive or disciplinary with respect to another student.
- d. Don't unreasonably burden any other party.

Examples of supportive measures include:

- ❖ Reference to external counseling;
 - ❖ Organization Advising;
 - ❖ Extensions of deadlines;
 - ❖ Modifications of work or class schedules;
 - ❖ Campus escort services;
 - ❖ Changes in housing location (if offered by the organization);
 - ❖ Increased security or monitoring of parts of campus;
 - ❖ Mutual restrictions on contact between individuals;
- e. The Final Rule evaluates a school's selection of supportive measures and remedies based on what is not clearly unreasonable in light of the known circumstances, and does not second guess a school's disciplinary decisions, but requires the school to offer supportive measures, and provide remedies to a complainant whenever a respondent is found responsible.

C.2. Implementing Supportive Measures

- a. The school always has to consider the alleged victim's wishes when it comes to request for supportive measures.
- b. The school generally has to keep supportive measures confidential.
- c. The Title IX Coordinator is responsible to implementing supportive measures.



How to File a Formal Complaint Regarding Sexual Harassment

Title IX Regulations Training

C.3. The Right To File A Complaint

The Title IX statute applies to persons in the United States with respect to education programs or activities that receive Federal financial assistance. **34 CFR Part 106** final regulations ensure that complainants have any or all of the following options:

1. The ability to report anonymously (though a recipient will be unable to provide supportive measures without knowing the complainant's identity);
2. The ability to report and receive supportive measures while keeping the complainant's identity confidential from the respondent (unless the respondent must know the complainant's identity in order for the recipient to implement a supportive measure);
3. The right to file a formal complaint against the respondent, realizing that doing so means the respondent will know the complainant's identity. Yet as to people outside the grievance process the complainant's identity must be kept confidential except as permitted by FERPA, required by law, or as necessary to conduct the grievance process; and
4. § 106.71 expressly ***forbids a recipient*** from threatening, intimidating, coercing, or discriminating against any complainant for the purpose of chilling the complainant's exercise of any rights under Title IX, which includes the right to file a formal complaint, and to receive supportive measures even if the complainant chooses not to file a formal complaint.

Title IX Regulations Training

C.4. How To File A Formal Complaint

A formal complain is an official document alleging sexual harassment. Clear definitions of complainant, respondent, formal complaint, help **recipients**, **students**, and **employees** to understand how the school must respond to sexual harassment incidents in a way that supports the alleged victim and treats both parties fairly.

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

- ❖ This clarifies that any third party as well as the complainant may report sexual harassment; and
- ❖ While parents and guardians do not become complainants (or respondents), the Final Rule expressly recognizes the legal rights of parents and guardians to act on behalf of parties (including by filing formal complaints) in Title IX matters.

Respondent is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Formal Complaint is a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the school investigate the allegation of sexual harassment and states:

- ❖ A formal complaint it's filed by the student, participating in or attempting to participate in the education program or activity of the school with which the formal complaint is filed, or their parent or legal guardian in some cases.
- ❖ In cases where an alleged victim doesn't file a formal complaint, the Title IX Coordinator might imitate grievance procedures where discipline is appropriate.

The Phrase Document Filed by a Complainant means a document or electronic submission that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

Title IX Regulations Training

C.4. How To File A Formal Complaint (cont.)

Who Can File

A student (or their parent or legal guardian in some cases) who believes there has been an act of discrimination on the basis of sex against any person or group in a school program or activity.

An employee who believes you have been subjected to discrimination under Title IX, including sexual harassment, or who wishes to file a complaint under Title IX, you can do so with the Title IX Coordinator.

Federal and Florida state laws prohibit the taking of retaliatory measures against any individual who files a complaint in good faith.

How to File

1. To file a complaint with the School the Complainant must complete and submit the **“School Title IX Discrimination Complaint (ST9DC)”** form to the School’s Title IX Coordinator in person, by mail, or by electronic mail.
2. If the student, parent, or legal guardian, for any reason cannot complete the ST9DC form and would like to make a verbal complaint, it is possible to call the School’s Title IX Coordinator published contact phone or email address to leave a message to schedule an interview.
3. Where the Title IX Coordinator signs a formal complaint, he is not a complainant or a party during a grievance process, and must comply with requirements for Title IX personnel to be free from conflicts and bias.

When to File

There is not time limit for a complaint to file a formal complaint as long the complaint is participating in or attempting to participate in the education program or activity of the school.

Title IX Regulations Training

C.4. How To File A Formal Complaint (cont.)

What to Include

The **complainant** should describe using an “School Title IX Discrimination Complaint (ST9DC)” form :

1. Who was discriminated against;
2. In what way;
3. By whom or by what person (the **respondent**);
4. By what school department , employee, or a related organization (the **respondent**);
5. When the alleged discriminatory act(s) took place;
6. Who was harmed;
7. Who can be contacted for further information;
8. The name, address and telephone number of the **complainant** and the alleged offending **respondent**; and
9. As much background information as possible about the alleged discriminatory act(s).

Additionally the **complainant** will also be offered the opportunity to submit supplementary written materials and evidence, as attachments to the **ST9DC** form, that might add to or clarify the formal complaint information.

The School will keep the identity of **complainant** and the **respondent** confidential except to the extent necessary to carry out the purposes of the civil rights laws, or unless disclosure is required under the Freedom of Information Act, or the Privacy Act or otherwise required by law, including:

1. The **complainant** contact informant;
2. Whether the **respondent** has previously tried to resolve the complaint through the school’s grievance process, a due process hearing, or with another agency (for instance, through Clery);
3. The content of the **complainant** complaint; i.e. how a **respondent** violated the **respondent** rights; and
4. What the **respondent** would like to see the school do as a result of the formal complaint.

Note: The **complainant** do not have to use the ST9DC necessarily and can submit a complain using a different format. However, the complainant may want to look at the school form to find out what information must be included.

Title IX Regulations Training

C.5. Specific Information about How to contact Title IX Coordinator and Deputy

The school in compliance with Title IX regulations provides specific updated information about how to contact its Title IX Coordinator and deputies. Consequently, such **contact information** is clearly stated in the published School Catalog, the school Website, and during the Orientation Meeting (conducted before the first day of classes) as follows:

Leticia Quan

Title IX Coordinator

15485 Eagle Nest Lane, Suite 210, Miami Lakes, FL 33014

305.626.6007

lquan@asicollege.edu

Maritza Leyva

Deputy Title IX Coordinator

15485 Eagle Nest Lane, Suite 210, Miami Lakes, FL 33014

305.626.6007

mleiva@asicollege.edu

Hard or pdf copy of the “**School Title IX Discrimination Complaint (ST9DC)**” is always available to a **complainant** by contacting the school Title IX Coordinator or the school Deputy Title IX Coordinator.

There are no fees related to this important school process.



Grievance Procedures And Requirements

Title IX Regulations Training

Grievance Procedures

- Whether or not a “**GRIEVANCE PROCESS**” has begun the school procedures refer to alleged victims as **complainants** and alleged perpetrators as **respondents**.
- In compliance with the Department’s Title IX regulations the school has established grievance procedures providing for the prompt and equitable resolution of student complaints or employee complaints.
- The school grievance procedures do not discriminate on the basis of sex, and all additional provisions the school has added apply equally to **complainants** and **respondents**.
- The written school grievance procedures provide an institution with a mechanism for discovering incidents of discrimination or harassment as early as possible and for effectively correcting individual and systemic problems. The procedures that the school uses to resolve Title IX complaints are based on:
 1. **The nature of the allegation;**
 2. **The age of the student or students involved;**
 3. **The size and administrative structure of the school;**
 4. **The state or local legal requirements; and**
 5. **What it has learned from past experiences.**

Title IX Regulations Training

Grievance Procedures

There are several ways in which a Title IX coordinator can support school compliance with Title IX regulatory requirement regarding grievance procedures:

First the Title IX coordinator should work with the school policy architects to make sure that the “Grievance Procedures” are written in language appropriate for the age of the audience (high school and postsecondary adults students), and that they are easily understood and widely disseminated.

Second, the Title IX coordinator should review the “Grievance Procedures” to help determining whether they incorporate all of the elements required for the prompt and equitable resolution of student and employee complaints and abide by the new Title IX regulations and requirement and OCR guidance.

Third, the Title IX coordinator should communicate with students, parents or guardians, and school employees to help them understand the recipient’s grievance procedures; ensure employees and students about how Title IX protects against sex discrimination; and provide consultation and information regarding Title IX requirements to potential complainants.

Fourth, the Title IX coordinator is responsible for coordinating the grievance process and making certain that individual complaints are handled properly. This coordination responsibility may include informing all parties regarding the process, notifying all parties regarding grievance decisions and of the right to and procedures for appeal, if any; monitoring compliance with all of the requirements and timelines specified in the grievance procedures; and maintaining grievance and compliance records and files.

Finally, the Title IX coordinator should work with the school to help ensure that its grievance procedures are accessible to English language learners and students with disabilities.

Title IX Regulations Training

Ten (10) Specific Items Required to Grievance Procedures

1. Treat parties equitably

- ❖ Complainants and respondents are treated equitably by providing remedies to a complainant if a respondent is found responsible, and by following the prescribed grievance process imposing discipline on a respondent.
- ❖ The remedies for a complainant have to be designed to restore or preserve equal access to the school's education program or activity.
- ❖ Unlike supportive measures in place with or without a grievance process pending, a complainant's remedies can be punitive or disciplinary against the respondent.

2. Objective evaluation of evidence

- ❖ The school grievance process must ensure an objective evaluation of all relevant evidence – including inculpatory and exculpatory evidence.
- ❖ Credibility determinations can't be made on the basis of a person's status as a complainant, respondent, or witness.

3. No conflicts of interest and Training

- ❖ The individuals involved in the process – like the Title IX Coordinator, Investigators, Decision-Makers, or facilitators of informal, voluntary resolution efforts – must not have any bias or conflict of interest.
- ❖ These individuals must also be trained.
- ❖ The materials used to train Title IX personnel can't rely on sex stereotypes, must promote impartial investigations and adjudications, and must be posted on each school's website.
- ❖ If the school does not maintain a website, make them available for the public inspection upon request.

Title IX Regulations Training

Grievance Requirements Additional Specific Items

4. **Presumption of innocence**

- ❖ Under the school's grievance procedures, the respondent must be presumed not responsible, so that any finding of responsibility only comes at the conclusion of a grievance process.

5. **Reasonably prompt time frames**

- ❖ The grievance process must include reasonably prompt time frames for resolving formal complaints of sexual harassment.
- ❖ Temporary delays are permitted only for good cause. This can include law enforcement activities, the absence of a party or witness, the absence of a party's advisor of choice, or the need to provide language assistance or accommodation of disabilities.

6. **Description of range of outcomes**

- ❖ The grievance process must describe or list the range of possible remedies and disciplinary sanctions that could occur following a determination of responsibility.

7. **Standard of evidence.**

- ❖ The grievance process must state which standard of evidence the school will use to reach a determination regarding responsibility, to be used for all sexual harassment proceedings.
- ❖ The school can choose between two(2) standards of evidence:
 - (1) the **preponderance of the evidence** standard; and
 - (2) the **clear and convincing evidence** standard.
- ❖ The school has to use the **same** selected standard of evidence for all formal complaints of sexual harassment, whether the respondent is a student, or employee, including a faculty member.
- ❖ Likewise all sexual harassment proceedings must have the same chosen standard of evidence.

Title IX Regulations Training

Grievance Requirements Additional Specific Items

8. Right to appeal

- ❖ The grievance procedures have to contain the right to appeal the result of a grievance process, and information about how to invoke the right to appeal.
- ❖ The school must offer an appeal to every party (**complainants** and **respondents**) on certain bases, and schools also have the option to expand the bases on which an appeal may be taken, as long as they apply those bases equally to both parties.

9. Description of range of supportive measures

- ❖ The school grievance procedures must describe the range of supportive measures available to **complainants** and **respondents**.

10. Privileges

- ❖ The school grievance process must explain that no information protected by a legal privilege, such as the attorney-client privilege or the doctor-patient privilege, can be used during an investigation unless ***the person holding the privilege has waived it.***
- ❖ Neither a party nor the school is allowed to seek, permit questions about, or allow the introduction of evidence that is protected by a recognized privilege.
- ❖ Individuals can always opt to waive their own privileges, if they want, but they don't have to.



Walking Through the Grievance Process

Title IX Regulations Training

School Provides for a Live Hearing in a Grievance Process

In compliance with the Title IX 2020 regulations Advance Science International College (the School), as a postsecondary institution and the recipient of a grievance process, that could occur, the School must provide for a **live hearing** where all witnesses are present and subject to a **cross-examination** which allows the opposing party to question the witness directly and assess their demeanor and responses in real-time.

A witness **live testimony** is central to a live cross-examination hearing to allow for immediate assessment of credibility. Therefore, at the live hearing the School's decision-maker(s) must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such **cross-examination** at the **live hearing** must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally, notwithstanding the discretion of the recipient to otherwise restrict the extent to which advisors may participate in the proceedings.

Live hearings may be conducted with all parties physically present in the same geographic location or, at the recipient's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other. Recipients must create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.

Notice: given the importance of a grievance process for any live hearing that could occur, physically or virtually, the School's advisor of choice is: **Attorney Bob Harris ESQ, bharris@lawfla.com, 850.425.5210**
<https://www.lawfla.com/attorney/bob-l-harris/>

Note: A witness's **LIVE TESTIMONY** is central to a **live cross-examination hearing** to allow for immediate assessment of credibility, though alternatives like affidavits for direct examination can be used with consent. A "live" hearing typically means the witness is present and subject to cross-examination, which allows the opposing party to question the witness directly and assess their demeanor and responses in real-time.

Title IX Regulations Training

Walking Through the Grievance Process

(1) Emergency Removal Proceedings Notes

- ❖ The school can remove a **respondent** from the school's education programs or activities on an emergency basis if the respondent poses an immediate threat to anyone's physical health or safety. However, there are additional requirements for **Emergency Removal Proceedings** that school should consider if this process is instituted.
- ❖ If the **respondent** is a school employee, the final regulations don't prevent a school from placing that employee on **Administrative Leave** during the investigation,

(2) Overarching Principles

- ❖ The grievance process cannot itself discriminate against a **complainant** or a **respondent** on the basis of sex.
- ❖ Practices must apply equally to both **complainants** and **respondents**, either of which can be male or female, and can't discriminate as between man and women, notably with respect to credibility determinations.

Title IX Regulations Training

Walking Through the Grievance Process

(3) Written Notice to the Parties

- a) When the school begins an investigation, it has to provide the parties (**complainant** and **respondent**) with written notice of **certain information**.
- b) The school has to give notice to the parties of the **SCHOOL GRIEVANCE PROCESS** which complies with the “Ten (10) Specific Items Required to Grievance Procedures” described in this training before.
- c) The school also has to include in the initial **Written Notice** whether there is an opportunity to engage in an **INFORMAL RESOLUTION METHOD** if the school choose to offer it as an option within the Grievance Process.
- d) Particulars of the Written Notice:
 - 1. **The actual allegations and facts that would constitute sexual harassment.**
 - 2. **The presumption of innocence.**
 - 3. **A statement that the parties are entitled to adviser of their choice.**
 - 4. **A statement that the parties can request to inspect and review certain evidence.**
 - 5. **Information regarding the code of conduct and false statements.**

The school **will not offer or facilitate** an informal resolution process to resolve allegations that an employee sexually harassed a student.

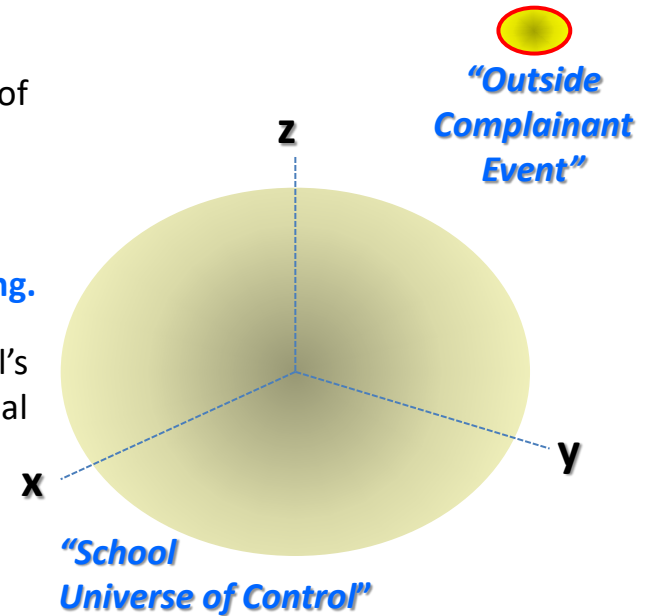
Title IX Regulations Training

Walking Through the Grievance Process

(4) Mandatory Dismissals

A school **must** dismiss a complaint:

1. That does not describe conduct that meets the Title IX definition of sexual harassment:
 - i. **Quid Pro Quo Harassment.**
 - ii. **Unwelcome Conduct.**
 - iii. **Sexual Assault, Dating Violence, Domestic Violence, Or Stalking.**
2. That alleges sexual harassment that **did not occur** in the school's education program or activity. This means the alleged sexual harassment occurred outside the **"School Universe of Control."**
3. That alleges sexual harassment that did not occur in the U.S. at all.



The school can still address any complaint under its code of conduct, even if the misconduct is not sexual harassment under Title IX

Title IX Regulations Training

Walking Through the Grievance Process

(5) Discretionary Dismissals

A school **may** dismiss a complaint:

1. If the complainant notifies the Title IX Coordinator or its Deputies in writing that the **complainant** wishes to withdraw the formal complaint or some of its allegations;
2. If the respondent is no longer enrolled or employed by the school; or
3. If specific circumstances prevent the school from gathering evidence sufficient to reach a determination about the allegations.

Dismissal Procedures

1. Whenever the school dismisses a formal complaint, or any allegations in it, the school has to promptly send written notice of the dismissal and its reasons to the parties.
2. Both parties (**complainant** and **respondent**) have the right to appeal any school's dismissal decision.

Title IX Regulations Training

Walking Through the Grievance Process

(6) Gathering Evidence: School and Parties

1. The school must give both parties (**complainant** and **respondent**) specific, equal rights and protections. These rights and protections apply whether the complainant filed a formal complaint, or whether the Title IX Coordinator or a Deputy Title IX Coordinator began the investigation by signing the formal complaint form “**School Title IX Discrimination Complaint (ST9DC)**.”
2. The school is not allowed to access a party’s personal records if they are maintained by a physician, psychiatrist, psychologist, or other professional for the purpose of treatment to the party, without consent.
3. The school must provide an equal opportunity for the parties to have:
 - ❖ **Witnesses And Evidence**
 - ❖ **Expert Witnesses**
 - ❖ **Inculpatory Or Exculpatory Evidence.**
4. The school can’t restrict the ability of either party to discuss the allegations under investigation, or to gather and present relevant practice.
5. The school has to provide **the same opportunities** to the parties to have others present during the grievance proceedings, including access to an adviser of choice for any meetings or hearings.
6. The school has to provide written notice of the date, time, location, participants, and purpose of all hearings, interviews, or other meetings, with sufficient time for the party to prepare.
7. The school must also provide equal opportunities for the parties and their advisors to inspect and review the evidence obtained by the school as part of its investigation, if the information is directly related to the allegations raised by the formal complaint.
8. The school also has to give the parties (**complainant** and **respondent**) a meaningful opportunity to respond to the evidence after the school has provided it.

Title IX Regulations Training

Walking Through the Grievance Process

(7) Investigative Reports

1. After gathering evidence, the school needs to prepare and investigative report on the allegations of the formal complaint.
2. As school has to give the parties at least ten (10) days to respond to the evidence in writing. If a response is submitted, the school **must consider that response** before finalizing the investigative report.
3. The investigative report can then be finalized and provided to the parties (**complainant** and **respondent**).
4. That investigative report must be circulated to the parties at least another ten (10) days before any determination of responsibility, or ten (10) days before a hearing, if a hearing happens.

(8) School Live Hearing as a Post Secondary Education Institution

1. The school must hold a **live hearing**.
2. The parties' advisors must be allowed to cross-examine. No party, neither the **complainant** nor the **respondent**, is EVER allowed to personally cross-examine anyone.
3. If any party request it, the entire hearing must be held with the parties located in separate rooms, with technology enabling everyone to see the other party's denials, or allegations.
4. Cross-examination simply means that a party's advisor asks questions that might challenge the other party's denial, or allegations.
5. Cross-examination questions must be relevant, and the **Decision Maker** must decide if a question is relevant **BEFORE** the party or witness has to answer it.
6. A complainant's privacy must be protected. Hence application of rape shield laws, meaning questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove:
 - ❖ That someone other than the **respondent** committed the conduct alleged by the complainant; or
 - ❖ If the questions and evidence concern specific incidents of the **complainant's** prior sexual behavior with respect to the **respondent** and are offered to prove consent.

Title IX Regulations Training

Walking Through the Grievance Process

(9) Cross-Examination

1. Not party is EVER allowed to personally cross-examine anyone.
2. The school must provide a party with an advisor, of the school's own choosing, free of charge, solely for the purpose of conducting cross-examination on that party's behalf.
3. An advisor chosen by the school does not need to be a lawyer.
4. By hearing each party's version of events, and hearing each party answer questions about their version of events, the neutral, unbiased **Decision-Maker** is more likely to reach an accurate determination regarding responsibility.

(10) Participation in a Live Hearing and Cross Examination

1. The final regulations protect every person's right to choose to participate, or not to participate, in any of a grievance process.
2. No one should be forced, threatened, coerced, or discriminated against for choosing not to be part of the school's **GRIEVANCE PROCESS**.
3. If a party or witness chooses not to appear at the live hearing, or not to answer cross-examination questions, the **Decision-Maker** excludes that party's or witness's statement and evaluates any evidence that doesn't involve those statements.
4. The **Decision-Maker** must never make inferences or implications about the determination regarding responsibility based on the fact that a party or witness didn't come to the hearing or didn't submit to cross examination.
5. A school may hold the entire live hearing virtually, or a school may allow some participants to appear virtually, with technology that allows every one during a hearing procedure to see and hear each other.

Title IX Regulations Training

Walking Through the Grievance Process

(11) Recordings

1. The school has to create and audio or audiovisual recording, or transcript, of any **live hearing** and make it available to the parties for inspection and review.
2. It's important to remember that the school must **ALWAYS** comply with disability laws, so that individuals with disabilities who participate in a school's grievance process are appropriately accommodated, including with respect to the use of technology and the reliance on visual, auditory, or written modes of communication.
3. Additionally, the school must maintain documentation of all proceedings, which may include written findings of facts, transcripts, or audio records.

(12) Decision Making: Objective and Unbiased

1. The school's **Decision Maker** needs to objectively evaluate the relevant evidence and reach conclusions about whether the respondent is responsible for the alleged sexual harassment.
2. A school's **Decision Maker** needs to use independent judgment, so the **Decision Maker** cannot be the same person who conducted the investigation, and cannot be the school Title IX Coordinator or a Deputy Title IX Coordinator .
3. A Decision Maker must be free from conflicts of interest or bias for or against **complainants** and **respondents** , and must receive special training about how to be impartial and how to decide what evidence is relevant.
4. The **Decision Maker** will weigh the relevant evidence and decide whether it meets the school selected standards of evidence for sexual harassment allegations.

Title IX Regulations Training

Walking Through the Grievance Process

(13) Decision-Making: Written Decisions

After the evidence has been weighed, the Grievance Process Determination has to be written. It must include:

1. The portion of the school's policies that was violated.
2. A description of the procedural steps that were taken by the school on the way to getting to that point.
3. A findings of fact section.
4. A section that draws conclusions after applying the facts to the portion of the school's policy that applies .
5. A statement and rationale for the ultimate determination of responsibility.
6. Any disciplinary sanctions that the school will impose on the respondent, and statement whether the school will provide remedies to the **complainant**.
7. A statement and rationale for any remedies for the **complainant**, addressing how those remedies will restore or preserve equal access.
8. A statement of the school's procedures, a statement that both parties (**complainant** and **respondent**) have a right to appeal the Grievance Process determination regarding responsibility, and from a school's dismissal of a formal complaint or any allegations therein, on the following bases:
 1. **Procedural irregularity that affected the outcome of the matter;**
 2. **Newly discovered evidence that could affect the outcome of the matter; and/or**
 3. **Title IX personnel had a conflict of interest or bias, that affected the outcome of the matter.**
9. Additionally the school may offer an appeal equally to both parties on additional bases.

Title IX Regulations Training

Walking Through the Grievance Process

(14) Decision-Making: After the Decision

1. The school must send the written determination to the parties simultaneously, along with information about how to appeal the determination.
2. A school has discretion to set deadlines for when an appeal must be filed, bearing in mind the obligation to conclude the entire grievance process and bring resolution to the situation for both parties, with a reasonably prompt time frame.
3. The Title IX Coordinator is responsible for carrying out the remedies contained in the written decision.

(15) Appeals

1. A school has to offer both parties an opportunity to appeal to be conducted by another school trained Decision-Maker.
2. Appeals can be taken from two different steps in the grievance process:
 - ❖ After a dismissal before the grievance process:
 - a. **Whether mandatory where a school must dismiss some complaints sometimes; or**
 - b. **Discretionary when the school dismiss other complaints at its discretion at other times.**
 - ❖ At the very end to appeal the ultimate finding of responsibility by the whole process.

Title IX Regulations Training

Walking Through the Grievance Process

(16) Grounds for Appeal

1. A procedural irregularity affected the outcome of the matter.
2. New evidence has been discovered that was not reasonably available at the time of the determination on responsibility or dismissal that could affect the outcome of the matter.
3. A conflict of interest on the part of either a school Title IX Coordinator or a Deputy, an investigator who compiled evidence, or a decision-maker that affected the outcome.
4. If the school wants additional grounds for appeals can be offered so long as the appeal grounds apply on an equal basis to either parties.

(17) Appellate Process

If a party does file an appeal then:

1. The school has to notify the parties in writing and implement appeal procedures equally.
2. Both parties must have equal opportunity to submit a written statement supporting or challenging the outcome.
3. A different **Decision-Maker** must be appointed by the school. This trained staff or external person, having the power to review the judgment of a previous Title IX adjudicator, and becoming responsible to decide the respondent responsibility for a second time **CANNOT BE :**
 - a. The same **Decision-Maker** who reached the first determination regarding responsibility; or
 - b. The same person as the **Investigator**; or
 - c. The **Title IX Coordinator** or **Deputy Title IX Coordinator**.
4. After considering the parties' written statements once more, the **Appellate Decision Maker** on appeal has to issue a written decision and send it to the parties simultaneously.
5. At that point the school's determination about whether the respondent is responsible for the sexual harassment allegations becomes final after the appellate process.

Title IX Regulations Training

Walking Through the Grievance Process

(18) Informal Resolution

1. In appropriate cases after careful analysis the School can decide to offer an Informal Resolution of a formal complaint .

Important Exception:

The School Can Never Facilitate Informal Resolution of Allegations That an Employee Sexually Harassed A Student

2. In other situations the school has discretion to choose to offer and facilitate an informal resolution options such as mediation, as a way of resolving the allegations stated in a formal complaint.
3. **It is important to recall** that the most important restriction is that an Informal Resolution may only be attempted ***if each party enters the process completely voluntarily.***
4. The school can never force, threaten, or require any party, complainant or respondent, into going into informal resolution.
5. If informal resolution proceeds, the school must provide a facilitator who is free from conflicts of interest or bias, and who has received special training.

Once there is a documented, mutual, signed agreement of both parties voluntarily engaging in an informal resolution the school will provide both parties with:

1. Notice of the allegations;
2. Notice of their rights;
3. Information about whether an informal process is confidential; **and importantly**
4. Assurances that any party may withdraw from the **Informal Resolution** process and resume the **Grievance Process** at any time before an informal resolution agreement has been reached.

Title IX Regulations Training

Walking Through the Grievance Process

(19) Record Keeping

The school record keeping duty includes several categories of documents:

1. Records of a school's investigation
2. Records of any appeal and the materials associated with an appeal.
3. Records of any informal resolution process.
4. All materials used to train Title IX Coordinators, investigators, decision makers, and any person who facilitates an informal resolution. These materials also have to be posted on the school's website, or made available for public inspection if the school does not have a website.
5. Records for the supportive measures offered in response to a report of complaint of sexual harassment.

Retention of Student's Title IX Records Retention in Compliance with Florida State Regulations

According to Title IX federal regulations the school record keeping duty extends for **“seven (7) years.”** However **Section 1002.42(3)(b), F.S.** requires a private school that has terminated the operation of an education or training program to either transfer all permanent information contained in student records to the public school district in which the private school was located or, to the principal office of a private school system or association of which the private school is a member, in this case the Florida Commission for Independent Education.

In compliance with Florida State requirements the school will maintain all Title IX categories of documents, as part of the school student file, indefinitely.

Title IX Regulations Training

Walking Through the Grievance Process

(20) No Retaliation Permitted

1. No school or person is allowed to retaliate against anyone for exercising rights under Title IX.
2. Complaints alleging retaliation may be filed according to a school's prompt and equitable grievance procedures.
3. The school should keep the identities of parties and witness confidential, unless disclosure of someone's identity is required under other laws or is necessary in order to conduct the grievance process.
4. The school must keep confidential the identity of complainants, respondents, and witnesses, except as may be permitted by FERPA, as required by law, or as necessary to carry out a Title IX proceeding.

(21) Retaliation: Code of Conduct Issues

1. If a school charges a person with a code of conduct violation for the purpose of discouraging the person from pursuing a sexual harassment report or formal complaint, or exercising any other Title IX, that's retaliation.
2. If a code of conduct charge is for a violation unrelated to sexual harassment yet arises from the same facts as a sexual harassment allegation that may be prohibited retaliation.
3. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a Title IX grievance proceeding does not constitute retaliation; however, a determination regarding responsibility, alone, is not sufficient to conclude that any party made a bad faith materially false statement.

Title IX Regulations Training

Walking Through the Grievance Process

(22) Free Speech

1. The Office for Civil Rights (OCR) can never require a school to violate the First Amendment.
2. When OCR investigates a school for possible Title IX violations, OCR will never view a school's attempt to suppress free speech as an appropriate response to sexual harassment.
3. First Amendment concerns differ in educational environments and workplace environments, and the Title IX definition provides First Amendment protections appropriate for educational institutions where students are learning, and employees are teaching. Students, teachers, faculty, and others should enjoy free speech and academic freedom protections, even when speech or expression is offensive.

Title IX Regulations Training

School Staff Annual Training

Under the 2020 Title IX regulations, all school staff must participate in annual training. The training is mandatory for all educational institutions that receive federal funding. This training is meant to ensure all personnel understand their institution's Title IX obligations and can respond appropriately to incidents of sex discrimination.

Requirements for all school staff

Annual Title IX training for all employees must cover the following:

- The school's obligation to address sex discrimination, including sexual harassment, in its educational programs.
- The school's procedures for reporting and responding to sexual harassment allegations.
- The obligation of non-confidential employees to report instances of sex discrimination or harassment to the school's Title IX Coordinator.

Requirements for specific Title IX roles

- **Title IX Coordinator:** Must be trained on their specific responsibilities, record-keeping requirements, and overall Title IX compliance oversight.
- **Investigator, Decision-Maker, and Appeals Officer:** These personnel must be trained on how to act impartially, avoid conflicts of interest and bias, and conduct investigations and hearings according to the school's grievance procedures.
- **Informal Resolution Facilitator:** Must be trained on the rules and practices of any informal resolution processes the school offers.

Documentation requirements

Educational institutions are required to maintain documentation of the training materials and employees' completion of the training. The 2020 regulations also require schools to make all training materials for Title IX Coordinators, Investigators, and Decision-Makers publicly available, typically on their website.

Title IX Regulations Training

References and Further Readings

TITLE IX REGULATION 2020 — FULL TEXT Title 34: Education

PART 106—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

ACCSC Webinar: Title IX Countdown. A Practical Guide to Title IX Compliance. ACCSC.org

TITLE IX RESOURCE GUIDE. U.S. Department of Education.
Office for Civil Rights April 2015

Dear Colleague Letter: Title IX Coordinators (February 2025).

<http://www.ed.gov/ocr>