2024 Title IX Team Training

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REAL. *Life.* EDUCATION.

HOUSEKEEPING ISSUES

- This presentation refers topics of high sensitivity, which will include detailed examples of sexual misconduct.
- There is an obligation to conduct Title IX matters free from bias, conflict of interests, and unlawful discrimination.
- The current regulations implemented in 2020 are still in effect and should be followed until further notice.

TITLE IX

Title IX is a federal civil rights law that states “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

- Covers not only equity in athletic programming, but all forms of discrimination based on sex.
- Protects students and employees.
- Applies to all institutions that receive federal financial assistance, either directly or indirectly.
- Enforced by the U.S. Department of Education’s Office of Civil Rights.

TITLE IX APPLIES TO.....

- Student on student matters
- Employee on employee matters
- Employee on student matters
- Student on employee matters

TITLE IX APPLICATION

- Recruitment & Marketing
  - Admissions
  - Employment
  - Athletics
- Equitable Opportunities:
  - Education
  - Employment
  - Internships
  - Support Services
- Resources & Funding
  - Athletics
  - Departments
- Vocational/Trade Schooling
- Employment Hiring Practices
- **Pregnancy & Parenting**
- **Discrimination/Harassment**
  - **Interpersonal Violence**
  - **Sexual Misconduct**

TITLE IX CURRENT REGULATIONS (2020)

Current Title IX regulations were published on May 6, 2020, and took effect August 14, 2020

- Requires schools:
  - Respond promptly and supportively to persons alleged to be victimized by sexual harassment.
  - Resolve allegations of sexual harassment promptly and accurately under a predictable, fair grievance process that provides due process protections to alleged victims and alleged perpetrators of sexual harassment.
  - Effectively implement remedies for victims.

2024 FINAL RULE RELEASE DATE/EFFECTIVE DATE

- The Title IX final regulations concerning sex discrimination, sex-based harassment, and pregnancy and parenting have been finalized and were released on Friday, April 19, 2024.
- The new regulations will have an implementation date of **August 1, 2024.**
- The new regulations are **not** retroactive. The new regulations applies to all covered incidents that **occur after August 1, 2024.** If an incident is reported after August 1, 2024, but the incident occurred before August 1, 2024, the 2020 Policy and Procedures must be used.

What is or May Be Title IX vs. What is NOT Title IX

What is or May be Title IX	What is NOT Title IX
• Discrimination based on gender • Sexual Harassment • Bullying/Cyber-Bullying or Hazing when it involves sexual misconduct • Sexual Assault • Dating Violence • Stalking • Domestic Violence • Pregnancy Discrimination	• Disability Discrimination (ADA) • Employment or Student Discrimination based on race, religion, or national origin (Title VII and Title VI)

Title IX Sexual Harassment

TITLE IX SEXUAL HARASSMENT SCOPE

2020

- Definition and grievance process covers only sexual harassment complaints

2024

- Definition and grievance process will cover all forms of **sex-based harassment** complaints as opposed to only sexual harassment
- "Discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity."

TITLE IX SEXUAL HARASSMENT DEFINITION

2020

- An employee of the recipient conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct (Quid Pro Quo)
- 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 (Hostile Environment)
- Sexual assault, dating violence, domestic violence, or stalking as defined in the Clery Act

2024

- An employee, agent, or **other person authorized by the recipient** to provide an aid, benefit, or service under the recipient's education program or activity **explicitly or impliedly** conditioning the provision of such an aid, benefit or service on a person's participation in unwelcome sexual conduct (Quid Pro Quo)
- Unwelcome sex-based conduct that, based on the totality of the circumstances and is **subjectively and objectively, and is so severe or pervasive that it limits or denies** a person's ability to participate in or benefit from the recipient's education program or activity (Hostile Environment) ; **Fact specific inquiry**
- Sexual assault, dating violence, domestic violence, or stalking as defined in the Clery Act (Specific Offenses)

TITLE IX JURISDICTION

2020

- "Education program or activity" includes locations, events, or circumstances over which the recipient exercised **substantial control over both the Respondent and the context in which the sexual harassment occurs**, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution
- Broadly interpreted to include: academic, extracurricular and athletic programs; activities on school network, bus, class, or facilities

2024

- Conduct that occurs under a recipient's "education program or activity" includes but is not limited to conduct that occurs in a building owned or controlled by a student organization that is official recognized by a postsecondary institution, and conduct that **is subject to the recipient's disciplinary authority**
- **A recipient has an obligation to address sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside the recipient's education program or activity or outside the United States.**

WHO CAN FILE A COMPLAINT?

2020

- Complainant (have to be participating or attempting to participate in the College's education program or activity)
- a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX
- Title IX Coordinator

2024

- Complainant (have to be participating or attempting to participate in the College's education program or activity)
- a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX
- Title IX Coordinator
- **a person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX and who was participating or attempting to participate in the College's education program or activity when the alleged sex discrimination occurred**

TITLE IX STAFF

2020

- Allows for multiple people to have the title of "Title IX Coordinator"
- Title IX Coordinator, Title IX Investigator and Title IX Informal Resolution Facilitator can be the same person
- Must be a different Title IX Decision Maker
- Must be a different Title IX Appellate/Appeals Decision Maker

2024

- **Only one Title IX Coordinator must retain "ultimate oversight" over those responsibilities**
- **Title IX Coordinator can have "designees" to assist with Title IX compliance**
- **Title IX Coordinator, Title IX Investigator, and Title IX Decision Maker can be the same person**
- Must be a different Title IX Appellate/Appeals Decision Maker
- **Must be a different Title IX Informal Resolution Facilitator**

SUPPORTIVE MEASURES

Individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

(1) Restore or preserve that party's access to the College's education program or activity, including measures that are designed to protect the safety of the parties or the College's educational environment; or

(2) Provide support during the College's grievance procedures or during the informal resolution process.

SUPPORTIVE MEASURES

Supportive measures may include, but are not limited to, the following:

- Counseling
- Extensions of deadlines or other course-related adjustments
- Modifications of work or class schedules
- Campus escort services
- Mutual restrictions on contact between the parties
- Changes in working or housing locations
- Leaves of absence
- Increased security and monitoring of certain areas of the campus.
- Medical Treatment

TITLE IX SUPPORTIVE MEASURES – NEW ROLE

2024

- Supportive measures may be continued, modified, or terminated at the conclusion of the grievance process or informal resolution
- The Title IX Office must provide an opportunity for parties to seek modification or reversal of supportive measure (or lack thereof)
  - An impartial employee, not involved in the initial decision, must have authority to modify or reverse (new Title IX role)
  - This impartial employee should not be someone who reports to the Title IX Coordinator or “designees”.

Training Requirements

TRAINING REQUIREMENTS

2020

- Training for Title IX team on the grievance process for sexual harassment only (no frequency requirement)
- No training requirements for students under proposed regulations (still must comply with VAWA)
- VAWA - requires annual training for all higher education employees involved in responding to allegations of sexual assault, dating violence, domestic violence, or stalking.
- All training materials must be made available on institution's website

2024

- Title IX team on the grievance procedures
- No training requirements for students under proposed regulations (still must comply with VAWA)
- **Training required for all types of sex-based discrimination, not just sexual harassment**
- **All employees on identifying and reporting sex-based discrimination (annually), including student employees, adjuncts, temporary employees**
- **Also trained at time of hire and changing of roles**
- **Specific training for Informal Resolution Facilitators**
- **Specific training for Title IX Coordinators**
- **Specific training for Confidential Employees**

ALL EMPLOYEE TRAINING (2024)

- The College's obligation to address sex discrimination in its education program or activity
- Scope of conduct that constitutes sex discrimination including the definition of sex-based harassment
- Applicable notification requirements (sex discrimination and pregnancy)
- **Training must be completed, not just made available.**
- "promptly upon hiring" or "change in position that alters duties under Title IX" and "annually thereafter"

Title IX Reporting Responsibilities

NOTICE OF RESPONSE

2020

- The recipient is required to respond to a report of sexual harassment once there is "actual knowledge" by either the Title IX Coordinator or an "Official with Authority (OWA)."
- A formal complaint form must be signed by the Complainant or the Title IX Coordinator to begin an investigation or informal resolution.
- Only a person student or employee or Title IX Coordinator can bring a complaint of sexual harassment.

2024

- The recipient is required to respond to a report of sexual harassment once there is "information about conduct that may constitute sex discrimination."
- **There is no longer a formal complaint form. Complaints can be oral or written to the recipient.**
- A student, employee, the Title IX Coordinator, **a former student or employee, or a person with the right to make a complaint on behalf of the Complainant** can bring a complaint of sex-based harassment.

EMPLOYEE REPORTING OBLIGATIONS

Current

- **Official with Authority -** any official who has authority to institute corrective measures on behalf of the college
- **Responsible Reporting Official/Mandatory Reporter -** those identified by the institution who must notify the Title IX Coordinator of any reported incidents of sexual harassment

EMPLOYEE REPORTING OBLIGATIONS

- Institutions can choose to have current policies regarding reporting obligations remain in effect, i.e. all employees are mandatory reporters for sexual harassment/sex-based harassment complaints.
- Institutions will continue to have discretion on whether student employees will have mandatory reporting obligations.
  - What is the student employee's primary relationship with the institution (to receive an education)?
  - Did the student employee learn of the information while performing employment-related work?

CONFIDENTIAL EMPLOYEES (2024)

- An employee of the College whose communications are privileged or confidential under Federal or State law. The employee's confidential status is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies.

- An employee of the College whom the College has designated as confidential for the purpose of providing services to persons related to sex discrimination. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about sex discrimination in connection with providing those services.

- An employee of the College who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination—but the employee's confidential status is only with respect to information received while conducting the study.

- **A confidential employee will not report any information about an incident to the Title IX Coordinator without the Complainant's permission.**

CONFIDENTIAL EMPLOYEES

2020

- Employee designated as confidential due to their role in providing services to persons regarding sex discrimination; not required to report
  - Physician
  - Psychologist/Psychiatrist/Counselor
  - Chaplain/Clergy
- Employees conducting certain approved research on sex discrimination (limited to information received in study)
- The employee must be employed in that role for the confidentiality to apply.
  - For example, a licensed psychologist who is hired by the College to be a Psychology Instructor is not a confidential employee.

2024

- All current information
- **Employee with duty of privilege under Federal or State law associated with their role**
- **Confidential employees must be trained on Title IX.**
- **In response to a person who informs the employee of conduct that may constitute sex discrimination under Title IX, the employee must:**
  - **Explain their confidential status**
  - **Provide the person with the contact information of the Title IX Coordinator**
  - **Explain how to report information about conduct that may constitute sex discrimination under Title IX**

WHEN & WHAT DO I REPORT?

If you are an employee with reporting obligations, you *must* report known incidents of sexual harassment/sex-based harassment involving students and/or employees to the Title IX Coordinator ***as soon as possible***.

Provide the Title IX Coordinator with the necessary information so that the Title IX Coordinator can outreach to the student or employee.

Employees with reporting obligations should remind students and/or employees of reporting obligations ***before*** a report is made and we encourage employees to share ***why*** the information has to be reported (so that the College can reach out to impacted individuals and offer resources and options).

Title IX Grievance Procedures

TITLE IX GRIEVANCE PROCEDURES

Process

- Reporting of Incident (Notification)
- Initial Assessment/Evaluation
- Formal Investigation & Investigative Report
- Hearing
- Appeal

TITLE IX HEARINGS

2020

- The recipient's sexual harassment grievance process **must** provide for a live hearing.
- Can hold hearing (either at a party's request or the institution's discretion) in separate rooms using technology
- Must use audio or audio visually record and make the recording available to the parties
- Detailed provisions regarding questions and cross-examination of parties and witnesses
- If party does not have an advisor, the recipient must provide an advisor of the recipient's choice without fee or charge.

2024

- The recipient's **sex-based harassment** grievance process **may, but need not**, provide for a live hearing.
- If a live hearing is offered, can still do so (either at a party's request or the institution's discretion) in separate rooms using technology
- Must continue to audio or audio visually record and make recording available to the parties
- **Institutions have the option to have the decision maker ask questions and follow-up questions to parties and witnesses, including those proposed by the parties to the decision maker, either in one-on-one meetings with the parties/witnesses or in a live hearing.**
- Institutions can still choose to allow advisors to question parties and witnesses at a hearing. If an institution makes that choice, it must provide an advisor to a party who does not have one.

ALTERNATIVE RESOLUTIONS

Resolutions other than Investigation

- Informal Resolution
  - Formal Complaint must be filed
  - Both parties and the College must agree
  - No investigation and adjudication, but parties can change their minds
  - Cannot be used for Employee on Student sexual harassment matters
- Respondent's Assumption of Responsibility

TITLE IX INFORMAL RESOLUTION

2020

- A formal complaint must be signed by the Complainant to initiate the Informal Resolution process.
- The Investigator or Decision Maker can serve as the Informal Resolution Facilitator.
- Cannot offer or facilitate to resolve allegations that an employee sexually harassed a student.
- Must be voluntary
- Cannot require waiver of right to adjudication
- Written consent required

2024

- **A formal complaint is no longer needed to initiate the Informal Resolution process.**
- **Must have a different Informal Resolution Facilitator**
- **IR can now be used for higher education student/employee claims**
- Must be voluntary
- Cannot require or pressure IR or waiver of right of adjudication
- **Supportive measures required**
- **Consent required**

Title IX Pregnancy & Parenting

TITLE IX DEFINITION - PREGNANCY

2020

Prohibits discrimination on the basis of sex – including pregnancy, parenting, and related conditions – in education programs and activities that receive federal funding.

- Colleges and Universities cannot discriminate on the basis of:
- Pregnancy
- Childbirth
- False Pregnancy
- Termination of pregnancy
- Recovery therefrom

Parenting – medically necessary care post pregnancy or post termination

2024

Prohibits discrimination on the basis of **a student or employee's "current, potential, or past pregnancy or related conditions"**

- Colleges and Universities cannot discriminate on the basis of:
- Pregnancy
- Childbirth
- **Lactation**
- Termination of pregnancy
- **Medical conditions related to**
- Recovery therefrom

Parenting – medically necessary care post pregnancy or post termination

TITLE IX DEFINITION

- Parental status – a biological parent, an adoptive parent, a foster parent, a stepparent, a legal custodian or guardian, in loco parentis with respect to such a person or actively seeking legal custody, guardianship, visitation, or adoption of such a person

- Schools must continue to treat pregnancy and pregnancy related conditions the same as any other temporary disability with respect to any hospital or medical benefit, service, plan, or policy for students.

TITLE IX- PREGNANT & PARENTING

- Students with pregnancy related conditions have the right to continue with their educational program for as long as they determine they are able.

- Students are under no obligation to disclose their pregnancy or pregnancy related condition, however if a student tells you they are pregnant or experiencing a pregnancy related condition, you may ask them if modifications are needed and refer them to the Title IX Coordinator for assistance.

- Faculty and instructors should not request medical documentation or details related to the student's pregnancy or any related medical condition from the student, outside of excuses for absences*.

EXCUSED ABSENCES AND MEDICAL LEAVE

- **Allow a student to continue participating in classes and extracurricular activities** even though they are pregnant. Pregnant student-athletes with pregnancy related conditions must be treated the same as ill or injured athletes.
- **Excuse absences** due to pregnancy related conditions for as long as medically necessary.
- **Allow student to return** to the same academic and extracurricular status as before medical leave began, which should include **giving the student the opportunity to make up any work missed while out.**
- **Ensure that teachers understand the Title IX requirements related to excused absences/medical leave.** A teacher may not refuse to allow a student to submit work after a deadline that's missed because of pregnancy related conditions.
- If a teacher's grading is based in part on class participation or attendance and a student missed class because of pregnancy related conditions, the student **should be allowed to make up the participation or attendance.**
- Provide students with pregnancy related conditions with the **same special services** it provides to students with **temporary medical conditions.** This includes homebound instruction/at-home tutoring/independent study.

EXCUSED ABSENCES AND MEDICAL LEAVE

- If a school does not have a leave policy for students, or the student does not otherwise qualify for leave under the policy, **a school must provide leave to a student for pregnancy or a pregnancy related condition, for as long as the student's physician deems medically necessary.**
- For employees, if a school does not have a leave policy, or if an employee has insufficient leave or accrued employment time to qualify for leave under the school's policy, **the school must treat pregnancy or a pregnancy related condition as a justification for a leave of absence without pay for a reasonable period of time. After the time, the employee must be reinstated to the employee's pre-leave status or to a comparable position without reduction in compensation or loss of promotional opportunities or any other employment rights or privileges.**
- **In addition, schools must treat pregnancy and related conditions the same as any other temporary disability** for commencement, duration, and extensions of leave, payment of disability income, accrual of seniority and any other benefit or service, and reinstatement, along with other employment-based benefits.

EMPLOYEE REPORTING OBLIGATIONS

2020

- If any faculty or staff member, other than the Title IX Coordinator, is informed of a student's pregnancy or related conditions, there is no obligation to inform or report.
- Grievance process and training not required

2024

- **If "any employee" is informed of a student's pregnancy or related conditions by either the student or the student's legal guardian, the employee must promptly inform the student or legal guardian that the "Title IX Coordinator can take specific actions to prevent sex discrimination and ensure the student's equal access to the education program or activity and provide the Title IX Coordinator's contact information.**
- **Grievance Process required**
- **Training specific to pregnancy required**

TITLE IX PREGNANCY DOCUMENTATION

2020

- An institution cannot require documentation related to pregnancy unless the institution requires documentation related to any other temporary disability or illness.

2024

- An institution cannot require documentation related to pregnancy unless the institution requires documentation related to any other temporary disability or illness.

TITLE IX PREGNANCY DOCUMENTATION (2024)

- Documentation can be provided by a "healthcare provider"; no longer physician (OBGYN) only
- The College cannot require supporting documentation unless necessary and reasonable under the circumstances for the College to determine the reasonable modifications to offer or other specific actions to take.
- Documentation is unnecessary and must not be required to provide access to a lactation space or confirm lactation needs.
- The College cannot justify the denial of a reasonable modification based on lack of documentation if the request for documentation is deemed unnecessary under the final regulations.
- **Situations where documentation cannot be required: when the needs is obvious based on the student's self confirmation, when documentation has already been provided, modifications for a bigger desk, carrying water to drink, sitting or standing, taking breaks to eat, drink, or use the restroom (self-confirmation is sufficient), if the modification is available to other students without documentation**

CERTIFICATION AS TO PHYSICAL ABILITY (2024)

- A college may do so only when:
- the certified level of physical ability or health is necessary for participation in the class, program, or extracurricular activity;
- the College requires such certification of all students participating in the class, program, or extracurricular activity; and
- the information obtained is not used as a basis for discrimination prohibited by the Title IX regulations.

TITLE IX PREGNANCY MODIFICATIONS (2024)

Modifications

- Requires ***reasonable*** modifications unless the institution can demonstrate that making the modification would "fundamentally alter the institution's program or activity or cause undue burden".
- Reasonable modifications may include break time or absences for medical appointments, a leave of absence, extensions in time, changes in physical space, changes in course sequence, counseling, elevator access, etc.
- Modifications must be considered on an individualized basis as situations will vary based on unique factors.
- Students can accept or decline each reasonable modification.
- The College must provide lactation space that is not a bathroom.
- The Title IX Coordinator must have "ultimate oversight" over pregnancy modifications and discrimination claims.

LACTATION

2020

- There is no specific mention of lactation space for students.

2024

- **Would require a clean and private lactation space that is not a bathroom for students**
- **Must be provided reasonable break times for breastfeeding or expressing breast milk, even if during class**
- **Consider Pregnancy/Lactation Policy**
- *Note: The Fair Labor Standards Act already requires employers to provide reasonable break time for an employee to express breast milk for one year after the child's birth and to provide private lactation areas.*

ARE NON-BIRTHING PARENTS COVERED? (2024)

- There is no obligation to offer modifications or medical leave to postpartum father/non-birthing parent.
- However, if the institution allows for “caregiving” leave or absences for the mother, it could potentially be a violation if not allowed for the father/non-birthing parent as well.

TITLE IX PREGNANCY - EMPLOYEES

- The College must provide comparable treatment to other temporary medical conditions for all job-related purposes
- Leave commencement, duration, extensions
- Disability payment income
- Seniority accrual
- Reinstatement
- Fringe benefits
- Lactation Time and Space

Title IX Retaliation

RETALIATION

PROHIBITED

Neither the College nor other person may **intimidate**, **threaten**, **coerce**, or **discriminate** against any individual for the purpose interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing conducted under the sexual harassment policy.

Retaliatory acts could include:

- giving students failing grades
- preventing students from participating in school activities
- threatening expulsion

TITLE IX RETALIATION (2024)

- Define retaliation as a distinct form of sex discrimination
- Peer retaliation – retaliation by a student against another student
- Institution has an obligation to respond to and prohibit retaliation
- Complaints of retaliation can be consolidated with a complaint of sex discrimination if the retaliation complaint arises from the same facts or circumstances as the sex discrimination complaint.

ACCS Title IX Policy & Procedures

2024 Revision

TITLE IX POLICY & PROCEDURES COMMITTEE

- David O'Brien, General Counsel, ACCS
- Taylor Hilyer, Director of Student Life, ACCS
- Charlotte McLendon, Student Success Compliance Officer, ACCS
- Carmon Fields, Director of Human Resources & Compliance, Marion Military Institute
- Dr. Brandon Brown, Director of Disability Services, Calhoun Community College
- Vickie Williams Wiley, Associate Dean of Student Development & Success, Chattahoochee Valley Community College
- Dr. Tiffany Scarborough, Dean of Nursing & Allied Health, Coastal Alabama Community College

TITLE IX POLICY & PROCEDURES COMMITTEE - DOCUMENTS

- Non-Discrimination Policy Statement
- Non-Discrimination Notice
- Non-Discrimination Shortened Notice
- Title IX Policy & Procedures for Sex-Based Harassment Complaints
- Title IX Policy & Procedures for Sex Discrimination Complaints
- Pregnancy Accommodations Policy Template (optional for institutions)

ACCS TITLE IX TEAM/STAFF

- Coordinator (one ultimate overseer)
- Deputy Coordinator (to have actual duties or to act in absence of Coordinator)
- Investigator
- Informal Resolution Facilitator
- Supportive Measure Reviewer (cannot be Coordinator, Deputy Coordinator or their direct reports) NEW FOR 2024 DRAFT POLICY
- Title IX Decisionmaker (Hearing)
- Title IX Decisionmaker (Appeals)
- Title IX Advisors (optional for colleges to provide)

CONFLICT OF INTEREST/BIAS

- All Title IX Team members shall not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. All Title IX matters should be handled impartially.

- Conflict of interest - occurs when an individual's personal interests – family, friendships, financial, or social factors – could compromise their judgment, decisions, or actions in the workplace.

- Bias - prejudice in favor of or against one thing, person, or group compared with another, usually in a way considered to be unfair

ACCS TITLE IX POLICY & PROCEDURES OVERVIEW

- Two different procedures
  - Title IX Policy & Procedures for Sex-Based Harassment Complaints (any Sex-based harassment involving a student Complainant or student Respondent)
  - Title IX Policy & Procedures for Sex Discrimination Complaints (any Employee/employee sex-based harassment and any sex discrimination complaints that are not sex-based harassment)

ACCS TITLE IX POLICY & PROCEDURES OVERVIEW - AMNESTY

The College strongly encourages students to report incidents violating the policy related to discrimination, harassment, sex-based harassment, and related inappropriate conduct. The College's primary concern is the safety of the members of the college community, and it encourages behavior that demonstrates care and concern for members of the community. Accordingly, the College reserves the right to provide a reprieve from disciplinary actions for Complainants and other individuals who exhibit responsible and proactive behavior in reporting sex-based harassment or other prohibited conduct or for students acting as a witness during the formal grievance procedures. The College may provide referrals to counseling and may require educational options, rather than disciplinary sanctions, in such cases.

ICS UNIVERSITY TRAINING MODULES

- ICS will update all training videos/modules to comply with the 2024 regulations. Time of release postponed due to current litigation.
- Once videos are released, we recommend colleges utilize these modules as supplemental and/or refresher training for current and new Title IX team members.

2024 Title IX Litigation

LITIGATION

- The Final Rule has already been placed on hold in their entirety by temporary injunction in 15 states. More hearings are scheduled involving 11 states, including Alabama.
- State of Alabama et.al. v. Cardona (joined by Florida, Georgia, and South Carolina)
  - Preliminary Injunction Hearing took place on July 1, 2024; awaiting decision
- Definition on the basis of sex
  - sexual orientation and gender identity (SOGI)
- Due process rights
- First Amendment protections
- In opposition to existing state law (Alabama Higher Education Transgender Bathroom Law effective October 1, 2024)
- Guidance issued by Attorney General Steve Marshall and State Education Superintendent : "no public school district in the State of Alabama should take any step to implement the new Title IX rule at this time" (only for public K-12 schools)
- **We will keep all colleges updated to any court rulings concerning the final regulations and their implementation.**

ALABAMA LITIGATION POTENTIAL OUTCOMES

- Allow the entirety of the 2024 regulations to go into effect on August 1, 2024, in the state of Alabama.
- Enjoin the entirety of the 2024 regulations for the state of Alabama, essentially placing the entire regulations on hold until further notice.
- Enjoin specific sections of the 2024 regulations for the state of Alabama, essentially placing some parts on hold until further notice and allowing some parts to take effect on August 1, 2024.
- **Any of the state lawsuits can elect to enjoin the entire regulations in a nationwide injunction and place the regulations on hold for the entire country.**

OPPOSITION TO STATE LAW (DEI)

- On Wednesday, March 20, Governor Ivey signed into law SB 129, banning certain public entities from maintaining diversity, equity, and inclusion offices and from sponsoring diversity, equity, and inclusion programs, and to provide prohibitions on the promotion, endorsement, and affirmation of certain divisive concepts in certain public settings.

- This state law requires public institutions of higher education to designate restrooms on the basis of biological sex (based on original birth certificate). The law will take effect on **October 1, 2024.**

- **The Title IX final regulations require institutions to allow transgender students to use the bathroom associated with their gender identity.**

- **Federal law supersedes state law, but guidance will be given at the advisement of legal counsel should the Final Rule go into effect on August 1.**

Case Scenarios

CASE STUDY

Narrative

- Paul and Sara have been in a dating relationship for 6 months. Both are students at ACCS College and take classes at the main campus. They do not take any classes together and both live in separate off campus apartments. Sara reports to the Title IX Coordinator on October 2, 2024, that Paul has been verbally and physically abusive towards her during the relationship. Sara states that Paul, on two occasions, has called her names and yelled at her while on campus. Sara states all the physical abuse (slapping, hitting, pushing) took place at her off-campus apartment .

CASE STUDY

Questions

- Is this a Title IX matter?
  - If yes, what are the next steps? Potential policy violations? Which policy?
  - If no, what are the next steps? Can the matter be referred to another department on campus?

- Are the parties eligible for supportive measures?
  - If yes, what supportive measures could you offer?

CASE STUDY

Narrative

- Chloe graduated from ACCS College in 2021 and is now a student at AUM. In Jan 2024, Chloe called ACCS and reported to the Title IX Coordinator that while at ACCS in 2021 a student named Derek touched her breasts and buttocks without her consent while they were alone in a classroom. Derek is still a current student at ACCS who is expected to graduate in July 2024 and is thinking of transferring to UAB. Chloe was made aware of this by a friend and called to report.

CASE STUDY

Questions

- Is this a Title IX matter?
  - If yes, what are the next steps? Potential policy violations? What policy?
  - If no, what are the next steps? Can the matter be referred to another department on campus?
- Are the parties eligible for supportive measures?
  - If yes, what supportive measures could you offer?
- What if Derek is no longer a GSCC student?

CASE STUDY

Narrative

- Owen reported to the Title IX Coordinator on August 5, 2024, that his friend David told him something about one of the ACCS College professors. David told Owen that Professor Sally Martin keeps asking David out to dinner and won't stop. David has told Professor Martin "no" and that it makes him uncomfortable and to stop. David told Owen that Professor Martin told David on August 2, 2024, that if he doesn't go out on a date with her, then she will fail him in the class. David is afraid to say anything because he really needs to pass this class. Owen reported that David is really stressed out and has talked about "just ending it all". Owen has convinced David to talk to the Title IX Office, but David doesn't want an investigation.

CASE STUDY

Questions

- Is this a Title IX matter?
  - If yes, what are the next steps? Potential policy violations? What policy?
  - If no, what are the next steps? Can the matter be referred to another department on campus?

- Are the parties eligible for supportive measures?
  - If yes, what supportive measures could you offer?

Questions?

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