

§106.45(b)(1)(iii) Overview
August 5, 2022



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Title IX Training



TITLE IX

(Education Amendments of 1972)

“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.”

Sexual Harassment

Any instance of **quid pro quo** harassment by a school's employee; any **unwelcome** conduct that a reasonable person would find **so severe, pervasive and objectively offensive** that it denies a person equal educational access; **or** any instance of³ sexual assault, dating violence, domestic violence, or stalking.

Retaliation

“No recipient or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX...because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing...”

Scope of Education Program or Activity

- Locations, events, or circumstances over which the recipient exercised substantial control over both the respondent and the context in which the sexual harassment occurs
- Extends to any building owned or controlled by a student organization that is officially recognized by a postsecondary institution
- Must be in the United States

Appeals

- Must be in writing and submitted within 10 days of the determination
- Statement of Appeal must include the grounds for appeal and describe the relevant evidence supporting the specific grounds for the appeal
- If grounds for appeal include new evidence, the appeal must include such information with the Statement of Appeal

Grounds for Appeal

- A procedural irregularity that affected the outcome
- New evidence that was not reasonably available at the time the determination was made that would affect the outcome
- The decision was not reasonably justified by the evidence or was contrary to law
- Excessive severity of the disciplinary sanction⁷
- The Title IX Coordinator, Investigator, or Hearing Officer had a conflict of interest or bias for or against a party that affected the outcome.

Procedural Information

- The Title IX Coordinator retains discretion to verify and/or waive minor procedural variation in timing or content of appeal submission and will provide written explanation for the action and reason(s)
- Upon receipt of a timely appeal, the Title IX Coordinator will provide the other party with notification of the appeal (including Statement of Appeal and attachments)
- The party not seeking appeal will have 10 days to provide a response to the appeal
- Within 20 days of receiving the response to the appeal, the Appeals Officer will provide a written decision simultaneously to both parties explaining the rationale for the decision

Precepts

- Remain unbiased, impartial, objective, and free of conflicts of interest
- Stay focused on the facts
- Keep an open mind
- Do not rely on sex stereotypes or generalizations
- Follow all policies and procedures, and clarify them when unclear
- Treat all participants with equal dignity, care, and respect

Relevance

- Parties must be permitted to submit all relevant evidence
- Irrelevant information:
 - Information protected by a legally-recognized privilege
 - Evidence about complainant's prior sexual history
 - Unless offered to prove that someone other than the respondent committed the conduct or
 - If related to specific incidents of the complaint's prior sexual behavior with the respondent and offered to prove consent
 - Complainant or Respondent's medical or psychological records unless voluntary written consent