

Title IX Coordinator Training Online Course

Class One: Definitions, Jurisdiction and Preliminary Matters

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Training Course Does Not Constitute Legal Advice

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Class Overview

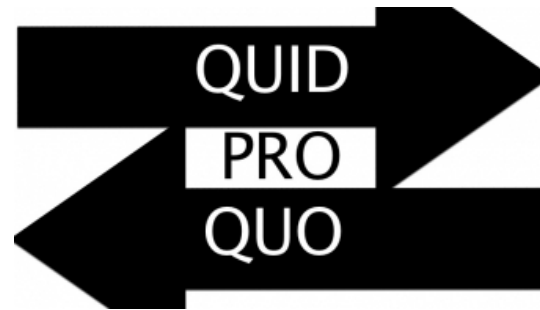
- Definitions
- Jurisdiction
- Formal Complaints
- Supportive Measures
- Dismissals
- Informal Resolution



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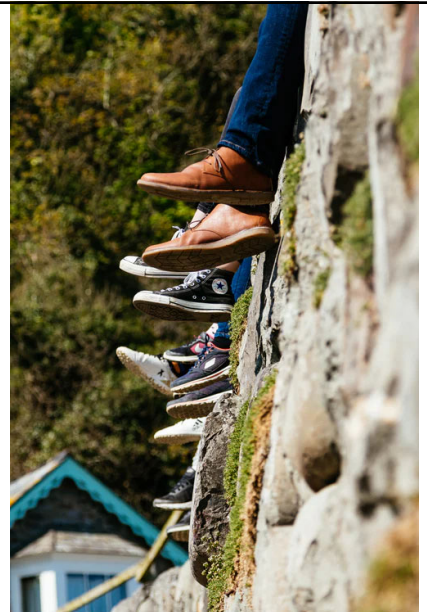
QUID PRO QUO

- Conditioning provision of an aid, benefit or service on participation in unwelcome sexual conduct
- Carried out by an employee



HOSTILE ENVIRONMENT

- Unwelcome sexual conduct
- “So severe, pervasive, *and* objectively offensive”
- “Effectively denies equal access”
- “Determined by a reasonable person”
 - “[S]tanding in the shoes of the complainant.” (Preamble, p. 514)



CLERY DEFINITIONS

- **Sexual Assault** – a forcible or non-forcible sex offense under the FBI UCRS (as defined by the Clery statute)
 - FBI UCRS/SRS definitions or NIBRS Sex Offenses definitions
 - Focus on proscribed actions rather than terms
- **Dating Violence** – violence by a person who is or has been in a romantic or intimate relationship (Clery statute)
- **Domestic Violence** – violence by a current or former spouse or intimate partner, co-parent, living partner, youth or other under state law
- **Stalking** – fear for safety or safety of other or suffer substantial emotional distress



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Complainant & Respondent

- **Complainant** – an individual who is alleged to be the victim of conduct that could be sexual harassment
- **Respondent** – an individual who has been reported to be the perpetrator of conduct that could be sexual harassment



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Actual Knowledge

- Institution has actual notice of sexual harassment or allegations when reported to the:
 - Title IX Coordinator(s)
 - Official With Authority to Take Corrective Actions (OWA)
- Not a respondent
- Not others who may or must report



Jurisdiction

Education Program or Activity



- Locations, events, or circumstances over which IHE exercises substantial control over *both* the respondent and the context in which the sexual harassment occurred, *or*
- Any building owned or controlled by a recognized student organization, *and*
- Against a person in the United States



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Filing a Formal Complaint

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Filing a Formal Complaint

- Filed by the Complainant or signed by the Title IX Coordinator.
- Requests that the IHE investigate the allegations of sexual harassment.
- In person, by mail, email or approved method with Complainant's signature.
- Complainant must be participating in or attempting to participate in the IHE's education program or activity.

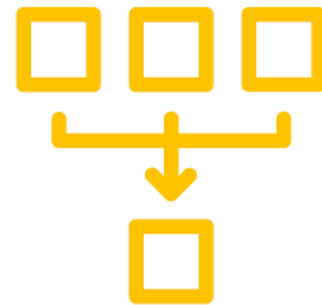


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The Formal Complaint: More Than One Respondent

- *May* consolidate formal complaints against more than one respondent, or by one party against the other party
 - Allegations arise out of the same facts or circumstances.
- Complaints may be filed and sanction imposed *only* against individuals, not groups



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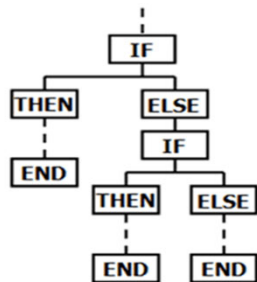
Written Notice of Allegations

- Notice of the grievance process.
- Notice of the allegations, including sufficient details and time to prepare a response *before* the initial interview.
- Statement that the respondent is presumed not responsible.
- Right to advisor of choice.
- Right to inspect and review evidence.
- Any prohibition of false statements or information.

Provide updated notice with any later discovered additional allegations.



Dismissals



Mandatory/Discretionary Dismissals

Mandatory if Conduct Alleged:

- Would not constitute sexual harassment even if proved;
- Did not occur in the IHE's education program or activity; or
- Did not occur in the United States.

Discretionary If:

- Complainant notifies the Title IX Coordinator in writing of a wish to withdraw complaint or any allegations in it;
- Respondent is no longer enrolled or employed; or
- Specific circumstances prevent sufficient gathering of evidence to reach a determination.



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Dismissal Results



If a formal complaint is dismissed:

- Provide written notice of dismissal and reasons to both parties.
- Provide an appeal process.
- The matter *may* proceed under another provision, policy or code.



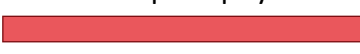

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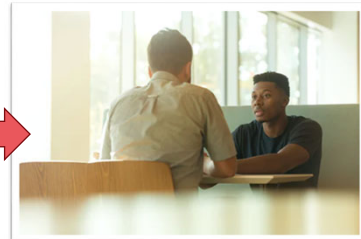
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Supportive Measures

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Response to a Report

- Offer *supportive measures* promptly to the Complainant. 
- Explain the process for filing a formal complaint.
- Consider the Complainant's wishes as to supportive measures. 
- Follow a grievance process that complies with the regulations *before* imposing any disciplinary sanctions or other actions that are not supportive measures against the Respondent.



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Supportive Measures



- Non-disciplinary and non-punitive
- Treat complainant and respondent equitably
- No fee or charge to complainant or respondent
- Restore or preserve equal access without *unreasonably* burdening the other party
- Confidential to the extent possible

Informal Resolution

Informal Resolution Requirements



- Only *after* a formal complaint is filed
 - At any point in the process
 - May return to formal process if informal resolution does not resolve the matter
- All forms of sexual harassment
 - *NOT* – Allegations of employee against student harassment
 - *ONLY* – When the institution deems it appropriate
- Process is facilitated by trained individuals with no conflict of interest or bias
- Written, voluntary consent by the parties, which requires ...

Informal Resolution Process

- Parties must be given written notice of:
 - The allegations and the requirements of the informal resolution process;
 - The right to withdraw from the informal procedure at any time prior to agreeing to a resolution;
 - The circumstances precluding parties from resuming the formal complaint arising from the same allegations; and
 - Any consequences associated with informal resolution, including records that will be maintained or could be shared.



Note

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