

# ST Title IX Rights and Protections

Full Course

Anna J. Miller, Megan C. Farrell, Marybeth Sydor



2024

Vector Solutions

## Title IX

Title IX of the Education Amendments of 1972 is a federal law that prohibits discrimination on the basis of sex in any educational program or activity receiving federal funds.

So what does this have to do with you?

© 2024 Vector Solutions

## Protection for Students

As a student, this law protects you from sexual harassment at your school and requires colleges to promptly investigate a formal complaint and take steps to protect you.

Title IX covers all current students, regardless of sex.

© 2024 Vector Solutions

## Disclaimer

The content in this course was designed with care and sensitivity; however, some may find certain topics personally upsetting especially for survivors of sexual abuse or sexual assault. If you feel the need to talk with someone, please contact your Human Resources Administrator, designated official or a related resource in your community.

© 2024 Vector Solutions

## Goal

This course is designed to give you information about the importance of Title IX and what your school's obligations are when a formal complaint is filed.

In this course, we will:

- examine the definition of sexual harassment
- describe Title IX's regulations and obligations (and)
- review grievance procedures

At the end of the course, you'll have a chance to apply what you've learned during a brief quiz.

So, if you're ready, let's begin.

## Defining Sexual Harassment

© 2024 Vector Solutions

## Sexual Harassment on College Campuses

Although federal law guarantees students the right to an education, free from sexual harassment, sexual assault remains a significant problem on college campuses nationwide.

In one study, more than a quarter of senior-year women in four-year schools reported that they had experienced unwanted or nonconsensual sexual contact since entering college.

But what's more troubling is that the offender was known to the victim in about 80 percent of rape and sexual assault cases.



## Other Victims

Sexual harassment on campus isn't just a woman's issue. Although college-aged women are more likely than any other age group to face sexual assault, *anyone* can be the target of sexual violence, regardless of age, gender, race, ethnicity, sexual orientation or gender identity.

The important thing to remember is that **sexual assault is never the victim's fault.**

© 2024 Vecol

## Sexual Harassment

Under federal Title IX regulations, sexual harassment is unwelcome conduct on the basis of sex. The May 2020 Department of Education Title IX regulations define sexual harassment within three categories.

First, sexual harassment includes acts of unwelcome sexual conduct and other sexual acts that are committed against a person's will.

Sexual harassment includes:

- sexual assault
- dating violence
- domestic violence
- stalking



## Sexual Harassment: Quid Pro Quo

Another form of sexual harassment is known as “*quid pro quo*,” which is Latin for “something for something.”

An employee of the college or university who conditions the provision of an aid, benefit, or service of the institution based on another individual’s participation in unwelcome sexual conduct has engaged in *quid pro quo* sexual harassment.

A professor who promises you a good grade if you have sexual contact with her? That’s *quid pro quo* sexual harassment.



© 2024 Vector Solutions

## **Sexual Harassment: Hostile Environment**

The other form of sexual harassment is “hostile environment,” which is unwelcome conduct that is so severe, pervasive and objectively offensive that it effectively denies your right to an education and participation in a school’s program or activity.

An example of this might be a group of male students routinely and repeatedly making explicitly suggestive comments about a female student to such an extent that she begins skipping class to avoid them.

© 2024 Vector Solutions

## Types of Hostile Environments

If the harassment is something like inappropriate comments, you would need repeated examples to create a hostile environment. One-off comments may be inappropriate, but would not rise to the level of sexual harassment under the current definition.

However, if an incident is severe, such as a rape, this act by definition is sexual harassment and thus, it is not necessary to prove it also created a hostile environment.

## Consent

California has the **Affirmative Consent Law**, or the **“yes means yes”** standard. A lack of a “no” doesn’t equal consent.

© 2024 Vector Solutions

## Three C's of Consent

The three C's of consent are:

- clear

Consent is clear and affirmatively stated: “Yes, I would like to engage in this behavior, and it is welcome.”

- consistent

Every new act must be agreed upon. Just because someone says “yes” to kissing doesn't mean they consent to all further forms of sexual activity. (and)

### Three C's of Consent (cont.)

- conscious

People can't consent when they're so drunk or high that their judgment is significantly impaired.

© 2024 Vector Solutions

## Knowledge Check

[question: Quid pro quo is behavior of a sexual nature that is so severe and pervasive that it interferes with a student's right to an education and participation in a program or activity.]

[type: truefalse]

[incorrect: True]

Quid pro quo means giving something in order to get something. A hostile environment is behavior of a sexual nature that is so severe, pervasive and objectively offensive that it interferes with a student's right to an education and participation in a program or activity.

[correct: False]

Quid pro quo means giving something in order to get something. A hostile environment is behavior of a sexual nature that is so severe and pervasive that it interferes with a student's right to an education and participation in a program or activity.

[placement: item-end]

## Regulations and Obligations

© 2024 Vector Solutions

## Investigating All Allegations

According to Title IX, colleges must investigate all formal complaints of sexual harassment that occur during college-sponsored programs and activities. These programs and activities might be extracurricular, athletics or off-campus programs.

© 2024 Vector Solutions

## Title IX Coordinators

Colleges have Title IX coordinators who are responsible for handling all Title IX matters. Your college's website must contain their individual contact information. You may provide your complaint directly to the Title IX coordinator; however, you may also provide your complaint to any other employee who has the authority to take corrective action on behalf of the college

While an employee with authority to take corrective action will not investigate your complaint, they can help you contact the appropriate individuals to assist you.



## Confidential Counselors

Some campus staff, such as counselors, psychologists, health professionals and licensed therapists, are required to keep discussions confidential except in instances of child abuse and credible threats to harm others.

While these individuals can report allegations of sexual assault or sexual harassment to a Title IX coordinator for further investigation, they must keep the substance of your conversations private unless you direct them to do otherwise.

© 2024

## Confidential Nature of Reports

If you report an incident of sexual harassment to someone other than a confidential counselor, you should note that that person, may have an obligation to report what you told them about the sexual harassment to the college's Title IX coordinator.

The Title IX coordinator is the individual on the college campus who oversees these complaints and will provide supportive measures to the individuals involved in the reported incident of sexual harassment.

## Maintaining Confidentiality

You may think, “Can I just talk to them?” and “I want to remain anonymous. I don’t want this information shared.”

Colleges will do their best to protect your confidentiality if you don’t want to file a formal complaint but they can’t guarantee it in all situations. For example, if you report that you were assaulted at a party and believe the same person assaulted others, the Title IX Coordinator may bring a formal complaint to look into whether there were other victims.

Even if you choose not to file a formal complaint, the Title IX Coordinator will help you with whatever supportive measures services you believe are necessary to address whatever you may have gone through.

## Supportive Measures

If you report an incident or bring a complaint to your college, you should be aware of what are called “supportive measures.” These are protections your college will put into place promptly to protect your ability to participate in their education programs or activities. It is important to note that you do not need to file a formal complaint to receive supportive measures. However, if you do bring a formal complaint, these supportive measures may remain in place throughout the investigation of the matter.

Supportive measures may include class or work schedule changes and no-contact directives, although there’s no set list of actions. These are determined based on the circumstances. Supportive measures must be non-disciplinary. If a supportive measure includes removal of a student from an education program or activity, the college must provide a means for the student to immediately challenge this decision.

## Timeline to Report

In some instances, students don't come forward immediately after they've experienced sexual harassment. This doesn't mean that it's too late to make a complaint.

While colleges strongly encourage people to come forward immediately, as it makes the investigation easier to conduct, your college will look into complaints to the extent that they can.

If either party is no longer enrolled in or seeking enrollment in an education program or activity at the college, the Title IX Coordinator has the discretion to dismiss the complaint.



## Standard of Evidence

When investigating complaints, your college will use a specific, stated standard of evidence to reach its conclusion. Colleges can use what's referred to as "a preponderance of the evidence" or "clear and convincing" standard. Preponderance of the evidence, means that it's *more likely than not* that the sexual harassment occurred. The clear and convincing standard is a higher standard of evidence that requires that the evidence be highly and substantially more probable to be true than not.

## Inability to Consent

You shouldn't fail to report an incident because one or both of you was drunk or high during an alleged assault.

The behaviors of the student making the complaint and the alleged perpetrator are viewed separately. The use of drugs and alcohol in some situations may result in an inability to consent to sexual activity. Some colleges have an amnesty policy which does not result in violations for students who report potential violations of the sexual harassment policy.

© 2024 Vector Solutions

## Knowledge Check

[question: You must report an assault immediately if you want your college to take action.]

[type: truefalse]

[incorrect: True]

In some instances, students don't come forward immediately after they've experienced sexual harassment or sexual assault. This doesn't mean that it's too late to make a complaint.

[correct: False]

While colleges strongly encourage people to come forward immediately as it makes the investigation easier to conduct, your college will look into complaints to the extent that they can if both parties are currently enrolled or seeking to be enrolled in a education program or activity.

[placement: item-end]

© 2024 Vector Solutions

## Grievance Process

## Duty to Investigate

As we mentioned earlier, colleges must promptly evaluate a formal complaint of sexual harassment and take steps to provide supportive measures.

If the Title IX Coordinator determines that an investigation is required, the length of an investigation into a Title IX complaint varies depending on the facts, witnesses and evidence available. Some investigations may require numerous witness interviews, while another may have just a few people.

Informal resolution is another option that you can explore with your Title IX Coordinator.



## Investigation Process

The investigation requires an Investigator to evaluate all relevant evidence, and interview the parties and witnesses. Both parties will be given opportunities to review and respond to the evidence and the Investigator's Report.

In most cases, formal complaints are resolved and a determination within a reasonable period of time. No matter how long it takes, any supportive measures would be in place during the time that it takes to resolve a complaint and determine what happened.



© 2024 Vector Solutions

## Criminal Matters

Students can report sexual assault allegations to the police and to the college. Police and college investigations are separate but can occur simultaneously. While your college will notify you of your right to file a criminal complaint, it won't require you to contact law enforcement.

The police will consider whether any activity of a criminal nature occurred, while your college will consider whether a violation of policy occurred.

Criminal matters are handled by state and sometimes federal courts.



© 2024

Vector

Solutions

## Hearings

Following the investigation, colleges are required to provide a live hearing to determine if a violation of policy occurred.

If you are a party to the investigation, you are entitled to have an advisor with you during the hearing process, and if you do not have an advisor, the college will provide one to you. As a party or witness, you may be cross-examined by an advisor for either party during the hearing. Failure to attend the hearing means that any evidence provided by the party or witness previously cannot be considered in the adjudication (policy-violation) process.



© 2024 Vector Solutions

## Notice of Outcome

At the end of the investigation, parties receive a determination letter. This notice informs whether the allegations brought forward were supported for a finding of responsibility. If the result is a finding of responsibility, this letter will also include information on any disciplinary action taken against the respondent as well as any remedies designed to restore or preserve equal access to the complainant's education program or activity.

Both parties have the right to appeal the decision, after which the determination becomes final.



© 2024 Vector Solutions

## Knowledge Check

[question: Students can report sexual assault allegations to the police and to the college.]

[type: truefalse]

[correct: True]

Police and college investigations are separate but can occur simultaneously. While your college will notify you of your right to file a criminal complaint, it won't require you to contact law enforcement.

[incorrect: False]

Police and college investigations are separate but can occur simultaneously. While your college will notify you of your right to file a criminal complaint, it won't require you to contact law enforcement.

[placement: lo-end]

## Checkpoint

After taking this course, you should be able to:

- recognize sexual harassment
- describe Title IX's regulations and obligations (and)
- recall grievance process procedures

Review these points and repeat this course, if needed.

© 2024 Vector Solutions