

Title IX Appeal Adjudicator Annual Training

DECEMBER 12, 2025

Agenda

- Legal overview and definitions
- General Title IX process
- Appeal process & expectations
 - General process steps
 - Making a determination
 - Working with the Title IX Coordinator
- Scenarios



Title IX Overview

Title IX Basics

Prohibits sex
discrimination in
education programs
and activities

Applies to students,
employees,
volunteers, etc.

Includes sexual
harassment

2020 Regulations govern Title IX Policy and Practices

Under the regulations, an institution has an obligation to

- Respond promptly when it has actual knowledge of sex discrimination
- Respond in a manner that is not “deliberately indifferent”
- Disseminate a policy prohibiting sex discrimination
- Follow and publish a grievance process for addressing sex harassment that meets the requirements outlined in the regulations
- Take action to stop the harassment, prevent the recurrence, and remedy the effects
- Publish a Notice of Nondiscrimination
- Designate a Title IX Coordinator
- Prohibit retaliation

Training Mandates

DEFINITIONS

- Sexual harassment
- Education program or activity

OTHER

- Institutional policies and procedures
- Any technology for live hearings
- Training materials must be posted on institution's website and maintained for seven years
- Training cannot rely on sex stereotypes

CONCEPTS

- Conducting an impartial investigation and hearing process
 - ... While protecting the safety of complainants and promoting accountability
- Serving impartially, without bias, and without conflicts of interest
- Relevance regarding questions, evidence, and the investigation report
- Dynamics of sexual assault, dating violence, domestic violence, and stalking

The Clery Act and the Violence Against Women Act (VAWA)

CLERY

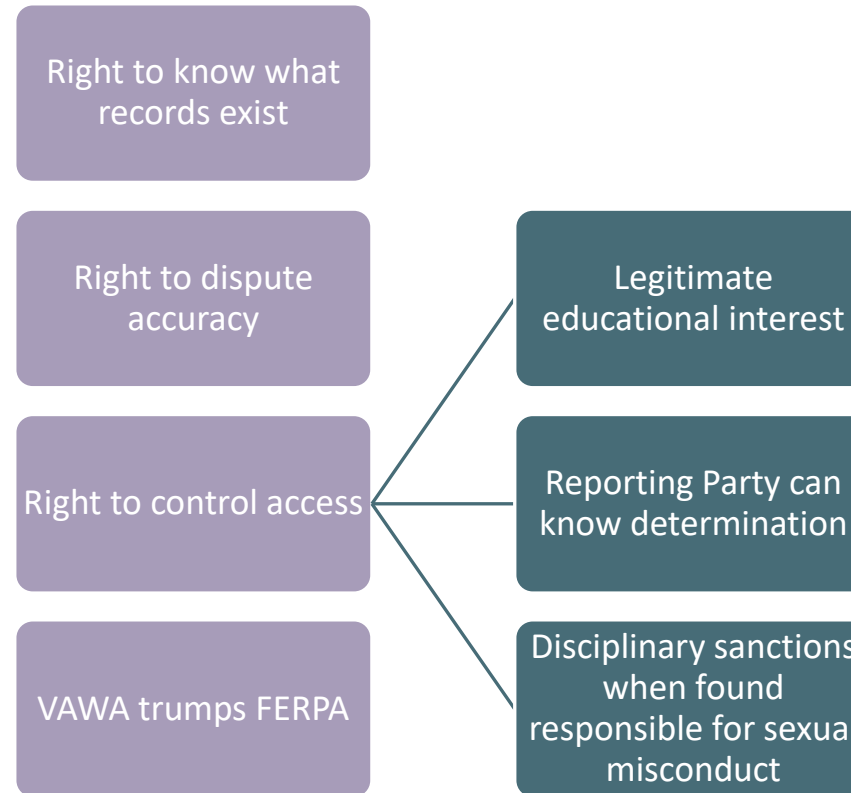
- Consumer protection law
- Institutions must provide accurate, timely, and complete information on specific types of crimes that occur on or adjacent to campus, including sexual assault
- Clery Act violations come with significant fines
- Policy, procedure, prevention, and training requirements for
 - Dating violence
 - Domestic violence
 - Stalking
 - Sexual assault
- Requires Annual Security Report including institution's policies and crime statistics

VAWA

Institutions must:

- Prohibit sexual assault, dating violence, domestic violence, and stalking
- Provide clear definitions for the above misconduct and for consent
- Incorporate training and prevention programs for administrators, students, and employees

What about FERPA?



Minn. Stat. § 135A.15

INSTITUTIONS MUST:

- Incorporate sexual harassment policy requirements
- Inform victims of their rights
- Include reporting procedures and disciplinary processes in their policy
- Incorporate an amnesty policy
- Coordinate with law enforcement
- Health services must be confidential and screen for sexual violence and harassment
- Provide an online reporting system that permits anonymous reports
- Report annual statistics on **sexual misconduct**
- Data privacy stipulations
- Training requirements for administrators, campus security, and students
- Allow advisors to make opening and closing statements during a hearing
- [Full Statute Link](#)

Minn. Stat. § 135A.15

“Sexual misconduct” includes:

- Sexual Assault, Dating Violence, Domestic Violence and Stalking
- Sexual Extortion
- Sex Trafficking
- Nonconsensual Dissemination of Sexual Images and Deepfake Sexual Images



When does Title IX apply?

Quid Pro Quo

- Employee conditions an outcome on an individual's participation in unwelcome sexual conduct

Hostile Environment

- Unwelcome conduct that is **so severe, pervasive, and objectively offensive** that it denies a person equal access to a program or activity

VAWA Crimes

- Sexual assault
- Dating Violence
- Domestic Violence
- Stalking

Sexual harassment =
conduct on the basis of sex that satisfies at least one of the above

Sorting out Title IX and Other Sexual Harassment Cases Following 2025 Amendments

State Law mandates parties be offered the option of a live hearing for all sexual harassment cases

“Both the reporting and responding parties must have equal opportunities to challenge the credibility of the other party and witnesses through either a live hearing or questioning conducted by a decision-maker”

Broader definition of sexual harassment under state law

Title IX 2020 regulations: requires conduct to be “severe, pervasive, **and** objectively offensive” and limited to incidents occurring within a program or activity

Minnesota Human Rights Act: defines sexual harassment as “severe **or** pervasive,” applies to incidents on property owned or leased by the institution, but only covers cases where the respondent is a student

Sexual Assault

Any sexual act directed against another person, without the consent of that person, including instances where the individual is incapable of giving consent.

Rape: Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without their consent, including instances where they are incapable of giving consent because of age or temporary or permanent mental or physical incapacity.

Fondling: The touching of the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification, forcibly and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Incest: sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law

Sexual Assault contd.

Any sexual act directed against another person, without the consent of that person, including instances where the individual is incapable of giving consent.

Statutory Rape: Nonforcible sexual intercourse with a person who is under the statutory age of consent

Sexual assault with an object: The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will (non-consensually) or not forcibly or against the person's will in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Sodomy: Oral or anal sexual intercourse with another person, forcibly and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity

Sexual Misconduct

Remember policy must also address **sexual extortion**, **sex trafficking** and **deepfake images**.

MN Law changed sexual **assault** to sexual **misconduct**, which is defined to include:

- Sexual assault
- Domestic violence
- Dating violence
- Stalking
- Nonconsensual distribution of sexual images including deepfakes depicting intimate parts or sex acts
- Sexual extortion
- Sex trafficking

Interacting with Complainants: *Dynamics of Sexual Violence*

- Most victims know the perpetrator.
- The vast majority of incidents go unreported to law enforcement.
- Alcohol and/or drugs are involved in many instances of assault (particularly on college and university campuses).
- Most sexual assaults are committed without severe physical violence and without a weapon.
- Most victims do not physically resist during an assault.

https://evawintl.org/wp-content/uploads/Module-2_Dynamics-11.9.2020.pdf

<https://rainn.org/effects-sexual-violence>

Nonconsensual
distribution of sexual
images...

... including deepfakes depicting
intimate parts or sex acts.

Could include “revenge porn”

Deepfake = “an image or recording that has been convincingly altered and manipulated to misrepresent someone as doing or saying something that was not actually done or said” (Merriam Webster definition)

Extortion

Subdivision 1. **Crime defined.** (a) A person who engages in sexual contact with another person and compels the other person to submit to the contact by making any of the following threats, directly or indirectly, is guilty of sexual extortion:

- (1) a threat to withhold or harm the complainant's trade, business, profession, position, employment, or calling;
- (2) a threat to make or cause to be made a criminal charge against the complainant, whether true or false;
- (3) a threat to report the complainant's immigration status to immigration or law enforcement authorities;
- (4) a threat to disseminate private sexual images of the complainant as specified in section 617.261, nonconsensual dissemination of private sexual images;
- (5) a threat to expose information that the actor knows the complainant wishes to keep confidential; or
- (6) a threat to withhold complainant's housing, or to cause complainant a loss or disadvantage in the complainant's housing, or a change in the cost of complainant's housing.

Sex Trafficking

Subd. 7a. **Sex trafficking.** "Sex trafficking" means:

(1) receiving, recruiting, enticing, harboring, providing, or obtaining by any means an individual to aid in the prostitution of the individual; or

(2) receiving profit or anything of value, knowing or having reason to know it is derived from an act described in clause (1).

Consent

Institutions are not required to maintain a particular definition of consent; however, they should include a definition in their policy.

Consent is words or overt actions by a person clearly and affirmatively communicating a freely-given, present agreement to engage in a particular form of sexual contact.

Incapacitation

- An individual's physical and/or mental inability to make informed, rational judgments
- Incapacitated individuals cannot give consent to sexual contact
- Intoxication vs. Incapacitation
- Examples include sleep, unconsciousness, or intermittent consciousness
- Signs could include slurred speech, difficulty walking, vomiting
- May also exist due to mental or developmental disability
- **Frequent decision point for adjudicators:** *1) Was the complainant incapacitated; and 2) did or should the respondent (or a reasonable person) know/have known?*

Dating Violence

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

- Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- Dating violence does not include acts covered under the definition of domestic violence.

Domestic Violence

A felony or misdemeanor crime of violence committed:

- By a current or former spouse or intimate partner of the Complainant;
- By a person with whom the Complainant shares a child in common;
- By a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;
- By a person similarly situated to a spouse of the Complainant under domestic or family violence laws;
- By any other person against an adult or youth Complainant who is protected from that person's acts under domestic or family violence laws.

Power & Control Wheel for Teen Dating Violence

This tool explains some of the ways an abusive partner may use power and control to manipulate a relationship.



**Violence
Intervention
Program**

If you would like to speak to a counselor about your relationship or someone you know please call our confidential hotline at

1-800-664-5880

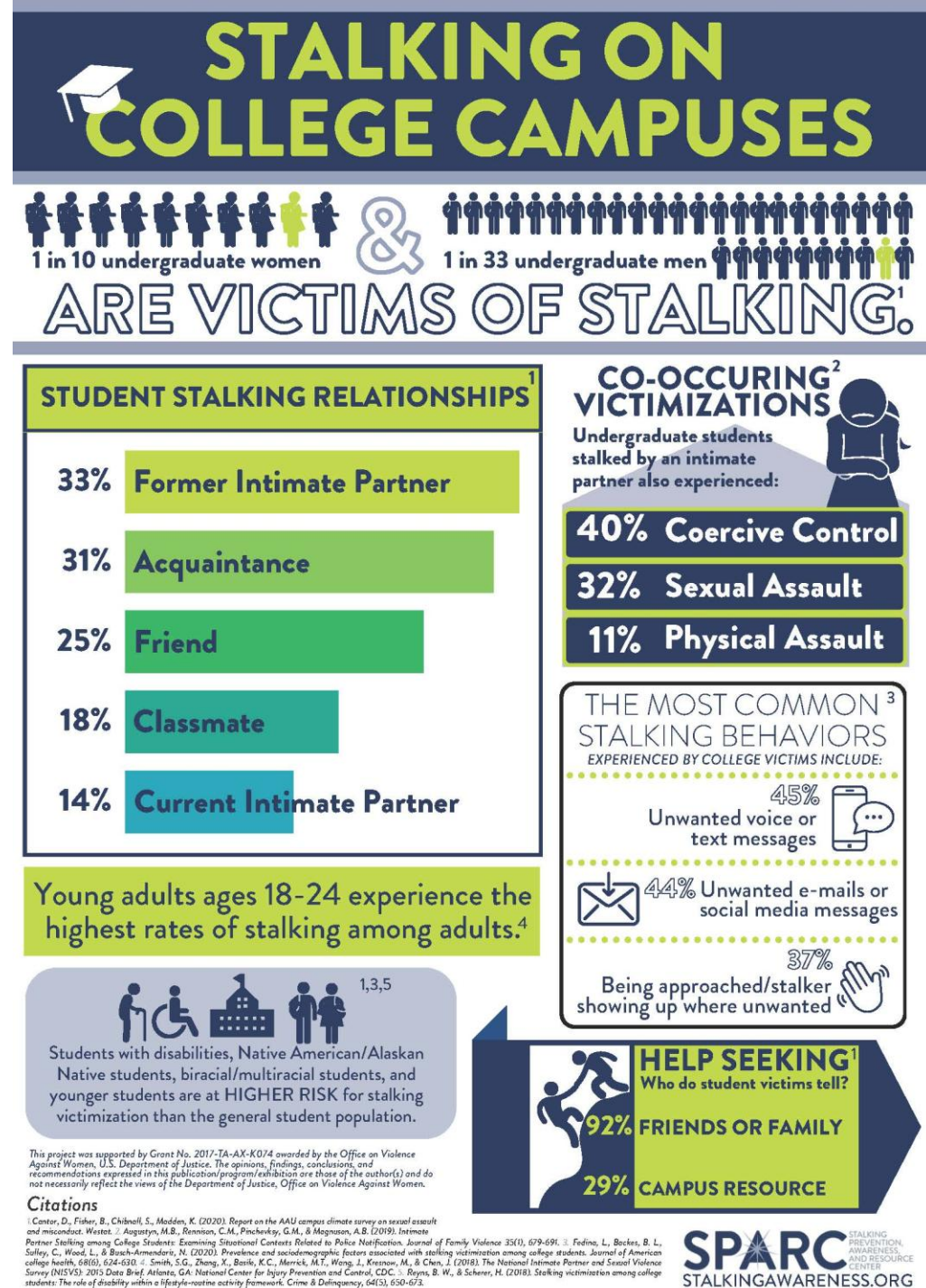
<https://www.wafwc.org/tdv>

Stalking

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others; or suffer substantial emotional distress.

Course of conduct means **two or more acts**, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

<https://www.stalkingawareness.org/fact-sheets-and-infographics/>



Sexual exploitation

A form of sexual harassment that involves one or more of the following behaviors committed for any purpose, including sexual arousal or gratification, financial gain, or other personal benefit:

- taking sexual advantage of another person without consent;
- taking advantage of another's sexuality; or
- extending the bounds of consensual sexual contact without the knowledge of the other individual.



Retaliation

Any intimidation, threats, coercion, or discrimination against any individual because the individual has made a report, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing.

Education Program or Activity under Title IX

WHAT DOES IT MEAN?

- Locations, events, or circumstances...
- On or off campus...
- Over which the institution exercises substantial control over the context in which the harassment took place.

ADDITIONAL REQUIREMENTS:

- Must have occurred within the United States.
- Includes conduct that occurred in any building owned or controlled by an officially recognized student organization.
- Institution must also have exercised substantial control over the Respondent

Parties' relationship with the institution

COMPLAINANT

Must be participating or attempting to participate in the institution's education program or activity at the time of filing a Formal Complaint.

**Broad interpretation of "participating or attempting to participate in"*

RESPONDENT

An institution's ability to take disciplinary action under Title IX is limited when the Respondent is not affiliated with the institution.

**But... should still consider appropriate action steps to facilitate reporting party's participation in education programs and activities.*

A Note about Sex-Based Discrimination

Discrimination based on sex or gender (i.e., adverse or preferential treatment based on someone's sex, gender identity, sexual orientation, etc.) is still prohibited under Title IX; however, institutions are not obligated to implement all the same Grievance Process requirements as stated in the regulations in order to address and/or investigate those types of concerns.



Title IX Personnel Roles & Responsibilities

Title IX Coordinator: Role and Responsibilities

Must designate at least one Title IX Coordinator

Should have significant autonomy and seniority

May be housed in various departments/divisions, depending on the institution

- Creates and implements legally compliant policy and procedures
- Oversees response to reports and formal complaints as well as informal and grievance procedures
- Implements supportive measures and facilitates connection to resources
- Ensures sanction and remedy compliance
- Training oversight
- Recordkeeping

Investigator: Role and Responsibilities

- Can be internal or external
- Burden to collect sufficient evidence
- Conducts fair, prompt, and impartial investigations
 - Identifies witnesses and evidence
 - Provides parties opportunity to submit evidence
 - Identifies factual issues
 - Maintains records, recordings, etc.
 - Creates an investigation report
- Works in coordination with the Title IX Coordinator, particularly around evidence and report review
- Maintains impartiality and avoids bias
- Receives annual training



Advisors

- Advisors assist parties throughout the process; can be attorneys, advocates, friends, family members, mentors, etc.
- Parties have the right to an advisor of their choice
- Advisors may attend meetings and interviews with the party
- If a party does not have an advisor, the institution must provide an advisor to conduct cross-examination on the party's behalf **during the hearing**. These advisors are not required to be trained
- In Minnesota, advisors may make opening and closing statements on behalf of their party at the hearing
- Carleton has Advisor Guidelines for all steps of the process

Decision-makers: Role and Responsibilities

HEARING PANEL MEMBERS & ADJUDICATOR(S)

- Attends and conducts a live hearing
- Determines whether the institution's policy has been violated under the appropriate standard of evidence
- Determines sanctions, if necessary
- Writes a Notice of Decision that includes a rationale for the finding
- Avoids bias and conflicts of interest
- Receives annual training

APPEAL OFFICER(S)

- Determines a ruling on a party's appeal by reviewing appropriate investigation/hearing materials
 - Not a "re-do" of the investigation
- May meet with parties
- Writes a Notice of Decision that includes a rationale for the outcome
- Avoids bias and conflicts of interest
- Receives annual training

Conflicts of Interest



Biases *for* or *against* complainants or respondents individually or generally



A material connection to the parties, witnesses, or issues that would cause a reasonable person to question partiality



Immediately disclose any potential conflicts of interest to the Title IX Coordinator



Conflicts of interest may be raised on appeal



Incorporate an avenue for parties to raise potential conflicts of interest early in the process

Avoiding Bias

Bias = tendency to
like or dislike; may
involve
stereotypes

Might be implicit

Avoid prejudgment
of the facts

Frequent implicit biases

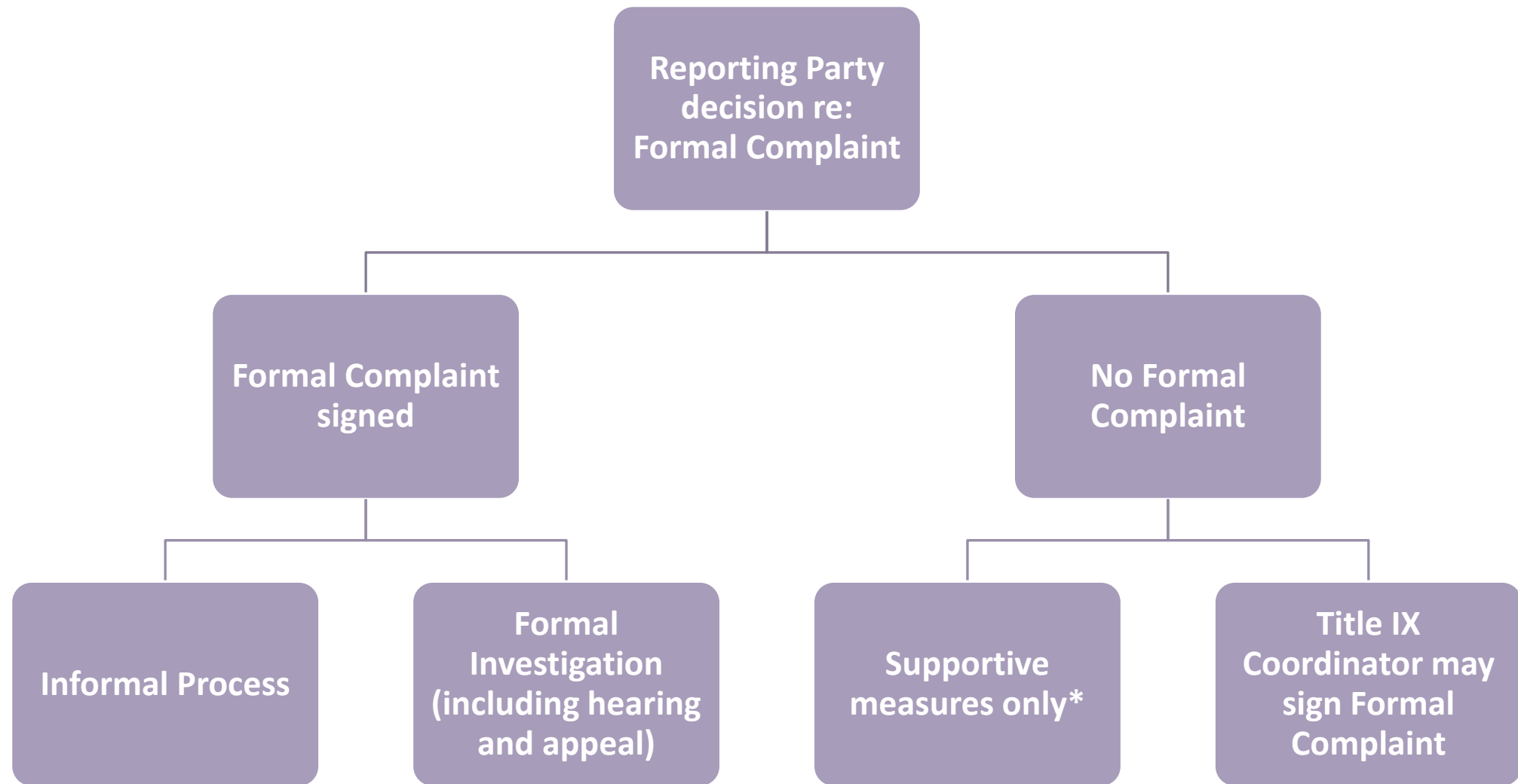
- Race
- Gender
- Gender identity
- Gender expression
- Sexual orientation
- Religion
- National origin
- Ethnicity
- Age
- Disability
- Marital status
- Veteran status

Scenarios

1. An appeal officer previously served as a consultant to the Title IX Coordinator on a *different* stage of the same complaint (e.g., was asked to advise on emergency removal or supportive measures before being assigned as appeal officer).
2. An appeal officer previously volunteered for an organization providing advocacy services for sexual assault survivors. They did not work directly with any involved parties.
3. The appeal officer and the respondent used to be neighbors; their children occasionally had playdates. They were friendly but not close.
4. The appeal officer was the academic advisor for a key witness two years ago.
5. The appeal officer previously handled an academic misconduct appeal for one of the parties last year.
6. The Carletonian quotes the appeal officer in a general article about campus safety as saying: “We must take reports of harassment seriously.”
7. The appeal officer does not personally know the complainant or respondent, but their spouse works in the same academic department as the respondent. They’ve attended large departmental parties together.



Dismissals



**Reporting party may initiate Formal Complaint in the future.*

“Dismissed” Formal Complaints

Institutions may dismiss Formal Complaints or allegations within Complaints either because it's required under the current regulations or due to institutional discretion.

Institutions must offer the party/parties the option to appeal the dismissal decision.

Decision-makers could be called upon to make a determination about an appeal of a dismissal decision.

Dismissal

REQUIRED DISMISSAL

TIXC is required to dismiss a formal complaint if:

- At the time of the complaint, the reporting party is not participating/attempting to participate in the institution's program/activity
- The alleged conduct, even if proved, would not meet the sexual harassment definition
- The alleged conduct did not occur in the institution's program or activity
- The alleged conduct happened outside the U.S.

PERMISSIVE DISMISSAL

TIXC may dismiss a formal complaint prior to a final decision if:

- Reporting party withdraws from the process (needs to be in writing)
- Respondent is no longer a student/employee at the institution
- Circumstances prevent the institution from collecting sufficient evidence

Dismissal Cont'd

IF DISMISSING:

- Must notify the parties **in writing** and include rationale for dismissal
- Appeals of dismissals are permitted
- TIXC should consider possibility of initiating a different disciplinary process under a separate policy



Title IX Process:

What happened prior to the hearing?



Rights of the Parties throughout the Process

Notice of policies, meetings, investigation, outcome, etc.	Supportive measures <i>(cannot penalize Respondent in any way unless and until they are found responsible)</i>	Impartial Title IX personnel	Ability to discuss allegations
Advisor of choice	Opportunity to identify witnesses and provide evidence	Ability to review evidence and investigation report	Ability to appeal

Notice of Allegations

- Notice of grievance process and the informal process
- Information about the allegations known at the time (names, conduct constituting sexual harassment, date and location of incident)
- Respondent presumed not responsible, and that the determination of responsibility occurs at conclusion of the process
- Rights of parties to an advisor, to review evidence, etc.
- Any code of conduct provision prohibiting knowingly making false statements/submitting false information
- Provide with sufficient time for parties to prepare a response

Consolidation of Complaints

“An institution may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, ***where the allegations of sexual harassment arise out of the same facts or circumstances.***”

The Investigation

Title IX Coordinator determines who the investigator will be

Investigator determines investigation strategy (in coordination with TIXC)

Witness and party interviews

Evidence collection

Directly Related Evidence & Preliminary Investigation Report Review

MUST:

- Provide review of evidence “directly related” to the allegations for parties and their advisors
- Include inculpatory and exculpatory evidence
- Include evidence upon which the institution does not intend to rely upon in making a decision
- Allow at least 10 days for review and submission of a response
- Provide copies of evidence directly to parties/advisors in electronic or hard copy format
- Evidence must be made available for review at the hearing

*Carleton also provides a **Preliminary Investigation Report** for parties to review and respond to at this stage

NEXT STEPS:

- If responses are submitted, investigator considers them prior to finalizing the Investigation Report
- Additional evidence collection needed? Other action?

Investigative Report



Report will be the primary basis for the decision.



Report must be detailed—include all relevant evidence.



Investigator makes decisions about relevance of information. Parties can challenge.



Investigator will finalize report after considering parties' responses to report and evidence.

Final Investigation Report Review



- Must be made available for parties and advisors to review (in hard copy or electronic format) at least 10 days prior to hearing
- Written responses to the report are permitted and provided to the hearing panel



Hearing Basics

The Hearing

Needs to be live but can be virtual (must include video).
Must be recorded

Provides opportunity for parties' advisors to ask questions of the other party and witnesses

Institutions must provide an advisor to parties who do not have an advisor during the hearing specifically for the questioning portion

Can have a single decision-maker or multiple, but someone must make relevancy determinations during the hearing

TIXC or another individual may be present to enforce hearing decorum and process

Advisors may make opening and closing statements on behalf of their party (if desired)

Who attends the hearing?

- Two CBSM panel members and one outside hearing officer
- The parties and their advisors
- Witnesses who the parties or the decision-makers have identified as needing to be present for questioning
- Title IX Coordinator attends (to help with logistics, decorum issues, hearing process, etc.)
- May receive technical assistance from IT staff

Investigator and General Counsel are permitted to attend, but this is not the practice at Carleton.

Role of the Outside Hearing Officer

- Facilitates the hearing, with assistance from TIXC.
- Makes relevancy determinations for all questions asked during the hearing.
- Makes determinations about appropriateness of questions or information provided (cannot be irrelevant, abusive, or overly repetitive).
- Ensures advisors stay in line with hearing decorum guidelines.

Under the Regs, a school must exclude:



- A party's treatment records (unless the party gives prior written consent)
- Information protected by a legally recognized privilege
- Questions or evidence about a complainant's sexual predisposition, and questions or evidence about a complainant's prior sexual behavior, unless offered to prove that someone other than the respondent committed the alleged misconduct or offered to prove consent

Under the Regs, a school must accept:



- Expert witness testimony, reports, or findings
- Evidence related to character
- Evidence related to the findings of a polygraph examination
- Evidence gathered by law enforcement during a concurrent criminal investigation, if available

The Decision-making Process

STANDARD OF EVIDENCE

Preponderance of the evidence (“more likely than not” / 50.1% likely)

PROCESS

Apply the applicable policy definitions to the evidence provided.

Must provide a detailed, written rationale for the decision; must include evidence supporting the conclusions.

Sanctions & Remedies

Need to stop, prevent,
and remedy!

Consider educational
and developmental
sanctions

Engage in a risk
assessment to help
determine appropriate
sanctions

Sanctions should reflect
the severity of the
behavior (consider prior
misconduct)

Consider any
loss/injuries to the
Reporting Party or the
institution and how to
rectify those, if possible

Can consider past cases
of similar misconduct
with assistance from
Title IX Coordinator

Common Sanctions & Remedies

STUDENTS

- Probation
- Loss of leadership positions
- Loss of privileges
- Housing changes
- Limited access to campus
- Counseling or required education
- Suspension
- Expulsion

EMPLOYEES

- Loss of leadership positions
- Loss of privileges
- Required education
- Disciplinary letter
- Unpaid suspension
- Demotion
- Termination

Notice of Decision

Needs to include:

- Allegations
- Procedural steps
- Findings of fact
- Decision(s) regarding responsibility
- Rationale for each allegation/decision
- Sanctions, if applicable, and rationale
- Whether remedies will be provided
- Appeal process information

Other requirements:

- Deliver notice **simultaneously** to the parties
- Decision/sanctions become final when parties are notified of the appeal decision OR when the deadline to submit an appeal has passed



Trauma-Informed Considerations



The Impact of Trauma on the Body and Brain

Trauma overwhelms our normal coping responses, which provide a sense of control and safety.

Trauma can impact individuals in multiple, significant ways:

- Neurologically
- Emotionally
- Psychologically
- Socially
- Biologically

Neurobiology of Trauma

- Growing body of research on this, specifically within the context of sexual violence
- During a traumatic event, an individual's ability to control their physical movements, to think rationally, and to encode memories may be significantly impaired
- This is a hard-wired response that is meant to offer protection
- This mainly has to do with the release of specific hormones during a traumatic event

Interviewing through a trauma- informed lens

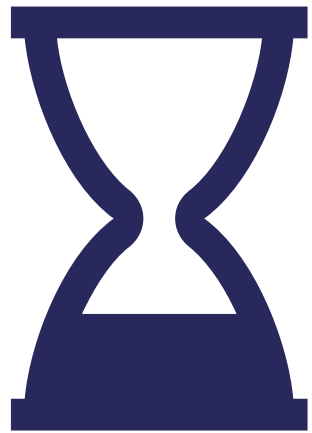
- Helps you be a better investigator
- Puts interviewees at ease
- May provide context for counterintuitive reactions or occurrences
- Does NOT mean that you don't probe for credibility

Tips for being trauma-informed

- Be an authentic, non-judgmental human. Work on fostering trust, especially during an initial interview
- Slow down; silence is ok. Remember that memory recall may be slow or out of order.
- Be thoughtful about the language you use and phrasing of questions (avoid “why?” questions)
- Emphasize transparency to the extent you are able
- Help parties understand what to expect, ideally in advance
- Consider the physical (or virtual) environment of the interview
- Don’t automatically draw negative inferences based on a behavior or reaction that may be related to trauma
- Don’t use evidence of trauma as evidence that a policy violation occurred
- A trauma-informed approach should not unfairly favor the complainant OR prejudice you against the respondent

Cultural Implications

- Cultural norms and background may impact the way parties react to an incident and how they present during the investigation process
- Be aware of these potential influences; however...
- Beware of biases and stereotypes
- Consider additional training or seeking out appropriate expertise if necessary



Appeals and Process Wrap-Up

The Appeal Process

An appeal is available to both parties for final determination of responsibility and dismissal of formal complaints.

The Appeal Process

Required Bases for Appeal

1. Procedural irregularity that affected the outcome

2. New evidence that was not reasonably available at the time the decision was made that could affect the outcome

3. Conflict of interest or bias from an official involved in the case that affected the outcome

Appeal Process contd.

REQUIREMENTS

- Appeal decision-maker cannot have been previously involved in the process
 - No conflict of interest or bias
 - Required training
 - Cannot be TIXC, Investigator, or decision-makers from hearing
- Timeframe for accepting appeals? 3 calendar days.
- Let parties know if an appeal was received and that the other party has an opportunity to respond
- Must send appeal decision and rationale to parties simultaneously

POSSIBLE APPEAL DETERMINATIONS

- Hearing Panel/Dismissal decision stands
- Hearing Panel/Dismissal decision overturned
- Remand
 - New investigation
 - New hearing or re-hearing

What about appeals of dismissals?

- Dismissals of formal complaints are very rare; appeals of dismissals even more so
- Same grounds for appeal and appeal process steps apply

Carleton's Appeal Process

- If a party wishes to appeal, they must submit their appeal, in writing, to the Appellate Officer within 3 days after receiving the written determination or dismissal.
- After an appeal is filed, TIXC will provide notice to the other party. That party will have an opportunity to respond to the appeal in writing within three days.

What information will be provided to you?

Appellate Officers will have access to:

- The appeal and the response to the appeal
- The Investigation report and any attached documents
- The Hearing Panel's written determination
- The hearing recording and the full evidence file, including interview recordings, upon request

Who's the Appellate Officer?

If Respondent is a...



STUDENT → Dean of Students (or their designee)



STAFF MEMBER → Vice President and Treasurer (or their designee)



FACULTY MEMBER → Provost (or their designee)

After reviewing the appeal documents...

- The Appellate Officer will issue a written decision describing the result of the appeal and the rationale for the decision.
- This written decision will be provided to both parties simultaneously.
- Coordinate with TIXC regarding when this is sent, and who will send it (TIXC must provide advance notice to the parties about when to expect the decision)

How long do you have to issue your decision?

- Regs require a “prompt” time frame for resolving appeals.
- Carleton’s policy does not include a required timeframe to respond.
- Things to keep in mind:
 - Be as quick as you can, without compromising the integrity of the process
 - More complex cases (i.e., cross-complaints, multiple charges, etc.) will take you longer
 - Keep TIXC updated about where you’re at in the process

Components of a Decision

Your determination

A rationale for your
determination

When is it over?

A determination of responsibility or dismissal becomes final either on the date that the Complainant or Respondent receives the written determination of the result of any appeal or the expiration of the deadline for any appeal.

Working with the Title IX Coordinator

- TIXC will notify you when a case is moving forward that would include you as the potential Appeal Officer.
- You'll be informed about timelines and what to expect.
- You can communicate with TIXC about what parts of the case file you need access to in order to thoughtfully make a determination about the appeal.
- TIXC is able to discuss questions you might have and consult on your approach to the process and can also get legal counsel involved if needed.

Wrapping up the process

NO APPEALS?

- TIXC sends a notice once the appeal deadline has passed notifying both parties that no one appealed, and that the hearing panel's decision is now final.

APPEAL?

- The Appellate Officer's final notice is sent to both parties simultaneously notifying them that the process is over and what the appeal determination was.

EITHER WAY...

- TIXC follows up with Respondent regarding any sanctions requiring additional steps or involvement.
- Parties can still request assistance from TIXC after the process is over.

Recordkeeping

Records must be retained for at least **seven years.**



Records to maintain:

- Actions taken and responses to reports
- Investigation and adjudication documents, recordings, etc.
- Training materials for decision-makers, investigators, Title IX Coordinators/Deputies, and informal resolution facilitators

Scenarios

1. During the investigation, the complainant submitted screenshots showing weeks of unwanted sexual comments via social media. The investigator included these in the evidence summary, but during the hearing the decision-maker mistakenly stated that “no messages were provided” and did not reference them in the written determination. The respondent appeals, arguing that a key piece of evidence was overlooked.
2. The respondent argues that the investigator “should have asked more follow-up questions” during their interview and that the hearing chair “didn’t push the complainant hard enough.”
3. After the written determination, the complainant discovers a video clip from a bystander’s phone that neither party knew existed. The bystander did not realize the video captured the interaction until much later. The complainant appeals on the basis of new, materially relevant evidence.

Scenarios contd.

4. The respondent appeals, submitting three new character reference letters about their integrity and community involvement.
5. The complainant learns after the hearing that the investigator previously co-taught a class with the respondent's academic advisor. They were not close colleagues, and the investigator did not know the respondent. The complainant argues this is evidence of bias.
6. The respondent discovers that the decision-maker publicly posted about supporting survivors of sexual violence on a personal blog, including comments indicating they believe "respondents almost always lie." This information was not disclosed prior to the hearing.
7. After a finding of responsibility, the respondent submits an appeal stating only that the decision was "unfair," the process was "stressful," and they "don't like how the college handled things."

Thank you!



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