The New Title IX Policies for ACC and WCU

Agenda

- The New Regs and Policy Development
- Walkthrough of the new policy
- Title IX Personnel
- Walk-through of a scenario

New Regulations

For it to be covered under Title IX, it must meet:

- New Definitions
- Jurisdiction of person
- Jurisdiction of activity

Mandatory Dismissal

- If cover behavior not covered under Title IX, where does it go?

Definition of Sexual Harassment under Title IX

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual’s participation in unwelcome sexual conduct;

2. 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 recipient’s education program or activity;

Jurisdiction of Person

- At the time of filing a formal complaint...the complainant must be participating in or attempting to participate in the education program or activity
- The institution must exercise control over the Respondent
- All regulations apply to students and employees

Jurisdiction of Activity

- Behavior must occur as part of the “education program or activity”
- Locations, events, or circumstances over which the recipient exercised substantial control over the context in which the sexual harassment occurs,
- and any building owned or controlled by a student organization that is officially recognized.
- Must occur in the United States.

Mandatory Dismissal

- Recipient must dismiss complaint if allegations do not meet Title IX definition of sexual harassment
- Dismissal does not preclude action under the college’s or university’s code of conduct

Other Considerations

- First Amendment
- Retaliation
- Bias/Conflict of Interest
- State Laws
Clery Requirements

- Include in all policies that address:
  - Dating violence
  - Domestic violence
  - Sexual Assault
  - Stalking
  - Procedures for schools
  - Rights and Options for Complainants

Three Primary Stages

- Intake
- Investigation
- Resolution

Actual Knowledge - Next Steps

1. Contact Complainant
2. Meeting
3. Written Communication
4. Offer Support & Provide Rights
Title IX Definition

Eligible Complainant

Education Activity or Program

Complainant wants to proceed

Title IX Assessment

Title IX Case Flowchart Post Outreach

Outlet and Supportive Measures

Complainant Decision

Formal Complaint Signed

Informal Process

Investigation/Hearing/Appeal

Case closed (except for supportive measures)

Title IX Coordinator may sign complaint

Resolution Options

Informal Resolution

Formal Resolution

Notice

Voluntary

Not allowed for Employee Respondent/Student Complainant

© 2020 D. STAFFORD & ASSOCIATES

Title IX Definition

Eligible Complainant

Education Activity or Program

Complainant wants to proceed

Title IX Assessment

© 2020 D. STAFFORD & ASSOCIATES

Resolution Options

Informal Resolution

Formal Resolution

© 2020 D. STAFFORD & ASSOCIATES

Informal Resolution

Notice

Voluntary

Not allowed for Employee Respondent/Student Complainant

© 2020 D. STAFFORD & ASSOCIATES
The New Title IX Policies for ACC and WCU

17

INVESTIGATION

© 2020 D. STAFFORD & ASSOCIATES

18

Formal Process

NOTICE

ASSIGN TO INVESTIGATOR

INVESTIGATION

© 2020 D. STAFFORD & ASSOCIATES

19

Non-Title IX Cases

Student Code of Conduct

Employee Guide

© 2020 D. STAFFORD & ASSOCIATES

20

Ability to Utilize Evidence

© 2020 D. STAFFORD & ASSOCIATES

Presented by D. Stafford & Associates
### Versions of the Report

<table>
<thead>
<tr>
<th>Preliminary Report:</th>
<th>Final Report:</th>
<th>Written Determination:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scope</td>
<td>Scope</td>
<td>Scope</td>
</tr>
<tr>
<td>Methodology</td>
<td>Methodology (edited)</td>
<td>Methodology (edited),</td>
</tr>
<tr>
<td>Evidence Obtained</td>
<td>Evidence Obtained</td>
<td>Summary of Evidence</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Results (including rationale, sanctions, remedies)</td>
</tr>
</tbody>
</table>

### Live Hearings
- Must provide for a live hearing
- Each party’s advisor asks the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.
- Decision-maker determines relevance (and may also ask questions)

### Advisors

“If a party does not have an advisor present at the live hearing, the recipient must provide without fee or charge to that party, an advisor of the recipient’s choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.”
“If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility.”