



D. STAFFORD
& ASSOCIATES

The New Title IX Policies
For ACC and WCU

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Agenda

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

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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?

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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;

3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).


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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

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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.


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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



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Other Considerations



First Amendment



Retaliation



Bias/Conflict of Interest



State Laws

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Clery Requirements


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


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
Three Primary Stages



Intake



Investigation



Resolution

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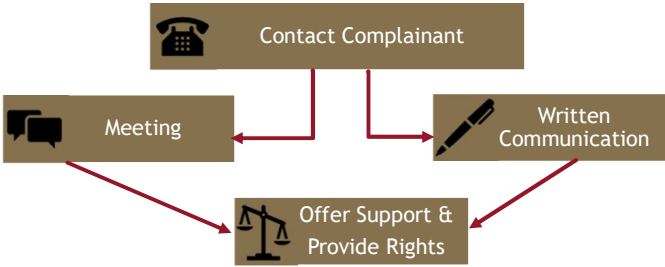


INTAKE

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Actual Knowledge - Next Steps

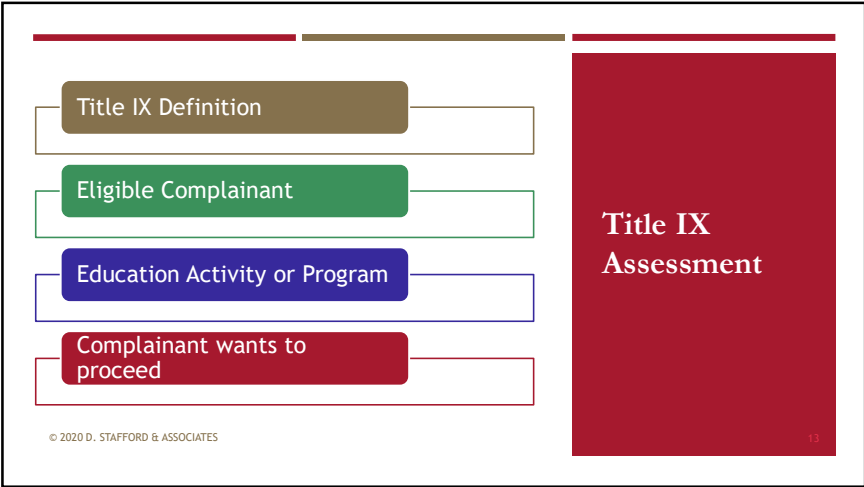


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graph TD; A[Contact Complainant] --> B[Meeting]; A --> C[Written Communication]; B --> D[Offer Support & Provide Rights]; C --> D
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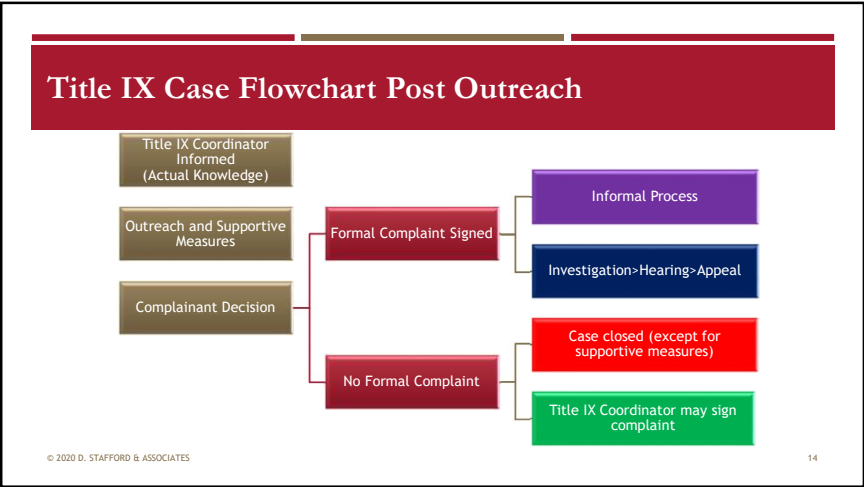
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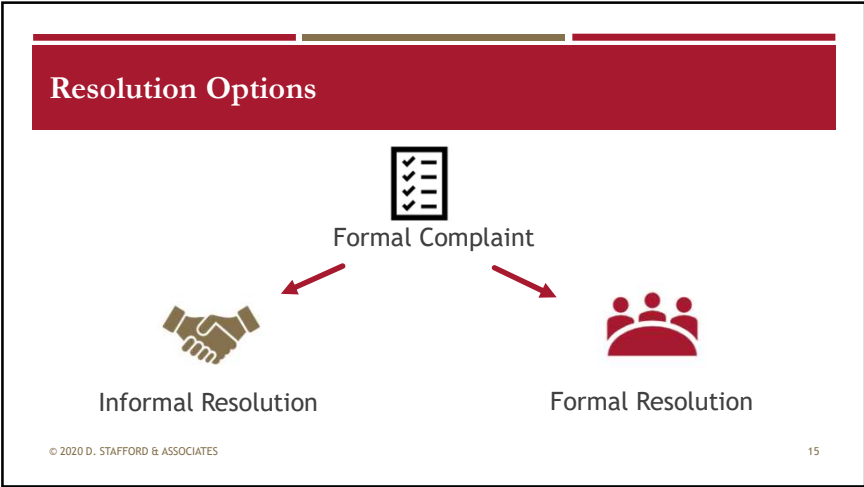
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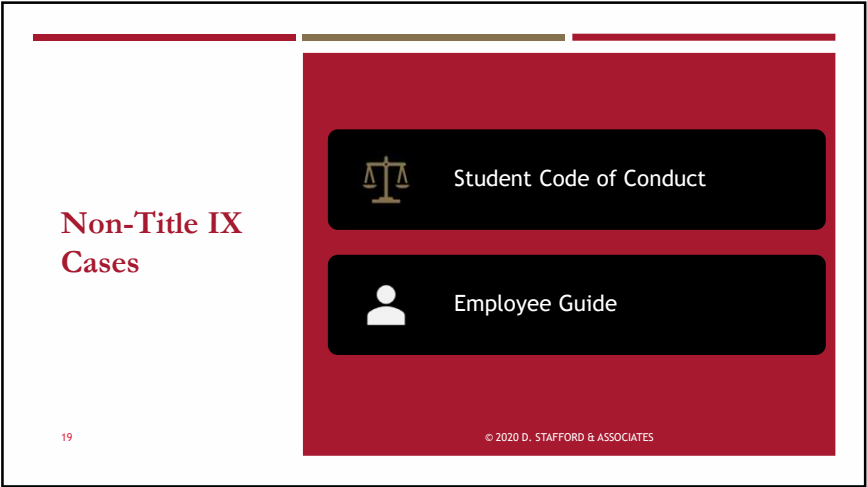
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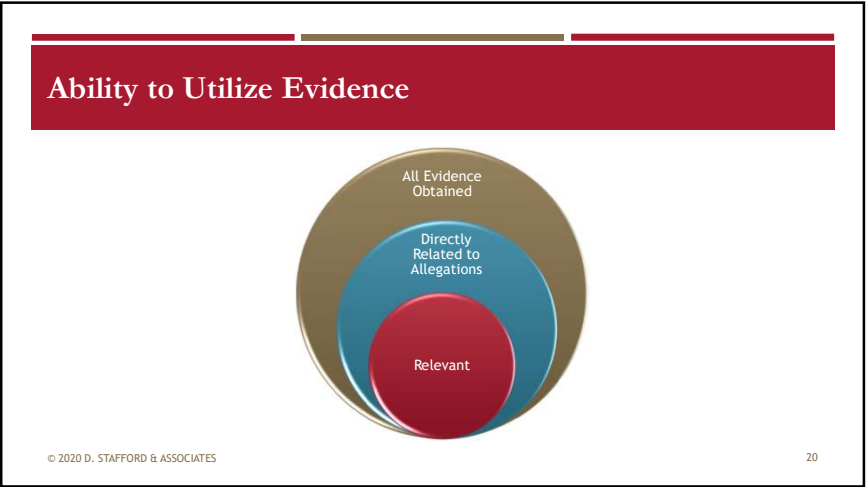
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Versions of the Report



Preliminary Report:

Scope
Methodology
Evidence Obtained



Final Report:

Scope
Methodology (edited)
Evidence Obtained
Summary of Evidence



Written Determination:

Scope
Methodology (edited),
Summary of Evidence (edited),
Results (including rationale,
sanctions, remedies)

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The End.

RESOLUTION

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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)

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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.”

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Presented by D. Stafford & Associates

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Participation



“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.”

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Formal Resolution – Making a Finding



Policy language -
Alleged violations



Weighing the
evidence



Determined
behaviors



Standard of
evidence

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