

Title IX Grievance Procedure Training For Advisors

Presenter:

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Seton Hall University's Commitment



- ✓ To maintain a safe environment that is free from gender-based intimidation, harassment and discrimination.
- ✓ Sexual assault, sexual harassment, or sexual misconduct of any nature violates the Seton Hall University mission and its core values.
- ✓ To immediately and effectively address all known reports of sexual misconduct.

What is Title IX of the Education Amendments Act?



- ✓ A federal law enacted in 1972.
- ✓ Protects individuals from discrimination based on sex.
- ✓ Requires all institutions of higher education receiving federal financial assistance to comply with the law.
- ✓ Protects against sexual harassment and sexual violence.
- ✓ Extends to claims of discrimination based on gender identity & non-conformity to masculine and feminine roles.

Title IX - Covered Sexual Harassment Definitions

✓ Quid Pro Quo Sexual Harassment -

- Latin meaning “this for that”
- An employee, faculty member, administrator or staff member, conditions educational benefits on participation in unwelcome sex.

Title IX – Covered Sexual Harassment Cont.

✓ Hostile Environment Sexual Harassment –

- Severe, pervasive and objectively offensive advances of a sexual nature.
- So offensive it effectively denies a person equal access to the University's education program or activity;
- Defined by the reasonable person standard.

Title IX Covered Sexual Harassment Definitions cont.

✓ Sexual Assault -

- Includes any sexual act directed against another person and is non-consensual.
- Also includes instances where the victim/survivor is not capable of giving consent.

Title IX Covered Sexual Harassment Definitions cont.

✓ Dating Violence -

- Violence committed by a person in a social, romantic or intimate relationship with the victim/survivor

✓ Domestic Violence -

- Any felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim,

Title IX Covered Sexual Harassment Definitions cont.

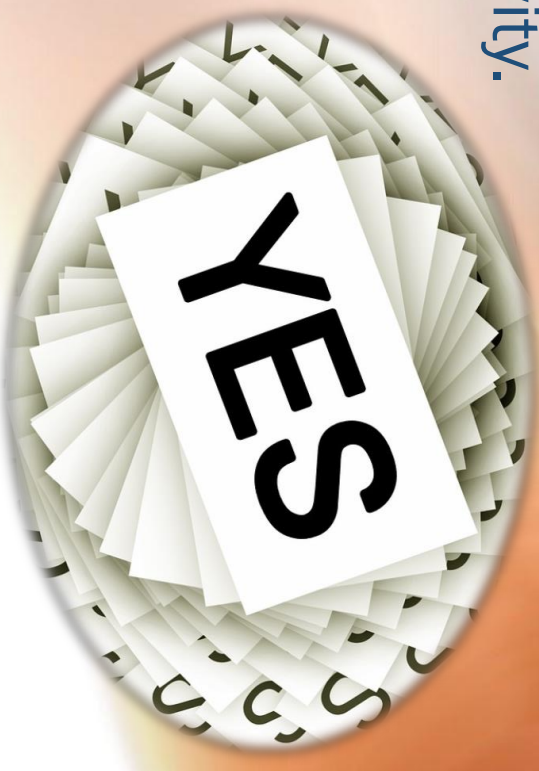
✓ Stalking –

- A course of conduct directed at a specific person that would cause a reasonable person to:
 - (A) fear for their safety or the safety of others; or
 - (B) suffer substantial emotional distress

Note: Conduct that does not meet one of these criteria, may still be prohibited under the University's Policy Against Sexual Misconduct, Harassment & Retaliation.

Consent Defined

✓ Consent is the unambiguous, knowing, and voluntary agreement between the participants to engage in specific sexual activity.



Consent Defined

- ✓ Past consent between the participants does not imply future consent.
- ✓ Silence or the absence of resistance does not imply consent.
- ✓ Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.
- ✓ Children and minors cannot consent in accordance with New Jersey law. N.J.S.A 2C: 14-2.



Consent Defined

- ✓ Consent can be initially given, but may be withdrawn at any time.
- ✓ Consent cannot be given under coercion, force, restraint, or threat.
- ✓ Consent cannot be given when asleep, unconscious, or incapacitated.



Confidentiality

- ✓ Confidentiality is limited by law to licensed counselors, licensed health care workers and members of the Clergy in connection with their responsibilities.
- ✓ All other employees can represent to a student victim that they will keep the matter **private**, but **cannot guarantee confidentiality**.


Title IX Duty to Report

✓ When you become aware of an incident of sexual assault, sexual harassment, stalking, domestic violence or any form of sexual misconduct, Seton Hall is considered on **notice and must act promptly and appropriately.**

✓ **You must report all available and relevant information to the Title IX Coordinator or Deputy Title IX Coordinators as soon as it is shared with you.**



REPORT IT

- # Private Reporting Officials
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- REPORT IT**
CONFIDENTIAL
- Private Reporting Officials**
- Dr. John Hindsman**, Director of EEO Compliance, Title IX Coordinator, and Acting Deputy Title IX Coordinator IHS Campus
- Dr. Karen Van Norman**, Associate Vice President & Dean of Students & Deputy Title IX Coordinator, South Orange Campus
- Dr. Nicole Giglia**, Assistant Dean of Students & Deputy Title IX Coordinator, South Orange Campus

Private Reporting Officials



- ✓ **Tatum Colitz**, Senior Associate Athletics Director & Deputy Title IX Coordinator, South Orange Campus
- ✓ **Cara Foerst**, Associate Dean for Academic Affairs & Deputy Title IX Coordinator at the Law School, Newark Campus
- ✓ **Delica Reduque**, Manager, Employee & Labor Relations, Deputy Title IX Coordinator for the Immaculate Conception Seminary School of Theology and Saint Andrew's College Seminary



Supportive Measures

- ✓ Available to Complaints and Respondents
- ✓ Advisors play an important role in assisting parties

Supportive Measures may include, but not be limited to:

- ☐ Counseling
- ☐ Extensions of deadlines or other course-related adjustments
- ☐ Modifications of work or class schedules
- ☐ Campus escort services

Supportive Measures cont.

- ❑ Mutual restrictions on contact between the parties (no contact orders)
- ❑ Changes in work or housing location
- ❑ Leaves of absence
- ❑ Increased security and monitoring of certain areas of the campus

The Parties

✓ **Complainant:**

- Any individual who has reported being or is alleged to be the victim of conduct that could constitute covered sexual harassment as defined under this Procedure.

✓ **Respondent:**

- Any individual who has been reported to be the perpetrator of conduct that could constitute covered sexual harassment as defined under this Procedure.

Filing a Formal Complaint

- ✓ The timeframe begins with the filing of a Formal Complaint.
- ✓ The Process will be concluded within a reasonably prompt manner, and no longer than ninety (90) business days after the filing of the Formal Complaint.
- ✓ The Process may be extended for a good reason, including but not limited to the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity or other needed accommodations.

Formal Complaints

- ✓ Title IX requires all victims/survivors to provide a written signed document to the Title IX Coordinator.
- ✓ The formal complaint must allege sexual harassment against a respondent about conduct under the University's education program or activity.
- ✓ The victim/survivor must be a current student or attempting admission.
- ✓ The formal complaint will request initiation of the investigation under the Grievance procedure.

Survivor's Reporting Options

- ✓ File an internal complaint with the University's Title IX Coordinator or one of the Deputy Title IX Coordinators.
- ✓ File complaints with the University, local law enforcement or both.
- ✓ Do not file a complaint and may still request and receive interim measures and assistance. May file a complaint at later date.
- ✓ May speak with Confidential Reporting Resource.

What Happens When a Report is Filed?

- ✓ Title IX Coordinator will meet with the victim/survivor and provide him/her with information and resources including options to pursue or not pursue a complaint with the University or law enforcement channels.

Criteria for Investigation

- ✓ The conduct is alleged to have occurred on or after August 14, 2020;
- ✓ The conduct is alleged to have occurred in the United States;
- ✓ The conduct is alleged to have occurred in the University's education program or activity; and
- ✓ The alleged conduct, if true, would constitute covered sexual harassment as defined in the procedure.
- ✓ If all of the elements are met, the University will investigate the allegations according to this Procedure.

Dismissals

✓ **Mandatory Dismissal**

- If any one of the elements are not met, the Title IX Coordinator or designee will notify the parties that the Formal Complaint is being dismissed for the purposes of the Procedure. Each party may appeal this dismissal.

✓ **Discretionary Dismissal**

The Title IX Coordinator or designee may dismiss a Formal Complaint brought under the Procedure, or any specific allegations raised within that Formal Complaint, at any time during the investigation or hearing.

The Title IX Grievance Procedure

✓ Notice of Allegations

✓ The Title IX Coordinator provides the Notice of Allegations to the parties.

✓ The University will provide sufficient time for the parties to review the Notice of Allegations and prepare a response before any initial interview.

✓ Advisors may attend interviews but may not speak, only advise the parties.

The Title IX Grievance Procedure – Notice cont.

- ✓ Includes the allegations potentially constituting covered sexual harassment.
- ✓ Includes a statement that the respondent is presumed not responsible for the alleged conduct.
- ✓ A statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
- ✓ A statement that before the conclusion of the investigation, the parties may inspect and review evidence obtained as part of the investigation.

Advisor of Choice

✓ As an Advisor, you are integral to the Title IX Grievance Procedure, helping students to navigate a very intricate and complicated emotionally challenging process.



A background image showing a close-up of a hand holding a pen, with the pen tip pointing towards the bottom right. The image is slightly blurred and has a warm, orange-toned lighting.

Advisor of Choice

- ✓ Parties will have equal access to advisors and support persons. Any restrictions are applied equally to both parties.
- ✓ Students participating as a Complainant or Respondent may be accompanied by an Advisor of choice, but the Advisor does not have to be an Attorney.
- ✓ The Advisor of Choice may attend any meeting or hearing they are permitted to attend.
- ✓ The Advisor of Choice is not an advocate and shall not participate directly in the process.



Advisor of Choice

- ✓ The parties are not permitted to conduct cross-examination; Cross-examination must be conducted by the Advisor.
- ✓ If a party does not select an Advisor, the institution will select an Advisor to serve in this role free of charge.
- ✓ The Advisor is not prohibited from having a conflict of interest or bias in favor of or against the parties.
- ✓ The Advisor is not prohibited from being a witness in the matter.

Advisor of Choice

- ✓ If a party does not attend the live hearing, the party's Advisor may appear and conduct cross-examination on their behalf.
- ✓ If neither a party nor their Advisor appear at the hearing, the University will provide an Advisor to appear on behalf of the non-appearing party.



General Rules of Investigations

- ✓ Title IX Coordinator & co-investigator will perform an investigation under a reasonably prompt timeframe.
- ✓ The University, and not the parties, has the burden of proof and the burden of gathering evidence.
- ✓ The investigative report will be used as a basis/record for the hearing, but will not make a determination as to responsibility for the alleged conduct.



General Rules of Investigations

- ✓ Medical records cannot be accessed by the University or disclosed without a waiver from the party to whom the records belong (or parent if applicable).
- ✓ The University will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses.

Inspection and Review of Evidence

- ✓ The parties will have an equal opportunity to inspect and review the evidence prior to completion of the investigation
- ✓ The University will send the evidence to each party and each party's Advisor, if any, to inspect and review through an electronic format.
- ✓ The parties will have ten (10) business days to inspect and review the evidence and submit a written response by email to the investigator.
- ✓ The investigator(s) will consider the parties' written responses before completing the Investigative Report.

The Investigative Report

- ✓ Title IX Coordinator will create an Investigative Report that fairly summarizes relevant evidence.
- ✓ The Report will be provided to the parties and the Advisor at least ten (10) business days prior the hearing in an electronic format for each party's review and written response.

The Investigative Report

✓ Only relevant evidence (including both inculpatory and exculpatory – i.e., tending to prove and disprove the allegations - relevant evidence) will be referenced in the Investigative Report.

✓ The investigator may redact irrelevant information from the Investigative Report when that information is contained in documents or evidence that is/are otherwise relevant.



Hearings and Your Role

- ✓ Title IX requires live hearings for all formal complaints.
- ✓ Advisors play a role in cross-examination of witnesses & presenting relevant evidence/witnesses.
- ✓ Your role requires you to sign the University's "Rules of Decorum;" and may be removed upon violation of those rules.

Questions.....

