

1

Welcome & Introductions

Our Hopes...

<p><u>What this workshop is:</u></p> <ol style="list-style-type: none">1. Unpack legal requirements2. Identify what needs to change in your policy3. Networking/discussion with colleagues/expert faculty	<p><u>What this workshop is not:</u></p> <ol style="list-style-type: none">1. Not legal advice2. Not a “how to” operationalize roles - focus is on integrating mandates into policy3. Not a “one-size-fits-all” given institutional context
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

2



Agenda:

1. Review required and recommended training needs for your Title IX Team and others
2. Attendee Participation and Responses
3. Q & A

3


CHAT

If you're new to the workshop series, let us know in the Chat how you like to participate!

CONNECTING YOUR MICROPHONE

To connect your microphone, identify the Microphone Icon at the top of the screen and click on the drop-down menu. Once you connected, the icon should turn green. Please keep your mic muted at all times, unless you are speaking.



RAISING YOUR HAND TO SHARE YOUR VOICE

If at any time during the event you'd like to say something using your mic, please raise your hand and the speaker/host will call on you. To raise your hand, identify the icon at the top of the screen that looks like someone raising their hand. You can click on this same icon to lower your hand.


4

4

Ongoing Training Needs for Investigators and Decision Makers

Cara Hardin, J.D.

Title IX Deputy Coordinator | Marquette University

cara.hardin@marquette.edu

Thursday, August 6, 2020

1:00 - 2:30 PM - Eastern



5



LEARNING OUTCOME

After participating...

...you will be able to identify and plan the training needs for your Title IX investigators, decision makers and the rest of your Title IX team.



6

THE TITLE IX TEAM



7

The Title IX Team

- The Final Regulations dictate that institutions will need several individuals to carry out the required grievance procedure and process under the Policy.
- The Final Regulations also require each of these individuals, but for advisors, to be properly trained in their respective roles and to be free of conflicts of interest and bias.



8

The Title IX Team

- Title IX Coordinator
 - § 106.8(a) of the final regulations requires a designation of *at least one employee* as Title IX Coordinator.
 - Title IX Coordinator coordinates the institution’s efforts to comply with the Final Regulations and all other mandates of Title IX, relating to:
 - Pregnant and parenting students, equity in athletics, equity within all institutional program and activity (including in admissions and employment), Single-sex programs, LGBTQIA+ protections

TITLE IX COORDINATOR: The Title IX Coordinator is the designated agent of the University responsible for overseeing this Policy and for complying with Title IX, its regulations, and related case law. The Title IX Coordinator reports directly to the Vice President for Inclusive Excellence, Office of the Provost. When the Title IX Coordinator is made aware of Sexual Harassment, or an allegation thereof, the University is deemed to have Actual Knowledge (notice) and must respond in accordance with this Policy. The Title IX Coordinator coordinates the intake, investigation, resolution, and implementation of Supportive Measures to stop, remediate, and prevent Sexual Harassment. It may be necessary for the Title IX Coordinator to name a designee in certain situations. Throughout this Policy, the use of the term “Title IX Coordinator” includes “Title IX Coordinator or Designee.”

Title IX Team



- Investigators
 - May employ a dual investigator model.
 - Title IX Coordinator may serve as an investigator

ai ACADEMIC IMPRESSIONS 11

11

INVESTIGATOR: The Investigator is a trained, neutral, fair, and objective individual(s) who is either employed by the University or from outside the University who is responsible for gathering information about the alleged Sexual Harassment.

ai ACADEMIC IMPRESSIONS 12

12

■ Title IX Team

- Advisors
 - Each party is permitted to have an advisor of their choice, who may or may not be an attorney, to be present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding. 106.45(b)(5)(iv).
 - If a party does not have an advisor present at the live hearing, the institution must provide an advisor to conduct cross-examination on behalf of that party. 106.45(b)(6)(i).
 - No requirement that advisors be free of bias or conflict of interest.





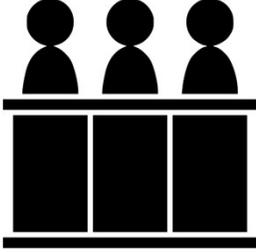
13

ADVISOR: Both the Complainant and the Respondent have the right to an Advisor of their choice (who may be, but need not be, an attorney) relating to any report of Sexual Harassment to support the Party and assist the Party in navigating the Grievance Procedure.



14

Title IX Team



- Decision-maker(s)
 - Hearing Officer/Hearing Panelists
 - Appeal Officer(s)
 - Appeal of determination of responsibility
 - Appeal of mandatory and discretionary dismissals



15

HEARING PANEL: The Hearing Panel is a trained group of University and/or non-University individuals that hears Formal Complaints of Sexual Harassment, determines whether a Preponderance of the Evidence exists to find that the Respondent is Responsible for violating the Policy, and, if the Respondent is found Responsible, imposes a Sanction. The Hearing Panel includes two panelists and the Hearing Chair. The Hearing Panel has decision-making and sanctioning authority.



16

HEARING CHAIR: The Hearing Chair oversees the Hearing Process as described in Section ____, including chairing the Hearing Panel. The Hearing Chair serves as one of the hearing panelists, attending the hearing and voting during hearing panel deliberations.

APPEAL OFFICER: The Appeal Officer is a trained individual that hears appeals filed by a Complainant or Respondent relating to a finding of responsibility or dismissal decision. Appeal Officers are independent of the previous grievance procedure or process, including from any dismissal appeal that may have been heard earlier in the process. The Appeal Officer has final decision-making authority over determinations of responsibility and dismissals.

Title IX Team

- Other potential Title IX team members:
 - Facilitators of informal resolution
 - Hearing facilitator
 - Emotional support people (different from advisors)
 - Behavioral intervention team to assist with emergency removals
 - Administrative support



19

QUESTIONS



20

REQUIRED TRAINING

21

Required Training §106.45(b)(1)(iii)

- §106.45(b)(1)(iii) imposes extensive and ongoing training requirements for Title IX Coordinators, investigators, decision-makers and facilitators of informal resolutions.
- OCR believes the robust training and impartiality requirements will effectively:
 - Promote the reliability of fact-finding and the overall fairness and accuracy of the grievance process, and
 - Promote consistent and reliable outcomes.
- Flexibility provided to institutions to determine how to meet training requirements

22

Required Training §106.45(b)(1)(iii)

- §106.45(b)(1)(iii) requires that all materials used to train Title IX personnel:
 - Must not rely on sex stereotypes
 - Must promote impartial investigations and adjudications of formal complaints of sexual harassment.
- Reminder - §106.45(b)(10)(i)(D) requires trainings for Title IX personnel to:
 - Be made publicly available on the institution's website, or if the institution does not maintain a website these materials must be made available upon request for inspection by members of the public.
 - Be maintained by the school for at least 7 years



23

Required Training §106.45(b)(1)(iii)

- Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution, must be trained on the following topics:
 - Title IX's definition of "sexual harassment" in §106.30
 - The scope of the school's education program or activity.



24

Required Training
§106.45(b)(1)(iii)

- How to investigate and conduct a grievance process, including hearings, appeals and informal resolutions
- How to serve impartially, including by avoiding prejudgment of the facts at issue
- How to avoid conflicts of interest and bias (including implicit or unconscious biases)

 **ai** ACADEMIC
IMPRESSIONS 25

25

Required Training
§106.45(b)(1)(iii)

- Decision-makers must receive training on any technology to be used at a live hearing
- Decision-makers must receive on issues of relevance of questions and evidence, including when questions and evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant
- Investigators must receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence

 **ai** ACADEMIC
IMPRESSIONS 26

26

 **CHAT**

What is your greatest challenge in coordinating training efforts for your Title IX Team?

 **ai** ACADEMIC IMPRESSIONS 27

27

 **QUESTIONS**

 **ai** ACADEMIC IMPRESSIONS 28

28

RECOMMENDED TRAINING



29

■ Recommended Training

- Other recommended training topics for Title IX Team members:
 - Trauma-informed approaches and practices
 - Evidence collection and evaluation, including how to assign weight to a given type of relevant evidence
 - Evaluating credibility
 - Individualized safety and risk analysis
 - Post-removal challenge proceeding following an emergency removal
 - Mediation and/or Restorative Justice facilitation



30

■ Recommended Training

- How to meet the needs of students with disabilities
- Confidentiality
- Retaliation
- Sex-based discrimination practices
- Discrimination against pregnant and parenting students
- The institution's policy against sexual harassment and discrimination, including all the resolution procedures and processes stated therein



31

■ Recommended Training

- Role specific training:
 - Title IX Coordinators need training on all aspects of Title IX compliance, including the Final Regulations and recordkeeping.
 - Investigators need training on how to investigate sexual harassment and discrimination, including how to effectively interview parties and witnesses.



32

■ Recommended Training

- Role specific training:
 - Decision-makers need training on how to identify questions parties and witnesses, hear cases relating to sexual harassment, conduct credibility assessments, how to write a thorough, concise and evidence-based rationale, and arrive at an appropriate sanction and situation-specific remedies.
 - Informal resolution facilitators must be trained in the parameters and processes, consequences and confidentiality implications of informal resolution.



33

■ Recommended Training

- What about advisors?
 - The Final Regulations require no training for advisors
 - “The Department declines to require training for assigned advisors because the goal of this provision is not to make parties ‘feel adequately represented’ but rather to ensure that the parties have the opportunity for their own view of the case to be probed in front of the decision-maker [through cross-examination].”
Preamble, p. 1186 (Federal Register version)



34

Recommended Training

- There is nothing in the Final Regulations that precludes institutions from providing training for their appointed advisors.
- Training topics should include:
 - “Relevance”
 - How to utilize cross-examination as a “truth-seeking” tool
 - How to identify the “prior statements” by the other party and witnesses to probe
 - How to perform cross-examination in a respectful and non-abusive manner
 - Hearing Rules and Procedures



35

Recommended Training

- §106.45(b)(1)(iii) only addresses training requirements for the Title IX team.
- §106.8 requires institutions to train their students and employees on:
 - The policy of non-discrimination under Title IX,
 - The Title IX Coordinator’s contact information,
 - How to report and file complaints of sex discrimination,
 - How to report and file formal complaints of sexual harassment, and
 - The sexual harassment grievance procedure and processes.



36

Recommended Training

- Other individuals (unofficial Title IX team members) who need specialized training relating to the Final Regulations:
 - Officials with authority to institute corrective measures
 - Individuals tasked with conducting behavioral and safety assessments related to emergency removals
 - Faculty, staff, contractors and volunteers



37

CHAT

Besides members of your Title IX Team, who is the next group of individuals you will train?



38

? **QUESTIONS**

ai ACADEMIC
IMPRESSIONS 39

39

TRAINING CONSIDERATIONS

ai ACADEMIC
IMPRESSIONS 40

40

■ Training Considerations

- How much training is required and how often?
 - The Final Regulations do not impose an annual or other frequency condition on the mandatory training required in § 106.45(b)(1)(iii).
 - The only requirement is that any Title IX Coordinator, investigator, decision-maker, or person who facilitates an informal resolution process will, when serving in such a role, be trained to serve in that role.
 - However, OCR estimates 8 hours of training for each team member with additional training each subsequent year.



41

■ Training Considerations

- Who should conduct the training?
 - OCR does not weigh-in on the individuals or entities that provide Title IX-related training to institutions.
 - Recommended to use training sources who rely on qualified, experienced professionals likely to result in best practices for effective and impartial grievances procedures and processes.
 - Whether or not an institution has complied with §106.45(b)(1)(iii) is not determined by the source of the trainers or training materials utilized.



42



CHAT

Think about your training experiences. What about them made them memorable and effective?



43



RESOURCE

Office for Civil Rights

<https://www2.ed.gov/about/offices/list/ocr/newsroom.html>

- [Title IX Regulations Addressing Sexual Harassment](#) (unofficial copy)
- [Title IX Regulations Addressing Sexual Harassment](#) (Federal Register)
- [Title IX: Fact Sheet: Final Title IX Regulations](#)
- [Title IX: U.S. Department of Education Title IX Final Rule Overview](#)
- [Title IX: Summary of Major Provisions of the Department of Education's Title IX Final Rule](#)
- [OCR Blog](#)



44

? **QUESTIONS**

You made it to the last workshop and wrote a revised Title IX policy along the way!

Congratulations!!



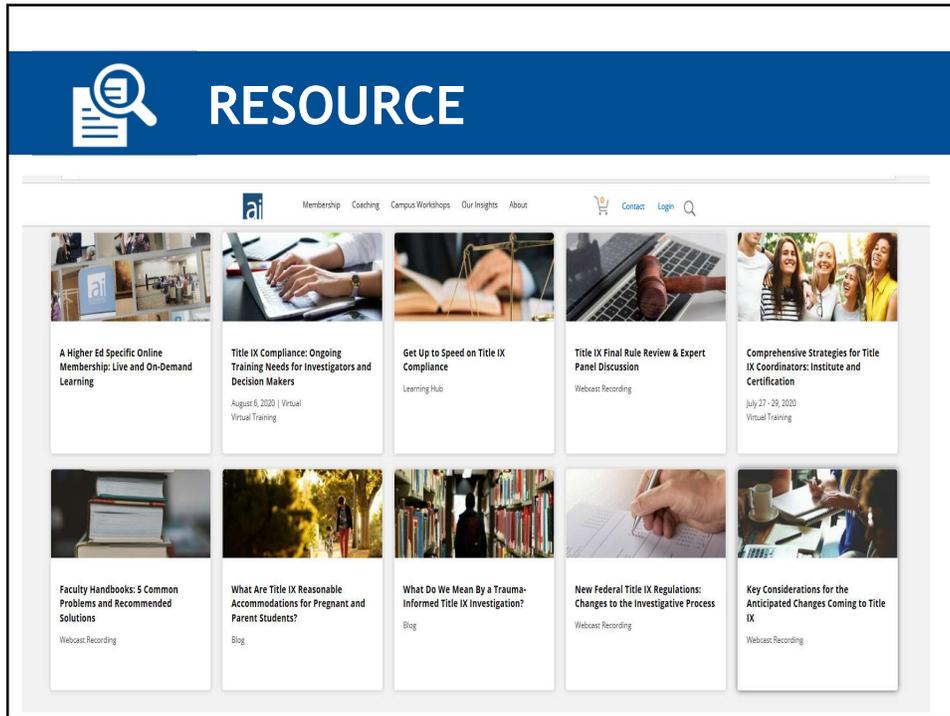
45

🔍 **RESOURCE**

Bookmark this page:
<https://www.academicimpressions.com/get-up-to-speed-on-title-ix-and-compliance/>



46



47

ON-CAMPUS WORKSHOP	CONFERENCE
Academic Impressions will deliver a customized, exclusive learning track for your team. Get on the same page, at the same time.	Join your higher ed peers and our expert speakers for one of our practically-focused, hands-on conferences.
IMPACT	
Immerse your team in a shared learning experience that gets everyone on the same page and moves the team towards a common approach or goal.	A solution for when a one-size-fits-all approach just doesn't cut it. Choose from more than one hundred workshops to meet your learners where they are.
CONTENT	
Customize and adapt content to your team's and institution's needs.	Explore multiple examples, case studies, and best practices. You'll have the opportunity to discuss campus-specific questions with our experts, as well as peers from around the country.
EXPERTS	
Tap our network of over 500 experts. Let us find the right expert for your campus - one that understands your unique context and needs. They'll get to know your team personally and can provide consistency and continuity throughout longer-term institutional engagements.	Learn from and work with multiple vetted national experts. Benefit from personalized attention in our intimate learning environments.
TEAM SIZE	
Best for teams of 10 or more.	Best suited for solo or small team attendance (10 or fewer members).
LOCATION	
Train your team in the convenience of your own campus.	Be in a creative space off campus where you can reflect. We host trainings around the United States and Canada.

On-Campus Workshop: Let us bring our Title IX training to your campus - virtually!

Conference: Join us at our Title IX (virtual) conferences with colleagues across the nation!

- Foundations Investigator
- Advanced Investigator
- Hearing Panel
- TIX Coordinator
- Appellate Officer*
- Mediator*
 - *new

48



RESOURCE

Consider Membership with AI!

A Complete Training Package Specifically Designed for Higher Education

Get More Value Out of Membership in 2020

The world changed and went virtual; so did we. For our almost 20-year history, much of our business was rooted in practical, hands-on, and learner-centric conference experiences held in person. In 2019, we held 113 in-person events and were planning to do more in 2020. We have now committed to bring that same content to you online and through membership. With our 2020 membership, you get access to unique "virtual conference" experiences. Use this year to make professional development a regular occurrence rather than a once-a-year annual meeting.

Members get free access to:

- Virtual Trainings
- Unlimited access to recorded and live webcasts
- \$250 discounts to online bootcamps and in-person conferences

10,000+

members

strong!



49



EVALUATION

Thank you!

Please remember to complete the event evaluation. Your comments will help us continually improve the quality of our programs.

© Copyright 2018 Academic Impressions

Follow us:





50

50