

TITLE IX TRAINING



INTERNATIONAL
EDUCATION
CORPORATION

Introduction

- On May 19, 2020, the Department of Education published the Title IX Final Rule (85 Fed Reg 30026) which **takes effect on August 14, 2020.**
- For the first time, the new regulation codifies that sexual harassment, including sexual assault, dating violence, domestic violence, and stalking, is prohibited under Title IX.
- The new rules ensure that schools do not impose sanctions/penalties against individuals before providing basic, fair procedures.
- Today we will be providing an overview of the new regulation and your role in the Title IX grievance process as outlined in the Company's Title IX Complaint/Grievance Procedure Policy ("Title IX Policy"), which is located in the school catalog, school website, and UNIFY.
- **After this training, please review the entire Title IX Policy in its entirety.**

Title IX Prohibits Sex Discrimination

No person in the United States shall on the basis of sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance

20 U.S.C. Section 1681 and 34 C.F.R. Part 106 (1972)

What is Sexual Harassment?

- Title IX protects individuals from sex discrimination in their educational programs and activities, which extends to admission and employment.
- The Department’s new Title IX regulations recognize that sexual harassment, including sexual assault, is unlawful sex discrimination under Title IX.
- Any of the following conduct constitutes Sexual Harassment
 - A school employee conditioning an educational benefit or service upon a person’s participation in unwelcome sexual conduct (often called “**quid pro quo**” harassment);
 - 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 school’s education program or activity (often called a “**hostile**” or “**abusive educational environment;**” or
 - **Sexual Assault** (as defined in the Clery Act, 20 U.S.C. § 1092(f)), or Dating Violence, Domestic Violence, or Stalking (as those offenses are defined in the Violence Against Women Act (VAWA)*, 34 U.S.C. § 12291(a)).

What is Sexual Harassment? (cont.)

- **Sexual Assault:** As defined in 20 U.S.C. 1092(f)(6)(A)(v), means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.
- **Dating Violence:** As defined in 34 U.S.C. 12291(a)(10), means violence committed by a person (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship; the type of relationship; and, the frequency of interaction between the persons involved in the relationship.
- **Domestic Violence:** As defined in 34 U.S.C. 12291(a)(8), includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- **Stalking:** As defined in 34 U.S.C. 12291(a)(30), means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress.

Title IX Coordinator

- The Company's Title IX Coordinator oversees compliance with all aspects of the Title IX Policy and is designated by the Company to intake reports and Formal Complaints of Sexual Harassment, provide supportive measures, and investigate alleged Sexual Harassment. The contact information for the Title IX Coordinator is as follows:

Title IX Coordinator

Senior Director of Human Resources
International Education Corporation
16485 Laguna Canyon Rd Ste. 300
Irvine, CA 92618
(949) 812-7706

TitleIXCoordinator@ieccolleges.com

- Anyone can report sex discrimination (including Sexual Harassment) even if they are not the victim.

When is the campus required to respond to a report of Sexual Harassment?

- The campus is required to respond to a report of Sexual Harassment when it (1) has actual knowledge of Sexual Harassment; (2) that occurred within an applicable school's education program or activity; (3) against a person in the United States.
- **Actual knowledge** is defined as when the Title IX Coordinator or Campus President/Executive Director becomes aware of a Sexual Harassment report.
- A school's **education program or activity** is defined as on or off campus locations, events or circumstances over which the applicable school exercises substantial control over both the Respondent and the context in which the Sexual Harassment occurred.

Supportive Measures

- Supportive Measures are individualized services reasonably available to ensure equal educational access, protect safety or deter Sexual Harassment.
- Supportive Measures are designed to:
 - Preserve or restore equal access to the school's educational program or activity
 - Protect the safety of all parties and the school's educational environment; and
 - Deter Sexual Harassment.
- Supportive Measures are available, as appropriate, to the Complainant and Respondent and are non-punitive, non-disciplinary and not unreasonably burdensome to the other party.
- Upon receiving a report of Sexual Harassment, the Title IX Coordinator will promptly contact the Complainant confidentially to discuss the availability of Supportive Measures.

Supportive Measures (cont.)

- **Supportive Measures are available to the Complainant regardless of whether a Formal Complaint is filed.**
- The Title IX Coordinator shall explain to the Complainant the process for filing a Formal Complaint (more on this later).
- Supportive Measures are individualized and appropriate based on the information gathered by the Title IX Coordinator.
- The Title IX Coordinator will consider the Complainant's wishes regarding the Supportive Measures.
- Supportive Measures will be kept confidential to the extent that maintaining confidentiality would not impair the school's ability to provide the Supportive Measures.

Supportive Measures (cont.)

- Supportive measures will be provided without fee or charge and may include:
 - Counseling;
 - Extending deadlines;
 - Modifying class or work schedules;
 - Placing mutual restrictions on contact between the parties;
 - Providing campus escort services;
 - Changing work locations;
 - Providing leaves of absence; and
 - Increased security and monitoring of certain areas of the campus.

Emergency Removal

- A school may temporarily remove an individual from campus on an interim basis during the pendency of a Formal Complaint in limited emergency circumstances where there is an immediate threat to physical health or safety. Before taking this emergency measure, the school will:
 - Undertake an individualized safety and risk analysis to determine whether there is an immediate threat to the physical health or safety of any person arising from the allegations of Sexual Harassment;
 - Make an affirmative determination that such an immediate threat exists based on its individualized safety and risk analysis; and
 - Provide the Respondent with notice and an opportunity to challenge the emergency decision immediately following the Respondent's removal.

Formal Complaints

- **The campus shall investigate every Formal Complaint of Sexual Harassment.**
- A Formal Complaint is a document (hardcopy or electronic) filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that the school investigate.
- A Formal Complaint must be signed (physical or digital) by the Complainant, the Title IX Coordinator or otherwise indicate that that Complainant is the person filing the Formal Complaint.
- When filing a Formal Complaint, **the Complainant must be participating in or attempting to participate in the education program or activity of the school at which the Formal Complaint is filed.**
- The Title IX Coordinator will respect the Complainant's wishes as to whether the Title IX Coordinator investigates an allegation of Sexual Harassment unless the Title IX Coordinator determines that not investigating would be deliberately indifferent or harmful to the school community.
- Formal Complaints involving employees will also be referred to the Human Resources Department and simultaneously evaluated under applicable employee conduct policies and procedures outlined in the Team Member Handbook.

Written Notice of Allegations

- Upon receipt of a Formal Complaint of Sexual Harassment, the Title IX Coordinator shall provide written notice of the allegations to the parties. The written notice shall:
 - Include sufficient details of the allegations, including the identities of the parties involved, policy alleged to have been violated, the conduct allegedly constituting Sexual Harassment, and the date and location of the alleged incident in order to allow the parties to prepare for an initial interview.
 - Inform the parties that they may have an advisor of their choice.
 - Inform the parties they will have an opportunity to inspect all directly related and/or relevant evidence obtained during the investigation.
 - Include a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the entire grievance process.
 - Inform the parties that they are prohibited from knowingly making any false statement or knowingly submitting false information during the grievance process.
 - An instruction to preserve any evidence that is directly related to the allegations.
 - The name of the investigator, along with a process to identify (in advance of the interview process) to the Title IX Coordinator any conflicts of interest that the investigator may have.

Additional Written Notices during Investigation

- The parties will also be provided with separate written notice of any investigative interview, meeting or hearing.
- Interview/meeting notices will include the date, time, location, participants and purpose of the investigative interview or meeting.

Informal Resolution

- After a Formal Complaint is filed, the school may offer the parties the opportunity to engage in an informal resolution process such as a mediation or informal settlement conference.
- **The school will not offer or facilitate an informal resolution process where the allegations in the Formal Complaint allege that an employee sexually harassed a student.**
- Before proceeding with an informal resolution process, both parties must give voluntary, informed, written consent.
- The school will provide written notice to the parties disclosing the allegations, the requirements of the informal resolution process, and any consequences of participating in the informal resolution process. Any party may withdraw from the informal resolution process and resume the grievance process with respect to the Formal Complaint at any point prior to agreeing to a resolution.

Grievance Process

- The school shall investigate all Formal Complaints of Sexual Harassment using its grievance process, which is designed to ensure due process and fairness to all parties.
- Title IX personnel (Title IX Coordinator, investigators, decision-makers, and individuals who facilitate informal resolution) will be free from conflicts of interest or bias for or against Complainants or Respondents.
- Title IX personnel will objectively evaluate all relevant evidence and avoid credibility determinations based on a person's status as a Complainant, Respondent or witness.
- The school shall not impose discipline on a Respondent without going through the required grievance process.

Grievance Process (cont.)

- **Standard of Evidence:** For all Formal Complaints of Sexual Harassment (including where employees are Respondents), the school applies the preponderance of the evidence standard, meaning that it is “more likely than not” that something did or did not occur.
- **Presumption of Non-Responsibility:** A Respondent is presumed not responsible for the alleged Sexual Harassment until a determination regarding responsibility is made at the conclusion of the grievance process.
- **Advisor:** The parties may be accompanied by an advisor of their choice at any stage of the process. The advisor is allowed to be present at any meeting, but is required to be at the live hearing for the purpose of conducting cross-examinations. If the party does not have an advisor for the live hearing, the school shall provide, without fee or charge to that party, an advisor of the school’s choice. The Complainant and Respondent may not conduct cross-examination.

Grievance Process (cont.)

- **Investigation Process:** A Formal Complaint shall be investigated by the Title IX Coordinator or other trained designee (“investigator”), who will conduct interviews and gather evidence.
- The investigator will objectively evaluate all relevant evidence and avoid credibility determinations based on a person’s status as a Complainant, Respondent, or witness. The investigator shall be free from conflicts of interest or bias for or against the Complainant or Respondent.
- Both parties shall have an equal opportunity to submit and review evidence throughout the investigation process, including the opportunity to present fact and expert witnesses and other inculpatory and exculpatory evidence. The school shall not restrict the parties’ ability to discuss the allegations or gather or present evidence.
- The scope of an investigation will vary depending on the allegations and circumstances of each individual Formal Complaint. Each Formal Complaint will be assessed on an individualized basis.

Grievance Process (cont.)

- For purposes of illustration, an investigation may include the following steps, as appropriate:
 - Reviewing the Formal Complaint;
 - Gathering additional information or statements from Complainant;
 - Gathering information from any witnesses (for example faculty, staff or other students with potentially relevant information);
 - Reviewing relevant documentation and policies;
 - Obtaining a response, written statement and other information from Respondent.
- The investigator shall provide written notice to the parties in advance of any meeting, interview, or hearing conducted as part of the investigation in which they are expected or invited to participate.

Grievance Process (cont.)

- Evidence Gathering:
 - Engage in the active accumulation of evidence
 - Timeliness
 - Document receipt of information and other materials as obtained in the course of investigation
 - Verify and authenticate evidence
 - Be thorough in your examination of factual, circumstantial and hearsay evidence, and ensure that all evidence has been examined and all leads exhausted.
 - No limits on types/amount of evidence which may be offered
- All relevant evidence must be objectively evaluated

Grievance Process (cont.)

- **Review of Evidence:** Before concluding the investigation, the school shall provide the parties and their advisors, if any, the opportunity to inspect and review any evidence obtained during the investigation that is directly related to the allegations raised in the Formal Complaint, including all inculpatory and exculpatory evidence.
- The evidence will be provided to the parties in an electronic format or a hard copy, and the parties will be given 10 days to submit a written response. The investigator will consider the written responses before the completion of the investigative report.

Grievance Process (cont.)

- **Investigative Report:** At the conclusion of the investigation, the investigator will create an investigative report that fairly summarizes the relevant evidence.
- The investigative report shall be provided to the parties (and their advisors) in an electronic format or a hard copy, and the parties will be given 10 days to submit a written response.
- The final investigative report will be provided at least 10 days before the live hearing so the parties have the opportunity to review and provide written responses.

Grievance Process (cont.)

- **Live Hearing:** If a Formal Complaint is not or cannot be resolved through informal resolution, the school shall hold a live hearing (“hearing”).
- **The hearing will be overseen by the Campus President/Executive Director or other trained designee (“decision-maker”), separate from the Title IX Coordinator or investigator.**
- The hearing may be conducted with all parties present physically or virtually, so long as all participants are able to see and hear one another in real time. A party is prohibited from solely participating in the hearing by telephone.
- At the request of either party, the school will permit the parties to be in separate rooms during the entirety of the hearing. The school will create an audio or audiovisual recording, or transcript of the live hearing.

Grievance Process (cont.)

- **As a decision-maker, you must serve impartially.**
 - This means you must not prejudge the facts at issue. For example, you must not assume facts are true based on a person's status as a Complainant, Respondent or witness.
 - You may not serve as a decision-maker if you have a conflict of interest or are biased in any manner. A conflict of interest exists if you have prior involvement in or have knowledge of the allegations at issue in the case, have a personal relationship with one of the parties or witnesses, or have some other source of bias.
 - You must also refrain from relying on sex stereotypes. As an example, a stereotype exists that males cannot be subjected to Sexual Harassment and an individual may discount a male student's allegation that he was sexually harassed. Reliance on this type of sex stereotype is absolutely prohibited by a decision-maker.
- Prior to the hearing, the decision-maker will be trained on any technology to be used at the hearing.

Grievance Process (cont.)

- **Cross-Examination:** During the hearing, every witness may be subjected to cross-examination by the party's advisor. The school will allow a party's advisor to directly and in real time present all relevant questions and follow up questions to another party or witness, including the advisor challenging the credibility of a party. **Cross-examination must come from a party's advisor and may not come directly from a party.**
- If a party or witness does not submit to live cross-examination, the decision-maker will not rely on any statement made by that party or witness when making the decision about the Respondent's responsibility. Only statements that have been tested for credibility through cross-examination at the hearing may be considered by the decision-maker in reaching a responsibility determination. This includes statements against interest.
- By way of example, if a party makes a statement against interest to the investigator during the investigation, but subsequently declines to participate in the hearing or otherwise be subject to cross-examination, the statement made to the investigator will not be relied upon in making a determination regarding responsibility. The decision-maker will also not draw any inference regarding responsibility based solely on a party's or witness' absence from the live hearing or refusal to answer cross-examination or other questions.

Grievance Process (cont.)

- **Questions Must Be Relevant:** Questions posed to parties and witnesses at the hearing must be relevant. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the decision-maker must determine whether the question being asked is relevant and provide an explanation as to any decision to exclude a question as not relevant.
- **What is relevant evidence?**
 - Evidence is relevant if:
 - it has any tendency to make a fact more or less probable than it would be without the evidence; and
 - the fact is of consequence in determining the action.

Grievance Process (cont.)

- **Evidence Limitations:** The school will not rely on or seek disclosure of information protected under a legally recognized privilege unless the person holding such privilege has waived the privilege. The school will not access or use a party's medical, psychological, or similar treatment records unless the party provides voluntary, written consent.
- **Rape Shield Protections:** Questions regarding a Complainant's prior sexual behavior are irrelevant unless offered to prove that someone other than the Respondent committed the alleged Sexual Harassment or offered to prove consent.

Grievance Process (cont.)

- **Written Determination:** Based on all relevant evidence obtained during the investigation and hearing, the decision-maker shall issue a written determination. The written determination will include a determination of responsibility as well as a written finding of facts. The determination will include a description of the procedure from Formal Complaint through hearing and clearly state a conclusion regarding whether the alleged conduct occurred as alleged or at all and support each conclusion with the rationale relied upon.
- The written determination will also indicate the sanctions imposed on the Respondent and whether remedies will be provided to the Complainant.
- The written determination will be sent simultaneously to the Parties along with information on how to file an appeal.

Grievance Process (cont.)

- Following a determination of responsibility, appropriate corrective action will be taken, and the school will take steps to prevent recurrence. Sanctions will be determined on a case-by-case basis. Possible sanctions may include, but are not limited to:
 - **Warning:** Notice, in writing, that continuation or repetition of the misconduct may be cause for additional disciplinary action.
 - **Disciplinary Probation:** Exclusion from participation in privileged activities for a specified period of time. Additional restrictions or conditions may also be imposed. Violations of the terms of disciplinary probation or any other IEC policy violations may result in further disciplinary action.
 - **Restriction on Contact:** Restricting the Respondent from contacting the Complainant.
 - **Suspension:** Exclusion from school premises, attending classes, and other privileges or activities for a specified period of time.
 - **Expulsion:** Permanent termination of student status and exclusion from school premises, privileges, and activities.
 - **Termination:** Termination of employment*.
 - **Other:** Other sanctions may be imposed instead of, or in addition to, those specified here.
 - **Multiple Sanctions:** More than one of the sanctions listed above may be imposed for any single violation.

Grievance Process (cont.)

- Employees are also subject to processes and discipline determined by the campus under the applicable policies outlined in the Team Member Handbook, which are separate and apart from the Title IX process and not constrained by the outcome of the Title IX process.
- **Appeals:** Either party is permitted to file a written appeal of a determination regarding responsibility within ten (10) calendar days after receiving the written determination. The written appeal must be limited to 10 pages, double spaced, 12 point font. A party is permitted to appeal only based on the following grounds:
 - Procedural irregularity that affected the outcome;
 - New evidence that was not reasonably available when the determination of responsibility was made that could affect the outcome; or
 - The Title IX personnel had a general or specific conflict of interest or bias that affected the outcome.
- The appeal will be ruled on by the applicable Regional Vice President of Operations or other trained designee. The parties will be informed in writing of the outcome of any appeal within thirty (30) days of receipt of the appeal. The appeal decision is final.

Grievance Process (cont.)

- **Time Frame for Completion of Entire Grievance Process:** Generally, the grievance process consists of filing a Formal Complaint, investigation, hearing, determination (including sanctions and remedies as applicable) and appeal. **The grievance process, barring extenuating circumstances, will conclude within ninety (90) days from the date a Formal Complaint is filed.**
- The length of time will vary, making the grievance process shorter or longer depending on the complexity of the investigation, the severity and extent of the alleged Sexual Harassment, the quantity and availability of witnesses, and other factors of significance that may affect the length of the investigation.
- Any delay or extension of the grievance process will be temporary, limited and for good cause and the school shall notify the parties of the reason for any short-term delay or extension.

Retaliation

- The school will not retaliate against any individual for exercising rights under Title IX, including the participating in or refusing to participate in the filing of a Formal Complaint, the investigation, or any proceeding or hearing.
- Examples of prohibited retaliation include intimidation, threats, coercion, or discrimination, and specifically include bringing charges against an individual for student code of conduct violations that do not involve sex discrimination or Sexual Harassment, but arise out of the same fact or circumstances as a report or complaint of sex discrimination or Sexual Harassment.
- Exercising rights protected under the First Amendment does not constitute retaliation. In addition, charging an individual for making a materially false statement in bad faith in the course of an investigation does not constitute retaliation.
- Anyone believing they've been retaliated against should contact the Title IX Coordinator or utilize any of the mechanisms outlined in the applicable school catalog or Team Member Handbook.

Conclusion

- We are committed to ensuring a school environment that is free from sex discrimination.
- The new Title IX Policy will ensure a prompt, equitable and impartial grievance process for all reports of Sexual Harassment.
- Again, please review the Title IX Policy in its entirety after this training.
- Should you have additional questions, please feel free to reach out to the Title IX Coordinator or the Legal Department.