



Title IX: Regulatory Changes Overview

Senior Leadership Team
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Sexual Harassment Definition

- Quid pro quo
- Sexual assault, dating violence, domestic violence, and stalking
- Severe, pervasive **AND** objectively offensive
- Reasonable person standard



Unreasonably interferes and creates an intimidating, offensive OR hostile environment...



Jurisdiction

Institution must have “actual knowledge” with this defined as the Title IX Coordinator or any official with authority for “corrective measures”



“Responsible employee”



Actual Knowledge

- Must be participating or attempting to participate in academic or work activity at the time the complaint is filed.
- We must have substantial control of the respondent or context



Must investigate even if off-campus





College Personnel: Title IX/Oregon

Requires:

- Title IX Coordinator: Receives reports and coordinates process
 - Investigator: Gathers information and conducts interviews
 - Advocates: Complainant and respondent
 - Hearings Officer/Decision-Maker: Determines sanctions/remedies
- ... specialized training required for all.



Other Title IX Changes

- Only complainant can file complaint (Title IX) If does not meet Title IX threshold, can adjudicate under student or employee definition/process for sexual harassment
- Cannot restrict  discussing case
- Interim measures  limited
- Respondent right to cross-examine accuser
- Written notice at all steps of process
- All parties have right to a College-sponsored advocate



Next Steps

- Write new Title IX policy and define process
 - Description of process and timeframes, presumption of innocence, burden of proof standard, range of sanctions
- Write new College sexual harassment policy and process
 - Includes definitions for anti-oppression, culturally responsive, gender-responsive, and trauma-informed
- Identify Title IX roles and people
- Develop training, including on trauma-informed care
 - Must track all trainings and archive materials in publicly accessible site



Next Steps

- Identify mandatory notification requirements
 - Prospective students: Website*
 - Prospective employees: Employment website*
 - Current students: Orientation, annual notification, website*
 - Current employees: Website*, annual notification
 - Unions

* Must be prominent (two-click rule)



Is this really going to happen?

- DOE firm on August 14 deadline
- ACLU and state attorney generals issued legal challenges, but unlikely to persevere
- Congressional actions are possibility – but unlikely
- Biden support to overturn



What we need to decide:

- Separate sexual harassment policy?
- Standard of evidence for formal Title IX hearings?
- Hearings Officer: Who and How Many?
- Advocates: Who and How Many?