Title IX Coordinator Training

Cammus and Workplace Solutions

1. Brief overview
2. Legal Refresher
3. Coordinator skills
4. Role of the Title IX Coordinator- New Regulations
5. Role of the Title IX Coordinator- Building a Title IX Compliance Program

But first, some scenarios!

- Complaints against employee
- Complaints against student
Title IX - What the Coordinator is Required to Do

- Manage an institution's compliance with Title IX
  Sexual harassment, pregnancy, employment, athletics
- Dissemination of policy (notice and training)
- Grievance procedures
- Manage complaints, manage investigations, and provide supportive measures
- Monitor, track, and assess cases and trends

Title IX - what it covers
What does the school pay for or enable?

- employees, students
- employment, benefits, opportunities
- the ability to engage in what the school has to offer
- athletics
- academics, admissions
- extra-curriculars
- on-campus, off-campus with some caveats
- discipline
- scholarships

Assess: What are Your Action Areas?

- Sexual Harassment (Title IX definition)
- Athletics
- Pregnancy and Parenting
- Employment
- Scholarships?
What the Regulations Mean for Institutions

- Due process focus
  - "Presumption of innocence"
- Notice notice notice notice notice notice notice
- Narrow and focused involvement by OCR/DOE, but think Clery a bit here....
- More legality to proceedings
- Training
- Mandatory advisors- schools provide

- More time for evidence review (10 days) and report review (10 days)
- Informal option
- Mandatory reporters changed
- Documentation & record-keeping
- More information out there
- POLICY changes and creation

Who are the Compliance Stakeholders?

We will discuss further...

- HR (employee matters and the notice to employees and job applicants)
- Student conduct
- Academics
- Counseling
- Admissions
- Athletics
- Residential life
- Other student affairs offices
Section 4
Coordinator Skills and Abilities

Essential Skills of a Coordinator

- Calm
- Logical
- Ethical
- Neutral

Neutrality and Demeanor

- Do not take sides. Neither pro-complainant nor pro-respondent
- Manage bias.
- Do not seek a particular outcome
- Be kind, but do not try to please people

The role is to address concerns and complaints with empathy and kindness, but not serve as a therapist

What is a presumption of "not responsible" and why does it matter?
Consistency

- Treat the same behavior the same way
- Treat everyone the same way
  unless the nature of the allegation differs
- Follow policy and process

Your People and Your Community Matter

- This is a people business
- Your students and employees matter
- How to we ensure that we work to minimize negative impact?

Putting a personal matter through a process...

ADVISORS
Communication Considerations
Form, tone, frequency, length, detail...etc.

In person

Email or text

Written notices

Task-management: What is on Your Plate?
And how can you get it done?

- Scheduling (meetings, hearings, etc.)
- Seeking support & building relationships
- Present & train
- Reviewing complaints and other compliance concerns or check ups
- Documentation
- Communications with parties
Self-Care

- Do not personalize
- Take time to decompress
- Manage emotions

Section 3
Role of the Coordinator: New Title IX Regulations

Action Items for Title IX Coordinators
Sexual Harassment Matters

1. Notice of policy
2. Understanding scope of policy and assessing complaints/information
3. Response
4. Notice of Formal Complaint
5. Investigation
6. Hearing Process
7. Notice of Outcome
8. Appeals
9. Informal Resolution
10. Notice of Formal Complaint
11. Appeal for dismissal

Managing Conflicts of Interest
1) Notice notice notice
of the regulations and obligations, etc.

• Who gets notice?

2) Scope of Policy

• Actual knowledge means notice of SH or allegations of SH to a recipient’s TIXC or any official of the recipient who has authority to institute corrective measures on behalf of the recipient.

• The mere ability or obligation to report sexual harassment does not qualify an employee, even if that employee is an official, as one who has authority to institute corrective measures on behalf of the school.

106.30 Definitions- FORMAL COMPLAINT

1. alleging sexual harassment against a respondent,

2. about conduct within its educational program or activity,

3. requesting initiation of the school’s grievance procedures, and

4. filed by a complainant at a time when they are participating or attempting to participate in the school’s education program or activity.
3) No formal complaint? Just a report?

- Recipient must offer and implement supportive measures designed to effectively restore or preserve the complainant’s access to the recipients educational program or activity.
- At the same time it offers supportive measures, Recipient must inform complainant of the right to file a formal complaint at that time or a later date.

What if the Person is not Sure What They Want?

1. Clarify purpose of the meeting, Why are they here?  
   Reassure them of confidentiality limitations.
2. If APPROPRIATE, gather enough information to determine what the nature of the allegations are
3. Communicate and explain process, options, rights and next steps
4. End the meeting with a mutual understanding of what will happen next
5. Document what took place and next steps (are they seeking supportive measures? Accommodations?)
6. In some cases, send an APPROPRIATE email

Dismissal

- MUST dismiss, as Title IX complaints, complaints that do not satisfy requirements of “Formal Complaint”
- MAY dismiss for other reasons such as request from complainant, respondent no longer at the school, or no ability to gather the information necessary, etc.
- NB: Appeal rights attach, however.

106.30 Definitions: Supportive Measures- TIXC responsible

- Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to C and R before and after the filing of a formal complaint or where no complaint has been filed
- Such measures are designed to (1) restore or preserve access to the recipient's education program or activity, without unreasonably burdening the other party, (2) protect the safety of all parties and the recipient's educational environment, and (3) deter sexual harassment
4) 106.45 Grievance Procedures- Notice of allegations

- Upon receipt of a formal complaint, school must provide the following written notice to the parties who are known:
  - A) Notice of the school's grievance procedures
  - B) Notice of the allegations constituting a potential violation of the school's code of conduct including sufficient details known at the time and with sufficient time to prepare a response before any initial interview
- Ongoing notice requirement when new allegations added to investigation

5) Investigations

- Who investigates?
- Contents of report
- Working with investigators
- Working with external investigators

6) Hearing

- What happens at the hearing?
- Role of advisors
- Duty to assign advisor
- Preparing hearing officers
- Working with external hearing officers
- What if someone does not appear?
- What if a party does not have an advisor?
7) Notice of Outcome

8. MUST BE IN YOUR DETERMINATION OF RESPONSIBILITY (NOTICE OF OUTCOME) (Section 106.45)

☐ Identification of the allegations potentially constituting sexual harassment as defined in 106.30
☐ Description of the procedural steps taken from receipt of the complaint through determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held.
☐ Findings of fact used to support the determination
☐ Conclusions regarding the application of the code of conduct to the facts
☐ Statement of, and rationale for:
  ☐ the result as to each allegation, including a determination regarding responsibility,
  ☐ any sanctions the recipient imposes on the respondent, and
  ☐ any remedies provided by the recipient to the complainant designed to restore or preserve access to the program or activity.

9) Informal Process

- At ANY TIME prior to reaching a determination
  - Include mediation
  - That does not involve full investigation and adjudication
- MUST:
  - Provide parties written notice disclosing
    - Allegations
    - Requirements of the informal resolution process incl. the circumstances under which it precludes parties from resuming a formal complaint arising from the same allegations
  - Obtain parties' voluntary written consent
- Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared

8) Appeals

1. Procedural irregularity
2. New evidence that was not reasonably available at the time of determination regarding responsibility or dismissal was made, that would affect the outcome of the matter
3. The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against parties generally or the individual party that affected the outcome of the matter
4. Other bases determined by the school, provided offered to both parties

To get a sense of what is needed: create a flow chart
New Regs In Action!

Example

Report

Formal Complaint
Starting an Investigation

Working with Parties

Working with Investigators

Hearing, Outcome, and Appeals
Informal Resolution

It Looks Different on Each Campus, but, Generally, the Coordinator...

- Works to ensure institution complies with Title IX
- Manages investigations
- Notices of outcome
- Interim measures and services

And also...

- Athletics
- Pregnancy and parenting
- Admission
- Hiring
And Also...

- Trains key stakeholders
- Trains All Employees
- Trains students
- Educational programming- don't forget Clery!

Day in the Life of a Title IX Coordinator

- Meet with complaining party and advisor
- Review other complaint and assess if it triggers policy. Contact complainant to see if they can meet to confirm they want to go forward.
- On other case, determine if an investigator is available. Call external/internal investigator to see if they can investigate. Write letter of investigation to each party. Redact complaint. Complete matching letters, send them out.
- Meet with academic dean to discuss how to work with pregnant students
- Run training for employees on the policy
- Meet with responding party to explain the complaint, their rights and options, etc.
- Receive anonymous complaint involving the school’s famous coach
- Review investigation report and talk with investigator
- Determine staffing of roles
- Committees and deputies
- Make sure people are aware of policies and roles so there are no surprises
- Train other key stakeholders and front liners
- Prevention programming for students
- Prevention programming for employees
- Etc...

And Also...

- Boards of Trustees
  - Keeping them informed
- Title IX and salary equity, job equity
  - Employees
- Policy and procedure revision and updates

To Do List

- Policy and procedure
- Work with marketing and other stakeholders on dissemination of notice, etc.
- Develop form documents and communications
- Procedure checklist and case management checklist
- System to document decisions, supportive measures, etc.

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**ACTION! Categorized compliance efforts.**

- **Documents & Process**
  - Policy and procedure
  - Notice of policy
  - Supportive Measures
  - Complaint intake and assessment

- **Technology**
  - Investigation reports
  - Hearing (if held) & Informal Resolutions
  - Appeal
  - Notices of investigation, meeting, hearing, case dismissal, outcome.

- **Training**
  - Process Systems
    - Meeting steps in process
    - Providing structure, training and support for the investigation and hearing process
    - Ensuring that notice is properly disseminated
    - Annual revisions to policy
    - Regular assessments of other compliance obligations

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**Documents, Ctd.**

- What about non-sexual harassment matters?
  - Tracking and monitoring other Title IX compliance work

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Technology

- Case management system (students and employees)
- Learning management system or way to track employee attendance at trainings
- Recording hearing
- Systems/triggers for notice

Training

- Specific for identified stakeholders
- Clarify roles and expectations
- Continue the training on policy with students and employees
- Put certain training on the web
- Do not forget Clery! Prevention programming!

Staff/people

Understand how regulations impact staffing needs

- Hearing officers
- Advisors
- People to help with coordinating supportive measures
- Meetings with parties
- Preparing documentation
- Investigators
- Appeal officers
- Training and prevention programming
- Athletic compliance
- Academic compliance

Do not forget about Clery!
Building Relationships:
Who else is involved?

Let’s Talk Students: Who Intersects with Them?
Let's Talk Employees- Who Interacts with Employees?

- Colleagues
- Students
- Public
- Managers

What Challenges and Tensions Arise between Roles and People?

- Different responsibilities
- Different agendas
- Different job duties
- Different communication styles and training

The HR Perspective

- Each role has value and is designed to perform a specific function
- Employees all work in furtherance of the school's mission

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Solutions...

- Understand roles and differences in roles
  Recognize each position’s role and duties

- Specify ownership of certain Title IX responsibilities
  Make sure people understand what is expected.

Solutions, continued

- Find commonality
  - Student success
  - Divisional goals
  - Community values, mission statement
  - Be open, arrive from a curious place.

- Understand Policy
  So much misunderstanding arises from attaching too firmly to what we think is true

Exercise

Getting Started
What Will You Need and Need to Do?

- Policy and process
- Forms, form documents, checklists, spreadsheets
- Technology
- Roles appropriately staffed
- Stakeholders and compliance partners identified and ready
- Training for employees
- Programming for students
- Clear “launch” of your role and this work
  - with support from senior leadership
  - think about appropriate messaging to the community
  - authority to do the job

Exercise

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