



PALM BEACH STATE
COLLEGE

Title IX Regulations
2020

Title IX Coordinators

Employees

Students

Juanita Hook

Penny McIsaac

What is Title IX

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity.”

Education Amendments of 1972

Then and Now....

Formerly Sub-regulatory Guidance

- ▶ Easily amended
- ▶ Issued by a Dear Colleague Letter
- ▶ Suggested guidance to meet the terms of Title IX

New regulatory requirements codified in the Federal Register

- ▶ Amendments require commentary and regulatory review periods. This process took nearly 3 years.
- ▶ Carries the weight of law.
- ▶ Required as opposed to suggested.

Compliance

Expectations

- ▶ Required to respond to every report so as to not be deliberately indifferent to the complainant.
- ▶ Provide a grievance process for both parties that is impartial, avoids bias and conflicts of interest.

To be considered title IX

- ▶ complainant must be involved in an academic program or activity or attempting to be
and
- ▶ must have happened in a location that is controlled by the College or those involved are under the control of the College
and
- ▶ happen in the United States

Definition of Sexual Harassment

- ▶ **Quid Pro Quo** - between employees or between an employee and a student.
- ▶ **Unwelcome contact** that a reasonable person would determine is “so severe, pervasive, and objectionably offensive” that it denies a person equal access to education.
- ▶ **Sexual Assault** as defined in the Clery Act, **Domestic Violence, Dating Violence and/or Stalking** as defined in VAWA

Actual knowledge

- ▶ Occurs when an **official with authority** to implement corrective measures on behalf of the institution **receives a report of sexual harassment** in any format. Reports may also be from a **third party** or **anonymous** report.
- ▶ A report to an official with authority **triggers our response** so as to **not be deliberately indifferent**.
- ▶ Other members of the community who may hear of a report **may** still be considered **mandatory reporters**, but this **does not trigger our obligations under Title IX** until they notify an official with authority.

Officials with Authority

- ▶ Deans/Assistant Deans of Student Services
- ▶ Deans/Associate Deans of Academic Affairs
- ▶ Title IX Coordinators
- ▶ Athletic Director
- ▶ Chief Human Resources Officer
- ▶ Human Resources Director and Equity Officer (Title IX Coordinator)

Dismissal of a Complaint

Mandatory (Must)

- ▶ If the complainant is not participating in an academic program or activity.
- ▶ The incident does not occur in the United States.
- ▶ The incident did not occur in a property controlled by the college or where those involved activities are not controlled by the college.

Discretionary (May)

- ▶ If the respondent is no longer enrolled or employed.
- ▶ If the complainant requests in writing that the complaint be dismissed.
- ▶ If the investigator is unable to gather sufficient evidence to make a determination.

In either case, the complaint may still be referred for determination of responsibility under the student code of conduct or board policy.

Informal Complaint



Report to an official with authority in any format



Results in a call from the appropriate Title IX Coordinator



Implement supportive measures



Provide information relative a formal complaint

Formal Complaint

- ▶ Must be submitted in writing
- ▶ Include a request for either an investigation or alternative resolution
- ▶ Must be signed by the party harmed or a Title IX Coordinator

This triggers our response through Policy and Procedure 5.86 for employees and the Student Handbook for students.

FORMAL COMPLAINT PROCESS

Employee/employee complaint - Investigation per Board Policy
5.86 Procedures

Employee/student complaint - Investigation per Board Policy
5.86 Procedure or Collective Bargaining Agreement

Student/student complaint - Investigation per Student
Handbook

Student/employee - Investigation per the Student Handbook

NEW ROLES

➤ **Hearing Advisors**

Complainant and respondent each have the right to have an individual guide them through process

Party's select their own, which, may be a lawyer

College obligation to provide a Hearing Advisor for those without one

Conduct Cross Examination

➤ **Investigators**

Neutral Party to investigate and summarize the evidence

➤ **Decision makers**

Individual or Panel

Committee Chair

All individual in these roles must be trained on the process

HEARING REQUIREMENTS

- ▶ Hearing Advisors
- ▶ Cross Examination
- ▶ Expert witnesses
- ▶ Live or live remote
- ▶ Significant increase in the committee chair role

In Summary

Previously

- ▶ Single investigator/decision maker model
- ▶ Wider definition
- ▶ No hearings for employees
- ▶ No cross examination included
- ▶ Limited use of hearing advisors
- ▶ Guidance provided by DCL
- ▶ Mandatory Reporters

Now

- ▶ Separate investigator and decision maker
- ▶ Narrow definition
- ▶ Hearing for all formal complaints
- ▶ Cross examination by hearing advisors
- ▶ Federal Regulatory requirements
- ▶ Officials with Authority

Thank you!

Questions?