

TITLE IX

IMPLEMENTING THE NEW
REGULATIONS



WHAT IS YOUR ROLE AS TITLE IX COORDINATOR?

- Intake
 - Receive the report/Formal Complaint—may need to gather additional information
 - Determine if there is an immediate threat
 - Offer supportive measures
- Consult with SO Title IX staff
 - Preliminary assessment of the report
- If there is an investigation:
- Assist investigators with logistics (setting interviews, finding private space for interviews, finding contact information, etc.) Perhaps assist with the investigation if appropriate.
 - Assist with accessing spaces/locations of reported events

WHAT IS YOUR ROLE AS TITLE IX COORDINATOR?

CONTINUED

- Serve as a resource
 - For Complainant, Respondent, Witnesses, etc. who may have questions about the process, or need supportive measures during the process
 - Provide supportive measures
 - does not require Formal Complaint
 - available to both Complainant and Respondent
 - keep confidential to the extent possible
- Recordkeeping

Maintain records for seven (7) years

Each report or request for assistance	Appeals and results
Investigations, reports and determinations	Documentation of why supportive measures were not provided to a Complainant
Hearing recordings and transcripts	Training materials for TIX employees
Sanctions	Records of any actions responding to reports
Remedies	Informal resolutions and results

WHEN IS IT A TITLE IX COMPLAINT? PROHIBITED CONDUCT

Only the following behaviors or actions rise to the level of Title IX Sexual Harassment:

- ❑ Any instance of quid pro quo harassment (victim is offered a reward, or threatened for refusing, to participate)
- ❑ Any unwelcome conduct that a reasonable person would find so severe, pervasive **AND** objectively offensive that it interferes with the educational process
- ❑ Any instance of sexual assault (as defined by the Clery Act) or dating violence, domestic violence, or stalking (as defined by the Violence Against Women Act).

WHEN IS IT A FORMAL TITLE IX COMPLAINT?

To take disciplinary action against a Respondent, a Formal Complaint must be filed.

Formal complaints may be filed by:

1. A person who, at the time of filing the Formal Complaint, was participating or attempting to participate in the education program or activity of the institution.
2. The parents or legal guardians of the Complainant, who have the legal right to act on their behalf.
3. The Title IX Coordinator—however, the Coordinator's signature does not make the Coordinator the complainant.

Formal Complaints can be filed in person, by mail, by electronic mail, or by using the KCTCS hotline.

WHEN DOES TITLE IX APPLY? JURISDICTION

The new regulations put parameters on the school's jurisdiction over conduct. KCTCS may not apply Title IX policies and procedures to the following:

1. Respondents who are not enrolled in or employed by KCTCS.
2. Complainants that are not enrolled in or employed by KCTCS (or Complainant's representatives with legal authority to act on their behalf).
3. Behavior that takes place outside of a KCTCS education activity or program.
4. Behavior that does not occur in the United States.
5. Behavior that does not meet the standards described as Prohibited Conduct.
6. Reports of prohibited behavior, without a Formal Complaint.

SUPPORTIVE MEASURES— THEY'RE FOR EVERYONE

The regulations formalize that institutions should offer non-disciplinary, non-punitive individualized services, called supportive measures, when a report is made, whether it continues through a formal process or not. Supportive measures are to be made available to both complainant and respondent in Title IX reports.

KCTCS will continue to offer supportive measures to affected parties. Available supportive measures include:

- counseling
- extensions of deadlines or other course-related adjustments
- modifications of work or class schedules
- campus escort services (where available)
- mutual restrictions on contact between the parties
- changes in work locations
- leaves of absence
- increased security and monitoring of certain areas of the campus
- other similar measures.

DISMISSING COMPLAINTS

By regulation, KCTCS **must** dismiss complaints brought as Title IX when the conduct complained about does not:

1. Rise to the level of prohibited conduct as defined in regulation and KCTCS procedure
 - Sexual harassment severe, pervasive, AND objectively offensive enough to deny access
 - Quid pro quo sexual harassment
 - Sexual assault under the Clery Act (fondling, incest, statutory rape, rape)
 - Dating violence, domestic violence, stalking
2. Occur in the context of a KCTCS education activity or program; or
3. Occur in the United States.

KCTCS **may** dismiss complaints brought as Title IX if:

1. The Respondent withdraws from enrollment or resigns employment; or
2. The Complainant withdraws the complaint; or
3. KCTCS is prevented from gathering evidence in the investigation sufficient to determine responsibility.

WHAT IF IT'S NOT TITLE IX?

The new regulations explicitly grant the authority to refer behavior that does not meet the stricter Title IX standards for handling under other institutional policies. So what else may apply instead?

- [2.0.2](#) and [2.0.2-P](#) Employee Responsibilities
- [3.3.1](#) and [3.3.1-P](#) Anti-Harassment and Discrimination
- [3.3.1.2](#) Consensual Relationships Policy
- [3.3.25](#) Workplace Violence Policy
- [3.3.26](#) and [3.3.26-P](#) Domestic Violence
- [3.3.27](#) and [3.3.27-P](#) Behavioral Intervention Team
- [Code of Student Conduct](#)
 - Standard 2
 - Standard 3
 - Standard 4

TITLE IX FORMAL INVESTIGATION

- Preliminary review of the situation when a report is received is not a formal investigation. This can occur before or after consultation with SO Title IX staff, based on your comfort level with the situation.
- Formal investigation occurs after a Formal Complaint is filed.
- Formal investigation will be conducted by OGC staff, may pull in college staff, may pull in outside investigators.
- Formal investigation requires written notice with multiple elements.
- Parties may have advisors present during any interviews during the investigation. During this phase, KCTCS is not responsible for providing advisors.
- Investigators are required to produce a report that will “fairly summarize relevant evidence.” **This report will not include a determination of responsibility or make any recommendations. Those will be addressed in the Hearing Officer’s decision following the live hearing.**

TITLE IX INFORMAL RESOLUTIONS

Informal Resolution MAY be used to resolve Formal Complaints at any time prior to a determination, **EXCEPT** if the Complainant is a student and the Respondent is an employee.

Informal Resolution is strictly voluntary, to allow a mutually acceptable alternative to a full investigation and hearing.

Both parties must receive written notice of an offer to engage in Informal Resolution, and both parties must accept the invitation in writing.

Either party may withdraw from Informal Resolution any time prior to the full execution of a Resolution Agreement.

SCENARIOS

When we receive a report as possibly under Title IX, what are our points of analysis?

1. Is this Prohibited Conduct under the procedure?
2. Where/what context did this happen?
3. When did this happen?
4. Who is the victim/Complainant? Who is the perpetrator/Respondent?
5. If it's not Title IX, do other policies/procedures apply?

With changes to the answers, how must our response change?

Scenario 1

One of your faculty members reports that a student submitted a reflection paper that referred to the student being slapped, choked, and kicked by their romantic partner, with whom they live.

SCENARIOS

Scenario 2

Professor Smith and his student Jayne Jones are co-presenting a paper at a conference in Atlanta. Professor Smith invites Jayne to have a drink at the hotel bar after the end of the day's sessions and she agrees. During drinks, Professor Smith puts his hand on Jayne's knee, talks about how he likes women to act while on a date, and that he likes them to "dress slutty." Jayne is uncomfortable but afraid of academic retaliation if she just walks away, so she waits until she has finished her drink to escape. Nothing else happens, and once they are back at school, the professor treats her the same as before the conference, and like any other student.

Variation

When they are back at school, Professor Smith focuses on Jayne in class, texts her outside of class, and eventually, leaves a note about getting drinks again under her windshield wiper. Jayne comes to you, but doesn't want Professor Smith to get in trouble, so she won't file a formal complaint.

QUESTIONS & ANSWERS?

Contact the Office of General Counsel with Questions

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