Policy on Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence and Stalking and 2020 Title IX Regulations

Office of Equity and Diversity
August 2020
Title IX Sexual Harassment defined:

(1) An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual’s participation in unwelcome sexual conduct;

(2) 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 University’s education program or activity; or

(3) Sexual assault, dating violence, domestic violence, or stalking.
Location of Incidents:
Title IX only applies to incidents that occur within the school’s education program or activities and does not apply outside the United States.
Regulation Key Provisions

Grievance Process:
(1) Students, faculty, and staff
(2) Standard of evidence
(3) Right to an advisor
(4) Investigations
(5) Live hearing
(6) Cross examination
(7) Appeals
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Mandatory Investigation Requires Formal Complaint

• Complaint filed, SIGNED, requests investigation

• Coordinator files, SIGNS, starts investigation.
Dismissing Complaints

MANDATORY

- Not sexual harassment
- Did not occur in program or activity
- Not against person in the U.S.

DISCRETIONARY

- Complainant withdraws complaint
- Respondent no longer enrolled/employed
- School unable to collect sufficient info
Title IX & Non Title IX: Prohibited Conduct

Prohibited Conduct

TITLE IX PROHIBITED CONDUCT

SEXUAL HARASSMENT
SEXUAL ASSAULT
DATING VIOLENCE
DOMESTIC VIOLENCE
STALKING
 RETALIATION
SEXUAL EXPLOITATION*
Student Cases

1. Simultaneous Notice
2. Investigation
3. Simultaneous Evidence Review
4. Investigative Report Issued

**Non-Title IX Formal Complaint**
- Recommend Charge(s) and Sanction(s)
  - Resolution Agreement
  - Formal Hearing
  - Appeal

**Title IX Formal Complaint**
- Recommend No-Action Determination
  - All Cases
    - Title IX Hearing
      - Appeal
Frequently Asked Questions

- **What evidentiary standard will the University use?** We currently use and will continue to use the Preponderance of the Evidence standard.

- **Is the University changing their definitions?** Yes, we will incorporate the mandatory definitions from the Title IX regulations including rape, fondling, domestic violence, dating violence and stalking and we will also continue to address Sexual Exploitation and Retaliation.

- **Will the University address Sexual Harassment outside of the Title IX jurisdiction (study abroad, private apartments, etc.)?** Yes, we will still address sexual harassment occurring in our campus community that takes place inside and outside of academic programs and activities, both on and off campus.

- **Will the University still offer support resources to students who experience sexual harassment no longer covered under Title IX?** Yes

- **What does it mean that people can use informal resolutions (example: restorative justice /mediation) in sexual assault cases?** In the cases where it is allowed, informal resolution can only be considered if both the complainant and respondent agree to participate. No one can force a party into an informal resolution and if at any time either party determines they want to go back to the formal process, they can. The University cannot facilitate an informal resolution without that agreement.
Frequently Asked Questions

Who are our mandatory reporters now? The University of Tennessee mandatory reporters will remain the same. We will continue to receive reports and make students aware of the available support measures, resources, and reporting options.

What does it mean that you can be cross examined during a hearing? The parties and witnesses are subject to cross examination in a formal hearing. The parties are never allowed to directly question each other. Each question will be asked by an advisor to the party and prior to responding the hearing officer will make a determination if the question is relevant. If not, the person does not have to respond.

Does a live hearing have to be in person? No, it must be in real time, but can be over the internet (video and audio).

How will the University’s timeline change on investigations? Will we keep 60 days? In mapping out the process we have incorporated the regulation timelines and will generally complete investigations in 65 days. Each segment of the process is broken down in the Policy.
Is there anything else?

• Title IX Information: https://uthsc.edu/oed/titleix.php


• 2020 Training Materials: https://titleix.tennessee.edu/policies/2020-training-materials/
Thanks for your attention.