LIVE@ DISTANCE BASIC COMPLIANCE
TRAINING, PART 2
Welcome to Day Two

- Compliance
  - Model policies, templates, consultation
  - Online learning modules
  - scidigital.suny.edu
- Areas of focus
  - Title IX
  - Student Conduct Related Issues
  - Academic Misconduct
  - Assessment
  - Residential Housing

Michelly Peña, M.A.
Assistant Director, SCI
Michelly.Pena@suny.edu
MY JOURNEY...
Sample case review and tools.

Initiation and tools.

Review and legal requirements.
<table>
<thead>
<tr>
<th>Area</th>
<th>Considerations</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Capacity</strong></td>
<td>Staff, caseload, threat assessment team, care team, technology needs</td>
</tr>
<tr>
<td><strong>Policy Updates</strong></td>
<td>Website, code, promotional materials</td>
</tr>
<tr>
<td><strong>Process</strong></td>
<td>Incident report update and process related forms</td>
</tr>
<tr>
<td><strong>Facility</strong></td>
<td>Space needs, limitations, reserving space</td>
</tr>
<tr>
<td><strong>Training</strong></td>
<td>Staff, faculty, University or local police, public safety, campus security</td>
</tr>
<tr>
<td><strong>Awareness</strong></td>
<td>Presentations, flier campaigns, tabling, student leaders, Residential life staff, orientation</td>
</tr>
<tr>
<td>Role</td>
<td>Responsibilities</td>
</tr>
<tr>
<td>-------------------------------------------</td>
<td>----------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Report Receiver</td>
<td>• Initial intake of report.</td>
</tr>
<tr>
<td>Title IX Coordinator</td>
<td>• Oversee Title IX Grievance Process and the investigation process. Assist in the emergency removal process.</td>
</tr>
<tr>
<td>Investigator</td>
<td>• Investigate a formal complaint received by the Title IX Coordinator.</td>
</tr>
<tr>
<td>Informal Resolution Facilitator</td>
<td>• Assist in the coordination and execution of the informal resolution process.</td>
</tr>
<tr>
<td>Student Conduct Administrator</td>
<td>• Oversee the adjudication process and coordination of referral, hearing and appeal review process. Assist in the emergency removal process.</td>
</tr>
<tr>
<td>Advisor</td>
<td>• Assist the student throughout the investigation and student conduct process.</td>
</tr>
<tr>
<td>Hearing Panel Member</td>
<td>• Serve as a decision-maker on the hearing panel. They may also serve in the capacity of a Hearing Chair who is the lead member of the decision-making panel.</td>
</tr>
<tr>
<td>Appeal Panel Member</td>
<td>• Serve on the appeal review panel and make a determination utilizing the appropriate appeal grounds.</td>
</tr>
<tr>
<td>Resources Offices/Units</td>
<td>• Staff that assist with enacting supportive measures including external agencies and advocacy centers.</td>
</tr>
</tbody>
</table>
SPARC
Sexual & Interpersonal Violence Prevention and Response Course

https://system.suny.edu/sparc/

https://system.suny.edu/rapid/

The State University of New York is pleased to announce RAPID (Responsible Authority Proficiency in Incident Disclosure) Training. RAPID is a free, customizable and high-quality training designed for colleges and universities to quickly, efficiently, and accurately train responsible authorities under the Clery Act, Title IX, and campus policy.

RAPID will be available for any institution across the country to download, customize, and use starting January 1, 2021. And best of all, thanks to the support and partnership from Orange County and members of the team at SUNY, we can offer the system to any college or university at no cost.

For SUNY Student Conduct Institute members, once the resource is completed and released, our staff will work with our member institutions to customize the RAPID training on their behalf. SCI members will be contacted with the opportunity to have a one-time initial customization at no cost in the order that they joined the SCI (80% of institutional membership).

Create a Bridge Account
Creating a Bridge Account
SAMPLE CASE: IS IT TITLE IX?

**Incident Report:** Sample Case Document

**Date/Time of Incident:** March 15, 2021 at ~ 2:00a.m.
**Date/Time of Report:** March 15, 2021 at ~ 10a.m.
**Location(s) of Incident:** Smith Hall on campus

**Parties Involved**

**Complainant:** Sidney Jones  
**Accused:** Jaime Carter  
**Witness:** Ebba Kallax & Elan Kersvan

**Issue:** The RA reports that the Complainant says the Accused put their hand under her shirt and then moved their hand to her vagina without the Complainant's consent.
Highlights
• Knowledgeable staff
• Detailed reports - including observable facts and behaviors
• Steps taken are articulated throughout the report

Areas of Growth
• Mandatory reporter / confidentiality disclosure order
• Number of disclosures

Incident Report Structure
First
How was the issue brought to your attention?
Second
Detail observable facts and behaviors
• Objective observations
• Avoid opinions
• Details
Third
What occurred from the Reporting student(s) perspective?
• Direct quotes
Lastly
Resolution – What actions you took to resolve the incident?
Option #1: Text Voting

To: 37607

SUNYSCI

Option #2: Web Voting

pollev.com/SUNYSCI

RESPONDING WITH POLL EVERYWHERE
Have you worked on a case similar to the sample case?

Yes

No
Would you know how to approach the case, in your role, if it were to appear on your campus?

- Yes
- Somewhat
- No
Tools & Resources to Support Your Process

• Title IX Grievance Process Decision Tree*
• Case Rationale Map*
• Advisor Resource Guide
• Flipbook*
• Intake Form
• Notice of Allegations*
WHERE IS THE TOOLKIT?  HTTPS://SCIDIGITAL.SUNY.EDU
Model Title IX Policies
- Model Title IX Policy
- Model Information Resolution Policy

Training Guides for Officials and Advisors
- Training Checklist
- Conflicts of Interest and Bias Checklist
- Advisor Resource Guide

Intake and Supportive Measures
- Decision Tree
- Case Rationale Map for Title IX Coordinators
- Model Title IX Intake Form
- Model No Conduct Order
- Model Emergency Removal Order

Charges and Investigation
- Notice of Allegations Template
- Notice of Removal to Conduct Process Template
- Notice of Investigatory Interview (Respondent & Complainant)
- Investigative Report Template
- Model Agreement Regarding Evidence Disclosure
- File Sharing Platform Options and Pricing Guide
- SCI Tech Guide

Hearing
- Model Script for Title IX Hearings
- Model Decorum Policy
- Guide for Determining Relevance
- Virtual Hearing Options Comparison Chart
- Determination Regarding Responsibility Template

Posted Training Materials and More!
Is This a Title IX Grievance Process Case?

Report made to Title IX Coordinator

Is the complainant currently participating in or attempting to participate in your programs (i.e. an employee, student, applicant, etc.?)

Yes

Do they wish to make a formal complaint?

Yes

No

Yes

No

Provide supportive measures as appropriate, document, and consider proceeding through your applicable non-TIX process.
**Decision Tree: Is It Title IX?**

1. Did alleged conduct happen in U.S.?
   - Yes
   - No

2. Did it happen on campus, or otherwise in your education program or activity?
   - Yes
   - No

3. Would the alleged conduct constitute (1) quid pro quo harassment by an employee, (2) severe, persistent and objectively offensive sexual harassment, or (3) sexual assault, domestic violence, dating violence, or stalking?
   - Yes
   - No

4. Proceed through TIXC investigation process, documenting each step.

5. Document action taken, & rationale, then (see next box)

6. Provide supportive measures as appropriate. Document.

**Dismiss complaint for TIX process, consider proceeding through any applicable non-TIX process. Notify parties, continue to provide supportive measures as appropriate, and document actions taken.**

*Note: This may be appealed by parties!*

If any point during the investigatory process, (1) complainant notifies in writing desire to withdraw complaint or any allegations, (2) respondent no longer enrolled/employed, (3) circumstances prevent gathering sufficient evidence, complaint *may* be dismissed.

*Note: This may be appealed by parties!*

If multiple formal complaints arise out of same facts or circumstances, you *may* consolidate complaint & investigation.

*This Decision Tree is intended to capture the most foreseeable routes that a matter may take, but it cannot cover every circumstance that may arise. Please consult with your campus counsel for specific circumstances and questions.*
CASE PROCESS DECONSTRUCTED

1. Incident Reported
2. Student Conduct Process Initiated
3. Pre-Hearing Prep Investigation
4. Hearing
5. Appeal Process
6. Decision Implementation
INCIDENT REPORTED OVERVIEW
"Responsible employee" framework:

- Duty to act based on report to individual with the express authority to act, or
- "an individual who a student could reasonably believe has this authority or responsibility."

When requirements kick in:

Then and Now

2001 Revised Sexual Harassment Guidance

"Responsible employee" framework:

- Duty to act based on report to individual with the express authority to act, or
- "an individual who a student could reasonably believe has this authority or responsibility."

Title IX Final Rule

"Actual notice" is only received when person brings notifies TIXC or "official with authority" to institute corrective measures.

Responsible employee framework not mandated, but allowed.

Institution may designate employees as confidential.
The college will protect privacy to the extent possible under the law.

The Coordinator has to balance confidentiality with:
- Communications necessary to fulfill legal duties
- The safety of other members of the college community.

Action Items
- Designating responsible and confidential employees
- Included in your policy
- List of responsible and confidential employees
- Disclosure of status to students
- FERPA
- Training
CASE PROCESS DECONSTRUCTED

1. INCIDENT REPORTED

Key Players:
- Conduct Staff
- UPD
- Hall Staff
- Registrar
- Hearing Board
- Appeals Board
- TIXC

Information Gathering
- Intake Form
- Case Rationale Map
- Options/Decisions
- Assess
  - Policy Violations
  - Involvement of other units/staff

Supportive Measures
- Counseling
- Contact restrictions
- Academic related
- Work related
- Housing related
- Security

Incident Report(s) Generated
- All Information is Documented
- Preservation of evidence
- Student's rights reviewed

Additional Steps
- Timely Warning
- Emergency Removal

Assess the situation
- Medical Response
  - (SANE Services, EMT)
- Emotional Response
  - (Counseling, victim advocate)

Assess the situation
- Information Gathering
- Supportive Measures
- Incident Report(s) Generated
- Additional Steps
TITLE IX: INTAKE FORM

- Incident information
- Type of alleged harassment
- Critical incident response
- Office visit follow-up/delayed report
- Supportive measures
- Student rights information review

CODE WORD
ONE: SCARLETT
TITile IX TOOLKIT

Student Conduct Institute
Case Rationale Map for Title IX Coordinators

Supportive Measures

<table>
<thead>
<tr>
<th>☐</th>
<th>The Title IX Coordinator (or designee) did not offer supportive services.</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐</td>
<td>Reason:</td>
</tr>
<tr>
<td>☐</td>
<td>The reported violation did not meet the definitions under Department of Education Regulations, even if proven (e.g., the complaint was for an insult based on liking a sports team, or something else clearly is not covered by Title IX).</td>
</tr>
<tr>
<td>☐</td>
<td>Complainant did not respond to electronic mail, phone, or postal mail messages (attach copy of messages)</td>
</tr>
<tr>
<td>☐</td>
<td>Complainant could be identified but no contact information was available for them</td>
</tr>
<tr>
<td>☐</td>
<td>Other: Click or tap here to enter text.</td>
</tr>
</tbody>
</table>

If one of the above is selected, please provide further details: Click or tap here to enter text.

<table>
<thead>
<tr>
<th>☐</th>
<th>The Title IX Coordinator (or designee) offered supportive services to the Complainant but they were DECLINED</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐</td>
<td>Declined in writing (attach copy of message)</td>
</tr>
<tr>
<td>☐</td>
<td>Declined orally</td>
</tr>
<tr>
<td></td>
<td>Date: Click or tap to enter a date.</td>
</tr>
<tr>
<td></td>
<td>Method: Click or tap here to enter text.</td>
</tr>
<tr>
<td></td>
<td>Notes: Click or tap here to enter text.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>☐</th>
<th>The Title IX Coordinator (or designee) was able to arrange for supportive measures for Complainant. The measures arranged for include:</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐</td>
<td>change of housing</td>
</tr>
<tr>
<td>☐</td>
<td>change of classroom</td>
</tr>
<tr>
<td>☐</td>
<td>change of schedule</td>
</tr>
<tr>
<td>☐</td>
<td>change of work task, location, or hours</td>
</tr>
<tr>
<td>☐</td>
<td>counseling (indicate whether on- or off-campus)</td>
</tr>
<tr>
<td>☐</td>
<td>medical services (indicate whether on- or off-campus)</td>
</tr>
<tr>
<td>☐</td>
<td>sexual assault forensic exam</td>
</tr>
<tr>
<td>☐</td>
<td>mutual no contact order</td>
</tr>
<tr>
<td>☐</td>
<td>one-way no contact order</td>
</tr>
<tr>
<td>☐</td>
<td>security escort</td>
</tr>
<tr>
<td>☐</td>
<td>other security changes or arrangements: Click or tap here to enter text.</td>
</tr>
<tr>
<td>☐</td>
<td>other: Click or tap here to enter text.</td>
</tr>
</tbody>
</table>

CODE WORD ONE: SCARLETT
**WHAT’S A CASE RATIONALE MAP?**

<table>
<thead>
<tr>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>Case # and Principal Parties</td>
</tr>
<tr>
<td>General Notification of Title IX Resources</td>
</tr>
<tr>
<td>Reporting Process</td>
</tr>
<tr>
<td>Supportive Measures</td>
</tr>
<tr>
<td>Emergency Removal</td>
</tr>
<tr>
<td>Administrative Leave (of Non-Student Employees)</td>
</tr>
<tr>
<td>Formal Complaint</td>
</tr>
<tr>
<td>Advisor(s) of Choice</td>
</tr>
<tr>
<td>Investigation</td>
</tr>
<tr>
<td>Hearings</td>
</tr>
<tr>
<td>Appeal</td>
</tr>
<tr>
<td>Type</td>
</tr>
<tr>
<td>--------------------</td>
</tr>
<tr>
<td><strong>Safety</strong></td>
</tr>
<tr>
<td><strong>Health</strong></td>
</tr>
<tr>
<td><strong>Housing</strong></td>
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<tr>
<td></td>
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<tr>
<td><strong>Contact restrictions</strong></td>
</tr>
<tr>
<td><strong>Academic</strong></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td><strong>Work</strong></td>
</tr>
<tr>
<td><strong>Facility based</strong></td>
</tr>
<tr>
<td><strong>Recreational</strong></td>
</tr>
</tbody>
</table>
BREAK
CASE PROCESS DECONSTRUCTED

1. INCIDENT REPORTED

Key Players:
- Conduct Staff
- Registrar
- TIXC
- UPD
- Hall Staff
- Hearing Board
- Appeals Board
- Registrar

- Medical Response: (SANE Services, EMT)
- Emotional Response: (Counseling, victim advocate)

Assess the situation:

Information Gathering:
- Intake Form
- Case Rationale Map
- Options/Decisions Assessment
  - Policy Violations
  - Involvement of other units/staff

Supportive Measures:
- Counseling
- Contact restrictions
- Academic related
- Work related
- Housing related
- Security

Incident Report(s) Generated:
- All Information is Documented
- Preservation of evidence
- Student's rights reviewed

Additional Steps:
- Timely Warning
- Emergency Removal
- Review process
- Additional Steps
• **CAUTION**: Interim suspensions are prohibited for Title IX student-respondents
  • Department of Education considers them disciplinary sanctions

• Emergency Removal may be used where
  • Person poses threat of immediate **physical** harm
  • Threat arises from allegations of sexual harassment
  • Depends on individualized safety and risk assessment

• Must provide opportunity for “immediate” opportunity to challenge the removal (need not be a formal hearing)

**Action Items**

- Who makes the final call?
- How will you assemble staff?
- Documents and Form Templates
- Review meeting with student
- Review process
- Review process determination
- Notification to parties
- Safety of principal parties
2. STUDENT CONDUCT PROCESS INITIATED

CASE PROCESS DECONSTRUCTED

Key Players:
- Conduct Staff
- Registrar
- TIXC
- UPD
- Hall Staff
- Hearing Board
- Appeals Board
- Registrar

Title IX Grievance Process Initiated
- Formal complaint submitted
- Notice of allegation
- Determination of TIX jurisdiction

Checklist
- Supportive measures for all parties
- Consistent communication
- Schedule meetings with all parties

Meeting checklist (Review)
- Due process rights
- Advisor of choice
- Timeline for process
- Answer questions
- Provide resources
- Discuss evidence and witnesses
- Resolution options

Meeting with Involved Parties
- Incident reports gathered and processed
- Case rationale map
- Investigative report template

Additional Steps & Tools

Supportive measures for all parties
Consistent communication
Schedule meetings with all parties
• Institutions **must** investigate all “formal complaints” filed with the Title IX Coordinator

• Who can file a formal complaint?
  • A person who is currently participating in the education programs or activities of the institution
  • A person who is **attempting** to participate in those programs or activities
  • The Title IX Coordinator

• Multiple complaints arising from same incidents can be consolidated

---

**Action Items**

- **Preparation**
  - Challenges of virtual work
  - Delayed report
  - Non-responsive
  - Varied familiarity of the process

- If non-responsive
  - Determination on next steps
MANDATORY & DISCRETIONARY

DISMISSAL

Institutions must dismiss formal complaints that don’t fall within the statutory criteria for the Title IX grievance process. Institution may still investigate through a non-Title IX process.

• Institutions must dismiss formal complaints that do not meet the criteria if:
  - Complainant notifies TIXC in writing they would like to withdraw the formal complaint/any allegations in it;
  - Respondent is not enrolled/employed by the institution; or,
  - Specific circumstances prevent the institution from gathering evidence sufficient to reach a determination.

Any party may appeal a dismissal determination.

TWO: DARLA

CODE WORD

Action Items

• Who makes the dismissal determination?
• Who issues the notification?
• Template(s)
• Appeal process (technology considerations)
• Appeal process determination?
• Who issues the notification?
• Notification to parties
• Safety and reaction of principal parties
• Action Items
### Timing
- Send to parties as soon as practicable after filing of formal complaint
- No investigative interviews until parties have sufficient time to review allegations

### Contents
- Allegations of sexual harassment
- Identities of parties, if known, including the complainant’s name
- Date, time, and location of the incident, if known
- Parties’ basic procedural rights
- Presumption of non-responsibility

### Advisor
- Notice must inform parties of right to advisor, who may be attorney
- School does not need to pay for attorney
- Reasonable restrictions ok…
- Unless they conflict with cross-examination role

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**TIX: NOTICE OF ALLEGATIONS & RIGHT TO ADVISOR**

**CODE WORD TWO: DARLA**
Student Conduct Institute
Notice of Allegations Template
July 1, 2020

Case #: 
Date: 

SENT VIA EMAIL TO (student’s institutional email account)

Dear First Name, Last Name:

On Month/Day/Year, Name of Complainant filed a formal complaint according to Institution’s Title IX Grievance Process naming you as a Respondent (this is the term for a person accused of a violation of the policy).

The Title IX Grievance Process is developed and enforced according to the Institution’s obligations under the U.S. Department of Education’s Final Title IX Rule of May 19, 2020 (you may view the Final Rule at http://bit.ly/TitleIXReg). The Title IX Grievance Process defines the meaning of “sexual harassment” (including forms of sex-based violence), addresses how Institution must respond to reports of misconduct falling within that definition of sexual harassment, and mandates a grievance process that this institution must follow to comply with the law in these specific covered cases before issuing a disciplinary sanction against a person accused of sexual harassment. OPTIONAL: It also defines informal resolution procedures that the parties may voluntarily select to remedy such covered cases.

A copy of the Title IX Grievance Process is available at the following link: INSERT LINK.

According to the formal complaint, you engaged in the following conduct that potentially constitutes sexual harassment under the Title IX Grievance Process:

Identify the parties involved in the incident, if known:

Identify the conduct allegedly constituting sexual harassment:

Identify the date and location of the alleged incident, if known:

A meeting has been scheduled for you with (Official) at (date, time, location) to review our process, review available supportive measures, and discuss any questions you have. As with all meetings during the process, you are entitled to have an advisor present. Please contact us immediately at (contact information) with any scheduling conflicts.

Under the Title IX Grievance Process, you are presumed not responsible for the alleged conduct. A determination regarding responsibility is not made until the conclusion of this Process.
You are entitled to an advisor of your choice, who may be, but is not required to be, an attorney. Costs incurred by having such an advisor are your responsibility. In the event this matter proceeds to a hearing and you do not have the assistance of an advisor of choice, the institution will provide you with an advisor, at no cost or fee to you, for the purpose of conducting certain cross-examination within the hearing process.

You also have the right to inspect and review evidence directly related to the allegations of sexual harassment before the investigation concludes, including the evidence upon which (institution) does not intend to rely in reaching a determination regarding responsibility, and evidence that both tends to prove or disprove the allegations, whether obtained from a party or other source.

If applicable: Please be aware that section ____ of the Institution’s code of conduct prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

Sincerely,

Title IX Coordinator

CC: COMPLAINANT
Introduction: Serving as an Advisor in Title IX Proceedings

The Role of the Advisor

Pre-Hearing Preparations

Hearing

Cross Examination & Relevance

After the Hearing

Checklist

bit.ly/TIXadvisor
Title IX Grievance Process Initiated

Key Players:
- TIXC
- Conduct Staff
- UPD
- Hall Staff
- Hearing Board
- Appeals Board
- Registrar

Checklist:
- Formal complaint submitted
- Notice of allegation
- Determination of TIX jurisdiction
- Supportive measures for all parties
- Consistent communication
- Schedule meetings with all parties
- Due process rights
- Advisor of choice
- Timeline for process
- Answer questions
- Provide resources
- Discuss evidence and witnesses
- Resolution options

Meeting with Involved Parties:
- Incident reports gathered and processed
- Case rationale map
- Investigative report template

Additional Steps & Tools:

Supportive measures for all parties
Consistent communication
Schedule meetings with all parties
**Overview**

- Detail due process rights
- Indicate right to advisor of choice
- Describe timeline for process
- Answer questions
- Provide resources
- Discuss evidence and witness procedures
- Offer resolution options
- Describe potential sanction outcomes
- Share their appeal Rights

**Action Items**

- Virtual vs in-person meetings
  - Clear expectations and reminders in your meeting notices (e.g. Advisor of choice notice)
- Location of meeting and privacy concerns
- Preparation of materials in advance
- Schedule with adequate time
- Build in flexibility and anticipate challenges
  - Emotional state of all parties
  - Breaks may be necessary
  - Working with student’s advisor
When Informal Resolutions are allowed under the Final Rule:

- After a formal complaint;
- When all parties and the TIXC coordinator consent;
- Any party can withdraw at any time

Examples:

- Administrative resolution
- Restorative justice
- Mediation

Not allowed in cases involving employee respondents

TIXC can run the process, but it is not recommended
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<td>Facility</td>
<td>Space needs, limitations, reserving space</td>
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<td>Training</td>
<td>Individuals serving in a facilitator capacity and individuals explaining the Informal Resolution process</td>
</tr>
<tr>
<td>Awareness</td>
<td>Marketing &amp; outreach</td>
</tr>
</tbody>
</table>
QUESTIONS FROM DAY ONE

Investigations

Review, tools, and legal requirements.

Pre-hearing prep

Overview, tools, and legal requirements.

Review and legal requirements.

Hearing

Overview, tools, and legal requirements.

DAY 3 OVERVIEW