



Title IX Sexual Harassment & University Sexual Misconduct: Training for Adjudicators

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Training Overview

Training Overview

- To ensure compliance, this training quotes as much as possible from the Title IX regulations and Princeton University's Title IX Sexual Harassment policy and University Sexual Misconduct policy (which both use language from the Title IX regulations).
 - <https://www2.ed.gov/policy/rights/reg/ocr/edlite-34cfr106.html>
 - <https://sexualmisconduct.princeton.edu/policy>
- This training may be supplemented by additional trainings provided by other University offices, including the Office of the General Counsel, and/or external resources.

Title IX Sexual Harassment Policy

Section XIII

“The University will provide appropriate training ... such training will cover **the definition of Title IX Sexual Harassment, the scope of the University’s education program or activity, how to conduct an investigation and grievance process ... and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias ...** The University will ensure that Hearing Panel members receive **training on any technology to be used at a hearing and on issues of relevance of questions and evidence, including questions and evidence about the irrelevancy of complainant’s sexual predisposition or prior sexual behavior.**”



Background

Background

- New Title IX regulations were issued by the U.S. Department of Education on May 6, 2020.
- The new regulations limit the scope of Title IX.
- The preamble and regulations are over 2000 pages and contain detailed requirements, including regarding procedures, language, and definitions.
- Colleges and universities were required to comply with the regulations by August 2020.

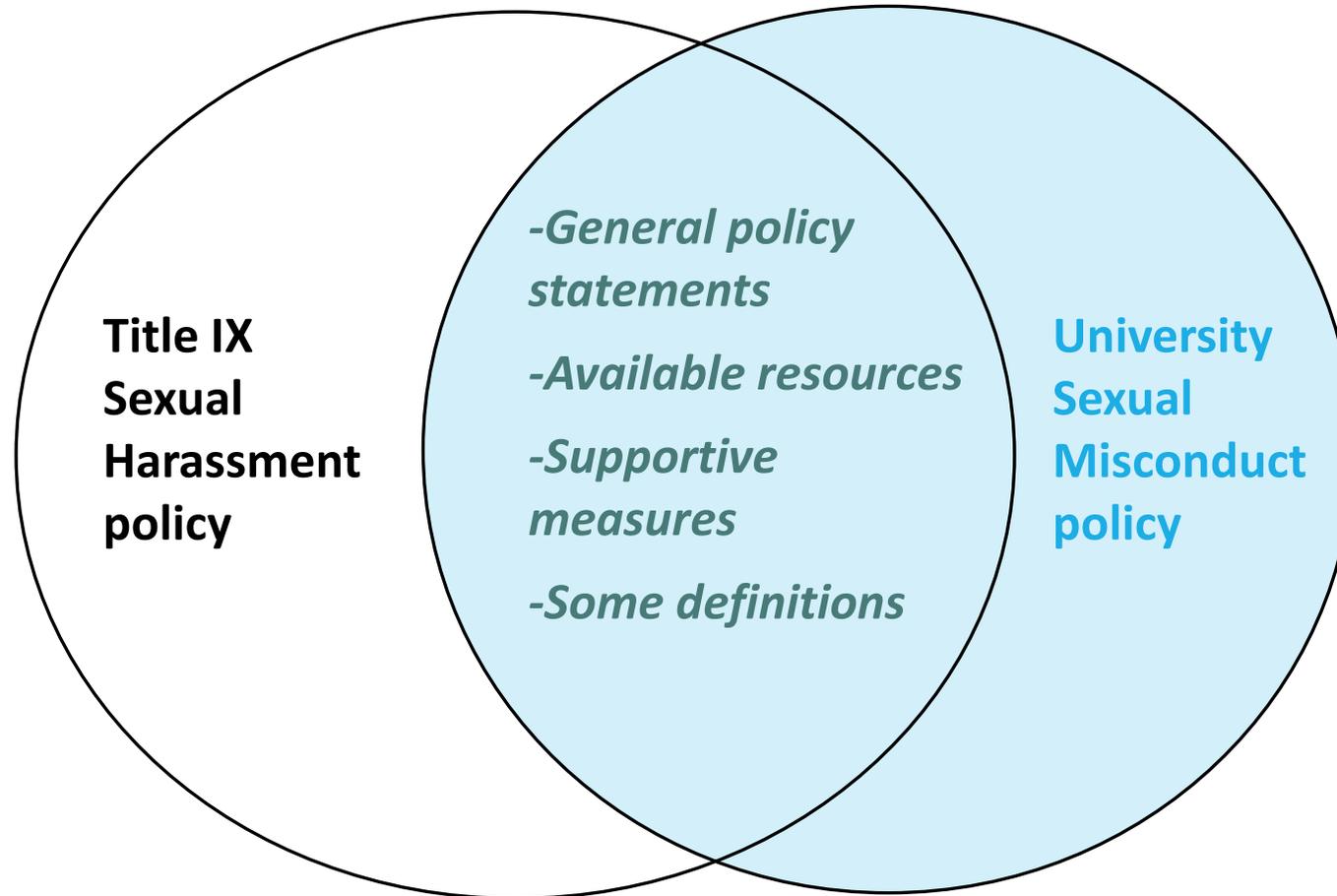
Governance/Approval Process

- Sections of policies relating to disciplinary procedures:
 - Reviewed by Faculty Advisory Committee (FACP) (faculty and administrators)
 - Recommendations by/feedback from FACP was incorporated into policies
 - FACP unanimously approved policies
 - Full faculty approved policies on July 27, 2020
- Sections of policies unrelated to disciplinary procedures:
 - Reviewed by *Rights, Rules* Committee (undergraduates, graduate students, faculty, and staff)
 - Recommendations by/feedback from *Rights, Rules* Committee were incorporated into policies
 - *Rights, Rules* Committee unanimously approved policies
 - CPUC approved policies on August 3, 2020

Covered Conduct

Conduct that violated University policy last year will continue to violate University policy this year but ... may be adjudicated under two different grievance procedures (the Title IX Sexual Harassment policy and the University Sexual Misconduct policy).

(1) Title IX Sexual Harassment Policy & (2) University Sexual Misconduct Policy





Definitions & Scope

Title IX Sexual Harassment: Scope

Title IX Sexual Harassment encompasses all prohibited conduct that occurs on the basis of sex and meets all of the following requirements:

- Occurs within the United States; and
- Occurs within the University's education program or activity, meaning a) **locations, events, or circumstances over which the University exercises substantial control over both the respondent and the context in which the Title IX Sexual Harassment occurs**, and b) **any building owned or controlled by a student organization that is officially recognized by the University**; and
- At the time of filing a formal complaint, a complainant is participating in or attempting to participate in the education program or activity at the University.

University Sexual Misconduct: Scope

The University Sexual Misconduct policy applies to:

- Forms of sexual misconduct that do not fall under the scope of the Title IX Sexual Harassment policy, including Sexual Exploitation, Improper Conduct related to Sex, and University Sexual Harassment; and
- Complaints alleging certain conduct that would otherwise be prohibited under the Title IX Sexual Harassment policy (e.g., Quid Pro Quo Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking under the Title IX Sexual Harassment policy), but which must be dismissed under the Title IX Sexual Harassment policy because they do not meet the jurisdictional requirements.

Quid Pro Quo Sexual Harassment (both policies)

Quid Pro Quo Sexual Harassment: 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.

Title IX Sexual Harassment (Title IX policy)

Title IX Sexual Harassment: Unwelcome sexual conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies an individual equal access to the University's education program or activity.

University Sexual Harassment (Univ. Sexual Misconduct policy)

University Sexual Harassment: Unwelcome verbal or physical behavior which is directed at an individual based on sex, when these behaviors are sufficiently severe or pervasive to have the effect of unreasonably interfering with an individual's educational experience, working conditions, or living conditions by creating an intimidating, hostile, or offensive environment. Examples of conduct that can constitute sexual harassment if based on an individual's sex include but are not limited to:

- Unwelcome jokes or comments (e.g., sexist jokes);
- Disparaging remarks about sex, gender identity, or gender expression (e.g., negative or offensive remarks or jokes about an individual's self-presentation);
- Displaying negative or offensive posters or pictures about sex;
- Electronic communications, such as e-mail, text messaging, and Internet use, that violate this policy.

Sexual Assault (both policies)

Sexual Assault: Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. Sexual assault can occur between individuals of the same or different sexes and/or genders. This includes the following:

- **Rape:** The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
- **Sodomy:** Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
- **Sexual Assault with an Object:** To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
- **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
- **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or
- **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent.

Domestic/Dating Violence (both policies)

Domestic Violence: A felony or misdemeanor crime of violence committed: (a) by a current or former spouse or intimate partner of the victim; (b) by an individual with whom the victim shares a child in common; (c) by an individual who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; (d) by an individual similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the felony or misdemeanor crime of violence occurred; (e) by any other individual against an adult or youth victim who is protected from that individual's acts under the domestic or family violence laws of the jurisdiction in which the felony or misdemeanor crime of violence occurred. For purposes of this policy, an **intimate partner** is defined as an individual with whom one has or had a short- or long-term relationship that provides romantic and/or physical intimacy or emotional dependence. Intimate relationships can occur between individuals of the same gender or different genders and may include (but are not limited to) marriages, civil unions, dating relationships, "hook-up" relationships, relationships in which partners are characterized as "girlfriends" or "boyfriends," and relationships between individuals with a child in common.

Dating Violence: Violence committed by an individual who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting individual's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the individuals involved in the relationship. This includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

Stalking (both policies)

Stalking: Engaging in a course of conduct directed at a specific individual that would cause a reasonable person to: (a) fear for the individual's safety or the safety of others; or (b) suffer substantial emotional distress. For the purposes of the Stalking definition: *Course of conduct* means two or more acts, including acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about an individual, or interferes with an individual's property. *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim. *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Retaliation (Title IX policy)

Retaliation under Title IX policy: No individual may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by this policy or because an individual has made a report or formal complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy.

- The University retains the right to charge an individual for making a materially false statement in bad faith during the course of an investigation, proceeding, or hearing under this policy, but will not conclude that any individual has made a materially false statement in bad faith solely based on the determination regarding responsibility.
- Complaints alleging retaliation under this Title IX Sexual Harassment policy, including for the exercise of rights under this policy, must be filed in accordance with this policy and will be addressed promptly and equitably. Where the individual allegedly retaliating is not affiliated with the University and not otherwise subject to its policies, the University will process the complaint and take appropriate measures.
- Notwithstanding the above, the exercise of rights protected under the First Amendment does not constitute retaliation prohibited under this policy; and charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy does not constitute retaliation; provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

Retaliation

(Univ. Sexual Misconduct policy)

University Retaliation. The University expressly prohibits any form of retaliatory action against any member of the University community who in good faith: (1) files a report, complaint or grievance under this policy (or with an external entity); (2) opposes in a reasonable manner an action or policy believed to constitute a violation of this policy; or (3) participates in University investigations, compliance reviews, or discipline proceedings under this policy. Depending on the circumstances referenced above, retaliatory acts may include (but are not limited to): Adverse employment action; Adverse action relating to participation in an educational or working program; Unreasonably interfering with the academic or professional career of another individual; Engaging in conduct which constitutes stalking, harassment, or assault; Engaging in efforts to have others engage in retaliatory behavior on one's behalf.

- The University retains the right to charge an individual for making a materially false statement in bad faith during the course of an investigation, proceeding, or hearing under this policy, but will not conclude that any individual has made a materially false statement in bad faith solely based on the determination regarding responsibility.
- Complaints alleging retaliation under this policy, including for the exercise of rights under this policy, must be filed in accordance with this policy and will be addressed promptly and equitably. Where the individual allegedly retaliating is not affiliated with the University and not otherwise subject to its policies, the University will process the complaint and take appropriate measures.
- Notwithstanding the above, the exercise of rights protected under the First Amendment does not constitute retaliation prohibited under this policy; and charging an individual with a violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy does not constitute retaliation, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

Sexual Exploitation (Univ. Sexual Misconduct policy)

Sexual Exploitation. Any act whereby one individual violates the sexual privacy of another or takes unjust or abusive sexual advantage of another who has not provided consent, and that does not constitute non-consensual sexual penetration or non-consensual sexual contact. Examples may include: recording, photographing, transmitting, viewing, or distributing intimate or sexual images or sexual information without the knowledge and consent of all parties involved; voyeurism (i.e., spying on others who are in intimate or sexual situations).

Improper Conduct Related to Sex (Univ. Sexual Misconduct policy)

Improper Conduct Related to Sex. Unprofessional or inappropriate conduct that does not fall under other forms of Title IX Sexual Harassment or University Sexual Misconduct, but that is sexual and/or sex based in nature and has the effect of unreasonably interfering with an individual's educational experience, working conditions, or living conditions.



Initial Assessment

Initial Assessment-1

“The University Sexual Misconduct/Title IX Coordinator will then conduct an initial assessment for the sole purpose of determining whether the alleged conduct, if substantiated, would constitute prohibited conduct under this policy ... Following the initial assessment, the University Sexual Misconduct/Title IX Coordinator may take any of the following actions:”

1. “If the allegations forming the basis of the formal complaint **would, if substantiated, constitute prohibited conduct as defined in this policy ... the University Sexual Misconduct/Title IX Coordinator shall initiate an investigation** of the allegations under this policy in a formal complaint ... [or] upon the consent of both parties, the University Sexual Misconduct/Title IX Coordinator may instead refer the matter to the informal resolution process ...” (Policies, Sections IV)

Initial Assessment-2

2. “If the allegations forming the basis of the formal complaint **would not, if substantiated, constitute prohibited conduct as defined in this policy, the University Sexual Misconduct/Title IX Coordinator shall dismiss** the formal complaint from the Title IX grievance process (and either party may appeal this dismissal, as discussed below). However, if appropriate, the University Sexual Misconduct/Title IX Coordinator may refer the matter to the University Sexual Misconduct process or to another office for review; or, if the University Sexual Misconduct/Title IX Coordinator deems the formal complaint appropriate for the informal resolution process, upon the consent of both parties, the University Sexual Misconduct/Title IX Coordinator may instead refer the matter to the informal resolution process ...” (Policies, Sections IV)

Initial Assessment-3

“In addition, at any time prior to the hearing, the University may dismiss a formal complaint if:

- ... the complainant wishes to withdraw the formal complaint or any allegations therein;
- The respondent is no longer enrolled or employed by the University; or
- Specific circumstances prevent the University from gathering sufficient evidence to reach a determination as to the formal complaint or the allegations therein.

Upon dismissal, the University shall promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties via electronic format.” (Policies, Sections IV)



Investigation Overview

Role of Advisers

- “Each party may have an adviser of their choice.”
- “If a party who is a current member of the University community seeks to engage an attorney to serve as an adviser, the University will provide certain pre-determined financial resources to assist in that engagement.”
- “The role of the adviser is narrow in scope: the adviser may attend any interview or meeting connected with the grievance process that the party whom they are advising is invited to attend, but the adviser may not actively participate in interviews and may not serve as a proxy for the party. The adviser may attend the hearing and may conduct cross-examination of the other party and any witnesses at the hearing; otherwise, the adviser may not actively participate in the hearing.”
- “The University (including any official acting on behalf of the University such as an investigator or a hearing panelist) has the right at all times to determine what constitutes appropriate behavior on the part of an adviser and to take appropriate steps to ensure compliance with this policy.” (Policies, Sections X/XI)

Collection of Evidence-1

“The investigators will collect information from each party ... each party will be given an equal opportunity to suggest witnesses; provide other relevant information, such as documents, communications, photographs, and other evidence; and suggest questions to be posed to the other party or witnesses. Parties and witnesses are expected to provide all available relevant evidence to the investigators during the investigation. **If a party or witness fails to provide available relevant evidence during the investigation, such evidence may, at the discretion of the Presiding Hearing Panelist, be excluded from consideration at the hearing ...**” (Policies, Sections X/XI)

Collection of Evidence-2

- “In general, a party’s medical and counseling records are confidential. The investigators will not access, consider, disclose, or otherwise use a party’s records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional’s or paraprofessional’s capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the investigators obtain that party’s voluntary, written consent to do so.”
- “The investigators will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege (e.g., attorney-client, doctor-patient), unless the individual holding such privilege has waived the privilege.” (Policies, Sections X/XI)

Case File

- “After each party has been interviewed and had the opportunity to identify witnesses and other potentially relevant information and evidence, and the investigators have completed any witness interviews and any gathering of evidence, the investigators will prepare a case file. The case file **will include all collected evidence that is directly related to the allegations raised in the formal complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and any inculpatory or exculpatory evidence, whether obtained from a party or other source as part of the investigation.** The case file may include, as applicable, transcripts or summaries of party and witness interviews and other collected documents and evidence. The investigators will provide the case file, redacted of personally identifiable information in accordance with privacy regulations, to each party and their adviser in electronic form or hard copy ...”
- “Within ten (10) business days of receiving the case file, each party may respond in writing, which may include a request that the investigators collect additional evidence. If the investigators believe that further information is needed following receipt of any responses from the parties, the investigators will pursue any additional investigative steps as needed. The parties and their advisers will be provided with each party’s written responses to the case file, if any, as well as any additional information collected by the investigators, in electronic format or hard copy.” (Policies, Sections X/XI)

Investigative Report

“Following their review of the parties’ responses (if any) to the case file, **the investigators will create a written investigative report that summarizes all relevant evidence; the report will not contain irrelevant information** ... The parties may choose to provide a written response to the investigative report, which must be submitted at least five (5) business days prior to the start of the hearing. The response may consist of a written statement not to exceed 2500 words. At least 48 hours prior to the hearing, the parties and their advisers will be provided with the other party’s written response to the investigative report, if any, in electronic format.” (Policies, Sections X/XI)



Hearing/Adjudication Overview

Pre-Hearing Meeting

- At the discretion of the Presiding Hearing Panelist, at least one week prior to hearing:
 - Submit a list of proposed witnesses to be called at the hearing, as well as a brief written explanation of the information each witness would be asked to provide
 - Submit proposed areas of questioning for cross examination (advisers will also be permitted to pose or submit (as appropriate) additional questions (not submitted in advance) during the hearing)
 - Prior to hearing, parties will be notified which witnesses the Presiding Hearing Panelist has deemed relevant to appear at hearing (Hearing FAQs)

Hearing

- 3 hearing panelists (Presiding Hearing Panelist and 2 administrators)
- Recorded
- Questions posed by Hearing Panel to one or both parties
- Questions posed by Hearing Panel to relevant witnesses
- Cross examination (either live by advisers or in writing) of parties and witnesses
- Concluding remarks/oral summation by adviser, not to exceed ten minutes per adviser (at discretion of Presiding Hearing Panelist) (Policies, Sections X/XI, Hearing FAQs)

Written Determination

“The Presiding Hearing Panelist shall make a determination, by a preponderance of the evidence, whether the respondent has violated the policy. The Presiding Hearing Panelist shall write a written determination, which will contain:

1. the allegations potentially constituting Title IX sexual harassment/University Sexual Misconduct;
2. a description of the procedural steps taken from the receipt of the formal complaint through the determination (including any notifications to the parties, interviews with parties and witnesses, site visits (if any), methods used to gather other information, and the hearing);
3. findings of fact supporting the determination;
4. conclusions regarding the application of this policy to the facts;
5. a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility (i.e., whether a policy violation occurred), any disciplinary sanctions imposed by the Sanction Officer if there has been a finding of responsibility (additional information regarding Sanctions is available on the Sexual Misconduct Investigations website), and whether any remedies designed to restore or preserve equal access to the University’s education program or activity or working environment will be implemented; and
6. relevant appeal information for the parties.” (Policies, Sections X/XI)

Sanction

“If a party is found to have violated this policy, before finalizing the written determination, the Presiding Hearing Panelist will refer the matter to the appropriate University official(s) to determine sanctions and remedies. Sanctions being imposed will be included in the written determination.

Sanctions will take into account the seriousness of the misconduct as compared to like cases in the past, the respondent’s previous disciplinary history (if any), and institutional principles. Remedies, which may include supportive measures, will be designed to restore or preserve equal access to the University’s education program or activity.”
(Policies, Sections X/XI, Sanction FAQs)



Appeal Overview

Appeal

- External appeal chair and 2 administrators/faculty members
- Appeals may be submitted on the following bases:
 1. procedural irregularity that affected the outcome of the matter;
 2. new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made which could affect the outcome of the matter;
 3. the University Sexual Misconduct/Title IX Coordinator or their staff, investigator(s), any member of the Hearing Panel, or Sanction Officer had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter; and/or
 4. the sanctions (or recommended sanctions) are not commensurate with the violation.

(Policies, Sections XI/XII, Appeal FAQs)

Additional Information

Policies website:

<https://sexualmisconduct.princeton.edu/policy>

Sexual Misconduct Investigations website:

<https://sexualmisconductinvestigations.princeton.edu/information-parties>

- Home
- About
- Policies
- Resources & Reporting
- Investigations
- FAQs
- Title IX Coordinator
- Emergency Contacts
- Prevention Efforts
- Data, Reports, and Trainings

Title IX Sexual Harassment policy & University Sexual Misconduct policy

The Title IX Sexual Harassment policy is based on definitions set forth in regulations promulgated by the U.S. Department of Education under Title IX of the Education Amendments Act of 1972; that policy limits the scope of Title IX Sexual Harassment to conduct that occurs within the United States and conduct that occurs within the University's education program or activity. In order to address incidents of sexual misconduct that do not fall within the definition of Title IX Sexual Harassment, the University has two policies that address sexual misconduct: (1) the Title IX Sexual Harassment policy and (2) the University Sexual Misconduct policy. These policies are inter-related and must be read together.

The University Sexual Misconduct policy applies only to certain conduct, as defined under that policy. Specifically, the University Sexual Misconduct policy applies to forms of sexual misconduct that do not fall under the scope of the Title IX Sexual Harassment policy, including Sexual Exploitation, Improper Conduct related to Sex, and University Sexual Harassment. The University Sexual Misconduct Policy also applies to complaints alleging certain conduct that would otherwise be prohibited under the Title IX Sexual Harassment policy (e.g., Sexual Assault, Domestic Violence, Dating Violence, and Stalking under the Title IX Sexual Harassment policy), but which must be dismissed under the Title IX Sexual Harassment policy because they do not meet the jurisdictional requirements.

Both policies can be accessed through section 1.3 of Rights, Rules, Responsibilities or directly at <https://inclusive.princeton.edu/addressing-concerns/policies/title-ix-sexual-harassment-policy> and <https://inclusive.princeton.edu/addressing-concerns/policies/university-sexual-misconduct-policy>. Both policies provide information about types of prohibited conduct, how to access resources and/or make a complaint, and investigative and disciplinary procedures.

PRINCETON UNIVERSITY

Sexual Misconduct Website Policies Feedback Contact

- Support Resources
- Informal Resolution Process
- Filing a Complaint
- Information for Parties**
- For Witnesses

FAQs

Home > Information For Parties

Choosing an Adviser

Investigation Process

Hearings

Sanctions

Appeal Process

Retaliation

Conflicts of Interest or Bias

Amnesty

Disability Services

Information for Parties

The information in this section is intended to provide information for complainants and respondents who are involved in investigations under the Title IX Sexual Harassment policy or the University Sexual Misconduct policy. The Title IX Sexual Harassment policy and the University Sexual Misconduct policy are the official procedures by which the investigatory process is implemented. These policies should therefore be consulted for information regarding investigation and disciplinary procedures. In addition, parties are encouraged to share any questions or concerns with the Office of Gender Equity and Title IX Administration, their Title IX adviser, and/or [confidential resources](#).





Issues of Relevance

Relevance

“The final regulations seek to provide strong, clear procedural protections to complainants and respondents, including apprising both parties of the evidence the investigator has determined to be relevant, in order to adequately prepare for a hearing and to submit responses about the investigative report for the decision-maker to consider.” (Title IX Regulations Preamble)

Relevance

“ ... the final regulations require recipients to gather and evaluate relevant evidence, with the understanding that this includes both inculpatory and exculpatory evidence, and the final regulations deem questions and evidence about a complainant’s prior sexual behavior to be irrelevant with two exceptions* and preclude use of any information protected by a legally recognized privilege (e.g., attorney-client).” (Title IX Regulations Preamble)

* **“ ... rape shield protections, providing that questions and evidence about the complainant’s sexual predisposition or prior sexual behavior are not relevant,** unless such questions and evidence about the complainant’s prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant’s prior sexual behavior with respect to the respondent and are offered to prove consent.” (Title IX Regulations Preamble)

Relevance

“The final regulations do not define relevance, and the ordinary meaning of the word should be understood and applied.” (Title IX Regulations Preamble)

- Federal Rule of Evidence 401: Evidence is relevant if: (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action.
- New Jersey Rule of Evidence 401: “Relevant evidence” means evidence having a tendency in reason to prove or disprove any fact of consequence to the determination of the action.



How to Serve Impartially

Conflict of Interest/Bias

“All individuals who have responsibilities in administering the grievance process under this policy must be **free of any conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent** and will be trained as provided by federal regulations.” (Policies, Sections X/XI)

Conflict of Interest/Bias

- Adjudicators must self-report any **real or perceived** conflict of interest (and will be recused as appropriate - as determined by Title IX Coordinator)
- Parties must report conflict of interest concerns within 48 hours of being notified of relevant identities (and will be recused as appropriate - as determined by Title IX Coordinator)

Conflict of Interest/Bias: Ground for Appeal

- Intended for situations in which adjudicator had conflict that affected the outcome of the matter
 - Could include (but is not limited to) having a close personal relationship with one of the parties
 - Not intended in situations in which adjudicator merely knows or has professionally interacted with one of the parties

Avoiding Bias, Generally

- Maintain neutrality
- Be open-minded
- Do not pre-judge
- Consider each case on its own merits

Avoiding Gender Bias

“... a broad prohibition on sex stereotypes so that decisions are made on the basis of individualized facts and not on stereotypical notions of what ‘men’ or ‘women’ do or do not do.” (Title IX Regulations Preamble)

Avoiding Gender Bias

- **Focus on conduct, not gender**
- Recognize that anyone, regardless of gender, gender identity, gender expression, and/or sexual orientation can be a victim or perpetrator of sexual misconduct
- The gender, gender identity, gender expression, and/or sexual orientation of any party should have no bearing on how university will investigate
- Do not rely on cultural stereotypes about how men or women purportedly behave
- Do not rely on cultural “rape myths” that blame complainants
- Do not rely on gender-specific research data or theories to decide or make inferences of relevance in particular cases

Cite: Jeff Nolan, Esq., Holland & Knight



Technology

Training Materials for University Officials Involved in Grievance Processes

Pursuant to **section XIII** of the Title IX Sexual Harassment policy, below are trainings provided to University officials with responsibilities under the Title IX Sexual Harassment policy.

Fair, Equitable Trauma-Informed Investigations (.pdf) - Jeffrey J. Nolan, Esq.

FERPA Presentation to Investigators (.pdf)

Title IX Sexual Harassment & University Sexual Misconduct: Training for Investigators (.pdf)

Webinars provided by the U.S. Department of Education

Zoom Training (.pdf)



Questions/Comments?
