

Title IX K-12 Training

Level 2: Title IX Investigator Training

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Disclaimers

We can't help ourselves. We're lawyers.

- We are not giving you legal advice – consult with your legal counsel regarding how best to address a specific situation
- Your Title IX Coordinator is required by 106.45(b)(10)(i)(D) to post materials to train Title IX personnel on its website – I will make this packet available to your district electronically to post
- Feel free to ask questions

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Agenda

- General overview/definition of sexual harassment
- Grievance process
- Bias and conflicts of interest
- Relevancy
- Investigative Techniques
- Takeaways

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Introduction

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Sex Discrimination and Harassment

- Title VII and 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 receiving Federal financial assistance…"

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Sex Discrimination under Title IX (1 of 2)

- Treat one person **differently** from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit, or service;
- Provide **different** aid, benefits, or services or provide aid, benefits, or services in a different manner;
- Deny any person any such aid, benefit, or service;
- Subject any person to separate or **different** rules of behavior, sanctions, or other treatment

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Sex Discrimination under Title IX (2 of 2)

- Apply any rule concerning the domicile or residence of a student or applicant;
- Aid or perpetuate discrimination against any person by **providing significant assistance to any agency, organization, or person which discriminates on the basis of sex** in providing any benefit or service to students or employees; or
- Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity. 34 C.F.R. § 106.31(b).

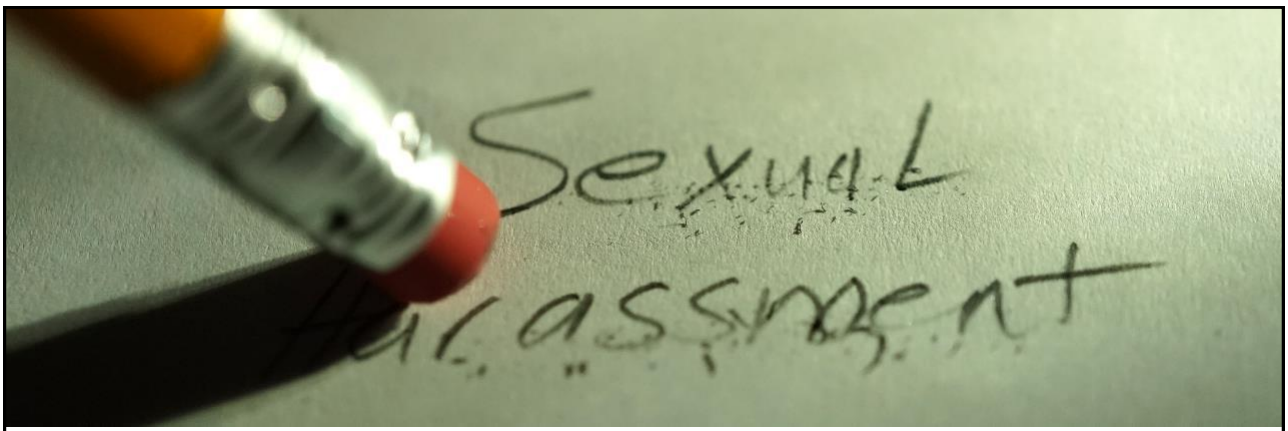
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What Does "Sex" Mean?

- Biological Sex
- Gender
- Sex Stereotyping
- Sexual Orientation and Gender Identity
- "Sex" as a verb

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Sexual Harassment Definitions under the Title IX Regulations

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Definitions of Sexual Harassment under Title IX

Three Categories:



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Definition of Sexual Harassment under Title IX

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- **Quid pro quo** – An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct
- **Hostile environment** – 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 recipient's education program or activity; or
- **Clery crimes** – Sexual assault, dating violence, domestic violence, or stalking [Clery regulatory definition cites omitted]

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Clery Crimes

- **Sexual Assault** – Rape**, criminal sexual contact** (formerly "fondling"), statutory rape, incest
- **Dating violence**
- **Domestic violence**
- **Stalking** (on the basis of sex)

***Definitions updated in June 2025*

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Jurisdiction

- If you do not have jurisdiction you must dismiss the Title IX complaint
- This does not preclude supportive measures or other Code of Conduct violations

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No Jurisdiction If:

- Alleged conduct would not be sexual harassment if proved
- Occurred outside of the US or
- Occurred outside of the District's education program or activity

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Definition of "Educational Program or Activity"

"Educational program or activity" includes **locations, events, or circumstances over which** the recipient exercised **substantial control** over **both the respondent and the context** in which the sexual harassment occurs…

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Retaliation (1 of 2)

Retaliation defined in part: "No recipient or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by title IX or this part, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part"…
34 C.F.R § 106.71

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Retaliation (2 of 2)

- Report this **immediately** to the Title IX Coordinator
  - **Ironton's Title IX Coordinator is the District Federal Programs Coordinator**
- Is there already a no-contact order and if not, do you want one?
- Adverse action against an individual
- Abuse, violence, threats, and intimidation
- More than just someone expressing their opinion

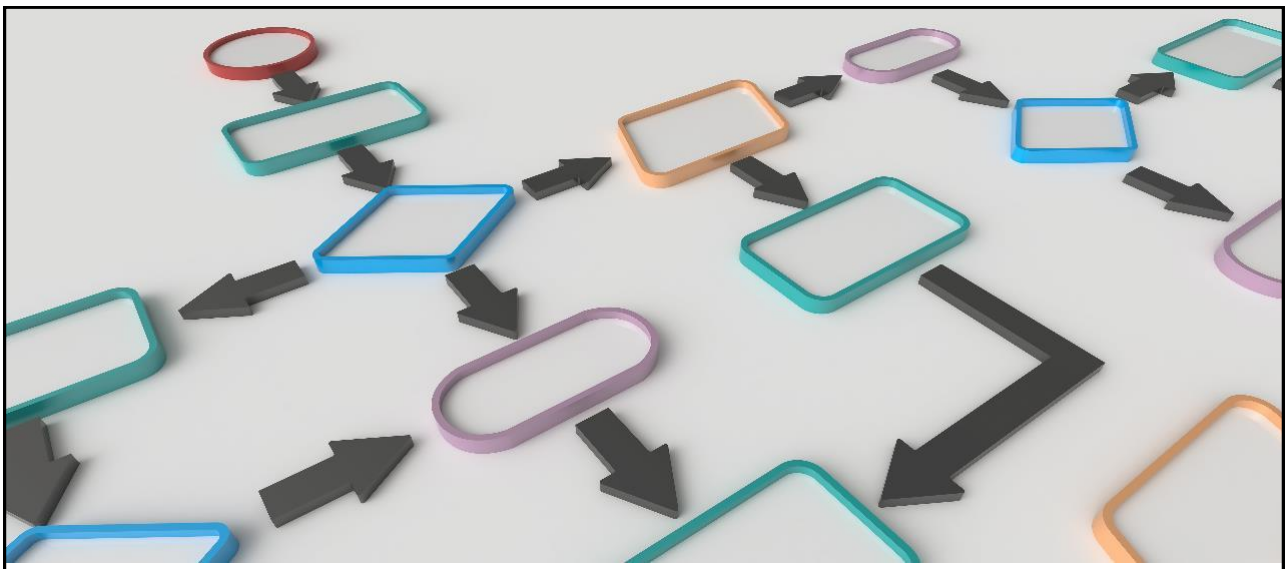
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District Obligations

- Update district policies if needed
- Address complainant and provide supportive measures
- Mandatory reporting
- Formal grievance process: notice, investigation, report, decision, appeal

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Grievance Procedures

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Formal Complaint

- **Formal Complaint** – "a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the recipient investigate the allegation of sexual harassment"
- **Complainant** – "an individual who is alleged to be the victim of conduct that could constitute sexual harassment"

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General Requirements: Due Process/ Fundamental Fairness (1 of 2)

- Treat complainants/respondents equitably; no sanctions until process complete
- No conflict of interest or bias; trained staff
- Presumption that respondent is not responsible
- Reasonably prompt timeframes
  - **Ironton's Policy includes goal of concluding process within 60 days from receipt of Formal Complaint**
- Range of possible sanctions/remedies

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General Requirements: Due Process/ Fundamental Fairness (2 of 2)

- Evidentiary Standard – Preponderance or Clear and Convincing
  - Same standard applicable to complaints against students and employees
  - Same standard applicable to all complaints of sexual harassment
  - **Ironton's Policy uses a preponderance standard**
- Describe supportive measures
- Exclude privileged information

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Notice to Parties

- Grievance Process
- Allegations
  - Sufficient details known at the time (identity of parties; date and location of alleged incident; alleged conduct)
  - Sufficient time to prepare response
- Notice of any additional allegations that may arise
- May have advisor of choice
- May inspect/review evidence
- Statement that respondent is presumed not responsible and that determination will be made at conclusion of grievance process
- Inform of Code of Conduct prohibiting false statements

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Dismissal and Consolidation

Dismissal of Formal Complaints – Must provide notice of dismissal to parties

- Mandatory
  - Alleged conduct, even if proved, would not fall within the scope of Title IX
  - Does not preclude action under other Code of Conduct provision
- Permissive
  - Complainant withdraws formal complaint
  - Respondent is no longer enrolled/employed
  - Specific circumstances prohibit gathering sufficient evidence

Consolidation of Formal Complaints – Permissive where allegations arise out of same facts/ circumstances

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Investigation Process (1 of 3)

- Burden of proof and burden of gathering evidence is on recipient
- Equal opportunity to present witnesses
- May not prohibit parties from discussing allegations or gathering/ presenting evidence
- Equal opportunity to have others present including advisor of choice
- Written notice of any hearings/interviews/meetings
  - **Ironton's Policy requires Investigators (and Decision-Makers) to provide minimum of 2 days' notice of such interviews/meetings**

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Investigation Process (2 of 3)

Provide All Evidence to Parties

- Allow 10 days to review
- Allow parties to submit a written response before completion of Investigative Report
- **Ironton's Policy assigns this responsibility to the Title IX Coordinator**

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Investigation Process (3 of 3)

- Prepare **Investigative Report**
  - Fairly summarizes relevant evidence
  - Provide to parties 10 days prior to determination of responsibility
  - **Per Ironton's Policy, the Investigator sends the report to the parties and Decision-Maker**
- Allow parties to submit **written response**

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Hearings and Cross Examination

- Live hearings optional for K-12 – **not included in Ironton's Policy**
- **With or Without Hearing**
  - Allow parties to submit written questions of other parties/witnesses
    - **Ironton's Policy assigns this task to the Decision-Maker**
  - After distribution of Investigative Report; before determination regarding responsibility
  - Provide answers and allow limited follow up
  - Questions and evidence regarding complainant's sexual predisposition or prior sexual behavior prohibited (very limited exceptions)

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Written Determination of Responsibility

- Note: Decision maker cannot be investigator or Title IX Coordinator
- Identification of the allegations
- Description of procedural steps
- Findings of fact
- Conclusions
- Statement of result as to each allegation, including determination, sanctions, and remedies
- Procedures and bases for appeal
- Provided to parties simultaneously
  - **Ironton's Policy's assigns this task to the TIX Coordinator**

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Appeals

- **Required bases:**
  - Procedural irregularity that affected the outcome
  - New evidence not reasonably available at time determination was made that could affect the outcome
  - Conflict of interest/bias
- **Additional bases permitted** - Offered to both parties equally
  - **Ironton's Policy does not include any additional bases**

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Appeal Process

- Notify other party in writing when appeal is filed
- New decision maker
- Opportunity for both parties to submit written statement
- Written decision with result and rationale
- Provided to both parties simultaneously

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Ironton's Appeal Process

- 3 days to submit appeal after receipt of determination/dismissal
- Non-appealing party has 3 days to submit written statement supporting determination
- Appeal determination issued within 10 days of submission of parties' statements
- Title IX Coordinator responsible for providing determination simultaneously to parties

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Informal Resolution

Procedures may include informal resolution process

- May not be mandatory
- May not be offered unless formal complaint is filed
- May not be offered in allegation by student against employee

Ironton's Policy includes an informal resolution process, but it is **not** available when allegations involve:

- Board employee sexually harassing a student
- Sexual assault involving student complainant and student respondent

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Informal Resolution Requirements

- Written notice of:
  - Allegations
  - Requirements of process
  - Right to withdraw from process and resume formal grievance process
  - Consequences of participation including the records that will be maintained or could be shared
- Obtain **voluntary, written consent** from both parties

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Recordkeeping – Maintain for 7 Years

- Investigation Records (including determination, recordings, transcripts, sanctions, remedies)
- Appeal Records
- Record of any Informal Resolution
- Training materials – posted on website/available upon request
- Documentation of recipient's response to all reports and formal complaints

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Make No Assumptions: Being Impartial, Avoiding Conflicts of Interest, and Bias

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Being Impartial, Unbiased, without Conflict of Interest, and Avoiding Pre-Judgment of Facts

- We will discuss each of these individually and provide examples, but some of the factors for each overlap.
- For example, being impartial is greatly aided by not pre-judging facts.
- Discussed in preamble on pp. 821-843; 1720-1726

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Being Impartial

- The preamble discussion (pp. 828-829) appears to indicate that being impartial means being free from bias
- "The Department believes that keeping this provision focused on 'bias' paired with an expectation of impartiality helps appropriately focus on bias that impedes impartiality." (p. 829)

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Bias: Concerns Raised in Comments in Preamble

- Preamble concerns about all paid staff members being biased in favor of institution
- Institutional bias: cover-ups
- Past tweets that appear to support complainants or respondents
- Being a feminist
- "Appearance of bias" v. actual bias

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Conflict of Interest: Concerns Raised in Comments in Preamble

- Decision-maker and financial and reputational interest aligned with institution (or to protect institution)
- Co-mingling of administrative and adjudicative roles
- Title IX Coordinator supervisor of decision-maker
- Past advocacy for victim's or respondents' rights (example also for bias)
- "Perceived conflict of interest" v. actual conflict of interest

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Preamble Discussion: Bias and Conflict of Interest (1 of 2)

- Final regulations "leave recipients flexibility to use their own employees, or to outsource Title IX investigation and adjudication functions, and the Department encourages recipients to pursue alternatives to the inherent difficulties that arise when a recipient's own employees are expected to perform functions free from conflicts of interest and bias."
- No *per se* prohibited conflicts of interest under 106.45(b)(1)(iii) in using employees or administrative staff. (p. 826)
- No *per se* violations of 106.45(b)(1)(iii) for conflict of interest or bias for professional experiences or affiliations of decision-makers and other roles in the grievance process. (p. 827)

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Preamble Discussion: Bias and Conflict of Interest (2 of 2)

- Discretion to institutions on how to comply with providing decision-maker role (and other roles in the grievance process) without bias or conflict of interest
- Notes that excluding certain professionals out of fear of bias would improperly exclude experienced, knowledgeable individuals who are capable of serving impartially (citing history of working in the field of sexual violence). (p. 827)

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Discussion Recommendation for Assessing Bias

"Whether bias exists requires examination of the particular facts of a situation and the Department encourages recipients to apply an objective (whether a reasonable person would believe bias exists), common sense approach to evaluating whether a particular person serving in a Title IX role is biased, exercising caution not to apply generalizations that might unreasonably conclude that bias exists…bearing in mind that the very training required by 106.45(b)(1)(iii) is intended to provide Title IX personnel with the tools needed to serve **impartially** and without bias such that the prior professional experience of a person whom a recipient would like to have in a Title IX role need not disqualify the person from obtaining the requisite training to serve impartially in a Title IX role."

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Examples in Discussion for Unreasonable Conclusion that Bias Exists (1 of 2)

"For example, assuming that all self-professed feminists, or self-described survivors, are biased against men, or that a male is incapable of being sensitive to women, or that prior work as a victim advocate, or as a defense attorney, renders the person biased for or against complainants or respondents"

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Examples in Discussion for Unreasonable Conclusion that Bias Exists (2 of 2)

- Department also cautioned parties and recipients from concluding bias or possible bias "based solely on the outcomes of grievance processes decided under the final regulations"
- Explained that this means, the "mere fact that a certain number of outcomes result in determinations of responsibility, or non-responsibility, does not necessarily indicate bias"

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Avoiding Pre-Judgment of Facts at Issue

- A good way to avoid bias and ensure impartiality: avoiding prejudgment of facts
- Keep an open mind as a decision-maker and actively listen to all the facts presented as subjected to cross-examination*
- Each case is unique and different

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Avoiding Sex Stereotypes (1 of 2)

- "Must" not rely on sex stereotypes: Also helpful to avoiding pre-judgment of facts, remaining unbiased and impartial
- Pp. 831-837 in the preamble
- Comments include examples of sex stereotypes in comments (e.g., Women have regret about sex and lie about sexual assaults, men are sexually aggressive or likely to perpetrate sexual assault)
- Discussion – prohibition against sex stereotypes, but not feasible to list them (p. 835)
  - Different from evidence-based information or peer-reviewed scientific research, including impact of trauma
  - Cautions against an approach of "believing" one party over the other and notes 106.45(b)(1)(ii) precludes credibility determinations based on a party's status as a complainant or respondent

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Avoiding Sex Stereotypes (2 of 2)

Consideration of marginalized groups: people with disabilities, people of color, people who identify in the "LGBTQ" community (pp. 1723-25; 1732-1737)

- Preamble discusses concerns by commentators about stereotypes and accommodations for individuals with disabilities under the ADA, and individuals with developmental and cognitive disabilities
- Preamble discusses concerns from people of color for cultural and racial stereotypes
- Preamble discusses concerns regarding stereotypes of the "LGBTQ" community

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Considerations: Potential Responses to Trauma

- Delayed reporting
- Difficulty remembering specifics (could also be due to drugs/alcohol)
- Reluctant reporting
- Remaining in a relationship or living arrangement with the respondent
- Being calm and composed after an assault
- Failing to identify the accused

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Disclaimer (1 of 2)

- This section uses the terms “rape,” “victim,” and “perpetrator” – CRIMINAL, not POLICY
- This section is about rape myths and trauma as **context for what may or may not be someone’s internal dialogue**, to help you ask sensitive questions
- Both parties may be traumatized – and the trauma may be **completely unrelated** to the incident you’re investigating

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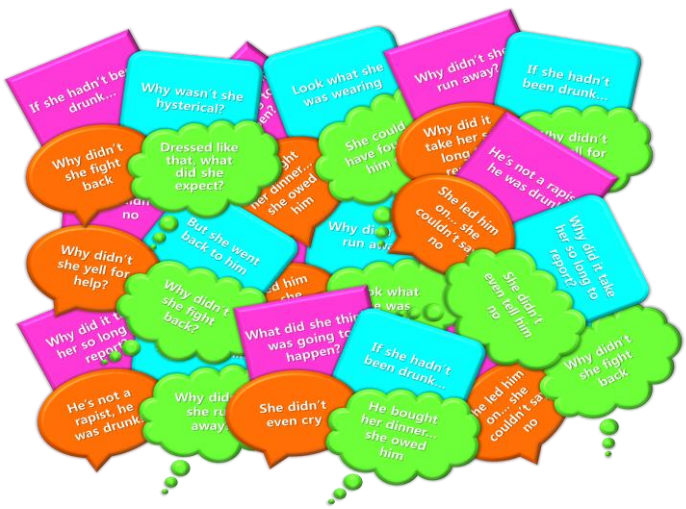
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Disclaimer (2 of 2)

- Do **not** assume that because there are signs of trauma, the trauma was caused by the respondent and therefore the respondent violated the policy
- Do **not** assume that because there are not signs of trauma, therefore nothing bad happened

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Stories We Tell Ourselves



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Know the Facts (1 of 2)

- Most rapes are committed by perpetrators that know their victims
- Rapes can happen in a committed relationship
- Rapes can happen between individuals of any gender
- Victims of intimate partner violence may return to their perpetrator for a variety of reasons that may not seem rational to outsiders looking in

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Know the Facts (2 of 2)

- Drug-facilitated sexual assault is common, and the most common drug used is alcohol
- Being drunk doesn't excuse a perpetrator's own behavior
- A wide variety of responses are normal for a victim of trauma (e.g., calm, hysterical, angry, in denial, detached, withdrawn, or in shock) – don't make assumptions about how they "should act"

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Trauma and the Brain

- Trauma affects the way the brain **encodes and decodes memories** of what occurred
- Fight, flight, or freeze

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Why Don't People Tell Right Away?

- Fear of retaliation
- Fear of not being believed

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Why Is Being Trauma Informed Important?

How you handle a person in your first meeting can make the difference between:

- Cooperation in the investigation **vs.** refusal to cooperate
- Retraumatization **vs.** supportive environment
- Putting off other potential complainants or witnesses from coming forward **vs.** encouraging future reports
- Lawsuit or OCR complaint (or both) **vs.** supportive and cooperative relationship

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Words Have Power

- Victim vs. survivor vs. complainant
- **Stick with policy language** to the extent possible

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Culture Affects Response (1 of 2)

- Age of consent
- Dating vs. arranged marriages
- Attitudes towards homosexuality
- Attitudes towards intimate partner violence
- Cooperating with investigations
- Sharing personal information
- Reactions toward authority figures
- Reactions toward male vs. female

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Culture Affects Response (2 of 2)

- I won't report it if it doesn't feel wrong
- I'll admit it because I don't understand it's prohibited
- I won't report it if I would be a snitch
- It's impolite to look you in the eye, so I'll look down the whole time
- I deserved it, it's normal
- Reporting this would result in serious consequences at home

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The Bottom Line

Be Human & Be a Blank Slate

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Issues of Relevancy (NOT Rules of Evidence)

- The Rules of Evidence do **NOT** apply and **CANNOT** apply (p. 1135)
- "The Department appreciates the opportunity to clarify here that the final regulations do not allow a recipient to impose rules of evidence that result in the exclusion of relevant evidence; the decision-maker must consider relevant evidence and must not consider irrelevant evidence."

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Issues of Relevancy (1 of 3)

Relevant unless expressly touched upon in Regulations (p. 980):

- Information protected by a legally recognized privilege
- Evidence about complainant's prior sexual history – unless such questions/ evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct or if the questions/evidence concern specific incidents of the complaint's prior sexual behavior with respect to the respondent and are offered to prove consent.
- Party's medical, psychological, and similar records unless voluntary written consent
- Party or witness statements that have not been subjected to cross-examination at a live hearing*

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Issues of Relevancy (2 of 3)

The process allows both parties to submit all relevant evidence:

- Similarly 106.45(b)(6)(i)-(ii) directs the decision-maker to allow parties to ask witnesses all relevant questions and follow-up questions (p. 980)
- A recipient may not adopt a rule excluding relevant evidence whose probative value is substantially outweighed by the danger of unfair prejudice (p. 981)

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Issues of Relevancy (3 of 3)

- "[D]oes not prescribe rules governing how admissible, relevant evidence must be evaluated for weight or credibility by recipient's decision-maker, and recipients thus have discretion to adopt and apply rules in that regard, so long as such rules do not conflict with 106.45 and apply equally to both parties." (p. 981)

BUT

- "[I]f a recipient trains Title IX personnel to evaluate, credit, or assign weight to types of relevant, admissible evidence, that topic will be reflected in the recipient's training materials." (p. 978)

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Relevancy: Legally Privileged Information (1 of 3)

Section 106.45(b)(5)(i): when *investigating* a formal complaint, recipient:

- "[C]annot 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 recipient obtains that party's voluntary, written consent to do so **for a grievance process under this section**."

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Relevancy: Legally Privileged Information (2 of 3)

Section 106.45(b)(1)(x):

- A recipient's grievance process **must…not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of**, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

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Relevancy: Legally Privileged Information (3 of 3)

- Preamble identifies medical and treatment records.
- Other typical privileges recognized across jurisdictions but with variations (will want to involve your legal counsel for definitions in your jurisdiction):
  - Attorney-client communications
  - Implicating oneself in a crime
  - Confessions to a clergy member or other religious figures
  - Spousal testimony in criminal matters
  - Some confidentiality/trade secrets

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Consent: Left to Schools to Define

- No required definition in law, regs, or guidance
- Policy language is going to be critical to your analysis
- **Ironton's Policy definition of consent:** "Words or actions that a reasonable person would understand as agreement to engage in the sexual conduct at issue. A person may be incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. A person who is incapacitated is not capable of giving consent."

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Who Can *Never* Give Consent?

- Under age 13 (varies by state)
- Between the ages of 13 and 16, if the other person is over 18 (varies by state)
- A student if the offender is a teacher, administrator, coach, or other person in authority employed by or serving in their school
- Severely cognitively disabled persons
- Those who are incapacitated
- Those who are by law unable to give consent

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When Does Consent *Not* Exist?

- Use of physical force, threats of physical force, physically intimidating behavior, or coercion
- Individual from whom consent is required is incapacitated

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Evidence of Consent? (1 of 3)

- What words or actions did complainant use to convey consent/non-consent?
  - Must examine sexual contacts, acts in detail
- Was complainant capable of consenting? (Asleep? Passed out? Not understanding what was happening?)

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Evidence of Consent? (2 of 3)

- Who took off what clothes?
- Who provided the condom?
- Who initiated physical contact?
- Who touched who where?
- "They gave consent" = What did you say to them, and what did they say to you?

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Evidence of Consent? (3 of 3)

- [Ask the respondent] What did complainant say to you and/or what actions did they take to show consent?
  - "How did you know they wanted to have sex?"
- If applicable, what role, if any, did respondent play in complainant's intoxication/incapacitation?

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Introduction to Investigative Techniques

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Initial Review

- Review notes and information collected by the Title IX Coordinator
- Review Notices to Complainant and Respondent
- Review Policy/Code of Conduct
- Define Scope of Investigation
  - What elements do you think will be disputed?
  - Agreed upon?

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Begin Evidence List

- If there is a criminal investigation, work with law enforcement to collect and preserve evidence

Types of evidence

- Electronic communications
- Security information
- Pictures, videos, audio
- Police reports
- Personnel files
- Prior complaints against respondent

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Begin Witness List

- If there is a criminal investigation, work with law enforcement to ensure permission to question witnesses
- Who should be included?
- Who should NOT be included?
- In what order should the witnesses be interviewed?
- Be flexible

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Craft Questions for Each Witness

- Refer to the policy
- Consider what information they are likely to have related to each element
- Consider what information they are likely to have that may assist the decision-maker in determining credibility
- Be flexible

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Organizing for the Interview

- What should you have with you?
  - Allegations
  - Investigation log
  - Investigation notes cover sheet
  - Pre-prepared questions
  - Evidence you may need to reference or show witness
  - Policy or Handbook

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Note-taking Tips

- Use predictable symbols in the margin to easily skim during the interview:
  - **?** ← Follow-up questions
  - ***** ← Potential evidence
  - **W** ← Potential witness
- Try to record exact quotes when possible

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Setting Up the Interview

- Identify yourself, your role, and a general outline of what you're investigating
- Consider requesting the TIX Coordinator check in with those who fail to respond or refuse to participate
- Don't give up on the interview till you've tried at least 3 times, in at least 2 different methods

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Set the Stage

- Make introductions
- Be hospitable
- Give overview of why they are being interviewed
- Explain retaliation policy
- Invite questions

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Begin Broadly

- Elicit a monologue about the incident
  - What happened earlier that day before the incident?
  - What happened with regard to the incident?
  - What happened next?

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Freeze Frames

- Ask the witness to "freeze" on the moment and describe details
  - What could they see? Feel? Smell? Taste? Hear?
  - Where was the other person? How were they positioned?
  - Where were you? How positioned?
  - What did you say to the other person? Them to you?
  - Describe other person's tone, demeanor, body language

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Ask Follow-Up Questions

- Re-review your notes
- Re-review the elements of each charge
  - Have you elicited all of the information this witness might have about each element?
  - Do you have an understanding of how the witness obtained the information they shared?

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Credibility

- Gather facts to assist **decision-maker**
- Ask questions to test memory
- Identify where the witness may corroborate or contradict their testimony, or other witnesses, and physical evidence
- Be sensitive to potential trauma experienced by witnesses

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When Consent is at Issue

- Consider the wording and tone of your questions
- Utilize “freeze frame” strategy
- Ask questions about what happened to determine whether there was unspoken consent
- Ask questions to identify whether alcohol/drugs may have played a role regarding consent
- Apply definition of consent consistently and impartially

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Closing the Interview

- Closing questions
- Request copies of all evidence potentially available to the witness
- Discuss confidentiality - but do not prohibit a party from discussing allegations
- Inform the witness of next steps and how to reach you

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After the Witness Leaves

- Update investigation log
- Review notes, make corrections/clarifications
- Update witness list
- Update list of evidence to be obtained
- Write down questions to ask other witnesses
- Consider whether appropriate to send email

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Physical Evidence

- Follow up on anything identified during interviews
- Is law enforcement involved? Could they be?
- Ensure physical evidence is in a secure location and documented in the investigation log

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Inspection and Review of Evidence

Provide ALL Evidence to both parties and advisors

- Include everything directly related to allegations, even if you don't expect decision-maker to rely on it
- Allow 10 days to review
- Allow written response
- Follow up where necessary
- Consider responses when preparing report

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Create Investigative Report

Fairly Summarizes the Relevant Evidence

- Summarize **facts**
- No determination
- Provide to parties and advisors
- Allow 10 days to review

(Need help? Report-writing training available!)

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Key Takeaways (1 of 2)

- Study your updated grievance procedures
- Know the definition of sexual harassment and keep the policy language in mind as you interview parties and witnesses
- Identify when/if another policy such as anti-bullying is in play

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Key Takeaways (2 of 2)

- Make sure you understand potential biases (actual or perceived)
- Trauma may affect how someone responds to an incident
- Prepare for your interview with questions and statements
- Start with open-ended questions
- Obtain any documentary evidence that you can

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Questions?

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