



# Overview of New Title IX Regulations and Policy

Title IX Personnel

Fall 2020

# Title IX (1972 amendment to Higher Education Act of 1965) Civil Rights Protection Based on Sex/Gender

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.



# Overview of Title IX Regulations

- Department of Education released new regulations May 19, 2020
- Includes new definitions and grievance process
- Required implementation by August 14, 2020
  - Multiple challenges, but no injunctive relief
- New policy required – President’s Council approved August 13, 2020
- Flexibility to make changes, adjustments as required by courts, regulatory changes, or experience dictates



# Title IX Personnel

- Title IX Coordinator
  - Title IX Deputy Coordinators
- Investigators
- Advisors
- Hearing Advisors
- Hearing Officers/Decision Maker
- Appellate Officer



# Key Goals of Policy

- Mirrors the new Title IX regulations
- Equitable process for all allegations regardless if student or employee
- Eliminate bias or conflict of interest in process
- Detailed grievance process to ensure due process for accused
- Clear procedures outlined for everyone



# Sexual Harassment as defined in Title IX Regulations effective August 14, 2020

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- Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:
  1. 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; [quid pro quo]
  2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or
  3. "Sexual assault" as defined in 20 USC 1092(f)(6)(A)(v), "dating violence" as defined in 34 USC 12291(a)(10), "domestic violence" as defined in 34 USC 12291 (a)(8), or "stalking" as defined in 34 USC 12291 (a)(3)



# Difference Between Report made to Title IX Coordinator and Formal Complaint

- Report made to Title IX Coordinator puts college on notice of alleged policy violation
  - Supportive measures required for complainant regardless if formal complaint filed or not
  - Decision is up to the complainant whether to move forward with an investigation *unless* act egregious enough for Title IX Coordinator to initiate the investigation
- Formal complaint required to initiate investigation
  - Must be signed/filed by known person (cannot be anonymous)
  - Must contain significant detail (facts, potential witnesses, request investigation)
  - Can be signed by the Title IX Coordinator if situation warrants



# Response to Notice of Complaint

- Title IX Coordinator conducts outreach to complainant
- Offers supportive measures
- Responsibility to review against policy definitions
  - MUST dismiss if insufficient
- Provide overview of process – informal or formal resolution
- If formal complaint, must provide notice of allegations before any conversation occurs with respondent
- Explicitly make known respondent is presumed not responsible until proven otherwise



# Process – In General

- Grand River Solutions
- Designed to determine responsibility / remedy
  - Investigation
  - Hearing
  - Remedies / Sanctioning
  - Appeal



# Meeting with Title IX Coordinator: What to Expect

- Receive a copy of the Title IX policy
- Information about supportive measures with/without filing a formal complaint
- How to file formal complaint
- Right to notify/not notify law enforcement
- Importance of preserving evidence
- Right to an advisor of choice
- Supportive Measures



# Supportive Measures

- Providing a campus escort
- Minimizing interaction between Complainant and Respondent by shifting classes, work schedule, etc.
- Relocating to a different classroom, work space, study group, etc.
- Providing counseling referrals
- Providing medical referrals
- Providing academic support services, such as tutoring
- Assigning advocate, if requested
- Offering mutual no-contact orders
- Arranging for the Complainant / Respondent to withdraw from a class without penalty
- Holding college-wide training and education initiatives
- Administrative leave for non-student employee
- Change supervisor



# Advisors

- A Complainant or a Respondent are permitted to bring an Advisor to any meeting or interview to provide support
- The Advisor may be any person, including a family member or an attorney



# Hearing Advisor

- A Hearing Advisor is someone who serves the purpose of asking questions of the other party and witnesses
- The Hearing Advisor may be the same person who serves as the Advisor during the investigation process
- Both Complainants and Respondents are ***required*** to have a hearing advisor



# Investigation

- Outsource to Grand River Solutions
- All parties and witnesses must be willing to participate in a hearing and cross examination for evidence to be considered
- Parties review evidence and report before finalizing
  - Grand River Solutions uses OneHub for evidence sharing
- Investigative report submitted to Title IX Coordinator to be given to hearing officer



# Informal Resolution

- Both parties must agree in writing
- Either party can decide to return to formal process at any time
- Cannot seek informal resolution if respondent is employee and complainant is student
  - Prohibited by the regulations



# Hearing

- Hearings may be conducted in person or via video-conferencing
- Each hearing will be recorded and considered the only official recording
- A Hearing Officer will prepare a report following the hearing and include:
  - The allegations
  - Description of all procedural steps
  - Findings of fact
  - Conclusion of application of facts to the Policy
  - Rationale for each allegation



# Remedies, Sanction, Appeal

- Remedies and Sanction Decisions
  - Student Conduct or Human Resources
  - Collaborate and incorporate into decision letters
- Appeals Based on:
  - Procedural error
  - New evidence not previously available
  - Bias of Title IX personnel



# Overview of Policy

- Policy and required training materials posted at [www.macomb.edu/titleix](http://www.macomb.edu/titleix)

## Macomb Community College Administrative Policy Title IX Policy

- I. [Purpose and Scope](#)
- II. [Prohibited Conduct](#)
- III. [Definitions](#)
- IV. [Making a Report](#)
- V. [Filing a Formal Complaint](#)
- VI. [Mandatory and Discretionary Dismissal](#)
- VII. [Outreach and Initial Assessment](#)
- VIII. [Resolution Methods](#)
  - [Informal Resolution](#)
  - [Investigation Procedures](#)
  - [Hearing Procedures](#)
- IX. [Appeals](#)
- X. [Rights, Expectations & Responsibilities](#)
- XI. [Resources](#)
- XII. [Training Requirements](#)
- XIII. [Record Retention](#)



# Items to Consider

- Role of advisor
  - Training required
- Process to move from Hearing to Sanctions/Remedy
- Appellate Officer



# Keep Training Up-to-Date

- ATIXA Conference
- NASPA Investigator Training
- Other?



# Key Take Away

- Staff obligation to report discrimination protected by Title IX remains
- Reports can be made by phone, email, or completing a complaint form to the Title IX Coordinator
  - Jill Thomas-Little
  - (586) 445-7242
  - [titleix@macomb.edu](mailto:titleix@macomb.edu)
  - Complaint form found at [macomb.edu/titleix](http://macomb.edu/titleix)
- Updated policies and processes posted at [www.macomb.edu/titleix](http://www.macomb.edu/titleix)



# Questions

