



Title IX

Institution of Vocational Education Add-On Training

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Institution of vocational education

- “a school or institution (except an institution of professional or graduate or undergraduate higher education) which has as its primary purpose preparation of students to pursue a technical, skilled, or semiskilled occupation or trade, or to pursue study in a technical field, whether or not the school or institution offers certificates, diplomas, or degrees and whether or not it offers fulltime study.”



Scope of “Educational Program or Activity”

- “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.”
- Jurisdictional trigger
- “locations, events, or circumstances over which the recipient [the school/district] exercised substantial control over both the respondent and the context in which the sexual harassment occurs, **and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution.**”



Investigative Report

- Prior to completion of their investigative report, send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy.
- The parties must have at least ten (10) business days to submit a written response, which the investigator will consider prior to completion of the investigative report.
- Create an investigative report that fairly summarizes relevant evidence.
- Send investigative report to each party at least 10 days prior to the **hearing**.
- Allow for review and written response.



No Question and Answer Period



Hearing

- Provide written notice of the date, time, location, participants, and purpose of the hearing with sufficient time for the party to prepare to participate.
- Hearings are to be live, HOWEVER, live hearings may be conducted with all parties physically present in the same geographic location or, at the recipient's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.
- At the request of either party, the school must provide for the live hearing to occur with the parties located in separate rooms.
- TRAIN ON TECHNOLOGY



- Schools must also create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.
- Make all evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint (whether obtained from a party or other source), including:
 - the evidence upon which the recipient does not intend to rely in reaching a determination regarding responsibility; and
 - inculpatory or exculpatory evidence

available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.



- At the hearing, the decision-maker must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.
- Cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally.
- If a party does not have an advisor present at the live hearing, the school must provide without fee or charge to that party, an advisor of the school's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.



- Only relevant cross-examination and other questions may be asked of a party or witness.
- Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.



- 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.



- If a party or witness does not submit to cross-examination at the live hearing, the decision-maker must not rely on any statement of that party or witness in reaching a determination regarding responsibility.
- The decision-maker cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.



Permissive Grounds for Dismissal

The School may also dismiss the formal complaint or any allegations therein, if at any time during the investigation **or hearing**:

1. a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
2. the respondent is no longer enrolled or employed by the School; or
3. specific circumstances prevent the School from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

