



September 27, 2023  
Equity and Inclusion

# Title IX Coordinator Training

**NOTE:** new federal regulations  
anticipated to be released October 2023.

MINNESOTA STATE

# Equity and Inclusion

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# TITLE IX

## Title IX Coordinator Training



# Agenda

Title IX Overview

Adjacent Federal and State Laws

Areas of Compliance

Campus Title IX Coordinating



# Title IX Overview

"No person in the United States shall, on the basis of



# Federal Financial Aid

Assurance that the institution of higher education commits to take whatever action necessary to eliminate existing discrimination on the basis of sex or to eliminate the effects of past discrimination.



# Title IX Coordinator

Designated employee, reports to senior leader

At least one person, at all time

“Title IX Coordinator” to coordinate the efforts to comply with and carry out the responsibilities under the law, including any investigation of any complaint alleging noncompliance or alleging any actions which would be prohibited



# : Independent

Independent to avoid conflicts of interest

Actual, perceived, or potential clash between one's professional duties and personal interests

Family, friendships, social factors, YWCA board, etc.

Actual, perceived, or potential friction among competing/ multiple professional duties and responsibilities

Advocacy for survivor's group or respondent's group, investigating vs. decision-making roles, director of athletics



# : Visible and with Authority

Must be visible

Contact information must be made available: name/title\*, office address, email address, and telephone number

Protected from unlawful retaliation

Authority to coordinate, keep and review records, recognize patterns of discrimination or systemic problems in the institution

# : Trained

## Appropriately trained

Must have comprehensive knowledge in all areas over which they have responsibility, including policies and procedures

Materials used must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment

All training materials must be publicly available

# : Knowledge: definition

Must know:

## Definition of sexual harassment

(conduct on the basis of sex)

Employee conditioning the provision of an aid, benefit, or service of the institution on an individual's participation in unwelcome sexual conduct [*Quid pro quo*]

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 institution's education program or activity [Hostile environment]

Sexual assault; dating, intimate partner, and relationship violence; and stalking [Clery crimes]



# : Knowledge

Must know:

Scope of education programs & activities: locations, events, circumstances under substantial control; student owned, recognized

How the processes of 1B.3.1 and 1B.1.1 procedures work (including informal resolution)

How to serve impartially, including avoiding prejudgment of the facts at issue, conflicts of interest, and bias; understanding relevance of questions and evidence

# Dissemination of Policy

Annual notice to current students, employees, union and professional orgs (w. CBAs)

Continuous notice to applicants for admissions and employment

Notice must include statement of nondiscriminif

# Published Grievance Procedures



# : Report Repository

Receive reports of sex discrimination

Any person may report sex discrimination, including sexual harassment, in person, by mail, by telephone, or by email, or by other means that results in the Title IX Coordinator receiving the person's verbal or written report.



# : Campus Response

Respond to actual knowledge of sexual harassment

Promptly contact complainant to discuss availability of supportive measures, consider complainant's wishes with respect to supportive measures with or without the filing of a formal complaint, and explain the process for filing a formal complaint of sexual harassment.

Coordinate effective implementation of supportive measures

Implement any remedies imposed following determination of responsibility in grievance process for formal complaints





# Federal Compliance

OCR = Office of Civil Rights

Enforces laws prohibiting discrimination in federally assisted educational programs and activities

Establishes compliance standards to be applied in investigations and enforcement

Minimum:



# OCR Resolution Agreements



## Additional K12 matters

Relying on law enforcement investigation; no centralized tracking or maintaining of complaint files; Coordinator's limited ability due to holding multiple positions (TX)

Miscoding of sex-based harassment; didn't document multiple complaints brought forward; didn't adequately document District's responses (WI)

Repeatedly failed to address effects on targeted students, to prevent recurrence; didn't take sufficient steps to prevent recurrence; and failed to provide adequate notice of the investigation





# Jeanne Clery Act

## Amended by VAWA, Oct. 2014

Inclusion in crime report of the following: sexual assault, domestic violence, dating violence, and stalking

# Violence Against Women Act

## Reauthorization and effective Oct. 2014

Prompt, fair, and impartial process: initial investigation to final result

Process must be consistent with institution's policies and transparent to both parties



# VAWA, continued

Officials shall be trained annually, including having no conflict of interest or bias for or against either party





# Sexual Assault Climate Survey

Secretary of Ed: make available via secure, accessible online portal

- a standardized online survey tool

- Postsecondary student experiences

- Domestic violence, dating violence, sexual assault, sexual harassment, stalking (Clery/VAWA categories)

- Fair & unbiased, scientifically valid & reliable

- Anonymized results

- Responses: confidential, not included in crime stats

- Federally administered; campus may add elements

- Adequate, random, representative sample size



# Survey questions: student experiences, trauma-informed

Demographic info

Incidence & prevalence

Knowledge of policies & procedures

If reported to campus, to law enforcement



# Report & publication

## Department of Education

By March 15, 2024, Sect. of Ed must prepare biennial report regarding data, submitted to Congress

Campus-level data, attributed by name of campus

Comparisons permitted across institutions and campuses

No individual survey responses

## Campus report

Campus-level results within areas reported by the Dept of Ed, published on website

Report must be readily accessible, usable by individuals with disabilities

Campus-level results of any campus added elements

# Sexual Harassment & Violence Policy

## Minnesota State Statute 135A.15

Required policy, including sexual assault definition, victims' rights, and uniform amnesty

Coordination with local law enforcement

Online reporting system, including anonymous reports

Data collection and reporting to OHE (due Oct 1)

Comprehensive training, 10-day deadline

Student health services screening; counseling designated staff



# Student Parents & Pregnant Students

## Minnesota State Statute 135A.158

Fact sheet must be provided to students

Legal rights

List of resources: support student parents and pregnant students

List of resources: prenatal care, child care, transportation, housing

Available in languages reflected as primary of the institutions' student body



# Areas of Compliance



# Admissions & Recruitment

Courses and programs may not limit admissions and recruitment by sex or gender; career counseling should not encourage or discourage based on sex or gender

Offers for admissions shall not limit or exclude any person on the basis of pregnancy, childbirth, termination of pregnancy, or recovery therefrom

No admission rule shall be applied concerning actual or potential parental, family, or marital status of a student or application which treats them differently on the basis of sex



# Pregnant & Parenting Students

Pregnancy





## Additional Considerations

Be mindful of words

Mother and Father

Mothering room vs. Lactation room

Law is foundation; institution can build upon it

Birth complications; care of newborn



## Legal protections

No discrimination 4(p)(a)-0.6 (l pr)10.6 (o)0.5 (t)11.2 (ec)-3



## Right to absences and leave

Medically necessary = must be excused

Regardless of professor's or instructor's policy

Student must not be penalized

Opportunity to make up any missed credit

Exams, regular deadlines, participation/attendance



## Right to activities and Athletics

Extracurricular activities, including leadership positions, club sports, intramurals





## Examples of possible adjustments

A larger desk, table/chair in lieu of desk

Elevator access

Breaks during class, as needed

Rescheduling tests or exams

Allowing flexibility with group projects

Excusing absences due to pregnancy, childbirth, or related circumstances

Developing a learning plan for assignments missed due to pregnancy or related circumstances

Facilitating alternative work assignments due to pregnancy or related circumstances



## Right to complain/report

### Board Policy 1B.1 Equal Opportunity and Nondiscrimination in Employment and Education

Sex (including pregnancy, child birth, and related  
medical conditions)

Marital status

Familial status

### Board Policy 1B.3 Sexual Violence

#### System Procedure 1B.1.1 Investigation and Resolution

#### System Procedure 1B.3.1 Response to Sexual Violence and Title IX Harassment



# Athletics

## (intercollegiate, club, intramurals)

- Equitable opportunities to participate

  - Substantial proportionality (to enrollment)

  - History and continuing practice of expansion

  - Effective accommodation of interests and abilities

- Equitable benefits and opportunities within offerings

  - Equipment, scheduling, travel, coaching, facilities, publicity, etc.

- Proportionality of financial assistance

  - Regardless of where the money comes from

  - Tiering: caution

## Equity in Athletics Disclosure Act, Annual Report

**NCAA/NSIC programs:** additional educational & disclosure requirements

  - Governors Policy on Campus Sexual Violence

  - Prevention education

  - Attestation Process





# Employment

## Prohibitions

- Quid pro quo

- Severe, pervasive, and objectively offensive

- Criminal offenses

## Equitable employment practices

- Recruitment, pre-employment inquiries

- Payment, Compensation, benefits

- Treatment of pregnancy

## Title IX vs. Title VII obligations



# Training

## Publishing Title IX Personnel Training Materials:

Title IX Coordinator, Investigators,  
Decisionmakers, Facilitators





# Grievance Process

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## Board Policies and System Procedures

Board Policy 1B.1 Equal Opportunity and Nondiscrimination in Employment and Education

Board Policy 1B.3 Sexual Violence

System Procedure 1B.1.1 Investigation and Resolution

System Procedure 1B.3.1 Response to Sexual Violence and Title IX Harassment



## Prompt, effective, and equitable process

Reporting process including signed, formal complaint

Good faith effort to reasonable, timely process

Document all delays and extensions

Periodically update involved parties during the process



## Informal Resolution: Voluntary agreement by both parties

### Minnesota State Guide:

Grounded in motivational interviewing practices,

Uses restorative questioning to identify and address harm and respondent accountability, and

Uses shuttle diplomacy to identify and negotiate options for agreement.

Lack of participation and/or requests to withdraw from this process result in re-examining the matter under formal procedures (1B.3.1, 1B.1.1, etc.) and/or notice to end process



**Confidentiality: Complainants, witnesses can't be anonymous**

Limits to how the institution can respond





## Investigation that is thorough, reliable, and impartial

Title IX Coordinator is designated by the institution

Ensures Title IX protocol for process

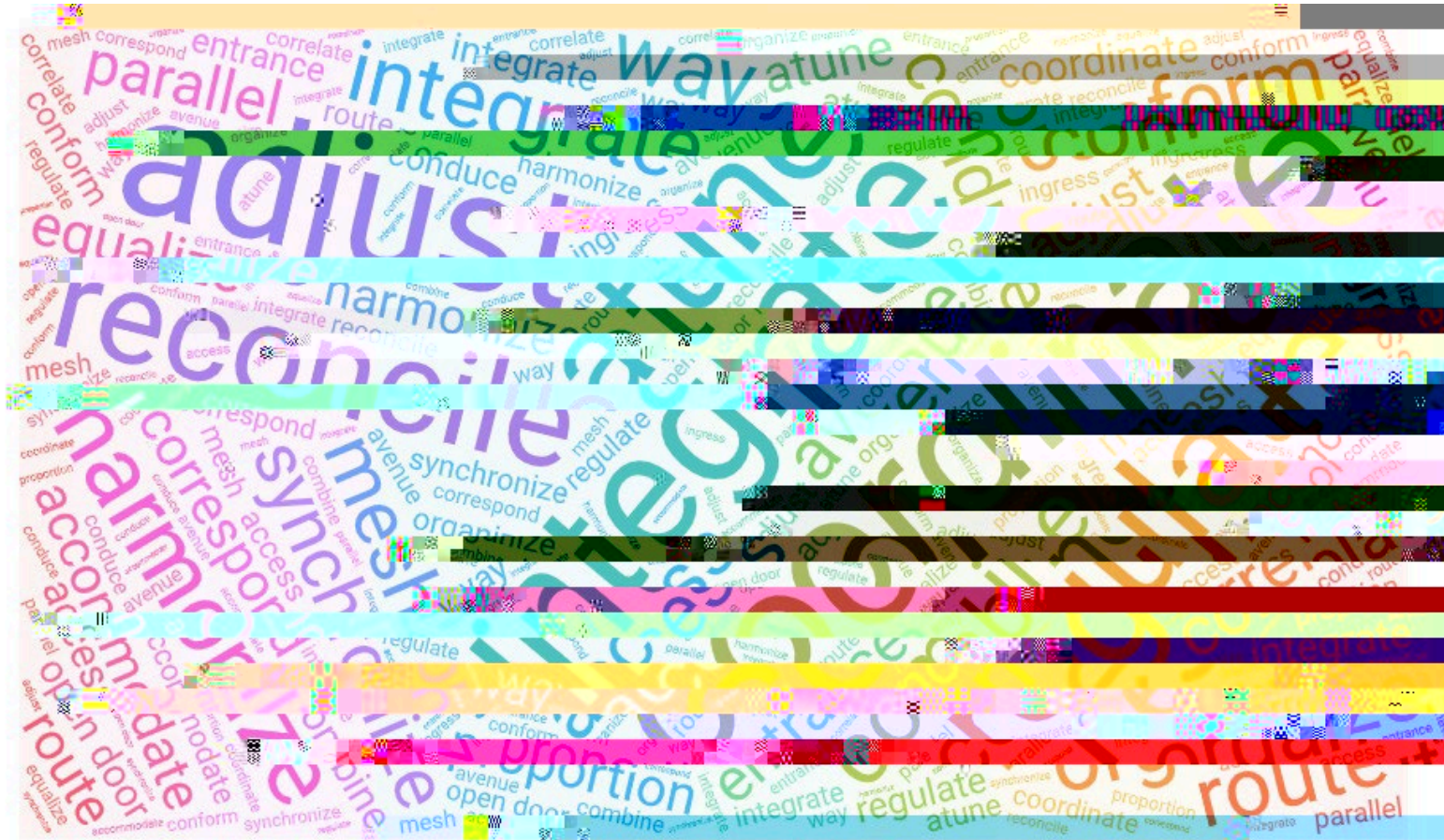
Repository for all complaints and reports of sex, gender based harassment, misconduct, violence

Approves informal resolution agreements

Oversees, or designates oversight for, the completion of any assigned outcomes



# Campus Title IX Coordinating



# Steps for Coordinating

1. Title IX Coordinator is visible
2. Publishing Minnesota State policies and procedures
3. Required prevention training for students, first 10 days
4. Online reporting form
5. System training options and requirements
6. Data disclosures
7. Campus process and systems
8. Pregnant and parenting student procedures
9. Record management
10. Team approach considerations







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