

FAQs - Title IX

What is the History of Title IX?

Title IX is a law passed in 1972 that requires gender equity for boys and girls in every educational program that receives federal funding. In 2020, this law was updated.

Most people who know about Title IX think it applies only to sports, but athletics is only one of 10 key areas addressed by the law. These areas are: Access to Higher Education, Career Education, Education for Pregnant and Parenting Students, Employment, Learning Environment, Math and Science, Sexual Harassment, Standardized Testing and Technology.

- In 1975, the Title IX regulations were codified by the Department of Health, Education, and Welfare.
- In 1979, the Department of Health, Education, and Welfare promulgated the three-part prong test to evaluate equity in athletics.
- In 1980, the Department of Education was created and Title IX oversight was transferred to this department under the Office for Civil Rights.
- Since Title IX was passed in 1972, it has been the subject of over 20 proposed amendments, reviews, Supreme Court cases and other political actions.
- In 2020, the Title IX Regulations were updated and effective August 14, 2020 becoming the first regulatory updates in 30 years.

Who is protected under Title IX?

Title IX protects against sex discrimination. Any conduct that constitutes a sexual harassment offense, which includes sexual violence, dating violence, domestic violence, and stalking (regardless of the sex of the victim) or any discrimination against an individual that is based on their sex, is protected under Title IX.

What type of complaints does Title IX cover?

- Scope of Title IX includes but is not limited to:
 - Sexual Harassment
 - Sexual Violence
 - Sex Discrimination
 - Gender Discrimination
 - Gender Identity Discrimination
 - Dating Violence
 - Domestic Violence
 - Sex/Gender-Based Stalking
 - Sex/Gender-Based Bullying
 - Sex/Gender-Based Hazing
 - Athletics
 - Academic Program Equity
 - Admissions
 - Study Abroad
 - Pregnant Students
 - Parenting Students
 - Disparate Treatment

- Externships & Internships
- Summer Camps

What is sex-based harassment:

- Sexual harassment including sexual violence
- Gender-based harassment

What is sexual harassment?

Sexual harassment is unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature.

What is gender-based harassment in an educational setting?

Gender-based harassment is unwelcomed conduct based on a student's actual or perceived sex. This includes slurs, taunts, stereotypes or name-calling, as well as gender motivated physical threats, attacks or other hateful conduct.

What are the three types of conduct which constitute harassment?

1. Quid Pro Quo harassment by an employee, faculty, student.
2. Unwelcome conduct so severe, pervasive, and objectively offensive that it effectively denies a person equal access to an educational program or activity.
3. Sexual assault, dating violence, domestic violence, or stalking.

Who is protected under Title IX?

Anyone who participates in an educational program, service or activity with a Federally funded entity is protected by Title IX. This includes students, employees, visitors, volunteers.

What are the reporting types and obligations?

- Official with Authority (OWA): Any official who has the authority to institute corrective measures on behalf of the institution.
- Responsible Employee: Designated by the Recipient to report incidents of sexual harassment or sex discrimination to the Title IX Coordinator.
- Mandatory Reporter: A Recipient employee, official, or volunteer who is required to report child abuse and neglect to specific authorities.
- Campus Security Authority (CSA): An official who has significant responsibility for student and campus activities.

What is the difference between privilege, confidential, and private?

- Privilege: Granted by laws and professional ethics. Individuals are not permitted to report information without the permission of the person making the disclosure.
- Confidential: Designated by the Recipient. Not required to report harassment, discrimination, or violence to Title IX Coordinator. Includes clergy, professional licensed counselors.
- Private: Individuals with a legal or institutional need-to-know the information will receive it.

What is the difference between reporting sexual harassment and filing a formal complaint?

- Anyone may report sexual harassment.
- Reporting requires the school to offer **supportive measures** to the complainant and inform them of the process for filing a Title IX Complaint.
- Filing a **formal complaint** requires the school to follow a grievance process to determine whether the respondent is responsible for the alleged sexual harassment.
- Reporting sexual harassment does not trigger a formal complaint process; the filing of a formal complaint is separate.
- When the school learns that someone is said to have been the victim of sexual harassment, it is considered “on notice” and must review the complaint.

I want to make a formal complaint but am worried about retaliation.

Retaliation is prohibited. Neither the School nor any other person may intimidate, threaten, coerce or discriminate against any individual for the purpose of interfering with any Title IX right or privilege or because an individual has made a report, complaint or Formal Complaint, testified, assisted, or participated or refused to participate, in any manner in an investigation, proceeding, or hearing. Intimidation, threats, coercion or discrimination, including charges against an individual for the codes of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or Formal Complaint of Covered Sexual Harassment, for the purposes of interfering with any Title IX right or privilege, constitute retaliation.

I want to make a complaint but it does not fall under the parameters of Title IX’s Covered Sexual Harassment.

Conduct that does not fall under the Title IX definition of Sexual Harassment may still be prohibited under the School’s other policies and/or the applicable Code of Conduct. Reporting of such conduct can be completed by using the same reporting procedures as a Title IX complaint. HMSOM has various policies which prohibit mistreatment of the community, including the *Preventing Student Mistreatment and Promoting a Positive Learning Environment* (<https://hnh-som.policystat.com/policy/10112274/latest#autoid-54kww>)

Can I have a support person with me when I report my complaint?

"Support Person" means an individual of either Party's (Complainant or Respondent) choosing selected to provide support and assistance throughout the Title IX process. Either Party may be accompanied by a Support Person to any meeting or hearing to which the Party is eligible or required to attend. A Support Person cannot represent the Party during any investigatory meeting/interview or proceeding and cannot address an investigator/decision-maker unless granted permission by the investigator/decision-maker.

If I tell someone about an incident of sexual harassment, is this making a “formal complaint?”

To initiate a formal complaint, a Complainant must provide the Title IX Coordinator with a written, signed document describing the facts allegedly constituting Covered Sexual Harassment. A Complainant may not want to submit a Formal Complaint; however, the Title IX Coordinator may determine that a Formal Complaint is necessary in order for the School to respond to the reported conduct of which it has actual knowledge in a way that is not deliberately indifferent. If the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator will provide prompt written notice to the reporter/complainant.

I made a formal complaint - what happens next?

The Title IX Coordinator will provide written Notice of the Allegations set forth in the Formal Complaint to both parties (Complainant and Respondent). Such notice will be provided as soon as practicable, but no more than five (5) calendar days following the School's receipt of the Formal Complaint, absent extenuating circumstances. The Parties will be notified via their hmhn.org email account. The School will provide sufficient time for the Parties to review the Notice of Allegations and prepare a response before any initial interview. After the issuance of the Notice of Allegations, an investigator assigned by the Title IX Coordinator will conduct a thorough and fair investigation of the Covered Sexual Harassment allegations in a reasonably prompt timeframe.

How do I find an Advisor?

The Parties (Complainant and Respondent) have a right to select an Advisor of their choosing or the School will provide the Complainant and Respondent with one.

Who investigates the allegations, and how is that conducted?

A specially trained investigator(s) will be assigned to investigate the allegations of Covered Sexual Harassment in the Formal Complaint. The investigation will include interviewing the Complainant, Respondent, and witnesses, and gathering relevant evidence directly related to the Formal Complaint. The Title IX Coordinator will communicate regularly with the investigator(s) to ensure the investigation is thorough, impartial, and fair, and that the Parties are updated throughout the Procedure, including receiving notice of meetings and interviews. At the conclusion of the investigation, the investigator will prepare an Investigation Report that fairly summarizes the relevant evidence. The Investigation Report will be provided to the Parties at least ten (10) calendar days prior to the hearing in an electronic format or hard copy, for each Party's review and written response.

How is a decision made in a Formal Complaint?

The School will not issue a disciplinary sanction arising from any allegation of Covered Sexual Harassment without hold a live hearing. The Parties cannot waive the right to a live hearing although they can decline to participate. The School uses the preponderance of the evidence standard of proof for investigations and Determinations Regarding Responsibility for allegations of Covered Sexual Harassment in Formal Complaints filed under the Title IX Policy. This means determining that a fact is more likely than not to be true and that a violation of the Title IX Policy is more likely than not to have occurred. The School has the burden of gathering evidence and satisfying the burden or standard of proof.

I want to appeal the decision, do I have a right to?

Both the Complainant and the Respondent have a right to appeal the decision. There are two grounds for appeal:

- Significant procedural error that significantly impacted the outcome of the investigation.
- New information that was not available or known at the time of the investigation that could significantly impact the findings.

I made a formal complaint but I don't want to go through the hearing process. Is this possible?

An Informal Resolution process is available in all matters, except where a School employee is alleged to have committed Covered Sexual Harassment against a student. A Complainant may request an Informal Resolution when submitting the Formal Complaint. In addition, at any time prior to reaching a Determination Regarding Responsibility, either Party may request to stay the investigation and attempt an Informal Resolution. Upon a Party's request to attempt an Informal Resolution, the Title IX Coordinator will review the matter and determine whether an Informal Resolution is appropriate. The Parties' voluntary written Consent, together with the agreement of the Title IX Coordinator, is required to pursue an Informal Resolution.

Can an investigation be dismissed?

In the exercise of discretion, the Title IX Coordinator may dismiss a Formal Complaint or allegations in the Formal Complaint, at any time during the investigation or hearing, if:

1. Complainant notifies the Title IX Coordinator in writing that Complainant would like to withdraw the Formal Complaint or any allegations in the Formal Complaint;
2. Respondent is no longer enrolled at or employed by the School; or
3. If specific circumstances prevent the School from gathering evidence sufficient to reach a determination regarding the Formal Complaint or allegations in the Formal Complaint.

Is there a penalty for Title IX non-compliance?

Recipients (Schools) who fail to comply with Title IX could be sued in a court of law, and a court could issue a monetary judgment against the Recipient. Additionally, The Department of Education's Office for Civil Rights, could revoke a Recipient's federal funding or implement a resolution agreement, which the agency would then monitor for failure to comply with Title IX.
