

# **Title IX Coordinator Training Online Course**

## **Class Five: Title IX Training & Policies**

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December 8, 2022

PLEASE NOTE: Training Course Only. Does Not Constitute Legal Advice.

# Class Overview



- Audiences To Be Trained
- Elements of a Good Training Program
- Benefits and Perils of Trauma-Informed Training
- Auditing Training Materials
- Developing and Revisiting Policies
- Records Retention and Posting

# Who Do You Train?

# The Regulations (Title IX Personnel)

- Title IX Coordinators
- Investigators
- Decision-makers
- Anyone who facilitates an informal resolution process



# Consider Training Others, even though not Required by the Regulations

- Title IX staff who are not identified by the regulations
- Officials With Authority to take corrective measures
- Other individuals with the responsibility to report sexual harassment – former Responsible Employees
- Campus Safety Authorities (CSAs)
- The Campus Community
- Confidential employees

# And Athletics!



- NCAA Board of Governor's Policy:  
[https://ncaaorg.s3.amazonaws.com/ssi/violence/NCAA\\_CampusSexualViolencePolicy.pdf](https://ncaaorg.s3.amazonaws.com/ssi/violence/NCAA_CampusSexualViolencePolicy.pdf)
- [NCAA Sexual Violence Prevention Tool Kit](#)
- [Task Force Recommended Timeline](#) (PDF)
- [Task Force Recommended Checklist](#) (PDF)
- [Administrator FAQ](#)
- [Student-Athlete FAQ](#)

Access Sample Policies and Procedures:

- Select the “Membership” tab on [ncaa.org](https://ncaa.org).
- Select “My Apps” from the dropdown menu and log in using your affiliated credentials. *Note: If you do not have access to MyApps please contact your NCAA Applications Administrator at your school or conference to gain access.*
- Select the “Membership Secure Resources” icon.
- Review the legal disclaimer and view the current sample policies and procedures documents that are available.

**Annual Attestation Process Resources**

# NCAA Policy

- In August 2014, the NCAA's Board of Governors' (BOG) Executive Committee passed a resolution that specifies that appropriately addressing sexual violence is integral to responsible intercollegiate athletics programs.
- In 2016, the BOG appointed a Commission to Combat Campus Sexual Violence.
- The Commission recommended the BOG adopt an Association-wide policy to reinforce previous efforts of the Association in addressing campus sexual violence.
- Policy was originally adopted on 8/8/17.
- Since then, the Policy has been updated/revised three times (8/7/18, 4/28/20 and 4/27/21).
- The NCAA also produced a Toolkit in 2016, updated in 2019. \*

# NCAA Policy: Overarching Principles

1. Intercollegiate athletics departments should be informed on and integrated in overall campus policies and processes addressing sexual and interpersonal violence prevention and acts of sexual violence, particularly those related to adjudication and resolution of matters related to sexual and interpersonal violence.
2. Intercollegiate athletics departments should review annually the most current Checklist Recommendations of the NCAA Sexual Violence Prevention Toolkit, using it as a guide with resources to conduct ongoing, comprehensive education for student- athletes, coaches and athletics administrators.
3. Intercollegiate athletics programs should utilize their platform to serve as leaders on campus through engagement in and collaboration on efforts to support campus-wide sexual and interpersonal violence prevention initiatives. This includes involving student- athletes in prevention efforts in meaningful ways across the campus, including encouraging use of leadership roles on campus to support such efforts.

## **Required Annual Attestation Re: Training to be signed by University Chancellor/President, AD and Title IX Coordinator**

1. The athletics department is informed on, integrated in, and compliant with institutional policies and processes regarding sexual violence prevention and proper adjudication and resolution of acts of sexual and interpersonal violence.
2. The institutional policies and processes regarding sexual violence prevention and adjudication, and the name and contact information for the campus Title IX coordinator\*, are readily available within the department of athletics, and are provided to student- athletes.
3. All student-athletes, coaches and staff have been educated each year on sexual violence prevention, intervention and response, to the extent allowable by state law and collective bargaining agreements.

# **NCAA Policy Recent Additions to be Addressed in the Next Class**

# **Elements of a Good Training Program**

# Planning & Preparation

- Who must or will be trained and on what topics?
- Who will conduct training?
- What are the *most effective* and efficient methods of training?
  - In person, hybrid or virtual
  - Combination or by constituent groups
  - Timing
- What training resources are available, including internal?
- What are campus priorities with respect to training/education?
- How will you address issues of bias and avoid stereotypes?

# Required Training

A school must ensure that Title IX Personnel receive training on:

- the definition of sexual harassment;
- the scope of the institution's education program or activity;
- how to conduct an investigation and the grievance process including hearings, appeals and informal resolution processes, as applicable; and
- how to serve impartially

# Required Training

Title IX Personnel training continued:

- Avoiding prejudgment of the facts at issue, conflicts of interest and bias.
- The impact of intersections of identity: sex, race, ethnicity, sexual orientation, gender identity, disability or immigration status, financial ability, or other characteristic.
- Implicit bias.

# Required for Investigators



- Conducting a fair and thorough investigation.
- Determining relevance in order to prepare an investigative report that fairly summarizes relevant evidence.

# Required for Informal Resolution Facilitators



- How to conduct informal resolution processes. (85 FR 30405)
- Document or make public?

# Required for Decision-makers:



- Training on any technology to be used at a live hearing.
- Training on issues of relevance, including how to rule on evidence during a hearing and how to apply the rape shield protections provided only for complainants.
- Include training around the presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

# Other Training Topics

Investigator	Decision-maker
<ul style="list-style-type: none"><li>• Questioning</li><li>• Institutional policies</li><li>• Responsibility for proposed findings and conclusions</li><li>• Redacting privileged information</li><li>• Coordinating investigation with supportive measures</li></ul>	<ul style="list-style-type: none"><li>• Managing the process</li><li>• Hearing protocol</li><li>• Institutional policies</li><li>• Questioning</li><li>• Preparing findings and conclusions</li></ul>

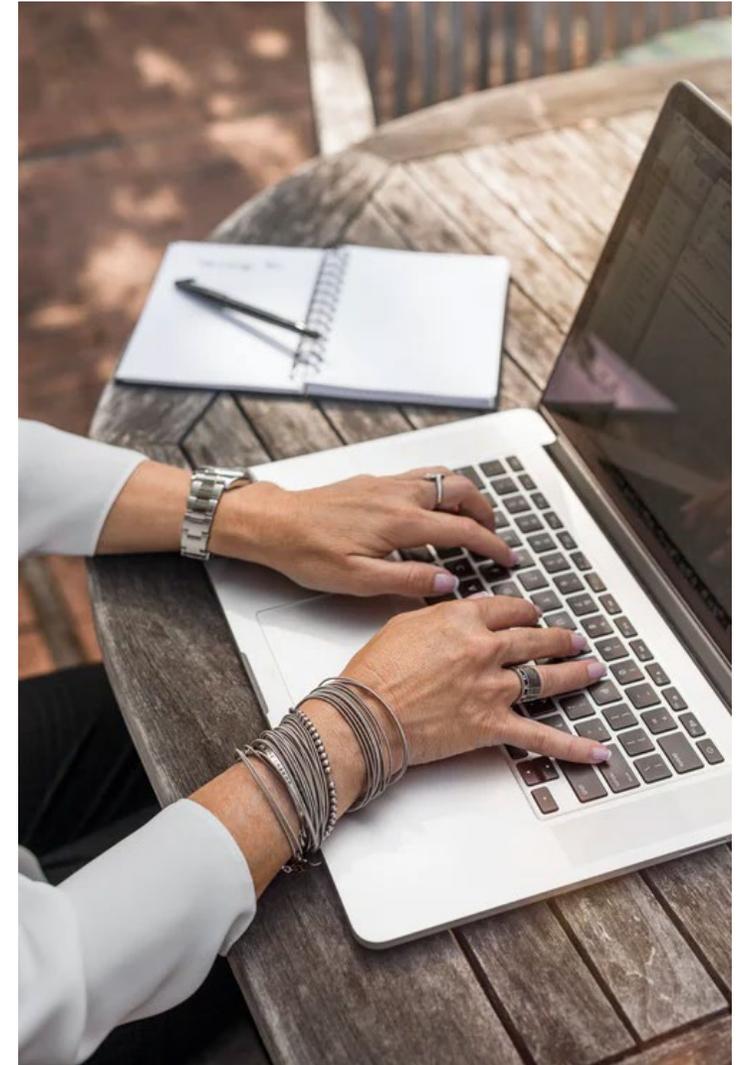
# The Investigative Report



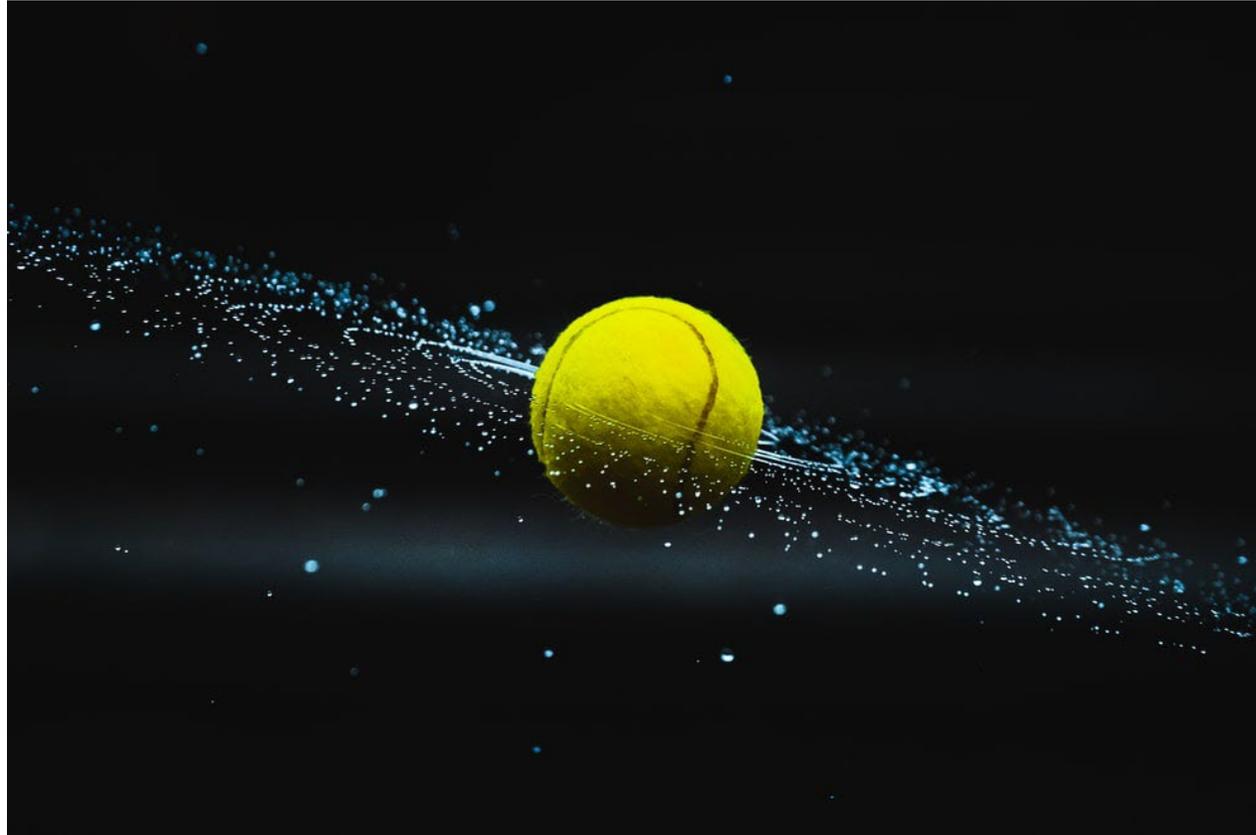
- Defines the investigator's role
- Reports the material facts
  - Context matters
  - Facts not opinion
- Identifies any gaps
- Keep a neutral voice

# Training Transparency

- Post all training materials for Title IX personnel on publicly available website. (If no website, then make materials available for members of the public to inspect.)
- Ensure the materials posted are up-to-date, reflecting the most current training provided.



# And Athletics!



# **Benefits and Perils of Trauma- Informed Training**

# How to Be Fair to All

Benefits	Perils
<ul style="list-style-type: none"><li>• May help those interviewed retrieve memories</li><li>• May help those interviewed stick with the process.</li><li>• May prevent re-traumatizing witnesses</li></ul>	<ul style="list-style-type: none"><li>• May be perceived to favor Complainants</li><li>• May be perceived as less intense questioning or cross-examination of witnesses</li><li>• May be misused by untrained questioners</li></ul>

# **Auditing Training Materials**

# When & What to Audit

- Who was trained
- Was training effective
  - Measured outcomes
  - Observed outcomes
- How often to monitor
- Documenting monitoring



**Policies:  
Management,  
Notice, and  
Some  
Reminders**

# Managing the Policies

Developing policies	Monitoring policies
<ul style="list-style-type: none"><li>• Existing institutional policies</li><li>• Existing laws, agreements &amp; practices</li><li>• Identify conflicts and concurrences and harmonize or change</li><li>• <i>Include stakeholders</i></li></ul>	<ul style="list-style-type: none"><li>• Changes in law, regulations, guidance or institutional needs</li><li>• Changes in related laws or guidance, e.g. FERPA, state APA</li><li>• Effectiveness</li><li>• <i>Include stakeholders</i></li></ul>

# Notification and Dissemination

- Title IX Coordinator contact info must be distributed and prominently displayed on the institution website, and in each handbook or catalog made available to applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, employees, and all unions or professional organizations with CBAs.
- Nondiscrimination Policy, stating:
  - that the institution does not discriminate on the basis of sex in education programs or activities it operates.
  - That the institution is required by Title IX not to discriminate.
  - That the institution's nondiscrimination policy extends to admission and employment.
  - That inquiries about the application of Title IX may be referred to the school's Title IX Coordinator, to OCR, or to both.

# Adopt & Publish

- Adopt and publish:
  - grievance procedures that provide for the prompt and equitable resolution of student *and* *employee* complaints alleging *any* action prohibited under Title IX.
  - a grievance process that complies with 106.45 for formal complaints as defined in 106.30.

## Notice

**WHAT:** Notice of the school's grievance procedures and grievance process, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how the school will respond.

**TO WHOM:** applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the school.

# Policy Decision Point: Framework

## All-in-One Policy:

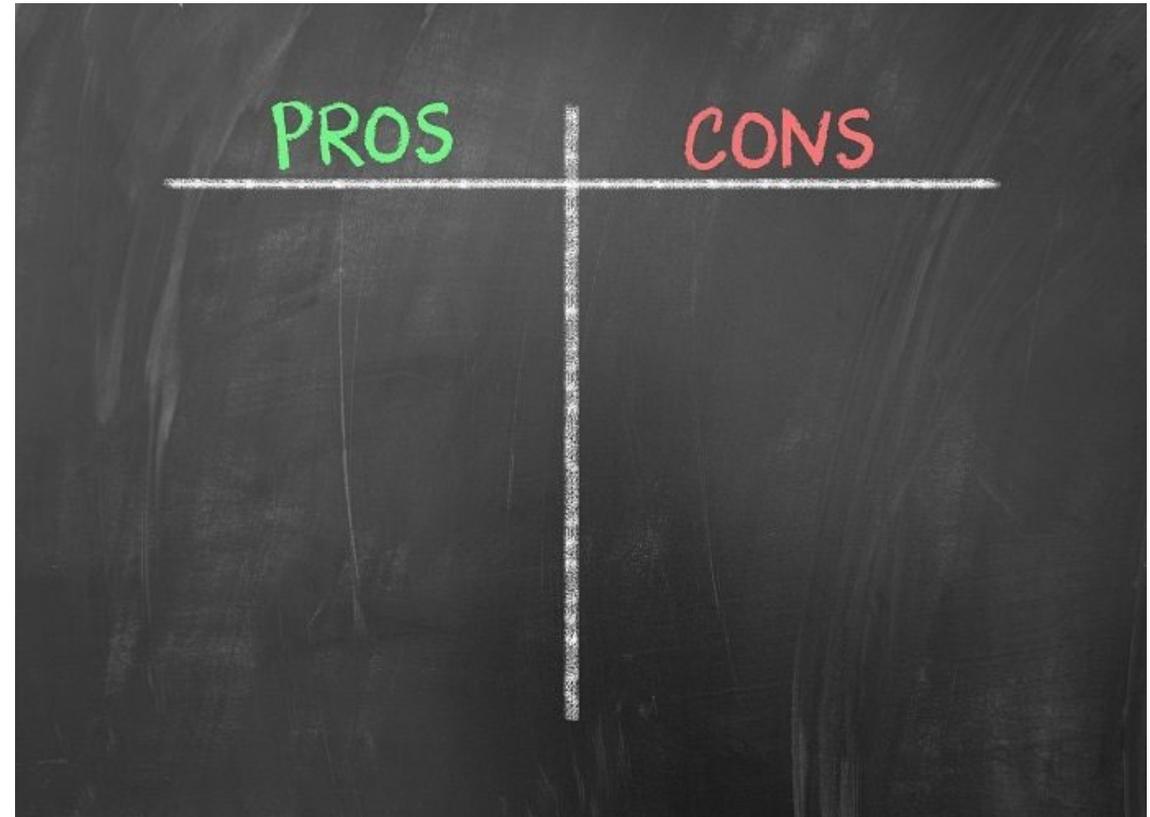
1. Treat all the Same; or
2. Decision Trees

## Two Policies: If not TIX, then ...

1. Title IX Regulation+
2. Everything Else

## Three plus:

1. TIX Regulation Conduct
2. Other Sexual Misconduct
3. Other Prohibited Conduct



# Policy Definitions (examples)

- Title IX Coordinator
- Officials with Authority
- Other Reporters, if any.
- Confidential Resources
- Knowledge
- Complainant/Respondent
- Supportive Measures
- Formal Complaint
- Prohibited Conduct
  - Sexual Harassment
  - Sexual Assault
  - Dating Violence
  - Domestic Violence
  - Stalking
- Consent
- Informal Resolution
- Evidence
  - Directly Related
  - Relevant
  - Weight
- Standard of Review
- Deliberate Indifference
- Education Program or Activity
- Emergency Removal

# FOCUS

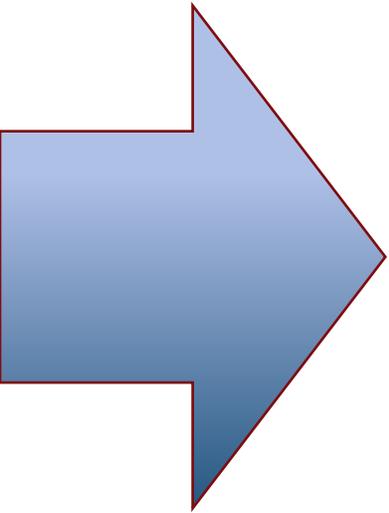
## **Please Note:**

Where there is a conflict between State or local law and Title IX regulations, Title IX regulations win.

# Don't Forget Clery ...

## Annual Security Report Policies

- Description of proceedings and processes for filing and handling complaints of sexual assault, dating violence, domestic violence and stalking.
- The standard of evidence used in disciplinary actions for covered offenses.
- List of possible sanctions for covered offenses.
- Range of protective measures available to victims.
- Assurances that proceedings will be prompt, fair, impartial & conducted by trained officials.
- Equal opportunity for parties to have an advisor chosen by the party.
- Simultaneous notification of result, process for appeal and when final.
- Description of primary prevention and awareness programs.
- Procedures for victims to follow if a covered crime occurs.
- Notification of services and accommodations for victims



# Record Retention 7 Years



- **For formal complaints:**
  - Investigation
  - Determination of responsibility
  - Transcripts or recordings of hearings
  - Sanctions and/or Remedies, if any
  - Appeal, if any, and result
  - Informal resolution and result, if any
- **For all reports, regardless of whether there is a formal complaint:**
  - Actions taken and supportive measures, if any, provided in response to a formal complaint.
  - Basis for a determination that the institution was not deliberately indifferent.
  - Measures to restore or preserve equal access or reasons why not providing support was not clearly unreasonable under the circumstances.
- **All training materials for Title IX personnel**

# And Athletics!





# Proposed Changes

## Required to train all employees

- When they must notify the Title IX Coordinator about sex discrimination
- How students can report sex discrimination
- The scope of conduct that constitutes sex discrimination

Title IX Coordinator required to monitor for barriers to reporting

Training for employees who have responsibility related to grievance procedures or supportive measures:

- Specific topics & institution obligations
- Grievance procedures
- Serving impartially
- Relevance

Training related to informal resolution for facilitators

Identify and train all confidential employees

**Questions?**

# Note

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