

Title IX – Lessons Learned

Megan Farrell, Title IX Consult LLC

Erin Ferrara, Champlain College

Celeste Bradley, Institutional Compliance Solutions



Presenters



Megan Farrell
Title IX Consult, LLC



Erin Ferrara,
Champlain College

Celeste Bradley
Institutional Compliance Solutions



Overview

Review of the Current 2020 Regulations

Campus Experiences

What Should Stay or Go

What Draft of New Regulations Indicate

Questions and Answers



Review of 2020 Regulations

Proscribed process

Limited jurisdiction

Sexual Harassment Definitions

Investigation Process

Separation of Investigator and Decision-Maker

Hearings

Grounds for Appeal



Part I - Regulation Specifics

1. Jurisdiction
2. Offer of Process
3. Definitions
4. Notice of Allegations



Which Best Practices Should Survive?

Experience Has Demonstrated

- A reasonable limitation on jurisdiction, but . . .
- Action permitted without formal complaint
- A universally accepted definition of hostile environment
- NOA is too much info

New Regulations

- Jurisdiction will expand
- Informal resolution will be permitted
- Hostile environment definition will be expanded
- NOA may not be required in all instances



Part II - Regulation Specifics

1. Investigation Process
 - Separation of Investigator and Decision-Maker
2. Timelines for Review
3. Sharing of Full Investigation File
4. Sharing of Draft and Final Investigation Report



Investigation

- Provide party with a description of evidence and opportunity to respond
- Process to adequately assess the credibility of parties/witnesses
- Separate Investigator/DM/Coordinator



Formal Title IX Grievance Process for Investigations

1. Investigate
2. Opportunity to inspect and review evidence related to the allegations and provide written response – 10 days
3. Investigative Report
4. Opportunity to review final report and provide written response – 10 days
5. Hearing
6. Appeal



Which Best Practices Should Survive?

Experience Has Demonstrated

- Training for all participants
- Review periods are needed
- Need to streamline the process

New Regulations

- Expanded training
- No determination of review periods going forward
- Single Investigator model . . . For some institutions
- Less Prescriptive Process



Part III - Regulation Specifics

1. Advisor Role
2. Hearing
3. Appeal



Which Best Practices Should Survive?

Experience Has Demonstrated

- Advisors add the formality of the process and may interfere
- Hearings have had negative impact, particularly on smaller institutions
- Adding other grounds for appeal unusual

New Regulations

- Advisor will continue in the process
- Hearings may be voluntary
- Fairly consistent grounds for appeal



Impact of Hearing Requirement

- Negative impact on willingness of Complainants to file
- Student experience of hearings have been negative, and when shared broadly, lowered:
 - Number of complainants received
 - Willingness to proceed formally (and potentially informally)
- Large financial burden on the Title IX Office
- Counter to institution culture



Questions?

