



TITLE IX: GENERAL OVERVIEW

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WHAT WILL BE COVERED

Introduction

What is Title IX

Reporting and Response

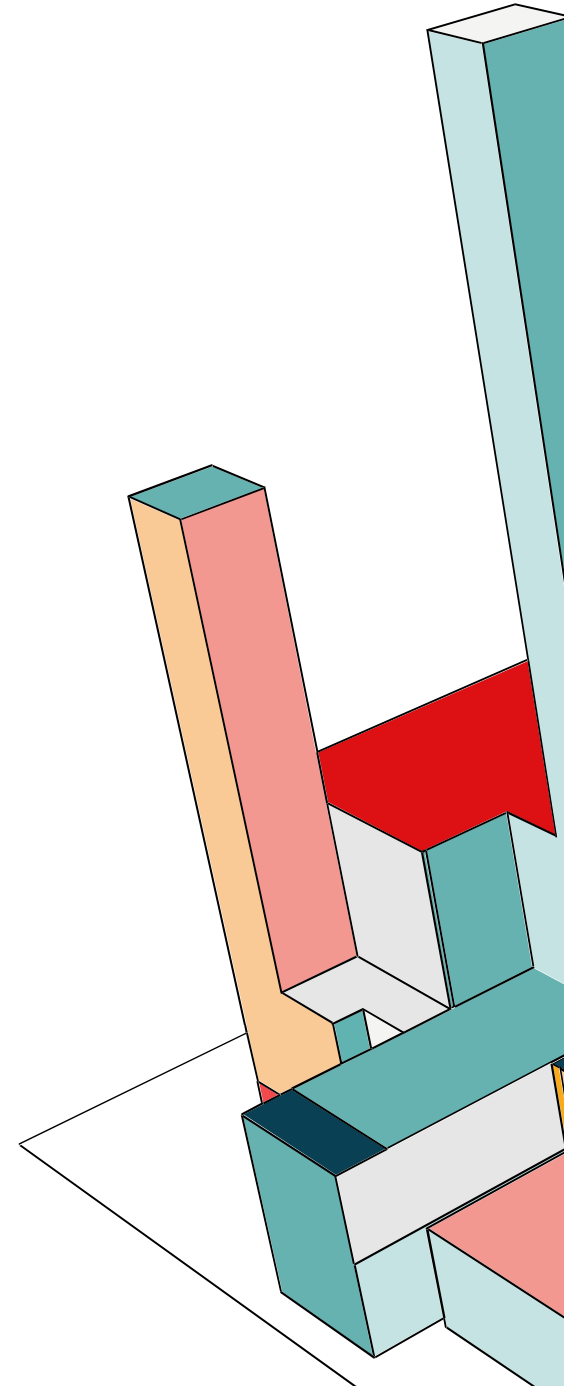
Resources



INTRODUCTION

The goal of today is to understand:

- The history of Title IX
- Applicable laws and policies
- Prohibited conduct
- What if conduct is outside Title IX definition
- Who is mandated to report
- How do we respond as a campus
- Resources that are available
- Pregnancy accommodations





WHAT IS TITLE IX

History and Definitions

HISTORY

“No person in the United States shall, on the basis of sex, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

Title IX of the Civil Rights Act was signed into law on June 23, 1972

- Congress enacted the Title IX Education Amendment of 1972
- Supreme Court in 1984 applied Title IX to any educational institution receiving federal aid
- The US Department of Health, Education and Welfare (Dept of Ed) implemented file a document ensuring compliance
- Civil Rights Restoration Act which defines campus program or activity as all operations of an institution
- 1978 Courts and federal rules added unwanted sexual advances and harassment (Alexander v. Yale case) Further broadened by David v. Monroe County Board of Education which officially expanded Title IX to cover sexual harassment for students and all staff
- 1980 – The Office of Civil Rights is given authority to oversee Title IX
- Davis v. Monroe
- 2011 OCR issues Dear Colleague
- 2017 New Administration issued Dear Colleague and rescinded 2011
- 2020 New Federal Title IX Regulations were implemented
- 2024 New Federal Title IX Regulations were implemented
- 6 Federal Courts have granted injunctions – 24 states and over 700 Institutions

OTHER LAWS, REGULATIONS AND POLICIES

1. Violence Against Womens Act
2. Jeanne Clery Act
3. Federal Pregnant Workers Fairness Act
4. The Fair Labor Standards Act - PUMP Act
5. California Code of Regulations Title 5
6. AP/BP 3434
7. AP/BP 3410
8. AP/BP 3430
9. AP/BP 3540
10. AB 493
11. Student Conduct Policies
12. Collective Bargaining Agreements

PROHIBITED CONDUCT

Quid Pro Quo

Sexual Harassment – So severe, pervasive and objectively offensive

Sexual assault (contact and penetration), domestic violence, dating or intimate partner violence, and stalking

SEXUAL HARASSMENT

2020 Title IX Regulations use Sexual Harassment as an umbrella term and create three groups:

Conduct on the basis of sex that occurs in education program or activity* against a person in the United States and that satisfies one or more of the following:

- (1) An employee or agent conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct;
- (2) 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 education program or activity; or
- (3) Sexual Assault, Dating Violence, Domestic Violence, or Stalking

***Campus Program or Activity** = locations, events or circumstances over which the campus operates substantial control over the accused and the contact in which the prohibited conduct occurs. This does not mean all off-campus activity does not apply! Could also include electronic communications.

SEXUAL HARASSMENT

Prior to 2020

Title IX 2020

Title IX 2024

Sufficiently Serious

So severe + Pervasive
+ Objectively Offensive

Sex-Based Discrimination and Sex-Based Harassment. Added Hostile Environment which states unwelcomed conduct, based on totality of the circumstances is subjectively and objectively offensive and is so severe or pervasive that it limits or denies ability to participate

SEXUAL ASSAULT

- Rape – Carnal knowledge of a person without their consent. Penetration.

Penetration

- Any form of vaginal, oral, or anal sexual intercourse, or the use of an object to penetrate the genital or anal opening of another person

Contact

- Any sexual touching, including touching under or over clothing, or making another person touch their body parts

CONSENT

- Affirmative consent
- Conscious
- Voluntary
- Both parties
- Can be withdrawn at any time
- Silence does not indicate consent
- Parties dating status does not automatically mean consent
- Reasonable person standard – knew or reasonably should have known

DOMESTIC VIOLENCE OR DATING VIOLENCE

Dating Violence

- The term dating violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

Domestic Violence

- The term domestic violence covers felony or misdemeanor crimes of violence committed by a current or former spouse or by a person with whom the victim shares a child in common or is cohabiting with as a spouse and intimate partner or otherwise protected as a spouse or family member under state law.

STALKING

Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

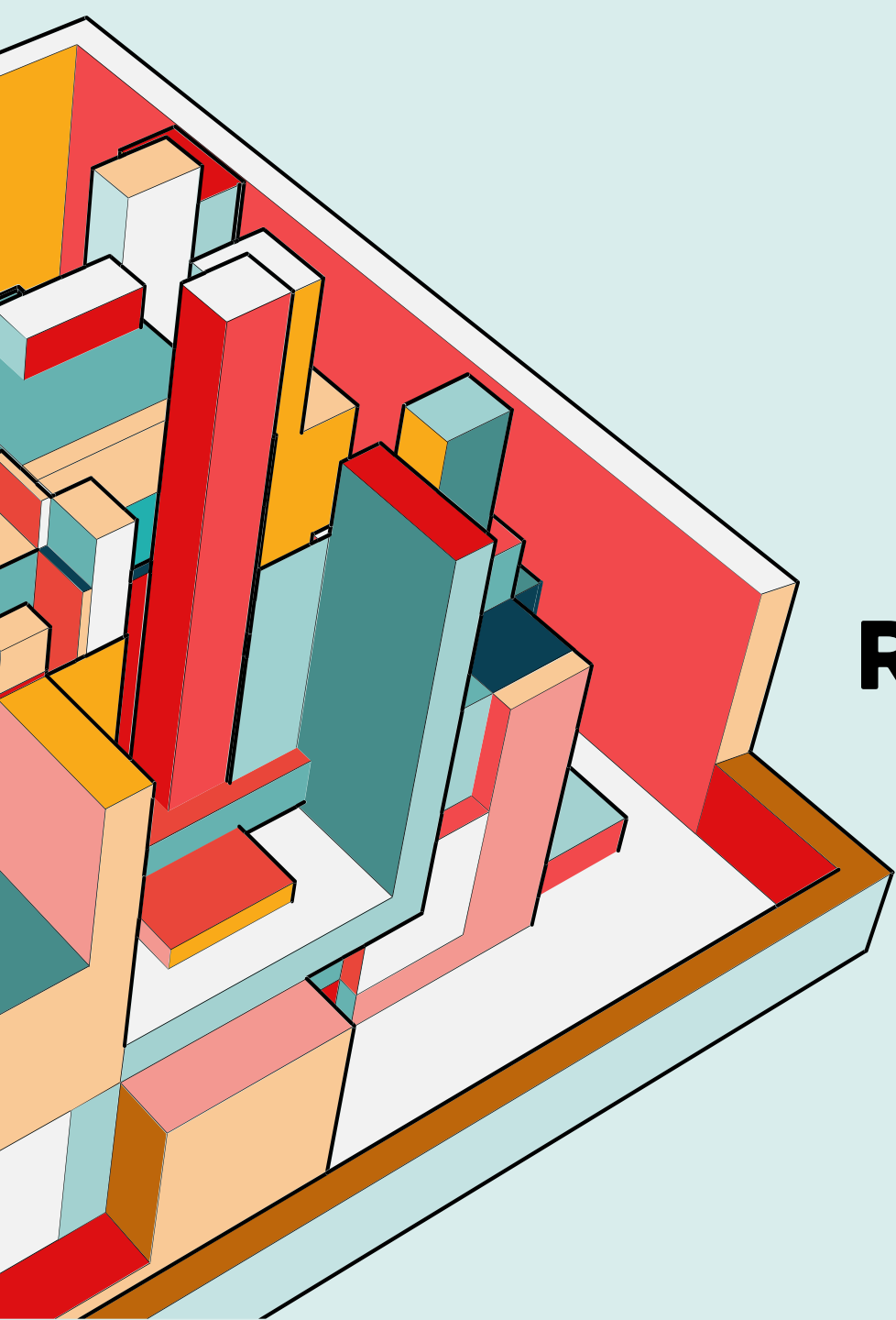
- Fear for the person's safety or the safety of others; or
- Suffer substantial emotional distress.

QUID PRO QUO

Quid pro quo harassment. An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under the recipient's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.

ADDITIONAL DEFINITIONS UNDER AP 3434

- Sex offenses – any sexual act directed at another person without their consent or incapable of giving consent
- Statutory Rape- non-forcible intercourse with a person under the statutory age of consent.
- Sodomy – Oral or anal sexual intercourse with another person without their consent
- Sexual Assault with an Object – Use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of a body. This includes digital penetration.
- Fondling – Touching of the private body parts of another for purposes of sexual gratification without consent
- Incest – non-forcible sexual intercourse between related persons



REPORTING AND RESPONSE

REPORTS

- Members of the MiraCosta College campus community or external individuals can file a report
- Reports are reviewed and assessed...If true meets the definition...
- Outreach is done to the parties to see how they wish to proceed and what support they may need
- Outreach is done by Title IX Coordinator regardless of the jurisdiction over the potential Respondent

MANDATED REPORTERS

- Actual Knowledge standard
- Officials with authority to take action or someone a student could reasonably believe to have authority to respond – duty to report to Title IX Coordinator
- Not confidential
- MiraCosta College defines these as
 - Superintendent/President
 - Vice Presidents
 - Associate Vice Presidents
 - Deans
 - Associate Deans
 - Directors
 - Associate Directors
 - Police and Campus Safety employees
 - Program Managers and Supervisors
 - All Title IX Staff
 - Lead Classified Employees
- Report all relevant information – need to disclose to whoever informed you that you will be disclosing to Title IX Team

CONFIDENTIAL EMPLOYEES/RESOURCES

- Pastoral Counselors
- Mental health counselors/psychologists/psychiatrists
- Medical professionals such as doctors or nurses
- Do not have a mandate to report
- If information is disclosed while operating within these roles
- For employees: Healthy Adventures Foundation
- Students: Counseling Services

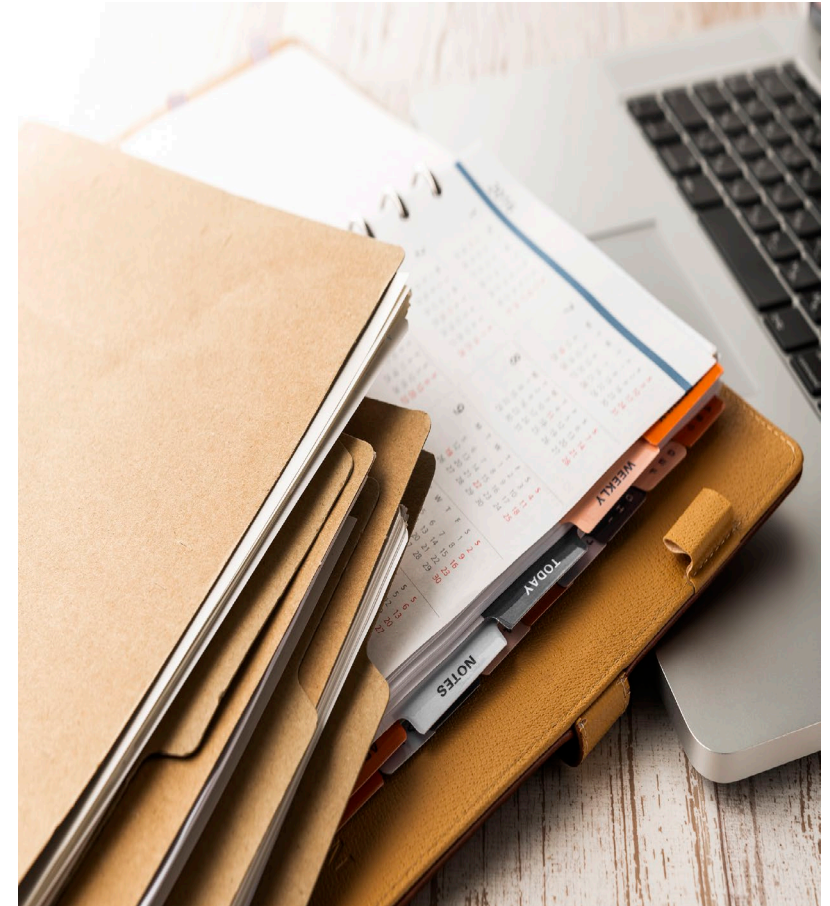
TITLE IX: FORMAL GRIEVANCE PROCESS

- Report
- Outreach and supportive services – intake
- Formal complaint
- Investigation
- Send NOIA to parties
- Collect all evidence
- Speak with witnesses
- Send evidence to parties for review and response
- Draft Investigative Report
- Send Report to parties for response
- Schedule hearing or provide information to Decision Maker
- Hearing
- Decision Maker renders finding of Responsibility and when appropriate, sanctions/penalties
- Appeals of findings



TITLE IX: COMPLAINT

- Formal Complaint in writing and not anonymous
- Informal Resolution
- Not a formal complaint but supportive services
- Anonymous complaints
- Complaint signed by a Title IX Coordinator
- Mandatory and Discretionary Dismissal



INITIAL MEETING AND/OR OUTREACH

- Must cover
- Title IX Coordinator contact information
- The applicable policies
- Rights under the policies
- Supportive services available to them and how to request them (in writing)
- Options under the policies
- Informal Resolution

INVESTIGATION MEETINGS WITH PARTIES

- Advisor of choice
- District must provide Advisor if either party does not have one- for purposes of a hearing and cross-examination
- Supportive Persons
- Restrictions for Advisors and Supportive Persons (potted plant)

NOIA- NOTICE OF INVESTIGATION AND ALLEGATIONS

- Issued by the Title IX Coordinator
- Must include
 - notice of allegations (summary), named complainant, policy/policies implicated, link to grievance process and rights, statement about presumption of innocence, right to Advisor of choice, evidence submission and review, informal resolution, retaliation prohibition, false reports or statements prohibition, supportive services.
- Can be amended
- Consolidation of complaints

DISMISSALS

Mandatory	Discretionary
If the allegations, if true, do not meet the definition of Title IX prohibited conduct	The Complainant withdraws their formal complaint (in writing)
Not within a campus program or activity	Respondent is no longer enrolled or employed
Not against a person within the United States	Circumstances exist which prevent the institution from gathering evidence to reach determination of allegations

Note: All parties must be notified of dismissal by the Title IX Coordinator, in writing. Have a right to appeal.

EVIDENCE: PRIVACY AND CONFIDENTIALITY

- Parties and Advisors must sign the be provided evidence
- Protects privacy of all parties
- Evidence that includes legally protected information such as medical diagnosis or treatments, spousal privilege, etc.) will not be included unless party waives privilege in writing



BIAS OR CONFLICT OF INTEREST

- Must be impartial
- Avoid pre-judgment
- Equitable treatment of all parties
- Parties can raise conflict of interest or bias complaints against Title IX Coordinator, Deputy Title IX Coordinators, Investigators, Decision Makers, Advisors, Hearing Panels
- Relationship
- Family
- Past bias or statements that show bias
- Prior investigation

SUPPORTIVE SERVICES



- Mutual No-Contact Orders (certain requirements in notice)
- Adjustment of class schedules
- Adjustment of work schedules
- Academic accommodations
- Counseling and wellness services
- Public safety escorts
- Extra patrols
- SAS - Student Accessibility Services
- CARE Team

INTERIM MEASURES

Risk and safety assessment must be done by Title IX Coordinator, BIT team and HR (when applicable)

Must memorialize why, based on risk assessment

Students

- Emergency Removal (Notice + Opportunity for meeting to challenge)

Employees

- Paid administrative leave (Notice and processes issued by HR in accordance with their policies)
- Unpaid administrative leave (Notice and processes issued by HR in accordance with their policies)

CONTEMPORANEOUS INVESTIGATIONS BY LAW ENFORCEMENT

- Cooperate with law enforcement
- Respond to subpoenas
- Title IX process cannot hinder legal proceedings
- Permission of the Complainant
- If asked to delay Title IX investigation need in writing
- Work with campus to implement Orders of Protection or Restraining Orders
- Will inform campus police for Clery requirements
- Timely Notice issued by campus police

TRAININGS

- Employee training
- Student training
- Cohort trainings
- Title IX annual trainings for investigators and key stakeholders



PREGNANCY ACCOMMODATIONS

Students, employees and visitors

UNDER TITLE IX

- Schools must not discriminate against any student, or exclude any student from their education program or activity, including any class or extracurricular activity, based on a student's pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom
- A school also must not discriminate against or exclude from employment any employee or employment applicant on these bases
- Needs to provide the same as any other temporary disability
- Title IX protects students against harassment by school employees or other students because of their pregnancy and related conditions

ADDITIONAL LAWS

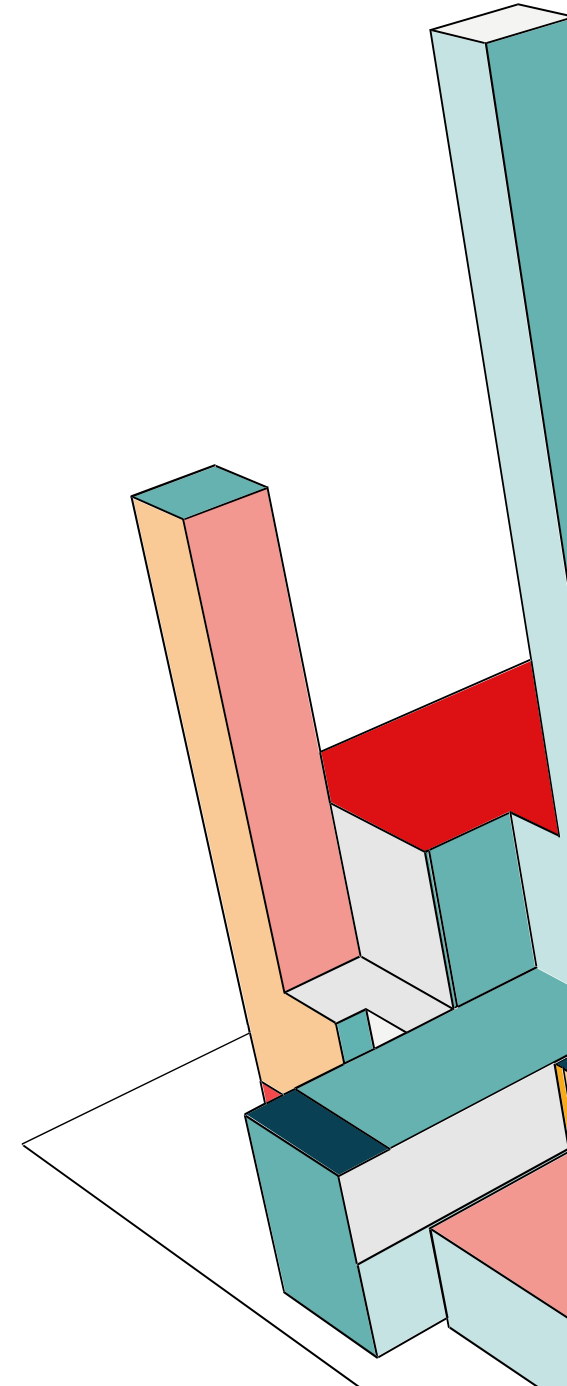
Pregnant Workers Fairness Act

PUMP ACT

Lactation Space

California Employment and Fair Housing Law

QUESTIONS AND ANSWERS



THANK YOU

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