



## Higher Education Checklist

# Title IX-Compliant Sexual Harassment Grievance Procedures

---

*The Department of Education (ED) implemented final regulations under Title IX of the Education Amendments of 1972, which forbids sex discrimination, including sexual harassment, by educational institutions that receive federal financial assistance.*

The regulations represent a major shift from prior guidance on administrative enforcement; while they narrow the definition of “sexual harassment” to which a school must respond under Title IX, they also impose highly prescriptive requirements for investigating and adjudicating matters that fall under Title IX’s jurisdiction.

United Educators (UE) created this checklist and a companion checklist, **Title IX-Compliant Policies Against Sexual Harassment in Higher Education**. Higher education members should use the checklists together to help ensure compliance with numerous mandates in the regulations.

## Compliance with Other Laws

These checklists specifically address the obligation to prevent and respond to sexual harassment of students and employees under Title IX only, but institutions also must comply with other requirements governing sex discrimination and sexual harassment under federal law — primarily Title VII of the Civil Rights Act (for employees) and the Violence Against Women Act of 2013 (VAWA) (for students and employees) — and state laws (including state mandatory reporting laws and criminal laws regarding

sexual abuse of minors). VAWA, for example, imposes training mandates that are broadly similar but not identical to Title IX training requirements under the Title IX regulations. Institutions must comply with both.

Although ED takes the position that the final Title IX regulations don't impair institutions' ability to comply with other federal laws, it explicitly states that the final regulations pre-empt conflicting state laws. Public institutions and those with collective bargaining agreements or binding faculty handbook provisions may face additional competing legal or contractual requirements.

UE strongly recommends that institutions consult experienced counsel about their compliance obligations under all applicable laws and agreements and how to coordinate the institutional response to sexual harassment, particularly if other requirements may be inconsistent with Title IX regulations.

## Terminology

This checklist adopts the terms and definitions the final regulations use. Accordingly, "complainant" refers to an alleged victim of sexual harassment and "respondent" to an alleged perpetrator of sexual harassment, regardless of whether a formal complaint exists. Similarly, the checklist follows the final regulations in referring to the official presiding over Title IX hearings and making the determination regarding responsibility as the "decision-maker" (singular, but depending on the institution, this could mean one or more people).

## Sexual Harassment Outside Title IX Parameters

While the regulations redefine sexual harassment and limit the conduct that can (and must) be addressed under Title IX, they also make clear that institutions are free to address sexual harassment that falls outside Title IX — such as alleged harassment off campus, including in study abroad programs — under other policies or codes of conduct.

For each item in the checklist, check the appropriate box ("Yes," "No," or "N/A (Not Applicable)") and note any additional needed actions in the space to the right.

### General Principles

#### Equitable Process and Treatment of Parties

Does your institution's Title IX grievance procedure state that:

- All relevant evidence, both inculpatory and exculpatory, will be evaluated objectively?  Yes  No  N/A

- Credibility determinations won't be based on a person's status as a complainant, respondent, or witness?  Yes  No  N/A

Does your institution's grievance procedure explain that:

- The burden of proof and burden of gathering evidence sufficient to reach a determination are always on the institution, not the parties?  Yes  No  N/A

- Your institution won't restrict either party's ability to discuss the allegations under investigation or (if they wish) to gather and present relevant evidence?  Yes  No  N/A

#### Actions Needed

- For each formal complaint, the decision-maker won't be the Title IX coordinator or the investigator?  Yes  No  N/A

**Does your institution treat complainants and respondents equitably in the grievance process, including by providing remedies to a complainant when a respondent is determined responsible for sexual harassment, which:**

- Are designed to restore or preserve equal access to an education program or activity?  Yes  No  N/A

- May include supportive measures (as described below)?  Yes  No  N/A

- May be disciplinary or punitive and may impose a burden on the respondent?  Yes  No  N/A

**Does your institution follow a grievance procedure that complies with the regulations' requirements before imposing any disciplinary sanctions or taking other actions that don't constitute supportive measures (as described below), on a respondent?**

- Yes
- No
- N/A

**Does your institution endure that if it adopts grievance process rules or practices beyond those the final regulations mandate (including restrictions on advisors' participation or rules governing hearings, such as requiring respectful conduct or placing reasonable time limitations on them), they apply equally to both parties?**

- Yes
- No
- N/A

**Confidentiality**

**Except as the Family Educational Rights and Privacy Act (FERPA) permits, as required by law, or to carry out the purposes of the regulations (including conducting an investigation, hearing, or judicial proceeding), does your institution keep confidential the identity of:**

- Any person who makes a report or complaint of sex discrimination, including a report or formal complaint of sexual harassment?  Yes  No  N/A

- Any complainant?  Yes  No  N/A

- Any person who is reported to be the perpetrator of sex discrimination?  Yes  No  N/A

- Any respondent?  Yes  No  N/A

- Any witness?  Yes  No  N/A

**Does your institution keep confidential the supportive measures it provides to the parties (as described below), except as necessary to facilitate the measure provided (such as informing the other party of the imposition of a no-contact order)?**

- Yes
- No
- N/A

## Conflict of Interest and Bias

## Actions Needed

Does your institution ensure that any person who serves in the following roles for a Title IX matter has no conflict of interest or bias for or against complainants or respondents either generally or in the particular matter:

• Title IX coordinator?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
• Investigator?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
• Decision-maker?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
• Facilitator for any informal resolution process offered?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
• Appeal Officer?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
Does your institution provide a mechanism at appropriate points during the grievance process for the parties to raise claims that people serving in these roles have an impermissible conflict of interest or a bias?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A

## Response to Initial Report/Allegations of Sexual Harassment

### Title IX Coordinator's Obligation

Does your institution require that when the Title IX coordinator receives or becomes aware of a report or allegation of sexual harassment from any source, the Title IX coordinator will:

• Promptly contact the complainant to explain the availability of supportive measures, including that the measures are available regardless of whether a formal complaint is filed?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
• Consider the complainant's wishes regarding supportive measures?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
• Explain the option of and process for filing a formal complaint?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
• Document the complainant's decisions regarding supportive measures and filing a formal complaint?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
• If the complainant doesn't wish to file a formal complaint, evaluate whether the Title IX coordinator must sign a formal complaint based on the known information because failing to do so would be clearly unreasonable under the circumstances?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A

## Supportive Measures

## Actions Needed

Regardless of whether a formal complaint is filed, does your institution offer the parties supportive measures, which may include:

- |  |  |
|--|--|
| • Counseling?  | <input type="radio"/> Yes<br><input type="radio"/> No<br><input type="radio"/> N/A |
| • Deadline extensions or other course-related adjustments?       | <input type="radio"/> Yes<br><input type="radio"/> No<br><input type="radio"/> N/A |
| • Modifications to work or class schedules?                      | <input type="radio"/> Yes<br><input type="radio"/> No<br><input type="radio"/> N/A |
| • Campus escort services?  | <input type="radio"/> Yes<br><input type="radio"/> No<br><input type="radio"/> N/A |
| • Changes in work or housing locations?                          | <input type="radio"/> Yes<br><input type="radio"/> No<br><input type="radio"/> N/A |
| • Leaves of absence?   | <input type="radio"/> Yes<br><input type="radio"/> No<br><input type="radio"/> N/A |
| • Increased security and monitoring of certain campus locations? | <input type="radio"/> Yes<br><input type="radio"/> No<br><input type="radio"/> N/A |
| • No-contact directives?   | <input type="radio"/> Yes<br><input type="radio"/> No<br><input type="radio"/> N/A |

Does your institution offer supportive measures to both the complainant and respondent:

- |   |  |
|---|--|
| • As non-disciplinary, non-punitive services available to each party, without unreasonably burdening the other? | <input type="radio"/> Yes<br><input type="radio"/> No<br><input type="radio"/> N/A |
| • As appropriate and as reasonably available?   | <input type="radio"/> Yes<br><input type="radio"/> No<br><input type="radio"/> N/A |
| • At no cost to the parties?  | <input type="radio"/> Yes<br><input type="radio"/> No<br><input type="radio"/> N/A |

## General Procedural Requirements

### Time Frames

Has your institution established and stated in its Title IX grievance procedure:

- |   |  |
|---|--|
| • A “reasonably prompt” typical time frame to complete the investigation and grievance process from the filing of a formal complaint through issuing a written determination on responsibility? | <input type="radio"/> Yes<br><input type="radio"/> No<br><input type="radio"/> N/A |
| • The time period for filing an appeal?   | <input type="radio"/> Yes<br><input type="radio"/> No<br><input type="radio"/> N/A |

• The time period from filing to concluding an appeal by issuing a written appellate determination?  Yes  
 No  
 N/A

• The applicable time period for an informal resolution process (if the process is available)?  Yes  
 No  
 N/A

**Does your institution:**

• Have an established and published mechanism to provide a limited extension to its typical time frames in specified circumstances where good cause (such as the absence of a party, advisor, or witness; the need for language interpreters or disability accommodations; or concurrent law enforcement activity) exists?  Yes  
 No  
 N/A

• Give both parties written notice of the reasons for any such delays?  Yes  
 No  
 N/A

**Advisors: Roles and Limitations**

**Does your institution’s grievance procedure explain that each party has the right to name an advisor of the party’s choice, who:**

• May be, but need not be, an attorney?  Yes  
 No  
 N/A

• May accompany the party to any meeting or proceeding related to the matter?  Yes  
 No  
 N/A

• Will conduct cross-examination on the party’s behalf at the hearing?  Yes  
 No  
 N/A

**Does your institution’s grievance procedure state that if a party does not name its own advisor, your institution will provide an advisor of its choice for the limited purpose of conducting cross-examination at a hearing?**  Yes  
 No  
 N/A

**Has your institution:**

• Determined whether it will restrict the participation of advisors in meetings or proceedings (apart from their responsibility for cross-examination at the hearing), such as by limiting advisors’ ability to speak?  Yes  
 No  
 N/A

• If it has made this determination, spelled out any such restrictions in the grievance procedure and ensured they apply equally to the parties’ advisors?  Yes  
 No  
 N/A

• Established and included in its procedures the general rules of decorum for advisors taking part in meetings, proceedings, or hearings, and potential consequences for violating the rules?  Yes  
 No  
 N/A

## Formal Complaints

## Actions Needed

### Filing a Complaint

For Title IX purposes, does your institution define a formal complaint as a document filed by a complainant or signed by the Title IX coordinator alleging sexual harassment against a respondent and requesting that the institution investigate the allegations?

- Yes
- No
- N/A

If a complainant doesn't wish your institution to investigate particular allegations, does the institution respect those wishes — *unless* the Title IX coordinator decides that failing to sign a formal complaint over the complainant's objections would be "deliberately indifferent" (or clearly unreasonable in light of the known circumstances)?

- Yes
- No
- N/A

Does your institution require that at the time a complainant files a formal complaint, the complainant must be participating in, or attempting to participate in, an education program or activity of the institution?

- Yes
- No
- N/A

Does your institution require the filing of a formal complaint to begin:

- The Title IX-compliant investigation and hearing process that the regulations specify?

- Yes
- No
- N/A

- Any informal resolution process your institution offers?

- Yes
- No
- N/A

### Notice of Allegations

After receiving a formal complaint — and with sufficient time before any interviews — does your institution provide the parties with a written notice of the allegations containing sufficient details known at the time including:

- The parties' identities, if known?

- Yes
- No
- N/A

- The conduct allegedly constituting sexual harassment?

- Yes
- No
- N/A

- The date and location of the alleged harassment, if known?

- Yes
- No
- N/A

If your institution learns additional details about the alleged harassment after sending the notice of allegations to the parties, does it send them an updated notice?

- Yes
- No
- N/A

Does your institution also require the written notice of allegations to:

- State that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made when the grievance process concludes?

- Yes
- No
- N/A

- Inform the parties that they are entitled to an advisor of their choice, who may or may not be an attorney?

- Yes
- No
- N/A

• Inform the parties that they are entitled to inspect and review evidence that is directly related to the allegations?  Yes  
 No  
 N/A

• Advise the parties of any provision in your institution’s code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process?  Yes  
 No  
 N/A

**Consolidation of Complaints**

**Does your institution’s grievance procedure give it discretion to consolidate multiple matters into a single investigatory and adjudicatory process if:**

• The same incident involves multiple complainants, multiple respondents, or both?  Yes  
 No  
 N/A

• The respondent files a cross-claim against the complainant?  Yes  
 No  
 N/A

**Dismissal of Complaints (Mandatory and Discretionary)**

**Does your institution provide that a Title IX complaint will be dismissed if:**

• The alleged conduct, even if proved, wouldn’t constitute sexual harassment under Title IX?  Yes  
 No  
 N/A

• The alleged conduct didn’t occur against a person in the United States?  Yes  
 No  
 N/A

• The alleged conduct didn’t occur within an education program or activity of your institution?  Yes  
 No  
 N/A

• The complainant wasn’t participating or attempting to participate in an education program or activity when the complaint was made?  Yes  
 No  
 N/A

**Does your institution provide that a Title IX complaint may be dismissed if:**

• The complainant requests in writing to withdraw the complaint?  Yes  
 No  
 N/A

• The respondent is no longer enrolled at or employed by your institution?  Yes  
 No  
 N/A

• Specific circumstances prevent gathering evidence sufficient to reach a conclusion?  Yes  
 No  
 N/A

**For both mandatory and discretionary dismissals, does your institution give the parties:**

• Written notice of the dismissal and the reasons for it?  Yes  
 No  
 N/A

• The opportunity to appeal the decision to a separate decision-maker?  Yes  
 No  
 N/A



If your institution dismisses a Title IX complaint on mandatory or discretionary grounds, does it evaluate whether the alleged conduct may violate another code of conduct provision?

- Yes
- No
- N/A

## Respondent Removals From Campus

### Emergency Removals

Does your institution provide that a respondent — whether a student or employee — may be removed from campus on an emergency basis at any point in the Title IX process:

- Following an individualized safety and risk analysis?

  - Yes
  - No
  - N/A
- If your institution determines the respondent poses an immediate threat to the health or safety of students or employees and the threat justifies removal?

  - Yes
  - No
  - N/A
- Regardless of whether a formal complaint exists?

  - Yes
  - No
  - N/A
- If the threat arises from alleged conduct that could constitute sexual harassment, including the respondent's reported post-incident action or behavior?

  - Yes
  - No
  - N/A
- If the respondent is given notice and an opportunity to challenge the removal immediately thereafter?

  - Yes
  - No
  - N/A

### Employee Administrative Leaves

Independent of emergency removals, does your institution provide that an employee respondent may be placed on administrative leave during an investigation:

- Only after a formal complaint is filed?

  - Yes
  - No
  - N/A
- Consistent with the respondent's rights under Title VII and other applicable employment laws?

  - Yes
  - No
  - N/A

## Investigations and Sharing Evidence

Does your institution's grievance procedure provide that:

- The parties will receive written notice of any investigative interviews or meetings that:

  - Includes their date, time, location, participants, and purpose?

    - Yes
    - No
    - N/A
  - Allows the parties sufficient time to prepare?

    - Yes
    - No
    - N/A

## Actions Needed

- Both parties may inspect and review any evidence obtained during the investigation that is directly related to allegations of sexual harassment in the formal complaint (except evidence subject to a legal privilege or the “rape shield” protection as discussed **below**), including:
  - Evidence on which the institution doesn’t intend to rely in making a determination on responsibility?  Yes  
 No  
 N/A
  - Inculpatory or exculpatory evidence, regardless of whether it is obtained from a party or any other source?  Yes  
 No  
 N/A
- The investigator will create an investigative report that fairly summarizes the relevant evidence (but doesn’t make a determination regarding responsibility)?  Yes  
 No  
 N/A
- Before an investigator completes the report:
  - The parties will have at least 10 days to review any relevant evidence the investigator gathered?  Yes  
 No  
 N/A
  - The parties have the right to respond in writing to the evidence, and the investigator will consider their responses before completing the report?  Yes  
 No  
 N/A
- The institution will keep records of decisions regarding any evidence that isn’t shared with the parties, such as evidence protected by a legal privilege?  Yes  
 No  
 N/A
- At least 10 days before the hearing, the investigative report will be sent to both parties and their advisors for review and written comment?  Yes  
 No  
 N/A

## Hearings and Determinations Regarding Responsibility

### Hearing Fundamentals

For Title IX complaints, does your institution’s grievance procedure require a hearing that:

- Is conducted live, orally, and in real time?  Yes  
 No  
 N/A
- Provides that each party’s advisor will have the opportunity to conduct cross-examination by asking the other party and witnesses relevant questions and follow-up questions, including those that challenge credibility?  Yes  
 No  
 N/A
- At your institution’s discretion, may be conducted either with:
  - The parties and witnesses in the same location?  Yes  
 No  
 N/A
  - The parties and witnesses participating virtually with technology that allows them to see and hear each other, the decision-maker, and witnesses simultaneously?  Yes  
 No  
 N/A

- At the request of either party occurs with the parties in separate rooms, using technology that enables the decision-maker and the parties to simultaneously see and hear each other and the witnesses?  Yes  No  N/A

- Is documented by an audio, audiovisual, or transcript record that your institution creates and makes available to the parties for inspection and review?  Yes  No  N/A

**Does your institution make clear that neither party may waive the right to a live hearing, but that any individual — including parties and witnesses — has the right to decline to participate in the hearing?**  Yes  No  N/A

### Standard of Evidence

**Does your institution use one of the following standards of evidence for adjudicating all Title IX sexual harassment complaints, regardless of whether the respondent is a student or employee (including faculty):**

- Preponderance of the evidence?  Yes  No  N/A

- Clear and convincing?  Yes  No  N/A

**Does your institution use the same standard of evidence for *all* formal complaints of sexual harassment, regardless of whether they are addressed under the Title IX policy or another policy or code of conduct?**  Yes  No  N/A

### Cross-Examination by Parties' Advisors

**With respect to cross-examination, does your institution's grievance procedure provide that:**

- If a party doesn't name an advisor, the institution will provide an advisor of its choice, free of charge, for the purpose of conducting cross-examination on that party's behalf at the hearing?  Yes  No  N/A

- If a party or witness doesn't submit to cross-examination at the hearing, the decision-maker won't rely on any statement of that party or witness in determining responsibility? (In consultation with legal counsel, institutions may wish to consider removing any such restriction from their grievance procedures. In July 2021 a federal court issued a **decision vacating** the specific provision of the 2020 regulations requiring exclusion of statements by a party or witness who doesn't submit to cross-examination at a hearing. On Aug. 24, 2021, ED **announced** that, consistent with the court's ruling, it won't enforce that provision and "institutions are no longer subject to" it.)  Yes  No  N/A

- If neither a party nor that party's advisor appears at the hearing, the institution will appoint an advisor of its choice to ask cross-examination questions on the non-appearing party's behalf?  Yes  No  N/A

**Relevance of Evidence**

Does your institution’s grievance procedure provide that before a party or witness answers a cross-examination or other question, the decision-maker will:

- Determine whether the question is relevant?  Yes  
 No  
 N/A

- Explain a decision to exclude a question as irrelevant?  Yes  
 No  
 N/A

Does your institution’s grievance procedure provide that the decision-maker won’t draw an inference about the determination regarding responsibility based solely on a party’s or witness’s absence from the live hearing or refusal to answer cross-examination or other questions?  Yes  
 No  
 N/A

Does your institution’s grievance procedure state that questions or evidence about a complainant’s sexual predisposition or prior sexual behavior aren’t relevant, unless:

- Questions or evidence about prior sexual behavior are offered to prove that someone other than the respondent committed the conduct the complainant alleged?  Yes  
 No  
 N/A

- They concern specific incidents of the complainant’s prior sexual behavior with the respondent and are offered to prove consent?  Yes  
 No  
 N/A

Does your institution make clear the following types of evidence aren’t relevant or otherwise aren’t subject to use in the grievance process:

- Any information protected by a legally recognized privilege, unless the privilege is waived?  Yes  
 No  
 N/A

- A party’s medical, psychological, and similar records without the party’s voluntary written consent?  Yes  
 No  
 N/A

- Any question that the decision-maker deems repetitive or duplicative?  Yes  
 No  
 N/A

**Written Determination Requirement**

After the hearing, does your institution require the decision-maker to issue a written determination, applying the applicable standard of evidence, regarding responsibility that includes:

- The allegations potentially constituting sexual harassment?  Yes  
 No  
 N/A

- A description of the procedural steps taken from receipt of the complaint through the determination?  Yes  
 No  
 N/A

- Identification of the specific code of conduct provisions that were violated (if the respondent is determined to be responsible)?  Yes  
 No  
 N/A

• Findings of fact supporting the determination regarding responsibility?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
• A conclusion regarding the application of the code of conduct to the facts?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
• A statement of rationale for the result as to each allegation in the complaint, including any findings of responsibility and sanctions?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
• Remedies provided to the complainant, which may include disciplinary or punitive sanctions against the respondent?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
• An explanation of the institution's appeal procedures, including permissible bases for either party to appeal?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
<b>Does your institution's policy require that the written determination be provided simultaneously to both parties?</b>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A

**Appeals**

**Does your institution permit either party to appeal a final determination on responsibility or the dismissal of a formal complaint on the basis of:**

• A procedural irregularity that affected the outcome?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
• New evidence, not reasonably available at the time the determination was made, that could have affected the outcome?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
• A Title IX coordinator, investigator, or decision-maker who had a bias or conflict of interest, for or against complainant or respondents generally or in the particular matter that affected the outcome?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A

**If your institution permits appeals on any additional grounds (such as severity or proportionality of sanctions imposed on a respondent), are those grounds:**

• Available equally to both parties?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
• Explained in the written grievance procedures?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A

**For all appeals, does your institution require that:**

• When one party appeals, the other is notified in writing?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
• The decision-maker(s) for an appeal:	
• Is different from anyone involved in making the determination regarding responsibility or complaint dismissal?	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A

<ul style="list-style-type: none"> <li>• Is not the investigator or the Title IX coordinator?</li> </ul>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
<ul style="list-style-type: none"> <li>• Is free from conflict of interest or bias?</li> </ul>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
<ul style="list-style-type: none"> <li>• Both parties receive a reasonable, equal opportunity to submit a written statement in support of, or challenging, the responsibility determination or dismissal?</li> </ul>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
<ul style="list-style-type: none"> <li>• The outcome of the appeal:</li> </ul>	
<ul style="list-style-type: none"> <li>• Is in writing?</li> </ul>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
<ul style="list-style-type: none"> <li>• Includes the rationale for the appellate decision?</li> </ul>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
<ul style="list-style-type: none"> <li>• Is provided simultaneously?</li> </ul>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A

### Informal Resolution Process

**After a formal complaint is filed, and at any time before a final determination on responsibility, does your institution elect to offer parties the opportunity to participate in an informal resolution process (such as mediation or restorative justice) that:**

<ul style="list-style-type: none"> <li>• Doesn't involve a full investigation and hearing?</li> </ul>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
<ul style="list-style-type: none"> <li>• Isn't mandatory and requires both parties' written, voluntary consent?</li> </ul>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
<ul style="list-style-type: none"> <li>• Gives the parties written notice of:</li> </ul>	
<ul style="list-style-type: none"> <li>• The allegations?</li> </ul>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
<ul style="list-style-type: none"> <li>• Written notice of requirements of the informal resolution process, including circumstances under which the process would preclude them from resuming a formal process arising from the same allegations?</li> </ul>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
<ul style="list-style-type: none"> <li>• Any consequences of participating in the process, including records that will be maintained or could be shared?</li> </ul>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
<ul style="list-style-type: none"> <li>• Allows either party to withdraw from the informal resolution process at any time before a final agreement and resume the formal process to resolve the complaint?</li> </ul>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
<ul style="list-style-type: none"> <li>• Is never used in matters involving an employee's alleged sexual harassment of a student?</li> </ul>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A

## Training Content and Publication

## Actions Needed

Does your institution train everyone involved in administering Title IX (including the Title IX coordinator and other officials who have the authority to take corrective action under the law, investigators, decision-makers, and facilitators of any informal resolution process) on:

<ul style="list-style-type: none"><li>The definition of sexual harassment under the regulations?</li></ul>	<ul style="list-style-type: none"><li><input type="radio"/> Yes</li><li><input type="radio"/> No</li><li><input type="radio"/> N/A</li></ul>
<ul style="list-style-type: none"><li>The scope of your institution's educational programs or activities?</li></ul>	<ul style="list-style-type: none"><li><input type="radio"/> Yes</li><li><input type="radio"/> No</li><li><input type="radio"/> N/A</li></ul>
<ul style="list-style-type: none"><li>How to serve impartially, including avoiding pre-judgment of the matter and avoiding conflict of interest or bias?</li></ul>	<ul style="list-style-type: none"><li><input type="radio"/> Yes</li><li><input type="radio"/> No</li><li><input type="radio"/> N/A</li></ul>
<ul style="list-style-type: none"><li>As appropriate and necessary for their roles, how to:<ul style="list-style-type: none"><li>Conduct investigations?</li></ul></li></ul>	<ul style="list-style-type: none"><li><input type="radio"/> Yes</li><li><input type="radio"/> No</li><li><input type="radio"/> N/A</li></ul>
<ul style="list-style-type: none"><li>Conduct hearings and appeals, including the use of any technology required for a proceeding?</li></ul>	<ul style="list-style-type: none"><li><input type="radio"/> Yes</li><li><input type="radio"/> No</li><li><input type="radio"/> N/A</li></ul>
<ul style="list-style-type: none"><li>Conduct informal resolution processes?</li></ul>	<ul style="list-style-type: none"><li><input type="radio"/> Yes</li><li><input type="radio"/> No</li><li><input type="radio"/> N/A</li></ul>
<ul style="list-style-type: none"><li>Protect confidentiality during the process?</li></ul>	<ul style="list-style-type: none"><li><input type="radio"/> Yes</li><li><input type="radio"/> No</li><li><input type="radio"/> N/A</li></ul>
<ul style="list-style-type: none"><li>Determine the relevance of evidence, including evidence that would improperly introduce a complainant's sexual history or breach a legally recognized privilege?</li></ul>	<ul style="list-style-type: none"><li><input type="radio"/> Yes</li><li><input type="radio"/> No</li><li><input type="radio"/> N/A</li></ul>
<ul style="list-style-type: none"><li>Apply your institution's definition of "consent" to sexual activity, including that the burden of proving consent or its absence is on the institution, not the parties?</li></ul>	<ul style="list-style-type: none"><li><input type="radio"/> Yes</li><li><input type="radio"/> No</li><li><input type="radio"/> N/A</li></ul>
<p>If your institution provides training on "trauma-informed" approaches or practices, does it ensure that such training is consistent with the regulations' general requirements (such as the importance of avoiding gender stereotypes, conflicts of interest, or bias for or against either party)?</p>	<ul style="list-style-type: none"><li><input type="radio"/> Yes</li><li><input type="radio"/> No</li><li><input type="radio"/> N/A</li></ul>

## Recordkeeping Requirements

For Title IX matters, does your institution create and retain for seven years records of:

<ul style="list-style-type: none"><li>Each sexual harassment investigation?</li></ul>	<ul style="list-style-type: none"><li><input type="radio"/> Yes</li><li><input type="radio"/> No</li><li><input type="radio"/> N/A</li></ul>
<ul style="list-style-type: none"><li>Supportive measures, including reasons why:<ul style="list-style-type: none"><li>No supportive measures were provided to a complainant (such as that the complainant was offered such measures but ignored or refused the offer)?</li></ul></li></ul>	<ul style="list-style-type: none"><li><input type="radio"/> Yes</li><li><input type="radio"/> No</li><li><input type="radio"/> N/A</li></ul>

## Actions Needed

• A supportive measure requested by a complainant was not provided?

- Yes
- No
- N/A

• Any other actions taken in response to a report or formal complaint of sexual harassment?

- Yes
- No
- N/A

• Any informal resolution process and its result?

- Yes
- No
- N/A

• Any appeal and its result?

- Yes
- No
- N/A

Does your institution maintain for seven years and post on its public website all current materials used to train Title IX coordinators, investigators, decision-makers (including for appeals) and facilitators of any informal resolution processes?

- Yes
- No
- N/A

### More From UE

Webinar: Unpacking the Final Title IX Regulations, Part 1

Webinar: Unpacking the Final Title IX Regulations, Part 2: More Q&A With Josh Richards

### Additional Resources

[Final regulations], Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance

ED: Title IX Website

ED: Office for Civil Rights Blog

*By Hillary Pettegrew, Esq., Senior Risk Management Counsel. Hillary's areas of expertise include employment law, Title IX, and study abroad issues. Before joining the Risk Research team, she practiced employment law and handled UE education liability claims.*

UE wishes to thank **Dr. Sylvia Gray**, Title IX Coordinator at Sewanee, The University of the South, for reviewing this publication.



To learn more, please visit [www.ue.org](http://www.ue.org).

United Educators (UE) is education's answer to the distinct risks and opportunities faced by schools, colleges, and universities. As a member-owned company, UE is committed to providing the coverage and tools needed to confidently operate your campus while managing education-specific risks. We've devoted ourselves to education alone since our founding in 1987 and continue to find new ways to meet your insurance coverage needs, manage risk, and efficiently resolve claims.

The material appearing in this publication is presented for informational purposes. It shouldn't be considered legal or coverage advice or used as such. For legal advice, contact your legal counsel. For coverage-related questions, contact your broker. Copyright © 2021 by United Educators Insurance, a Reciprocal Risk Retention Group. All rights reserved. Permission to share or use this document beyond UE membership must be obtained from United Educators. UE-1133391 9/21