BEST PRACTICES
Supportive Measures, Remedies, and Sanctions Regarding Campus Sexual Harassment

Educational institutions, upon receiving a report of sexual harassment, are obligated to protect the complainant and the student body from further harm. This checklist covers how institutions can protect students during and after the investigation process by issuing appropriate supportive measures, remedies, and sanctions. The checklist also provides solutions to common challenges institutions face when implementing supportive measures.

Under the 2018 proposed Title IX regulations and the Campus Sexual Violence Elimination (SaVE) Act, institutions must identify all potential supportive measures and sanctions in the grievance procedures. The procedures may vary by institution; the examples described in this publication are not intended to be all-inclusive. Institutions that do not act to prevent further sexual harassment may incur litigation and Department of Education (ED) investigations.

A WORD ON TERMINOLOGY
For ease of reference only, this checklist uses various terms in referring to the person making the complaint or allegation of sexual harassment (complainant) and the person against whom the complaint or allegation is made (respondent). “Parties” refers to the complainant and respondent.

In November 2018, ED’s Office for Civil Rights (OCR) released proposed regulations implementing Title IX. The proposed Title IX regulations define sexual harassment as “unwelcome conduct on the basis of sex that is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient’s education program or activity.” Forms of sexual harassment include dating violence; domestic violence; stalking; and sexual assault, battery, abuse, and coercion.
I. Supportive Measures

Supportive measures — often referred to as “interim measures” in prior Title IX guidance, though the two terms are not wholly interchangeable — ensure the complainant and respondent continue to receive equal access to the institution’s education programs without unreasonably burdening the other party. For example, the respondent may ask to extend a project deadline that overlaps with a hearing or the complainant may request a different residence to avoid contact with the respondent. From the receipt of a complaint to the final outcome, and even thereafter — at any point in the process — institutions can use these measures. Failure to provide supportive measures can be a violation of Title IX and form the basis of a lawsuit against the institution.

Upon notice of a sexual harassment allegation, does your institution:

- Provide written notice to the complainant and respondent of the available supportive measures and the procedure for requesting them? □ Yes □ No
- Provide written notice to the complainant of:
  - His or her right to file a formal complaint with the institution at that time or a later date? □ Yes □ No
  - His or her right to report the crime to campus or local law enforcement? □ Yes □ No
- Review the following factors in deciding what supportive measures are most appropriate:
  - Specific need expressed? □ Yes □ No
  - Severity or pervasiveness of the allegations? □ Yes □ No
  - Continuing effects on the parties? □ Yes □ No
  - Whether the parties share a residence hall, dining hall, class, transportation, or job location? □ Yes □ No
  - Whether other judicial measures were taken to protect the parties (such as civil protection orders by the local police)? □ Yes □ No
  - The burden any specific measure may place on one or more parties? □ Yes □ No
- Consider offering parties the following supportive measures, as appropriate, without fee:
  - The option to avoid contact with the other party by changing their:
    - Academic schedules? □ Yes □ No
    - Extracurricular activities? □ Yes □ No
    - Transportation options? □ Yes □ No

OCR used the term “interim measures” in four Title IX resources: the 2001 “Revised Sexual Harassment Guidance,” the 2011 “Dear Colleague” letter, the 2014 “Questions and Answers on Title IX and Sexual Violence,” and the interim 2017 “Q&A on Campus Sexual Misconduct.” In 2017, OCR withdrew the 2011 and 2014 guidance. The 2018 proposed Title IX regulations use the new term “supportive measures.”
### I. Supportive Measures (continued)

- Dining options?
  - Yes  
  - No

- Work situations?
  - Yes  
  - No

- Residence options?
  - Yes  
  - No

- Campus support services such as physical and mental health, disability, legal assistance, and advocacy services?
  - Yes  
  - No

- If your campus does not offer such services, does it have an agreement with a local organization or individual to provide those services?
  - Yes  
  - No

- Campus safety escort services between classes or activities?
  - Yes  
  - No

- Mutual protective measures such as no-contact orders?
  - Yes  
  - No

- Increased monitoring, supervision, or security in locations or activities where the alleged misconduct occurred?
  - Yes  
  - No

- Course-related adjustments such as deadline extensions?
  - Yes  
  - No

- Academic support such as tutoring?
  - Yes  
  - No

- Withdrawal from classes or permission to retake classes without penalty?
  - Yes  
  - No

- Keep supportive measures provided to the parties confidential unless disclosure is necessary for the supportive measure's effectiveness?
  - Yes  
  - No

Does your institution continue to offer supportive measures before, during, and after an investigation and related findings?
  - Yes  
  - No

### II. Common Challenges

Many institutions face challenges in implementing appropriate supportive measures. Small schools in particular may struggle to keep the parties separated. When these problems occur, institutions still are responsible for implementing appropriate measures. While appropriate supportive measures depend on the facts of each individual case, below are some recommended practices.

If the parties share a required course, does your institution do one of the following:

- Move one of the parties to a separate section of the course?
  - Yes  
  - No

- Allow the parties to complete the course through independent study or online participation?
  - Yes  
  - No

- Have one of the parties take the course in a different semester?
  - Yes  
  - No

- Create assigned seating with the parties at opposite sides of the room, and, if necessary, stagger the parties' arrival and departure?
  - Yes  
  - No
## II. Common Challenges (continued)

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
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<tbody>
<tr>
<td>If the parties share a major, does your institution review both parties' schedules at the start of the semester to ensure the parties do not share classes?</td>
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<td>If your institution maintains a single residence for students, does the institution:</td>
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<td>▪ Move the parties as far from each other as possible?</td>
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<td>▪ Move one of the parties out of university housing and pay any difference in housing costs?</td>
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<td>If either party has a no-contact order on a small campus, does your institution consider:</td>
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<td>▪ Staggering times for access to the dining hall?</td>
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<td>▪ Plotting paths between classes?</td>
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<td>▪ Requiring parties to send an assigned public safety contact an email detailing any interactions between the two?</td>
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<td>▪ Requiring one party to drop shared activities?</td>
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<td>▪ If your institution delays responding to a complaint, does it remedy any harm to the parties? (For example, if a party's grades suffered due to a delayed response, the institution allows the party to retake classes without academic or financial penalty.)</td>
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## III. Remedies

After the grievance process is complete, a hostile environment still may exist for the complainant and the campus. Even if the process determines no sexual harassment occurred, the institution still may wish to provide supportive measures.

The 2018 proposed Title IX regulations do not require institutions to offer respondents remedies in an effort to be equitable. Instead, the proposed regulations state that an equitable resolution must include the following: 1) For a complainant, where a finding of responsibility for sexual harassment has been made against the respondent, an equitable resolution must include remedies and 2) For a respondent, an equitable resolution must include due process protections before any disciplinary sanctions are imposed. Although remedies are not offered to respondents, institutions should continue to offer supportive measures to complainants and respondents after the grievance process concludes.

When a respondent is found responsible of sexual harassment, an institution is obligated to offer all remedies needed to eliminate the harm to the complainant and the campus community and prevent a recurrence of sexual harassment. Simply sanctioning a respondent found responsible, in some cases, may be insufficient to eliminate a hostile environment. Rather, in addition to sanctions, institutions should consider offering appropriate remedies after the final outcome.

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<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
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<td>Does your institution consider the following remedies for the complainant:</td>
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<td>▪ An escort between classes and activities?</td>
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<td>▪ Removal from classes and extracurricular activities shared with the respondent?</td>
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### III. Remedies (continued)

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<th>Action</th>
<th>Yes</th>
<th>No</th>
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<td>Removal from a shared residence hall?</td>
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<td>For K-12, transfer to a separate school?</td>
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<td>Academic support services such as tutoring?</td>
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<td>Comprehensive, holistic services, including medical and counseling services?</td>
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<td>Providing extra time to complete, retake, or withdraw from a class without an academic or financial penalty?</td>
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<td>If any disciplinary proceedings for violations (such as skipping class) are brought against the complainant (before, during, or after the sexual harassment case), does the institution consider whether the transgression may be related to the sexual harassment (for example, avoiding contact with the respondent)?</td>
<td>Yes</td>
<td>No</td>
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<tr>
<td>• If the action is related to the sexual harassment, does the institution halt the proceeding or expunge the sanction?</td>
<td>Yes</td>
<td>No</td>
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Does your institution consider the following remedies for the broader student population:

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<td>Providing targeted training for a group of students if, for example, the sexual harassment created a hostile environment on an athletic team or in a residence hall, fraternity, or sorority?</td>
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<td>Training or retraining employees on the school’s responsibilities to address allegations of sexual harassment and how to conduct Title IX investigations?</td>
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<td>Developing educational materials on sexual harassment, to distribute to all students?</td>
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<td>Conducting bystander intervention and sexual harassment prevention programs with students?</td>
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<td>Conducting, in conjunction with student leaders, a campus climate survey to assess the effectiveness of efforts to reduce sexual harassment and using such information to inform steps the school will take to improve campus prevention efforts?</td>
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<td>Developing a protocol for working with local law enforcement?</td>
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<td>Revising the school’s policies on sexual harassment?</td>
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### IV. Sanctions

If a respondent is found responsible for policy violations, the final outcome should include sanctions. Disciplinary sanctions vary depending on the institution's policies and the magnitude of the violations. Not all violations of the sexual harassment policy should result in expulsion. Any sanctions should fit the rule violation, and the institution's policy should explicitly describe the range of potential sanctions.

Does your institution consider the following sanctions for the respondent:

- Provide a letter of censure?  
  - Yes  
  - No

- Require the person to stay away from the complainant until both parties graduate?  
  - Yes  
  - No

- Require completion of a probationary period without additional infractions?  
  - Yes  
  - No

- Require participation in appropriate training, counseling, or an alcohol use assessment?  
  - Yes  
  - No

- Require meetings with an administrator?  
  - Yes  
  - No

- Prohibit participation in the graduation ceremony?  
  - Yes  
  - No

- Transfer the person to another residence hall or other classes?  
  - Yes  
  - No

- Prohibit residence in university housing?  
  - Yes  
  - No

- Terminate campus employment?  
  - Yes  
  - No

- Suspend the respondent?  
  - Yes  
  - No

- Expel the respondent?  
  - Yes  
  - No

- Revoke the respondent's degree?  
  - Yes  
  - No

Does the decision-maker issue simultaneously to the parties a written determination regarding responsibility that includes:

- Delineation of the section(s) of the institution's code of conduct alleged to have been violated?  
  - Yes  
  - No

- A description of procedural steps the institution took from the receipt of the complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held?  
  - Yes  
  - No

- Findings of fact supporting the determination?  
  - Yes  
  - No

- Conclusions regarding the application of the institution's code of conduct to the facts?  
  - Yes  
  - No
IV. Sanctions (continued)

- A statement of, and rationale for, the result of each allegation, including a determination regarding the responsibility and any sanctions the institution imposes on the respondent?
  - Yes
  - No

- Any remedies provided to the complainant designed to restore or preserve access to the institution’s education program?
  - Yes
  - No

- Permissible bases for the parties to appeal (if appeal is available)?
  - Yes
  - No

- The institution’s appellate procedures (if appeal is available)?
  - Yes
  - No

V. Recordkeeping

- Does your institution keep the following records for at least three years:
  - Supportive measures provided to either party?
    - Yes
    - No
  - Remedies provided to the complainant?
    - Yes
    - No
  - Remedies provided to the campus community?
    - Yes
    - No
  - Disciplinary sanctions imposed on the respondent?
    - Yes
    - No
  - All materials used to train coordinators, investigators, and decision-makers about sexual harassment?
    - Yes
    - No

Acknowledgment

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