



Title IX Implications of a Reported VAWA Offense

3rd Annual Mid-Year Conference

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Session Agenda



VAWA Offenses

Policy and Procedure Considerations

Bias, Conflict, and Internal Controls

Case Studies

Policy and Procedure Considerations



Title IX

Student Conduct

HR/Staff/Faculty
Handbook

Key Considerations under the Law



When a VAWA offense is reported, how is jurisdiction of the offense under Title IX determined?

What rights and responsibilities does the institution have under the law when an offense is reported? (no matter where it occurred)

How does the institution determine if they sign the formal complaint if they have a non-cooperating Complainant? Or if they will proceed with informal resolution? Formal resolution?

How are investigators assigned? Do they provide written notice to the parties or does the institution's Title IX Coordinator? Deputy Coordinator?

TITLE IX JURISDICTION-VAWA Offenses



Sexual Assault

- Rape, Fondling, Incest, & Statutory Rape

Domestic Violence

Dating Violence

Stalking

TITLE IX JURISDICTION - PERSON

“At the time of filing a formal complaint...the complainant must be participating in or attempting to participate in the education program or activity.” (§106.30(a))

The recipient exercised substantial control over both the respondent and the context in which the sexual harassment occurs.

“ATTEMPTING
TO
PARTICIPATE”

Has withdrawn due to alleged harassment
and has desire to re-enroll

Has graduated but intends to apply to new
program or participate in alumni programs

Is on a leave of absence and still enrolled
or intends to re-apply

Has applied for admission

SIDEBAR: NON-STUDENT OR NON-EMPLOYEE COMPLAINANTS (Q&A)

There are circumstances when a Title IX Coordinator may need to sign a formal complaint that obligates the school to initiate an investigation regardless of the complainant's relationship with the school or interest in participating in the Title IX grievance process.

Examples:

- Perpetrator in a position of authority
- Potential for harm to other students

Title IX Jurisdiction – Context of Educational Programs or Activities

Locations, events or circumstances in which the institution has control over the respondent AND context

Or

Any building owned or controlled by a student organization that is officially recognized

And

Occurred in the United States

OFF-CAMPUS JURISDICTION



Hotel
On field trip



Home
While tutoring



Bus
For athletic
travel



Virtual
During class



Business
At internship



Case Study #1-Faculty on Student Complaint



Jason is a criminal justice instructor who is well liked at the college. He is great with student engagement. During a lecture, Jason makes his way around the room while teaching. While doing this, he slips a note under the binder of Monique, a student in his class. After class, Monique reads the note which says, “Call me at my personal number, 555-5695.” Monique thinks he wants to discuss a project she turned in late, so she calls him later that day. He asks her to meet the next morning in a local library study room frequently used by her class for group work. While there, Jason shuts the door, sits down at the table next to Monique, and proceeds to slide his hand up her thigh, into her underwear, and penetrates her vagina. When she recoils, he states that he “thought she liked him.” Monique leaves the room upset. Later that day on campus, a friend sees her crying and Monique confides in them what occurred. The friend reports the behavior to the campus security officer who contacts Title IX and makes a report.

- What behavior is Jason alleged to have engaged in?
- Does Title IX attach for response, resolution, or both? Why or why not?
- At your institution, what policy and procedure would you apply to the situation?
- Who would investigate this complaint at your institution?
- What notices would need to be sent to Jason should your institution decide to conduct an inquiry and/or investigation?

Case Study #2- Staff on Staff Complaint



Pam, an employee of the university's business office, regularly engages in friendly small talk with Ahmed, a co-worker who is native to Iraq. Ahmed's culture is more formal, with defined rules for male-female interactions. In his culture, informal interactions from females indicate a personal or romantic interest. Ahmed views Pam's conversations with him as romantic interest. One day, Ahmed hugs Pam and discloses his attraction toward her. Pam can feel his erect penis touch her belly when he hugs her. Pam is upset and files a complaint to her supervisor. Ahmed is shocked by the complaint. Pam stresses that she just wants him to stop because she's not interested in him.

- What behavior is being reported?
- Does Title IX attach?
- What are your responsibilities once a report of sexual harassment is made to you?
- How would you approach this situation and who in your institution would handle the case?
- How do Ahmed's cultural practices impact how you'd approach this situation?

Case Study #3-Student on Student Complaint



Tameeka and Raymondo attend the same college but are in different academic programs. They live together off campus and have a one-year-old child. Raymondo gets upset when Tameeka talks to other people and doesn't do what he wants when he wants it. She reported that when Raymondo gets angry he punches her in the neck and head and throws things in the home. On a few occasions he has held her down on the bed and forced her to have sex with him. This has caused her fear and anxiety and has started to interfere with her ability to get her homework done and pay attention in class. She made a report to the Title IX Coordinator.

- What are the jurisdictional issues presented in this case? Do we have an obligation to respond? Under what policy/procedure?
- How would your institution approach this case?
- What challenges do you anticipate in this complaint?
- What supportive measures would you implement and at what stage would they be offered?

Case Study #4 –(Part 1 of 2) Initial Report to Title IX



On January 10th, 2024, a female student reported to the institution's Title IX Coordinator that her non-student former boyfriend coerced her into having sex and sexually assaulted her on at least ten (10) separate occasions during the fall semester of 2023. The female student and non-student boyfriend broke up in the Spring of 2023.

Five (5) of these encounters she recalls occurring in her on-campus residential facility (Stafford Hall) when he came to campus to visit - he visited campus on several occasions from August to December 2023, but she doesn't remember all of the exact dates. Each of these incidents involved him having sex with her while she was sleeping. A sixth (6th) incident occurred during an off-campus party at a friend's apartment on November 8th, 2023. The remaining four (4) incidents occurred throughout the remainder of the fall semester at varying times and at different locations on-campus, she isn't exactly sure of the locations, but she does vividly remember two (2) of these four (4) encounters in December of 2023 just before the winter break. One (1) occurred in the campus dining hall when he grabbed her breast as she was eating dinner with him. Another incident occurred when they were walking across campus during his December 2023 visit to campus when he groped her buttocks and breasts in front of two of her close friends. After this incident, her friends had a conversation with her about the inappropriateness of what he did and when she explained the other encounters, they told her that what he is doing constitutes Rape and she should report it.

Case Study #4 – (Part Two of Two) – Initial Report to Title IX



The student is concerned about her safety as she does not know how to keep him from coming onto campus. She fears that if she does anything “officially” to report this and keep him from contacting her, that he may become violent. She indicated that her grades and on-field performance as a Lacrosse player have suffered significantly as she can’t stop thinking about what he did to her.

The victim informed the Title IX Coordinator she does not want to pursue a criminal process, she just wants him to not be permitted to come back on-campus. The Title IX Coordinator reported the incident the institution’s CCO the following day on January 11, 2024.

- What offenses are being reported?
- Does Title IX attach or not? In what way—response, resolution, or both?
- If so, under your policies, which policy would have jurisdiction to respond to resolve these complaints?
- What challenges do you foresee in this complaint?

Case Study 5-Staff on Student



“AJ” is a third-year student at Smith University. She works as a student worker in the IT department’s helpdesk. Sometimes she has to leave the helpdesk to go to individual offices to troubleshoot internet connectivity or printer connectivity issues. On September 14, 2023, she went to the campus police department to work on their patrol computers. While working on the computers, she met Officer Thomas, who seemed “super nice.” Thomas and AJ chatted and got along well. After AJ fixed the computer issue, she said her goodbyes and left to go to a computer lab in North Tower to update the computers software. While there, Officer Thomas showed up. He said he had a call downstairs and thought he saw her cart. AJ thought it was just a coincidence, but Thomas then showed up about 15 more times over the next eight weeks while she was in various places on campus. AJ has started to feel like Thomas has a personal interest in her. She isn’t scared, per se, but she is starting to not be able to do her job without fear that Thomas will show up. She keeps a close watch on her surroundings and is kind of nervous about being in places where there are not lots of people. Thomas doesn’t interfere with her work and doesn’t always speak during these occurrences, but she seems him and he seems to stand around. One time he commented on “how pretty she looked.” She doesn’t know what to call what is happening, but it is starting to feel “not ok.”

- What behavior is being reported?
- Does Title IX attach?
- Under what policy/procedure would you utilize to respond?
- What supportive measures would you offer AJ?
- Would you take any administrative action towards Officer Thomas prior to the conclusion of your investigation?



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