



Association of  
Title IX Administrators

# **NPRiMer: Preparing for the Pending Title IX Regulations**

Training and Certification Course

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Strategic Risk  
Management Solutions



Any advice or opinion provided during this training, either privately or to the entire group, is never to be construed as legal advice or an assurance of compliance. Always consult with your legal counsel to ensure you are receiving advice that considers existing case law in your jurisdiction, any applicable state or local laws, and evolving federal guidance.

# Content Advisory

The content and discussion in this course will necessarily engage with sex- and gender-based harassment, discrimination, and violence and associated sensitive topics that can evoke strong emotional responses.

ATIXA faculty members may offer examples that emulate the language and vocabulary that Title IX practitioners may encounter in their roles including slang, profanity, and other graphic or offensive language.

# ATIXA Recommended Best Practices

# Reporting and Response

- Designate all non-confidential employees mandated reporters
- Require all employees to provide the contact information of the Title IX Coordinator to any person making a disclosure that may implicate Title IX
  - This applies regardless of confidential status



# Training

- Provide process, policy, and reporting training on a recurring basis
- Train Title IX team on supportive measures
- Offer training to institution-provided Advisors
- Offer prevention education for students and employees
- Ensure training and prevention education programs meet all federal and state audience and content requirements

# Intake and Evaluation



Ensure use of a centralized reporting process to ensure that the information gets to those who are trained to respond in a timely and efficient manner



Provide written notice of any determination, including notice of dismissal



# Informal Resolution

- Implement Informal Resolution methods to all for an alternative to the Formal Grievance Process
- Consider the following:
  - Offer multiple types of Informal Resolution
  - Informal Resolution types should be consistent with institutional culture and needs
  - All Informal Resolution practices should be supported by necessary training and resources

# Grievance Procedures

- Offer a streamlined process to provide for a consistent response to stop, prevent, and remedy all forms of discrimination
- The process should be § 106.46-compliant and separate investigation and decision-making responsibilities

## The Process Should Include:

- Written Notice
- Right to an Advisor of choice
- Comprehensive, written investigation report
- Opportunity for report review/response
- Cross-examination
- Written determination
- One level of appeal

# Investigation

- Allow parties to offer expert witnesses
- Provide a comprehensive investigation report to all parties and their Advisors
- Provide all relevant evidence to parties prior to the completion of the investigation report
- Offer an opportunity to respond to the evidence



# Outcome and Appeal

- Provide a written outcome notification, including:
  - The determination
  - Any sanctions or remedies
  - Any opportunities for appeal
- Offer one level of appeal
- Ensure comparable procedures, including one level of appeal, for complaints other than sex discrimination

# Standard of Proof

**1**

## **Adopt**

the “preponderance of the evidence” standard

**2**

## **Apply**

the standard to all complaints unless it conflicts with other contract rights

**3**

## **Negotiate**

future contract rights to allow for the use of the “preponderance of the evidence” standard

# Advisors

- Permit access to Advisors for all parties in all formal processes
- The institution must provide adequate training on the institution's policies and procedures for institution-provided Advisors



# Pregnancy and Parenting

- Offer support to non-birthing parent in the event of a medical need for a birthing parent or newborn
- Provide information on institutional website including:
  - The rights of pregnant students under Title IX
  - How to request support for pregnancy or related conditions
  - The processes available for requesting assistance and challenging when a denial of assistance occurs

# Lactation Space

- Offer multiple spaces that include access to sinks, outlets, and refrigerators
- Provide access to the lactation room without having to request permission
- Add lactation spaces to cleaning schedules
- Ensure space is available during evening and weekend classes or programs



# Athletics

- Permit all student-athletes to participate in athletics in alignment with their gender identity



# What's Next?

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# Things to do Before Implementation

- Review the decision points from Day 1
- Prepare to expedite policy revisions at your institution
- Educate community about future changes
  - The final changes may be different from the NPRMs
- Review current policies, practices, publications, and websites
  - Create a checklist of changes that will need to be made to each
- Work with your legal counsel to determine how the proposed regulations intersect with other policies and governing laws
- **KEEP FOLLOWING THE 2020 REGULATIONS!**



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# Questions?

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