

Title IX: What Everyone Needs to Know

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EMPIRE STATE
COLLEGE

Objectives for College Community

- Understand what Title IX is
- Know what constitutes sex discrimination, sexual assault and sexual harassment
- Know how to report
- Learn how the college addresses complaints
- Learn the procedures that are followed

What is Title IX?

- Title IX of the Education Amendments of 1972 prohibits sex discrimination in educational programs and activities.

Title IX Text

No person in the United States shall, on the basis of sex, be excluded from 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 Education Amendments of 1972

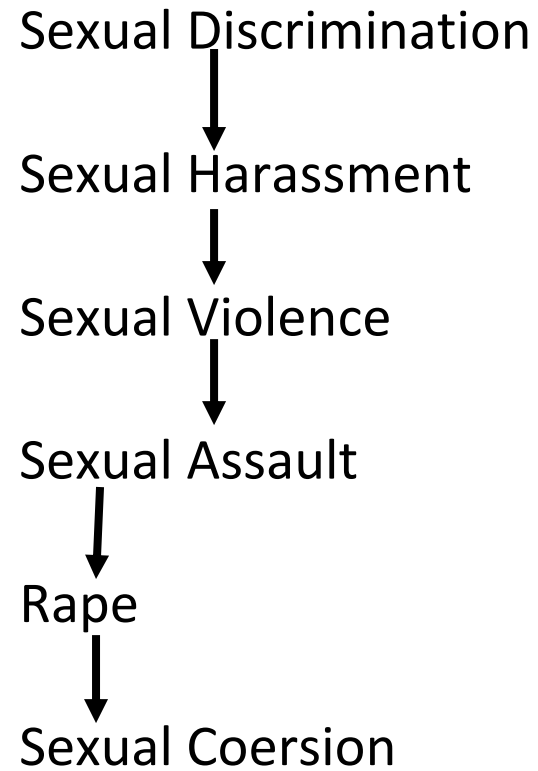
What Does This Mean?

- The College has a duty to promptly respond to complaints of sexual harassment and sexual violence in a way that limits its effects and prevents its recurrence.
- TIXC responds to the complaint and is responsible for training/education

Recent Federal Investigations

- Inside Higher Ed (July 2013) reported an increase number of Title IX violations are being investigated.
- The University of Southern California; Swarthmore College, U of Colorado at Boulder; U North Carolina at Chapel Hill; Rutgers, Amherst, Dartmouth, Yale... have recently been under investigation over allegations of sex discrimination.
- The complaints have involved sex discrimination and the potential mishandling sexual assault cases. The Office of Civil Rights believes this is in response to a renewed focus on the issue by the Department of Education.

Sex Discrimination



What is Sex Discrimination?

Sex discrimination includes **all forms of sexual harassment**, including verbal sexual harassment and sexual violence **by** employees, students, or third parties **against** employees, students, or third parties.

Sex discrimination may also include, unequal pay based on **gender**, discrimination on the basis of pregnancy, unequal admissions and financial aid practices.

Pregnant Students

Pregnant Students are covered under Title IX:

- Pregnant students must be treated similarly to other students
- Special services provided to students who have temporary medical conditions must also be provided to pregnant students
- A student who is pregnant or has given birth may not be required to submit medical certification for school
- The colleges must excuse a student's absences because of pregnancy or childbirth for as long as the student's doctor deems the absences medically necessary.
- When a student returns, she must be allowed to return to the same academic and extracurricular status as before her medical leave began

What is Sexual Violence?

Sexual violence: physical sexual acts perpetrated without consent.

Consent is a clear, unambiguous, and voluntary agreement between the participants to engage in specific sexual activity.

Examples:

- Conduct commonly known as rape
- Sexual assault
- Sexual coercion

What is Sexual Harassment?

- **Sexual harassment** is unwelcome conduct of a sexual nature that is sufficiently severe, persistent or pervasive that it unreasonable interferes with, denies, or limits someone's ability to participate in or benefit from a program or activity.
- **Examples & Information**
 - Requests for sexual favors
 - Unwelcome advances
 - Sexist comments
 - May occur in a single episode, or be persistent behavior

Sexual Harassment May Include

- seeking sexual favors or relationships in return for the promise of a favorable grade, or other career opportunity.
- conditioning an **employment-related action** (such as hiring, promotion, salary increase, etc.) based on a sexual favor or relationship.
- intentional and **undesired** physical contact, sexually explicit language or writing, lewd pictures or notes, pressure for a date or intimate relationship and other forms of sexually offensive conduct by individuals in positions of authority, coworkers or student peers that unreasonably interferes with the ability of a person to perform his or her employment or academic responsibilities.

Sexual Harassment May Include

- unwelcome touching, kissing, hugging, patting, pinching or massaging
- leering at a person's body
- pressure for or forced sexual activity
- belittling remarks about a person's gender or sexual orientation
- inappropriate sexual innuendos or humor

Sexual Harassment May Include

- obscene gestures of a sexual or gender-based nature
- offensive sexual graffiti, pictures or posters
- sexually explicit profanity
- use of email, the Internet, or other forms of digital media to facilitate any of the above referenced behaviors.

Who are the Parties?

- Victims of sexual harassment or sexual violence might be faculty, staff, students, or third parties.
- Similarly, the accused may be from any of those groups.
- Victims and alleged perpetrators can be male or female. Harassment can take place between two individuals of the same sex.

Our Student Conduct Statement

Conduct by a student, or a guest of a student (whether acting alone or with another person) that threatens or endangers the mental health, physical health or safety of any person or persons, or causes actual harm, including: physical harm or threat of physical harm such as physical abuse, sexual assault or coercion, harassment and intimidation, whether physical, verbal (oral or written) or nonverbal, violates the college's code of conduct.

Student Conduct Policy

The Sexual Harassment Policy is located on page 101 of the [Undergraduate Student Catalog](#), and at all college locations.

It states, “Sexual harassment of either employees or students will not be tolerated. The college accepts the proposition that sexual harassment, like any civil rights violation, generates a harmful atmosphere. The college will act positively to investigate alleged harassment and to effect a remedy when an allegation is substantiated.”

Reporting Sex Discrimination

- What should I report?
- Who needs to report?
- How do I report? When? To whom?
- Am I **required** to report?

Report To

- **Michael Mancini;** Interim Title IX Coordinator/Affirmative Action Officer, 2 Union Ave, michael.mancini@esc.edu, 587-2100 ex 2858.
- **Pat Myers;** Deputy TIXC/Director of Student Services, 1 Union Ave, pat.myers@esc.edu, 587-2100 ex 2463.
- **Mark Jankowski;** Deputy TIXC/Director of Campus Safety, 2 Union Ave, mark.jankowski@esc.edu, 587-2100 ex 2800.

What Should I Report?

- Any observed, experienced, or known sex discrimination, including sexual harassment and/or sexual violence.
- Doesn't matter if it occurred at the college, outside of the college (at a conference or residency), last week, or two years ago.

Who Needs to Report?

- **Anyone** who experiences, observes, or hears about an incident of sexual harassment or sex discrimination should report it to the Title IX Coordinator or another campus official, as soon as possible.
- This includes deans, associate deans, faculty chairs, faculty, staff, students, and third parties.*

Who Needs to Report?

- **Everyone should report!**
- **Examples:**
 - Faculty Mentor who receives a report of sexual assault from a student.
 - Cleaner who observes sexual harassment.
 - Employee or student who observes sexual assault in the workplace, or at a conference, or residency.

What Reporting Looks Like

- A student approaches a faculty member to report sexual harassment
- The faculty member refers complainant to Title IX coordinator **OR** to his/her:
 - Associate Dean; Dean; HR Representative (if accused is an employee) or Director of Student Services (if accused is a student)
 - Associate deans, deans, HR, and student services all **need to keep TIXC in the loop.**
- **Title IX coordinator reaches out to complainant/victim**

Who is Likely to Receive Reports?

- Anyone is likely to receive a report of sexual harassment or sexual violence. (Examples: Title IX Coordinator, faculty, associate deans, deans, campus safety, law enforcement, student support services, administrators, professional and support staff...)
- Often it is a person with first-line access to the college community who has lots of interaction.

How Do I Report?

- Pick up a phone ...send an email...request a face-to face meeting
- Report to the Title IX Coordinator
- Department procedures may include reporting to your supervisor or associate dean first.
- But report as soon as possible!

Empire State College Reporting

- **Michael Mancini**, Interim Title IX Coordinator/
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michael.mancini@esc.edu, 587-2100 ex 2858.
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Why Report?

This college is obligated by law to designate specific people who are specially trained and experienced to address complaints of sex discrimination, including helping victims navigate the process and seek remedies.

- Refer to the [Affirmative Action Website](#) for additional information

How Does the TIX Coordinator Help Victims?

- Provides information about available remedies: complaint processes on and off campus, filing a police report
- Notifies the victim about resources: health services, counseling, academic support, local rape crisis center
- Offers reasonable interim measures, which may include a change in work schedule, academic schedule, and a no-contact order between the victim and accused

Why You Call The Title IX Coordinator

- Because the law **requires** the college to designate a Title IX Coordinator to do this job. (Plain and Simple)

How About I Just Tell the Police?

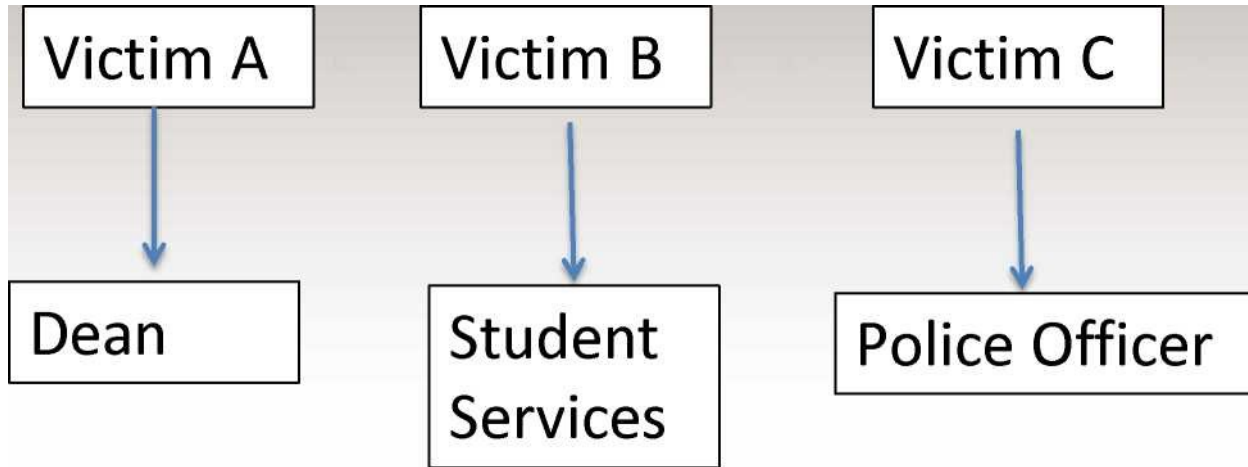
- Law enforcement involvement does not relieve the institution from investigating under Title IX.
- Also: there can be a Title IX violation without a criminal violation (standard of proof is different).
- Law Enforcement uses “beyond a reasonable doubt”, the college uses “preponderance of evidence”

Why can't a Supervisor/Professor just “Handle It”?

Example: Penn State

- 15 years of non-compliance with Title IX
- Coaches and senior administrators knew of long-time sexual misconduct (child sex abuse) and failed to report it properly and remedy it.
- Title IX protects any person on campus or with a nexus, including visitors
- Fear of retaliation at Penn State University

Worst Case Scenario



Available evidence is different in each case. A and B may not want to file a criminal complaint. The Dean and SS each intend to "handle" the situation best they can. No one knows that there are three alleged victims naming the same accused student.

What Else Does the Coordinator Do?

- Keeps track of reports and complaints: a centralized and organized record for all investigations of sex discrimination.
- Identifies patterns of harassment among certain groups, departments, geographic locations, teams, etc.
- Provides training to the campus community.

What About Confidentiality?

- Information reported is handled professionally and privately, it is never broadcast or otherwise made public.
- The college will protect your privacy to the extent possible under the law.
- Although the college is required by law to investigate, that investigation will be limited by the information provided by victims and the victim's interest in pursuing a formal complaint process.

Why Isn't Confidentiality Guaranteed?

- The Coordinator/Deputy needs to balance confidentiality with the safety of other members of the college community.
 - **Examples:** repeat offenders, or accused poses an imminent threat of danger to the complainant or the community, or the accused has access to a vulnerable community

Who Can You Talk to Confidentially?

- ESC's Telephone Counseling Services
 - “Talk One-2-One”
- Local off-campus rape crisis center
 - Licensed mental health professional
 - Clergy
- If you're not sure of someone's ability to keep information confidential, ask them.

What's the Point in Reporting if a Complainant doesn't want a Hearing?

- The Title IX Coordinator or deputy(s) can assist victims by providing remedies and resources, as well as assessing training and safety needs on campus based on information provided by the victim.
- Victims might and can change their minds.

Reluctant Victim

- What if a complainant doesn't want to file a written complaint?
- **What if the complainant is reluctant to cooperate at all?**

You've Reported, What Now?

- The Coordinator will inform the victim about:
 - Available medical services, counseling, and academic support services, whether on or off-campus
 - Options, including Title IX grievance procedure, filing a criminal complaint, using the campus judicial procedure
 - Available interim remedies before an investigation or hearing takes place (academic, work location, other)

What is the Grievance Procedure?

- Empire State College uses the University Discrimination Complaint Procedure. It is a resolution process with established timelines and procedures.
- There are both informal and formal resolution options. Cases of sexual violence may not be resolved by mediation.

What is Informal Resolution?

- The Title IX Coordinator will investigate by reviewing relevant information and interviewing pertinent witnesses. It could include bringing the complainant and accused together (except in cases of sexual assault). All parties must mutually agree to resolve the matter.
- **At any time**, the complainant can elect to proceed to the formal procedure.

What is Formal Resolution?

- A three-person panel (Tripartite) is selected to investigate the complaint.
- This investigation may include hearing testimony from the complainant and accused, interviewing witnesses, and reviewing written statements submitted by the parties.

What are the Outcomes of Formal Resolution?

- A determination that the complaint **was not** substantiated.
- A determination that the complaint **was** substantiated.
- If substantiated, forward to the appropriate disciplinary body (for students and union members), or president can take action.

What Protections Does Title IX Offer to Parties?

- All parties will be treated equally and fairly
- Retaliation is **prohibited** (against ANY participants in the process-accused, victim, witnesses, reporting individuals)
- Alternative arrangements during hearings
- Prompt investigations, published timelines
- Notice of outcome

Retaliation Focus

- Retaliation against ANY participants in the process—accused, victim, witnesses, reporting individuals—is **prohibited**.

While we're at it, let's discuss some important definitions under the violence against women act...

Violence Against Women Act:

Dating Violence

- **Dating Violence** is violence committed by a person who has been in a social relationship of a romantic or intimate nature with the victim;
- and where the existence of such a relationship shall be determined based on a consideration of the following factors: length of relationship; type of relationship; the frequency of interaction between the persons involved in the relationship.

Violence Against Women

Sexual Assault

- **Sexual Assault** means an offense classified as a forcible or non-forcible sexual offense under the uniform crime reporting system of the Federal Bureau of Investigation.

Violence Against Women

Stalking

- **Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: fear for safety or the safety of others; or suffer substantial emotional distress

And Last: Domestic Violence

Domestic Violence

- **Domestic Violence:** Includes felony or misdemeanor crimes of violence committed by a current/former spouse of the victim, by a person with whom the victim shares a child, a person cohabitating with, or has cohabited with, the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws;
- And by any other person against an adult or youth victim who is protected from the person's acts under the domestic or family violence laws of the jurisdiction.

Reporting

Date Violence

Domestic Violence

Incidents of Stalking

...Should all be reported!

Two Sentence Wrap-Up

- The college has a duty to promptly address complaints of sex discrimination, including sexual harassment and sexual violence, to limit the effects of the discrimination, and to prevent its recurrence.
- The best way to meet this requirement efficiently is to have a clear and functional reporting channel to the Title IX coordinator and to train the campus community about how to recognize sex discrimination and how to report it.

Two Sentence Wrap-Up, Simply

College must (attempt) to:

- **Promptly help the victim**

Eliminate future harm

- Always report observed or

experienced sex

discrimination to the Title IX

Coordinator.

Questions?

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Thank You for Attending!