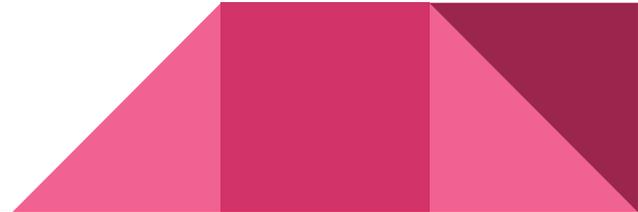


Title IX

Administration Refresher Training / August 19, 2022

Title IX: Focus of Today's Training

- Title IX Overview
- Severe, Pervasive, and Objectively Offensive
- Allegations
- Scenarios
- What is working and what is not
- Questions

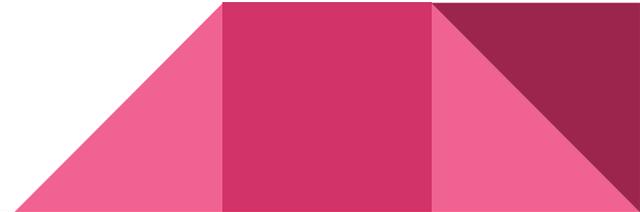


Title IX: Federal Law

Title IX of the Education Amendments of 1972

“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.”

Enforced through the Department of Education, Office for Civil Rights (OCR)



Title IX: Purpose at Pinkerton Academy

- To provide for the prompt and equitable resolution of all Title IX complaints in accordance with federal regulation
- To increase communication between students, faculty members, and staff members, about issues of sex discrimination in order to develop a broader understanding and support of Pinkerton Academy's responsibilities, procedures, and policies related to Title IX



Title IX: Who's on the Team

- Title IX Appeal Contact: Headmaster, Dr. Timothy Powers
- Title IX Decision Maker: Dean of Students, Susanne Tartarilla
- Title IX Coordinator: Human Resources Director, Stacey Silva
 - Deputy Title IX Coordinators: Dr. Jen Resmini, Dean of Faculty and Peg Bourque, Finance Administrator
- Title IX Investigators: Members of the Administrative Team
 - The Title IX Investigator carries out an investigation by conducting interviews of the involved individuals and witnesses, collecting documentary and other evidence, and drafting an investigative report



Title IX: Definition of Sexual Harassment

Conduct on the basis of sex that satisfies one or more of the following:

- **Quid Pro Quo Harassment**

An employee of the school conditioning the provision of aid, benefit, or service of the school on an individual's participation in unwelcome sexual conduct

- **Hostile Environment Sexual Harassment**

Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectionably offensive that it effectively denies a person equal access to the recipient's education program or activity

- **Other Sexual Acts**

Conduct on the basis of sex under one of the following:

- Sexual assault
- Dating violence
- Domestic violence
- Stalking



Title IX: Reporting Obligation

As an educational institution and/or a recipient with ***actual knowledge*** of sexual harassment occurring in PA's programs or activities we are obligated to respond promptly in a manner that is not deliberately indifferent. This requires a report of the knowledge to the Title IX Coordinator

**Actual knowledge occurs when any employee has notice of sexual harassment or allegations of sexual harassment.*



Title IX: Process at Pinkerton (Filing Grievance)

- **Notice**

- Employee is notified of actual knowledge of harassment in education program or activity
- Title IX Coordinator is contacted and responds to notice
 - Connects with complainant and possible respondent
 - Prepares written communication and shares Pinkerton's Title IX policy
 - Implements supportive measures

- **Investigation**

- If a formal complaint is filed, an investigation is conducted
 - Compiles evidence to write a report

- **Responsibility Determination**

- Decision maker reviews report and makes a determination based on the standard of preponderance of evidence
- Dismissal
 - A formal complaint can be dismissed (see Pinkerton's Title IX policy for dismissal reasons)
- Appeal
 - All parties can appeal the determination made by the decision maker (see Pinkerton's Title IX policy for appeal reasons)

Title IX: SEVERE, PERVASIVE, and OBJECTIVELY OFFENSIVE

Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the educational institution's education program or activity.

Title IX: Severe

“The more severe the conduct, the less the need to show a repetitive series of incidents; this is particularly true if the harassment is physical.” —(2001 Guidance)

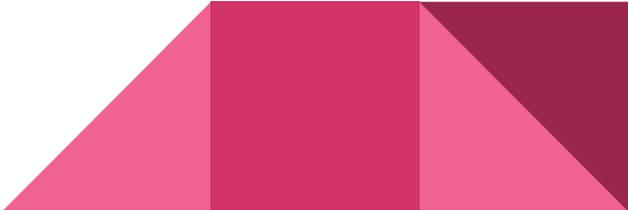
- Physical is more likely to be severe without need for repetition
- Non-consensual sexual intercourse or contact (e.g., physical/sexual assaults) are almost always sufficiently severe
- Consider the circumstances (e.g. the ability for Complainant to remove themselves from the harassment)
- Accompanied by threats or violence

Title IX: Pervasive

- Widespread
- Openly practiced
- Well-known among students or employees
- Occurring in public spaces (more likely to be pervasive)
- Frequency of the conduct is often a pervasiveness variable



Title IX: Objective Offensive

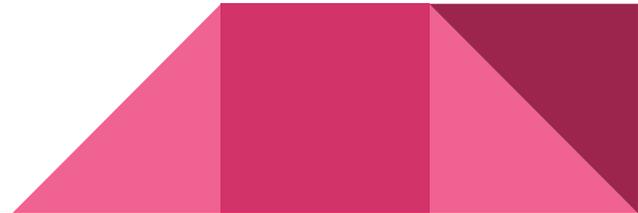
- Using the reasonable person standard
 - Frequency
 - Physically threatening
 - Humiliation
 - Intimidation
 - Ridicule
 - Abusive
- 



Allegations

Title IX: Notice of Allegations

- Notice of the allegations of sexual harassment including sufficient details known at the time including the identities of parties, the conduct alleged, and date and location of the incident
- Collected before Respondent's interview
- Allow for sufficient time to prepare a response before any initial interview
- Includes policies alleged to have been violated and must be supplemented if additional allegations arise
- Notice of informal resolution process
- Must include:
 - Respondent is presumed not responsible for the allegation

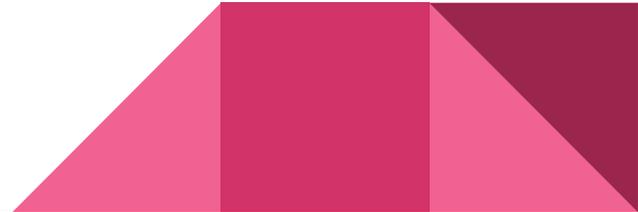


Title IX: Notice Stage-Collaboration and Communication

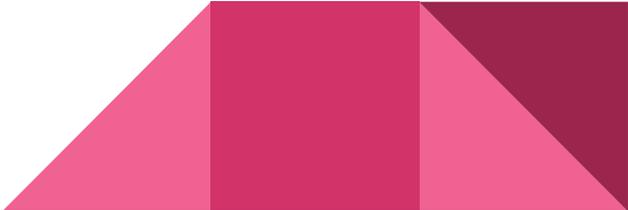
- Contact the Title IX Coordinator
 - Continue to gather information from student/staff/guardian for Title IX Coordinator
 - What was the nature of the comments?
 - Did the staff member hear this comment or other comments like this?
 - What other interactions have the students had with one another?
 - Meet with parties involved to determine course of action
 - Title IX Coordinator
 - Associate Dean
 - Counselors (supportive measures)
 - Other specialists (if necessary)
- 

Title IX: Duty-Based Analysis

- All issues
 - Do I know enough about this situation? Do I need more facts or information?
 - To whom do I owe a duty?
 - Student
 - Broader student body
 - Parent/guardian
 - Employee
 - Supervisor
 - Does this situation involve actual knowledge of sexual harassment?



Title IX: Supportive Measures

- Extensions of deadlines or other course related adjustments
 - Modifications of class schedules
 - Campus escort services
 - Mutual restrictions on contact between the parties
 - Leaves of absence
- Increased security and monitoring of certain areas of the campus
- Other similar measures exhaustive list and does not preclude Districts from implementing other measures that do not place unreasonable burdens on either party and are not disciplinary or punitive in nature. Carefully crafted supportive measures must be created after a fact specific inquiry
- 

Scenarios

Provided by Atixa, December 9, 2020

Title IX: Scenario I

A male student was heading into the locker room after school to get ready for practice when he heard sounds coming from a private corner. As he listened he realized they were sex sounds. The male student approached the area and quickly realized it was one of his friends having sex with a female student. He quickly took out his phone and began video recording them. As he was recording, a coach walked by and stopped him. When questioned, the student denied sharing the recording with anyone else, and agreed to delete it on the spot. Both students who were recorded declined to file a complaint, saying they thought it was funny.

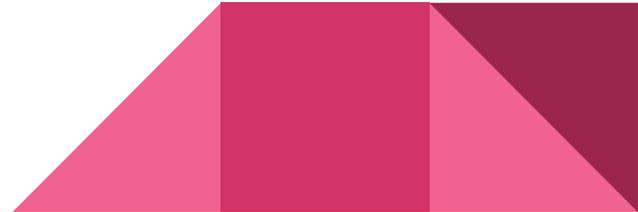
Is this Title IX?



Title IX: Scenario II

Ellie broke her foot so she was waiting for the elevator in the CTE building. As the elevator reached the floor, the doors opened, revealing a male student flashing his penis. Then the doors closed quickly. Ellie was shocked and scared so she decided not to take the elevator and instead struggled down the stairs. She has complained that this exposure was sexual harassment.

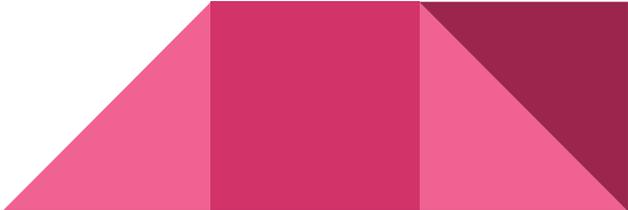
Is this Title IX?



Title IX: Scenario III

An 11th grade female student stated that a male student approached her at the end of class and they exchanged snapchat/phone numbers because he was interested in study materials and outlines for a class. She said they texted a bit, he asked if she was single, and she told him she was interested in being just friends. They walked out of school together at the end of the day, and when they got to their vehicles, she said he cornered her between his body and her car door and he grabbed her face and shoved his tongue down her throat forcefully.

Is this Title IX?





Title IX: What's Working and What's Not

Title IX: What We Continue to Learn?

- No two cases are the same
 - Clear and detailed documentation is necessary
 - Communication and collaboration is vital
 - Multiple staff members will be involved in implementing supportive measures
 - Cases may fall into multiple buckets
- 

Questions?