



# TITLE IX TRAINING

Michigan School of Psychology

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# Learning goals for today:

- Become familiar with the legal context of Title IX
- Learn about the meaning and applicability of Title IX
- Understand MSP's institutional responsibilities under Title IX
- Become familiar with MSP's policy and observe how it tracks the Title IX regulations
- Understand individual responsibilities under MSP's policy
- Learn about MSP's grievance process for complaints of sexual misconduct
- Take a peek at what may be coming

# **Title IX of the 1972 Education Amendments**

“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.”

- Federal administrative guidance documents
- Federal court cases interpreting civil rights statutes
- Maybe even individual resolution agreements between federal government and institutions

- **2020 Regulations**

What are we talking about when we say “Title IX?”

# Regulatory requirement to respond

- Actual knowledge
- Sexual harassment
- Education program or activity
- Person in the United States



# MSP Policy: Jurisdiction

- This policy applies to Title IX Sexual Harassment as defined below that occurs in MSP's education programs or activities and that is committed by any student, faculty member, staff member, or third-party affiliate who has a formal (including contractual) relationship with MSP. As defined by the U.S. Department of Education, "education programs or activities" include locations, events, or circumstances in the United States in which MSP exercised substantial control over both the Respondent (the person accused of violating the policy) and the context in which the alleged violation occurred (including any building owned or controlled by a student organization that is officially recognized by MSP).
- Misconduct occurring outside of the jurisdiction of this policy may be addressed by MSP's Academic Catalog. Individuals impacted by any form of sexual misconduct, irrespective of whether it falls under this policy, may contact the Title IX Coordinator to receive support, resources, and information.

# Definition of Sexual Harassment

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- 1) An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
- 2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or
- 3) "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

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# Respond promptly in a manner that is not deliberately indifferent

- Promptly contact complainant to discuss availability of supportive measures regardless of whether complaint is filed and explain process for filing complaint
- Supportive measures for complainants
- Supportive measures for respondents (when the time is right)
- Keep records of supportive measures for seven years

# Response per MSP's policy

- Upon receipt of a report, the Title IX Coordinator will contact the person who may have been impacted by the reported concern. Outreach from the Title IX Coordinator will generally include information about: medical and confidential counseling and support resources; options for filing a Formal Complaint and/or reporting the incident to law enforcement; how to request a protective order or no-contact directive; how to request Supportive Measures with or without filing a Formal Complaint; how to preserve evidence; and where to access more information. The outreach will also include an invitation to meet with or provide additional information to the Title IX Coordinator.



CONDUCT THAT FALLS OUTSIDE  
TITLE IX JURISDICTION?

# Regulatory requirement to conduct formal grievance process:

Formal complaint filed by

- \* A complainant, or by
- \* Title IX Coordinator



# Dismissing complaints

## MANDATORY

- Not sexual harassment
- Did not occur in program or activity
- Not against person in the U.S.

## DISCRETIONARY

- Complainant withdraws complaint
- Respondent no longer enrolled/employed
- School unable to collect sufficient info

# Formal grievance process begins with notice letter, which includes:

- Link to/copy of MSP's policy
- Allegations, including sufficient details
- Statement of presumption of non-responsibility
- Right to an advisor/attorney
- Right to inspect and review evidence
- Prohibition on retaliation
- Prohibition on making false statements



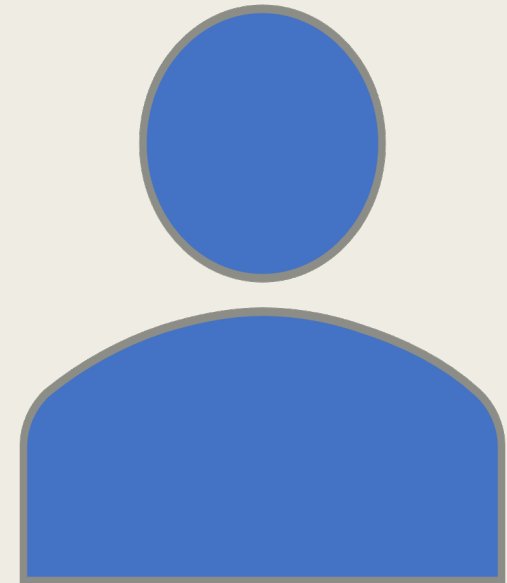
# MSP's policy: Informal resolution

- At any time after the parties are provided written notice of the Formal Complaint, and before the completion of any appeal specified in IV.I, the parties may voluntarily consent, with the Title IX Coordinator's approval, to engage in mediation, facilitated resolution, restorative justice or other form of dispute resolution, the goal of which is to enter into a final resolution resolving the allegations raised in the Formal Complaint by agreement of the parties.
- The specific manner of any informal resolution process will be determined by the parties and the Title IX Coordinator, in consultation together.
- Informal resolution will not be permitted if the Respondent is a non-student employee accused of perpetrating Title IX Sexual Harassment against a student.



- Title IX Coordinator
- Facilitator of informal resolution
- Investigator
- Decision-maker
- Appeals officer
- Party advisor

## Title IX Roles



# Steps of investigation

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Trained investigator collects information

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Investigator shares evidence “directly related” to allegations with parties

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Parties have 10 calendar days to respond

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Investigator creates summary of “relevant” evidence (investigation report) and shares with parties

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Parties have 10 calendar days to respond prior to hearing

# Hearing basics

- Almost always conducted via Zoom
- Follows pre-hearing conference
- No direct interaction between the parties
- Parties must have advisors ask questions on their behalf
- MSP will appoint advisors
- Hearing officer is different person than Coordinator and investigator





# Required elements in written determination

- Description of procedural steps from complaint through determination
- Findings of fact
- Conclusions regarding application of policy to facts
- Rationale for each result of each allegations
- Sanctions/remedies
- Appeal options (must permit appeal)

A person in a dark suit, white shirt, and red tie is shown from the chest up. They are holding a large, glowing white sphere with both hands. The sphere is the brightest part of the image, contrasting with the dark background and the person's clothing. The person's face is not visible, only their mouth and chin are seen at the top.

How will the new regulations change all of this?

# QUESTIONS?

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