

A large, multi-level library with circular bookshelves and a central study area. The library is filled with books and has a warm, golden light. The title 'TITLE IX TRAINING' is overlaid in large white letters at the top.

TITLE IX TRAINING

Michigan School of Psychology

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Learning goals for today:

- Legal framework of Title IX
- Meaning and applicability of Title IX
- MSP's institutional responsibilities under Title IX
- How MSP's policy tracks the Title IX regulations
- Individual responsibilities under MSP's policy
- MSP's grievance process for complaints of sexual harassment
- Changing landscape to come soon in Title IX

Title IX of the 1972 Education Admendments

“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 Framework

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

MSP Title IX 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.

Title IX Definition of Sexual Harassment



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).

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).

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).**

Response from School



A School Must Respond if...

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

A School Must Respond 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.

Title IX Formal Complaint



Formal Complaint ➡ Formal Grievance Process

Regulatory requirement to conduct formal grievance process:

Formal complaint filed by:

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

Formal Complaint ➡ Dismissal

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 Complaint ➡ 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.

Formal Complaint ➡ Supportive Measures

Supportive Measures are non-disciplinary, non-punitive individualized services offered, as appropriate, and reasonably available, and without fee or charge, that are designed to restore or preserve equal access to MSP's education programs or activities without unreasonably burdening another party, including measures designed to protect the safety of all parties implicated by a report or MSP's education environment, or to deter Title IX Sexual Harassment. Supportive measures may include: counseling, extensions of academic or other deadlines, course-related adjustments, modifications to work or class schedules, campus escort services, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of campus, other changes to academic, living, dining, transportation, and working situations, honoring an order of protection or no contact order entered by a State civil or criminal court, and other similar measures. Supportive Measures may also include mutual restrictions on contact between the parties implicated by a report.

Formal Grievance Process



Title IX Roles

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

Formal Grievance Process Phases

1. Notice of Allegations and Investigation
2. Investigation
3. Hearing
4. Appeal

Formal Grievance Process Notice Letter

- 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

Steps of Investigation

- Trained investigator gathers evidence
- Investigator shares evidence “directly related” to allegations with parties
- Parties have 10 days to respond
- Investigator creates summary of “relevant” evidence (final investigation report) and shares with parties
- Parties have 10 calendar days to respond prior to hearing

Hearing

- Live hearing where decision-maker/hearing officer and parties can simultaneously see and hear the party or the witness answering questions.
- Follows pre-hearing conference
- No direct interaction between the parties
- Hearing Officer can ask questions
- Only parties' advisors can ask relevant questions on party's behalf
- Advisor of choice or MSP will appoint advisors
- Decision-maker is different person than Coordinator and investigator
- Not intended to re-hear everything that's already been said in the investigation

Hearing Written Determination Must Include:

- Allegations and policy violations being considered
- Description of procedural steps from formal complaint through determination
- Findings of fact
- Conclusions regarding application of policy to facts
- Rationale for each result of each allegations
- Sanctions/remedies
- Appeal options

Appeal Options

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter; or
- The sanction is disproportionate with the violation.

New Title IX Regulations

Possible release sometime March-August 2024???



Questions?

Thank you!

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