



**D. STAFFORD**  
& ASSOCIATES

# **Title IX Coordinator- Combined Tiers 1&2 (AICUP)**

**November 2023**

**Presented by DSA Associates:**

**Adrienne Murray**

D. Stafford & Associates, LLC  
179 Rehoboth Avenue, #1121  
Rehoboth Beach, DE 19971  
302-344-5809

[Dolores@DStaffordandAssociates.com](mailto:Dolores@DStaffordandAssociates.com)

[www.dstaffordandassociates.com](http://www.dstaffordandassociates.com)

©All rights reserved by DSA

*(Limited permission is granted to each attendee of this class to make training materials available per the requirements outlined in the Title IX Regulations published on May 19, 2020)*





# D. STAFFORD & ASSOCIATES

## Combined Course

### Tier 1 Topics: Title IX Coordinator – Law and Policy

- The Law
- Title IX Regulations
- Title IX Grievance Procedures
- VAWA Procedural Requirements
- Addressing “Non-Title IX” Cases

### Tier 2 Topics: Title IX Coordinator – Sex Discrimination Response

- Intake and Notice
- Informal Resolutions
- Investigation Stage
- Formal Resolutions
- Institution Integrity and Training





---

## Adrienne Meador Murray, Vice President, Equity Compliance and Civil Rights Services



In January 2014, Adrienne Meador Murray joined D. Stafford & Associates where she currently serves as the Vice President, Equity Compliance and Civil Rights Services after having been affiliated with D. Stafford & Associates as a part-time Associate since 2012 and the National Association of Clery Compliance Officers & Professionals (NACCOP) where she currently serves as Director of Training and Compliance Activities. Murray began her career in municipal law enforcement as a civilian employee with the City of Richmond Police Department (Virginia). She graduated from the Virginia Commonwealth University Police Training Academy and began her career as a sworn police officer for the University of Richmond (UR) Police Department (Virginia). At UR, Murray progressed through the ranks from a night shift patrol officer to Operations Lieutenant (overseeing criminal investigations, crime prevention and patrol) over the span of a decade before becoming the Chief of Police at Davidson

College in North Carolina. Most recently, Murray served as Chief of Police at Trinity Washington University (in Washington, D.C.).

As the Executive Director, Equity Compliance and Civil Rights Services for DSA, Murray builds on her 17-year career in law enforcement in which she became a nationally recognized expert in the field of best practice postsecondary institutional response to the sexual victimization of college women in the United States and in Canada. She is also a trained civil rights investigator and is well respected throughout the country for her ability to aid institutions in understating how to do best practice criminal and civil rights investigations concurrently. She is well known for her work in having provided support, advocacy and criminal investigative services for victims of sexual assault, stalking and intimate partner violence and is a sought-out speaker and investigator. She has expertise in the construction of best practice law enforcement standard operating procedures and training police officers to respond in best practice and trauma-informed ways to victims of sexual assault and intimate partner violence. In her current role, Murray coordinates curriculum development and instruction for national classes, including basic and advanced sexual misconduct investigation classes; an investigation of dating violence, domestic violence and stalking class; and a Title IX Coordinator/Investigator class offered through D. Stafford & Associates. To date, Murray has trained more than 3,500 criminal and civil rights investigators throughout the U.S.

Drawing on her experiences as a trained criminal and civil rights investigator, Murray also oversees independent investigations of complex sexual misconduct cases; conducts audits of Title IX/VAWA



**D. STAFFORD**  
& ASSOCIATES

P.O. Box 1121  
Rehoboth Beach, DE 19971  
Phone: (202) 438-5929  
[dolores@dstaffordandassociates.com](mailto:dolores@dstaffordandassociates.com)

---

Compliance; drafts institutional sexual misconduct policies and procedures; and conducts campus-based trainings pertaining to the resolution of sexual misconduct offenses on college and university campuses. Murray frequently presents at regional and national conferences on topics such as the *Sexual Victimization of College Women*, *Understanding Consent and Incapacitation*, and *Responding to Sexual Assault on Campus: Clery Act and Title IX Implications*. Murray also conducts provincially specific sexual misconduct trainings throughout Canada.

Murray is a graduate of the University of Richmond, where she received her Bachelor's Degree in Applied Studies in Human Resource Management and of New England College, where she received her Master's Degree in Campus Public Safety Administration. Murray is also a graduate of the 235th session of the prestigious FBI National Academy where she was awarded a graduate certificate in Criminal Justice from the University of Virginia. She has authored numerous journal articles.

## INVESTIGATION CLASS ACRONYMS

- ASR:** Annual Security Report (often used as a reference to the Annual Security Report and/or the Annual Security and Fire Safety Report) that must be published by each institution of higher education.
- CSA:** Campus Security Authority—Individuals on each campus who have been identified by the Department of Education as persons who are required to report crimes that they become aware of to the Reporting Structure at each institution.
- DCL:** Dear Colleague Letter—this is a formal name of the method of communication from the Department of Education to college campuses. It is like naming their official “memo” to campuses.
- FERPA:** Family Educational Rights and Privacy Act—governs the confidentiality of student records.
- FNE:** Forensic Nurse Examiners
- GO:** General Order—some departments describe their operating procedures as general orders
- HEOA:** Higher Education Opportunity Act—the broader law that contains the Clery Act language and the fire safety and missing person language that is in the law but not contained within the “Clery Act” portion of the law.
- HIPAA:** Health Insurance and Privacy and Portability Act—governs privacy of medical records.
- MOU:** Memorandum of Understanding—an official agreement developed between agencies.
- NIBRS:** National Incident-Based Reporting System. 1 of 2 crime reporting systems developed by the FBI, but not the system that you are required to use for Clery Reporting—the only portion of this system that is used for Clery Act purposes are the 4 forcible and 2 non-forcible sex offense definitions.
- OCR:** Office of Civil Rights—the unit of the Department of Education that oversees Title IX Compliance.
- PD:** Police Department
- PS:** Public Safety
- PNG:** Persona-non-Grata—process used by some campuses not keep students from entering certain areas of the campus or the entire campus (administrative process) versus legal bar notice or trespass warning.
- SACC:** Sexual Assault Crisis Center, also known as Women’s Center.
- SANE:** Sexual Assault Nurse Examiner

**SART:** Sexual Assault Response Team

**SOP:** Standard Operating Procedures—some departments describe their operating procedures as Standard Operating Procedures. Some call them General Orders, etc...

**SWA:** Senior Women's Administrator (Athletics)

**TWN:** Timely Warning Notice

**UCR:** Uniformed Crime Report. This is 1 of 2 crime statistics reporting systems developed by the FBI. Institutions are required to use UCR Standards for counting and classifying crimes for reporting the Clery statistics.

**VAWA:** Violence Against Women Act



## **TITLE IX**

### **Copyright**

*(Limited permission is granted to each attendee of this class to make training materials available per the requirements outlined in the Title IX Regulations published on May 19, 2020)*

*These materials are copyright of D. Stafford & Associates, LLC © 2023 D. STAFFORD & ASSOCIATES. All rights reserved.*

*Any distribution or reproduction of part or all of the contents in any form is prohibited other than the following:*

- As required by 34 C.F.R. § 106.45(b)(1)(iii) and § 106.45(B)(10)(i)(D), this material in its entirety may be posted to the website of the institution in which you were associated with at the time in which you were enrolled in this training.*
- Public inspection upon request.*

*You may not, except with our express written permission, distribute or commercially exploit the content. Nor may you transmit it or store it in any other website or other form of electronic retrieval system.*



## ISSUANCE OF CERTIFICATES FOR COMPLETION

To receive a certificate, attendees must attend the majority of the class and have paid class invoice in full. This applies to both in-person classes and virtual classes. We understand that attendees may need to miss class for a legitimate reason for longer periods of time or may need to leave the room during a class for a few minutes to take a phone call or attend to other business. If an attendee misses a significant amount of the class (depending on the length of the class) or they miss an attendance poll, they will not be issued a certificate of completion for the class.

Attendees should report each absence using the online form provided (each class has its own unique form that is sent to all attendees via email prior to class). Attendees should complete the form twice for each absence: once to record their departure, and again to record their return. Attendees should complete the form immediately before leaving class and as soon as practicable upon their return. If an attendee signs out but does not sign back in, they will be marked absent for the remainder of the day.

The criteria for receiving a certificate is determined based on missed class time and participation in the Attendance Polls that will be launched throughout each day of class. Attendance polls are left up for approximately 5 minutes and the instructor notifies the attendees that a poll is being launched to ensure that everyone who is present can respond to the poll. If an attendee is unable to respond to the attendance poll, the attendee would need to **immediately post "I am here"** in the chat feature within the Zoom platform. That way we can give the attendee credit for being in attendance for that specific poll. Notifying us after the attendance poll has been closed will not allow us to give the attendee credit for being in class during the poll.

Some of our classes may qualify for credit toward a Master's Degree at New England College (and regardless if you decide to seek credit or not, accreditation requirements mandate that we follow the same standards for all class attendees), so we have strict attendance standards that we follow for issuance of a certificate. For DSA & NACCOP, issuance of a Certificate of Completion is verification of attendance.





## Title IX Bibliography

- ABC. (n.d.). *Schoolhouse Rock – “I’m just a bill”*. YouTube. Retrieved January 21, 2022, from <https://www.youtube.com/watch?v=l6MinvU93kl>
- Alexander, M. (2012). *The New Jim Crow*. New Press.
- American Council on Education. (2020, September 10). *Race and ethnicity of college and university presidents over time*. Race and Ethnicity in Higher Education. Retrieved January 21, 2022, from <https://www.equityinhighered.org/indicators/postsecondary-faculty-and-staff/race-and-ethnicity-of-college-and-university-presidents-over-time/>
- Anderson, M., Vogels, E. A., & Turner, E. (2020, October 2). *The Virtues and Downsides of Online Dating*. Pew Research Center: Internet, Science & Tech. Retrieved from <https://www.pewresearch.org/internet/2020/02/06/the-virtues-and-downsides-of-online-dating/>
- Anderson, N., & Clement, S. (2015, June 12). *Poll shows that 20 percent of women are sexually assaulted in college*. The Washington Post. Retrieved from <https://www.washingtonpost.com/sf/local/2015/06/12/1-in-5-women-say-they-were-violated/>
- Anti-Defamation League. (n.d.). A Brief History of Disability Rights Movement. Retrieved January 17, 2022, from <https://www.adl.org/education/resources/backgrounders/disability-rights-movement>
- Areen, J., & Lake, P. F. (2014). *Higher Education and the Law*. Foundation press.
- Barlow, J. N. (2020, February). *Black women, the forgotten survivors of sexual assault*. American Psychological Association. Retrieved from <https://www.apa.org/pi/about/newsletter/2020/02/black-women-sexual-assault>
- Bedera, N. (2017). Moaning and Eye Contact: College Men's Negotiations of Sexual Consent in Theory and in Practice. <https://doi.org/10.31235/osf.io/eqfya>
- Boyle, K. M. (2015). Social Psychological Processes that Facilitate Sexual Assault within the Fraternity Party Subculture. *Sociology Compass*, 9(5), 386–399. <https://doi.org/10.1111/soc4.12261>
- Brown, J. T. (2012). *The parent's guide to college for students on the autism spectrum*. Autism Asperger Pub. Co.
- Bryant, J. (2021, November 11). *How many Americans have a college degree? BestColleges*. BestColleges.com. Retrieved January 21, 2022, from <https://www.bestcolleges.com/news/analysis/2021/07/01/how-many-americans-have-college-degrees/>

- Campbell, R., Bybee, D., Townsend, S. M., Shaw, J., Karim, N., & Markowitz, J. (2014). The Impact of Sexual Assault Nurse Examiner Programs on Criminal Justice Case Outcomes. *Violence Against Women, 20*(5), 607–625. <https://doi.org/10.1177/1077801214536286>
- Canan, S. N., Jozkowski, K. N., & Crawford, B. L. (2016). Sexual Assault Supportive Attitudes: Rape Myth Acceptance and Token Resistance in Greek and Non-Greek College Students From Two University Samples in the United States. *Journal of Interpersonal Violence, 33*(22), 3502–3530. <https://doi.org/10.1177/0886260516636064>
- Cantor, D., Fisher, B., Chibnall, S., Townsend, R., Lee, H., Bruce, C., & Thomas, G. (2017, October 20). *Report on the AAU Campus Climate Survey on Sexual Assault ...* Retrieved from <https://www.aau.edu/sites/default/files/AAU-Files/Key-Issues/Campus-Safety/AAU-Campus-Climate-Survey-FINAL-10-20-17.pdf>
- Center for Applied Special Technology. (2020, September 25). *Timeline of Innovation*. CAST. Retrieved from <https://www.cast.org/impact/timeline-innovation>
- Center for Applied Special Technology. (n.d.). *UDL On Campus*. UDL On Campus: Home. Retrieved from <http://udloncampus.cast.org/home>
- The Centers for Disease Control and Prevention. (2010). *NISVS: An Overview of 2010 Findings on Victimization by Sexual Orientation*. National Intimate Partner and Sexual Violence Survey (NISVS): 2010 Findings on Victimization by Sexual Orientation. Retrieved from [https://www.cdc.gov/violenceprevention/pdf/cdc\\_nisvs\\_victimization\\_final-a.pdf](https://www.cdc.gov/violenceprevention/pdf/cdc_nisvs_victimization_final-a.pdf)
- Centers for Disease Control and Prevention. (2019). Centers for Disease Control and Prevention. Retrieved from <https://www.cdc.gov/violenceprevention/publichealthissue/social-ecologicalmodel.html>
- Centers for Disease Control and Prevention. (2020, June 1). *Sexual Violence and Intimate Partner Violence Among People with Disabilities | Violence Prevention | Injury Center | CDC*. Centers for Disease Control and Prevention. Retrieved from <https://www.cdc.gov/violenceprevention/datasources/nisvs/svandipv.html>
- Chambers, J. C., Horvath, M. A. H., & Kelly, L. (2010). A Typology of Multiple-Perpetrator Rape. *Criminal Justice and Behavior, 37*(10), 1114–1139. <https://doi.org/10.1177/0093854810377971>
- Cho, H., Seon, J., Choi, G.-Y., An, S., Kwon, I., Choi, Y. J., Hong, S., Lee, J. O., Son, E., & Yun, S. H. (2020). Gender Differences in Intimate Partner Violence Victimization, Help-Seeking, And Outcomes Among College Students. *Advances in Social Work, 20*(1), 22–44. <https://doi.org/10.18060/23675>
- Civil Rights Act of 1964 § 7, 42 U.S.C. § 2000e et seq (1964) (n.d.).
- Coaston, J. (2019, May 20). *The intersectionality wars*. Vox. Retrieved from <https://www.vox.com/the-highlight/2019/5/20/18542843/intersectionality-conservatism-law-race-gender-discrimination>

- Cocks, C. L., & Brown, F. C. L. (2020). The Philosophy of Student Conduct and the Student Conduct Professional. In *Student conduct practice: the complete guide for student affairs professionals* (pp. 23–35). essay, Stylus Publishing.
- Congressional Research Service, & McCallion, G., History of the Clery Act: Fact sheet (2014). Washington, DC; Congressional Research Service.
- Congressional Research Service, & Sacco, L. N., The Violence Against Women Act (VAWA): Historical Overview, Funding, and Reauthorization (2019). Washington, DC; Congressional Research Service.
- Crager, M., Cousin, M., & Hardy, T. (2003, April). *Victim-Defendants: An Emerging Challenge in Responding to Domestic Violence in Seattle and the King County Region*. King County Coalition Against Domestic Violence. Retrieved from <https://endgv.org/wp-content/uploads/2016/03/victimdefendantfinalreport111.pdf>
- Crenshaw, K. (2018). Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory, and Antiracist Politics [1989]. *Feminist Legal Theory*, 57–80. <https://doi.org/10.4324/9780429500480-5>
- Cruz, J. V. (2018, December 24). *Five Things to Know When Working with Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) Sexual Violence Survivors*. Justice Clearinghouse. Retrieved from <https://www.justiceclearinghouse.com/resource/five-things-to-know-when-working-with-lesbian-gay-bisexual-transgender-and-queer-lgbtq-sexual-violence-survivors/>
- Dannells, M. (1997). *From discipline to development: rethinking student conduct in higher education*. EIC Clearinghouse on Higher Education, Institute for Education Policy Studies, Graduate School of Education and Human Development, the George Washington University.
- daSilva, T., Harkins, L., & Woodhams, J. (2013). Multiple perpetrator rape: An international phenomenon. *Handbook on the Study of Multiple Perpetrator Rape*, 30–56. <https://doi.org/10.4324/9780203083406-9>
- daSilva, T., Woodhams, J., & Harkins, L. (2017). “An Adventure That Went Wrong”: Reasons Given by Convicted Perpetrators of Multiple Perpetrator Sexual Offending for Their Involvement in the Offense. *Archives of Sexual Behavior*, 47(2), 443–456. <https://doi.org/10.1007/s10508-017-1011-8>
- Dating App Revenue and Usage Statistics (2021)*. Business of Apps. (2021, January 25). Retrieved from <https://www.businessofapps.com/data/dating-app-market/>
- Davis, D.-M. (2020, December 24). *24 slang words teens and Gen Zers are using in 2020, and what they really mean*. Business Insider. Retrieved from <https://www.businessinsider.com/slang-words-terms-teens-current-2019-8#extra-to-be-extra-is-to-be-unnecessarily-dramatic-and-over-the-top-1>
- DiAngelo, R. J. (2018). *White Fragility: Why It's So Hard for White People to Talk about Racism*. Beacon Press.

- Durham, J. J. (2018, November 27). *The Differences and Similarities of Restorative Justice and Mediation*. Pathways to Restorative Communities. Retrieved from <https://www.pathways2rc.com/news/2018/10/24/the-differences-and-similarities-of-restorative-justice-and-mediation>
- Electronic Privacy Information Center. (n.d.). *Family educational rights and privacy act (FERPA)*. Family Educational Rights and Privacy Act (FERPA). Retrieved January 19, 2022, from <https://epic.org/family-educational-rights-and-privacy-act-ferpa/>
- Federal Register. Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 CFR 106. (2019).
- FIRE. (n.d.). *Campus rights: What we defend*. FIRE. Retrieved January 16, 2022, from <https://www.thefire.org/about-us/campus-rights/>
- Foubert, J. D., Brosi, M. W., & Bannon, R. S. (2011). Pornography Viewing among Fraternity Men: Effects on Bystander Intervention, Rape Myth Acceptance and Behavioral Intent to Commit Sexual Assault. *Sexual Addiction & Compulsivity*, 18(4), 212–231. <https://doi.org/10.1080/10720162.2011.625552>
- Foubert, J. D., Clark-Taylor, A., & Wall, A. F. (2019). Is Campus Rape Primarily a Serial or One-Time Problem? Evidence From a Multicampus Study. *Violence Against Women*, 107780121983382. <https://doi.org/10.1177/1077801219833820>
- Gehring, D. D. (2001). The Objectives of Student Discipline and The Process That's Due: Are They Compatible? *Journal of Student Affairs Research and Practice*, 38(4), 466–481. <https://doi.org/10.2202/1949-6605.1155>
- Gladwell, M. (2019). *Talking to strangers: what we should know about the people we dont know*. Little, Brown and Company.
- Goldman, T., & Chappell, B. (2019, January 10). *How Bernice Sandler, 'godmother of title IX,' achieved landmark discrimination ban*. NPR. Retrieved January 21, 2022, from <https://www.npr.org/2019/01/10/683571958/how-bernice-sandler-godmother-of-title-ix-achieved-landmark-discrimination-ban>
- Gravelin, C. R., Biernat, M., & Bucher, C. E. (2019). Blaming the Victim of Acquaintance Rape: Individual, Situational, and Sociocultural Factors. *Frontiers in Psychology*, 9. <https://doi.org/10.3389/fpsyg.2018.02422>
- Greenhouse, M., BrckaLorenz, A., Hoban, M., Huesman, R., Rankin, S., & Stolzenberg, E. B. (2018, August). *Queer-Spectrum and Trans-Spectrum Student Experiences in American Higher Education*. Tyler Clementi Center for Diversity Education and Bias Prevention. Retrieved from <https://clementicenter.rutgers.edu/research-insights-and-events/campus-climate-queer-spectrum-and-trans-spectrum-higher-education>
- Harris, J. C., & Linder, C. (2017). *Intersections of identity and sexual violence on campus: centering minoritized students experiences*. Stylus Publishing.

- Hegji, A. (2021, August 17). The Higher Education Act (HEA): A Primer. Retrieved January 21, 2022, from <https://sgp.fas.org/crs/misc/R43351.pdf>
- Hirsch, J. S., & Khan, S. (2020). *Sexual Citizens: A Landmark Study of Sex, Power, and Assault on Campus*. W. W. Norton & Company.
- Human Rights Campaign. (n.d.). Sexual Assault and the LGBTQ Community. Retrieved from <https://www.hrc.org/resources/sexual-assault-and-the-lgbt-community>
- International Institute for Restorative Practices*. (n.d.). Retrieved from <https://www.iirp.edu/>
- Interrogation: A Review of the Science HIG Report*. (2017, March 23). Retrieved from <https://www.fbi.gov/file-repository/hig-report-interrogation-a-review-of-the-science-september-2016.pdf/view>
- Irving, D. (2018). *Waking up White: And Finding Myself in the Story of Race*. Elephant Room Press.
- Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1990, 20 U.S.C. §1092. (n.d.).
- Jeanne Shaheen. (2022, January 12). *Shaheen, Hassan introduce Bill to combat sexual violence against students with disabilities*. U.S. Senator Jeanne Shaheen of New Hampshire. Retrieved January 17, 2022, from <https://www.shaheen.senate.gov/news/press/shaheen-hassan-introduce-bill-to-combat-sexual-violence-against-students-with-disabilities>
- Johnson, P. A., Widnall, S. E., & Benya, F. F. (2018). *Sexual harassment of women: climate, culture, and consequences in academic sciences, engineering, and medicine*. The National Academies Press.
- Judge, J., & O'Brien, T. (2012). *Equity and Title IX in Intercollegiate Athletics: A Practical Guide for Colleges and Universities*. NCAA Publications. Retrieved from [www.NCAA.org/gender\\_equity](http://www.NCAA.org/gender_equity)
- Kaplin, W. A., Lee, B. A., Hutchens, N. H., & Rooksby, J. H. (2020). *Law of Higher Education: Student Version* (Sixth). Jossey-Bass.
- Kendi, I. X. (2021). *How To Be An Antiracist*. Vintage.
- Kidder, R. M. (2006). *Moral courage*. Harper.
- Kidder, R. M. (2009). *How good people make tough choices: resolving the dilemmas of ethical living*. Harper.
- Koss, M. P., Dinero, T. E., Seibel, C. A., & Cox, S. L. (1988). Stranger and Acquaintance Rape: Are There Differences In the Victim's Experience? *Psychology of Women Quarterly*, 12(1), 1–24. <https://doi.org/10.1111/j.1471-6402.1988.tb00924.x>
- Krebs, C. P., Lindquist, C. H., Warner, T., Fisher, B. S., & Martin, S. L. (2007, December). The Campus Sexual Assault (CSA) Study. Retrieved from <https://www.ncjrs.gov/pdffiles1/nij/grants/221153.pdf>

- Lacey, A., & Murray, C. (2015). *The Nuts and Bolts of Reauthorization*. Career Education Review. Retrieved from <https://www.thompsoncoburn.com/docs/default-source/publication-documents/the-nuts-and-bolts-of-reauthorization.pdf?sfvrsn=0&sfvrsn=0>
- Lake, P. F. (2009). *Beyond Discipline: Managing the Modern Higher Education Environment*. Hierophant Enterprises, Inc.
- Lake, P. F. (2011). *Foundations of Higher Education Law & Policy: Basic Legal Rules, Concepts, and Principles for Student Affairs*. NASPA.
- Lake, P. F. (2013). *The Rights and Responsibilities of the Modern University: The Rise of the Facilitator University*. Carolina Academic Press.
- Lancaster, J. M. (2006). *Exercising Power with Wisdom: Bridging Legal and Ethical Practice with Intention*. College Administration Publications.
- Legal Momentum. (n.d.). *History of VAWA*. History of VAWA | Legal Momentum. Retrieved January 16, 2022, from <https://www.legalmomentum.org/history-vaawa>
- Martin, G. (2020, May 28). *What are Gender Pronouns? Why Do They Matter?* National Institutes of Health. Retrieved from <https://www.edi.nih.gov/blog/communities/what-are-gender-pronouns-why-do-they-matter>
- McClish, M. (2001). *I know you are lying: detecting deception through statement analysis*. Marpa Group, Inc.
- McLeod, S. (2019, October 24). *Social Identity Theory*. Social Identity Theory | Simply Psychology. Retrieved from <https://www.simplypsychology.org/social-identity-theory.html>
- Mechanic, M. B., Resick, P. A., & Griffin, M. G. (1998). A comparison of normal forgetting, psychopathology, and information-processing models of reported amnesia for recent sexual trauma. *Journal of Consulting and Clinical Psychology*, 66(6), 948–957. <https://doi.org/10.1037/0022-006x.66.6.948>
- Meloy, J. R., Mohandie, K., & Green, M. (2011). The Female Stalker. *Behavioral Sciences & the Law*, 29(2), 240–254. <https://doi.org/10.1002/bsl.976>
- National Council on Disability. (2018, January 30). *Not on the Radar: Sexual Assault of College Students with Disabilities*. National Council on Disability. Retrieved from [https://ncd.gov/sites/default/files/NCD\\_Not\\_on\\_the\\_Radar\\_Accessible\\_01292018.pdf](https://ncd.gov/sites/default/files/NCD_Not_on_the_Radar_Accessible_01292018.pdf)
- National District Attorneys Association - Women Prosecutors Section. (2017, July 17). *National Domestic Violence Prosecution Best Practices Guide*. NATIONAL DOMESTIC VIOLENCE PROSECUTION BEST PRACTICES GUIDE. Retrieved from <https://ndaa.org/wp-content/uploads/NDAADVWhitePaperFINALrevisedJuly1720171.pdf>
- National Sexual Violence Resource Center and Pennsylvania Coalition Against Rape. (2012). *Sexual Violence & Individuals Who Identify as LGBTQ*. NSVRC\_Research-Brief\_Sexual-Violence-

LGBTQ. Retrieved from [https://www.nsvrc.org/sites/default/files/Publications\\_NSVRC\\_Research-Brief\\_Sexual-Violence-LGBTQ.pdf](https://www.nsvrc.org/sites/default/files/Publications_NSVRC_Research-Brief_Sexual-Violence-LGBTQ.pdf)

National Women's Law Center. (2000). *A Basic Guide to Title IX*. National Women's Law Center. Retrieved from <https://www.nwlc.org/sites/default/files/pdfs/ABasicGuidetoTitleIX.pdf>

Natow, R. S. (2017). *Higher education rulemaking: the politics of creating regulatory policy*. Johns Hopkins University Press.

Ohio Alliance to End Sexual Violence. (n.d.). The Violence Against Women Act of Reauthorization of 2021. Retrieved January 17, 2022, from [https://oaesv.org/wp-content/uploads/2021/04/factsheet\\_vawa\\_2021.pdf](https://oaesv.org/wp-content/uploads/2021/04/factsheet_vawa_2021.pdf)

Orantes, E., & Sharma, A. (2019, March 4). *Title IX Compliance Creates Hurdles for Collegiate eSports Programs*. JD Supra. Retrieved from <https://www.jdsupra.com/legalnews/title-ix-compliance-creates-hurdles-for-99240/>

Orcutt, M., Petrowski, P. M., Karp, D. R., & Draper, J. (2020, June). *The Journal of College and University Law*. RESTORATIVE JUSTICE APPROACHES TO THE INFORMAL RESOLUTION OF STUDENT SEXUAL MISCONDUCT. Retrieved from [https://jcul.law.rutgers.edu/wp-content/uploads/2020/08/45\\_jcul\\_No2\\_FULL.pdf](https://jcul.law.rutgers.edu/wp-content/uploads/2020/08/45_jcul_No2_FULL.pdf)

Pacheco, R. (2020, May). Not Online. Not on Campus: Addressing Sexual Violence and Technology-Facilitated Violence on Campuses. Retrieved from <https://ywcacanada.ca/wp-content/uploads/2020/08/Not-Online.-Not-On-Campus.-Report.pdf>

Paine, L. S. (2014, August 1). *Managing for Organizational Integrity*. Harvard Business Review. Retrieved from <https://hbr.org/1994/03/managing-for-organizational-integrity>

Partners in Leadership. (2019, May 29). *The Three Values of Organizational Integrity*. Culture Management Experts. Retrieved from <https://www.partnersinleadership.com/insights-publications/the-three-values-of-organizational-integrity/>

Pew Research Center. (2020, June 5). *Demographics of Social Media Users and Adoption in the United States*. Pew Research Center: Internet, Science & Tech. Retrieved from <https://www.pewresearch.org/internet/fact-sheet/social-media/>

Practical Psychology. (2020, April 15). *Ebbinghaus Forgetting Curve (Definition + Examples)*. Practical Psychology. Retrieved from <https://practicalpie.com/ebbinghaus-forgetting-curve/>

The Pregnant Scholar. (2020, September 29). *The Pregnant Scholar Homepage: Tools to support student parents*. The Pregnant Scholar. Retrieved from <https://thepregnantscholar.org/>

*Public policy recommendation: Addressing campus sexual ...* (n.d.). Retrieved from <https://www.atsa.com/pdfs/Policy/Addressing%20Campus%20Sexual%20Misconduct%20FINAL.pdf>

- Rothstein, R. (2018). *The Color of Law: A Forgotten History of How Our Government Segregated America*. Liveright Publishing Corporation, a division of W.W. Norton & Company.
- Seabrook, R. C., Ward, L. M., & Giaccardi, S. (2018). Why is fraternity membership associated with sexual assault? Exploring the roles of conformity to masculine norms, pressure to uphold masculinity, and objectification of women. *Psychology of Men & Masculinity*, 19(1), 3–13. <https://doi.org/10.1037/men0000076>
- Seelye, K. Q. (2019, January 8). *Bernice Sandler, 'godmother of title IX,' dies at 90*. The New York Times. Retrieved January 21, 2022, from <https://www.nytimes.com/2019/01/08/obituaries/bernice-sandler-dead.html>
- Sex Offender Management Assessment and Planning Initiative*. (2017, April). Retrieved from [https://smart.gov/SOMAPI/pdfs/SOMAPI\\_Full%20Report.pdf](https://smart.gov/SOMAPI/pdfs/SOMAPI_Full%20Report.pdf)
- Sloan, J. J., & Fisher, B. (2011). *The Dark Side of the Ivory Tower: Campus crime as a social problem*. Cambridge University Press.
- Stanford Journalism. (2019). *Celebrating 47 Years of Title IX and Bernice Sandler*. YouTube. Retrieved January 21, 2022, from [https://youtu.be/F\\_B7-HwaqP4](https://youtu.be/F_B7-HwaqP4).
- Stark-Mason, R. (2020, February 26). *Name, Image, Likeness*. NCAA.org - The Official Site of the NCAA. Retrieved from <http://www.ncaa.org/champion/name-image-likeness>
- Steinfeld, E., & Maisel, J. (2012). *Universal Design Creating Inclusive Environments*. John Wiley & Sons.
- Stoner, E. N., & Lowery, J. W. (2004). Navigating Past The “Spirit of Insubordination”: A Twenty-First Century Model Student Conduct Code. *Journal of College and University Law*, 31(1), 1–78.
- Title IX of The Education Amendments of 1972, 20 U.S.C. A§ 1681 Et. (n.d.).
- Toure, K., & Hamilton, C. V. (1992). *Black Power: The politics of liberation in America*. Vintage Books.
- Tracy, C. E., Fromson, T. L., Long, J. G., & Whitman, C. (2012, June 5). *Rape and Sexual Assault in the Legal System*. Women's Law Project. Retrieved from <https://www.womenslawproject.org/wp-content/uploads/2016/04/Rape-and-Sexual-Assault-in-the-Legal-System-FINAL.pdf>
- Tumulty, K. (2004, May 17). *Evaluating the success of the Great Society*. The Washington Post. Retrieved January 21, 2022, from <https://www.washingtonpost.com/wp-srv/special/national/great-society-at-50/>
- U.S. Department of Education (ED). (2020, January 10). *Know Your Rights: Pregnant or Parenting? Title IX Protects You From Discrimination At School*. Home. Retrieved from <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-know-rights-201306-title-ix.html>

- U.S. Department of Education (ED). (2020, January 10). *Students with disabilities preparing for postsecondary education*. Office of Civil Rights. Retrieved January 17, 2022, from <https://www2.ed.gov/about/offices/list/ocr/transition.html>
- U.S. Department of Education (ED). (2021, August 20). *Title IX and sex discrimination*. Title IX. Retrieved January 21, 2022, from [https://www2.ed.gov/about/offices/list/ocr/docs/tix\\_dis.html](https://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html)
- U.S. Department of Education. (2002, June 1). *Legislative history of major Ferpa provisions*. Legislative History of Major FERPA Provisions I Protecting Student Privacy. Retrieved January 19, 2022, from <https://studentprivacy.ed.gov/resources/legislative-history-major-ferpa-provisions>
- U.S. Department of Education. (2012, October). *Title IX and access to courses and programs in STEM Office for Civil Rights, Department of Education Revised October 2012*. Office of Civil Rights Presentations. Retrieved from <https://www2.ed.gov/about/offices/list/ocr/presentations/stem-t9-powerpoint.pdf>
- U.S. Department of Education. (n.d.). *The NCES Fast Facts Tool provides quick answers to many education questions (National Center for Education Statistics)*. National Center for Education Statistics (NCES) Home Page. Retrieved January 17, 2022, from <https://nces.ed.gov/fastfacts/display.asp?id=60>
- U.S. Department of Education. (n.d.). *The NCES Fast Facts Tool provides quick answers to many education questions (National Center for Education Statistics)*. National Center for Education Statistics (NCES) Home Page. Retrieved January 21, 2022, from <https://nces.ed.gov/fastfacts/display.asp?id=93>
- U.S. Government. (n.d.). *U.S. Federal Courts Circuit Map - United States Courts*. U.S. Federal Courts Circuit Map. Retrieved January 21, 2022, from [https://www.uscourts.gov/sites/default/files/u.s.\\_federal\\_courts\\_circuit\\_map\\_1.pdf](https://www.uscourts.gov/sites/default/files/u.s._federal_courts_circuit_map_1.pdf)
- University of Buffalo. (2020, February 24). *Universal Design*. IDEA Center. Retrieved from <https://idea.ap.buffalo.edu/about/universal-design/>
- Vallano, J. P., & Schreiber Compo, N. (2015). Rapport-building with cooperative witnesses and criminal suspects: A theoretical and empirical review. *Psychology, Public Policy, and Law*, 21(1), 85–99. <https://doi.org/10.1037/law0000035>
- Varnell, S. (2013). *Statement analysis: an Iss course workbook*. Steven Varnell.
- Vector Solutions. (n.d.). Title IX: 5 ways it changed education for the better. Retrieved January 21, 2022, from <https://www.vectorsolutions.com/resources/blogs/title-ix-positive-changes/>
- Wachtel, T. (2016, November). *Defining Restorative*. International Institute for Restorative Practices. Retrieved from <https://www.iirp.edu/defining-restorative/restorative-practices/defining-restorative/>
- Waryold, D. M., & Lancaster, J. M. (2020). *Student Conduct Practice: The Complete Guide for Student Affairs Professionals*. Stylus Publishing.

Williamsen, D. K. K., Karp, D., & Williamsen, K. (2020, March 12). 5 Things Restorative Justice Sexual Harm. Retrieved from <https://www.naspa.org/report/five-things-student-affairs-administrators-should-know-about-restorative-justice-and-campus-sexual-harm>

Woodhams, J., Taylor, P. J., & Cooke, C. (2020). Multiple perpetrator rape: Is perpetrator violence the result of victim resistance, deindividuation, or leader–follower dynamics? *Psychology of Violence, 10*(1), 120–129. <https://doi.org/10.1037/vio0000255>

Yoshino, K. (2006). *Covering: The hidden assault on American civil rights*. Random House.

## Threat Assessment Bibliography

- Amazon Prime. (n.d.). *We Are Columbine*. <https://www.amazon.com/We-Are-Columbine-Gustavo-DArthenay/dp/B07P887252>.
- American College Health Association. American College Health Association-National College Health Assessment III: Reference Group Executive Summary Fall 2020. Silver Spring, MD: American College Health Association; 2020.
- Baker-Smith, C., Coca, V., Goldrick-Rab, S., Looker, E., Richardson, B., & Williams, T. (2020). (rep.). #RealCollege 2020: Five Years of Evidence on Campus Basic Needs Insecurity. The Hope Center for College, Community, and Justice [https://hope4college.com/wp-content/uploads/2020/02/2019\\_RealCollege\\_Survey\\_Report.pdf](https://hope4college.com/wp-content/uploads/2020/02/2019_RealCollege_Survey_Report.pdf). Retrieved July 13, 2022.
- Borum, R., Fein, R., Vossekuil, B., & Berglund, J. (1999). Threat assessment: defining an approach for evaluating risk of targeted violence. *Behavioral Sciences & the Law*, 17(3), 323–337. [https://doi.org/10.1002/\(sici\)1099-0798\(199907/09\)17:3<323::aid-bsl349>3.0.co;2-g](https://doi.org/10.1002/(sici)1099-0798(199907/09)17:3<323::aid-bsl349>3.0.co;2-g)
- Brown, J. T. (2012). *The parent's guide to college for students on the autism spectrum*. Autism Asperger Pub. Co.
- Calhoun, F. S. (2000). *Hunters and howlers: threats and violence against federal judicial officials in the United States, 1789-1993*. Diane.
- Carlisle, N. (2018, October 25). Man who killed Utah student Lauren McCluskey had a history of sex assault that was downplayed in the criminal justice system. *Salt Lake Tribune*.
- Cawood, J. S., & Corcoran, M. H. (2020). *Violence assessment and intervention: the practitioner's handbook*. Routledge, an imprint of the Taylor & Francis Group.
- CBS News. (2019, May 3). *What we know about the suspected UNC Charlotte shooter*. CBS News. <https://www.cbsnews.com/news/uncc-shooting-suspect-trystan-andrew-terrell-charged-with-murder-today-2019-05-01/>.
- Contrera, J. (2019, January 25). 'Why did you do this?' His brother confessed to gunning down 17 people in Parkland. But he's the only family Zach Cruz has left. *The Washington Post*.
- Cullen, D. (2009). *Columbine*. Grand Central Publishing.
- de Vise, D., & Nakamura, D. (2010, May 15). George Huguely's behavior not reported before Yeardley Love's death. *The Washington Post*.
- Deisinger, G., Randazzo, M., O'Neill, D., & Savage, J. (2008). *The handbook for campus threat assessment & management teams*. Applied Risk Management.
- Dreal, V. J. (2017). *Assessing student threats: implementing the Salem-Keizer system*. Rowman & Littlefield.
- Drysdale, D. A., Modzeleski, W., & Simons, A. B. (2010). *Campus Attacks Targeted Violence Affecting Institutions of Higher Education*. Distributed by ERIC Clearinghouse.

- D’Inverno, A.S., Smith, S.G., Zhang, X., Chen, J. (2019). *The Impact of Intimate Partner Violence: A 2015 NISVS Research-in- Brief*. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention.
- Fagan, K. (2015, May 7). *From The Mag: Penn runner’s depression masked on social media*. ESPN. [http://www.espn.com/espn/feature/story/\\_/id/12833146/instagram-account-university-pennsylvania-runner-showed-only-part-story](http://www.espn.com/espn/feature/story/_/id/12833146/instagram-account-university-pennsylvania-runner-showed-only-part-story).
- Fagan, K. (2018). *What made Maddy run: the secret struggles and tragic death of an all-American teen*. Back Bay Books / Little, Brown and Company.
- FBI. (2017, February 24). *Making Prevention a Reality: Identifying, Assessing, and Managing the Threat of Targeted Attacks*. FBI. <https://www.fbi.gov/file-repository/making-prevention-a-reality.pdf/view>.
- Fein, R. A., & Vossekuil, B. (1997). *Preventing Assassination: A Monograph (the Secret Service Exceptional Case Study Project)*. United States Secret Service.
- Fein, R. A., Modzeleski, W., Borum, R., Pollack, W. S., Vossekuil, B., & Reddy, M. (2002). *Threat Assessment in Schools A Guide to Managing Threatening Situations and to Creating Safe School Climates. Revised*. United States Secret Service and United States Department of Education.
- Flaherty, M. P., & Johnson, J. (2012, February 8). Prosecutors: George Huguely e-mail to Yeardley Love said, ‘I should have killed you.’ *The Washington Post*.
- Flaherty, M. P., & Johnson, J. (2012, February 9). George Huguely drank so heavily that friends considered intervention, ex-teammates say. *The Washington Post*.
- Follman, M. (2022). *Trigger Points: Inside The Mission to Stop Mass Shootings in America*. Dey St. An Imprint of William Morrow.
- Friedman, G. (2019, May 30). What really happened to Lauren McCluskey? The inside story of her tragic death. *Deseret News*.
- Goode, E., Kovaleski, S. F., Healy, J., & Frosch, D. (2012, August 26). Before Gunfire, Hints of Bad News. *New York Times*.
- Gurman, S. (2005, September 2). Records Show University’s Response to Holmes. *Seattle Times*.
- Higher Education Mental Health Alliance (HEMHA). (2013, April 9). Balancing Safety and Support on Campus. <https://www.jedfoundation.org/wp-content/uploads/2016/07/campus-teams-balancing-safety-support-campus-jed-guide.pdf>.
- Hollister, B. A., & Scalora, M. J. (2015). Broadening campus threat assessment beyond mass shootings. *Aggression and Violent Behavior, 25*, 43–53. <https://doi.org/10.1016/j.avb.2015.07.005>
- Incels: A Guide to Symbols and Terminology*. Moonshot CVE. (2020, June 8). <http://moonshotcve.com/incels-symbols-and-terminology/>.

- Jaffe, H. (2011, June 1). George Huguey and Yeardeley Love: Love, Death, and Lacrosse. *Washingtonian*.
- The Jed Foundation, Student Mental Health and the Law: A Resource for Institutions of Higher Education. New York, NY: The Jed Foundation, 2008.
- Johnson, E. (2019, September 11). Head of Counseling at Penn Dies in Suicide. *Inside Higher Education*.
- Johnson, M. (2018, January 30). How Responsible are Killers with Brain Damage? *Scientific American*.
- Kilen, M. (2018, November 1). Nov. 1, 1991: Memories of deadly day on University of Iowa campus haunt survivors. *Des Moines Register*.
- Kilen, M. (2018, November 1). Nov. 1, 1991: The day a university campus shooting rampage shocked Iowa. *Des Moines Register*.
- Klonsky, E. D., May, A. M., & Saffer, B. Y. (2016). Suicide, suicide attempts, and Suicidal Ideation. *Annual Review of Clinical Psychology, 12*(1), 307–330. <https://doi.org/10.1146/annurev-clinpsy-021815-093204>
- Klonsky, E. D., Saffer, B. Y., & Bryan, C. J. (2017). Ideation-to-action theories of suicide: A conceptual and empirical update. *Current Opinion in Psychology, 22*, 38–43. <https://doi.org/10.1016/j.copsyc.2017.07.020>
- LaBanc, B. H., & Hemphill, B. O. (Eds.). (2015). *College in the Crosshairs: An administrative perspective on prevention of gun violence*. Stylus Publishing, LLC.
- Langman, P. (2019). Desperate identities. *Criminology & Public Policy, 19*(1), 61–84. <https://doi.org/10.1111/1745-9133.12468>
- Langman, P. (2021). *Warning signs: identifying school shooters before they strike* (First). Langman Psychological Associates, LLC.
- Langman, P. (n.d.). School Shooters.info. <https://schoolshooters.info>.
- Langman, P. F. (2010). *Why kids kill: inside the minds of school shooters*. St. Martins Griffin.
- Langman, P. F. (2015). *School shooters: understanding high school, college, and adult perpetrators*. Rowman & Littlefield.
- Lipsky, L. van D., & Burk, C. (2010). *Trauma stewardship: an everyday guide to caring for self while caring for others*. Accessible Publishing Systems, Pty, Ltd.
- Lysiak, M. (2014). *Newtown: An American tragedy*. Simon & Schuster.
- The Madison Holleran Foundation. (n.d.). <https://www.madisonholleranfoundation.org/>.
- Mai-Duc, C. (2015, October 2). Gun-obsessed, timid and his mom called him 'baby': What we know of Chris Harper-Mercer's life. *Los Angeles Times*.

- Mass shooting data & research*. The Violence Project. (n.d.). Retrieved July 13, 2022, from <https://www.theviolenceproject.org/>
- McGlinchy, A. (2016, August 3). *Changes in police response*. Out Of The Blue. <https://towerhistory.org/changes-police-response-ut-tower-shooting/>.
- Meloy, J. R., & Hoffman, J. (Eds.). (2021). *International Handbook of Threat Assessment*. Oxford University Press.
- MSD Commission. (2019). (rep.). *Marjory Stoneham Douglas High School Public Commission Initial Report*.
- Nakamura, D., Yanda, S., & de Vise, D. (2010, May 23). George Huguely, accused in Yeardeley Love's death, was a man of privilege, rage. *The Washington Post*.
- National Threat Assessment Center, *Enhancing school safety using a threat assessment model: an operational guide for preventing targeted school violence* (2018).
- National Threat Assessment Center, *Mass attacks in public spaces -- 2018* (2018).
- National Threat Assessment Center, *Using a systems approach for threat assessment investigations. A case study on Jared Lee Loughner*. (2015). U.S. Secret Service, Department of Homeland Security.
- Newman, K. S. (2005). *Rampage: the social roots of school shootings*. Basic Books.
- Newman, K. S. (2012, February 28). Why we miss school shooting warning signs. CNN. Retrieved July 13, 2022, from <https://globalpublicsquare.blogs.cnn.com/2012/02/28/school-shooting-warning-signs/>
- Nielsen, J. T., Riseling, S., & Squires, K. (2018). *Independent Review and Report Involving the Conduct and Actions of the University of Utah Department of Public Safety, and Housing and Residential Education, Relating to the Lauren McCluskey Case*. University of Utah.
- Northern Illinois University. (2010). *Report of the February 14, 2008 shootings at Northern Illinois University*.
- O'Toole, M. E. (2000). *The school shooter: A threat assessment perspective*. FBI Academy.
- Perloe, A., & Pollard, J. W. (2016). University counseling centers' role in campus threat assessment and management. *Journal of Threat Assessment and Management*, 3(1), 1–20. <https://doi.org/10.1037/tam0000051>
- Peterson, J., & Densley, J. (2021). *The Violence project: How to stop a mass shooting epidemic*. Abrams Press.
- Reddy, M., Borum, R., Vossekuil, B., Fein, R., Berglund, J., & Modzeleski, W. (2000). *Evaluating Risk for Targeted Violence in Schools Comparing Risk Assessment, Threat Assessment, and Other Approaches*. Distributed by ERIC Clearinghouse.

- Reid, W. H. (2018). *Dark Night In Aurora: Inside James Holmes and the Colorado mass shootings*. Skyhorse Publishing.
- Rugala, E. A., & Isaacs, A. R. (2004). *Workplace violence: issues in response*. Critical Incident Response Group, National Center for the Analysis of Violent Crime, FBI Academy.
- Schulberg, J. (2021, June 16). *Kip Kinkel Is Ready To Speak*. HuffPost. [https://www.huffpost.com/entry/kip-kinkel-is-ready-to-speak\\_n\\_60abd623e4b0a2568315c62d](https://www.huffpost.com/entry/kip-kinkel-is-ready-to-speak_n_60abd623e4b0a2568315c62d).
- Secret Service. (2021, March 30). *Averting Targeted School Violence: A U.S. Secret Service Analysis of Plots Against Schools*. Averting Targeted School Violence. <https://www.secretservice.gov/sites/default/files/reports/2021-03/USSS%20Averting%20Targeted%20School%20Violence.2021.03.pdf>.
- Sedensky, S. J. (2013). *Report of the State's Attorney for the Judicial District of Danbury on the shootings at Sandy Hook Elementary School and 36 Yogananda Street, Newtown, Connecticut on December 14, 2012*. Office of the State's Attorney. Judicial District of Danbury.
- Shea, S. C. (2009, December 3). *Suicide assessment part 1: Uncovering suicidal intent-a sophisticated art*. Psychiatric Times. Retrieved October 15, 2022, from <https://www.psychiatrictimes.com/view/suicide-assessment-part-1-uncovering-suicidal-intent-sophisticated-art>.
- Shea, S. C. (2009, December 21). *Suicide assessment part 2: Uncovering suicidal intent using the case approach*. Psychiatric Times. Retrieved October 15, 2022, from <https://www.psychiatrictimes.com/view/suicide-assessment-part-2-uncovering-suicidal-intent-using-case-approach>.
- Sheriff - Coroner, & Brown, B., ISLA VISTA MASS MURDER MAY 23, 2014 INVESTIGATIVE SUMMARY (2015). Santa Barbara County.
- Simon, D., & Willard, K. (2018, November 15). *More than 30 people knew of Nikolas Cruz's disturbing behavior but didn't report until after shooting, sheriff says*. CNN. <https://www.cnn.com/2018/11/14/us/parkland-commission-hearing-findings/index.html>.
- Smith, I. E. (2019, October 17). *Minority vs. Minoritized: Why The Noun Just Doesn't Cut It*. The Odyssey Online. <https://www.theodysseyonline.com/minority-vs-minoritize>.
- Snyder, K., Boldman, R., & Cocks, C. (2019). *CAS cross-functional framework for Identifying and Responding to Behavioral Concerns*. P. J. Carretta (Ed.). Washington, D. C.: Council for the Advancement of Standards for Higher Education.
- Snyder, R. L. (2020). *No visible bruises: what we don't know about domestic violence can kill us*. Scribe Publications.
- Souders, B. (2021, January 21). *17 motivational interviewing questions and skills*. PositivePsychology.com. <https://positivepsychology.com/motivational-interviewing/>.
- Staff, A. W. C. N. C. (2019, April 30). *Who is Trystan Terrell? UNCC shooting suspect facing multiple charges*. wcnc.com. <https://www.wcnc.com/article/news/who-is-trystan-terrell-uncc-shooting-suspect-facing-multiple-charges/275-21264198-c78c-4d47-a13d-f8a626c3b48c>.

- Thernstrom, M. (1997). *Halfway Heaven*. Doubleday.
- U.S. Department of Health and Human Services and U.S. Department of Education, Joint Guidance on the Application of the Family Educational Rights and Privacy Act (FERPA) And the Health Insurance Portability and Accountability Act of 1996 (HIPAA) To Student Health Records (2019).
- U.S. Department of Health and Human Services. (n.d.). *Autism spectrum disorder*. National Institute of Mental Health. Retrieved July 11, 2022, from <https://www.nimh.nih.gov/health/topics/autism-spectrum-disorders-asd>
- U.S. Department of Justice, Office of Community Oriented Policing Services. (2012). *Campus threat assessment case studies: a training tool for investigation, evaluation, and intervention*.
- University of Michigan. (2020). *The Healthy Minds Study - Fall 2020 Data Report*. Healthy Minds Network. <https://healthymindsnetwork.org/wp-content/uploads/2021/02/HMS-Fall-2020-National-Data-Report.pdf>.
- Virginia Tech Review Panel. (2009). *Mass shootings at Virginia Tech: addendum to the report of the review panel, presented to Governor Timothy M. Kaine, Commonwealth of Virginia*.
- Vossekuil, B., Fein, R., Reddy, M., Borum, R., & Modzeleski, W., *The Final Report and Findings of the Safe School Initiative: Implications for the Prevention of School Attacks in the United States*. U.S. Department of Education, Office of Elementary and Secondary Education, Safe and Drug-Free Schools Program and U.S. Secret Service, National Threat Assessment Center, Washington, D.C., 2002.
- Washington Post Staff. (2018, March 18). Red flags: The troubled path of accused Parkland shooter Nikolas Cruz. *The Washington Post*.
- White, S. G. (2017). Case Study: The Isla Vista Campus Community Mass Murder. *Journal of Threat Assessment and Management*, 4(1), 20–47.
- White, S. G., Meloy, J. R., Mohandie, K., & Kienlen, K. (2017). Autism spectrum disorder and violence: Threat assessment issues. *Journal of Threat Assessment and Management*, 4(3), 144–163. <https://doi.org/10.1037/tam0000089>
- Wondery. (n.d.). *Confronting Columbine*. <https://wondery.com/shows/confronting/>.



TITLE IX COORDINATOR TRACK-TIERS 1&2 COMBINED COURSE  
LAW & POLICY AND SEX DISCRIMINATION RESPONSE



1

---

---

---

---

---

---

---

---



  
**AGENDA-DAY ONE**

The Law

- Title IX Regulations
- Title IX Grievance Procedures
- Clery Act (VAWA) Procedural Requirements
- Addressing “Non-Title IX” Cases
- Recent Audits and Insights

© 2022 D. STAFFORD & ASSOCIATES 2

2

---

---

---

---

---

---

---

---



  
**AGENDA-DAY TWO**

The Process

- Intake and Notice
- Informal Resolutions
- Investigation Stage
- Formal Resolutions
- Institution Integrity and Training

© 2022 D. STAFFORD & ASSOCIATES 3

3

---

---

---

---

---

---

---

---

D. STAFFORD & ASSOCIATES

# THE LAW



© 2023 D. STAFFORD & ASSOCIATES 4

4

---

---

---

---

---

---

---

---

D. STAFFORD & ASSOCIATES

## FEDERAL LAW

 <b>Statutes</b> 20 U.S.C.D. §1681-1688	 <b>Regulatory Guidance</b> 34 C.F.R. § 106	 <b>Sub-Regulatory Guidance</b> DCLs Preamble to Regs Executive Orders OCR Website	 <b>Case Law</b> Circuit courts District courts
--	---	---	--

© 2023 D. STAFFORD & ASSOCIATES 5

5

---

---

---

---

---

---

---

---

D. STAFFORD & ASSOCIATES

# TITLE IX STATUTE



© 2023 D. STAFFORD & ASSOCIATES 6

6

---

---

---

---

---

---

---

---

## TITLE IX, EDUCATION AMENDMENTS OF 1972, 20 U.S.C. § 1681

*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.*

7

---

---

---

---

---

---

---

---

## § 1681(a) - EXCEPTIONS

- Admission policies
- Institutions changing from single-sex status
- Religious institutions
- Military services or merchant marines
- Public traditional single-sex institutions
- Social fraternities or sororities
- Voluntary youth organizations
- Boy or girl conferences
- Father-son/mother-daughter activities
- "Beauty" pageants

8

---

---

---

---

---

---

---

---

## § 1681(c) - "EDUCATIONAL INSTITUTION"

*Any public or private preschool, elementary, or secondary school, or any institution of vocational, professional, or higher education, except that in the case of an educational institution composed of more than one school, college, or department which are administratively separate units, such term means each such school, college, or department.*

9

---

---

---

---

---

---

---

---

D. STAFFORD & ASSOCIATES

## REGULATORY GUIDANCE ("TITLE IX REGULATIONS")



© 2023 D. STAFFORD & ASSOCIATES 10

10

---

---

---

---

---

---

---

---

D. STAFFORD & ASSOCIATES

## REGULATORY PROCESS



© 2023 D. STAFFORD & ASSOCIATES 11

11

---

---

---

---

---

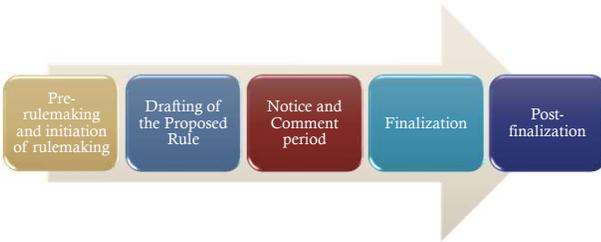
---

---

---

D. STAFFORD & ASSOCIATES

## REGULATORY PROCESS



© 2023 D. STAFFORD & ASSOCIATES 12

12

---

---

---

---

---

---

---

---

13

---

---

---

---

---

---

---

---

---

---

14

---

---

---

---

---

---

---

---

---

---

15

---

---

---

---

---

---

---

---

---

---



## 2020 REGULATIONS



Amendments to  
Regulations: 7 pages



Preamble: 546 pages

© 2021 D. STAFFORD & ASSOCIATES 16

---

---

---

---

---

---

---

---

---

---

16



**FEDERAL REGISTER**  
The Daily Journal of the United States Government



[Home](#) [Sign In](#)

---

🔍
🏠
📄
📑
🔖
🔗
🔒
🔍
🏠
📄
📑
🔖
🔗
🔒

**Enforcement of Title IX of the Education Amendments of 1972  
With Respect to Discrimination Based on Sexual Orientation  
and Gender Identity in Light of Bostock v. Clayton County**

A Rule by the Education Department on 09/22/2021

---

---

---

---

---

---

---

---

---

---

17



BRIEFING ROOM

## Executive Order on Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation

JANUARY 20, 2021 • PRESIDENTIAL ACTIONS

---

---

---

---

---

---

---

---

---

---

18

D. STAFFORD & ASSOCIATES

# CASE LAW



© 2023 D. STAFFORD & ASSOCIATES 19

19

---

---

---

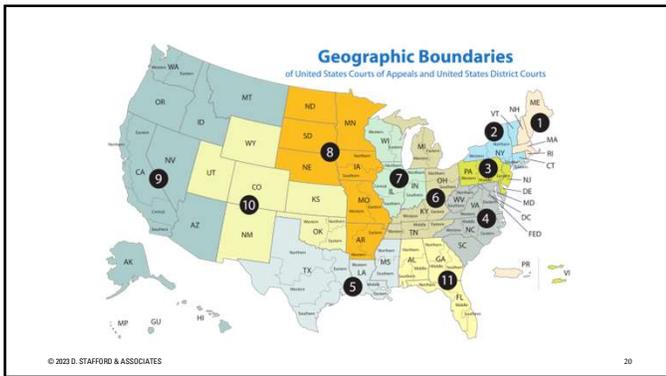
---

---

---

---

---



20

---

---

---

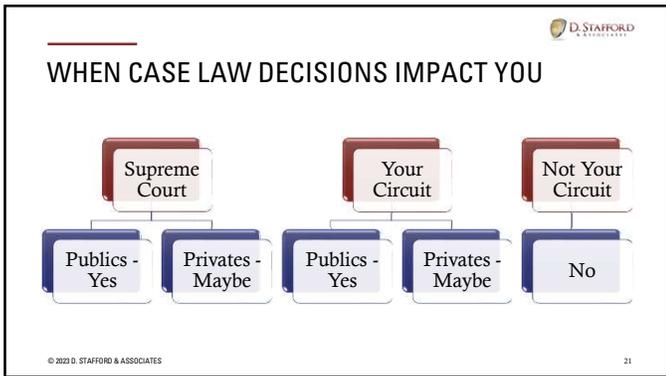
---

---

---

---

---



21

---

---

---

---

---

---

---

---



22

---

---

---

---

---

---

---

---



23

---

---

---

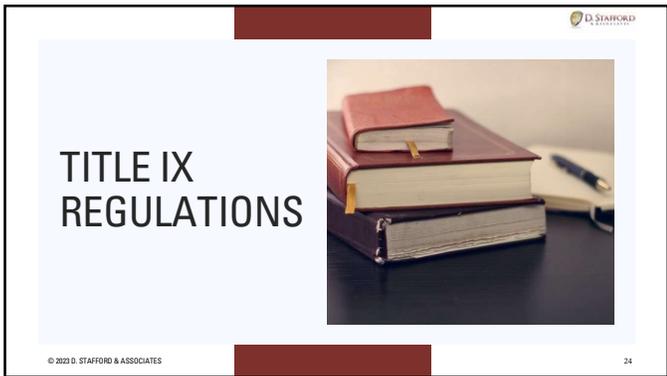
---

---

---

---

---



24

---

---

---

---

---

---

---

---

 **34 C.F.R. § 106 - SUBPARTS**

- Subpart A: Introduction (106.1 – 106.9)
- Subpart B: Coverage (106.11 – 106.18)
- Subpart C: Admission and Recruitment (106.21 – 106.24)
- Subpart D: Education Programs/Activities (106.31 – 106.46)**
- Subpart E: Employment (106.51 – 106.62)
- Subpart F: Retaliation (106.71 – 106.72)
- Subpart G: Procedures (106.81 – 106.82)

© 2023 D. STAFFORD & ASSOCIATES 25

25

---

---

---

---

---

---

---

---

 **TITLE IX REGULATIONS OVERVIEW**

Applies to Higher Education and K-12

Covers wide range of sex discrimination

© 2023 D. STAFFORD & ASSOCIATES 26

26

---

---

---

---

---

---

---

---

 **SUBPART A: INTRODUCTION**



© 2023 D. STAFFORD & ASSOCIATES 27

27

---

---

---

---

---

---

---

---

**SUBPART A: A FEW FYIS...**



§ 106.2  
Definitions



§ 106.3  
Remedial Action



§ 106.3  
Affirmative Action



§ 106.6  
Preservation of rights

© 2023 D. STAFFORD & ASSOCIATES 28

---

---

---

---

---

---

---

---

---

---

28

**§ 106.8(a) - DESIGNATION OF COORDINATOR**

Designate	Designate at least one person
Notify	Notify people of name and contact information
Receive	Receive reports in person, by mail, by phone, by email, or other
Accept	Accept reports during non-business hours

© 2023 D. STAFFORD & ASSOCIATES 29

---

---

---

---

---

---

---

---

---

---

29

**§ 106.8(b)(1) - NOTIFICATION OF POLICY**

**Who**

- Applicants - admission
- Applicants - employment
- Students
- Employees
- Unions, etc.

**What**

- Does not discriminate
- Required by Title IX
- Includes admission & employment
- Inquiries to Title IX or OCR
- Grievance procedures & process
- How to report or file complaint of discrimination
- How to report or file complaint of harassment
- How the school will respond

© 2023 D. STAFFORD & ASSOCIATES 30

---

---

---

---

---

---

---

---

---

---

30

D. STAFFORD & ASSOCIATES

**§ 106.8(b)(2) – PUBLICATIONS**

**What**

- Contact information
- Policy

**Where**

- Website
- Handbook and/or Catalogs

31

31

---

---

---

---

---

---

---

---

D. STAFFORD & ASSOCIATES

**§ 106.8(c) - ADOPTION OF GRIEVANCE PROCEDURES**

*“grievance procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by this part and a grievance process that complies with § 106.45 for formal complaints as defined in § 106.30.”*

32

32

---

---

---

---

---

---

---

---

D. STAFFORD & ASSOCIATES

**§ 106.8(d)**

Applies only to sex discrimination occurring against a person in the United States

33

33

---

---

---

---

---

---

---

---

D. STAFFORD & ASSOCIATES

## SUBPART B: COVERAGE



© 2023 D. STAFFORD & ASSOCIATES 34

34

---

---

---

---

---

---

---

---

D. STAFFORD & ASSOCIATES

### § 106.12 - EDUCATIONAL INSTITUTIONS CONTROLLED BY RELIGIOUS ORGANIZATIONS

- May submit in writing seeking assurance of the exemption
- Must identify the provision and explain how it conflicts with a specific tenet
- Not required to seek assurance
- May raise its exemption at any time

© 2023 D. STAFFORD & ASSOCIATES 35

35

---

---

---

---

---

---

---

---

D. STAFFORD & ASSOCIATES

### § 106.15 ADMISSIONS (EXCEPTIONS AND COVERAGE)

Applies to

- Vocational education
- Professional education
- Graduate higher education
- Public undergraduate education

Does not apply to

- Public schools with traditionally one sex

© 2023 D. STAFFORD & ASSOCIATES 36

36

---

---

---

---

---

---

---

---

D. STAFFORD & ASSOCIATES

## SUBPART C: ADMISSION & RECRUITMENT



© 2023 D. STAFFORD & ASSOCIATES 37

37

---

---

---

---

---

---

---

---

D. STAFFORD & ASSOCIATES

## DISCRIMINATION AND ADMISSIONS

Subpart B (Exceptions): **Private institutions CAN discriminate in admissions**

Subpart C (Admissions): **Everyone else cannot discriminate in admissions**

Subpart D (Programs or Activities) : **Once they are in, discrimination is prohibited**



© 2023 D. STAFFORD & ASSOCIATES 38

38

---

---

---

---

---

---

---

---

D. STAFFORD & ASSOCIATES

## § 106.21 ADMISSION & § 106.23 RECRUITMENT

Limits or proportions	Ranking separately	Testing
Pregnancy	Parenting or marital status	Recruitment from single-sex high schools
Can ask gender but...		



© 2023 D. STAFFORD & ASSOCIATES 39

39

---

---

---

---

---

---

---

---



## SUBPART D: EDUCATIONAL PROGRAMS OR ACTIVITIES



© 2023 D. STAFFORD & ASSOCIATES 40

40

---

---

---

---

---

---

---

---



### § 106.31 EDUCATIONAL PROGRAMS OR ACTIVITIES

 <p style="margin: 5px 0;">Aid, Benefit, or Service Requirement or Condition Right or privilege Advantage or opportunity</p>	 <p style="margin: 5px 0;">Academic Extracurricular Research Discipline Treatment Externships</p>
--	---

© 2023 D. STAFFORD & ASSOCIATES 41

41

---

---

---

---

---

---

---

---



### § 106.37 FINANCIAL ASSISTANCE

 <p style="margin: 5px 0;">§ 106.37(a) – Can't discriminate in financial assistance</p>	 <p style="margin: 5px 0;">§ 106.37 (b) Exceptions to rule that can't have single-sex scholarships</p>	 <p style="margin: 5px 0;">§ 106.37 (c) – Athletic scholarships allocated proportionally based on participation numbers</p>
--	---	--

© 2023 D. STAFFORD & ASSOCIATES 42

42

---

---

---

---

---

---

---

---



**§ 106.31(B)(4) EQUITY IN DISCIPLINE**

Rules of Behavior

Sanctions

© 2023 D. STAFFORD & ASSOCIATES 43

43

---

---

---

---

---

---

---

---



**§ 106.32 - HOUSING**

*A recipient shall not, on the basis of sex, apply different rules or regulations, impose different fees or requirements, or offer different services or benefits related to housing, except as provided in this section (including housing provided only to married students).*

© 2023 D. STAFFORD & ASSOCIATES 44

44

---

---

---

---

---

---

---

---



**§ 106.33 - COMPARABLE FACILITIES**

*A recipient may provide separate toilet, locker room, and shower facilities on the basis of sex, but such facilities provided for students of one sex shall be comparable to such facilities provided for students of the other sex.*

© 2023 D. STAFFORD & ASSOCIATES 45

45

---

---

---

---

---

---

---

---



## § 106.40 MARITAL OR PARENTAL STATUS

Reminder: Can't discriminate in admissions on basis of pregnancy...  
§ 106.21(c)

No rules concerning actual or potential parental, family, or marital status on the basis of sex  
§ 106.40(a)

No discrimination on the basis of pregnancy, childbirth, false pregnancy, termination or recovery  
§ 106.40(b)

© 2023 D. STAFFORD & ASSOCIATES 46

---

---

---

---

---

---

---

---

---

---

46



## PREGNANCY: INSTITUTIONAL RESPONSIBILITIES

<p><b>Must Allow or Provide</b></p> <ul style="list-style-type: none"> <li>• Continued participation in programs/activities</li> <li>• Reasonable adjustments</li> <li>• Excuse absences</li> <li>• Leave of absence</li> <li>• Return status</li> <li>• Temporary medical condition</li> <li>• Protects against harassment</li> <li>• Policies and procedures</li> <li>• Breastfeeding</li> </ul>	<p><b>Cannot . . .</b></p> <ul style="list-style-type: none"> <li>• Require doctor's note ONLY for pregnancy</li> <li>• List pregnancy as an infraction</li> <li>• Exclude from programs/activities</li> <li>• Remove financial aid</li> </ul>
--	--

© 2023 D. STAFFORD & ASSOCIATES 47

---

---

---

---

---

---

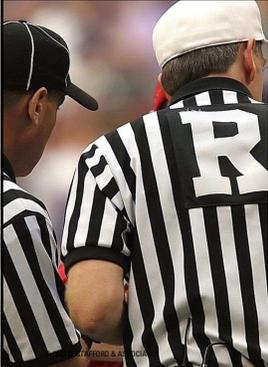
---

---

---

---

47





## § 106.41(a) - ATHLETICS

*No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by a recipient, and no recipient shall provide any such athletics separately on such basis.*

© 2023 D. STAFFORD & ASSOCIATES 48

---

---

---

---

---

---

---

---

---

---

48

## ATHLETICS



Applies to intercollegiate,  
club, & intramural



Separate Teams are  
permitted

© 2023 D. STAFFORD & ASSOCIATES 49

---

---

---

---

---

---

---

---

49



### § 106.41(c) - EQUAL OPPORTUNITY

1. Accommodate the interests
2. Equipment and supplies
3. Scheduling (games and practice)
4. Travel and per diem
5. Coaching and tutoring
6. Assignment and compensation for above
7. Locker room and other facilities
8. Medical and training services
9. Housing and dining services
10. Publicity

50

---

---

---

---

---

---

---

---

50

## WAIT FOR IT...ALSO IN SUBPART D (COMING SOON!)



§106.30 DEFINITIONS  
(FOR THIS SUBPART)



§106.44 RESPONSE TO  
SEXUAL HARASSMENT



§106.45 GRIEVANCE  
PROCESS

© 2023 D. STAFFORD & ASSOCIATES 51

---

---

---

---

---

---

---

---

51



52

---

---

---

---

---

---

---

---



53

---

---

---

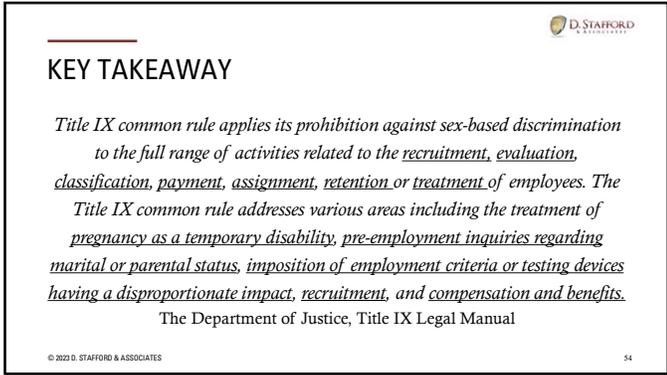
---

---

---

---

---



54

---

---

---

---

---

---

---

---



## EMPLOYMENT

§ 106.7 Effect of employment opportunities	§ 106.51 Employment	§ 106.52 Employment criteria	§ 106.53 Recruitment	§ 106.54 Compensation
§ 106.55 Job classification and structure	§ 106.56 Fringe benefits	§ 106.57 Marital or parental status	§ 106.58 Effect of other laws	§ 106.59 Advertising
	§ 106.60 Pre-employment inquiries	§ 106.61 Sex as a bona-fide occupational qualification		

© 2023 D. STAFFORD & ASSOCIATES 55

55

---

---

---

---

---

---

---

---

---

---



## SUBPART F: RETALIATION



© 2023 D. STAFFORD & ASSOCIATES 56

56

---

---

---

---

---

---

---

---

---

---



## § 106.71 RETALIATION

*No recipient or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by title IX or this part, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part. . .*

© 2023 D. STAFFORD & ASSOCIATES 57

57

---

---

---

---

---

---

---

---

---

---

### § 106.71 RETALIATION

*Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by title IX or this part, constitutes retaliation.*

58

---

---

---

---

---

---

---

---

### § 106.71 - RETALIATION

- Must keep confidential the identity of parties and witnesses
- May use sex discrimination grievance procedures
- Exercise of First Amendment does not constitute retaliation
- Discipline for "materially false statement in bad faith" is not retaliation
- But determination of responsibility alone does not mean a person provided a false statement...

59

---

---

---

---

---

---

---

---

### Discussion



60

---

---

---

---

---

---

---

---



# TITLE IX GRIEVANCE PROCEDURES



© 2023 D. STAFFORD & ASSOCIATES 61

61

---

---

---

---

---

---

---

---



## BEFORE WE BEGIN...

<p><b>Sex Discrimination</b> § 106.8(c)</p> <ul style="list-style-type: none"> <li>“grievance procedures that provide for the prompt and equitable resolution of student and employee complaints.”</li> <li>Any person may report sex discrimination to the Title IX Coordinator</li> <li>Must publish grievance procedures to address sex discrimination</li> <li>No requirement other than “prompt” and “equitable”</li> </ul>	<p><b>Sexual Harassment</b> § 106.44 and § 106.45</p> <p><b>Other Behaviors</b> Conduct codes</p>
--	--

© 2023 D. STAFFORD & ASSOCIATES 62

62

---

---

---

---

---

---

---

---





## MORE REMINDERS

- Applies to K-12
- Incorporates the Clery Act
- Lots of guidance: 500+ pages of preamble plus more recent Q&As
- (This section is not in order of regulations)

63

63

---

---

---

---

---

---

---

---

D. STAFFORD  
& ASSOCIATES

# PEOPLE DEFINITIONS



© 2023 D. STAFFORD & ASSOCIATES 64

64

---

---

---

---

---

---

---

---

D. STAFFORD  
& ASSOCIATES

## § 106.30(a) - DEFINITIONS

**Complainant**

- An individual who is alleged to be the victim of conduct that could constitute sexual harassment*

**Respondent**

- An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment*

© 2023 D. STAFFORD & ASSOCIATES 65

65

---

---

---

---

---

---

---

---

D. STAFFORD  
& ASSOCIATES

## TITLE IX PERSONNEL

Title IX Coordinator

Investigator

Decision-maker

Informal Resolution Facilitator

© 2023 D. STAFFORD & ASSOCIATES 66

66

---

---

---

---

---

---

---

---

 **DUTIES OF THE TITLE IX COORDINATOR**

- § 106.8(a) Must be referred to as the “Title IX Coordinator”
- § 106.8(a) Coordinate efforts to comply
- § 106.44(a) Receive reports and promptly contact the complainant
- § 106.30 Sign formal complaints
- § 106.30 Responsible for coordinating the effective implementation of supportive measures

© 2023 D. STAFFORD & ASSOCIATES 67

67

---

---

---

---

---

---

---

---

 **§ 106.45(b)(1)(iii) - TRAINING**

**All Title IX Personnel**

- Definition of sexual harassment
- Scope of the recipient’s education program or activity
- How to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable
- How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias

© 2023 D. STAFFORD & ASSOCIATES 68

68

---

---

---

---

---

---

---

---

 **§ 106.45(b)(1)(iii) - TRAINING**

**Decision-makers**

- Technology to be used at a live hearing
- Issues of relevance of questions and evidence, including when questions and evidence about the complainant’s sexual predisposition or prior sexual behavior are not relevant

**Investigators**

- Issues of relevance to create an investigative report that fairly summarizes relevant evidence

© 2023 D. STAFFORD & ASSOCIATES 69

69

---

---

---

---

---

---

---

---

## ADVISOR OF CHOICE



May be but is not required to be an attorney



May accompany to any meeting or proceeding



Institution may restrict participation (except at hearing)



Receives the draft and final reports



Conducts cross-examination at hearing

© 2023 D. STAFFORD & ASSOCIATES 70

---

---

---

---

---

---

---

---

---

---

70

## SEXUAL HARASSMENT DEFINITIONS



© 2023 D. STAFFORD & ASSOCIATES 71

---

---

---

---

---

---

---

---

---

---

71

## § 106.30(a) - 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;
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).

© 2023 D. STAFFORD & ASSOCIATES 72

---

---

---

---

---

---

---

---

---

---

72

**PRONG 1:  
QUID PRO QUO**

*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*

(§ 106.30(a))



© 2023 D. STAFFORD & ASSOCIATES 73

73

---

---

---

---

---

---

---

---

**QUID PRO QUO (FROM THE PREAMBLE)**

-  "This for that" harassment
-  Must be an employee respondent (not volunteer, visitor, student)
-  "Unwelcome" is subjective element (submission vs. consent)
-  Does not need to meet pervasiveness element
-  Limited need to show impact - single instance could jeopardize access



© 2023 D. STAFFORD & ASSOCIATES 74

74

---

---

---

---

---

---

---

---

**PRONG 2:  
HOSTILE ENVIRONMENT+  
(THE DAVIS STANDARD)**

*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*

(§ 106.30(a))



© 2023 D. STAFFORD & ASSOCIATES 75

75

---

---

---

---

---

---

---

---



**§ 106.30(a) - HOSTILE ENVIRONMENT+**

Referred to in preamble as “The Davis Standard”

Not the same Title VII “hostile environment” or 2001 Guidance

First Amendment protections

Must show the “effectively denies” to reach the bar

© 2023 D. STAFFORD & ASSOCIATES 76

76

---

---

---

---

---

---

---

---

**PRONG 3:  
THE VAWA  
OFFENSES**

*“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)*

(§ 106.30(a))

© 2023 D. STAFFORD & ASSOCIATES 77

77

---

---

---

---

---

---

---

---

**THE VAWA OFFENSES**

- Severity, pervasiveness, and offensiveness are not elements
- Denial of equal access not an element - it is assumed
- Includes multiple offenses

© 2023 D. STAFFORD & ASSOCIATES 78

78

---

---

---

---

---

---

---

---

**§ 106.30(a) - THE VAWA OFFENSES**

 Sexual Assault	Rape Fondling Incest Statutory Rape
 Intimate Partner Violence	Dating Violence Domestic Violence
 Stalking	

© 2023 D. STAFFORD & ASSOCIATES 79

---

---

---

---

---

---

---

---

79



**SEXUAL ASSAULT**

*“Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v)*

© 2023 D. STAFFORD & ASSOCIATES 80

---

---

---

---

---

---

---

---

80

**SEXUAL ASSAULT**

```

    graph TD
      A[Sexual Assault] --> B[Forcible]
      A --> C[Non-Forcible]
      B --> B1[Rape]
      B --> B2[Sodomy]
      B --> B3[Sexual Assault with Object]
      B --> B4[Fondling]
      C --> C1[Incest]
      C --> C2[Statutory Rape]
  
```

© 2023 D. STAFFORD & ASSOCIATES 81

---

---

---

---

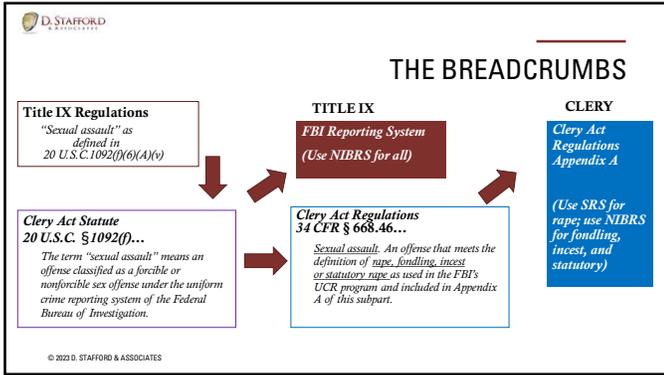
---

---

---

---

81



82

---

---

---

---

---

---

---

---

---

---

**OPTION 1: SEXUAL ASSAULT - RAPE (FROM SRS)**

**Rape** - The penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This offense includes the rape of both males and females.

© 2023 D. STAFFORD & ASSOCIATES

83

---

---

---

---

---

---

---

---

---

---

**OPTION 2: SEXUAL ASSAULT-RAPE (FROM NIBRS)**

**Sex Offenses, Forcible** - Any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent.

**Forcible Rape** - (Except Statutory Rape) The carnal knowledge of a person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity.

**Forcible Sodomy** - Oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

**Sexual Assault With An Object** - To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

© 2023 D. STAFFORD & ASSOCIATES

84

---

---

---

---

---

---

---

---

---

---

## SEXUAL ASSAULT - FONDLING

**Fondling** - The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental incapacity.

85

---

---

---

---

---

---

---

---

## § 106.30(a) - CONSENT

*The Assistant Secretary will not require recipients to adopt a particular definition of consent with respect to sexual assault.*

86

---

---

---

---

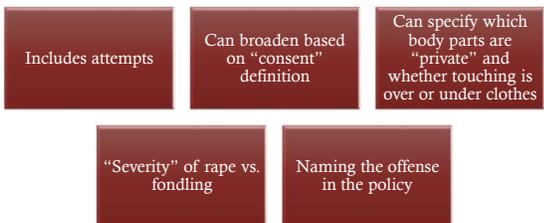
---

---

---

---

## SEXUAL ASSAULT DEFINITION CONSIDERATIONS



87

---

---

---

---

---

---

---

---

**D. STAFFORD & ASSOCIATES**

## SEXUAL ASSAULT - INCEST & STATUTORY RAPE

---

***Incest*** - Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

---

***Statutory Rape*** - Sexual intercourse with a person who is under the statutory age of consent.

© 2023 D. STAFFORD & ASSOCIATES 88

88

---

---

---

---

---

---

---

---

**D. STAFFORD & ASSOCIATES**

## INCEST AND STATUTORY RAPE CONSIDERATIONS

State law definitions

Complainant as a non-student

Conduct codes

© 2023 D. STAFFORD & ASSOCIATES 89

89

---

---

---

---

---

---

---

---



**D. STAFFORD & ASSOCIATES**

## INTIMATE PARTNER VIOLENCE

*“dating violence” as defined in 34 U.S.C. 12291(a)(10),*  
*“domestic violence” as defined in 34 U.S.C. 12291(a)(8)*

---

© 2023 D. STAFFORD & ASSOCIATES 90

90

---

---

---

---

---

---

---

---

## THE BREADCRUMBS

**Title IX Regulations**  
*"dating violence" as defined in 34 U.S.C. 122291(a)(10) "domestic violence" as defined in 34 U.S.C. 12291(a)(8)*

↓

**TITLE IX**  
**VAWA Statute**  
**34 U.S. Code § 12291**  
 Definitions and grant provisions

→

**CLERY**  
**Clery Act Regulations**  
**34 CFR § 668.46(a)**  
 Expanded Definition of Dating Violence

© 2023 D. STAFFORD & ASSOCIATES 91

---

---

---

---

---

---

---

---

---

---

91

## DATING VIOLENCE - 34 U.S.C. 12291(A)(10)

*The term "dating violence" means violence committed by a person— (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship. (ii) The type of relationship. (iii) The frequency of interaction between the persons involved in the relationship.*

© 2023 D. STAFFORD & ASSOCIATES 92

---

---

---

---

---

---

---

---

---

---

92

## DATING VIOLENCE - CLERY REGULATION ADDITIONS

*(ii) For the purposes of this definition -*

- (A)** Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- (B)** Dating violence does not include acts covered under the definition of domestic violence.

© 2023 D. STAFFORD & ASSOCIATES 93

---

---

---

---

---

---

---

---

---

---

93



## DOMESTIC VIOLENCE - 34 U.S.C. 12291(A)(8)

*The term "domestic violence" includes felony or misdemeanor crimes of violence committed by*

- *a current or former spouse or intimate partner of the victim,*
- *by a person with whom the victim shares a child in common,*
- *a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner,*
- *by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or*
- *by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.*

© 2023 D. STAFFORD & ASSOCIATES 94

94

---

---

---

---

---

---

---

---



## INTIMATE PARTNER VIOLENCE CONSIDERATIONS

Consistency in assigning violations

Severity, pervasiveness, and offensiveness not elements

Denial of equal access is not an element

© 2023 D. STAFFORD & ASSOCIATES 95

95

---

---

---

---

---

---

---

---



**STALKING**

*"stalking" as defined in 34 U.S.C. 12291(a)(30)*

© 2023 D. STAFFORD & ASSOCIATES 96

96

---

---

---

---

---

---

---

---

## STALKING - 34 U.S.C. 12291(A)(30)

*Engaging in a course of conduct directed at a specific person that would cause a reasonable person to—*

- *Fear for the person's safety or the safety of others; or*
- *Suffer substantial emotional distress.*

97

---

---

---

---

---

---

---

---

## STALKING - CLERY REGULATION ADDITIONS

(ii) For the purposes of this definition -

**(A) Course of conduct** means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

**(B) Reasonable person** means a reasonable person under similar circumstances and with similar identities to the victim.

**(C) Substantial emotional distress** means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

98

---

---

---

---

---

---

---

---

## TITLE IX JURISDICTION - PERSON



*"At the time of filing a formal complaint...the complainant must be participating in or attempting to participate in the education program or activity." (§106.30(a))*



*The recipient exercised substantial control over both the respondent and the context in which the sexual harassment occurs.*

99

---

---

---

---

---

---

---

---



## “ATTEMPTING TO PARTICIPATE”

- Has withdrawn due to alleged harassment and has desire to re-enroll
- Has graduated but intends to apply to new program or participate in alumni programs
- Is on a leave of absence and still enrolled or intends to re-apply
- Has applied for admission

© 2023 D. STAFFORD & ASSOCIATES 100

100

---

---

---

---

---

---

---

---



## SIDEBAR: NON-STUDENT OR NON-EMPLOYEE COMPLAINANTS (Q&A)

There are circumstances when a Title IX Coordinator may need to sign a formal complaint that obligates the school to initiate an investigation regardless of the complainant’s relationship with the school or interest in participating in the Title IX grievance process.

- Examples:
  - Perpetrator in a position of authority
  - Potential for harm to other students

© 2023 D. STAFFORD & ASSOCIATES 101

101

---

---

---

---

---

---

---

---



## TITLE IX JURISDICTION – CONTEXT OF EDUCATIONAL PROGRAMS OR ACTIVITIES

Locations, events or circumstances in which the institution has control over the respondent AND context

Or

Any building owned or controlled by a student organization that is officially recognized

And

Occurred in the United States

© 2023 D. STAFFORD & ASSOCIATES 102

102

---

---

---

---

---

---

---

---

## OFF-CAMPUS JURISDICTION



**Hotel**  
On field trip



**Home**  
While tutoring



**Bus**  
For athletic travel



**Virtual**  
During class



**Business**  
At internship

© 2023 D. STAFFORD & ASSOCIATES 103

103

---

---

---

---

---

---

---

---

## RECEIVING REPORTS

RECEIVING  
REPORTS



© 2023 D. STAFFORD & ASSOCIATES 104

104

---

---

---

---

---

---

---

---

## § 106.44(a) - GENERAL RESPONSE TO SEXUAL HARASSMENT

**Prompt**

**Not Deliberately Indifferent**

i.e., clearly unreasonable in light of the known circumstances

**Equitable**

Offer supportive measures to complainant

Follow grievance process before imposing sanctions

© 2023 D. STAFFORD & ASSOCIATES 105

105

---

---

---

---

---

---

---

---

**§ 106.30(a) - ACTUAL KNOWLEDGE**

Title IX Coordinator

Official with Authority

© 2023 D. STAFFORD & ASSOCIATES 106

---

---

---

---

---

---

---

---

106

**NO ACTUAL KNOWLEDGE § 106.30(a)**

Not constructive notice

Not vicarious liability

Not when respondent only has notice

Not just ability, obligation, or training to report

© 2023 D. STAFFORD & ASSOCIATES 107

---

---

---

---

---

---

---

---

107



**WHO MAY REPORT (FROM THE Q&A)**

“A school may receive actual knowledge of sexual harassment from any person. There is no requirement that the person be participating in or attempting to participate in a school program or activity to report sexual harassment.”

- Complainant
- Friend
- Parent
- Witness

© 2023 D. STAFFORD & ASSOCIATES 108

---

---

---

---

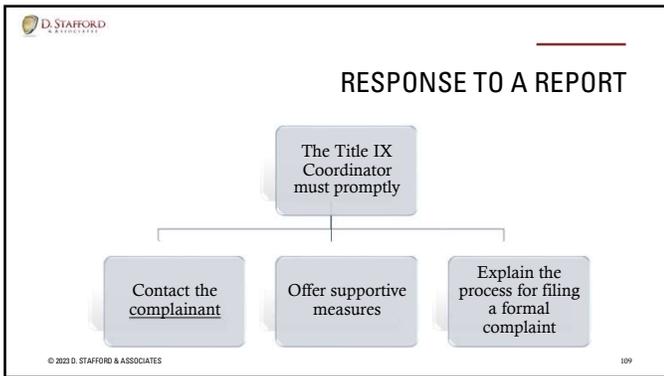
---

---

---

---

108



109

---

---

---

---

---

---

---

---

**§ 106.30(a) - SUPPORTIVE MEASURES**

*Such measures are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter sexual harassment.*

© 2023 D. STAFFORD & ASSOCIATES 110

110

---

---

---

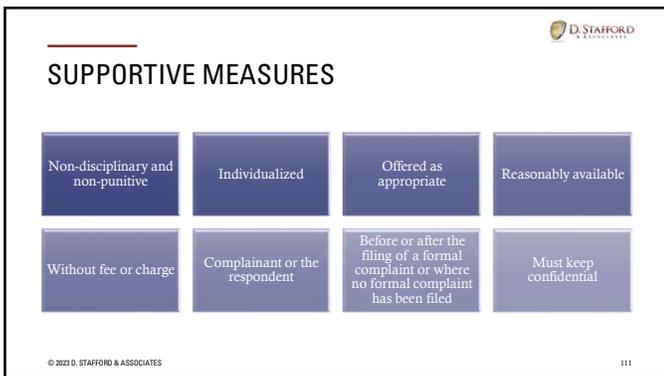
---

---

---

---

---



111

---

---

---

---

---

---

---

---

 **SUPPORTIVE MEASURE EXAMPLES § 106.30(a)**

---

- Counseling
- Extensions of deadlines or other course-related adjustments
- Modifications of work or class schedules
- Campus escort services
- Mutual restrictions on contact between the parties
- Changes in work or housing locations
- Leaves of absence
- Increased security and monitoring of certain areas of the campus
- Other similar measures

© 2023 D. STAFFORD & ASSOCIATES 112

112

---

---

---

---

---

---

---

---

---

---

 **WHAT COULD "UNREASONABLY BURDEN"?**

Change in  
class schedule

Housing  
adjustment

Sports team  
membership

Student  
government  
position

Extracurricular  
activity  
participation

Suspension

Expulsion

© 2023 D. STAFFORD & ASSOCIATES 113

113

---

---

---

---

---

---

---

---

---

---

 **LEAVE OPTIONS**



Emergency removal



Administrative leave

© 2023 D. STAFFORD & ASSOCIATES 114

114

---

---

---

---

---

---

---

---

---

---

**§ 106.44(c) - EMERGENCY REMOVAL**



Immediate threat to physical health or safety

Must arise from the allegations

Provide notice and opportunity to challenge

© 2021 D. STAFFORD & ASSOCIATES 115

---

---

---

---

---

---

---

---

115



**SUPPORTIVE MEASURES FROM GUIDANCE**

- Fact specific determinations of supportive measures
- If considered as a potential sanction, it is a burden
- Emergency removal can remove from all or part of educational program
- No contact orders do not have to be mutual
- Student workers straddle both removal options

© 2021 D. STAFFORD & ASSOCIATES 116

---

---

---

---

---

---

---

---

116



**§ 106.30(a) - FORMAL COMPLAINT**

filed by a complainant

↔

signed by the Title IX Coordinator

© 2021 D. STAFFORD & ASSOCIATES 117

---

---

---

---

---

---

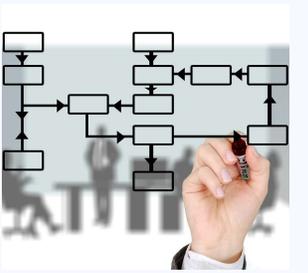
---

---

117

D. STAFFORD & ASSOCIATES

**§ 106.45 -  
GRIEVANCE  
PROCESS FOR  
FORMAL  
COMPLAINTS OF  
SEXUAL  
HARASSMENT**



© 2023 D. STAFFORD & ASSOCIATES

118

118

---

---

---

---

---

---

---

---

D. STAFFORD & ASSOCIATES

**§ 106.45(a) - RECIPIENT'S TREATMENT OF PARTIES**

*A recipient's treatment of a complainant or a respondent in response to a formal complaint of sexual harassment may constitute discrimination on the basis of sex under Title IX.*

© 2023 D. STAFFORD & ASSOCIATES

119

119

---

---

---

---

---

---

---

---

D. STAFFORD & ASSOCIATES

**§106.45 (b)(1)(i-iii) - GRIEVANCE PROCESS**

Equitable

Objective Evaluation  
(inculpatory and exculpatory)

No conflict of interest or bias

© 2023 D. STAFFORD & ASSOCIATES

120

120

---

---

---

---

---

---

---

---

**§ 106.45 (b)(1)(iv-x) - GRIEVANCE PROCESS**

© 2023 D. STAFFORD & ASSOCIATES 121

121

---

---

---

---

---

---

---

---

**§ 106.45(b)(2) - NOTICE OF ALLEGATIONS**

© 2023 D. STAFFORD & ASSOCIATES 122

122

---

---

---

---

---

---

---

---

**§ 106.45(b)(2)(ii) - Additional Allegations**

An amended notice must be sent to the parties when additional allegations will be investigated that were not in the original notice letter.

© 2023 D. STAFFORD & ASSOCIATES 123

123

---

---

---

---

---

---

---

---

### § 106.45(b)(3) - DISMISSAL OF FORMAL COMPLAINT

#### Must Dismiss

- If the conduct alleged in the formal complaint would not constitute sexual harassment
- Did not occur in the educational program or activity
- Did not occur in the United States

#### May Dismiss

- Complainant withdraws the formal complaint
- Respondent is no longer enrolled/employed
- Insufficient evidence

124

---

---

---

---

---

---

---

---

---

---

### § 106.45(b)(4) - CONSOLIDATION OF COMPLAINTS

Multiple respondents

More than one complainant against one or more respondent

One party against other party

125

---

---

---

---

---

---

---

---

---

---

### § 106.45(b)(9) - INFORMAL RESOLUTION



Notice



Voluntary



Not allowed for Employee/student

126

---

---

---

---

---

---

---

---

---

---



127

---

---

---

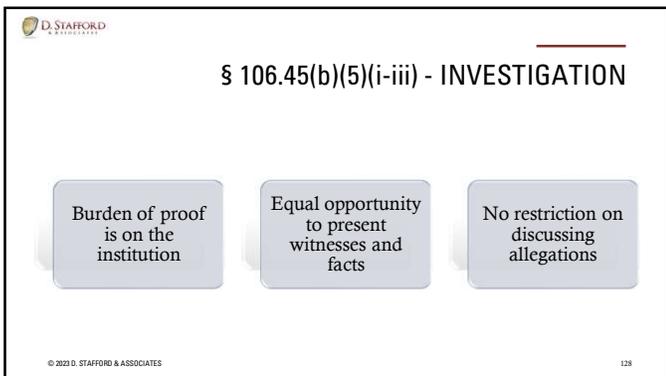
---

---

---

---

---



128

---

---

---

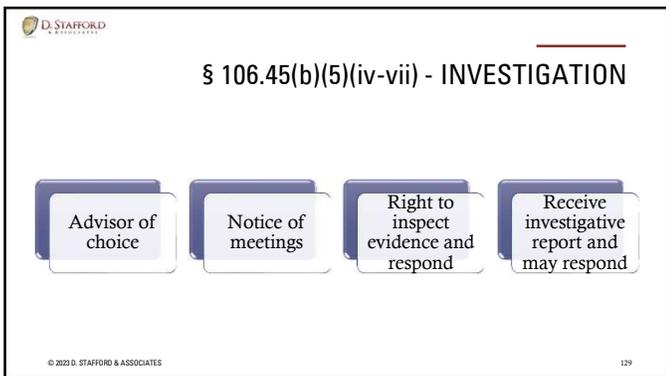
---

---

---

---

---



129

---

---

---

---

---

---

---

---



130

---

---

---

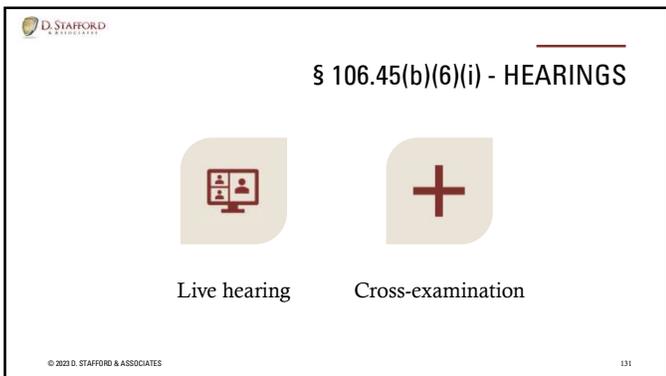
---

---

---

---

---



131

---

---

---

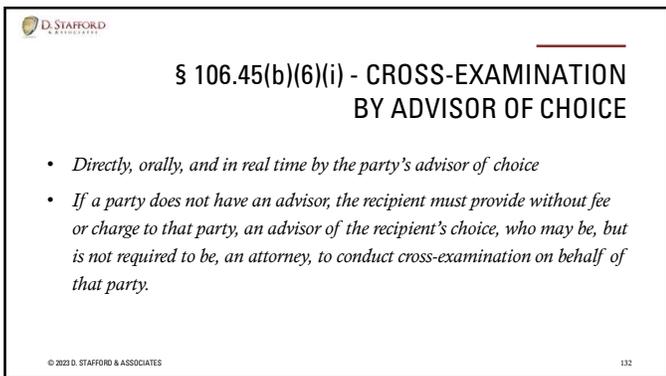
---

---

---

---

---



132

---

---

---

---

---

---

---

---



**§ 106.45(b)(6)(i) - RELEVANCY DETERMINATION**

*Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.*

© 2023 D. STAFFORD & ASSOCIATES 133

133

---

---

---

---

---

---

---

---



**§ 106.45(b)(6)(i) - RELEVANCY - SEXUAL PREDISPOSITION AND HISTORY**

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless

- offered to prove that someone other than the respondent committed the conduct, or
- if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

© 2023 D. STAFFORD & ASSOCIATES 134

134

---

---

---

---

---

---

---

---



**§ 106.45(b)(6)(i) - "PHYSICALLY PRESENT"**




© 2023 D. STAFFORD & ASSOCIATES 135

135

---

---

---

---

---

---

---

---

 § 106.45(b)(6)(i) - HEARING RECORDING



Audio



Video



Transcript

© 2023 D. STAFFORD & ASSOCIATES 136

---

---

---

---

---

---

---

---

136

 § 106.45 (b)(7)(i) - DETERMINATION REGARDING RESPONSIBILITY



Made by the decision-maker



Decision-maker can have no other role



Applying the standard of evidence

© 2023 D. STAFFORD & ASSOCIATES 137

---

---

---

---

---

---

---

---

137

 § 106.45 (b)(7)(ii) - DETERMINATION REGARDING RESPONSIBILITY

- \_\_\_\_\_ Allegations
- \_\_\_\_\_ Procedural steps
- \_\_\_\_\_ Findings of fact
- \_\_\_\_\_ Conclusion/application
- \_\_\_\_\_ Rationale
- \_\_\_\_\_ Appeal procedures

© 2023 D. STAFFORD & ASSOCIATES 138

---

---

---

---

---

---

---

---

138

**STAFFORD & ASSOCIATES**

## SANCTIONS AND REMEDIES



**Sanctions:**  
Disciplinary/punitive



**Remedies:**  
Restore or preserve access

© 2023 D. STAFFORD & ASSOCIATES 139

139

---

---

---

---

---

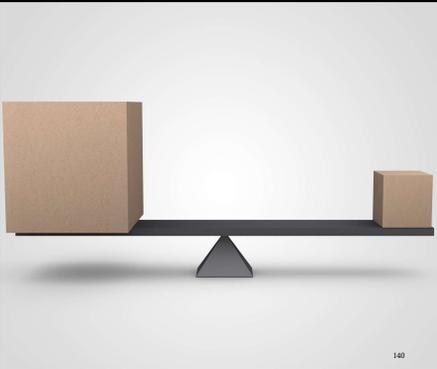
---

---

---

**STAFFORD & ASSOCIATES**

## § 106.45(b)(8) - APPEALS



© 2023 D. STAFFORD & ASSOCIATES 140

140

---

---

---

---

---

---

---

---

**STAFFORD & ASSOCIATES**

## § 106.45(b)(8) - APPEALS

- Mandatory grounds
  - Procedural irregularity that affected the outcome
  - New evidence that was not reasonably available when the determination of responsibility was made that could affect the outcome
  - The Title IX Coordinator, investigator, or decision-maker had a general or specific conflict of interest or bias against the complainant or respondent that affected the outcome
- Additional grounds are permitted

© 2023 D. STAFFORD & ASSOCIATES 141

141

---

---

---

---

---

---

---

---

D. STAFFORD & ASSOCIATES

### § 106.45(b)(8)(iii) - APPEALS

- Notification to both parties of an appeal submission
- Appeal officer cannot be the hearing decision-maker
- Appeal officer must be trained and be without bias/conflict
- Give both parties an opportunity to respond
- Notification of decision to both parties

© 2023 D. STAFFORD & ASSOCIATES 142

142

---

---

---

---

---

---

---

---

D. STAFFORD & ASSOCIATES

### § 106.45(b)(10) - RECORDKEEPING

 Case Materials

 Training materials

© 2023 D. STAFFORD & ASSOCIATES 143

143

---

---

---

---

---

---

---

---

Discussion



© 2023 D. STAFFORD & ASSOCIATES

144

---

---

---

---

---

---

---

---

## CLERY ACT (VAWA) PROCEDURAL REQUIREMENTS

© 2023 D. STAFFORD & ASSOCIATES 145

145

---

---

---

---

---

---

---

---

### OVERLAPPING CONDUCT ALLEGATIONS

**TITLE IX**

Quid Pro Quo  
Hostile Environment

**CLERY**

Sexual Assault  
Dating Violence  
Domestic Violence  
Stalking  
Gender-based Hate Crimes

Non-VAWA  
Clery Offenses  
(Assault etc.)

Hate Crimes  
Arrests and Referrals:  
Drug, Liquor, Weapons

**Title VII**  
Other sex-based behaviors

© 2023 D. STAFFORD & ASSOCIATES 146

146

---

---

---

---

---

---

---

---

### 34 C.F.R. § 668.46(c) - VAWA OFFENSES

Rape

Fondling

Incest

Statutory Rape

Dating Violence

Domestic Violence

Stalking

© 2023 D. STAFFORD & ASSOCIATES 147

147

---

---

---

---

---

---

---

---



### § 668.46 - RESPONSE REQUIREMENTS FOR VAWA OFFENSES

Procedures victims of VAWA Offenses should follow

↓

Procedures an institution will follow when offense reported

↓

*and make sure it is all in WRITING.*

© 2023 D. STAFFORD & ASSOCIATES 148

---

---

---

---

---

---

---

---

148



### § 668.46(b)(11)vii) - WRITTEN EXPLANATION OF STUDENT OR EMPLOYEE'S RIGHTS

*When a student or employee reports to the institution that the student or employee has been a victim of dating violence, domestic violence, sexual assault, or stalking, whether the offense occurred on or off campus, the institution will provide the student or employee a written explanation of the student's or employee's rights and options, as described in paragraphs (b)(11)(i) through (vi) of this section. . .*

© 2023 D. STAFFORD & ASSOCIATES 149

---

---

---

---

---

---

---

---

149



### § 668.46(b)(11)(ii) - WRITTEN EXPLANATION OF RIGHTS AND OPTIONS

- 1. The importance of preserving evidence** that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order
  - Not required but recommended: Where to obtain forensic exams, contact info, does not require police report and can have exam now, decide later
- 2. How and to whom the alleged offense should be reported**
  - List any person or organization that can assist the victim
  - Recommended: Also include community organizations

© 2023 D. STAFFORD & ASSOCIATES 150

---

---

---

---

---

---

---

---

150



**§ 668.46(b)(11)(ii) - WRITTEN EXPLANATION OF RIGHTS AND OPTIONS**

**3. Notification of the victim’s option to**

- Notify proper law enforcement authorities, including on-campus and local police
- Be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses
- Decline to notify such authorities

**4. The rights of victims and the institution’s responsibilities for**

- Orders of protection
- “No contact” orders
- Restraining orders
- Similar lawful orders issued by a criminal, civil, tribal, or institutional

© 2023 D. STAFFORD & ASSOCIATES 151

---

---

---

---

---

---

---

---

---

---

151



**§ 668.46(b)(11)(ii) - WRITTEN EXPLANATION OF RIGHTS AND OPTIONS**

**5. To students AND employees about existing**

- Counseling, health, mental health services
- Victim Advocacy
- Legal Assistance
- Visa and Immigration Assistance
- Student Financial Aid
- Other services available for victims

**6. Options for, available assistance in, and how to request changes to (if requested and reasonably available)**

- Academic, living, transportation, working

© 2023 D. STAFFORD & ASSOCIATES 152

---

---

---

---

---

---

---

---

---

---

152



**§ 668.46(b)(11)(ii) - WRITTEN EXPLANATION OF RIGHTS AND OPTIONS**

**7. Confidentiality**

- Publicly available recordkeeping has no personally identifying information about the victim (not required for respondent but best practice in most cases)
- Accommodations and protective measures are confidential (to the extent they can be without impairing the ability to provide them)

**8. Disciplinary Procedures**

- An explanation of the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking, as required

© 2023 D. STAFFORD & ASSOCIATES 153

---

---

---

---

---

---

---

---

---

---

153



## RESPONSE TO "ACTUAL KNOWLEDGE"

<p><b>Title IX</b></p> <ul style="list-style-type: none"> <li>• Contact the complainant</li> <li>• Offer and/or implement supportive measures</li> <li>• Explain the process for filing a formal complaint</li> </ul>	<p><b>Clery Act</b></p> <ul style="list-style-type: none"> <li>• Written explanation of victim's rights and options</li> <li>• Assess for Timely Warning Notice OR Emergency Notification</li> </ul>
---	--

© 2023 D. STAFFORD & ASSOCIATES 154

154

---

---

---

---

---

---

---

---



## CLERY ACT REQUIREMENTS FOR DISCIPLINARY PROCEEDINGS

 Anticipated timelines ("reasonably prompt")	 Decision-making process	 How to and options for filing a school complaint (with contact info)
 How school determines which process to use	 Who makes decisions	 Include employee procedures
 Use procedures regardless of Clery geography		

© 2023 D. STAFFORD & ASSOCIATES 155

155

---

---

---

---

---

---

---

---



## § 668.46(k)(2)(iii-iv)- ADVISORS

- *Provide the accuser and the accused with the same opportunities to have others present during any institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice*
- *Not limit the choice of advisor or presence for either the accuser or the accused in any meeting or institutional disciplinary proceeding; however, the institution may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties*

© 2023 D. STAFFORD & ASSOCIATES 156

156

---

---

---

---

---

---

---

---

## INFORMAL RESOLUTIONS

### Title IX

- Can offer, but may not require
- Not allowed for “employee on student” sexual harassment
- Party may withdraw up to a point

### Clery Act

- Written information about procedures the institution will follow for VAWA offenses (does not differentiate between formal vs informal)

157

---

---

---

---

---

---

---

---

## FORMAL COMPLAINT RIGHTS

### Title IX

- Treat equitably with goal to restore/preserve access to education; due process for respondent
- Reasonably prompt timeframes

### Clery Act

- Prompt, fair and impartial investigation and resolution
  - Anticipated timeframes
  - List all possible sanctions for each offense (employees and students)
  - Consistent with policy and transparent
  - Not required to list all protective measures

158

---

---

---

---

---

---

---

---

## WRITTEN DETERMINATION

### Title IX

- Identification of the allegations
- Procedural steps taken from receipt through determination
- Findings of fact supporting the determination
- Conclusions regarding the application of code of conduct to the facts
- Result (responsibility, rationale, sanctions, remedies for each allegation)
- Appeals procedures
- When results become final (post appeal)

### Clery Act

- Result (include any sanctions and rationale for results and sanction)
- Appeals procedures
- Any change to the result
- When such results become final

159

---

---

---

---

---

---

---

---



**§ 668.46(k)(2)(iii-iv) - BIAS FREE AND TRAINING FOR "OFFICIALS"**

*Annual training on the issues related to dating violence, domestic violence, sexual assault and stalking and on how to conduct an investigation and hearing process that protects the safety of the victims and promotes accountability*

© 2023 D. STAFFORD & ASSOCIATES 160

160

---

---

---

---

---

---

---

---



**APPEALS**

<p><b>Title IX</b></p> <ul style="list-style-type: none"> <li>• Must offer both parties an appeal</li> <li>• Based on specific grounds</li> </ul>	<p><b>Clery Act</b></p> <ul style="list-style-type: none"> <li>• Not required (but must provide notice if allowed along with appeal procedures)</li> <li>• Simultaneous written decision describing result, sanction, any changes to the result, when it becomes final</li> </ul>
---	---

© 2023 D. STAFFORD & ASSOCIATES 161

161

---

---

---

---

---

---

---

---



162

---

---

---

---

---

---

---

---

© 2023 D. STAFFORD & ASSOCIATES

# ADDRESSING "NON-TITLE IX" CASES



© 2023 D. STAFFORD & ASSOCIATES 163

163

---

---

---

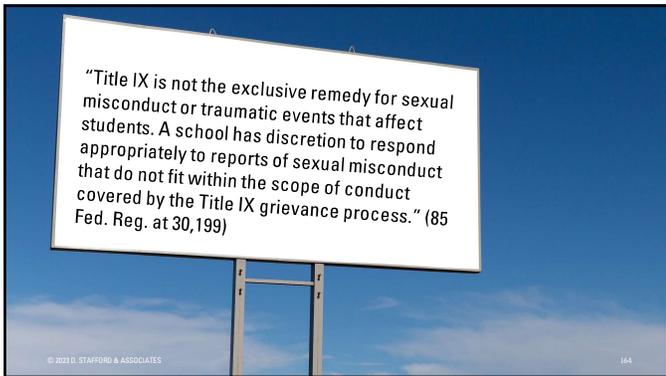
---

---

---

---

---



*"Title IX is not the exclusive remedy for sexual misconduct or traumatic events that affect students. A school has discretion to respond appropriately to reports of sexual misconduct that do not fit within the scope of conduct covered by the Title IX grievance process." (85 Fed. Reg. at 30,199)*

© 2023 D. STAFFORD & ASSOCIATES 164

164

---

---

---

---

---

---

---

---

© 2023 D. STAFFORD & ASSOCIATES

## EXAMPLE BEHAVIORS OUTSIDE THE TITLE IX DEFINITIONS

- Administering a date rape drug
- Touching non-private body part with perpetrator's private body part

© 2023 D. STAFFORD & ASSOCIATES 165

165

---

---

---

---

---

---

---

---

**LOCATIONS  
OUTSIDE THE  
DEFINITION**

- Outside an education program or activity
- Outside the U.S.



© 2023 D. STAFFORD & ASSOCIATES

166

166

---

---

---

---

---

---

---

---

**Wrap Up!**



© 2023 D. STAFFORD & ASSOCIATES

167

167

---

---

---

---

---

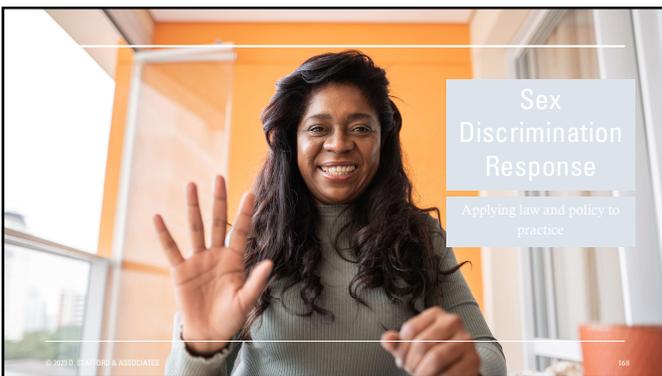
---

---

---

**Sex  
Discrimination  
Response**

Applying law and policy to  
practice



© 2023 D. STAFFORD & ASSOCIATES

168

168

---

---

---

---

---

---

---

---



# INTAKE



© 2021 D. STAFFORD & ASSOCIATES 169

169

---

---

---

---

---

---

---

---



# DISCUSSION: RECEIPT OF THE REPORT



© 2021 D. STAFFORD & ASSOCIATES 170

170

---

---

---

---

---

---

---

---

<b>Sandbox A University</b>			
<b>Title IX Referral Form</b>			
<i>Submitted on January 5, 2022 at 10:59:42 am EST</i>			
Nature	Title IX		
Urgency	Normal		
Incident Date and Time	2021-10-31 12:00 AM		
Incident Location	Alcott Residence Hall Room 3A		
<b>Reported by</b>			
Name:	Randy Donnovan		
Title:	Resident Director		
Email:	rd@DSA.edu		
Phone:	555-555-5551		
Address:			
<b>Involved Parties</b>			
Carrie Chase (012345)	cc@dsa.edu	555-555-5552	
Complainant	3A Alcott Hall		
Rich Reynolds (12346)	rr@dsa.edu	555-555-5553	
Respondent	1A Alcott Hall		
Wendy White (12347)	ww@dsa.edu	555-555-5554	
Witness	3A Alcott Hall		

171

171

---

---

---

---

---

---

---

---

**Incident Narrative**

**Narrative:**  
 On 1/4/22, Randy Donovan was on-call. At 8:30 pm, Resident Carrie Chase and Resident Wendy White asked if they could talk with me. Chase and White asked if Donovan could make Resident Rich Reynolds "move" because they did not feel comfortable with them living in Alcott Hall. Donovan stated that he could not do that without knowing the reason. Chase stated that there had been an "incident" between Chase and Reynolds on Halloween and that he "took advantage of her." Donovan told Chase that he was a Responsible Employee and that anything she told Donovan, he would have to report to the Title IX Coordinator. Chase told Donovan that she did not want to tell Donovan anything else and abruptly left Donovan's office. Donovan was unable to provide Chase with any additional information at this time.

At 9:30 PM, Donovan went to Chase's room and asked to come in and speak with her. Chase let Donovan into her room. Donovan provided to Chase a copy of the Explanation of Rights and Options Brochure and asked if she needed anything at this time. Donovan stated that based on the information provided by Chase, he would be contacting Trey Titus, the Title IX Coordinator, who would reach out to Chase. Chase thanked Donovan. Donovan left Chase's room.

172

---

---

---

---

---

---

---

---

---

---



**CASE STUDY: NEXT STEPS**

What are your steps after receiving the report?

173

---

---

---

---

---

---

---

---

---

---

**PUBLIC SAFETY**

**Evidence collection**

- Additional reports
- Video

**Clery**

- Notification requirements
- Review for Emergency Notification or Timely Warning

174

---

---

---

---

---

---

---

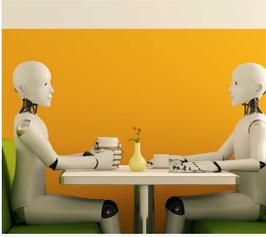
---

---

---



## MEETING WITH THE COMPLAINANT



© 2023 D. STAFFORD & ASSOCIATES 175

175

---

---

---

---

---

---

---

---

## TITLE IX ASSESSMENT



Title IX Definition

Eligible Complainant

Education Activity or Program

Wishes of the Complainant

© 2023 D. STAFFORD & ASSOCIATES 176

176

---

---

---

---

---

---

---

---

## BE PREPARED



1

**READ THE REPORT**

- Real-time In-person reports?

2

**Learn about the party**

- Year, major, grades, department, organization, athlete
- Discipline history?

3

**Set the Space**

- Accessible?
- Table or behind a desk?
- Tissues
- Fidget toys

© 2023 D. STAFFORD & ASSOCIATES 177

177

---

---

---

---

---

---

---

---

**MATERIALS**



Policy    Rights and Options    Flowcharts    FERPA waiver    Extra computer

© 2023 D. STAFFORD & ASSOCIATES 178

---

---

---

---

---

---

---

---

178

**COMPLAINANT CHECKLIST**



Policy and Procedures    Reporting options    Medical attention    Preserving evidence    Supportive measures

On-off campus resources    Mutual no-contact orders    Right to an advisor    Free from retaliation

© 2023 D. STAFFORD & ASSOCIATES 179

---

---

---

---

---

---

---

---

179

**MEETING FOLLOW-UP**



REVIEW    CHECKLIST    SUPPORTIVE MEASURES    FORMAL COMPLAINT

© 2023 D. STAFFORD & ASSOCIATES 180

---

---

---

---

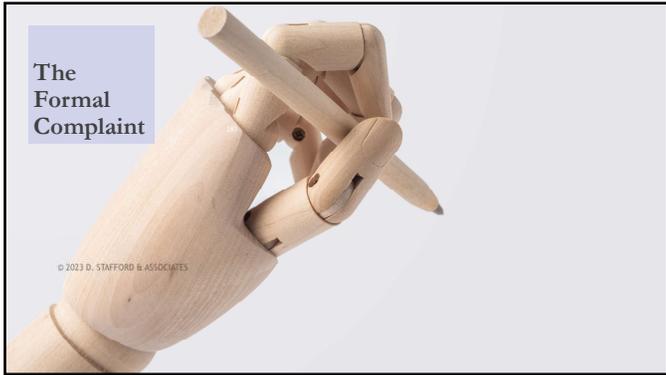
---

---

---

---

180



181

---

---

---

---

---

---

---

---

### FORMAL COMPLAINT

1. How do you make this transition to asking them about the Formal Complaint?
2. Do you have them sign right there or give time? What does this look like?
3. Would you sign on the initial report? What information would you need to make that decision?

182

---

---

---

---

---

---

---

---

### WHAT HAPPENS WHEN THE TITLE IX COORDINATORS SIGNS?

1. You do not become the complainant – but what does that mean?
2. How do you notify the Complainant that you are moving forward?
3. Do you keep the Complainant updated throughout the process?
4. Does the Complainant continue to have rights if they do not participate?
5. Should you also investigate if you signed the complaint?
6. How do you extend supportive measures?

183

---

---

---

---

---

---

---

---

**Sandbox A University  
Title IX Complaint Form**

*Submitted on January 5, 2022 at 11:29:47 am EST*

Nature	<b>Formal Title IX Complaint</b>	
Urgency	<b>Normal</b>	
Incident Date and Time	<b>2021-10-31 12:00 AM</b>	
Incident Location	<b>Alcott Residence Hall 3A Alcott hall</b>	
<b>Reported by</b>		
Name:	<b>Carrie Chase</b>	
Title:		
Email:	<b>cc@dsa.edu</b>	
Phone:	<b>555-555-5552</b>	
Address:		
<b>Involved Parties</b>		
<b>Carrie Chase (12345)</b>	ca@dsa.edu	555-555-5552
Complainant	3A Alcott Hall	
<b>Rich Reynolds (12346)</b>	rr@dsa.edu	555-555-5553
Respondent	1A Alcott Hall	
<b>Wendy White (12347)</b>	ww@dsa.edu	555-555-5554
Witness	3A Alcott Hall	

© 2023 D. STAFFORD & ASSOCIATES 184

184

---

---

---

---

---

---

---

---

---

---

**Complaint**

Please provide a detailed description of the incident(s) using specific and concise language (who, what, where, when, and how). Please include as much detail as possible, including dates, times, and locations.

**On Halloween night, me and Wendy were hanging out in our room getting ready for the Halloween Party at Ziggy's. We drank some shots. We then went to Rich's room to get him and walk to the party. Rich and I were hanging out. We were dancing and I drank a couple more drinks. Me and Rich left and went back to my room. I am not sure what happened when we got back as I only have flashes of things. I remember Rich putting on a condom and him having sex with me. I did not want to have sex with him. I woke up the next morning and there was vomit and a used condom in the trash by my bed. Rich was not there. I sent him a Snapchat asking what happened. He said not to worry about anything. I don't have the messages saved. We have not talked since.**

**I thought I would be fine after break, but I am not. I keep seeing him and I am afraid to leave my room because I do not want to run into him. We are in one of the same classes and I do not want to go to that class anymore.**

By entering my name in the box below, I am submitting this formal complaint requesting the institution investigate. I understand that all evidence, including this statement, will be shared with the Respondent. I have explained my rights and options by the Title IX Coordinator or designee.  
[PLEASE ENTER YOUR FULL NAME IN THE BOX BELOW]  
**Carrie Chase**

© 2023 D. STAFFORD & ASSOCIATES 185

185

---

---

---

---

---

---

---

---

---

---

**WHAT CAN THE TITLE IX COORDINATOR CLARIFY?**



- What information would be helpful to know at this point? What about during the investigation?
- Was she in a relationship with Rich? (Is there possible DV?)
- How much did she drink? How do you approach this?
- Other known witnesses?
- Why is clarification important?

© 2023 D. STAFFORD & ASSOCIATES 186

186

---

---

---

---

---

---

---

---

---

---



187

---

---

---

---

---

---

---

---



188

---

---

---

---

---

---

---

---



### RESPONDENT CHECKLIST

-  Policy and Procedures
-  Preserving evidence
-  Supportive measures
-  On-off campus resources
-  Mutual no-contact orders
-  Right to an advisor

© 2023 D. STAFFORD & ASSOCIATES 189

189

---

---

---

---

---

---

---

---



**CASE STUDY: UNRING A BELL?**

During the meeting with the Respondent, he tells you that the behaviors were completely consensual and that this is the second time that they have had sex.

The Respondent stated that he really enjoys where he is living, and he cannot change any of his classes due to his work schedule.

© 2023 D. STAFFORD & ASSOCIATES 190

190

---

---

---

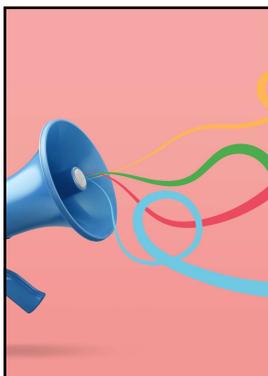
---

---

---

---

---



**MAKE IT CLEAR IN OUTREACH THAT IT IS NOT INVESTIGATORY IN NATURE**

How much information should the Title IX Coordinator be asking for?

How does the Title IX Coordinator communicate this behavior?

Are they now a witness

© 2023 D. STAFFORD & ASSOCIATES 191

191

---

---

---

---

---

---

---

---

**NOTICE**



© 2023 D. STAFFORD & ASSOCIATES 192

192

---

---

---

---

---

---

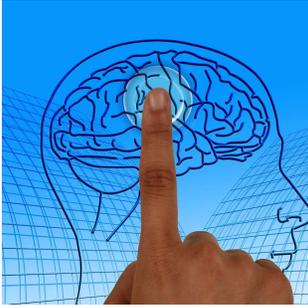
---

---

**REMEMBER!**

Information about preserving evidence and immediate resources should not only be in your first notice letter.

Do your first responders (Police, residential life, etc.) have written information available to provide to individuals identifying as victims?



© 2023 D. STAFFORD & ASSOCIATES 193

193

---

---

---

---

---

---

---

---

**WHOSE JOB IS IT?**



D. STAFFORD & ASSOCIATES

© 2023 D. STAFFORD & ASSOCIATES 194

194

---

---

---

---

---

---

---

---

**COMPLAINANT**

D. STAFFORD & ASSOCIATES

**Notice of Report/Request for Intake**

- Report may be from complainant or third party
- May follow an initial phone call to inform the complainant
- Set up a meeting to discuss supportive measures and options; right to an advisor; provide explanation of rights and options; refer to policy

**Notice of Case Closure**

- Complainant has declined to sign a formal complaint
- Complainant has not responded to outreach

© 2023 D. STAFFORD & ASSOCIATES 195

195

---

---

---

---

---

---

---

---

**COMPLAINANT/RESPONDENT** 

**Notice of Investigation**

- May be combined with notice of allegation
- Must give sufficient time to prepare for participation
- Provide date, time, location, and purpose of all meetings
- Names of investigators and how to raise a claim of bias or conflict of interest
- Any requests for information such as witnesses
- Provide any known parties or witnesses
- How to request accommodations or interpretive services

© 2023 D. STAFFORD & ASSOCIATES 196

196

---

---

---

---

---

---

---

---

---

---

**COMPLAINANT/RESPONDENT** 

**Notice of Allegation**

- Identities of parties, if known
- Conduct allegedly constituting sexual harassment
- Allegations may be updated during the course of the investigation
- Date and location, if known
- Respondent is presumed not responsible
- Advisor of choice
- May inspect and review evidence
- Prohibit false statements

© 2023 D. STAFFORD & ASSOCIATES 197

197

---

---

---

---

---

---

---

---

---

---





**CASE STUDY: WHAT IS MISSING?**

This is an acknowledgement that the University is in receipt of a signed formal complaint of the Title IX Policy. A copy of the Policy is attached to this letter.

Specifically, it is alleged that you experienced a violation of this policy on October 31, 2021, while in your room.

198

198

---

---

---

---

---

---

---

---

---

---





## CASE STUDY: LESSONS LEARNED

This is an acknowledgement that the University is in receipt of a signed formal complaint of the Title IX Policy. A copy of the Policy is attached to this letter.

Specifically, you identified the following violations:

- Non-consensual touching

© 2023 D. STAFFORD & ASSOCIATES 199

199

---

---

---

---

---

---

---

---





## CASE STUDY: LESSONS LEARNED

Specifically, in the Formal Complaint, it is alleged:

*“On Halloween night, me and Wendy were hanging out in our room getting ready for the Halloween Party at Ziggy’s. We drank some shots. We then went to Rich’s room to get him and walk to the party. Rich and I were hanging out. We were dancing and I drank a couple more drinks. Me and Rich left and went back to my room. I am not sure what happened when we got back as I only have flashes of things. I remember Rich putting on a condom and him having sex with me. I did not want to have sex with him. I woke up the next morning and there was vomit and a used condom in the trash by my bed. Rich was not there. I sent him a Snapchat asking what happened. He said not to worry about anything. I don’t have the messages saved. We have not talked since.”*

© 2023 D. STAFFORD & ASSOCIATES 200

200

---

---

---

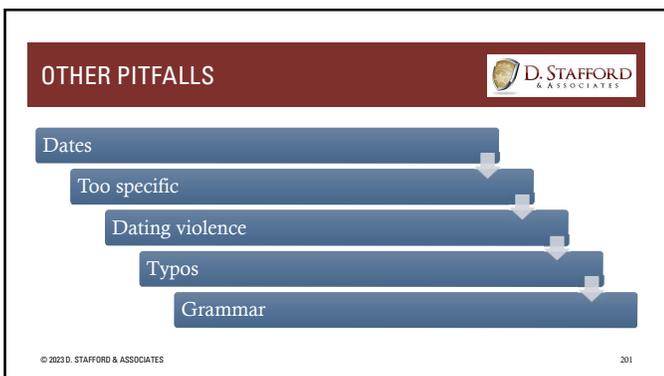
---

---

---

---

---



**OTHER PITFALLS**

- Dates
- Too specific
- Dating violence
- Typos
- Grammar

© 2023 D. STAFFORD & ASSOCIATES 201

201

---

---

---

---

---

---

---

---

## Slide 200

---

**ATO** See note

Ann Todd, 2022-10-10T14:09:48.599

**COMPLAINANT/RESPONDENT** 

**Notice of Preliminary Report (sharing of evidence)**

- All evidence directly related to the allegation(s)
- Sent prior to completion of investigative report
- Parties have at least 10 days to submit a written response for consideration by the investigator(s)

© 2023 D. STAFFORD & ASSOCIATES 202

202

---

---

---

---

---

---

---

---

---

---

**COMPLAINANT/RESPONDENT** 

**Notice of Final Report and Hearing**

- Fairly summarizes relevant evidence
- Sent at least 10 days prior to the hearing
- Date, time, location, participants, and purpose of hearing
- Option to request separate rooms with appropriate technology
- Explanation of cross-examination including providing an advisor if none

© 2023 D. STAFFORD & ASSOCIATES 203

203

---

---

---

---

---

---

---

---

---

---

**COMPLAINANT/RESPONDENT** 

**Notice of Written Determination**

- Allegations potentially constituting sexual harassment
- Procedural steps
- Findings of fact supporting the determination
- Conclusions regarding the application of policy
- Statement of and rationale for the result of each allegation
- Sanctions and/or remedies
- Appeal procedures
- Determination becomes final after appeal decision or if no appeal is filed

© 2023 D. STAFFORD & ASSOCIATES 204

204

---

---

---

---

---

---

---

---

---

---

**COMPLAINANT/RESPONDENT** 

**Notice of Appeal Submission**

- Notification to both parties that an appeal has been submitted
- Give both parties a reasonable, equal opportunity to submit a written statement in support of or challenging the outcome

**Notice of Appeal Decision**

- Result of the appeal and the rationale for the result

**Notice of No Appeal Submitted**

- No appeals have been filed and decision is final

© 2023 D. STAFFORD & ASSOCIATES 205

205

---

---

---

---

---

---

---

---

---

---

**COMPLAINANT/RESPONDENT** 

**Notice of Informal Resolution**

- Allegations
- Requirements for informal resolution including the right to withdraw from the informal resolution process prior to agreeing to the resolution
- Any consequences
- Obtain voluntary, written consent

© 2023 D. STAFFORD & ASSOCIATES 206

206

---

---

---

---

---

---

---

---

---

---

**COMPLAINANT/RESPONDENT** 

**Notice of Dismissal of Formal Complaint**

- No longer falls under Title IX
- Complainant withdraws from the process
- Indicate if it is referred elsewhere

**Notice of Additional Allegations**

- Notification of additional allegations based on new information
- Include previous information included in notice of allegation

**Notice of Temporary Delay**

- Explanation as to why the case is delayed (e.g., volume of witnesses)
- Anticipated timeline

© 2023 D. STAFFORD & ASSOCIATES 207

207

---

---

---

---

---

---

---

---

---

---

**WITNESS**



**Notice of Investigation**

- Identified as a witness
- Date and location of incident, parties involved
- Date, time, and location of meeting
- Policy information
- Accommodation requests

**Notice of Hearing**

- Date, time, and location of hearing
- Notification that they are subject to questioning by the advisors and decisionmaker(s)

© 2023 D. STAFFORD & ASSOCIATES 208

---

---

---

---

---

---

---

---

---

---

208

**OTHER POSSIBLE NOTICES**



Case updates    No contact letters    Supportive measures

Conflict of interest    Consolidation

© 2023 D. STAFFORD & ASSOCIATES 209

---

---

---

---

---

---

---

---

---

---

209



**PARTY RIGHTS**

© 2023 D. STAFFORD & ASSOCIATES

---

---

---

---

---

---

---

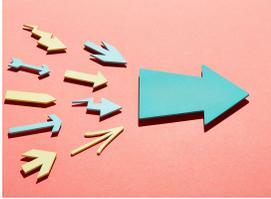
---

---

---

210

**GROUP ACTIVITY**

- You are a party in a sexual harassment - hostile environment case. What rights do you want to have? What would it take for you to trust a process?
- Do not limit yourself to Title IX or policy requirements. Think of it through a personal lens.
- Your group will be assigned a role (Complainant or Respondent).

© 2023 D. STAFFORD & ASSOCIATES 211

211

---

---

---

---

---

---

---

---



**Prompt**



**Fair and Impartial**

Photo by Salla on Unplash and Media from Pixabay

© 2023 D. STAFFORD & ASSOCIATES 212

212

---

---

---

---

---

---

---

---

**NOTICE AND RESPONSE**




© 2023 D. STAFFORD & ASSOCIATES 213

213

---

---

---

---

---

---

---

---



214

---

---

---

---

---

---

---

---



215

---

---

---

---

---

---

---

---



216

---

---

---

---

---

---

---

---

APPEAL



© 2023 D. STAFFORD & ASSOCIATES 217

217

---

---

---

---

---

---

---

---

RETALIATION



© 2023 D. STAFFORD & ASSOCIATES 218

218

---

---

---

---

---

---

---

---



ADDITIONAL RIGHTS

219

---

---

---

---

---

---

---

---

**CASE STUDY: PARTY RIGHTS**

How and when do you communicate these rights to the complainant and respondent?

220

---

---

---

---

---

---

---

---

**SUPPORTIVE MEASURES**

221

---

---

---

---

---

---

---

---

**SUPPORTIVE MEASURES**

- Counseling
- Extensions of deadlines or other course-related adjustments
- Modifications of work or class schedules
- Campus escort services
- Mutual restrictions on contact between the parties
- Changes in work or housing locations
- Leaves of absence
- Increased security and monitoring

222

---

---

---

---

---

---

---

---



D. STAFFORD & ASSOCIATES

## CASE STUDY: SUPPORTIVE MEASURES

The report indicates that the Complainant and Respondent live in the same residence hall and are also in one of the same classes.

- What are the potential supportive measures that are available?
- What are the potential conflicts or issues?
- How do you facilitate implementation?

© 2023 D. STAFFORD & ASSOCIATES 223

223

---

---

---

---

---

---

---

---



## CONSOLIDATION

D. STAFFORD & ASSOCIATES

© 2023 D. STAFFORD & ASSOCIATES 224

224

---

---

---

---

---

---

---

---

## MORE THAN ONE RESPONDENT



**MULTIPLE PARTY ASSAULTS**



**GROUP DYNAMICS**

D. STAFFORD & ASSOCIATES

© 2023 D. STAFFORD & ASSOCIATES 225

225

---

---

---

---

---

---

---

---

**MORE THAN ONE COMPLAINANT** 



EMPLOYEE



SERIAL  
RESPONDENT



GROUP VICTIMS

© 2023 D. STAFFORD & ASSOCIATES 226

---

---

---

---

---

---

---

---

226

**ONE PARTY AGAINST THE OTHER PARTY** 



CROSS COMPLAINTS



INCAPACITATION



DATING/DOMESTIC  
VIOLENCE

© 2023 D. STAFFORD & ASSOCIATES 227

---

---

---

---

---

---

---

---

227

**ARISING FROM THE SAME FACTS OR CIRCUMSTANCES** 



PATTERN OF  
BEHAVIOR



INTERPERSONAL  
VIOLENCE



SINGLE EVENT

© 2023 D. STAFFORD & ASSOCIATES 228

---

---

---

---

---

---

---

---

228

**OTHER CONSIDERATIONS** 



FORMAL COMPLAINT



INTERSECTING POLICIES



LOCATION

© 2023 D. STAFFORD & ASSOCIATES 229

229

---

---

---

---

---

---

---

---

**INVESTIGATION CONSIDERATIONS** 

Formal Complaint

Notice to the parties

Updates to the parties

Witnesses

Advisor

Inspect and Review Evidence

Investigative Report

© 2023 D. STAFFORD & ASSOCIATES 230

230

---

---

---

---

---

---

---

---

**HEARING CONSIDERATIONS** 

Live

Virtual

Cross-examination

Relevancy

Participation

Bias

© 2023 D. STAFFORD & ASSOCIATES 231

231

---

---

---

---

---

---

---

---



D. STAFFORD  
& ASSOCIATES

## CASE STUDY: PATTERNS

During an investigation alleging non-consensual sexual contact, a witness states that the respondent also inappropriately touched them. They provide you with additional names of people who have also been touched by the respondent.

232

232

---

---

---

---

---

---

---

---



D. STAFFORD  
& ASSOCIATES

## CASE STUDY: CROSS CLAIMS

The complainant reports an incapacitated sexual assault—he states he was too drunk to consent but does have memories of the night. The respondent states that he was blacked out and has no memories of the night. The respondent states that they would like to file a formal complaint against the complainant.

233

233

---

---

---

---

---

---

---

---

## CASE STUDY: ARE THEY THE SAME?

Two students have filed formal complaints against the same respondent. One complainant alleges sexual assault. The other complainant alleges stalking and dating violence.

© 2023 D. STAFFORD & ASSOCIATES



234

234

---

---

---

---

---

---

---

---



235

---

---

---

---

---

---

---

---

**DISMISSAL**

**Must**

- Does not constitute sexual harassment
- Not in educational program or activity
- Not in the United States

**May**

- Complainant withdraws complaint
- Respondent no longer enrolled
- Prevented from gathering evidence

© 2023 D. STAFFORD & ASSOCIATES 236

236

---

---

---

---

---

---

---

---

**EXAMPLES OF APPEALS BASED ON DISMISSAL** 

- 1**  
Complainant reengages in the process
- 2**  
Incorrect jurisdictional determinations
- 3**  
Dismissal due to incorrect facts
- 4**  
Recipient determines evidence does not meet burden of proof

© 2023 D. STAFFORD & ASSOCIATES 237

237

---

---

---

---

---

---

---

---

**WHEN DOES DISMISSAL OCCUR?** 



Intake



Investigation



Hearing

© 2023 D. STAFFORD & ASSOCIATES 238

---

---

---

---

---

---

---

---

238

**NOTIFICATION OF DISMISSAL** 



Written Notice



Reason(s) for Dismissal



Simultaneous to the Parties

© 2023 D. STAFFORD & ASSOCIATES 239

---

---

---

---

---

---

---

---

239

**APPEAL OF DISMISSAL** 



Procedural Irregularity



New Evidence



Bias or Conflict of Interest

© 2023 D. STAFFORD & ASSOCIATES 240

---

---

---

---

---

---

---

---

240

**POST-DISMISSAL STEPS**



Supportive Measures

Separate Process

Reopen Investigation

© 2023 D. STAFFORD & ASSOCIATES 241

---

---

---

---

---

---

---

---

241



**CASE STUDY: OFF-CAMPUS**

You are the Title IX Coordinator and receive a report involving a student who reported being sexually assaulted off-campus by multiple members of the debate team. The names of the members of the team are not included in the report.

What are your next steps?

---



© 2023 D. STAFFORD & ASSOCIATES 242

---

---

---

---

---

---

---

---

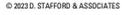
242

**CASE STUDY: SEXUAL HARASSMENT?**

You are the Title IX Coordinator and receive a report alleging that Professor Blum is making comments of a sexual nature in class. The report contains a student's name but indicates that they do not want to file a formal complaint, they just want to "put it on your radar." This is the third report you have received about Professor Blum. You have dismissed the other two reports as they were anonymous reports.

What are your next steps?





© 2023 D. STAFFORD & ASSOCIATES 243

---

---

---

---

---

---

---

---

243

**CASE STUDY:  
BRICK WALL**

You are the Title IX Coordinator and receive a call from your investigators who tell you that "they have hit a brick wall" and have only been able to interview the Complainant. The Complainant does not have any memory of the night and is not sure if any sexual behaviors took place.

What are your next steps?



© 2023 D. STAFFORD & ASSOCIATES 244

244

---

---

---

---

---

---

---

---

**INFORMAL RESOLUTIONS**



© 2023 D. STAFFORD & ASSOCIATES 245

245

---

---

---

---

---

---

---

---

**TYPES**



© 2023 D. STAFFORD & ASSOCIATES 246

246

---

---

---

---

---

---

---

---

**INFORMAL RESOLUTION** 

- Mediation
- Arbitration
- Restorative Justice
- Administrative Conference Agreements
- Educational Efforts

© 2023 D. STAFFORD & ASSOCIATES 247

---

---

---

---

---

---

---

---

247

**MEDIATION** 



- Mediator facilitates resolution
- Mediator does not recommend outcome
- Parties create agreement
- Mediator may finalize
- Typically, non-binding

© 2023 D. STAFFORD & ASSOCIATES 248

---

---

---

---

---

---

---

---

248

**ARBITRATION** 



- Neutral person given power to resolve dispute
- Binding or non-binding
- Collective Bargaining Agreements may provide language

© 2023 D. STAFFORD & ASSOCIATES 249

---

---

---

---

---

---

---

---

249

**RESTORATIVE JUSTICE** 



- Repair harm
- Both parties are involved in the process
- Parties work together to determine how to repair harm
- Opportunities for communication (directly and indirectly)
- Collaborative, not coercive
- Community involvement

© 2023 D. STAFFORD & ASSOCIATES 250

250

---

---

---

---

---

---

---

---

**RESTORATIVE JUSTICE V. MEDIATION** 

	Restorative Justice	Mediation
Focus	<ul style="list-style-type: none"> <li>• Repairing harm</li> <li>• Making things right</li> </ul>	<ul style="list-style-type: none"> <li>• Problem-solving</li> <li>• Decision-making</li> </ul>
Preparation	<ul style="list-style-type: none"> <li>• Pre-conference meetings with all impacted parties</li> </ul>	<ul style="list-style-type: none"> <li>• No pre-conference meetings</li> </ul>
Requirements	<ul style="list-style-type: none"> <li>• Voluntary</li> <li>• Responsible party accepts responsibility for behavior</li> </ul>	<ul style="list-style-type: none"> <li>• Voluntary</li> </ul>

© 2023 D. STAFFORD & ASSOCIATES <https://www.pathways2rc.com/news/2018/10/34/the-differences-and-similarities-of-restorative-justice-and-mediation> 251

251

---

---

---

---

---

---

---

---

**ADMINISTRATIVE CONFERENCE AGREEMENT**

- ✓ No facts in dispute
- ✓ Both parties must agree
- ✓ Acceptance of responsibility
- ✓ Sanctions



© 2023 D. STAFFORD & ASSOCIATES 252

252

---

---

---

---

---

---

---

---

**EDUCATIONAL EFFORTS**

- Permanent supportive measures
- Directive to cease behavior
- Messaging to campus community
- Events and trainings
- Referrals and collaborations



© 2023 D. STAFFORD & ASSOCIATES 253

253

---

---

---

---

---

---

---

---

**RESTORATIVE JUSTICE**



© 2023 D. STAFFORD & ASSOCIATES 254

254

---

---

---

---

---

---

---

---

**RESTORATIVE JUSTICE V.  
RESTORATIVE PRACTICE**



Umbrella terms



Multiple functions



Community building

© 2023 D. STAFFORD & ASSOCIATES 255

255

---

---

---

---

---

---

---

---

**WHERE DOES IT FIT INTO PROCESS?** 



Informal Resolution



Sanction

© 2023 D. STAFFORD & ASSOCIATES 256

---

---

---

---

---

---

---

---

256

**INFUSION INTO PROCESS** 



Current activities



Program examples

© 2023 D. STAFFORD & ASSOCIATES 257

---

---

---

---

---

---

---

---

257

**BENEFITS** 

Harmed party/  
Complainant

Responsible  
party/  
Respondent

Community

© 2023 D. STAFFORD & ASSOCIATES 258

---

---

---

---

---

---

---

---

258

**USES OUTSIDE OF HIGHER ED** 



Community



Workplace



Courts

© 2023 D. STAFFORD & ASSOCIATES 259

---

---

---

---

---

---

---

---

259

**RESTORATIVE CONFERENCING/FACILITATED DIALOGUE**

Structured and facilitated  
 Harmed party/responsible party  
 Parties determine steps

Examples:  
 Apology  
 Education  
 Mentoring  
 Voluntary leave



© 2023 D. STAFFORD & ASSOCIATES 260

---

---

---

---

---

---

---

---

260

**RESTORATIVE CIRCLE** 



- Similar to Conference
- Multiple people
- Turn-taking
- Examples:
  - Groups
  - Culture

© 2023 D. STAFFORD & ASSOCIATES 261

---

---

---

---

---

---

---

---

261

**SURROGATE PARTICIPATION** 



- Similar to conference/circle
- Complainant has a “stand-in”

© 2023 D. STAFFORD & ASSOCIATES 262

262

---

---

---

---

---

---

---

---

**INDIRECT FACILITATION (“SHUTTLE DIPLOMACY”)** 



- Facilitator takes lead
- Back-and-forth between parties
- Does not require face-to-face

© 2023 D. STAFFORD & ASSOCIATES 263

263

---

---

---

---

---

---

---

---

**IMPLEMENTATION** 



Culture Buy-in Preparation  
Policy Training

© 2023 D. STAFFORD & ASSOCIATES 264

264

---

---

---

---

---

---

---

---



265

---

---

---

---

---

---

---

---



266

---

---

---

---

---

---

---

---



267

---

---

---

---

---

---

---

---

### WHAT IS THE TITLE IX COORDINATOR'S ROLE?

Oversee      Determinations      Facilitate

Training

© 2023 D. STAFFORD & ASSOCIATES 268

268

---

---

---

---

---

---

---

---

### TRAINING FOR FACILITATORS

What is RJ?      Techniques      Sexual violence

Parties      Preparation

© 2023 D. STAFFORD & ASSOCIATES 269

269

---

---

---

---

---

---

---

---

### WHEN IS IT APPROPRIATE?

Additional complaints      Sexual harassment      Dating violence

Sexual assault      Intersecting behaviors

© 2023 D. STAFFORD & ASSOCIATES 270

270

---

---

---

---

---

---

---

---

**POLICY CONSIDERATIONS** 

Options    Goal    Voluntary    Guidelines    Timelines

Cases    Participation expectations    Binding or non-binding    Sanctions and remedies

© 2023 D. STAFFORD & ASSOCIATES 271

271

---

---

---

---

---

---

---

---

**POLICY CONSIDERATIONS** 

Records subject to subpoena    What happens if it becomes a formal resolution?    Impact of incomplete requirements    Required record keeping    Student and employee conduct files

© 2023 D. STAFFORD & ASSOCIATES 272

272

---

---

---

---

---

---

---

---

**WHAT IF...** 

The parties cannot reach an agreement    The institution does not support the agreement    The complainant does not participate    The respondent did not complete necessary requirement(s)

© 2023 D. STAFFORD & ASSOCIATES 273

273

---

---

---

---

---

---

---

---

**CASE STUDY: CAN WE?**

While meeting with the Complainant, she told you that she had reservations about the formal process as she did not want the Respondent to "get kicked out" and only wants him to move. Your policy does not allow for informal resolution for cases of sexual assault.

What can you do?



© 2023 D. STAFFORD & ASSOCIATES 274

274

---

---

---

---

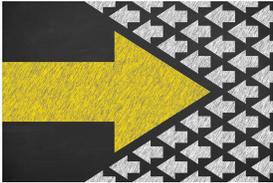
---

---

---

---

**CASE STUDY: WHAT NOW?**

During the informal resolution process, the Respondent admitted that she "caused the Complainant harm" but will not take responsibility for a policy violation.

- Can this be considered an agreement?
- If not, can the investigators use the information that was discovered during the informal resolution process? Why/why not?

© 2023 D. STAFFORD & ASSOCIATES 275

275

---

---

---

---

---

---

---

---

**CASE STUDY: UNFULFILLED REQUIREMENTS?**

After an agreement has been signed, the Complainant contacts your office and asks if the Respondent has fulfilled all the requirements of the agreement. You check and they have not.

- How do you monitor requirements?
- What happens if they are not fulfilled?



© 2023 D. STAFFORD & ASSOCIATES 276

276

---

---

---

---

---

---

---

---

## INVESTIGATION STAGE



© 2023 D. STAFFORD & ASSOCIATES 277

277

---

---

---

---

---

---

---

---

## WHAT IS YOUR ROLE DURING THIS STAGE?

- Who sends notice?
- Who schedules?
- How are steps documented?
- Who collects institutional evidence?
- Who sends evidence/report?
- Review before dissemination
- Who determines deadlines?

© 2023 D. STAFFORD & ASSOCIATES 278

278

---

---

---

---

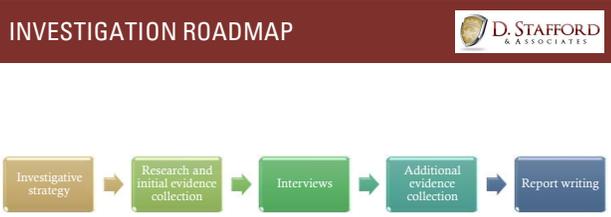
---

---

---

---

## INVESTIGATION ROADMAP



© 2023 D. STAFFORD & ASSOCIATES 279

279

---

---

---

---

---

---

---

---



## EXPECTATIONS OF GREAT INVESTIGATORS



© 2023 D. STAFFORD & ASSOCIATES 280

280

---

---

---

---

---

---

---

---



## TITLE IX INVESTIGATIONS



© 2023 D. STAFFORD & ASSOCIATES 281

281

---

---

---

---

---

---

---

---



## INVESTIGATIONS IN THE REGULATIONS



© 2023 D. STAFFORD & ASSOCIATES 282

282

---

---

---

---

---

---

---

---

**EVIDENCE AND RELEVANCY FOR TITLE IX COORDINATORS**




© 2023 D. STAFFORD & ASSOCIATES 283

283

---

---

---

---

---

---

---

---

**TYPES OF EVIDENCE**





Real evidence



Demonstrative



Documentary



Testimonial

© 2023 D. STAFFORD & ASSOCIATES 284

284

---

---

---

---

---

---

---

---

**STATEMENTS**





Investigator Interviews



Written Statements



Formal Complaint



Other

© 2023 D. STAFFORD & ASSOCIATES 285

285

---

---

---

---

---

---

---

---

**OTHER SOURCES OF EVIDENCE**



Photographs    Text messages    Social media / dating apps    Documents (diagrams, memos, letters, notes)

Voicemail    Phone logs    Guest lists

© 2023 D. STAFFORD & ASSOCIATES    286

286

---

---

---

---

---

---

---

---

**EVIDENCE COLLECTION**



Everything Collected

Directly Related

Relevant

© 2023 D. STAFFORD & ASSOCIATES    287

287

---

---

---

---

---

---

---

---

**THE REGULATIONS ON RELEVANCY**



Relevant Evidence In Investigation    Relevant Questions At Hearing

© 2023 D. STAFFORD & ASSOCIATES    288

288

---

---

---

---

---

---

---

---



© 2023 D. STAFFORD & ASSOCIATES 289

D. STAFFORD & ASSOCIATES

## WHAT DOES RELEVANCY MEAN?

Evidence is relevant if:

- a. it has any tendency to make a fact more or less probable than it would be without the evidence; and
- b. the fact is of consequence in determining the action

289

---

---

---

---

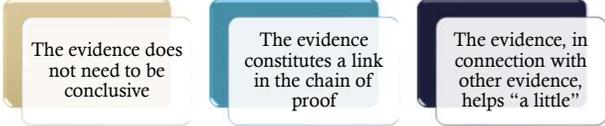
---

---

---

---

OTHER WAYS TO PUT IT...



© 2023 D. STAFFORD & ASSOCIATES 290

D. STAFFORD & ASSOCIATES

The evidence does not need to be conclusive

The evidence constitutes a link in the chain of proof

The evidence, in connection with other evidence, helps "a little"

290

---

---

---

---

---

---

---

---



© 2023 D. STAFFORD & ASSOCIATES 291

D. STAFFORD & ASSOCIATES

## WHAT IS NOT RELEVANT?

291

---

---

---

---

---

---

---

---

**NOT RELEVANT (FROM THE REGULATIONS)**

**RELATED BUT NOT RELEVANT**  
**Past Sexual Behavior**

- Complainant's sexual predisposition/prior sex unless...
  - Offered to prove that someone other than the respondent committed the conduct alleged or
  - Complainant's prior sexual behavior with respect to the respondent and are offered to prove consent

**ALWAYS OUT**  
**Privileged Information**

- Physician, psychiatrist, psychologist records in connection with the provision of treatment to the party
  - Unless voluntary, written consent

© 2023 D. STAFFORD & ASSOCIATES

---

---

---

---

---

---

---

---

292

**REPORTS**

© 2023 D. STAFFORD & ASSOCIATES

---

---

---

---

---

---

---

---

293

**MAJOR CASE DOCUMENTS**

Pre-Investigation		Investigation		Decision
Formal Complaint	Notice of Investigation	Evidence Review	Investigative Report	Written Determination

© 2023 D. STAFFORD & ASSOCIATES

---

---

---

---

---

---

---

---

294

**EVIDENCE REVIEW**



“provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the recipient does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation”



© 2023 D. STAFFORD & ASSOCIATES IMAGE BY JERZY GÓRECKI FROM PIXABAY 295

295

---

---

---

---

---

---

---

---

---

---

**INVESTIGATIVE REPORT**




*“Create an investigative report that fairly summarizes relevant evidence”*

This Photo by Unknown Author is licensed under CC BY-SA

© 2023 D. STAFFORD & ASSOCIATES 296

296

---

---

---

---

---

---

---

---

---

---

**DSA - VERSIONS OF THE REPORT**



 <p><b>Preliminary Report</b></p> <p>Scope Methodology Evidence Obtained</p>	 <p><b>Final Report</b></p> <p>Scope Methodology (edited) Evidence Obtained Summary of Evidence</p>	 <p><b>Written Determination</b></p> <p>Scope Methodology (edited) Summary of Evidence (edited) Results (including rationale, sanctions, remedies)</p>
---	--	---

© 2023 D. STAFFORD & ASSOCIATES 297

297

---

---

---

---

---

---

---

---

---

---

**DSA PRELIMINARY REPORT**

- Evidence Obtained
- Scope
- Methodology

© 2023 D. STAFFORD & ASSOCIATES 298

298

---

---

---

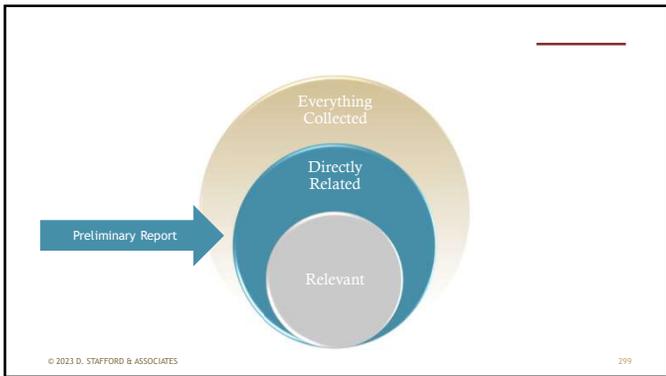
---

---

---

---

---



299

---

---

---

---

---

---

---

---

**OPTIONAL COMPONENTS**

Scope	Alleged behavior Alleged policy violation(s)
Methodology	Procedural steps (Notifications, interviews, methods used to gather evidence)

© 2023 D. STAFFORD & ASSOCIATES 300

300

---

---

---

---

---

---

---

---

**INSPECT AND REVIEW STAGE**





Send to party and advisor



Provide at least 10 days to review



Allow submission of written response



Investigator must "consider" written response prior to completion of report

© 2023 D. STAFFORD & ASSOCIATES 301

---

---

---

---

---

---

---

---

---

---

301



**DSA FINAL INVESTIGATIVE REPORT**

Scope (from Preliminary Report)  
 Methodology (Edited)  
 Evidence Obtained (from Preliminary Report and any additional)  
 Summary of Evidence (new)

© 2023 D. STAFFORD & ASSOCIATES 302

---

---

---

---

---

---

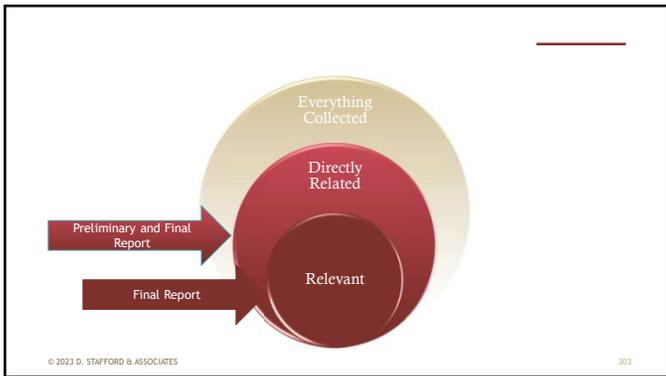
---

---

---

---

302




---

---

---

---

---

---

---

---

---

---

303

**INSPECT AND REVIEW STAGE** 



Send to party and advisor



At least 10 days before hearing



Allow review and written response

© 2023 D. STAFFORD & ASSOCIATES 304

---

---

---

---

---

---

---

---

304

**CASE FILES & RECORDKEEPING** 

Paper/Virtual

Notices

Communications

Evidence

Supportive Measures

© 2023 D. STAFFORD & ASSOCIATES 305

---

---

---

---

---

---

---

---

305

© 2023 D. STAFFORD & ASSOCIATES



**TITLE IX AND THE INVESTIGATOR**

---

---

---

---

---

---

---

---

306



© 2023 D. STAFFORD & ASSOCIATES

D. STAFFORD & ASSOCIATES

### CASE STUDY: ONE MORE THING

During the course of the investigation, the investigators learn that the complainant and the respondent had been in a "on and off again" dating relationship for the past few months.

- How is the Title IX Coordinator notified? When?
- Are there additional violations as a result?
- How would this be communicated to the parties?

307

307

---

---

---

---

---

---

---

---

---

---



© 2023 D. STAFFORD & ASSOCIATES

D. STAFFORD & ASSOCIATES

### CASE STUDY: YOU'RE LATE!

The investigator contacts you to let you know that they need "a little more time" to conduct the interviews as they have had a family emergency and will be out for the next "few days."

- What are your next steps?

308

308

---

---

---

---

---

---

---

---

---

---



NON-TITLE IX INVESTIGATIONS

© 2023 D. STAFFORD & ASSOCIATES

309

309

---

---

---

---

---

---

---

---

---

---

**OTHER TYPES OF INVESTIGATIONS**



VAWA offenses not under Title IX

Other conduct based on identity

Sexual misconduct not under Title IX

Intersecting policies

© 2023 D. STAFFORD & ASSOCIATES 310

---

---

---

---

---

---

---

---

310

**POSSIBLE DIFFERENCES**



Jurisdiction	Definitions	Policy
Adjudication Process	Report	Timeline

© 2023 D. STAFFORD & ASSOCIATES 311

---

---

---

---

---

---

---

---

311

**LIKELY SIMILARITIES**





INTERVIEWS



EVIDENCE COLLECTION



ADVISORS

© 2023 D. STAFFORD & ASSOCIATES 312

---

---

---

---

---

---

---

---

312

**BIAS/CONFLICT OF INTEREST CHECK IN**



Title IX Coordinator

Investigator

Notice Documents

Investigation Process

© 2023 D. STAFFORD & ASSOCIATES 313

313

---

---

---

---

---

---

---

---

**FORMAL RESOLUTIONS**



© 2023 D. STAFFORD & ASSOCIATES



314

---

---

---

---

---

---

---

---

**TITLE IX HEARINGS (SEXUAL HARASSMENT)**



© 2023 D. STAFFORD & ASSOCIATES 315



315

---

---

---

---

---

---

---

---

**YOUR ROLE** 



Structure



Hearing preparation



The hearing

© 2023 D. STAFFORD & ASSOCIATES 316

---

---

---

---

---

---

---

---

316

**LIVE HEARING** 



In-person



Virtual

© 2023 D. STAFFORD & ASSOCIATES 317

---

---

---

---

---

---

---

---

317

**RECORD OF HEARING** 



Audio



Video



Transcript

© 2023 D. STAFFORD & ASSOCIATES 318

---

---

---

---

---

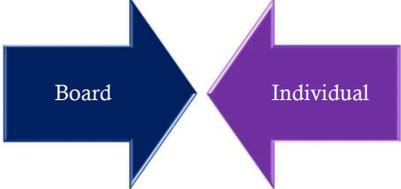
---

---

---

318

**DECISION-MAKERS**

© 2023 D. STAFFORD & ASSOCIATES 319

319

---

---

---

---

---

---

---

---



**THE CHAIR**

**Board Chair**

- Manages the agenda
- Determines relevancy of questions
- Coordinates decision

**Procedural Chair**

- Logistics
- Has no role in decisions, including relevancy

© 2023 D. STAFFORD & ASSOCIATES 320

320

---

---

---

---

---

---

---

---

**CHAIR-RELATED TASKS**




Recording    Introductions    Order of Questioning    Witness Management    Enforcing Rules of Decorum

© 2023 D. STAFFORD & ASSOCIATES 321

321

---

---

---

---

---

---

---

---

**DECISION-MAKER(S) TASK** 

 Review Report    
  Ask Questions    
  Determine Relevancy    
  Assess Credibility    
  Make the Finding    
  Produce the Written Determination

© 2023 D. STAFFORD & ASSOCIATES 322

---

---

---

---

---

---

---

---

322

**HEARING PREPARATION** 



© 2023 D. STAFFORD & ASSOCIATES 323

---

---

---

---

---

---

---

---

323

**LIVE HEARINGS – INSTITUTION SPECIFIC** 

 Pre-hearing Meeting    
  Rules of Decorum    
  Hearing Script

© 2023 D. STAFFORD & ASSOCIATES 324

---

---

---

---

---

---

---

---

324

**PRE-HEARING TASKS** 



Attendance Confirmation



Scheduling



Action Items

© 2023 D. STAFFORD & ASSOCIATES 325

---

---

---

---

---

---

---

---

325

**PREPARING THE PARTIES**





© 2023 D. STAFFORD & ASSOCIATES 326

---

---

---

---

---

---

---

---

326

**DECISION-MAKER PRE-WORK** 



Review report



Review allegations



Review policy



Draft relevant questions

© 2023 D. STAFFORD & ASSOCIATES 327

---

---

---

---

---

---

---

---

327



328

---

---

---

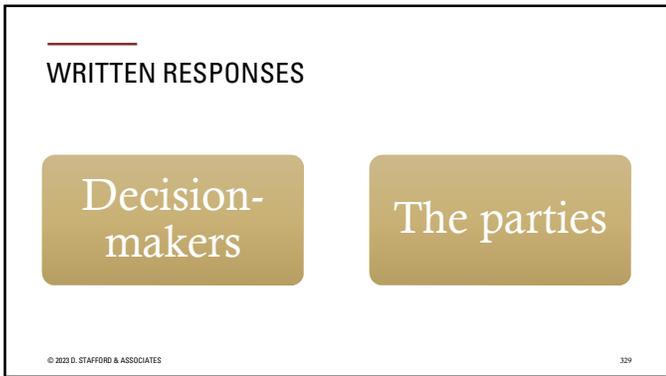
---

---

---

---

---



329

---

---

---

---

---

---

---

---



330

---

---

---

---

---

---

---

---

**ROLES IN THE HEARING** 

- What are the roles of the participants at the hearing?

© 2023 D. STAFFORD & ASSOCIATES 331

---

---

---

---

---

---

---

---

331

**OTHER POSSIBLE PERSONNEL IN ATTENDANCE** 

<b>General Counsel</b>	• Advise on process?
<b>Stenographer</b>	• Only needed if not recording
<b>Accommodation</b>	• Interpreter or mandated support person
<b>2<sup>nd</sup> Advisor</b>	• Is a support person allowed? Union rep?

© 2023 D. STAFFORD & ASSOCIATES 332

---

---

---

---

---

---

---

---

332

**MANDATORY COMPONENTS** 



Complainant Cross-Examination



Respondent Cross-Examination



Witness Cross-Examination

© 2023 D. STAFFORD & ASSOCIATES 333

---

---

---

---

---

---

---

---

333

**OPTIONAL COMPONENTS** 



Introductions



Reading Allegation



Review of Rights and Rules



Opening/Closing Statements



Decision-maker Questions

© 2023 D. STAFFORD & ASSOCIATES 334

---

---

---

---

---

---

---

---

334

**IMPARTIAL HEARINGS** 



Consistent application



Ask clarifying questions



Avoid bias

© 2023 D. STAFFORD & ASSOCIATES 335

---

---

---

---

---

---

---

---

335

**QUESTIONING BY THE ADVISORS** 

<p><b>Question</b></p> <ul style="list-style-type: none"> <li>• By Advisor</li> </ul>	<p><b>Relevancy Determination</b></p> <ul style="list-style-type: none"> <li>• By Decision-maker</li> </ul>	<p><b>Answer</b></p> <ul style="list-style-type: none"> <li>• By party or witness</li> </ul>
---	---	--

© 2023 D. STAFFORD & ASSOCIATES 336

---

---

---

---

---

---

---

---

336

**ORDER OF QUESTIONING/STATEMENTS** 

Fairness

Equality

Logic

Common Sense

© 2023 D. STAFFORD & ASSOCIATES 337

---

---

---

---

---

---

---

---

337

**RELEVANCY AND ADMISSIBILITY DETERMINATIONS** 

Past sexual history

Privileged information

Repetitive question

New information

Not probative of material fact

© 2023 D. STAFFORD & ASSOCIATES 338

---

---

---

---

---

---

---

---

338

**REASON FOR RELEVANCY DETERMINATION** 



Not a lengthy or complicated explanation



Logic and common sense



Shows neutrality



May trigger appeal ("procedural irregularity")

© 2023 D. STAFFORD & ASSOCIATES 339

---

---

---

---

---

---

---

---

339

**"NEW EVIDENCE" AT THE HEARING** 



Allow



Disallow



Stop Hearing

© 2023 D. STAFFORD & ASSOCIATES 340

---

---

---

---

---

---

---

---

340

**PARTY ISSUES** 

REQUEST FOR INFORMAL	DISRUPTIVE	INAPPROPRIATE QUESTION
NOT PARTICIPATING	NO SHOW	EMOTIONAL ...

© 2023 D. STAFFORD & ASSOCIATES 341

---

---

---

---

---

---

---

---

341

**SITUATIONAL ISSUES** 



Safety



Disability



Length



Phrasing

© 2023 D. STAFFORD & ASSOCIATES 342

---

---

---

---

---

---

---

---

342

**DECISION-MAKER ISSUES (APPEAL GROUNDS)**





Procedural Error



New Evidence



Bias/Conflict

© 2023 D. STAFFORD & ASSOCIATES 343

---

---

---

---

---

---

---

---

343

**OTHER FORMAL RESOLUTION MODELS (TITLE IX DISCRIMINATION, NON-TITLE IX)**




© 2023 D. STAFFORD & ASSOCIATES 344

---

---

---

---

---

---

---

---

344

**ALTERNATIVE PROCESSES**





Administrative Conference



Administrative Hearing

© 2023 D. STAFFORD & ASSOCIATES 345

---

---

---

---

---

---

---

---

345



346

---

---

---

---

---

---

---

---



347

---

---

---

---

---

---

---

---



348

---

---

---

---

---

---

---

---

## ELEMENTS OF THE POLICY VIOLATIONS

- Sex Act
- Relationship
- Consent
- Act of Violence
- Conduct
- Impact
- Location

© 2023 D. STAFFORD & ASSOCIATES 349

349

---

---

---

---

---

---

---

---

---

---

## FACT CONSIDERATIONS



Weight



Credibility

© 2023 D. STAFFORD & ASSOCIATES 350

350

---

---

---

---

---

---

---

---

---

---

## WEIGHT/RELEVANCE

Character

Prior bad acts

Pre/post behavior

Hearsay

Opinion

New evidence

© 2023 D. STAFFORD & ASSOCIATES 351

351

---

---

---

---

---

---

---

---

---

---

**BEHAVIORS**

BASED ON THE INFORMATION AVAILABLE, WHAT BEHAVIORS OCCURRED?



© 2023 D. STAFFORD & ASSOCIATES 352

352

---

---

---

---

---

---

---

---

**STANDARD OF EVIDENCE**

More likely than not

Clear and convincing



© 2023 D. STAFFORD & ASSOCIATES 353

353

---

---

---

---

---

---

---

---

**DISCIPLINARY SANCTIONS AND REMEDIES**



Sanctions



Remedies



© 2023 D. STAFFORD & ASSOCIATES 354

354

---

---

---

---

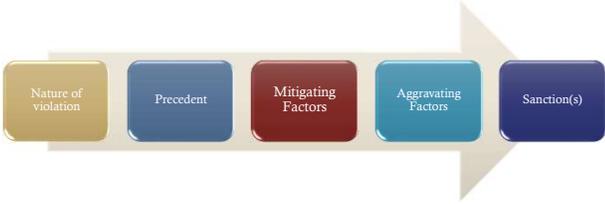
---

---

---

---

**FORMAL RESOLUTION – DISCIPLINARY SANCTION** 



Nature of violation    Precedent    Mitigating Factors    Aggravating Factors    Sanction(s)

© 2023 D. STAFFORD & ASSOCIATES 355

355

---

---

---

---

---

---

---

---

**FORMAL RESOLUTION – REMEDIES** 



Make permanent supportive measures    One-sided no contact orders    Restrictions from locations    Restrictions from activities

© 2023 D. STAFFORD & ASSOCIATES 356

356

---

---

---

---

---

---

---

---

**WRITTEN DETERMINATION** 

Allegations \_\_\_\_\_

Procedural steps \_\_\_\_\_

Findings of fact \_\_\_\_\_

Conclusion/application \_\_\_\_\_

Rationale \_\_\_\_\_

Appeal procedures \_\_\_\_\_

© 2023 D. STAFFORD & ASSOCIATES 357

357

---

---

---

---

---

---

---

---



## APPEALS



© 2023 D. STAFFORD & ASSOCIATES 358

358

---

---

---

---

---

---

---

---



## OTHER DECISION-MAKER



Appellate Decision-maker



Appeal of Case Dismissal



Appeal of Emergency Removal?

© 2023 D. STAFFORD & ASSOCIATES 359

359

---

---

---

---

---

---

---

---



## KEY POINTS OF APPEALS

Both parties have the right to appeal

Appeals are limited for dismissals and findings

Appeals are limited to what is stated in the policy

Appeals are a review to see if the determination was supported by the evidence

© 2023 D. STAFFORD & ASSOCIATES 360

360

---

---

---

---

---

---

---

---

**ROLE OF APPELLATE DECISION-MAKER** 



Follow the Appellate Basis



Not A Substitute of Judgement



Respect the Credibility of Previous Decision-maker

© 2023 D. STAFFORD & ASSOCIATES 361

---

---

---

---

---

---

---

---

361

**WHO IS THE APPEALS OFFICER?** 



- Separate role
- Trained
- Conflict of interest or bias

© 2023 D. STAFFORD & ASSOCIATES 362

---

---

---

---

---

---

---

---

362

**APPEAL OF RESULT** 

```

    graph LR
      A[Either party may appeal] --> B[Review for sufficient grounds]
      B --> C[Not met - Appeal is denied]
      B --> D[Met - Appeal is granted]
      D --> E[Follow what is stated in your process]
      F[Both parties are notified of decision] --> E
      G[Both parties are notified that an appeal was submitted; parties may submit written statement] --> B
  
```

© 2023 D. STAFFORD & ASSOCIATES 363

---

---

---

---

---

---

---

---

363

**BASIS OF APPEAL**





Procedural irregularity that affected outcome



New evidence that could affect the outcome



Conflict of interest or bias that affected the outcome



Additional Grounds are permitted (must be in policy)

© 2023 D. STAFFORD & ASSOCIATES 364

364

---

---

---

---

---

---

---

---

---

---

**EXAMPLES OF APPEALS BASED ON FINDINGS**

- Erroneous relevancy determinations regarding evidence
- The hearing was not recorded or transcribed
- Advisors were not permitted to ask relevant questions
- The board members were biased against a party
- The written determination relied on statements from parties who did not participate
- The decision was erroneous, and the board members were negligent in making their determination



© 2023 D. STAFFORD & ASSOCIATES 365

365

---

---

---

---

---

---

---

---

---

---

**STATING THE APPROPRIATE GROUND**



Does it state an appropriate ground?

Who makes this determination?

© 2023 D. STAFFORD & ASSOCIATES 366

366

---

---

---

---

---

---

---

---

---

---

**MEETING THE GROUNDS** 

What information is provided?

Did it or could it "affect the outcome?"

© 2023 D. STAFFORD & ASSOCIATES 367

---

---

---

---

---

---

---

---

367

**APPEAL DETERMINATIONS** 

Does the appeal state appropriate grounds?

Does the information in the appeal meet grounds?

What is the institution's response?

© 2023 D. STAFFORD & ASSOCIATES 368

---

---

---

---

---

---

---

---

368

**RESPONSE TO THE APPEAL** 

Denied

- No further process

Granted

- Procedural irregularity – what is the process to remedy error?
- New Evidence – does the case return to decision-maker?
- Conflict of interest or bias – what is the process to remedy error?

© 2023 D. STAFFORD & ASSOCIATES 369

---

---

---

---

---

---

---

---

369

**WRITTEN DETERMINATION REQUIREMENTS** 



The result



Rationale



Simultaneous notification

© 2023 D. STAFFORD & ASSOCIATES 370

---

---

---

---

---

---

---

---

370

**ARTICULATING THE DECISION** 

State what the appeal asserted

Explain your analysis and rationale

Describe the action to be taken

© 2023 D. STAFFORD & ASSOCIATES 371

---

---

---

---

---

---

---

---

371

**CASE STUDY: NO SHOW**

At the start of the hearing, you get a call from the Decision-makers that the Complainant's advisor did not show up for the hearing.

What do you do?



© 2023 D. STAFFORD & ASSOCIATES 372

---

---

---

---

---

---

---

---

372

**CASE STUDY: STOP RIGHT THERE**

You are attending the hearing to assist in its facilitation – breakout rooms, calling witnesses, etc. During the hearing, the Decision-makers are not making relevancy determinations for the Respondent but are for the Complainant.

What do you do?



© 2023 D. STAFFORD & ASSOCIATES 373

373

---

---

---

---

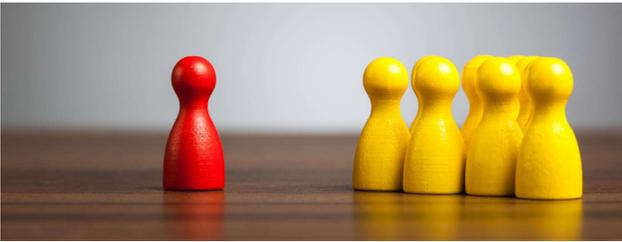
---

---

---

---

**ORGANIZATIONAL INTEGRITY AND TRAINING**



© 2023 D. STAFFORD & ASSOCIATES 374

374

---

---

---

---

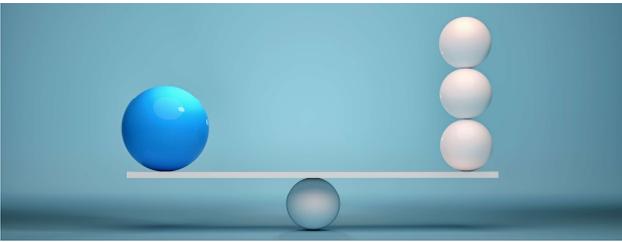
---

---

---

---

**ORGANIZATIONAL INTEGRITY**



© 2023 D. STAFFORD & ASSOCIATES 375

375

---

---

---

---

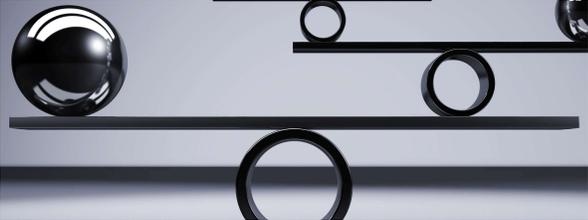
---

---

---

---

**SERVING IMPARTIALLY**



© 2023 D. STAFFORD & ASSOCIATES 376

376

---

---

---

---

---

---

---

---

**CONFLICT OF INTEREST OR BIAS**



Generally



Individually

© 2023 D. STAFFORD & ASSOCIATES 377

377

---

---

---

---

---

---

---

---

**PROCEDURAL CHALLENGES**



During Investigation/Hearing



Basis of Appeal

© 2023 D. STAFFORD & ASSOCIATES 378

378

---

---

---

---

---

---

---

---

**TRAINING** 

Prejudgment of facts    Conflict of Interest    Bias

© 2023 D. STAFFORD & ASSOCIATES 379

---

---

---

---

---

---

---

---

379

**AVOIDING PREJUDGMENT OF FACTS** 

Open mind    Listen    Objective    Neutral

© 2023 D. STAFFORD & ASSOCIATES 380

---

---

---

---

---

---

---

---

380

**CONFLICT OF INTEREST** 

External    Internal

© 2023 D. STAFFORD & ASSOCIATES 381

---

---

---

---

---

---

---

---

381

**CONFLICTS OF INTEREST** 

 Roles on campus  
  Past employment  
  Volunteering  
  Social media presence

© 2023 D. STAFFORD & ASSOCIATES 382

---

---

---

---

---

---

---

---

382



**WHAT IS BIAS?**

---

---

---

---

---

---

---

---

383

**BIAS** 

Personal experience   Personal identity   Social identity   Theoretical perspective  
 Professional identity   Religious perspective   Political perspective

© 2023 D. STAFFORD & ASSOCIATES 384

---

---

---

---

---

---

---

---

384

**IDENTITY BIAS** 

**Bias, Data, Impact**

- Gender Identity
- Sexual Orientation
- BIPOC
- National Origin
- Individuals with disabilities

© 2023 D. STAFFORD & ASSOCIATES 385

385

---

---

---

---

---

---

---

---

**REPRESENTATION MATTERS**



© 2023 D. STAFFORD & ASSOCIATES 386

386

---

---

---

---

---

---

---

---

**TYPES OF BIAS** 

<b>Confirmation Bias</b>	Confirmed preconceived opinion
<b>Availability Bias</b>	Most important to the memory immediately recalled
<b>Hindsight Bias</b>	See things as more predictable than they were
<b>Foresight Bias</b>	Ability to predict future events
<b>Identity Bias</b>	More likely to believe one group over another
<b>Personal Experience Bias</b>	Believe similar experience (or disbelieve the dissimilar)

© 2023 D. STAFFORD & ASSOCIATES 387

387

---

---

---

---

---

---

---

---



388

---

---

---

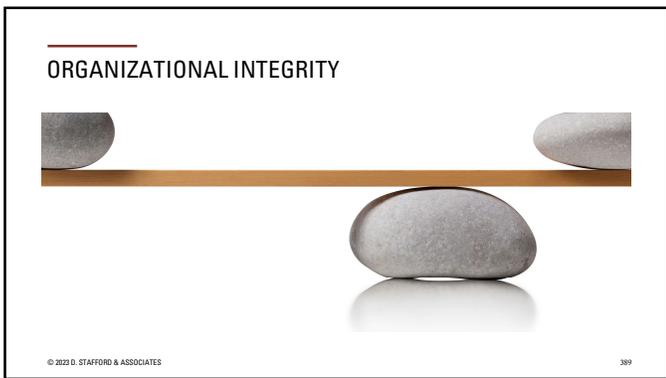
---

---

---

---

---



389

---

---

---

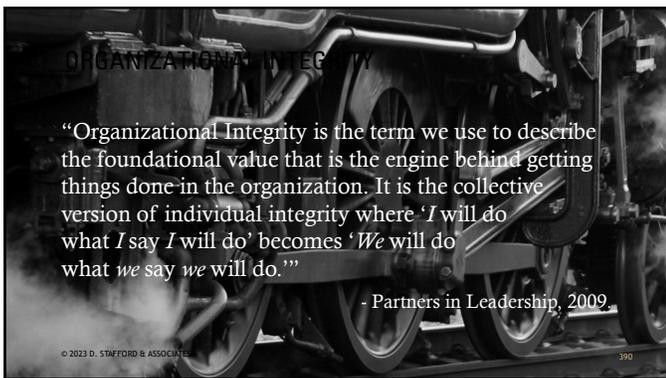
---

---

---

---

---



390

---

---

---

---

---

---

---

---



391

---

---

---

---

---

---

---

---



392

---

---

---

---

---

---

---

---



393

---

---

---

---

---

---

---

---

**MANAGE THE "NOISE"**



© 2023 D. STAFFORD & ASSOCIATES

Photo by  Shutterstock

394

---

---

---

---

---

---

---

---

394



**Principles**

**Endurance**

**Danger**

**Moral Courage**

© 2023 D. STAFFORD & ASSOCIATES

Rushworth Kidder, *Moral Courage* (2006).

395

---

---

---

---

---

---

---

---

395

**FINAL NOTE**



<p><b>1</b></p> <p>Run a fair, thorough, and impartial process</p>	<p><b>2</b></p> <p>Let your morale compass guide you</p>	<p><b>3</b></p> <p>Do what your policy says you will do</p>	<p><b>4</b></p> <p>Do what the regulations tell you to do</p>
--	--	---	---

© 2023 D. STAFFORD & ASSOCIATES

396

---

---

---

---

---

---

---

---

396



397

---

---

---

---

---

---

---

---



398

---

---

---

---

---

---

---

---



399

---

---

---

---

---

---

---

---

**TRAINING FOR ALL TITLE IX PERSONNEL** 

Definition of sexual harassment

Scope of education program/activity

Conduct grievance process

Serve impartially

© 2023 D. STAFFORD & ASSOCIATES 400

---

---

---

---

---

---

---

---

400

**ADDITIONAL TRAINING - INVESTIGATORS** 



Relevance



Investigative Report

© 2023 D. STAFFORD & ASSOCIATES 401

---

---

---

---

---

---

---

---

401

**ADDITIONAL TRAINING - DECISION-MAKERS** 



Technology



Relevancy

© 2023 D. STAFFORD & ASSOCIATES 402

---

---

---

---

---

---

---

---

402

**ADVISORS** 



NO REQUIREMENT



SHOULD YOU

© 2023 D. STAFFORD & ASSOCIATES 403

---

---

---

---

---

---

---

---

403

**TRAINING MATERIALS** 

Can't rely on sex stereotypes



Address implicit and unconscious bias



© 2023 D. STAFFORD & ASSOCIATES 404

---

---

---

---

---

---

---

---

404

**TRAINING MATERIAL RECORDKEEPING** 



7 YEARS



ALL MATERIALS



AVAILABLE ON WEBSITE

© 2023 D. STAFFORD & ASSOCIATES 405

---

---

---

---

---

---

---

---

405



406

---

---

---

---

---

---

---



407

---

---

---

---

---

---

---