



# TITLE IX POLICY AND PRACTICE

Introductory Session

By Jodie Ferise, JD  
*Vice President and General Counsel,  
Independent Colleges of Indiana*

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Welcome  
to...



# Our Starting Point

*Some rules of engagement for our journey.*

- Questions are welcome any time!
- A few things about the examples I may share today...
- Hopefully, the “least horrible training” you’ll ever have!

# Finding our “True North”: The Starting Point for All Title IX Processes



Every participant, every witness, is a member of your campus community, **inherently valuable** as a human being, and worthy of being respected and **believed**.

Sexual violence causes extreme **damage** to **individuals** and to the campus **culture** you are trying to develop and maintain.



It can – and does – happen at institutions just like yours.

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.

Tiny statute,  
enormous impact

**This** is Title IX



# True or False?

The original intent of Title IX was to bring greater equality to women's athletics?

...discussion on the senate floor included whether the bill would **require** educational institutions to allow women to play **football**.

...when their concerns about football were allayed, **higher education** did not lobby **for or against** the bill

*Source: Valentin, I. "Title IX: A Brief History," Equity Resource Center: 25 Years of Title IX Digest (1997)*





1972 – Higher Education Amendments

1975 – Title IX Athletics Regulations

1976 – NCAA lawsuit

1982 – NCAA takes control of women's athletics

2016 – Transgender guidance, later rescinded

2020 – New Title IX Regulations issued

2022 – New Title IX Regulations issued (again)



# Are we making any progress?

	1970s	1990s
% of college <b>athletes</b> who were women	<b>15</b> (1972)	<b>37</b> (1995)
% of women <b>graduating high school</b> who enrolled in college	<b>43</b> (1973)	<b>63</b> (1994)
% of women earning <b>bachelor's degrees</b>	<b>18</b> (1971)	<b>27</b> (1994)

# Are we making any progress?

	1970s	1990s
% of <b>medical degrees</b> received by women	<b>9</b> (1971)	<b>38</b> (1994)
% of <b>law degrees</b> received by women	<b>7</b> (1972)	<b>43</b> (1994)
% of <b>doctoral degrees</b> received by women	<b>25</b> (1977)	<b>44</b> (1994)

# A bit of context...

## Title IX

- Federal regulations updated May 2020 (and... 2023)
- Prohibits sex discrimination in schools receiving federal funds

## Clery

- Requires timely reporting of crimes
- Includes requirement of policies and procedures regarding sexual assault

## VAWA

- Expands Clery Act
- Includes dating violence, domestic violence, stalking



# Calculating what's at stake

Student safety

Campus culture

Risk exposure/ litigation

Institutional reputation

**Title IV federal funds**

# Title IX prohibits sex discrimination but... *what exactly does that include?*

- Sexual harassment
- Sexual assault
- Dating violence
- Domestic violence
- Stalking
- Pregnancy and childbirth discrimination
- Retaliation



# Retaliation

An institution's **response** to a complainant or respondent in response to a Title IX complaint may, itself, constitute discrimination on the basis of sex in violation of Title IX.



# Pregnancy and related conditions

Treatment in keeping with temporary disability leave policy

As long as deemed necessary by student's doctor

- Pregnancy
- Childbirth
- False pregnancy
- Termination of pregnancy
- Recovery from childbirth



# What is expected of our institution?

## Identification of Title IX Coordinator

- Training requirements
- Policy and compliance
- Contact with parties
- Supportive measures
- Authority and access



# What is expected of our institution?

## Adoption of grievance procedures

Live hearing

Equitable treatment

Unbiased evaluation of evidence

Presumption of non-responsibility

Advisors

Opportunity for “cross-examination”

Ability to appeal



## What is expected of us individually?

Policy Specific, but often look something like this:

**All University employees**, except those exempted by legal privilege of confidentiality or expressly identified as a confidential reporter, have an obligation to immediately report incidents of **prohibited conduct under this policy** to the Title IX Coordinator.

# Confidentiality vs. Privacy

Most employees **are not** confidential resources.

Exceptions include:

- Medical Professionals (in that capacity)
- Counselors/Therapists (in that capacity)
- Campus Clergy (in that capacity)
- Positions designated by the institution



# Confidentiality vs. **Privacy**



"For any report under this policy, every effort will be made to respect and safeguard the **privacy** interests of all individuals involved..."



What is expected of us individually?

Incidents personally **observed**

Incidents **reported to you**

Incidents of which you otherwise  
**become aware**

**ASAP**

What if the incident involves a minor?



## What is expected of the parties?

Truthfulness

Good faith

But participation is **not** required

# Title IX principles and limitations

- Requires the school has **actual knowledge** of the discrimination
- Requires the school has **substantial control** over the Respondent, the context, and the building
- Requires the incident occurred **within the USA**





# Title IX principles and limitations

Does Title IX cover **off-campus** incidents?

- Part of campus operations
- Substantial control over Respondent and context
- Off-campus building is **owned or controlled by official student organization**



# Standard of Proof

Preponderance of the  
Evidence

OR

Clear and Convincing  
Evidence



# Emergency Removal

**Individualized** safety and risk  
assessment

**Immediate** threat to  
**physical** health or safety

**Notice** and opportunity to  
**challenge**



# Formal Resolution

- Live Hearing
  - Decision Maker or Panel questions
  - Cross Examination by Advisors
  - Determination of Responsibility
  - Consideration of all relevant evidence
  - Determination report



# Informal Resolution

Available as alternative

Both parties must agree

Not when  
employee is party



# Informal Resolution: Possible Agreed Outcomes

- Consent education
- Shared statements
- Mediated conversations
- Restitution/damages/costs
- Counseling
- Agreements to get STI/STD testing
- Community service
- Staggered schedules
- Agreement to not register for same classes
- Changes to study abroad sites
- Agreement to forfeit student employment
- Agreements to suspension, withdrawal, probation and the terms
- Agreement to opt out of shared activities
- Agreement to change residence hall
- Agreement to change course sections
- Continued no-contact orders





If I report a potential violation, will I know how or when the matter is resolved?



What if someone reports  
a potential Title IX  
violation but then  
decides they don't want  
to pursue it?





Do I have an obligation  
to contact police  
if I believe the conduct  
reported to me was a  
crime?



Are there special considerations related to students with disabilities or neurodivergent students?



What if a student's  
parents want to talk  
with me about their  
child's Title IX matter?



How does alcohol or  
drug use or misuse  
impact a  
Title IX case?



# Writing new history

## LGBTQ+

- No categorical bans of transgender students from participating on teams consistent with their gender identity.
- Flexibility to develop team eligibility criteria that serve important educational objectives, such as **ensuring fairness in competition or preventing sports-related injury.**



# Writing new history

- LGBTQ+
- Grievance procedures
- Prevention
- VAWA climate studies



Thank You

Questions? Please feel  
free to reach out!

[jferise@icindiana.org](mailto:jferise@icindiana.org)

317-690-1149