



Title IX Investigators, Hearing Officers, Advisors, Appellate Officers, etc

Wednesday, August 18th and Friday, August 27th

NOVA | Northern Virginia
Community College



TITLE IX BY THE NUMBERS

Review Committee: Lauren, Chief Dusseau, Steven Mosely

Investigators: Dr. LaToya Sivells, Krystal Edmead, Christianne Nieuwsma, Laura Tigado, Dan Kaufman, Herbertia Gilmore, Joyce Dolo, Carolyn Mitchell

Hearing Officers: Karen Artis, Sabrina Chikhi, Pamela Nephew, Greer Muldoon, Michael Hanson, Brent Via

Appellate Officers: Pamela Nephew, Greer Muldoon, Michael Hanson, Brent Via

Advisors: Christianne Nieuwsma, Sharon Bobb, Connie Kirkland

Informal Resolution Facilitators: Sabrina Chikhi

As of 8/26/21

AGENDA

Title IX 34 C.F.R. Part 106.45(b)(1)(iii)

A recipient must ensure that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, receive training on the definition of sexual harassment in §106.30, the 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 and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

A recipient must ensure that decision-makers receiving training any technology to be used at a live hearing and on 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, as set forth in paragraph (b)(6) of this section.

A recipient also must ensure that investigators receive training on issues of relevance to create an investigative report that fairly summaries relevant evidence, as set forth in paragraph (5)(b)(vii) of this section.

AGENDA (CONTINUED)

VAWA Section 304 34C.F.R. Part 668.46(k)(2)(ii)

Be conducted by officials who, at a minimum, receive 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 victims and promotes accountability.

NOVA Policy Training

1. Title IX Coordinator(s), investigators, hearing officers, appellate officers, and facilitators for the information resolution process must receive annual training, as appropriate, on the following topics: a) the definition of sexual harassment; b) the scope of the College's education programs or activities; c) how to conduct an investigation and grievance process, including live hearings, appeals, and informal resolution processes, and how to serve impartially including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; d) the definition of relevance; e) investigative report writing; and, f) technology that may be used at live hearings. 2. College-appointed advisors receive training on the definitions of sexual harassment, consent, preponderance of the evidence, and relevance.



DEFINITION OF SEXUAL HARASSMENT

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

- a) Quid Pro Quo: The submission to or rejection of such conduct is used as the basis for educational or employment decisions affecting the student or employee either explicitly or implicitly;
- b) Hostile Environment: Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to an education program or activity of the College, including a student's educational experience or an employee's work performance;
- c) Clery Act/VAWA Offenses: Sexual assault/sexual violence, dating violence, domestic violence, and stalking, as defined by this Policy.

SCOPE OF PROGRAMS & ACTIVITIES

Student Programming

- ▶ It's On Us
- ▶ Presented at SGA with OMHW
- ▶ Bystander Intervention Training through NOVA PD and OMHW
- ▶ Incoming Student Training coming soon on New 2 NOVA

Employee Programming

- ▶ Developed Incoming Employee Training, should be implemented soon

GRIEVANCE PROCEDURE PART 1

1. Report made to TIXC
 1. *Determine whether complainant wants supportive measures or investigation*
 2. *Tell Respondent that we received a report involving them*
2. Review Committee reviews reports of sexual violence
3. TIXC conducts evaluation
 1. *Send Notice of Allegations*
 2. *Receive formal complaint*
 1. TIXC tells OGC
4. TIXC sends Notice of Investigation
 1. *Investigators assigned – hopefully in a team of 2*
5. Investigators investigate
 1. *Review all evidence*
 2. *Contact TIXC to get info from NOVA PD*
 3. *Make recommendation of policy violation based on the preponderance of the evidence*
6. Investigators draft investigative report
7. Provide evidence for parties to review with 10 days to respond
8. Send investigative report for parties' review, allow 10 days to review and before hearing

GRIEVANCE PROCEDURE PART 2

10. Appoint Hearing Officer if proceeding to hearing 10 days later
11. Prepare for hearing
 1. *Send the parties notice of hearing 15 days before hearing date*
 2. *Conduct pre-hearing meetings*
 3. *Determine witnesses and evidence that will be included/excluded*
 4. *Appoint advisors, if necessary*
12. Conduct hearing
 1. *Hearing Officer decides whether to support finding of fact (violation of policy) based on preponderance of evidence and sanctions*
 2. *Witnesses and parties must NO LONGER submit to cross-examination in order to statements to be considered*
13. Written determination sent within 10 days
14. Sanctions are entered
15. Appeals
 1. *Filed within 5 days of final decision*
 2. *Appeal Officer appointed*
 3. *Appeal Officer makes decision*

GRIEVANCE PROCEDURE SAFEGUARDS

- At any point TIXC can enter support measures for both parties.
- The parties can decide to put the investigation on hold and try to reach an informal resolution, when appropriate, and both parties agree.
- Both parties have equal options to present evidence and witnesses throughout the grievance procedure.
- The process is designed to be fair, impartial, and prompt from step 1 to step 14.
- Both parties are allowed to have an advisor of their choice present at all meetings.
- Timeline – 75 College business days from step 3.2 to step 13



DEFINITION OF RELEVANCE

Relevance refers to evidence that tends to prove or disprove whether the respondent is responsible for the alleged conduct. In determining whether a question is relevant, the Hearing Officer must focus on evidence pertinent to proving whether facts important to the allegations in the formal complaint are more or less likely to be true.



INVESTIGATION REPORT WRITING

- TIXC will send the template with basics filled in
- TIXC will review all reports before they are final
- Requirements per policy (page 18-19):

(1) The name and gender of the complainant and, if different, the name and gender of the person reporting the allegation; (2) The names and gender of all persons alleged to have committed the alleged violation; (3) A statement of the allegation, a description of the incident(s), and the date(s) and time(s) (if known) of the alleged incident(s); (4) The dates of the report and formal complaint were filed; (5) The dates the parties were interviewed; (6) The names and gender of all known witnesses to the alleged incident(s); (7) The dates that any relevant documentary evidence (including cell phone and other records as appropriate) was obtained; (8) Any written statements of the complainant or the alleged victim if different from the complainant; and (9) The date on which the College deferred its investigation and disciplinary process because the complainant filed a law enforcement complaint and the date on which the College resumed its investigation and disciplinary process, if applicable.

TECHNOLOGY

- Must record hearings
 - *If via zoom, zoom recording works but upload to Maxient ASAP*
 - *If via person, it will depend on the setting you're using. Talk to TIXC beforehand and we'll discuss what will work for that space.*

QUESTIONS?

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