



D. STAFFORD
& ASSOCIATES

Understanding Claims Pursuant to Title VI, VII, IX

Western Technical College

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D. STAFFORD & ASSOCIATES

Building an Inclusive Community: Handling Title IX, Hate Bias, and Civil Rights Cases

Western Technical College

Four-Hour Course

December 4, 2024

1. Introduction and Overview

- Welcome and Objectives
- Brief Overview of Agenda
- Overview of Institutional Policies and Procedures

2. Overview of Title VI and Title VII

- Historical Background
- Purpose and Scope

3. Legal Framework

- Key Provisions
- Definitions

4. Types of Discrimination Covered

- Race, Color, National Origin
- Sex, and Religion

Break (15 minutes)

5. An Overview of Title IX (2020 and 2024)

- Key Changes and Updates
- Response Requirements

6. Filing and Receiving Complaints under Title VI, Title VII, and Title IX

- Steps in the Complaint Process
- Roles and Responsibilities

Break (15 minutes)

7. Key Findings from OCR Audits

8. Practical Applications and Mini-Case Studies



TITLE IX

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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.



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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



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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.

UNDERSTANDING CLAIMS PURSUANT TO TITLE VI AND TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 AND TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

4 HOUR COURSE
WESTERN TECHNICAL COLLEGE
DECEMBER 4, 2024

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AGENDA

- Welcome
- Institution Specific Policies
- Overview of Title VI and Title VII
- Legal Framework
- Types of Discrimination Covered
- An Overview of Title IX (2020 and 2024)
- Filing and Receiving Complaints
- Applying Policy and Procedure through OCR Audits
 - What has been reported?
 - What law(s) apply?
 - How should the institution respond?

INSTITUTIONAL POLICY AND PROCEDURE

C0102-E0105 –

Anti-Harassment and Nondiscrimination Policy

C0102-E0105p –

Anti-Harassment and Nondiscrimination Procedure

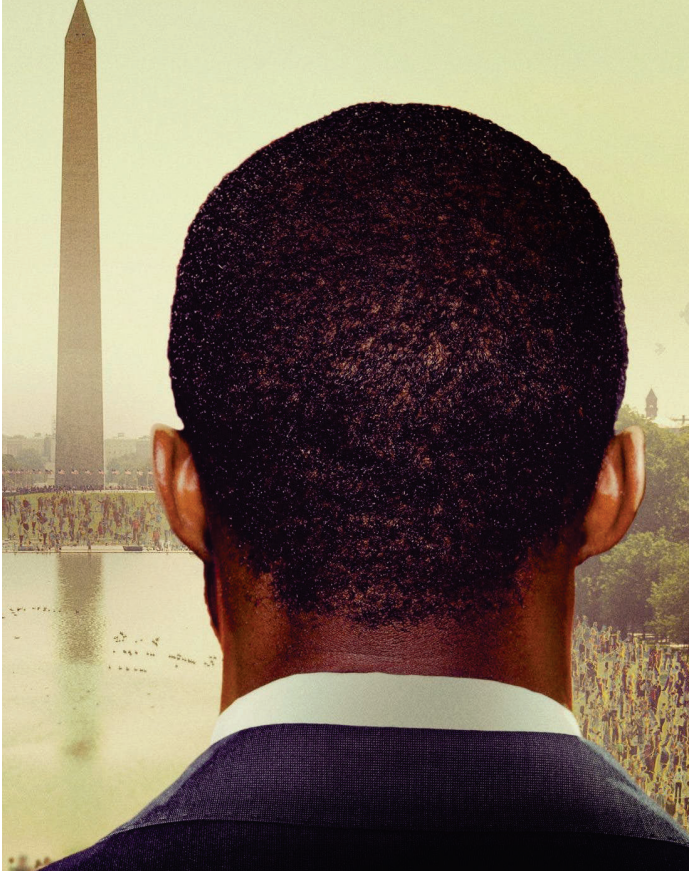


The screenshot shows the Western Technical College website. The header includes the college name and navigation links: Programs, Admissions, Paying for College, Student Life, and Apply. The main content area is titled "Sex-Based Harassment and Discrimination". The text on the page states: "Western wants to help all students and employees find the resources they need to feel safe from sex discrimination, sex-based harassment or violence, and other harm. Nearly every Western employee can help you begin the process of leaving dangerous situations and relationships, asserting your rights to equal treatment, and achieving your dreams." It then defines sex-based harassment as an umbrella definition including sexual harassment, sexual assault, domestic violence, dating violence, and stalking. It notes that acts of sex-based harassment may be committed by any person upon another person, regardless of sex, sexual orientation, and/or gender identity. It provides contact information for help: "If you are not safe, or if you need immediate help: Call 911 or Western's Security Office: 608-785-9191. Immediately following a sexual assault, seek medical attention as soon as possible." It concludes with a link to the "Safety and Security website" for more information.

INSTITUTIONAL POLICY AND PROCEDURE

Western will use three tracks to respond to complaints of harassment and discrimination.

- **Track One** is the grievance procedure used to resolve complaints of harassment or discrimination based on protected characteristics **EXCEPT sex**. This includes race, religion, national origin, etc.
- **Track Two** is the grievance procedure for resolving the following:
 - Complaints of sex discrimination (students and employees)
 - Complaints of sex-based harassment that are employee as the complainant and employee as the respondent
 - Complaints of retaliation
- **Track Three** is the grievance procedure for resolving the complaints of sex-based harassment involving a student complainant or a student respondent only. It includes a live hearing.



THE CIVIL RIGHTS ACT OF 1964 (JULY 2, 1964)

The Civil Rights Act of 1964, a pivotal legislative triumph of the civil rights movement, brought an end to segregation in public places and prohibited employment discrimination based on race, color, religion, sex, or national origin.

Initially proposed by President John F. Kennedy, the Act faced formidable resistance from southern legislators before being enacted into law by his successor, President Lyndon B. Johnson. In the years that followed, Congress broadened the scope of the Act and enacted additional civil rights laws, including the Voting Rights Act of 1965.

Photo credit: History.com
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THE 11 TITLES WITHIN THE CIVIL RIGHTS ACT OF 1964

Title I: Voting Rights

Title II: Public Accommodations

Title III: Desegregation of Public Facilities

Title IV: Desegregation of Public Education

Title V: Commission on Civil Rights

Title VI: Nondiscrimination in Federally Assisted Programs

Title VII: Equal Employment Opportunity

Title VIII: Registration and Voting Statistics

Title IX: Intervention and Removal of Cases

Title X: Community Relations Service

Title XI: Miscellaneous Provisions

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

42 U.S.C. § 2000d.1

As President John F. Kennedy said in 1963:

Simple justice requires that public funds, to which all taxpayers of all races [colors, and national origins] contribute, not be spent in any fashion which encourages, entrenches, subsidizes or results in racial [color or national origin] discrimination.



BACKGROUND AND CONTEXT FOR RELEVANT SUPREME COURT CASES

Compromise of 1877

13th, 14th, and 15th Amendments protections receding quickly

Disenfranchisement of southern blacks and white supremacy across the South

White and Black Southerners mixed relatively freely until the 1880s, when state legislatures passed the first laws requiring railroads to provide separate cars for “Negro” or “colored” passengers

PLESSY V. FERGUSON (1896)

- Separate Car Act of 1890-required African Americans and Whites to sit in separate train cars
- Amount of “black blood” a person
- Homer Plessy refused to give up his seat
- Established Doctrine of “Separate but Equal”
- Louisiana had a large mixed-race population thereby making it difficult to determine where the line could be drawn in separating the races

Plessy v. Ferguson, 163 U.S. 537 (1896).



BROWN V. BOARD OF EDUCATION OF TOPEKA

Brown v. Board of Education of Topeka was a landmark 1954 Supreme Court case in which the justices ruled unanimously that racial segregation of children in public schools was unconstitutional.

Brown v. Board of Education was one of the cornerstones of the civil rights movement, and helped establish the precedent that “separate-but-equal” education and other services were not, in fact, equal at all.

Brown v. Board of Education of Topeka, 347 U.S. 483 (1954).



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SPECIFIC DISCRIMINATORY ACTIONS PROHIBITED UNDER TITLE VI

- i. Deny an individual any service, financial aid, or other benefit provided under the program;
- ii. Provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program;
- iii. Subject an individual to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program;
- iv. Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;
- v. Treat an individual differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership or other requirement or condition which individuals must meet in order to be provided any service, financial aid, or other benefit provided under the program;
- vi. Deny an individual an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so which is different from that afforded others under the program (including the opportunity to participate in the program as an employee but only to the extent set forth in paragraph (c) of this section).
- vii. Deny a person the opportunity to participate as a member of a planning or advisory body which is an integral part of the program.

HARASSMENT UNDER TITLE VI

“Harassing conduct may take many forms, including verbal acts and name-calling; graphic and written statements, which may include use of cell phones or the Internet; or other conduct that may be physically threatening, harmful, or humiliating. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Harassment creates a hostile environment when the conduct is sufficiently severe, pervasive, or persistent so as to interfere with or limit a student’s ability to participate in or benefit from the services, activities, or opportunities offered by a school. When such harassment is based on race, color, national origin, sex, or disability, it violates the civil rights laws that OCR enforces.”

Guidance on Schools’ Obligations to Protect Students from Student-on-Student Harassment on the Basis of Sex; Race, Color and National Origin; and Disability, 2010.

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RESPONSE

“When responding to harassment, a school must take immediate and appropriate action to investigate or otherwise determine what occurred. The specific steps in a school’s investigation will vary depending upon the nature of the allegations, the source of the complaint, the age of the student or students involved, the size and administrative structure of the school, and other factors. In all cases, however, the inquiry should be prompt, thorough, and impartial.”

Guidance on Schools’ Obligations to Protect Students from Student-on-Student Harassment on the Basis of Sex; Race, Color and National Origin; and Disability, 2010.



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TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 DEFINES RACE, COLOR, AND NATIONAL ORIGIN AS FOLLOWS:

- 1. Race:** This includes all the different races of people, such as White, Black or African American, Asian, Native American, and others. It encompasses shared ancestry and physical characteristics.
- 2. Color:** This refers to the pigmentation of a person's skin, which can vary widely among individuals of different races.
- 3. National Origin:** This includes a person's country of origin, ancestry, or the country of their ancestors' origin. It also covers individuals who share a common language, culture, or history associated with a particular nation.

Title VI Legal Manual, U.S. Department of Justice, <https://www.justice.gov/crt/fcs/T6manual5?form=MG0AV3>

SHARED ANCESTRY

Title VI's protection from race, color, and national origin discrimination extends to students who experience discrimination, including harassment, based on their actual or perceived:

- (i) shared ancestry or ethnic characteristics; or
- (ii) citizenship or residency in a country with a dominant religion or distinct religious identity.

(Title VI does not protect students from discrimination based solely on religion. *OCR refers complaints of discrimination based exclusively on religion to the U.S. Department of Justice, which has jurisdiction to respond to certain complaints of religious discrimination in public schools.*)

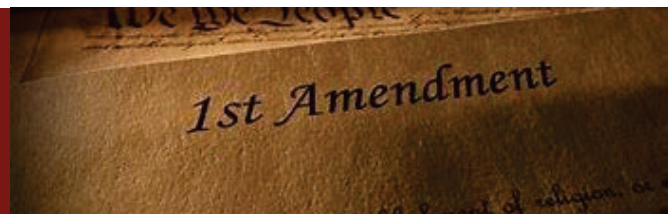
Dear Colleague Letter: Title VI and Shared Ancestry or Ethnic Characteristics Discrimination, 2024.

SHARED ANCESTRY COMPLAINTS



“For example, OCR can investigate complaints that students were subjected to ethnic or ancestral slurs; harassed for how they look, dress, or speak in ways linked to ethnicity or ancestry (e.g. skin color, religious attire, language spoken); or stereotyped based on perceived shared ancestral or ethnic characteristics. Hindu, Jewish, Muslim, and Sikh students are examples of individuals who may be discriminated against based on shared ancestry or ethnic characteristics.”

FIRST AMENDMENT CONSIDERATIONS



Communicate its opposition to stereotypical, derogatory opinions

Provide counseling and support for students affected by harassment

Take steps to establish a welcoming and respectful school campus, which could include making clear that the school values, and is determined to fully include in the campus community, students of all races, colors, and national origins

SPEECH



“For instance, if students at a public university engage in offensive speech about members of a particular ethnic group and that speech contributes to a hostile environment within an education program about which the university knows or should know, the university has a legal obligation to address that hostile environment for students in school. The university may, however, be constrained or limited in how it responds if speech is involved.”

Dear Colleague Letter: Title VI and Shared Ancestry or Ethnic Characteristics Discrimination, 2024.

MUHLENBERG COLLEGE

RESOLUTION AGREEMENT
Muhlenberg College
OCR Complaint Number 03-24-2071

“Students had reported significant anxiety and fear resulting from the professor’s comments in class and on social media that impacted their access to education. In at least one instance, a college administrator specifically determined that the professor’s conduct “was having enough of an impact on our student’s [sic] ability to engage in college activities” that the college spoke to the professor about this impact. But the college did not take steps to communicate to affected students about college actions, except for informing one student, and only after that student sought a follow up meeting to address concerns, that the professor committed to not discussing the war in class.

In addition, the documentation does not reflect evidence that the college fulfilled its Title VI obligation to take steps reasonably calculated to redress any hostile environment related to shared ancestry affecting the education program or activity, if one exists, even if the conduct occurs on private social media and involves political speech.”

U.S. Department of Education, Office for Civil Rights. (2020). Resolution Agreement. Retrieved from <https://ocrcas.ed.gov/sites/default/files/ocr-letters-and-agreements/03242071-a.pdf>

ESTABLISHING A VIOLATION



OCR generally assesses a school's response to race, color, or national origin harassment using a hostile environment legal analysis.

To establish a violation of Title VI using this analysis, OCR must find that:

- 1) a hostile environment based on race, color, or national origin existed;
- 2) the school had actual or constructive notice (i.e., the school knew or should have known) of the hostile environment; and
- 3) the school failed to take prompt and effective steps reasonably calculated to: i. end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring.

See Racial Incidents and Harassment against Students at Educational Institutions: Investigative Guidance, 59 Fed. Reg. 11,448, 11,449 (Mar. 10, 1994); OCR's Guidance on Schools' Obligations to Protect Students from Student-on-Student Harassment on Basis of Sex; Race, Color and National Origin; and Disability at 2, 4, 6 (Oct. 2010); OCR's Dear Colleague Letter on Race and School Programming (Aug. 2023).

TITLE VII OF THE CIVIL RIGHTS ACT OF 1964



COVERED BASES UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964

Title VII is a federal law that prohibits employment discrimination based on:

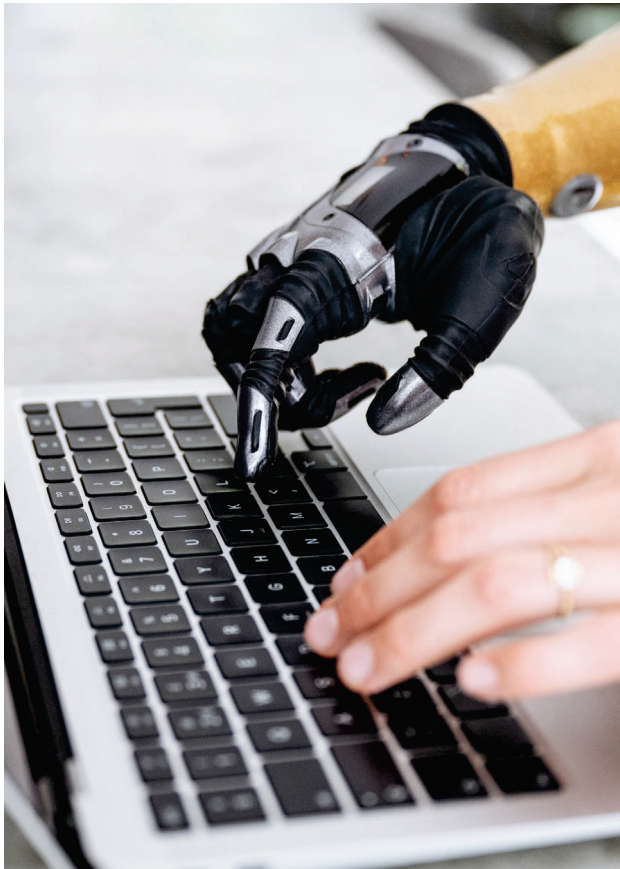
Race

Religion

National origin

Color

Sex, including gender, gender identity, pregnancy, and sexual orientation.



ADDITIONAL CONSIDERATIONS

Age

Disability

Genetic Information

Retaliation

Cross-Bases Issues

WHAT IS "RACE"?

Title VII does not contain a definition of "race." Race discrimination includes discrimination on the basis of ancestry or physical or cultural characteristics associated with a certain race, such as skin color, hair texture or styles, or certain facial features.

•Note that forms used for collecting federal data on race and ethnicity in the workforce use five racial categories: *American Indian or Alaska Native; Asian; Black or African American; Native Hawaiian or Other Pacific Islander; and White; and one ethnicity category, Hispanic or Latino.*

Questions and Answers about Race and Color Discrimination in Employment, 2006

WHAT IS RELIGION?

The term "religion" includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

42 U.S.C. § 2000e(j)





WHAT IS "COLOR"?

“Color” is not defined. However, the courts have held that color discrimination occurs when a person is discriminated against based on his/her skin pigmentation (lightness or darkness of the skin), complexion, shade, or tone. Color discrimination can occur between persons of different races or ethnicities, or even between persons of the same race or ethnicity. For example, an African American employer violates Title VII if he refuses to hire other African Americans whose skin is either darker or lighter than his own. Title VII prohibits race/color discrimination against all persons, including Caucasians.

Equal Employment Opportunity Commission (EEOC). Specifically, Section 15: Race and Color Discrimination

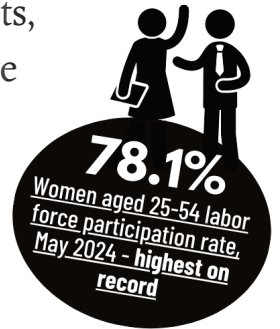
WHAT IS SEX?

“The terms "because of sex" or "on the basis of sex" include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in section 2000e-2(h) of this title [section 703(h)] shall be interpreted to permit otherwise.”

EEOC

“When Title VII was enacted, airlines subjected female flight attendants to discriminatory requirements around weight, pregnancy, marriage, and other issues. After one of its very first investigations, the EEOC found that an airline’s policy of firing only female flight attendants once they married was sex discrimination in violation of Title VII. Through this and other efforts, Title VII led to changes in that industry and others allowing women to be judged on their abilities, opening the doors of opportunity.”

EEOC. [www.eeoc.gov/ title-vii-civil-rights-act-1964-requiring-discrimination-free-workplaces-60-years](https://www.eeoc.gov/title-vii-civil-rights-act-1964-requiring-discrimination-free-workplaces-60-years). Accessed 28 Nov. 2024.



*The EPA is part of the Fair Labor
Standards Act of 1938, as amended*

EQUAL PAY ACT OF 1963

No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which such employees are employed, between employees on the basis of sex by paying wages to employees in such establishment at a rate less than the rate at which he pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to (i) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or quality of production; or (iv) a differential based on any other factor other than sex: *Provided*, That an employer who is paying a wage rate differential in violation of this subsection shall not, in order to comply with the provisions of this subsection, reduce the wage rate of any employee.

TITLE VII DID NOT PROTECT LGBTQ+ EMPLOYERS PRIOR TO 2020

The *Bostock* case involved a trio of cases alleging discrimination against LGBTQ+ workers, which the Supreme Court decided together in a single opinion.

Gerald Bostock, a child welfare services coordinator, was fired after his employer learned he had joined a gay softball league. Donald Zarda, a skydiving instructor, was fired after his employer learned he was gay. In a case filed by the EEOC, funeral director Aimee Stephens was fired after her employer learned that she was going to transition from male to female.

In deciding these cases, the Supreme Court held that employment discrimination based on sexual orientation (Bostock and Zarda) or transgender status (Aimee Stephens) is discrimination “because of sex,” and is therefore unlawful under Title VII.

NATIONAL ORIGIN GROUP

Title VII also prohibits employment discrimination against individuals because of their national origin group. A "national origin group," or an "ethnic group," is a group of people sharing a common language, culture, ancestry, race, and/or other social characteristics. Hispanics, Arabs, and Roma are ethnic or national origin groups.

Did you know?

Ethnicity and country of origin are overlapping but distinct concepts. A country refers to a geographic region . . . [while] [e]thnicity refers to a social group with a shared heritage or culture. While some countries have a strong ethnic identity, others comprise multiple ethnic groups.

EMPLOYMENT DISCRIMINATION AGAINST MEMBERS OF A NATIONAL ORIGIN GROUP INCLUDES DISCRIMINATION BASED ON:

- Ethnicity:** Employment discrimination because of a person's ethnicity as defined above, for example, discrimination against someone because he is Hispanic. National origin discrimination also includes discrimination against a person because she does *not* belong to a particular ethnic group, such as less favorable treatment of employees who are *not* Hispanic.
- Physical, linguistic, or cultural traits:** Employment discrimination against an individual because she has physical, linguistic, and/or cultural characteristics closely associated with a national origin group.^[25] For example, subjecting an individual to an adverse employment action because of her African-sounding accent or traditional African style of dress could constitute discrimination based on African origin.

According to EEOC, "Black" and "African American"; "Asian" and "Asian American"; and "Latino" and "Hispanic" are used interchangeably by EEOC due to their frequent and accepted vernacular use.

WHAT EMPLOYMENT ACTIONS ARE PROHIBITED BY TITLE VII?

Title VII prohibits discrimination in every aspect of employment, including recruitment, hiring, promotion, wages, benefits, work assignments, performance evaluations, training, transfer, leave, discipline, layoffs, discharge, and any other term, condition, or privilege of employment.

Title VII prohibits not only intentional discrimination, but also practices that appear to be neutral, but that limit employment opportunities for protected groups and are not based on business need.

42 U.S.C. § 2000e-2(a)

It shall be an unlawful employment practice for an employer-

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

42 U.S.C. § 2000e-2(a)

DISPARATE IMPACT VS DISPARATE TREATMENT DISCRIMINATION

Disparate Impact

Disparate impact discrimination typically occurs when a seemingly neutral workplace practice unduly impacts a protected group — usually unintentionally.

It doesn't require proof of intentional discrimination. Instead, it focuses on the consequences of the employment practice.

A company implements a physical fitness test that disproportionately disqualifies women, even though the test is not directly related to job performance.

Disparate Treatment

Disparate treatment discrimination is when an employer outright treats an employee or a potential employee differently because of that person's race, religion, color, sex, national origin or other protected bases.

It involves intentional discrimination, where the employer's actions are directly based on the employee's protected characteristic.

Refusing to hire someone because of their race is a clear example.

Disparate treatment requires evidence of intent to discriminate, while disparate impact focuses on the adverse effects of a policy or practice, regardless of intent.

CAN NEUTRAL POLICIES BE DISCRIMINATORY?

Yes, in some instances. Some neutral employment policies or practices may exclude certain racial groups in significantly greater percentages than other racial groups. If there is a business necessity for the practice and there is no equally effective alternative, the practice will be lawful despite its impact.

However, if there is not a business necessity for the practice or the business need could readily be met in a way that has less impact, the practice will be unlawful.

Example: An employer has a "no-beard" rule, which disproportionately excludes African American men because they have a higher incidence of pseudofolliculitis barbae, an inflammatory skin condition caused by shaving. The employer must be able to demonstrate that beards affect job performance or safety. Also, there must be no alternatives to a strict "no-beard" rule that would meet the employer's business or safety needs.

WHAT IF CLIENTS, CUSTOMERS, OR EMPLOYEES PREFER WORKING WITH PEOPLE OF THEIR OWN RACE/NATIONAL ORIGIN/SEX?

Basing employment decisions on the preferences related to the desires of clients, customers, or coworkers based on a protected class/bases constitutes intentional discrimination. Employment decisions that are based on the discriminatory preferences of customers or coworkers are just as unlawful as decisions based on an employer's own discriminatory preferences.

IT IS UNLAWFUL TO HARASS A PERSON BECAUSE OF THAT PERSON'S RACE OR COLOR

Harassment can include, for example, racial slurs, offensive or derogatory remarks about a person's race or color, or the display of racially-offensive symbols. Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

RELIGIOUS HARASSMENT

Religious harassment in violation of Title VII occurs when employees are:

- (1) required or coerced to abandon, alter, or adopt a religious practice as a condition of employment (this type of “quid pro quo” harassment may also give rise to a disparate treatment or denial of accommodation claim in some circumstances); or
- (2) subjected to unwelcome statements or conduct that is based on religion and is so severe or pervasive that the individual being harassed reasonably finds the work environment to be hostile or abusive, and there is a basis for holding the employer liable.

Questions and Answers: Religious Discrimination in the Workplace

PRIVATE RIGHT TO ACTION



Title VII gives employees a private right to action. However, such claims cannot be brought against a specific individual, such as a supervisor. Rather, employers are subject to vicarious liability to violations caused by its managing employees. Adverse employment actions and hostile work environments are examples of circumstances that can support a claim under Title VII.



Adverse employment actions are actions that cause a significant change in employment status, such as hiring, firing, failing to promote, and reassignment with significantly different responsibilities.

HOSTILE WORK ENVIRONMENT

Under Title VII, a hostile work environment exists when the workplace is "permeated with discriminatory, intimidation, ridicule, and insult, that is sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment."





REASONABLE ACCOMMODATIONS

Title VII also imposes an obligation to employers to reasonably accommodate employees, such as leaves for religious observance or practice. The standard for such accommodations is a reasonable one, and the employer may refute accommodations that impose undue hardship on the employer's business.

The Supreme Court's decision in *Groff v. DeJoy*, 143 S. Ct. 2279 (2023) clarified that "showing 'more than a *de minimis* cost'...does not suffice to establish undue hardship under Title VII." Instead, the Supreme Court held that "undue hardship is shown when a burden is substantial in the overall context of an employer's business," "tak[ing] into account all relevant factors in the case at hand, including the particular accommodations at issue and their practical impact in light of the nature, size and operating cost of an employer." *Groff* supersedes any contrary information on EEOC webpages and in EEOC documents.

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MINIMUM REQUIREMENTS UNDER TITLE VI AND TITLE VII

1

Respond to the discriminatory conduct

2

Eliminate any hostile environment and its effects

3

Prevent the harassment from recurring

OVERVIEW OF THE 2024 TITLE IX REGULATIONS



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.

Sex Discrimination

Sex-Based Harassment

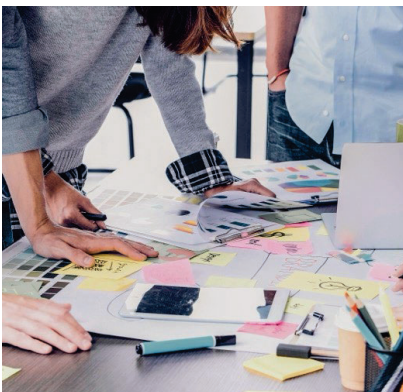
- Sexual Assault
- Dating/Domestic Violence
- Stalking
- Hostile Environment
- Quid Pro Quo

Sex Discrimination

- Sex stereotypes
- Sex characteristics
- Pregnancy or related conditions
- Sexual orientation
- Gender identity

Applies in . . .

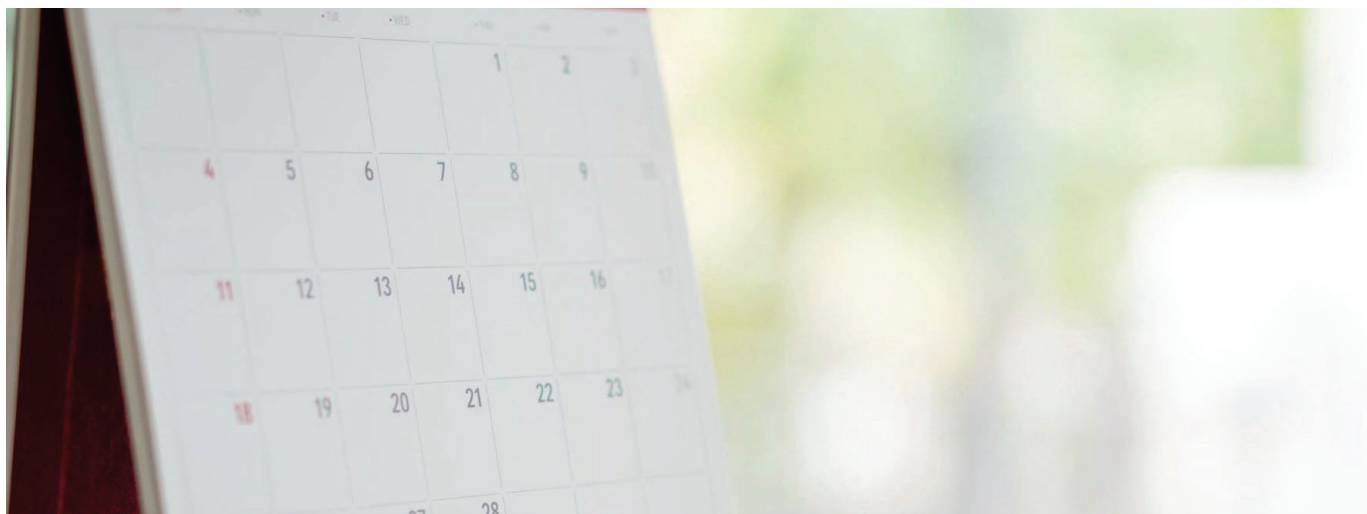
Admission, Employment, Educational Programs, and Activities



MISCONCEPTIONS



IMPLEMENTATION DATE: AUGUST 1, 2024



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)

SEX-BASED HARASSMENT DEFINITIONS



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§ 106.2 – SEX-BASED HARASSMENT

Sex-based harassment prohibited by this part is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the bases described in § 106.10, that is:

1. *Quid pro quo*

2. *Hostile Environment*

3. *Specific offenses*

QUID PRO QUO HARASSMENT

“An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under the recipient’s education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct.”

§ 106.2

QUID PRO QUO NOTES



Unwelcome



Explicit and
implicit



Aid, benefit, or
service



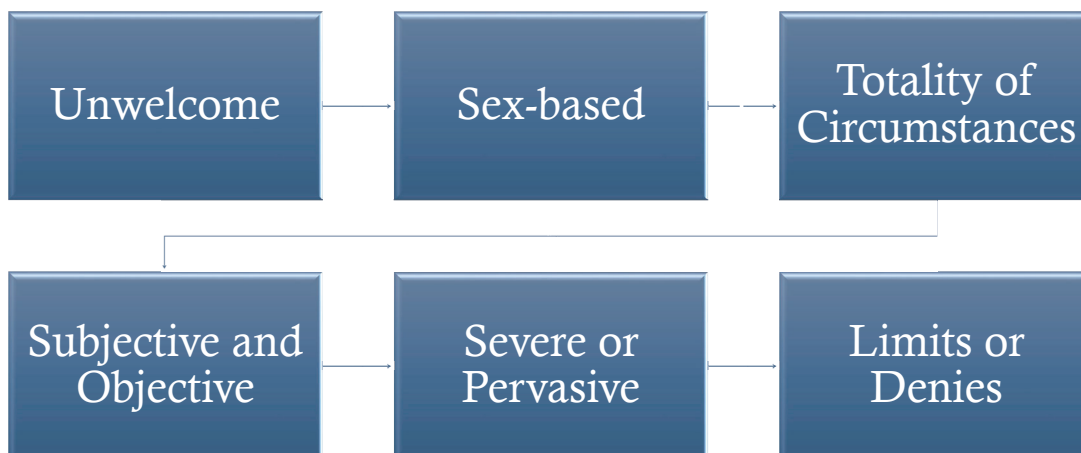
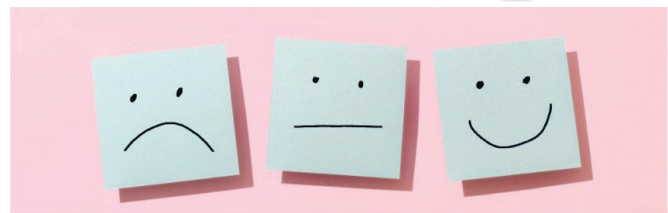
Employee, agent,
or other person

HOSTILE ENVIRONMENT HARASSMENT

“Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from the recipient’s education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:...”

§ 106.2

UNPACKING HOSTILE ENVIRONMENT



HOSTILE ENVIRONMENT “FACT-SPECIFIC INQUIRY”



Degree affected
educational
access



Type, frequency,
duration



Parties' ages,
roles, previous
interactions,
other factors



Location and
context in which
occurred



Other sex-based
harassment in
educational
setting

HOSTILE ENVIRONMENT NOTES



Jurisdiction



Beyond Sexual Harassment

SPECIFIC OFFENSES

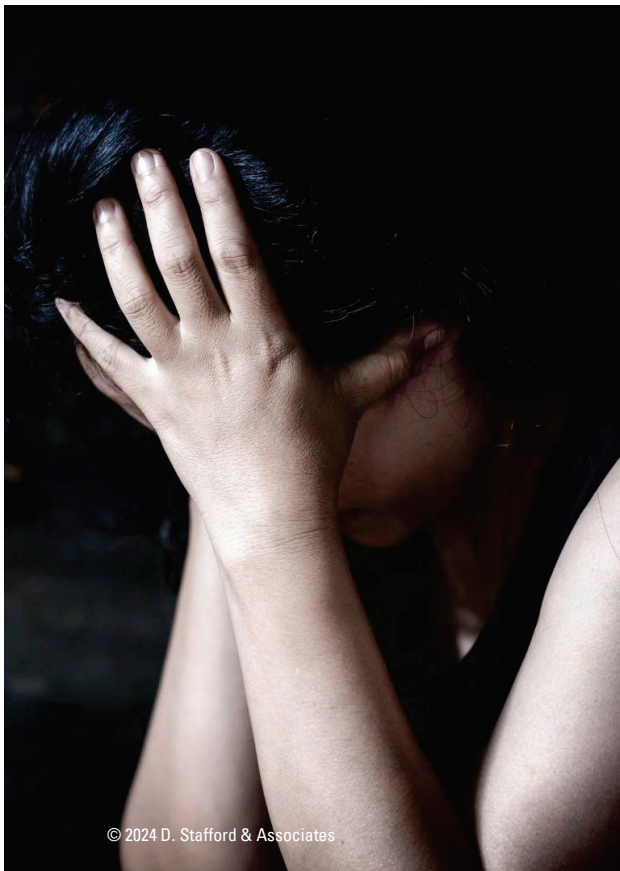
Sexual assault

Dating violence

Domestic
violence

Stalking

§ 106.2



SEXUAL ASSAULT

“Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation”

§ 106.2

NON-CONSENSUAL SEXUAL PENETRATION

Rape - (Except Statutory Rape) The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity

Sodomy - Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age 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, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity

FBI, Uniform Crime Reporting Program: National Incident-Based Reporting System (2018)

NON-CONSENSUAL SEXUAL TOUCHING

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 his/her age or because of his/her temporary or permanent mental or physical incapacity

FBI, Uniform Crime Reporting Program: National Incident-Based Reporting System (2018)

INCEST AND STATUTORY RAPE

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

Statutory Rape - Nonforcible sexual intercourse with a person who is under the statutory age of consent

FBI, Uniform Crime Reporting Program: National Incident-Based Reporting System (2018)

DATING VIOLENCE

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:
 - (1) The length of the relationship;
 - (2) The type of relationship; and
 - (3) The frequency of interaction between the persons involved in the relationship

§ 106.2

DOMESTIC VIOLENCE

Domestic violence meaning felony or misdemeanor crimes committed by a person who:

- (A) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;
- (B) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
- (C) Shares a child in common with the victim; or
- (D) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction

§ 106.2

STALKING

Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

- (A) Fear for the person's safety or the safety of others; or
- (B) Suffer substantial emotional distress.

§ 106.2

TITLE IX'S COVERAGE OF SEX DISCRIMINATION



§ 106.10 – SCOPE

“Discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.”

PERMISSIBLE DIFFERENT TREATMENT CAN'T CAUSE MORE THAN "DE MINIMIS HARM"



§ 106.40 – PARENTAL, FAMILY, OR MARITAL STATUS; PREGNANCY OR RELATED CONDITIONS (STUDENTS)

No policies, practices, or procedures treating a student's current, potential, or past parental, family, or marital status differently
§ 106.40(a)

No discrimination against students on the basis of pregnancy or related conditions
§ 106.40(b)(1)

Responsibility to provide Title IX Coordinator's contact and other information
§ 106.40(b)(2)

§ 106.40(b)(3) – SPECIFIC ACTIONS

Information about the institution's obligations

Reasonable modifications

Provide voluntary access to separate and comparable portion of program or activity

Voluntary leaves of absence

Lactation space

Limitation on supporting documentation

§ 106.40(b)(4-5) – COMPARABLE TREATMENT AND CERTIFICATIONS

Must treat in the same manner and under the same policies as any other temporary medical conditions

Must not require a certification from a healthcare provider or any other person that the student is physically able to participate



§ 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.

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§ 106.44 RESPONSE TO SEX DISCRIMINATION



§ 106.44(f)(1) – Title IX Coordinator Requirements



Treat both parties equitably
106.44(f)(1)(i)



If requested, initiate
grievance procedures or
informal process
106.44(f)(1)(iv)



Determine if need to initiate
grievance procedures in
absence of complaint
106.44(f)(1)(v)



Take other appropriate
prompt and effective steps
106.44(f)(1)(vii)

§ 106.44(f)(1)(v) – TITLE IX-INITIATED COMPLAINTS

In the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process, determine whether to initiate a complaint of sex discrimination

(A) To make this fact-specific determination, the Title IX Coordinator must consider, at a minimum, the following factors:

EIGHT FACTORS TO CONSIDER

Complainant's
request

Safety
concerns

Risk of
additional acts

Severity of
allegation

Age and
relationship

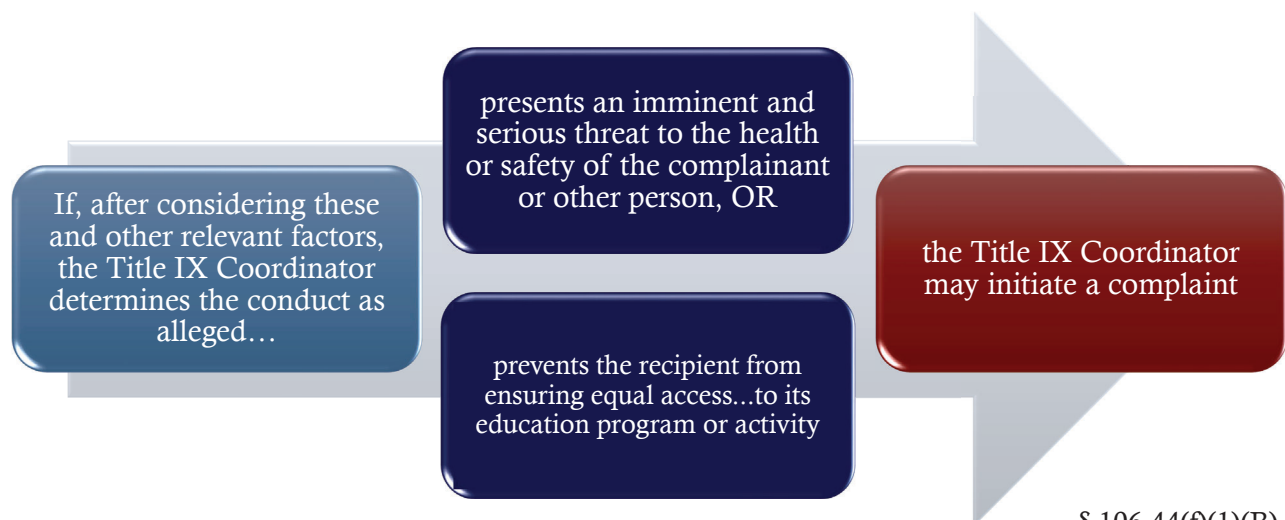
Scope and
pattern

Evidence

Alternatives to
resolve

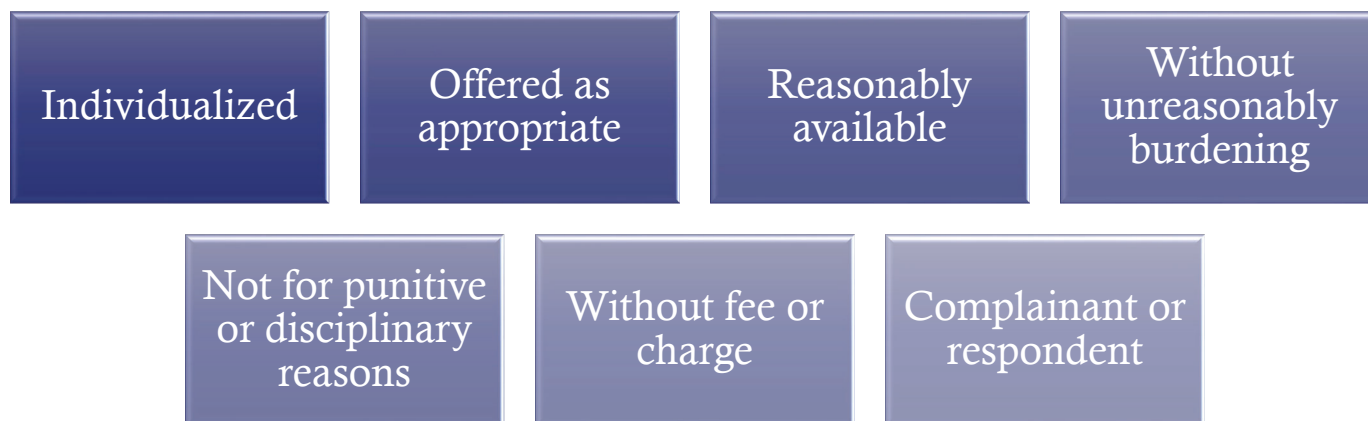
§ 106.44(f)(1)(v)(A)

THRESHOLD DETERMINATION

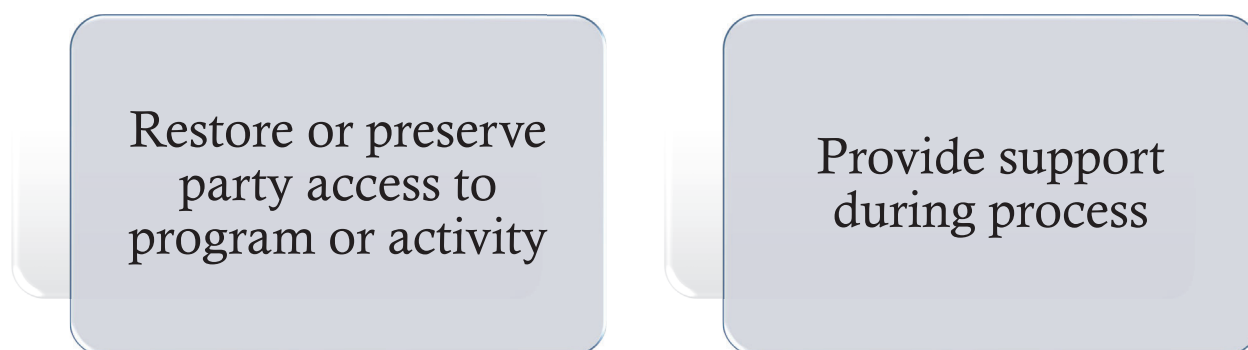


§ 106.44(f)(1)(B)

§ 106.2 – SUPPORTIVE MEASURES DEFINITION



SUPPORTIVE MEASURE GOALS



§ 106.44(k) – INFORMAL RESOLUTION



Allowed for
employee/student
in postsecondary



Discretion to offer
or decline



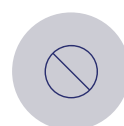
Voluntary for
parties



Provide notice



Facilitator must
not be investigator
or decisionmaker



Can include
restrictions

§ 106.44(k)(3) – INFORMAL NOTICE

Allegations

Requirements

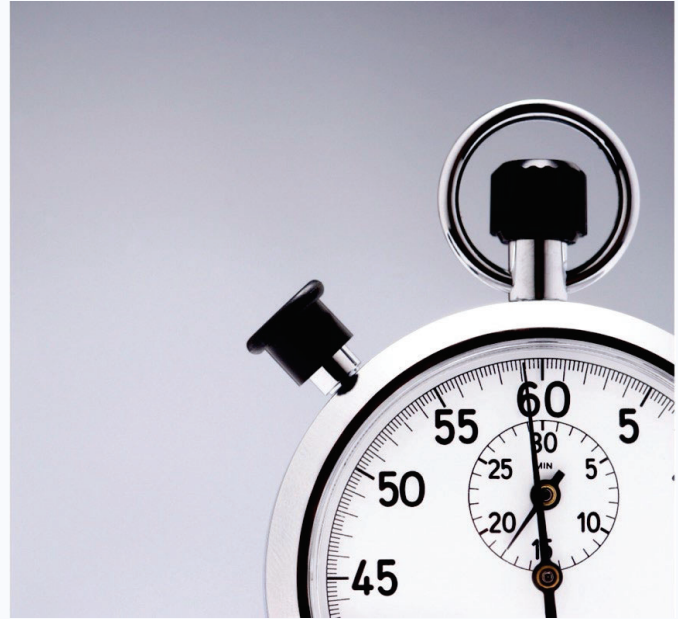
Right to withdraw

Cannot initiate or
resume grievance
procedures once
final

Potential terms

Information that
will be maintained

§ 106.45 GRIEVANCE PROCEDURES FOR SEX DISCRIMINATION



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§ 106.45 – GRIEVANCE PROCEDURES

- § 106.45(a)(1) General
- § 106.45(a)(2) Complaint
- § 106.45(b) Basic requirements for grievance procedures
- § 106.45(c) Notice of allegations
- § 106.45(d) Dismissal of a complaint
- § 106.45(e) Consolidation of complaints
- § 106.45(f) Complaint investigation
- § 106.45(g) Questioning parties and witnesses
- § 106.45(h) Determination whether sex discrimination occurred
- § 106.45(i) Appeals
- § 106.45(j) Additional provisions
- § 106.45(k) Informal resolution
- § 106.45(l) Provisions limited to sex-based harassment complaints

§ 106.45(a)(2) – COMPLAINT

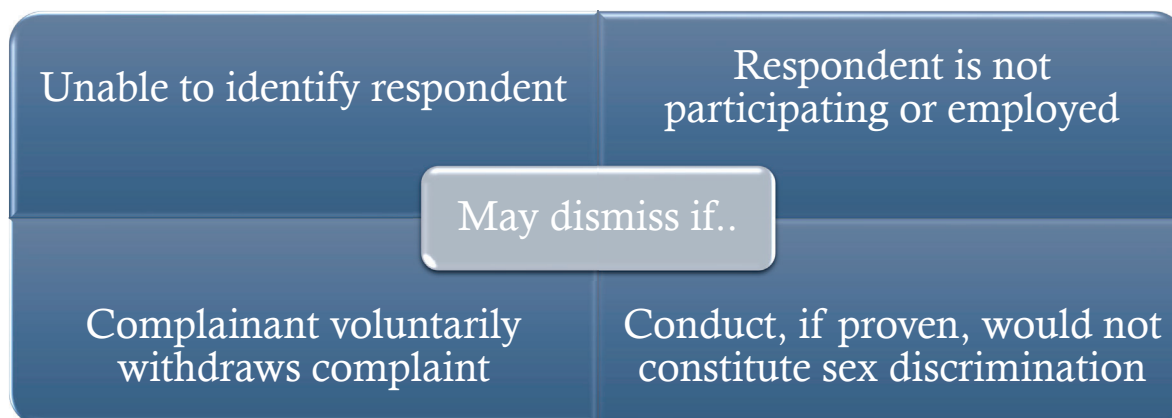
Sex discrimination other than sex-based harassment

- Complainant
- Parent or other
- Title IX Coordinator
- Any student or employee
- Other person participating

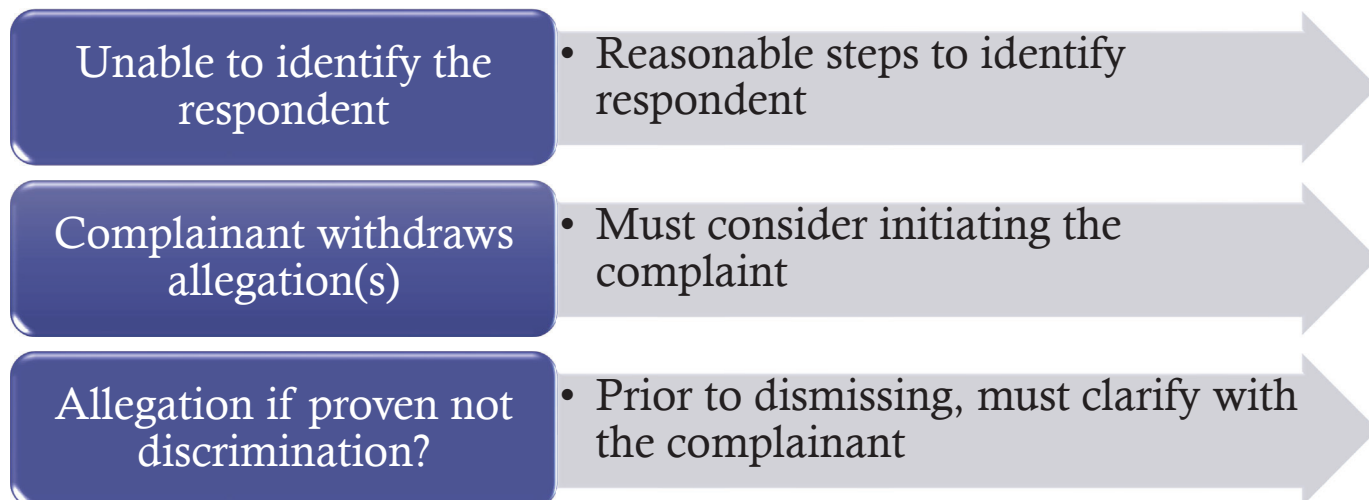
Sex-based harassment

- Complainant
- Parent or other legal representative
- Title IX Coordinator

§ 106.45(d)(1)(i-iv) – DISMISSAL OF A COMPLAINT



DUTIES BEFORE DISMISSAL



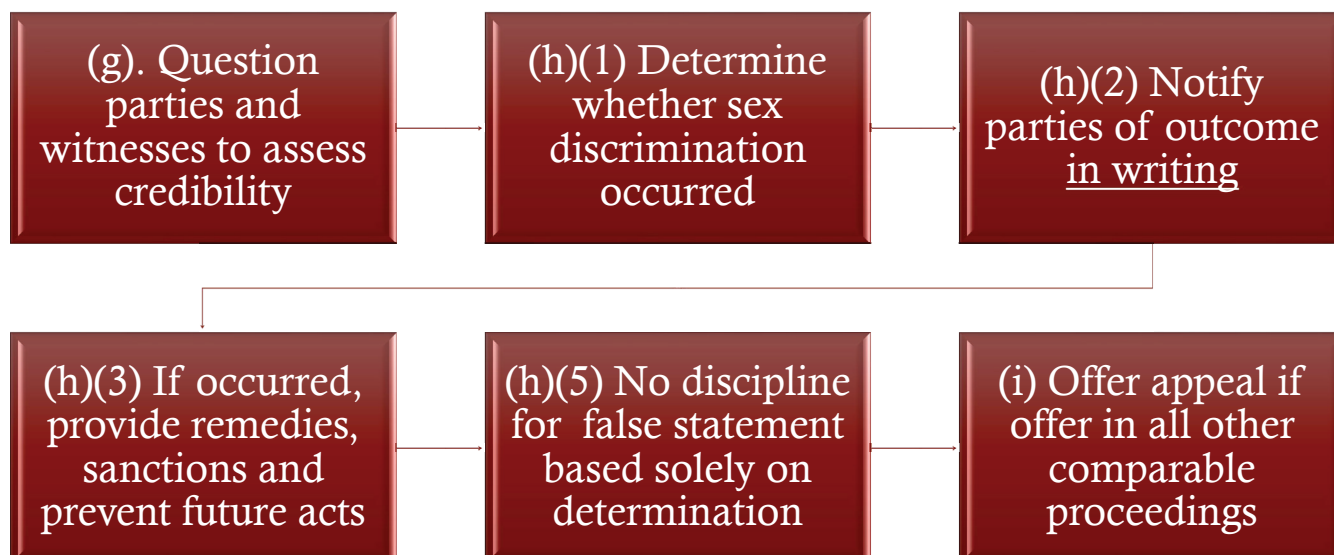
MINIMUM REQUIREMENTS UNDER § 106.45



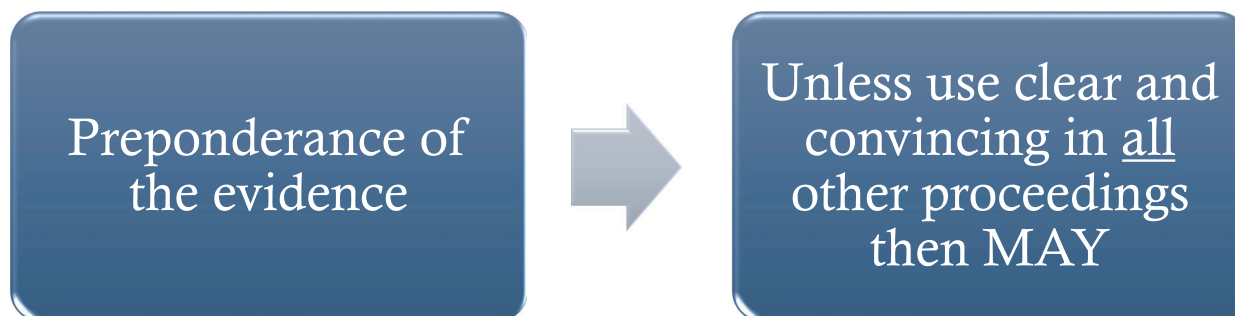
§ 106.45(f) – COMPLAINT INVESTIGATION



§ 106.45(g)-(h) – DECISIONMAKERS



§ 106.45(h)(1) – STANDARD OF PROOF



WRITTEN DETERMINATION

Notify the parties in writing of the determination whether sex discrimination occurred under Title IX or this part including the rationale for such determination, and the procedures and permissible bases for the complainant and respondent to appeal, if applicable

§ 106.45(h)(2)

§ 106.46 GRIEVANCE PROCEDURES SEX-BASED HARASSMENT INVOLVING STUDENTS



§ 106.46 – SEX-BASED HARASSMENT INVOLVING STUDENTS

§ 106.46(a) General

§ 106.46(b) Student employees

§ 106.46(c) Written notice of allegations

§ 106.46(d) Dismissal of a complaint

§ 106.46(e) Complaint investigation

§ 106.46(f) Questioning parties and
witnesses

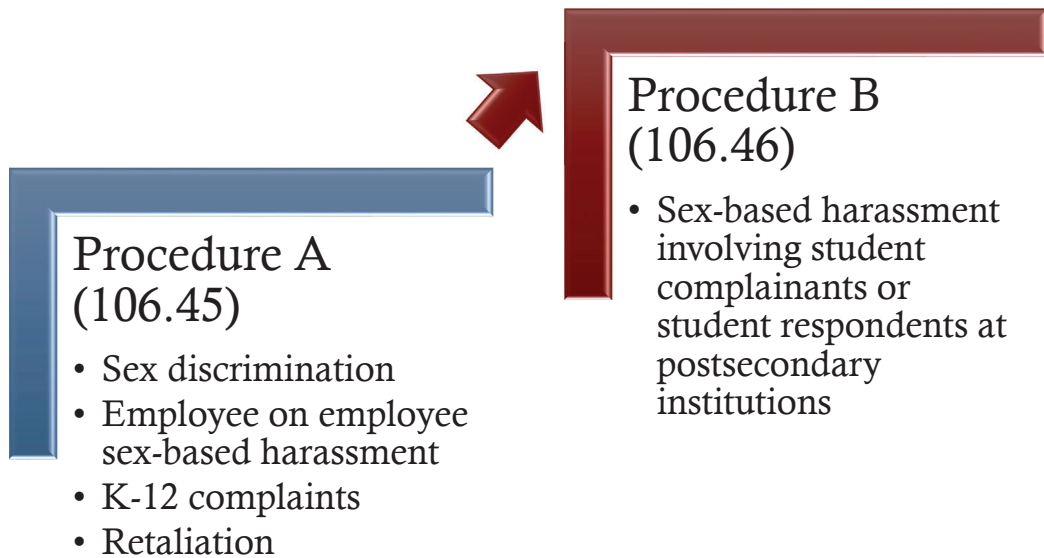
§ 106.46(g) Live hearing procedures

§ 106.46(h) Written determination

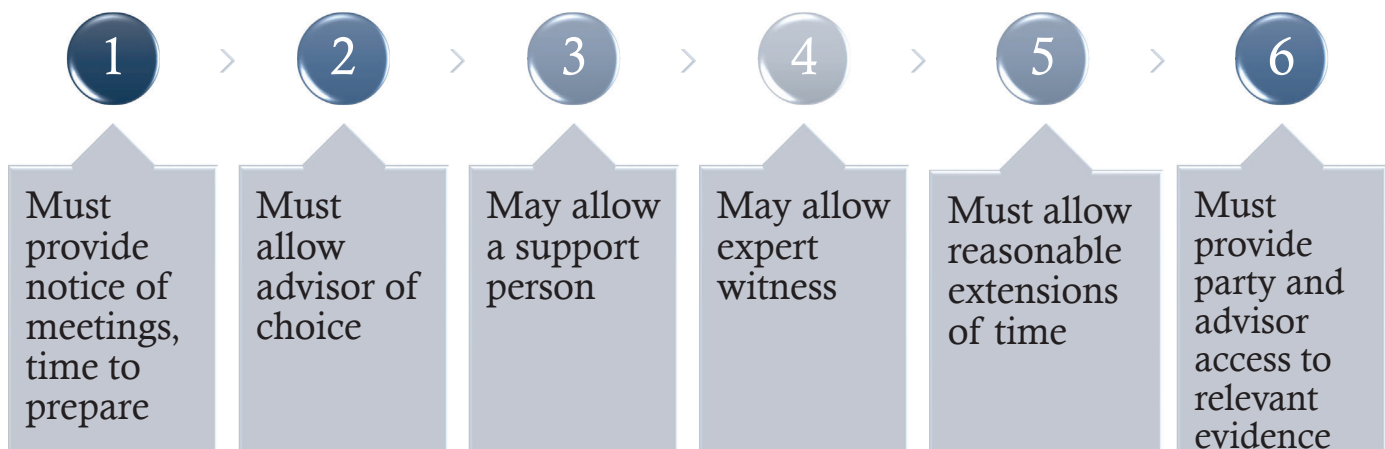
§ 106.46(i) Appeals

§ 106.46(j) Informal resolution

TWO GRIEVANCE PROCEDURES



§ 106.46(e) COMPLAINT INVESTIGATION



ADVISOR OF CHOICE



May be but is
not required to
be an attorney
106.46(e)(2)



May accompany
to any meeting
or proceeding
106.46(e)(2)



Institution may
restrict
participation
106.46(e)(2)



Receives access
to relevant
evidence
106.46(f)(ii)(B)



May conduct
cross-
examination at
hearing if
allowed
106.46(1)(f)(ii)(B)

§ 106.46(e)(6)(i) – Access to evidence



Evidence Option



Investigative Report Option

ASSESSING CREDIBILITY

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§ 106.46(f)(1) – PROCESS FOR QUESTIONING PARTIES AND WITNESSES

Decisionmaker
Questions

Party-proposed
Questions

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FORMATS FOR CREDIBILITY ASSESSMENT



Individual meetings
§106.46(f)(1)(i)



Hearing with
decisionmaker asking
proposed questions
§106.46(f)(1)(ii)(A)



Hearing with cross-
examination by advisors
§106.46(f)(1)(ii)(B)



FILING AND RECEIVING COMPLAINTS- DISCUSSION

SALT LAKE COMMUNITY COLLEGE (JUNE 2022)



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SALT LAKE COMMUNITY COLLEGE



“OCR determined that the college violated both Title IX of the Education Amendments of 1972 (Title IX) and Section 504 of the Rehabilitation Act of 1973 (Section 504) after investigating allegations that Salt Lake Community College encouraged a pregnant student to drop a course because she was pregnant, did not engage in an interactive process to provide her with academic adjustments or necessary services during her pregnancy, and did not excuse her pregnancy-related absences or allow her later to submit work following those absences.”

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Re: OCR Complaint No. 08-22-2021
Salt Lake Community College



Dear President Huftalin:

This letter is to notify you of the determination made by the U.S. Department of Education, Office for Civil Rights (OCR) with respect to the above-referenced complaint filed against Salt Lake Community College (College). The complaint alleged that the College discriminated against the Complainant on the basis of her sex.

Specifically, the Complainant alleged that:

- 1) a College Professor encouraged her to drop a course because she was pregnant, the Professor told her that she needed to accept responsibility for her pregnancy, and the Title IX Coordinator did not promptly and equitably respond to her [redacted content] complaint regarding the Professor's conduct;
- 2) the College did not engage in an interactive process with the Complainant to provide her with academic adjustments and/or related services during her pregnancy in the same manner that the College provides to students with temporary medical conditions; and
- 3) the College did not excuse the Complainant's pregnancy-related absences and did not allow her to submit work after pregnancy-related absences, both of which [redacted content] with the Professor.

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AMONG OTHER THINGS, THE COLLEGE:

- mischaracterized the Complainant's written request for academic adjustments;
- made the decision based solely on the communication between the Title IX Coordinator and Professor, and not by a group of people who are trained, knowledgeable, and experienced in the area of when to grant academic adjustments or special services to pregnant students and students with other temporary medical conditions under 34 C.F.R. §§ 106.40(b)(4) and (5);
- did not consider alternative academic adjustments;
- did not document the bases for its decision;
- based its decision on the Complainant's current performance without academic adjustments based on her pregnancy, and speculation as to whether she could complete the courses requirements, and not a careful, thoughtful, and rational review of the academic program and its requirements; and
- did not consider whether retroactive academic adjustments would be warranted in light of the absence of information about services for pregnant students on its website and the fact that College staff did not refer the Complainant to the Title IX Coordinator on [redacted content], when she first requested academic adjustments based on her pregnancy.

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OCR FOUND THAT THE COLLEGE ALSO VIOLATED SECTION 504

“Although pregnancy is not itself a disability, here the Complainant informed the College that her pregnancy was causing acute morning sickness, such that some days she could not eat or that her nausea impacted her the entire day. The Complainant also provided medical documentation of these conditions. The DRC, however, did not consider whether the Complainant suffered from a temporary disability, but rather only referred her to the Title IX Coordinator, who did not provide her with academic adjustments to accommodate her conditions caused by her pregnancy.” (p. 10)

DISABILITY INTERSECTION-SLCC



“The Section 504 regulation, at 34 C.F.R. § 104.43(a), provides that a qualified person with a disability may not be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any postsecondary aids, benefits, or services on the basis of disability.

Although a normal, healthy pregnancy is *generally not considered a disability*, a pregnant student *may become temporarily disabled and thus entitled to the same rights and protections of other students with a temporary disability*.

If students with disabilities in postsecondary education believe that they need a disability-related modification, *they have the obligation to identify themselves as having a disability and to request the modification*.

The Section 504 regulation, at 34 C.F.R. § 104.44(a), requires a post-secondary institution to *modify its academic requirements as necessary* to ensure that such requirements do not discriminate or have the effect of discriminating on the basis of disability against a qualified student with a disability.”

DISABILITY INTERSECTION-SLCCC

“Section 504 envisions a meaningful and informed process with respect to the provision of modifications, e.g., through an interactive and collaborative process between a post-secondary institution and the student. Students are responsible for knowing these procedures and following them. Generally, upon receiving documentation of a disability and a request for academic adjustments, a postsecondary institution’s evaluation of a student’s request requires a fact specific, case-by-case inquiry. This evaluation process should be interactive, with information exchanged between the student and the postsecondary institution to arrive at a conclusion about the academic adjustment requested.”



https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/08222021-a.pdf?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=



OCR FINDINGS-SALT LAKE CC

- OCR found that the college violated Title IX and its implementing regulations by failing:
 - to respond promptly and equitably to the student’s complaint of pregnancy discrimination,
 - to engage in an interactive process with the student to determine the appropriate special services and/or academic adjustments to provide in light of her pregnancy, and
 - to excuse her absences related to pregnancy, provide her the opportunity to make up work missed due to these pregnancy-related absences, or provide her with alternatives to making up missed work at a later date.
- In addition, OCR found that the college violated Section 504 and its implementing regulations by failing to engage in an interactive process with the student and to consider whether her pregnancy caused a temporary disability requiring academic adjustments.

https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/08222021-a.pdf?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=



SLCC VOLUNTARY COMMITMENTS IN THE RESOLUTION AGREEMENT



- Revising its non-discrimination notice and grievance procedures to comply with Title IX.
- Publishing information on its website for pregnant students about their Title IX rights and how to seek academic adjustments, special services, or excused absences.
- Training its Title IX coordinator, Disabilities Resource Center staff, and other school employees regarding Title IX 's and Section 504's protections for pregnant students and the academic adjustments and special services available to pregnant students.
- Completing and documenting its investigation of the student's complaint of pregnancy discrimination.
- Taking other measures to remedy the discrimination against the student.

https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/08222021-a.pdf?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=



CASE STUDY #1:

Multiple teachers touch a Black student's hair on more than one occasion in front of other students and make comments about the student's hair, including asking if it is real or fake, if she straightens it, and how long it takes to straighten. Other students subsequently touch the student's hair and make similar comments. The student expresses concern to an administrator who assures her that teachers touch the student's hair because Black students' hair is unique and interesting. Even after the student informs the principal that these incidents have made her feel uncomfortable and have made it difficult for her to focus in class with those teachers, the school tells the student that the teachers were only trying to compliment her hair and does not take steps to prevent the conduct from recurring.

CASE STUDY 2:

John, an employee (a baker in the on-campus Dining Hall), works with a coworker, Laverne, who rubs up against him in a sexual manner, tells sexual jokes, and displays dolls made from dough in sexual positions.

John's coworkers all think it's funny. John's supervisor, Sam, sees the conduct and tells Laverne to "knock it off." Laverne laughs and does not knock it off. John looks like he's sick of it. He told a coworker, Chase, that it isn't funny to him. He tries to move away and work on the other side of the room, but Laverne follows him. John told Chase that Sam won't do anything about it, and that he just tries to stay away from Laverne. He really likes this job, but it might be time to start looking elsewhere.

CASE STUDY #3:

During school, several students are subjected to the repeated use of racial slurs, including the nword. Students raise their fists during class to mock Black power, and students create a club called the Kool Kids Klub, which they refer to as the KKK. Students display the confederate flag during Kool Kids Klub meetings. Students also mock police killings of Black people and state that Black people do not deserve to live. After students report the incidents, the school interviews the reporting students but does not collect additional information about the incidents. The school fails to take any steps to prevent the incidents from recurring. The principal tells the reporting students that he does not see any concerns with other students referring to themselves as the Kool Kids Klub and that if the reporting students wanted, they could start a club with an opposing viewpoint.

CASE STUDY #4

Dara and Sloane are faculty members in the Physics Department. On multiple occasions, one of their coworkers, Rose, makes dismissive comments to Dara, who has three children, such as, “shouldn’t mothers stay at home with their kids?” and “don’t expect to move up the career ladder with all of those children.” Rose also makes dismissive comments to Sloane, who has no children and intends to remain childfree, on a handful of occasions, such as, “women who don’t want children are frigid,” “it is sad to watch you choose a career over a family,” and “are you sure you don’t want a baby? Every woman should want a baby!”

CASE STUDY #5

Edgar and Michelle are in English 101 together and both are first year students. Edgar sits behind Sarah in class and frequently engages Sarah in conversation. He tells her how pretty she is, how he would like to date her, and has started touching her long blonde hair during class when the faculty member is providing instruction. Sarah estimates that he has asked her out 4-5 times now and that the behavior started during the first class. Sarah also reports that she often sees Edgar when she isn't in class, specifically, she has seen him in Common Grounds, the on-campus coffee shop, in the library, and in the wellness center. Edgar doesn't ever seem to be getting coffee or studying or exercising when she sees him and when she sees him, he pretends he doesn't see her and leaves. Sarah is "freaked out" by all of this and reports it to the Title IX Coordinator. She said she feels "sorry" for Edgar because he seems like he is "on the spectrum" but that she can't go anywhere or do anything on campus without stress about running into him.

CASE STUDY #6

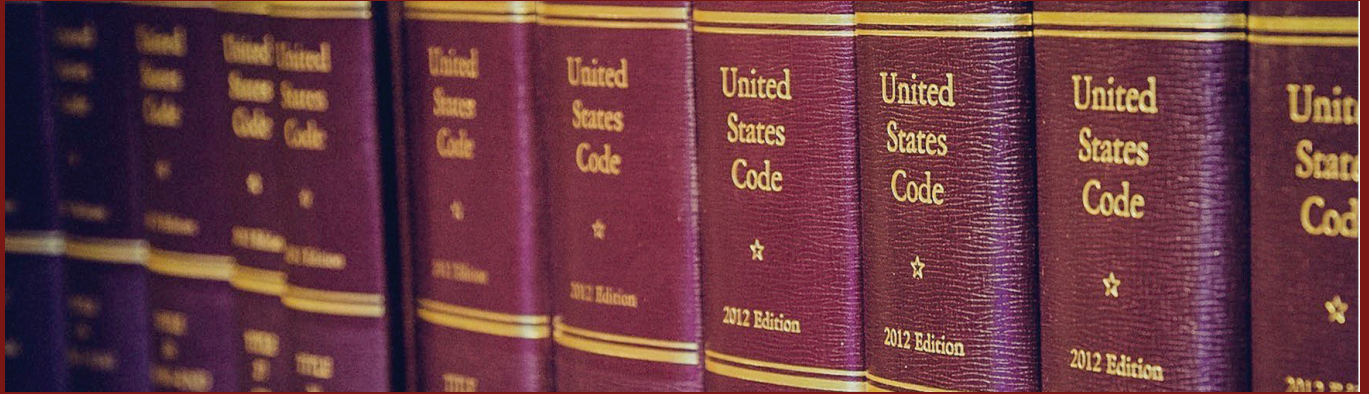
Jerome needs to use a quiet area for prayer during break time and asked if he could use a part of the breakroom, but his supervisor tells him that he must use the designated "prayer space." Jerome explains that he cannot make it to the designated prayer space in time for him to pray as he must pray at a certain time each day. His supervisor tells him that his break time cannot be adjusted and that since he clocks in and out for breaktime that a late punch will be questioned. Jerome decides to go out back of his building and pray in the parking lot. His supervisor writes him up for not praying in the designated area.

CASE STUDY #7

A Lebanese student files a harassment complaint with their university against an employee at a clinical placement site affiliated with the school. The student alleges that this employee treated them less favorably in several situations, referred to them as an “ignorant Arab,” and told another staff member that there are “too many Muslims in this country.” Even though university officials are aware of this complaint, they do not investigate and do not take any steps to prevent the incidents from recurring. A university official tells the student that it is entirely out of their hands since the incidents happened at a clinical placement and there is nothing they can do.

CASE STUDY #8

A student who identifies as a white Christian male reported to his Dean being harassed in class because of his conservative views. Specifically, he shared with his faculty member and classmates during a discussion in class that “marriage is between one man and one woman”, that “homosexuality is a sin”, and that people who “lay down with someone of the same sex...will burn in hellfire.” The male student is ridiculed in person and on social media. Some students refer to him as a “White Christian Nationalist” and state that he is “nothing more than a patriarchal male pig” who “deserves to die childless and castrated.” The student reports being afraid on campus and not able to access his education due to the repeated bullying.



THANK YOU

