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Title IX Coordinator Training

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# Scope

Training for the individual serving as the Title IX Coordinator in matters involving allegations of Sexual Misconduct as defined by the Amendments to the 2020 Code of Federal Regulations

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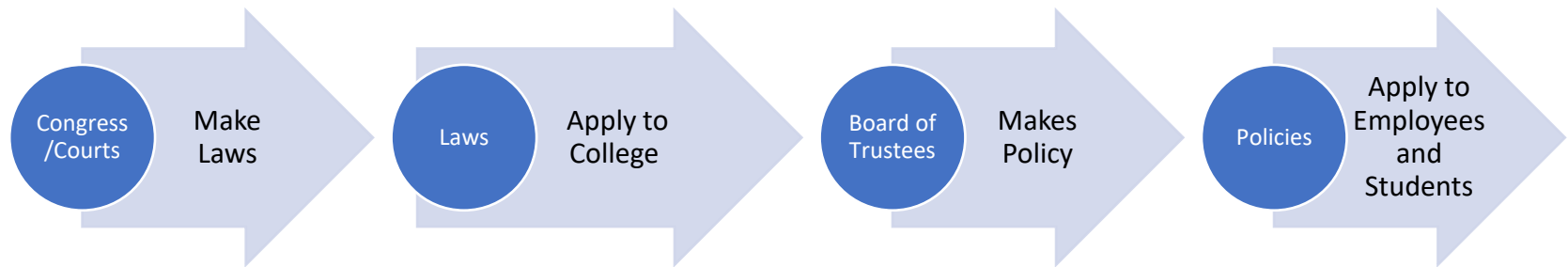
# The Process

## Part I Overview

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# Which Rules Apply?



The Title IX process reviews alleged violations of Valencia's policy, NOT of external laws

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# Applicable College Policies

- Policy 6Hx28:2-01 Discrimination, Harassment and Related Conduct
- Policy 6Hx28:8-03 Student Code of Conduct
- Policy 6Hx28:3E-08 Disciplinary Action

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# Policy 2-01

Prohibits discrimination on the basis of sex in education programs and activities and includes:

- *Quid pro quo* harassment demonstrated by an employee
- Unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access
- Title IX Sexual Assault, Title IX Interpersonal Violence, and/or Title IX Stalking

Provides for an investigation and ultimate finding as to whether allegations of prohibited conduct are supported by a preponderance of the evidence

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# Policies 8-03 and 3E-08

If and when there is a finding that someone has violated Policy 2-01 by engaging in prohibited conduct, these policies provide the mechanism for remedying the effects of the conduct and ensuring that it does not recur

Students may be subject to any possible sanction as outlined in the Student Code of Conduct policy

Employees may be subject to any possible discipline as outlined in the Disciplinary Action policy

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## Part II Prohibited Conduct

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# Kinds of Cases

- Title IX sexual harassment, Title IX sexual assault, Title IX stalking, or Title IX interpersonal violence
  - Involving students, employees, or a combination
- Quid Pro Quo harassment by employees

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# Title IX Sexual Assault

As defined in the Clery Act, including any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

A. 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 incapacity.

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

C. 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.

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

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[Valencia Policy 6Hx28:2-01](#)

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# Title IX Interpersonal Violence

Includes the definitions of Domestic Violence and Dating Violence as defined in the Violence Against Women Act (VAWA)

Domestic Violence is a pattern of abusive behavior in a relationship that is used by one partner to maintain power and control over another current or former intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behavior that intimidates, manipulates, humiliates, isolates, frightens, terrorizes, coerces, threatens, hurts, injures, or wounds someone.

Dating Violence is violence and abuse committed by a person to exert power and control over a current or former dating partner. Dating violence often involves a pattern of escalating violence and abuse over a period of time. Dating violence covers a variety of actions and can include physical abuse, physiological and emotional abuse, and sexual abuse. It can also include “digital abuse”, the use of technology, such as smartphones, the internet, or social media, to intimidate, harass, threaten, or isolate a victim.

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[Valencia Policy 6Hx28:2-01](#)

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# Title IX Stalking

As defined in the Violence Against Women Act (VAWA), stalking is a pattern of repeated and unwanted attention, harassment, contact, or any other course of conduct directed at a specific person that would cause a reasonable person to feel fear. Stalking is dangerous and can often cause severe and long-lasting emotional and psychological harm to victims. Stalking often escalates over time and can lead to domestic violence, sexual assault, and even homicide. Stalking can include frightening communications, direct or indirect threats, and harassing a victim through the internet.

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[Valencia Policy 6Hx28:2-01](#)

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# Title IX Sexual Harassment

Misconduct based on sex that is severe and pervasive and objectively offensive conduct, effectively denying a person equal educational access, and/or an employee conditioning the provision of an aid, benefit, or service to a student on the basis of participation in Title IX Sexual Misconduct.

*\*\*This is not the same definition of sexual harassment utilized in Title VII cases or in Florida's anti-discrimination laws.*

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[Valencia Policy 6Hx28:2-01](#)

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# The Process

## Part III Title IX Coordinator Role

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# What Does the Title IX Coordinator Do?

- Receive reports and formal complaints regarding allegations of Title IX Sexual Misconduct
- Oversee Title IX Investigators throughout the investigation process
- Inform the Complainant or Respondent if the other party has requested an Informal Resolution
- Notify the Complainant or Respondent if the other party has filed an appeal

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# What Doesn't a Title IX Coordinator Do?

- Represent or advocate for any party or any position in the proceeding
- Determine a finding of responsibility for any college policy
- Determine the sanction for a finding of responsibility

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# Do You Have a Conflict of Interest?

Everyone involved in a Title IX investigation must support an objective evaluation of the evidence.

Objectivity includes the absence of any personal or professional interest that affects your ability to be fair and impartial to all parties in the investigation and that actually affects the outcome of the proceeding.

Before you serve as an Investigator, you must ensure that you do not have a Conflict of Interest.

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# Things That Could Be A Conflict of Interest

- A family relationship with the parties, their advisors, or anyone who may serve as a witness in the investigation
- A personal relationship with a party, an advisor, or a witness that leads you to give that individual advantage or disadvantage in the investigation
- A business relationship with the parties, their advisors, or anyone who may serve as a witness in the investigation

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# Things That Could Be A Conflict of Interest

- Giving any financial assistance or gifts to a party or a witness in the investigation
- Receipt of any financial assistance or gifts to a party of witness in the investigation
- Prior knowledge about a party outside of what is learned in the proceeding that bears on your analysis
  - Only if knowledge exists outside of the scope of the Title IX Coordinator's role at the College

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# Conflict of Interest

- If you think you may have a conflict of interest, advise the Title IX Coordinator immediately
- Parties may raise conflicts of interest as a basis for appealing final decisions

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# General Ethical Considerations

Beyond conflicts of interest, a Title IX Coordinator must approach their service impartially and without any prejudgment

You must set aside impressions or biases you have from movies, TV, news, other cases in which you have been involved, and personal opinions

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# Ethical Considerations

**DO NOT: Rely on sex stereotypes**

“Women are manipulative and they lie.”

“Real men are aggressive.”

“A lady wouldn’t put herself in that position.”

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# Ethical Considerations

**DO NOT: Make credibility determinations based solely on the sex or gender of a party**

“I’m going to believe the woman because women have been ignored for too long in other cases and we need to balance things.”

“He was a boy scout so he is a man of honor, even though her version of events seems plausible.”

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# Ethical Considerations

**DO NOT: Make credibility determinations based solely on a person's status as a reporting or responding party in a matter**

“Anyone who would file a complaint about something like this is crazy.”

“If this woman would go so far as to file a formal complaint, then he must have done it.”

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# Ethical Considerations

**DO: Approach the process with an open mind and without any preconceived notions**

**Look at every decision you make as an objective evaluation of the facts and policies**

**Treat every participant and witness with respect**

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# The Process

## Part IV Roles

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# Who's Involved?

**Complainant:** An individual who is alleged to be the victim of prohibited conduct.

**Respondent:** An individual who is alleged to have engaged in prohibited conduct and who is named in a report alleging violation.

**Title IX Advisor:** An individual who is selected by either the Complainant or Respondent and is permitted to participate in the Title IX Misconduct process, including conducting cross-examination during a live hearing.

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# Who's Involved?

**Title IX Investigator:** Individual responsible for investigating allegations of Title IX Sexual Misconduct.

**Title IX Hearing Officer:** Individual responsible for facilitating a Title IX Hearing and determining responsibility and sanction if applicable.

**Title IX Appeal Officer:** Individual responsible for reviewing an appeal.

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# What Does a Title IX Advisor Do?

- Accompany a Complainant or Respondent to meetings with investigators
- Review evidence and investigation reports
- Cross examine the opposing party during a live hearing
  - Questions are provided by Complainant or Respondent
  - The Title IX Advisor is not responsible for developing the questions asked during a live hearing

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# What Doesn't a Title IX Advisor Do?

- Act as legal counsel
- Speak on behalf of the Complainant or Respondent
- Ask cross examination questions not requested by the Complainant or Respondent
- Determine a finding of responsibility for any other college policy

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# What Does an Investigator Do?

- Interview Complainants, Respondents, and witnesses
- Gather and review relevant evidence
- Create Investigation Report summarizing the facts gathered during the investigation
- Determine whether a policy violation *may* have occurred

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# What Doesn't an Investigator Do?

- Represent or advocate for any party or any position in the proceeding
- Determine a finding of responsibility for any college policy
- Determine the sanction for a finding of responsibility

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# What Does a Hearing Officer Do?

- Preside over a live Title IX hearing
- Ask questions of the respondent and complainant, as well as their witnesses
- Maintain order and decorum of the parties and their advisors at the Title IX hearing
- Determine what evidence is relevant and may be presented at the Title IX hearing

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# What Does a Hearing Officer Do?

- In the case of a factual dispute, determine the credibility of the witnesses
- Perform an objective evaluation of relevant evidence
- Determine whether a respondent is responsible under Valencia's policies

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# What Doesn't a Hearing Officer Do?

- Represent or advocate for any party or any position in the proceeding
- Determine a finding of responsibility for any other college policy
- Determine the disciplinary action if they find the respondent responsible. That decision is made by the supervisor/next level supervisor (employee respondent) or the Dean of Students (student respondent)

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# What Does an Appeal Officer Do?

- Review appeal to determine if it falls within limited grounds
- May request the Title IX Investigator do an additional investigation and/or the Title IX Hearing Officer hold an additional Title IX Hearing if there is applicable new information or if there were deviations in the process that significantly affected the outcome
- May whole or in part endorse or reject the finding of responsibility and the sanction issued

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# What Doesn't an Appeal Officer Do?

- Respond to information not raised or could have been raised but were not
- Address any interim protective measures assigned
- Review the merits of the case

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# What Doesn't an Appeal Officer Do?

- Re-investigate the case
- Vote their conscience or use this as a platform to change policy
- Determine if the preponderance of evidence standard was met
- Entertain anything beyond the limited grounds for appeal

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# The Process

## Part V Nuts & Bolts

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# Formal Complaint

In circumstances when a Complainant wishes the College to take action under this policy, they must submit a formal, written complaint.

The formal complaint is a document submitted by the Complainant alleging Title IX Sexual Misconduct under College policy and indicates a request by the Complainant that the College investigate the allegations.

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# Formal Complaint

Formal complaints will be investigated unless:

- The allegations in a formal complaint do not meet the definition under Title IX Sexual Misconduct under the policy or did not occur within the College's Educational Program or Activity
- The Complainant withdraws the request to investigate
- The Respondent is no longer enrolled or employed by the College

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# Written Notice

After receipt of a formal complaint and determination to proceed under the Title IX procedures based on the information provided in the formal complaint, the Title IX Coordinator (or designee) will provide written notice to the Complainant and Respondent. This notice will be provided before any initial interview is conducted with the Respondent to include, and not limited to, the following:

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# Written Notice

- Indication that the College's process does not discriminate against a Complainant or Respondent on the basis of sex;
- A link to applicable college policies;
- Information regarding the opportunity for informal resolution;
- Key details of allegations;
- A statement that the Respondent is not presumed responsible until a final determination is made under the College's process;
- Information regarding the role of a Title IX Advisor in the process, and the College's ability to provide a Title IX Advisor to a Complainant or Respondent at their request;
- An opportunity to review evidence as part of the investigation and hearing process; and
- Information prohibiting false information as part of the College's review.

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# Title IX Investigation

After receipt of a formal complaint and determination to proceed under the Title IX procedures based on the information provided in the formal complaint, the Title IX Investigator will:

- Meet with the Complainant and Respondent with their chosen Advisors and any reported witnesses
- Gather any evidence provided by involved parties
- Create an investigation report outlining the information provided in the course of the investigation

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# Title IX Investigation

- Title IX Investigators will provide advance written notice to Complainants and Respondents in advance of any subsequent interviews, meetings, or requests for meetings.
- Both the Complainant and Respondent may select a Title IX Advisor to participate
  - The Title IX Advisor may be an attorney.
  - The College will provide a Title IX Advisor upon request to a Complainant or Respondent, at no cost.

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# Title IX Investigation Evidence

Upon review of all information gathered the investigator will provide via electronic or hard copy format, to the Complainant and Respondent and their respective Title IX Advisors, all evidence directly related to the allegations with at least ten (10) College business days to inspect, review, and respond.

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# Title IX Investigation Final Report

After the ten (10) College business day review period has passed, and upon review of any written response from the Complainant and/or Respondent, the investigator will provide a final investigation report to the Complainant and Respondent and their respective Title IX Advisors summarizing all relevant evidence. This investigation report will be provided to both the Complainant and Respondent and each will be given ten (10) College business days to provide a written response to the investigator.

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# Title IX Investigation Final Report

The final investigation report will include:

- Summary of allegations
- Timeline of events
- Summary of meetings with parties and witnesses
- Any evidence provided by the parties

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# Title IX Investigation Questions Presented

- Did the prohibited conduct occur as alleged?
- If the conduct did occur, could that conduct violate the College's policy?

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# Title IX Investigation Final Report

After the ten (10) College business days have passed for both the Complainant and Respondent to have reviewed the final investigation report, the Title IX Investigator will forward the final investigation report to the Title IX Coordinator.

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# The Title IX Hearing Questions Presented

- Did the prohibited conduct occur as alleged?
- If the conduct did occur, does that conduct violate the College's policy?
- If the policy was violated, what is the appropriate action to remedy the effects of the conduct and prohibit its recurrence?

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# The Title IX Hearing Ground Rules

- 1) The Title IX Hearing Officer is to begin with the presumption that the respondent is *not responsible* for a violation of college policy
- 2) Only evidence relevant to the questions presented on the previous slide will be allowed
- 3) In sexual assault cases, information that would be prohibited under Rape Shield laws (evidence of the reporting party's prior sexual history with people other than the responding party) will not be permitted
- 4) No opening or closing statements

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# The Title IX Hearing Ground Rules

- 5) Title IX Advisors may ask questions, but may not make statements or speeches
- 6) Parties may not ask questions of the opposing party
- 7) If participants violate these rules or otherwise disrupt the proceeding, the Title IX Hearing Officer may remove them and proceed with the Title IX hearing in their absence
- 8) In the event a party is not willing to be cross examined, their testimony and/or statements may not be considered in the final determination

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# The Title IX Hearing Standard of Proof

In all Title IX hearings, determinations are made according to the preponderance of the evidence standard.

Other ways of expressing this standard:

- more likely than not
- 50.1% of the evidence
- the evidence is equal but one party is more credible than the other

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# The Title IX Hearing Decision

- The decision is not made at the Title IX hearing
- The decision is made after the Title IX Hearing Officer has considered all of the relevant evidence and college policies, and will be communicated to the parties in writing

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Questions?