

Title IX Final Rule & Higher Education

Association for Student Conduct Administration

Investigations

Basics

- Institutions carries burden of proof and evidence gathering
- Medical records off limits unless party volunteers written consent
- Opportunities must be equally available to both parties
 - Permitted to discuss allegations/investigation
 - Permitted to gather additional evidence and witnesses
 - Advisor of student's choice (can be parent, attorney, etc)
 - Chance to review evidence

Hearings

Live Hearings

- Technology can be used to separate parties into different rooms at either's request
- Live hearing must be utilized, and all parties given sufficient time to review materials and prepare in advance
- After hearing is complete, but before a decision of responsibility is made, a recording or transcript of hearing must be available to parties for review and

Role of Advisors

- Institution can determine role of advisors in hearings if still in alignment with Title IX regulations
- Each party must be offered an advisor of their choice or assigned one free of charge. Party has right to dismiss their advisor if they feel advisor is “inadequate”
- Conduct cross-examination of parties, witnesses, etc. on behalf of their party

Cross Examination

- Questions generated by advisor on behalf of party
- May be used to challenge credibility

- Questions must be relevant
 - Before party answers, decision-maker determines relevance
 - If deemed irrelevant, decision-maker must explain rationale

- If party does not participate in cross-examination, all other statements from that party may not be used, such as:
 - Secondhand recounts
 - Written reports
 - Electronic messages

Decision Makers

Determination of Responsibility

- Once all available and permitted materials reviewed, decision-maker will determine responsibility and send simultaneous decision in writing to include:
 - Sections of policy/code
 - Recap of procedural steps taken through process
 - Findings of act
 - Conclusions
 - Appeal process
 - Rationale:
 - Responsibility
 - Sanctions, if applicable
 - Remedies

Final Decision

- Both parties have right to appeal
- Decision/outcome of case are final when:
 - Parties receive notice of appeal outcome
 - Deadline for appeal passes

Additional Resources

ASCA Webinar- [Overview of Title IX Regulations](#)

ASCA White Paper- [Title IX of the Amendments of 1972: 2020 Regulation](#)

Dept. of Education Regulations, Federal Register- [34 CFR Part 106, ID 1870-AA14](#)

About ASCA

The Association for Student Conduct Administration is the only non-profit, professional membership organization devoted to the advancement of the higher education student conduct profession

Membership in ASCA shall generally be open to any person who has a legitimate interest in the mission, vision, core values and activities of the Association and who agrees to abide by the provisions contained in the Associations Bylaws and Statement of Ethical Principles and Standards of Conduct.

ASCA Core Values: Advocacy; Community; Equity & Inclusion; Education; Integrity; Leadership



Contact ASCA:
asca@theasca.org
979.589.4604