



# TITLE IX **Training**

Fall 2023

# AGENDA

- 1 Title IX Fundamentals**
- 2 Current Title IX Definitions and Processes**
- 3 Role Specific Training**
- 4 Q&A**

# **TITLE IX OF THE EDUCATION AMENDMENTS OF 1972**

"No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives Federal financial assistance."

# History

- **1972 - Education Amendments**

- *Title IX of the Education Amendments of 1972* revised federal funding laws to prohibit sex-based discrimination in higher education.

- **1990 - Clery Act**

- Initially called the "Crime Awareness and Campus Security Act", and later renamed in memory of slain student Jeanne Clery, this act amended federal financial aid laws to require all participating postsecondary institutions to disclose campus crime statistics and security information.

- **1994 - Violence Against Women Act (VAWA)**

- Established federal legal definitions of domestic violence, dating violence, sexual assault, and stalking. Made funding grants for reducing these crimes available to higher education institutions.

# History

- **2001 - Revised Sexual Harassment Guidance**
  - Department of Education Office for Civil Rights (OCR) guidance explored *Title IX* sexual harassment protections. "[S]chools need to ensure that employees are trained so that those with authority to address harassment know how to respond appropriately, and other responsible employees know that they are obligated to report harassment to appropriate school officials."
- **2011 - April 2022 Dear Colleague Letter**
  - Noting that sexual assault had become an epidemic on college campuses, OCR reiterated that *Title IX* guarantees all students an education free from sexual harassment and violence. OCR also recommended that "all schools implement preventive education programs" as part of their orientation programs for new students, faculty, and staff.
- **2013 - Campus SaVE Act**
  - Amended the *Clery Act* to mandate extensive "primary prevention and awareness programs" regarding sexual misconduct and related offenses.

# History

- **2020 - Title IX Final Rule**

- May 7, 2020: The U.S. Department of Education released updated *Title IX* regulations after engaging in a formal notice-and-comment process.
- August 14, 2020: Updated regulations (commonly referred to as the "Final Rule") implemented.

- **2022 - Draft Title IX Regulations Released**

- June 23, 2022: The U.S. Department of Education released proposed regulations.
- July 12, 2022: Formal notice-and-comment process commenced.

- **October 2023 - Anticipated Release of Updated Regulations**

# Mandatory Reporting

## ■ Campus Security Authority (CSA)

- Under the *Clery Act*, a CSA is a Collin College employee who has significant responsibility for student and campus activities.
- CSAs are responsible for ensuring that information regarding a crime reported or known to them is conveyed to the appropriate Collin College official(s) for record keeping and reporting purposes.
- When a *Clery Act* crime is reported to a CSA, the CSA **must** complete the [Campus Security Authority \(CSA\) Crime Reporting Form](#).

## ■ Child Abuse and Neglect Reporting

- Any person who has reasonable cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect has a responsibility under state law to immediately report the suspected abuse or neglect to an appropriate authority.
- The term "child" is defined in state law as a person younger than 17 years of age.
- When an employee suspects child abuse or neglect, they **must** report it through the [Texas Abuse Hotline Website](#).

# Mandatory Reporting (Cont.)

- **Texas Higher Education Code Section 51.252 (aka Texas Senate Bill 212)**
  - Requires a Collin College employee who witnesses or receives information regarding an incident of **Dating Violence, Sexual Assault, Sexual Harassment, or Stalking** that is alleged to have been committed by or against a person who was a student enrolled at or an employee of Collin College at the time of the incident to promptly report the incident to Collin College's Title IX Coordinator or Deputy Title IX Coordinator.
  - Confidential employees (e.g., Counselors) are only required to state the type of incident reported and may not include and information that would violate a student's expectation of privacy.
  - Employees **must** complete the [Mandatory Reporting Form for Incidents of Dating Violence, Domestic Violence, Sexual Assault, Sexual Harassment, and Stalking.](#)

# Title IX Definitions

- **Complainant:** Individual who is alleged to be the victim of conduct that could constitute sexual harassment.
- **Respondent:** Individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
- **Formal Complaint:** Document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the school investigate the allegation of sexual harassment.
- **Supportive Measures:** Individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment.

# Definitions of Prohibited Conduct

## ■ Dating Violence:

- In accordance with the *Violence Against Women Act (VAWA)*, the term “dating violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship will be determined based on the reporting party’s statement and a consideration of:
  1. The length of the relationship,
  2. The type of relationship, and
  3. The frequency of interaction between the persons involved in the relationship.
- Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- Dating violence does not include acts covered under the definition of domestic violence.

# Definitions of Prohibited Conduct (Cont.)

- **Domestic Violence:**

- In accordance with the *Violence Against Women Act (VAWA)*, the term “domestic violence” includes felony or misdemeanor crimes of violence committed by:
  1. A current or former spouse or intimate partner of the victim;
  2. A person with whom the victim shares a child in common;
  3. A person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
  4. Any other member of the victim’s family as defined by state law;
  5. Any other current or former member of the victim’s household as defined by state law (i.e., a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, including, but not limited to, student housing roommates); or
  6. Any other person who acts against the victim in violation of the family violence laws of this state or the jurisdiction where the conduct occurs (i.e., any other person against an adult or youth victim who is protected from that person’s actions under the domestic or family violence laws of the jurisdiction in which the violence occurred).

# Definitions of Prohibited Conduct (Cont.)

## ■ Gender-Based Harassment:

- Gender-based harassment includes physical, verbal, or non-verbal conduct based on the student's or employee's gender, the student's or employee's expression of characteristics perceived as stereotypical for the student's or employee's gender, or the student's or employee's failure to conform to stereotypical notions of masculinity or femininity.
- For purposes of this policy, gender-based harassment is considered prohibited harassment if the conduct is so severe, persistent, pervasive, and objectively offensive that the conduct limits or denies a student's or employee's ability to participate in or benefit from Collin College's educational program.
- Acts of gender-based harassment may also be considered sex discrimination or sexual harassment.
- Examples of gender-based harassment may include:
  - Offensive jokes, name-calling, slurs, or rumors;
  - Physical aggression or assault;
  - Threatening or intimidating conduct; or
  - Other kinds of aggressive conduct such as theft or damage to property.
  - Examples may also include forms of dating violence, domestic violence, or stalking.

# Definitions of Prohibited Conduct (Cont.)

## ■ Retaliation:

- Retaliation against anyone involved in the complaint process is a violation of Collin College policy and is prohibited.
- Neither Collin College nor any person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by applicable federal *Title IX* regulation; this policy; or because the individual has made a report or complaint, testified, assisted with, participated in, or refused to participate in a *Title IX* investigation, proceeding, or hearing.
- Charging an individual with a violation(s) that does not involve sexual harassment, but arises out of the same facts or circumstances as a formal complaint of sexual harassment, for the purposes of interfering with any right or privilege secured by applicable federal *Title IX* regulations, constitutes retaliation.

# Definitions of Prohibited Conduct (Cont.)

## ■ Retaliation (Cont.):

- In an effort to prevent acts of retaliation, Collin College will keep confidential and not disclose the identities of complainants, respondents, and witnesses, except as permitted by the *Family Educational Rights and Privacy Act of 1974 (FERPA)*, required by law, or necessary to investigate and resolve a *Title IX* complaint.
- The exercise of rights protected under the First Amendment does not constitute retaliation.
- Charging an individual with a violation(s) for making a materially false statement in bad faith in the course of a *Title IX* complaint proceeding does not constitute prohibited retaliation. However, a determination regarding responsibility, alone, is not sufficient to conclude that any party made a bad faith materially false statement.
- Complaints alleging retaliation in connection with a complaint or investigation of prohibited conduct as defined by this policy will be addressed in accordance with this policy.

# Definitions of Prohibited Conduct (Cont.)

## ▪ Retaliation (Cont.):

- Complaints alleging retaliation in connection with other policies or laws may be filed in accordance with Collin College's prompt and equitable grievance procedures. For more information, see Board policies DIAB (LOCAL) and FFDB (LOCAL), and the student and employee disciplinary processes.
  
- Examples of retaliation may include:
  - Threats,
  - Rumor spreading,
  - Ostracism,
  - Assault,
  - Destruction of property,
  - Unjustified punishments, or
  - Unwarranted grade reductions.
  - Unlawful retaliation does not include petty slights or annoyances.

# Definitions of Prohibited Conduct (Cont.)

- **Sex Discrimination:**

- Sex discrimination against a student or employee is defined as conduct directed at a student or employee on the basis of sex or gender that adversely affects the student or employee.

- **Sexual Assault:**

- Sexual assault is a form of sexual harassment.
- Sexual assault includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol or due to an intellectual or other disability.
- In accordance with the *Clery Act*, sexual assault is any sexual act directed at another person, without consent of the victim, including instances where the victim is incapable of giving consent; and includes attempted sexual acts, fondling, incest, rape, and statutory rape.

# Definitions of Prohibited Conduct (Cont.)

- **Sexual Harassment, *Title IX* Definition:**

- In accordance with *Title IX*, as amended May 19, 2020, sexual harassment means conduct on the basis of sex that satisfies one (1) or more of the following:
  1. A Collin College employee conditioning the provision of an aid, benefit, or service of Collin College on an individual's participation in unwelcome sexual conduct (i.e., quid pro quo sexual harassment);
  2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Collin College's education program or activity; or
  3. Sexual assault, as defined in the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act)*; and dating violence, domestic violence, or stalking as defined in the *Violence Against Women Act (VAWA)*.
- Note: Quid pro quo sexual harassment, *Clery Act*, and *VAWA* offenses are not evaluated for severity, pervasiveness, offensiveness, or denial of equal educational access because prohibiting such conduct presents no First Amendment concerns and such serious misconduct causes denial of equal educational access.

# Definitions of Prohibited Conduct (Cont.)

## ▪ Sexual Harassment of a Student by an Employee:

- For purposes of this policy, sexual harassment of a student by a Collin College employee includes unwelcome sexual advances; requests for sexual favors; sexually motivated physical, verbal, or non-verbal conduct; or other conduct or communication of a sexual nature when:
  - A Collin College employee causes the student to believe that the student must submit to the conduct in order to participate in a Collin College program or activity, or that the employee will make an educational decision based on whether or not the student submits to the conduct (i.e., quid pro quo harassment);
  - It is based on unwelcome conduct that a reasonable person would determine is so severe, persistent, pervasive, and objectively offensive that it limits or denies the student's educational access and/or ability to participate in or benefit from Collin College's educational program; or
  - Any instance of sexual assault, as defined in the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act)*; and dating violence, domestic violence, or stalking as defined in the *Violence Against Women Act (VAWA)*.
- Note: Quid pro quo sexual harassment, *Clery Act*, and *VAWA* offenses are not evaluated for severity, pervasiveness, offensiveness, or denial of equal educational access because such misconduct is considered sufficiently serious to deprive a student of equal access.

# Definitions of Prohibited Conduct (Cont.)

- **Sexual Harassment of a Student by Others:**

- Sexual harassment of a student, including harassment committed by another student, includes:
  - Unwelcome sexual advances;
  - Requests for sexual favors; or
  - Sexually motivated physical, verbal, or non-verbal conduct when the conduct is so severe, persistent, or pervasive, and objectively offensive that it limits or denies a student's ability to participate in or benefit from Collin College's educational program.
- Physical contact not reasonably construed as sexual in nature is not sexual harassment.

# Definitions of Prohibited Conduct (Cont.)

## ■ Sexual Harassment of an Employee:

- For purposes of this policy, sexual harassment is a form of sex discrimination defined as unwelcome sexual advances; requests for sexual favors; sexually motivated physical, verbal, or non-verbal conduct; or other conduct or communication of a sexual nature when:
  - Submission to the conduct is either explicitly or implicitly a condition of an employee's employment, or when submission to or rejection of the conduct is the basis for an employment action affecting the employee;
  - It is based on unwelcome conduct that a reasonable person would determine is so severe, persistent, pervasive, and objectively offensive that it has the purpose or effect of unreasonably interfering with the employee's work performance or creates an intimidating, threatening, hostile, or offensive work environment; or
  - Any instance of sexual assault, as defined in the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act)*; and dating violence, domestic violence, or stalking as defined in the *Violence Against Women Act (VAWA)*.
- Note: Quid pro quo sexual harassment, *Clery Act*, and *VAWA* offenses are not evaluated for severity, pervasiveness, offensiveness, or denial of equal educational access because such misconduct is considered sufficiently serious to deprive a student of equal access.

# Definitions of Prohibited Conduct (Cont.)

- **Sexual Harassment, Examples:**

- Examples of sexual harassment may include:
  - Sexual advances;
  - Touching intimate body parts;
  - Coercing or forcing a sexual act on another;
  - Jokes or conversations of a sexual nature;
  - Offensive or derogatory language of a sexual nature directed at another person; and
  - Other sexually motivated conduct, communication, or contact.
  - Examples may also include forms of dating violence, domestic violence, or stalking.

# Definitions of Prohibited Conduct (Cont.)

## ■ Stalking:

- In accordance with the *Violence Against Women Act (VAWA)*, the term “stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others; or suffer substantial emotional distress.
- For the purposes of this definition:
  - “Course of conduct” means two (2) or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.
  - “Reasonable person” means a reasonable person under similar circumstances and with similar identities to the victim.
  - “Substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

# Definitions of Prohibited Conduct (Cont.)

## ■ Consent to Sexual Activity:

- For purposes of this policy, sexual activity requires consent, which is defined as an informed, voluntary, affirmative, and mutual agreement between the participants to engage in a specific sexual act. The following guidelines will be used to determine whether consent was obtained when investigating a complaint of sexual assault against a Collin College student or employee:
  1. Consent to sexual activity can be communicated in a variety of ways, but one should not presume consent has been given in the absence of a clear, positive agreement.
  2. Consent can only be accurately gauged through direct communication about the decision to engage in sexual activity. The absence of the word “no” or the like (e.g., “stop”) does not imply consent.
  3. Although consent can be non-verbal, verbal communication is the most reliable form of asking for and obtaining consent. Discussing desires, needs, and limitations with sexual partners provides a basis for positive sexual experiences shaped by mutual willingness and respect.
  4. Presumptions based upon contextual factors (e.g., provocative clothing or dancing) are unwarranted and should not be considered grounds for consent.

# Definitions of Prohibited Conduct (Cont.)

## ■ Consent to Sexual Activity:

5. As defined in the [\*State of Texas Penal Code §22.011 Sexual Assault\*](#), the age of sexual consent is 17. Therefore, consent cannot be obtained from someone who is under the age of 17, as that person is legally considered to be a minor.
6. Consent cannot be obtained from someone who is asleep, unconscious, or otherwise mentally or physically incapacitated, whether due to alcohol, drugs, or some other condition (e.g., an intellectual or other disability). A person is mentally or physically incapacitated when that person lacks the ability to make or act on considered decisions to engage in sexual activity. Engaging in sexual activity with a person whom you know – or reasonably should know – to be incapacitated constitutes sexual assault.
7. Consent to some sexual acts does not constitute consent to other sexual acts.
8. Consent must be ongoing throughout a sexual encounter and can be revoked at any time. If you proceed despite your partner's verbal and/or non-verbal communication to stop, you have committed sexual assault.
9. Consent cannot be obtained by threat, coercion, or force. Agreement under such circumstances does not constitute consent.
10. A prior sexual encounter or pre-existing relationship does not indicate consent to current or future sexual activity.

# Current Title IX Processes

## ■ Informal Resolution Process

- Similar to mediation
- Only available if both parties agree in writing
- Not available in cases involving an Employee Respondent and a Student Complainant
- Anticipated Time Frame
  - **Board Policy:** 30 College District business days
  - **Federal Law:** Within a reasonably prompt timeframe

## ■ Formal Resolution Process

- Involves Investigators, Live Hearing Advisors, Live Hearing Officers, and Appeal Decision Makers
- An Investigation Report is created by Investigators
- Culminates in a Live Hearing with cross-examination
- Anticipated Time Frame
  - **Board Policy:** 60 College District business days
  - **Federal Law:** Within a reasonably prompt timeframe

# Bias and Value Neutrality

- **Unconscious Bias:** A quick and often inaccurate judgment based on limited facts and our own life experiences. These judgments can give individuals and groups both unearned advantage and unearned disadvantages. People can be biased about anything – not just things like gender, skin color, or age, but also things like communication style or what someone does in their free time. Unconscious bias is not intentional. It's part of the lens through which we see the world. When people don't fit our internalized expectations, we can sometimes have difficulty seeing their talents, motivations, and potential clearly, which can mean we interact with them less effectively. When we understand how biases influence our behavior, we can take action to create an inclusive culture.
- **Value Neutrality:** The duty and responsibility of [a person] overcome [their] personal biases. It aims to separate fact and emotion and stigmatize people less.

Unconscious Bias <https://www.mslearning.microsoft.com/course/72169/launch>

Value Neutrality: <https://www.sociologygroup.com/value-neutrality-meaning-examples/>

# Bias

- All participants in the Title IX Complaint Resolution Process must be free from:
  - Conflicts of interest or bias “for or against” complainants.
  - Conflicts of interest or bias “for or against” respondents.
  - Conflicts of interest or bias “for or against” an individual Complainant.
  - Conflicts of interest or bias “for or against” an individual Respondent.
- We must serve as impartial representatives of Collin College.

# When Should You Recuse Yourself?

- If you have a current or ongoing relationship with the Complainant, Respondent, or a Witness. For example:
  - The Complainant is enrolled in your current class. (Note: It may be alright for you to serve if you previously had a class with a Complainant, Respondent, or Witness, as long as you can favorably answer items 2 and 3 below.)
  - The Respondent is an active member of a Collin College recognized student organization for which you serve as a member, officer, or advisor.
  - You and the Complainant have significant interaction on- or off-campus (e.g., mentor, career coach, work, or community activities).
- If you do not think you can be impartial.
- If the situation is going to make you uncomfortable.
- If you are not sure whether you should recuse yourself, contact the appropriate Title IX Coordinator, Deputy Title IX Coordinator, or designee overseeing the case.

# Things to Remember

- All parties have the right to a prompt, fair, impartial, unbiased, and equitable process.
  - As neutral representatives of Collin College, it is our responsibility to ensure that all parties are treated equitably throughout the Title IX Complaint Resolution Process.
- We must avoid prejudging a party or the facts of a case prior to the conclusion of the Title IX Complaint Resolution Process.
  - The Respondent is always presumed to be not responsible for the alleged misconduct until the conclusion of the Title IX Formal Resolution Process when a final determination is made.
- Privacy and confidentiality are vital!
- If you have a question or concern, contact the appropriate Title IX Coordinator, Deputy Title IX Coordinator, or designee overseeing the case.

# Collin College's Title IX Coordinators

## Title IX Coordinator for Students

Terrence Brennan  
District Dean of Students  
Collin Higher Education Center  
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McKinney, TX 75069  
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## Title IX Coordinator for Employees

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## Deputy Title IX Coordinator for Students

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## Deputy Title IX Coordinator for Employees

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# Role Specific Training Materials

- [Informal Resolution Facilitator Training](#)
- [Live Hearing Advisor Training](#)
- [Live Hearing Officer Training](#)
- [Removal Challenge Officer Training](#)
- [Appeal Decision Maker Training](#)
- [Tabletop Training](#)