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NACUA Online Course
Title IX Coordinator Training

Module 8: Title IX Training & Recordkeeping

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Module 8: TIX Training & Recordkeeping

- Submodule 1: Training Required under TIX
- Submodule 2: Training for Employees
- Submodule 3: Recordkeeping
- Submodule 4: Other Training Req'ts related to TIX

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Submodule 1

What training is required under Title IX?

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Who Must Be Trained?

- Title IX Coordinators
- Investigators
- Decision-makers
- Informal Resolution Facilitators

§ 106.45(b)(1)(iii)

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Training Topics for All Four Roles

Every required role must be trained on:

- Scope of the education program or activity under Title IX
- Definition of sexual harassment (§ 106.30)
- Institution's investigation and grievance procedures
- Impartiality – avoiding bias, conflicts, and prejudgment

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Training Materials for All Four Roles

All training material used:

- Must not rely on sex stereotypes
- Must promote impartial investigations and adjudications
- Be publicly available on institution's website
- Maintain materials for 7 years

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Training for Investigators

Investigators must be trained on:

- Institution's grievance process in detail
- Evidence collection and management
- Relevance and admissibility standards
- Investigating impartially

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Training for Decision-makers

Decision-makers must be trained on:

- Conducting hearings and any technology used during live hearings
- Evaluating relevance (of questions and evidence) and credibility
- Considering evidence fairly
- Drafting compliant determinations

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Training for Informal Resolution Facilitators

IR Facilitators must be trained on:

- Parameters of informal resolutions
- Impartiality
- Conflict of interest/bias avoidance

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Training for Title IX Coordinators

TIX Coordinators must be trained on:

- Response to reports
- Providing supportive measures
- Recordkeeping
- [essentially all the other topics for the other roles!]

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How frequent should you train?

- At the time of hire/assignment

- Whenever duties change
- Annual refresher?

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What's NOT required

- No mandate for "all employees" training
- No requirement for pregnancy-specific training
- No requirement to train on retaliation beyond the scope of your policy

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Submodule 2

What could/should employee training cover?

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Employee Training

Training Required for “All Employees”

2020 TIX Regulations

- No training requirement for all employees under the 2020 regulations.

2024 TIX Regulations

- School's obligation to address sex discrimination in education program or activity
- The scope of conduct that constitutes sex discrimination, including sex-based harassment
- Notification requirements re: student pregnancy
- Notification requirements re: sex discrimination

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Why train more broadly?

- Risk management
- Climate
- Early Reporting
- Helpful for future litigation?

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Topics for All Employees Training

- Recognizing prohibited conduct
- Your institution's reporting requirements
    - Knowing how/where to report
- Broad overview of what happens after a report is received
- Discussion of types of supportive measures available

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Training Logistics

Things to consider:

- Centralized v. departmental delivery
- Tracking attendance and completion
- In person v. online webinars
- Role of HR in documentation and monitoring
- How often?
- Penalty for non-completion?

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Logistical Tips & Considerations

- Are there times of the year when all employees are in one place? (or all staff? or all faculty?)
- How will you know when a person is hired or changes roles?
- How are you tracking?

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Lessons Learned from OCR

- Employee training could help address issues related to:
  - Awareness gaps re: reporting obligations
  - Ensure that response/investigation is centralized
  - Ensure recordkeeping is centralized (and compliant)
  - Prevent delays in responding
  - Receive feedback on noncompliant practices you are unaware of
  - Audit your institution's website

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Submodule 3

What do I need to know about recordkeeping?

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General Recordkeeping Requirement

- Records must be kept for a period of at least seven years.

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What records do you need to keep?

For each REPORT of sexual harassment:

- records of any actions taken in response to a report, incl. supportive measures.
- document basis for conclusion that response was not deliberately indifferent.
- if SMs not provided, document why response was not clearly unreasonable in light of known circumstances.

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What records do you need to keep?

For each FORMAL COMPLAINT:

- Records of investigations
- Determinations of responsibility
- Any sanctions imposed or remedies provided
- Audio/AV recordings or transcript of hearings

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What records do you need to keep?

For each APPEAL:

- Appeal request and grounds
- Process followed
- Outcome of appeal

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What records do you need to keep?

For each INFORMAL RESOLUTION:

- Agreement reached by the party
- Informal resolution process used
- Outcome/record of completion

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What records do you need to keep?

For each TRAINING of TIXCs, Investigators, Decision-makers, or IR Facilitators:

- All training material used
- Posted on the website

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Recordkeeping Considerations

- Paper or electronic files?
- Succession planning?
- Case management system?
- Security of paper files?

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Submodule 4

Are there other training obligations I should be considering?

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Yes.

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Clery Act/ VAWA Amendments

- Officials involved in disciplinary proceedings must receive training on "issues related to dating violence, domestic violence, sexual assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability."
- Training must be provided annually.

34 C.F.R. § 668.46(k)(2)(ii)

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Clery Act/ VAWA Amendments

- An institution's Annual Security Report must include a statement of policy that addresses primary prevention and awareness programs directed at incoming students and new employees.

34 C.F.R. § 668.46(j)(1)(i)

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Clery Act/ VAWA Amendments

- An institution's Annual Security Report must also include a statement of policy that addresses ongoing prevention and awareness campaigns directed at students and employees.

34 C.F.R. § 668.46(j)(1)(ii)

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NCAA Policy on Campus Sexual Violence

- Annually the President, Director of Athletics, and TIXC must attest to (among other things) the following:
    - All student-athletes, coaches and staff have been educated each year on sexual violence prevention, intervention and response, to the extent allowable by state law and collective bargaining agreements.

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Other Places You May Find Training Requirements

- State laws
- Research Funding Contracts
- Accreditation Requirements
- Grants

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Thank you!

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