



Hearing Board Training

Part VIII : Sexual
Misconduct Incidents

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ADVISORY

Board members should view this module in conjunction with the live trainings presented by SCCS and Title IX.

Training requirements for all staff or panel members involved with the Title IX process

Learning Objectives

1. Specifics of Title IX and how Adelphi University incorporates the requirements of the Title IX regulations into the Code of Conduct and Title IX policy
1. Articulate what board members and faculty advocates can expect if asked to serve in a hearing covered by Title IX of the Education Amendments of 1972
1. Share additional information and resources specific to Title IX cases



Overview of the Title IX Process

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Title IX of the Education Amendments of 1972

"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"

20 U.S.C. § 1681(a)

Federal- Title IX



State- NYS 129-B



Adelphi's Policy



Resolution of Title IX Sexual Harassment Violations

Informal Resolution

When the parties come to a mutual agreement that resolves the complaint.

- No finding of responsibility
- No preponderance of the evidence standard
- No formal sanctions
- No appeal

Formal Resolution

When the University formally investigates a complaint and makes a determination of responsibility

- Investigators gather information
- Hearing panel will hear the case and make a determination of responsibility based on a preponderance of the evidence standard
- Formal sanctions

Resolution of Title IX Sexual Harassment Violations

Formal Resolution

- Incident reported to the University
- Formal complaint filed
- Notice of Charges/Allegations
- Investigation
- **Hearing**
- **Outcome**
- Appeal



Specifics of sexual misconduct violations

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Title IX Sexual Harassment

Title IX Sexual Harassment is defined as:

- Any instance of *Quid Pro Quo* harassment by a University employee
- Any unwelcome conduct determined by a reasonable person to be so **severe, pervasive, and objectively offensive** that it effectively denies a person equal access to the University's education program
- Any instance of:
 - Dating Violence,
 - Domestic Violence,
 - Stalking or;
 - Sexual Assault

Scope: The sexual harassment must have occurred during the University's education program or activity, against a person in the United States. The Complainant must have been participating in the University's education program or activity at the time of filing a formal complaint.

Non-Title IX Sexual Harassment

Title IX Sexual Harassment is restricted:

*"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**"*

Non-Title IX sexual harassment is prohibited conduct that do not fall under the scope of Title IX, but is covered under our Policy.

Procedural Requirements

Process is based on federal regulations issued in May 2020

- As of January 2025, the 2024 Title IX regulations were vacated

The role of a Faculty advocate or advisor of choice at a hearing



Incorporation of the Title IX policy into the standard conduct process

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Incorporating the Title IX policy and procedure

The student conduct process has long incorporated the requirements of the Title IX policy

Consistency among processes

- Notice of Charges/Allegations
- Access to all information in advance of the hearing
- Faculty Advocates
- Meaningful opportunity to respond
- Multiple avenues for resolution
- Fair and impartial hearing
- Outcome letter compliant with the requirements of the Title IX regulations



**What board members
and faculty
advocates can
expect at a Title IX
hearing**

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What can you expect from a Title IX Sexual Misconduct case?

Live Hearing

- Hear the case and ask direct questions to the parties and witnesses
- Ensure that only relevant questions are being asked
- Hearing script

Making a Determination

- Review the case including the facts presented at the hearing and in the case file, make a determination of responsibility,
- Draft the outcome letter.

Relevant Questions

“Only relevant cross examination and other questions may be asked of a party or witness. Before a complainant, respondent or witness answers a cross-examination or other questions, the decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant”

C.F.R §106.45(b)(6)(i)

Relevant Questions

Remember, relevant questions tends to make a fact at issue more or less likely to be true

Think: Will the question aid the decision-makers in making an underlying determination?

Irrelevant Questions

What are not relevant questions:

1. **Rape Shield Protections:** Questions or evidence about a complainant's prior sexual history are deemed irrelevant UNLESS it is to prove that someone other than the Respondent committed the alleged violation or offered to prove consent
2. **Legally Privileged Information:** information provided by attorneys, medical providers, psychologists, clergy, rape crisis centers, or social workers are deemed not relevant UNLESS the party waives that privilege
3. **Medical Records:** information is deemed irrelevant UNLESS the party gives written voluntary consent
4. **Duplicative questions:** if a question has already been asked and is worded differently, it is irrelevant.

Rules of Decorum

Remember, this is not a civil or criminal process. Rather, it is an educational process and is “*purposely designed to allow recipients to retain flexibility to adopt rules of decorum that prohibit any party advisor or decision-maker from questioning witnesses in abusive, intimidating, or disrespectful manner*” (85 Fed. Reg. 30026, 30319).

If a question is asked in an abusive or hostile manner, the decision-maker has the discretion to ask the advisor to rephrase the question in an appropriate manner. Should the advisor continue to ignore these rules, the advisor may be removed and the hearing will adjourn.

Making a Determination

Review the facts of the case and review our Policy

Based on the facts presented, it is more likely than not (preponderance of the evidence standard) that a Title IX violation occurred?

The outcome letter

The outcome letter is a template that includes the following information:

- Procedural information from the Title IX policy
- Timeline of events, investigation, and resolution
- Charge(s) and finding(s)
- Credibility assessment of all involved parties
- List of evidence relied on to make a decision
- List of evidence excluded from the decision
- Notation of any question(s) deemed irrelevant and why
- Notation of any decorum rule violation (and actions taken)
- Rationale for decision
- Sanction(s) imposed
- Notice of right to appeal



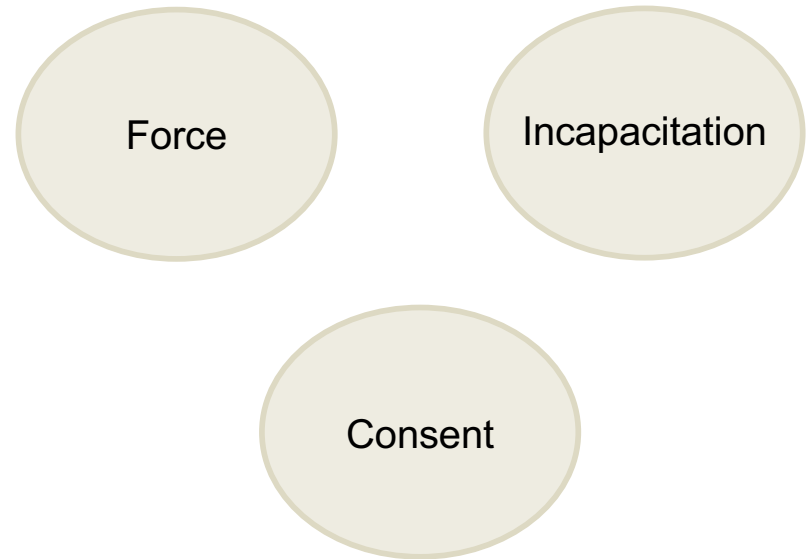
Resources for Title IX incidents

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The Typology of Campus Sexual Misconduct Complaints

Sokolow, B. (2005). *The Typology of Campus Sexual Misconduct Complaints*.
NCHERM

*Link to full document is in the Moodle course
(Module 6)*





Review and Next Steps

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Review

Module 1: Philosophy of the student conduct system at Adelphi

- Educational
- Individual

Module 2: Mechanisms for complaint resolution

- Formal
- Informal

Module 3: Hearing Operations

- Who
- Why
- How

Module 4: Questioning

- How to question
- Value of questions

Module 5: Preponderance of the Evidence, and Deliberations

- How to weigh evidence
- Purpose of deliberations
- What is required in deliberations

Module 6: Sanctioning

- Types of sanctions
- Sanction consistency

Module 7: Rationale

- Components of rationale
- Formulating a rationale

Module 8: Sexual Misconduct Incidents

- Overview of the process
- Role of the Hearing Panel

Next Steps

Module 9: Faculty Advocates

A live mock hearing