

TITLE IX ADVISOR TRAINING HIGHLIGHTS

Stalking

Retaliation

Harassment

Discrimination

Dating Violence

Domestic Violence

Sexual Misconduct

TITLE IX

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.

—Title IX of the Education Amendments of 1972



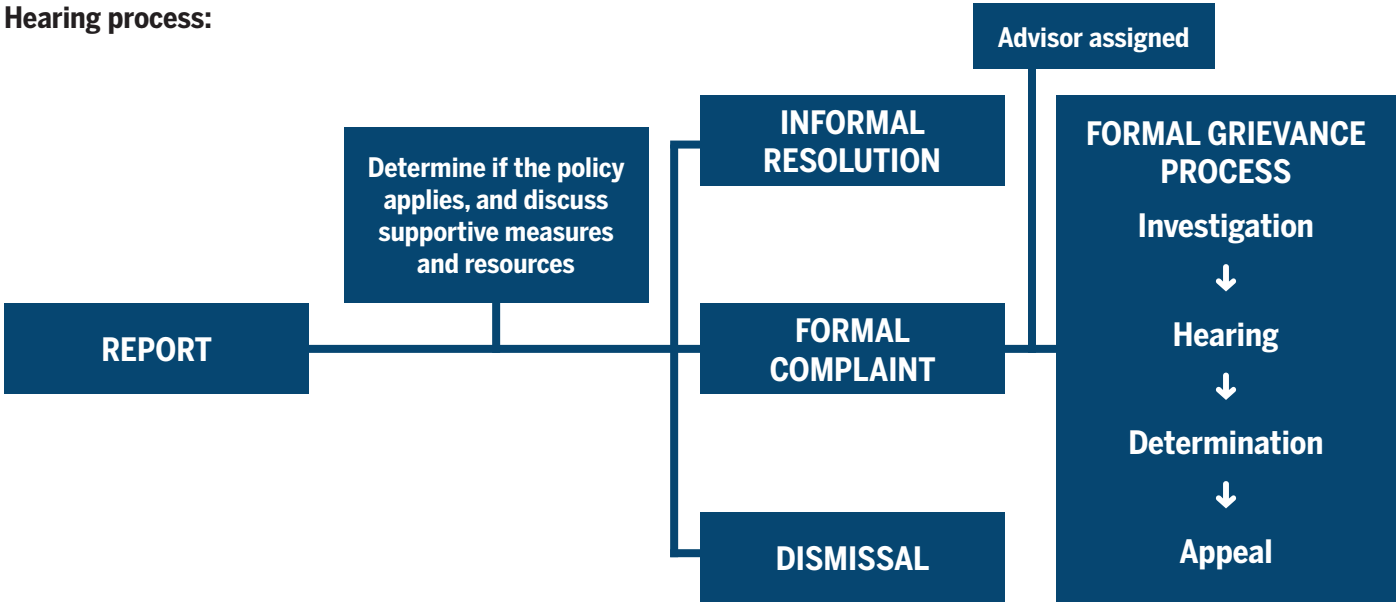
TITLE IX FUNDAMENTALS

THE BIG PICTURE: WHERE DO YOU FIT IN AS A TITLE IX ADVISOR?

Florida Tech Title IX Sexual Harassment Policy governs the process.

Advisors must be included in the hearing.

Hearing process:



Complainant makes a report to the university.

Florida Tech must respond promptly to Title IX sexual harassment in a manner that is not deliberately indifferent, which means a response that is not clearly unreasonable in light of the known circumstances. Florida Tech has the following obligations:

- » The Title IX coordinator must determine if the Title IX Policy applies.
- » The Title IX coordinator must promptly contact the complainant confidentially to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.
- » During informal resolution, the complainant has a choice if they would like a Title IX advisor or not. During formal resolution, the complainant can bring an advisor of their choice to all meetings, interviews and hearings that are part of the investigation. However, if they do not have an advisor during formal resolution, the university is required to appoint a Title IX advisor. The complainant has the option if they would like a Title IX advisor for supportive measures, even if complainant decides not to file a formal complaint.
- » Title IX coordinator will reach out to the respondent to discuss supportive measures. During informal resolution, the respondent has a choice if they would like a Title IX advisor or not. It can be requested; however, it is not mandatory. During formal resolution, the respondent can bring an advisor of their choice. If the respondent tells the Title IX coordinator that he/she does not have an advisor, then the university is required to appoint a Title IX advisor to both the complainant and respondent.

If complainant files a formal complaint, Florida Tech must investigate the allegations in any formal complaint and send written notice to both parties—complainant and respondent—of the allegations upon receipt of a formal complaint.

- Parties review evidence and investigation report and provide feedback.
- Investigative report contains:
 - » A summary of alleged conduct in violation of the policy, including a description of the impact or effect alleged to have been caused.
 - » A summary of the response to the allegations.
 - » A summary of facts found during the investigation.
 - » An analysis of the application of this policy to facts found in the investigation.
 - » Relevant evidence relating to the case.
 - » Responses of the parties to the evidence and the report (if they submitted responses).
 - » Contact information for your party (complainant or respondent).
 - » Applicable policy language.
 - » Other relevant communications about the hearing.
 - » Does not contain findings of fact or conclusions.

BEFORE YOU ARE APPOINTED

- During the grievance process and when investigating:
 - » The burden of gathering evidence and burden of proof must remain on Florida Tech, not on the parties.
 - » From the point a formal complaint is made and until an investigation, adjudication and appeal are complete, both the complainant and respondent have the right to be accompanied by the advisor of choice to all meetings, interviews and hearings that are part of the investigation, adjudication and appeal process and have access to supportive measures. (Reference Florida Tech Title IX Policy)
 - » Florida Tech must send the parties and their advisors evidence directly related to the allegations in electronic format or hard copy. They must also send an investigative report that fairly summarizes relevant evidence.
 - » Florida Tech must dismiss allegations of conduct that do not meet the definition of sexual harassment or did not occur at Florida Tech.
 - » The university is not required to provide a party with an advisor in any circumstance except where the party does not have an advisor present at the hearing and requests that the university provides an advisor.
- Determination is made as to whether sexual harassment may have occurred or whether the case should be dismissed from this process and handled through another university process.
- Informal resolution may be tried.

Preparation

- Review the entire investigation hearing report.
- Review all evidence (some may have nonrelevant evidence—know if you disagree with any relevancy determinations made by the investigator).
 - » Meet with your party to review what your party thinks and wants.
 - » Discuss strategy.
 - » Realize that your party may want to take a more aggressive approach. If you are not comfortable with the approach, discuss it with the party and check to see if you have advice for your party.
 - » Discuss the expectations of decorum vs. the expectations of questioning the other party and witnesses.
 - » Determine who your witnesses are and whether your party thinks they will show up to the hearing.
 - » Be careful of the line between asking a party to participate and explain the importance of their statements vs. coercing a party to participate who has the right not to participate.
 - » Consider a script.
 - List each allegation and policy definition/elements for the policy violation (e.g., sexual assault—know which definition and what must be met to show sexual assault under the policy).
 - Standard of review: this can be helpful to have written out so you can support relevancy determinations for your questions to show why relevant.
 - List the questions you plan to ask for your party for each other party and witness AND be prepared to answer why each is relevant.
 - Have a list of relevancy definitions to refer to if they come up.
 - Rape shield law and two exceptions
 - Privileged information in your jurisdiction
 - Language on treatment records

The Hearing

- Ask one question at a time and wait for the hearing officer to determine if it is relevant.
- If the hearing officer has a question about why the question is relevant, be prepared to answer that question (see preparation).
- Be respectful of the process so that you can effectively ask your party's questions. If you think you or someone else is becoming too heated, ask for a break to regroup.
- Be aware that the other advisor may not be as prepared as you are and the hearing officer has a duty to ask questions the advisor does not. This does not mean the hearing officer is biased or trying to help the other side. You may not like it, but it's a requirement for the hearing officer.

Post-Hearing

- The hearing officer will consult with an appropriate university official prior to issuing a written decision to both parties at the same time.
- Under the regulations, the advisor is not required to have any further role in the process (this may be especially true if the advisor is appointed by the institution).
- Other advisors (attorney or parent) may choose to work with the party to appeal on the bases listed in the decision.

What Does a Hearing Look Like?

- Hearing chair discusses the reasons for the hearing and decorum rules.
- Opening statement by each party.
- Hearing officer asks questions of complainant.
- Respondent's advisor asks questions of complainant.
- Hearing officer asks questions of respondent.
- Complainant's advisor asks questions of respondent.
- Each witness is called individually.
- Hearing officer can ask questions of each witness, followed by each party's advisor asking questions.
 - » Witnesses only come into the hearing for their testimony.
- Closing statement by each party.
- The length of each adjudication by hearing will vary depending on the circumstances. The university strives to issue a written determination within 14 days of the conclusion of the hearing.

The Hearing Officer's Role

1. Make relevancy determinations before any and all questions at the live cross-examination hearing can be answered.
2. Run an orderly and truth-seeking live cross-examination hearing.
3. Write a decision: apply the policy, use standard of review and evaluate relevant evidence still in the record after the hearing.

The Advisor's Role

1. Ask relevant cross-examination questions of the other party and all witnesses.
2. Help the hearing officer understand the disputed facts from your party's perspective.
3. If possible, call into credibility the evidence that your party disputes.
4. Maintain confidentiality of hearing.

Advisor Tasks: Prepare for Hearing

- Review the packet.
- Identify disputed information.
- Prepare your questions/topics.