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Title IX Investigator Training

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Scope

Training for those serving as Title IX Investigators in matters involving allegations of Sexual Misconduct as defined by the Amendments to the 2020 Code of Federal Regulations

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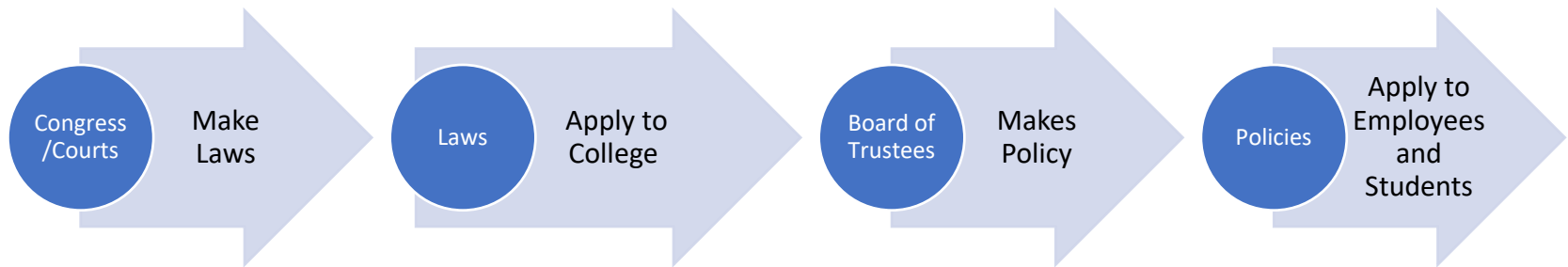
The Process

Part I Overview

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Which Rules Apply?



You are investigating violations of Valencia's policy,
NOT of external laws

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Applicable College Policies

- Policy 6Hx28:2-01 Discrimination, Harassment and Related Conduct
- Policy 6Hx28:8-03 Student Code of Conduct
- Policy 6Hx28:3E-08 Disciplinary Action

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Policy 2-01

Prohibits discrimination on the basis of sex in education programs and activities and includes:

- *Quid pro quo* harassment demonstrated by an employee
- Unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access
- Title IX Sexual Assault, Title IX Interpersonal Violence, and/or Title IX Stalking

Provides for an investigation and ultimate finding as to whether allegations of prohibited conduct are supported by a preponderance of the evidence

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Policies 8-03 and 3E-08

If and when there is a finding that someone has violated Policy 2-01 by engaging in prohibited conduct, these policies provide the mechanism for remedying the effects of the conduct and ensuring that it does not recur

Students may be subject to any possible sanction as outlined in the Student Code of Conduct policy

Employees may be subject to any possible discipline as outlined in the Disciplinary Action policy

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The Process

Part II Prohibited Conduct

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Kinds of Cases You May Investigate

- Title IX sexual harassment, Title IX sexual assault, Title IX stalking, or Title IX interpersonal violence
 - Involving students, employees, or a combination
- Quid Pro Quo harassment by employees

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Title IX Sexual Assault

As defined in the Clery Act, including any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

A. Fondling—The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

B. Incest—Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

C. Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

D. Statutory Rape—Sexual intercourse with a person who is under the statutory age of consent.

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[Valencia Policy 6Hx28:2-01](#)

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Title IX Interpersonal Violence

Includes the definitions of Domestic Violence and Dating Violence as defined in the Violence Against Women Act (VAWA)

Domestic Violence is a pattern of abusive behavior in a relationship that is used by one partner to maintain power and control over another current or former intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behavior that intimidates, manipulates, humiliates, isolates, frightens, terrorizes, coerces, threatens, hurts, injures, or wounds someone.

Dating Violence is violence and abuse committed by a person to exert power and control over a current or former dating partner. Dating violence often involves a pattern of escalating violence and abuse over a period of time. Dating violence covers a variety of actions and can include physical abuse, physiological and emotional abuse, and sexual abuse. It can also include “digital abuse”, the use of technology, such as smartphones, the internet, or social media, to intimidate, harass, threaten, or isolate a victim.

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[Valencia Policy 6Hx28:2-01](#)

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Title IX Stalking

As defined in the Violence Against Women Act (VAWA), stalking is a pattern of repeated and unwanted attention, harassment, contact, or any other course of conduct directed at a specific person that would cause a reasonable person to feel fear. Stalking is dangerous and can often cause severe and long-lasting emotional and psychological harm to victims. Stalking often escalates over time and can lead to domestic violence, sexual assault, and even homicide. Stalking can include frightening communications, direct or indirect threats, and harassing a victim through the internet.

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[Valencia Policy 6Hx28:2-01](#)

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Title IX Sexual Harassment

Misconduct based on sex that is severe and pervasive and objectively offensive conduct, effectively denying a person equal educational access, and/or an employee conditioning the provision of an aid, benefit, or service to a student on the basis of participation in Title IX Sexual Misconduct.

***This is not the same definition of sexual harassment utilized in Title VII cases or in Florida's anti-discrimination laws.*

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[Valencia Policy 6Hx28:2-01](#)

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The Process

Part III Investigator Role

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What Does an Investigator Do?

- Interview Complainants, Respondents, and witnesses
- Gather and review relevant evidence
- Create Investigation Report summarizing the facts gathered during the investigation
- Determine whether a policy violation *may* have occurred

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What Doesn't an Investigator Do?

- Represent or advocate for any party or any position in the proceeding
- Determine a finding of responsibility for any college policy
- Determine the sanction for a finding of responsibility

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Do You Have a Conflict of Interest?

Everyone involved in a Title IX investigation must support an objective evaluation of the evidence.

Objectivity includes the absence of any personal or professional interest that affects your ability to be fair and impartial to all parties in the investigation and that actually affects the outcome of the proceeding.

Before you serve as an Investigator, you must ensure that you do not have a Conflict of Interest.

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Things That Could Be A Conflict of Interest

- A family relationship with the parties, their advisors, or anyone who may serve as a witness in the investigation
- A personal relationship with a party, an advisor, or a witness that leads you to give that individual advantage or disadvantage in the investigation
- A business relationship with the parties, their advisors, or anyone who may serve as a witness in the investigation

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Things That Could Be A Conflict of Interest

- Giving any financial assistance or gifts to a party or a witness in the investigation
- Receipt of any financial assistance or gifts to a party of witness in the investigation
- Prior knowledge about a party outside of what is learned in the proceeding that bears on your analysis
 - Only if knowledge exists outside of the scope of the Investigator's role at the College

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Conflict of Interest

- If you think you may have a conflict of interest, advise the Title IX Coordinator immediately
- Parties may raise conflicts of interest as a basis for appealing final decisions

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General Ethical Considerations

Beyond conflicts of interest, an investigator must approach their service impartially and without any prejudgment

You must set aside impressions or biases you have from movies, TV, news, other cases in which you have been involved, and personal opinions

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Ethical Considerations

DO NOT: Rely on sex stereotypes

“Women are manipulative and they lie.”

“Real men are aggressive.”

“A lady wouldn’t put herself in that position.”

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Ethical Considerations

DO NOT: Make credibility determinations based solely on the sex or gender of a party

“I’m going to believe the woman because women have been ignored for too long in other cases and we need to balance things.”

“He was a boy scout so he is a man of honor, even though her version of events seems plausible.”

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Ethical Considerations

DO NOT: Make credibility determinations based solely on a person's status as a reporting or responding party in a matter

“Anyone who would file a complaint about something like this is crazy.”

“If this woman would go so far as to file a formal complaint, then he must have done it.”

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Ethical Considerations

DO: Approach the investigation with an open mind and without any preconceived notions

Look at every decision you make as an objective evaluation of the facts and policies

Treat every participant and witness with respect

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The Process

Part IV Nuts & Bolts

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Formal Complaint

In circumstances when a Complainant wishes the College to take action under this policy, they must submit a formal, written complaint.

The formal complaint is a document submitted by the Complainant alleging Title IX Sexual Misconduct under College policy and indicates a request by the Complainant that the College investigate the allegations.

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Formal Complaint

Formal complaints will be investigated unless:

- The allegations in a formal complaint do not meet the definition under Title IX Sexual Misconduct under the policy or did not occur within the College's Educational Program or Activity
- The Complainant withdraws the request to investigate
- The Respondent is no longer enrolled or employed by the College

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Written Notice

After receipt of a formal complaint and determination to proceed under the Title IX procedures based on the information provided in the formal complaint, the Title IX Coordinator (or designee) will provide written notice to the Complainant and Respondent. This notice will be provided before any initial interview is conducted with the Respondent to include, and not limited to, the following:

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Written Notice

- Indication that the College's process does not discriminate against a Complainant or Respondent on the basis of sex;
- A link to applicable college policies;
- Information regarding the opportunity for informal resolution;
- Key details of allegations;
- A statement that the Respondent is not presumed responsible until a final determination is made under the College's process;
- Information regarding the role of a Title IX Advisor in the process, and the College's ability to provide a Title IX Advisor to a Complainant or Respondent at their request;
- An opportunity to review evidence as part of the investigation and hearing process; and
- Information prohibiting false information as part of the College's review.

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Investigation

After receipt of a formal complaint and determination to proceed under the Title IX procedures based on the information provided in the formal complaint, the investigator will:

- Meet with the Complainant and Respondent with their chosen Advisors and any reported witnesses
- Gather any evidence provided by involved parties
- Create an investigation report outlining the information provided in the course of the investigation

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Investigation

- Investigators will provide advance written notice to Complainants and Respondents in advance of any subsequent interviews, meetings, or requests for meetings.
- Both the Complainant and Respondent may select a Title IX Advisor to participate
 - The Title IX Advisor may be an attorney.
 - The College will provide a Title IX Advisor upon request to a Complainant or Respondent, at no cost.

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Investigation Evidence

Upon review of all information gathered the investigator will provide via electronic or hard copy format, to the Complainant and Respondent and their respective Title IX Advisors, all evidence directly related to the allegations with at least ten (10) College business days to inspect, review, and respond.

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Investigation Final Report

After the ten (10) College business day review period has passed, and upon review of any written response from the Complainant and/or Respondent, the investigator will provide a final investigation report to the Complainant and Respondent and their respective Title IX Advisors summarizing all relevant evidence. This investigation report will be provided to both the Complainant and Respondent and each will be given ten (10) College business days to provide a written response to the investigator.

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Investigation Final Report

The final investigation report will include:

- Summary of allegations
- Timeline of events
- Summary of meetings with parties and witnesses
- Any evidence provided by the parties
- Analysis of information provided

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Investigation Questions Presented

- Did the prohibited conduct occur as alleged?
- If the conduct did occur, could that conduct violate the College's policy?

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Investigation Ground Rules

- 1) Begin with the presumption that the respondent is *not responsible* for a violation of college policy
- 2) In sexual assault cases, information that would be prohibited under Rape Shield laws (evidence of the reporting party's prior sexual history with people other than the responding party) should not be permitted
- 3) Advisors may ask questions, but may not make statements or speeches

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Investigation Analysis

Go back to the questions presented:

- Is there a preponderance of evidence to suggest the prohibited conduct occurred as alleged?
- If the conduct did occur, could that conduct violate the College's policy?

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Investigation Final Report

After the ten (10) College business days have passed for both the Complainant and Respondent to have reviewed the final investigation report, the investigator will forward the final investigation report to the Title IX Coordinator.

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Questions?