



Assigning Sanctions: Title IX Sexual Harassment

SMB Training

November 11, 2022



Goals for today:

- Define Title IX sexual harassment
- Discuss sanctions role of the SMB
- Explore sanctioning considerations
- Address bias and conflict of interest

Important reminders:

- The content for today addresses topics that may be triggering/retraumatizing – please take care of yourselves
- Discussion of severity is not intended to minimize impact or experiences
- Isolating variables allows us to consider them – this does not lead to universal outcomes

Primary considerations for sanctions

Disciplinary sanctions should:

- Be proportionate to the severity of the policy-violating behavior
- Be proportionate to the respondent's conduct record (if any)
- Have a relationship to the misconduct
- Have a rationale for deviations from past/similar cases

Stop the misconduct, prevent its recurrence, remedy its effects

Possible sanctions

Range and examples are listed in the grievance procedures and J Board materials

- Status sanctions
 - *Durational or non-durational*
- Other sanctions
 - *May also be durational or non-durational, and may be in relationship to status sanctions*

Or processes are educational in nature and some sanctions may be more or less likely to be perceived as educational or punitive

Factors to consider when individualizing sanctions:

- Severity and egregiousness of the behavior
- Cumulative violations
- Prior violations of policy
- Patterns of prior violations
- The Complainant
- The Respondent

Separating policy violation decision -while arriving upon individualized sanctions

Title IX Sexual Harassment

- Conduct on the basis of sex that constitutes:
 - An employee of the college conditioning the provision of an aid, benefit, or service of the college on an individual's participation in unwelcome sexual conduct;
 - 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 recipient's education program or activity; or
 - Sexual assault, dating violence, domestic violence, or stalking.



Title IX Sexual Harassment

- Sexual assault
 - An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.
 - Forcible sex offense: Any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent.
 - Nonforcible sex offense: Unlawful, nonforcible sexual intercourse.



Title IX Sexual Harassment

- Dating violence
 - Violence committed by a person:
 - (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - (B) where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - (i) The length of the relationship.
 - (ii) The type of relationship.
 - (iii) The frequency of interaction between the persons involved in the relationship.



Title IX Sexual Harassment

- Domestic violence
 - Includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Oregon receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Oregon (ORS §135.230).



**Title IX
Sexual
Harassment**

- Stalking
 - Engaging in a course of conduct directed at a specific person that would cause a Reasonable Person to:
 - (A) fear for their safety or the safety of others; or
 - (B) suffer substantial emotional distress.



- Within a college program or activity
- Against a person within the United States

Title IX
Sexual
Harassment



The Sanctioning Phase:

- Sanctions are assigned after, *and separate from*, determinations of policy violation
- In Title IX cases, SMB members will consult with the VPSL's designee on sanctions

Demeanor, bias, and trauma

- The responsibility to sanction free from conflict of interest or bias
- Examining implicit bias
- Do not expect students to appear with a particular set of emotions, appearances, or ways of interacting during the hearing

- The separation of policy violation and sanctioning



Questions?

Thank you!