



## TITLE IX IN THE COVID AGE

As your campus community works to navigate the unique challenges presented by COVID-19, you may be wondering about meeting your campus Title IX responsibilities. Please remember, first and foremost, that a commitment to create and maintain a safe and non-discriminatory learning, living, and working environment, free of sex and gender-based discrimination, remains your mission. This mission does not change, even though students and campus community members may no longer be physically located on campus.

While continuing in your mission, though, you will likely need to make adjustments to your typical processes to adapt to the challenging environment created by the global pandemic. While doing so, it may be helpful to keep the following information in mind:

- Though fewer students and community members remain on campus, Responsible Employee/Mandatory Reporter designations remain in effect. Such employees are still required to report all known instances of prohibited conduct in accordance with your campus policies.
- If you receive a Title IX report, continue to prioritize student health and safety. If a student is outside of your jurisdiction, or they are otherwise unable to access campus or community resources, connect them to resources for care, support, and safety (including options for reporting to law enforcement) where they are located. Consider whether you are able to issue any safety measures, including No Contact Directives, even while students are away from campus. Inquire as to whether the student is able to access and participate in their academic coursework. Ensure that there is no safety risk posed to the greater campus community or whether such risk may need to be addressed prior to students returning to campus (such as housing relocation).
- Each institution must balance the charge of conducting a thorough and unbiased investigation with providing a fair and equitable process. Your campus may be grappling with whether delaying an investigation places an undue burden on a Complainant, while also considering whether moving forward with an investigation places an undue burden on a Respondent. Explore whether your office has the staffing and technological ability to move your investigative or disciplinary process online while still generally complying with your standard processes.
  - For example, Zoom video conferencing meetings may be used for interview meetings as well as hearing adjudication. Zoom video conferencing allows for the following:



- Multiple participants in a single meeting, meaning individuals may have an advisor or support person present during meeting while also adhering to current social distancing recommendations. While there are few alternatives equal to an in-person meeting, video conferencing may offer participants a level of a normalcy. It allows the parties to see each other, and also allows the interviewer to observe the other party's nonverbal cues.
  - Zoom allows you to share your screen, meaning you can show importance documents to the members in the meeting. This may include rights or process sheets, or other documents generally reviewed during your investigatory or disciplinary process.
  - Zoom allows whole-group chat, or direct one-on-one chatting between participants. This means a person can directly chat with another, for example a support person or advisor, privately in the middle of the interview.
  - If your institution requires meetings or hearings be recorded, Zoom provides that function.
  - As with any software platform, be sure to review the platform to ensure it meets your privacy needs. If using Zoom, schedule meetings using the password feature, thus preventing unintended participants from joining the meeting. Meeting hosts also have the ability to utilize a "waiting room" feature, allowing the host to review participants before starting the meeting. Be mindful of information you send through the chat feature, as certain meeting settings may allow the meeting host to download or access the messages sent between participants.
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- Witness interviews may be completed by phone.
  - Review your ability to make forms into fillable PDFs. Can your office accept electronic signatures for students who are unable to print or scan paper copies?

If you can move forward with your process while ensuring fairness and a thorough investigation, do so. If certain challenges arise, for example, a student who is personally impacted by COVID-19 and temporarily unavailable to participate in your process, allow for a time extension where reasonable. Document any reasons for delay and communicate them to your participants. Remember that Title IX is focused on providing access to education, and where a student is safe and able to access their coursework,



you are halfway there in meeting your mission. Complete the investigation in as timely a fashion as is possible in these unpredictable circumstances.

Finally, while it's hard to predict specific Title IX trends in this new climate, the possibility of an increase in electronic stalking and relationship violence may be seen as a result the of stay-at-home orders. If you participate in prevention work or public awareness campaigns for your campus community, consider social media posts educating students about electronic stalking, healthy relationships, and resources for reporting if they find themselves in an unsafe situation.

*Please note that this information is provided as general guidance for examining your current framework for addressing Title IX concerns in your community. It is not intended as legal advice. Please contact your specific campus administration or general counsel's office with specific concerns related to your unique campus policies*