

Title IX Advisor Training

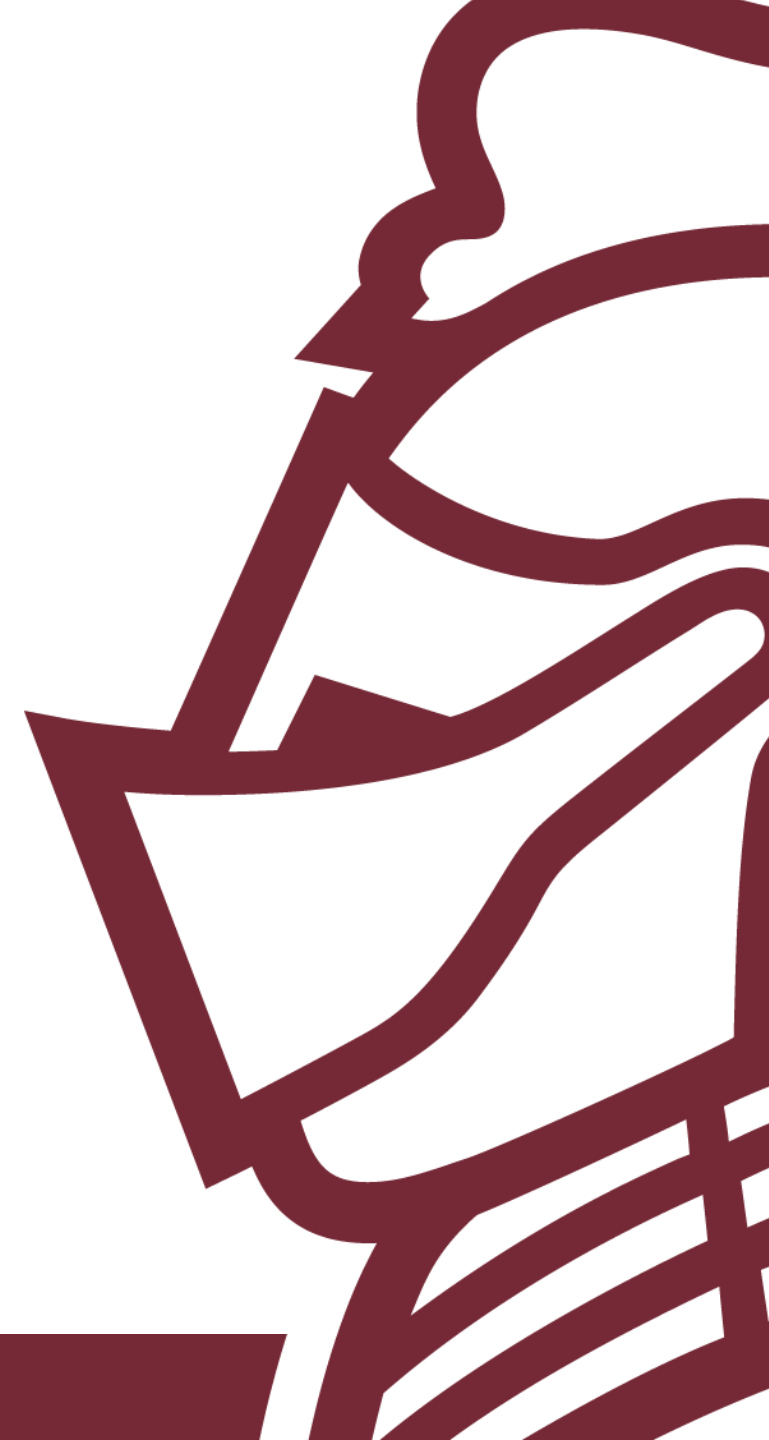
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Content Advisory

This training will address difficult topics including sexual violence, harassment, and discrimination. The content may be triggering and you are welcome to take a break if needed.

Offensive or graphic language, including slang and profanity, may be used to illustrate issues and scenarios that arise in the Title IX realm.



Title IX: From 37 Words to Hundreds of Pages

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 Team Roles

- Chief Title IX Officer/Title IX Coordinator
- Deputy Title IX Coordinators
- Investigators
- Hearing Officers/Decision-Makers
- Appeal Officers
- Alternate Resolution Facilitators
- Advisors



Title IX Overview

Bellarmino's Sexual Discrimination and Misconduct Policy prohibits:

- Discrimination on the basis of sex, sexual orientation, gender identity, pregnancy/parenting status
- Sexual harassment
- Sexual assault
- Domestic/Dating violence
- Stalking
- Sexual exploitation



Right to Advisor

- Parties in Title IX cases are entitled to an advisor during all Title IX case-related activities, including interviews, meetings, and the hearing.
- Advisor of choice
 - Does not have to be an attorney, but can be
 - Any adult
 - Credibility issues if also a witness
 - No training requirement
- Institution-appointed advisors
 - Must be trained



Advisor's Role, Generally

- Accompany advisee to meetings and explain the process
- Help navigating strategic decisions, including whether to request an Informal Resolution
- Prepare advisees for responding to questions
- Assist advisees with accessing resources and services
- Help advisee review and comment on collected evidence
- Help advisee prepare for the hearing
- Assist advisee with appealing a decision if necessary



Trauma-Informed and Culturally Competent Practices

- Trauma responses vary
- Your language matters
 - Don't dictate someone else's experience
- We are all here to support students



Title IX Report Intake and Response

The Title IX Office receives reports from mandatory reporters, friends, peers, and directly from students and employees.

Chief Title IX Officer or Deputy will email the student or employee impacted by the alleged conduct. This email will include resources and an invitation to meet.

They are not obligated to meet, but if they choose to do so the meeting can take place over Teams or in person. They can bring a friend or support person with them.

Immediate safety concerns are addressed. Resources will be provided. Resolution options will be discussed (if they are ready). A follow up email will be sent with a summary of discussion, resources, and resolution options.

Follow up / Check in



Resolution Options

Supportive Measures

- Academic adjustments
- Change to room/residence hall assignment
- Security escort, other safety planning
- No contact order
- Campus ban
- Referral to support services
- Assistance reporting to law enforcement or seeking order of protection

Formal Complaint Filed

1. Alternative Resolution
2. Formal Grievance Process



Jurisdiction

- Title IX applies to applicable behavior that is perpetrated against someone who is participating in or attempting to participate in the University's educational program or activity in the United States.
- Educational program or activity means locations, event, or circumstances over which the University exercises **substantial control**.
- Assessment is completed by CTIXO when a formal complaint is filed, prior to a NOIA being issued.
- Complaints must be dismissed when the alleged conduct would not constitute a qualifying act or the conduct does not fall within Title IX's jurisdiction.

Can be referred to other processes for resolution.



General Definitions

- Consent: permission that is clear, knowing, voluntary, and expressed prior to engaging in and during a sexual act.
- Education program or activity: locations, events, or circumstances where Bellarmine University exercises substantial control over both the Respondent and the context in which the sexual harassment or discrimination occurs and also includes any building owned or controlled by a student organization that is officially recognized by Bellarmine University.
- Official with authority: an employee of Bellarmine University explicitly vested with the responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of Bellarmine University.
- Retaliation



Sexual Harassment Definitions

- Quid Pro Quo: An employee conditioning University educational benefits, aids, or services on participation in unwelcome sexual conduct
- Unwelcome Conduct: Conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity
 - If true, is it SPOO?
 - Reasonable person standard
 - “Severe” is based on the circumstances.
 - Physical or verbal?
 - Ability for Complainant to escape
 - Threats, embarrassment, humiliation?
 - “Pervasive” is also circumstantial.
 - Widespread, open, public
 - Reputation
 - Frequency, intensity, regularity, and duration of conduct
 - Unreasonable interference with school or job
- “Objectively offensive” is something you know when you see.



Sexual Assault Definitions (Forcible)

- Forcible sexual acts directed toward another person without their consent. These include:
- **Rape (includes former definitions of sexual assault with an object, sodomy)**
- **Sexual Contact (formerly known as fondling)**



Sexual Assault Definitions (Non-forcible)

- Non-forcible sexual acts directed toward another person without their consent. These include:
- **Incest**
- **Statutory Rape**
- **Dating Violence**
- **Domestic Violence**
- **Stalking**



Formal Grievance Process





Advisor's Role During Initial Stages

- Advisors may attend any meetings with their advisee, but it is not required that an Advisor be present.
- Advisors can work with advisees to understand the allegations or help frame an argument for dismissal or appeal of a dismissal



Advisor's Role During Investigation

- Advisors may attend any interview with their advisee
- Role is limited to interacting with the advisee during an interview
- Must take a break to speak privately with advisee, but should try to not be disruptive
- Investigator may set boundaries at the outset of an interview regarding when the advisor may speak to the investigator and what is/is not appropriate
- Directly Related Evidence Review Period
- Investigation Report



Preparing Advisees for Interviews

- Warnings
 - Inconsistent statements
 - Declining to participate
 - Personal questions
- Comfort plan
- Draft a timeline
- Preserve evidence and create explanatory documents
 - Records outside of the university
- Create a witness list
- Mock interview



Advisors Role After the Investigation

- Pre-Hearing Conference:
 - Questions about hearing process
 - Clarify expectations regarding decorum and roles
 - Identify witnesses whose testimony is desired
 - Identify whether a party intends to testify
 - Submit questions for determinations of relevancy
 - Identify any biases or conflicts
- Strategize for Hearing



Advisor's Role at the Hearing

- Live hearings are required, but may occur virtually
- Each party's Advisor must have the opportunity to ask questions of other parties and witnesses, including follow-up questions and questions regarding credibility
- Advisor as witness
- Questions must be relevant
- Evidence is relevant if it has a tendency to make a fact more or less probable than it would be without the evidence and the fact is of consequence in making a determination
- Prior sexual behavior or predisposition is not relevant unless it is offered to prove someone other than the Respondent committed the alleged act; or it concerns sexual behavior between the parties and is offered to prove consent



Questioning & Cross-Examination

- Parties may never question other parties or witnesses
- Hearing Officer will make a relevancy determination for each question
- If a question is deemed irrelevant, the Hearing Officer must explain why that decision was made.
- If a party or witness does not appear at the hearing, the Hearing Officer may rely on the individual's earlier statements and assess their credibility and weight based on the totality of the information provided.
- Hearing Officers cannot draw an inference about the responsibility determination based solely on a party's or witness's absence from the live hearing or refusal to answer some questions.



Questioning & Cross-Examination

- Your advisee may choose to appear or not to appear; or to answer all questions, or only some questions.
- If our advisee will rely on another witness's testimony, you should try to ensure the witness attends the hearing.
- Ask direct questions and do not try to use intimidation tactics.
- Pause briefly after each question to allow the Hearing Officer an opportunity to assess relevancy.
- Prepare questions with the assistance of your advisee and the report and evidence made available to you.
- Expect that the Hearing Officer may ask questions and you should avoid asking something that has already been discussed.



Questioning & Cross-Examination

- Be prepared to answer questions of relevancy.
- Be supportive while your advisee is testifying.
 - Ask for a break if needed;
 - Request that a question not be allowed;
 - Watch for inconsistencies and help them correct their statements.
- You do not have to cross-examine a party or witness if the advisee decides that they do not wish for that to occur.
- If you refuse to conduct necessary cross-examination, you will be replaced.
- Hearing Officer may rephrase your question or ask you to rephrase
- Leading questions for hostile/adverse witnesses
- Open-ended questions for friendly witnesses
- Questions you don't know the answer to



Advisor's Role in Appeals

- Institution-appointed advisors are not required to assist in appeals.
- Remind advisee of deadlines and bases for appeal
- Assist advisee in appealing decision or writing a statement of support if the other party appeals.
- Appeals do not involve any live interaction or hearings. Everything is conducted via written statements.



Considerations

- Do you have a bias that may impede your ability to represent the advisee?
- Are you comfortable identifying inappropriate actions of your colleagues?
- Responsibility
- Personality
- Potential to be called as a witness
- Bandwidth
- Subject matter



Support for Advisees

- Counseling Center
- Campus Ministry
- Center for Women and Families
- DOS and Title IX Office
- Health Services
- Public Safety

Questions?

