Policy on Sexual and Gender-Based Misconduct

HRCG Meeting

February 11, 2022
IROs

- IROs have reporting obligations with respect to information they learn in the scope of employment
  - Entire employment - not limited to information learned in the role that makes them an IRO

- All are encouraged to report even when not required to do so
IROs: Scope of Employment

- Officials with Authority - every second of every day in every place including personal time/setting
  - No exemptions
- Student employees: when they are actually at work
  - RAs: information learned from or about resident in their hall
  - Exempt disclosures
- Other IROs: in for a penny, in for a pound in professional context (not personal)
  - Exempt disclosures
Exempt Disclosures

- Sexual misconduct awareness events
- Classroom/academic assignment
- IRB research
- Peer support group organized and offered by a confidential resource, when IRO is a member of the peer support group

*TIXC has discretion to identify programs/events as exempt from IRO obligations

*******NO EXEMPTIONS FOR OFFICIALS WITH AUTHORITY*******
Title IX Legal Update

• **Regulations:** If a party or witness does not submit to cross-examination, the Hearing Officer cannot rely on any statement by that party/witness in reaching a determination regarding responsibility (CFR 106.45(b)(6)(i))

• **Massachusetts federal district court:** vacated that particular provision only (arbitrary and capricious) and remanded to ED for further consideration
  – *Victim Rights Law Center et. al. v. Cardona*
Title IX Legal Update

• Department of Ed: 8/24/2021 guidance letter
  – Ceasing enforcement of that provision

• UM 10/1/2021 Student Procedures and Employee Procedures reflect this change

• Hearing Officer may now consider (if relevant):
  – Statements during investigation
  – Emails, texts, etc.,
  – Statements about the alleged conduct
  – Police report, SANE records, etc.,
Changes to Employee Procedures

- Adaptable Resolution pilot
- Appeals in all SGBM investigations
- Consideration of statements without cross
Intake: Equity Specialists

• Report comes in, is assigned to an Equity Specialist and Investigator
• Equity Specialist sends Complainant outreach, report receipt confirmation, and any other follow up with reporter
• Equity Specialist may do some initial information-gathering that is useful for responding to the concern but not investigative in nature
Initial Complainant Meeting: Equity Specialist

- No initial action needed by Investigator
- If Complainant does not respond, Equity Specialist will be responsible for follow-up outreaches, communicating with TIXC for closure or other steps
- If Complainant responds the initial meeting will be with the Equity Specialist, ideally scheduled for a time Investigator can also be available for questions or interview
Adaptable Resolution

- Voluntary, agreed upon by both parties
- Approved by Title IX Coordinator
- Never available when Complainant is student and Respondent is employee
- Non-disciplinary in nature
- Focus is on acknowledging and repairing harm
- Not appropriate in all cases
Deputy Coordinator for Civil Rights and Title IX

Outcomes

• Coordinating phase transitions in both Student, Employee SGBM and Employee TIXM processes
• Hearing Cases:
  – Investigator connects parties to DCCRTIXO at final report stage
  – Distribution of final report
  – Coordination/oversight of scheduling pre-hearing meetings and hearing
  – Available during hearing times as first line for hearing officer issues
  – Coordinating review of hearing outcomes, distribution for sanctioning determinations, simultaneous distribution to parties
  – Coordinating appeals process and follow-up thereafter
  – Identification of possible other remedies/interventions
  – Monitoring sanction completion in both student and employee cases
Deputy Coordinator for Civil Rights and Title IX Outcomes

- Non-hearing Cases:
  - Investigator connects campus partners with DCCRTIXO in pre-report meeting
  - Investigator connects campus partners with DCCRTIXO alongside final report distribution
  - Coordination of sanction and remedy determination
  - Coordination of simultaneous distribution to parties of sanctions/corrective action
  - Coordinating appeals process and follow-up thereafter
  - Identification of other possible remedies/interventions
  - Monitoring sanction completion in both student and employee cases