

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