





REPORTING OBLIGATIONS (CONT.)

WHEN IN DOUBT, REPORT.

If alleged action does not meet the definitions and requirements of Title IX, it may be covered by another Conduct Policy, and can still be addressed by the school.

Most schools maintain their commitments to academic freedom but note academic freedom does not allow any form of Sexual Harassment.

If not designated as a Confidential Resource, cannot promise confidentiality.

Privacy and Disclosure: "Except as may be permitted by law, the Department of Education will not disclose information received from a Confidential Resource to any other person, including the alleged victim, without the prior written consent of the Confidential Resource." 2019-2020



**INSTITUTIONAL RESPONSE (CONT).**

**TIX Retaliation** "means (1) any adverse action (including direct and indirect intimidation, threats, coercion, discrimination, or harassment (including charges for conduct violations that do not involve sex discrimination or harassment or Sexual Harassment but arising out of the same facts or circumstances as a report or complaint of sex discrimination or harassment or a report or Formal Complaint of Sexual Harassment), and (2) threatened or taken against a person (a) for the purpose of interfering with any right or privilege secured by Title IX, or (b) because the person has made a report or Formal Complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing related to Title IX."

Retaliation does not include (1) the exercise of rights protected under the First Amendment, (2) charging an individual with making a materially false statement in bad faith in the course of a grievance proceeding (provided, however, that a determination regarding responsibility alone is not sufficient to conclude that an individual made a materially false statement in bad faith), or (3) good faith actions lawfully pursued in response to a report of prohibited conduct.



**DO NOT**




**(VERY SHORT ON PURPOSE)  
PREVIEW OF UPCOMING FINAL TITLE IX RULE**

New regulations *may* include:

- Changes to prohibited conduct definitions
- Expansion of conduct (and location of conduct) that would require institutional response under TIX
- Significant changes to grievance procedure requirements
- Clarification regarding retaliation
- Expansion of pregnancy related protections
- Expansion of TIX coordinator responsibilities

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**A UNIQUE AND IMPORTANT WINDOW OF OPPORTUNITY!**

Since 2011, much (most? almost all?) TIX team train0Tc@007C5.64N609Ta



***NOT THE CENTRAL PURPOSE OF FORMAL RESOLUTION***

\* Yellow = important but ancillary/supporting, not central purpose of formal resolution

\* Red = total (+ problematic) miss

Treating the parties with fairness and respect  
Conducting a thorough investigation  
Holding a compliant and effective hearing  
Providing appropriately robust appeal rights

Determining whether the Respondent did something that the decision maker (or other team member) personally deems wrong or punishable  
Determining whether the Respondent committed a violation based on a



**WHAT CARRYING OUT THE ACTUAL CENTRAL PURPOSE REQUIRES AND CAN'T DO WITHOUT**

an intensely in depth understanding and dissection of the specific prohibited conduct definition in question, including each of its specific elements; and  
a methodical application of the facts and evidence *to that specific definition (and only that specific definition) and each of its specific elements (and only those specific elements)* (near surgical exercise)

**EVCEI**







**HYPOTHETICAL FACTS AND APPLICATION EXERCISE**


Jan and John both 18 year old first year students  
In dating relationship during first semester


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**QUESTION**

Thank You

**ANY QUESTIONS?**

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