


Title IX Coordinator Training

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EHC
Campus and Workplace Solutions

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Agenda

- 1 Brief overview
- 2 Legal Refresher
- 3 Coordinator skills
- 4 Role of the Title IX Coordinator- New Regulations
- 5 Role of the Title IX Coordinator- Building a Title IX Compliance Program




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Section 1


Brief Overview



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But first, some scenarios!

- Complaints against employee
- Complaints against student



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Title IX- What the Coordinator is Required to Do

- Manage an institution's compliance with Title IX
Sexual harassment, pregnancy, employment, athletics
- Dissemination of policy (notice and training)
- Grievance procedures
- Manage complaints, manage investigations, and provide supportive measures
- Monitor, track, and assess cases and trends



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Section 2

Quick Legal Refresher



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Title IX- what it covers

What does the school pay for or enable?

- employees, students
- academics, admissions
- employment, benefits, opportunities
- extra-curriculars
- the ability to engage in what the school has to offer
- on-campus, off-campus with some caveats
- athletics
- discipline
- scholarships



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Assess: What are Your Action Areas?

- Sexual Harassment (Title IX definition)
- Athletics
- Pregnancy and Parenting
- Employment
- Scholarships?



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What the Regulations Mean for Institutions

- Due process focus
"Presumption of innocence"
- Notice notice notice notice notice notice
- Narrow and focused involvement by OCR/DOE, *but think Clery a bit here....*
- More legality to proceedings
- Training
- Mandatory advisors- schools provide
- More time for evidence review (10 days) and report review (10 days)
- Informal option
- Mandatory reporters changed
- Documentation & record-keeping
- More information out there
reports and ALL evidence provided to parties
- POLICY changes and creation

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Who are the Compliance Stakeholders?

We will discuss further...

- HR (employee matters AND the notice to employees and job applicants)
- Student catalog and handbook folks
- Title IX
- EEO/Institutional Equity
- Communications/ Marketing
- IT
- Student conduct
- Academics
- Counseling
- Admissions
- Athletics
- Residential life
- Other student affairs offices


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Section 4

Coordinator Skills and Abilities



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Essential Skills of a Coordinator



Calm



Logical



Ethical



Neutral




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Neutrality and Demeanor

- Do not take sides. Neither pro-complainant nor pro-respondent
- Manage bias.
- Do not seek a particular outcome
- Be kind, but do not try to please people
- The role is to address concerns and complaints with empathy and kindness, but not serve as a therapist
- What is a presumption of “not responsible” and why does it matter?





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Words Matter

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Consistency

- Treat the same behavior the same way
- Treat everyone the same way unless the nature of the allegation differs
- Follow policy and process



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Your People and Your Community Matter

- This is a people business
- Your students and employees matter
- How do we ensure that we work to minimize negative impact?



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Putting a personal matter through a process...

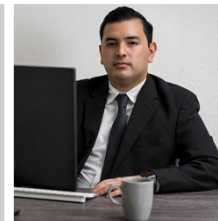


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ADVISORS



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Communication Considerations

Form, tone, frequency, length, detail....etc.



In person



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Communication Considerations

Form, tone, frequency, length, detail....etc.



Email or text



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Communication Considerations

Form, tone, frequency, length, detail....etc.



Written notices



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Task-management: What is on Your Plate?

And how can you get it done?

- Scheduling (meetings, hearings, etc.)
- Seeking support & building relationships
- Present & train
- Reviewing complaints and other compliance concerns or check ups
- Documentation
- Communications with parties



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Self-Care

- Do not personalize
- Take time to decompress
- Manage emotions



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Section 3

Role of the Coordinator: New Title IX Regulations



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Action Items for Title IX Coordinators Sexual Harassment Matters

- | | |
|----------------------------------------------------------------------|-----------------------|
| ① Notice of policy | ⑤ Investigation |
| ② Understanding scope of policy and assessing complaints/information | ⑥ Hearing Process |
| ③ Response | ⑦ Notice of Outcome |
| ④ Notice of Formal Complaint
Appeal for dismissal | ⑧ Appeals |
| | ⑨ Informal Resolution |

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Managing Conflicts of Interest

CAUTION

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1) Notice notice notice

of the regulations and obligations, etc.

- Who gets notice?



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“Travel of
the case”

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2) Scope of Policy

- **Actual knowledge** means notice of SH or allegations of SH to a recipient's TIXC or any official of the recipient who has authority to institute corrective measures on behalf of the recipient.
- The mere ability or obligation to report sexual harassment does not qualify an employee, even if that employee is an official, as one who has authority to institute corrective measures on behalf of the school.

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106.30 Definitions- FORMAL COMPLAINT

- 1 alleging sexual harassment against a respondent,
- 2 about conduct within its educational program or activity,
- 3 requesting initiation of the school's grievance procedures, and
- 4 filed by a complainant at a time when they are participating or attempting to participate in the school's education program or activity.

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3) No formal complaint? Just a report?

- Recipient must offer and implement supportive measures designed to effectively restore or preserve the complainant's access to the recipients educational program or activity.
- At the same time it offers supportive measures, Recipient must inform complainant of the right to file a formal complaint at that time or a later date

Document decisions.

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What if the Person is not Sure What They Want?

- 1 Clarify purpose of the meeting. Why are they here?
Remind them of confidentiality limitations.
- 2 *If APPROPRIATE, gather enough information to determine what the nature of the allegations are*
- 3 Communicate and explain process, options, rights and next steps
- 4 End the meeting with a mutual understanding of what will happen next
- 5 Document what took place and next steps (are they seeking supportive measures? Accommodations?)
- 6 In some cases, send an APPROPRIATE email



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Dismissal

- MUST dismiss, as Title IX complaints, complaints that do not satisfy requirements of "Formal Complaint"
- MAY dismiss for other reasons such as request from complainant, respondent no longer at the school, or no ability to gather the information necessary, etc.
- NB: Appeal rights attach, however.

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106.30 Definitions: Supportive Measures- TIXC responsible

- Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to C and R before and after the filing of a formal complaint *or where no complaint has been filed*
- Such measures are designed to (1) restore or preserve access to the recipient's education program or activity, without unreasonably burdening the other party, (2) protect the safety of all parties and the recipient's educational environment, and (3) deter sexual harassment

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4) 106.45 Grievance Procedures- Notice of allegations

- Upon receipt of a *formal complaint*, school must provide the following written notice to the parties who are known:
 - A) Notice of the school's grievance procedures
 - B) Notice of the allegations constituting a potential violation of the school's code of conduct
 - including sufficient details known at the time and with sufficient time to prepare a response before any initial interview
 - SEE LIST OF WHAT MUST BE IN THE NOTICE**
 - Ongoing notice requirement when new allegations added to investigation



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5) Investigations

- Who investigates?
- Contents of report
- Working with investigators
- Working with external investigators

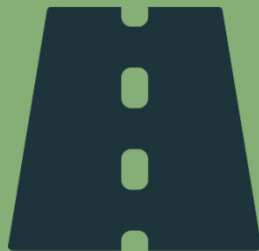


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“Travel of
the case”



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6) Hearing

- What happens at the hearing?
- Role of advisors
- Duty to assign advisor
- Preparing hearing officers
- Working with external hearing officers
- What if someone does not appear?
- What if a party does not have an advisor?



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7) Notice of Outcome

8. MUST BE IN YOUR DETERMINATION OF RESPONSIBILITY (NOTICE OF OUTCOME) (Section 106.45)

- Identification of the allegations potentially constituting sexual harassment as defined in 106.30
- Description of the procedural steps taken from receipt of the complaint through determination, including any **notifications** to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held.
- Findings of fact used to support the determination
- Conclusions regarding the application of the code of conduct to the facts
- Statement of, and rationale for:
 - the result as to each allegation, including a determination regarding responsibility,
 - any sanctions the recipient imposes on the respondent, and
 - any remedies provided by the recipient to the complainant designed to restore or preserve access to the program or activity.

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8) Appeals

- 1 Procedural irregularity
- 2 New evidence that was not reasonably available at the time of determination regarding responsibility or dismissal was made, that would affect the outcome of the matter
- 3 The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against parties generally or the individual party that affected the outcome of the matter
- 4 Other bases determined by the school, provided offered to both parties



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9) Informal Process

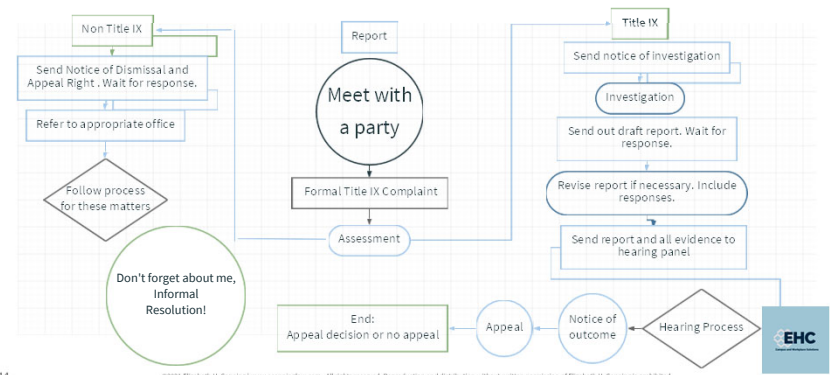
- **At ANY TIME prior to reaching a determination**
 - May include mediation
 - That does not involve full investigation and adjudication
- **MUST:**
- **Provide parties written notice disclosing Allegations**
 - Requirements of the informal resolution process incl. the circumstances under which it precludes parties from resuming a formal complaint arising from the same allegations
- **Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared**
- **Obtain parties' voluntary written consent**



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To get a sense of what is needed: create a flow chart

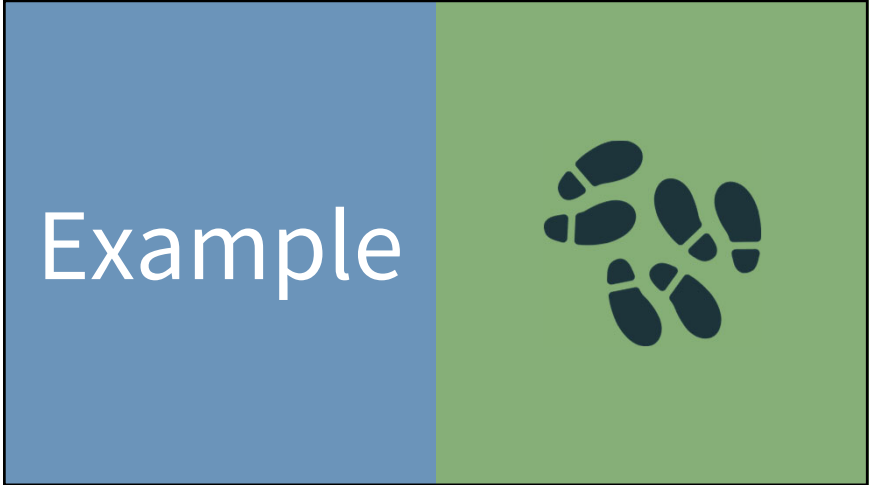


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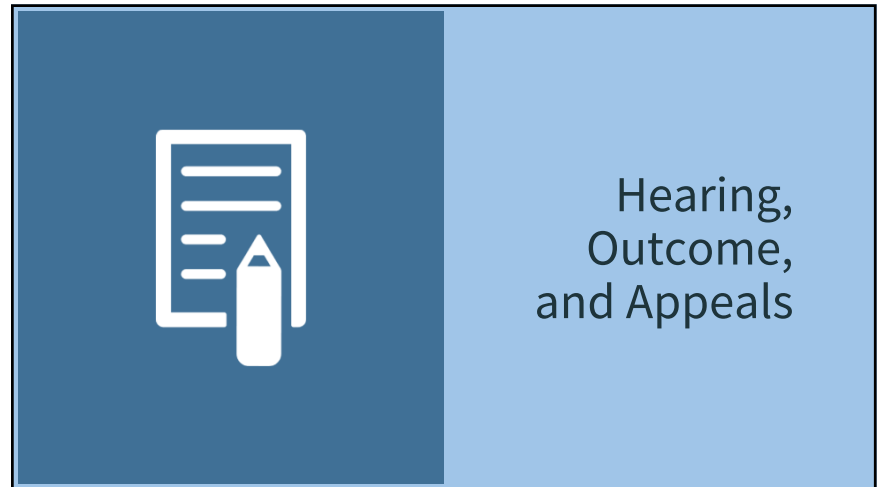
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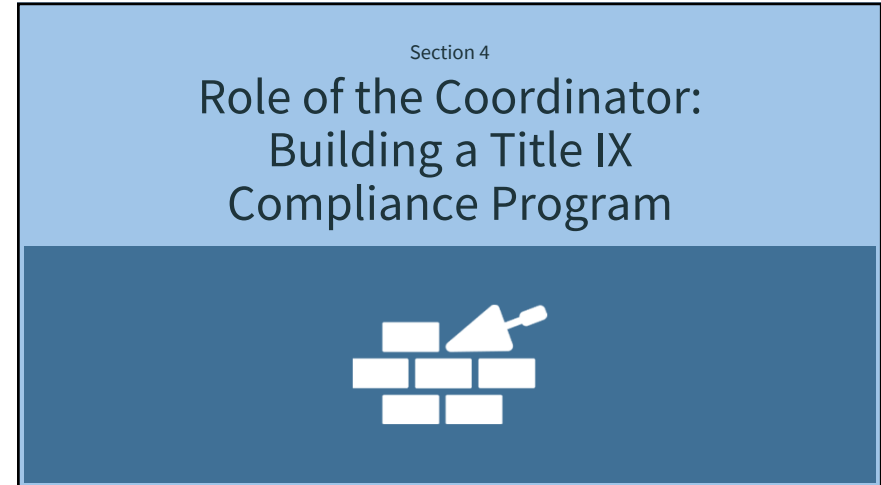
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It Looks Different on Each Campus,
but, Generally, the Coordinator...

- Works to ensure institution complies with Title IX
- Manages complaints
- Manages investigations
- Notices of outcome
- Interim measures and services



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And also...

- Athletics
- Pregnancy and parenting
- Admission
- Hiring



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And Also...

- Trains key stakeholders
- Trains All Employees
- Trains students
- Educational programming- don't forget Clery!



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And Also...

- Boards of Trustees
Keeping them informed
- Title IX and salary equity, job equity
Employees
- Policy and procedure revision and updates



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Day in the Life of a Title IX Coordinator

- Meet with complaining party and advisor
- Review other complaint and assess if it triggers policy. Contact complainant to see if they can meet to confirm they want to go forward.
- On other case, determine if an investigator is available. Call external/internal investigator to see if they can investigate. Write letter of investigation to each party. Redact complaint. Complete matching letters, send them out.
- Meet with academic dean to discuss how to work with pregnant students
- Run training for employees on the policy
- Meet with responding party to explain the complaint, their rights and options, etc.
- Receive anonymous complaint involving the school's famous coach
- Review investigation report and talk with investigator



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To Do List

- Policy and procedure
- Work with marketing and other stakeholders on dissemination of notice, etc.
- Develop form documents and communications
- Procedure checklist and case management checklist
- System to document decisions, supportive measures, etc.
- Determine staffing of roles
- Committees and deputies
- Make sure people are aware of policies and roles so there are no surprises
- Train other key stakeholders and front liners
- Prevention programming for students
- Prevention programming for employees
- Etc...



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ACTION! Categorized compliance efforts.

The diagram consists of five circular icons arranged in two rows. The top row contains 'Documents & Process' (document with pencil), 'Technology' (computer monitor), and 'Training' (person at podium). The bottom row contains 'People' (three people silhouettes) and 'Reviews/Assessments' (microscope). Each icon is labeled with its respective category name below it.

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Documents

Regulations require specific information. Put forms in place for easier compliance.

- **Policy and procedure**
Complaint form, policies and procedures
- **Notice of policy**
Job descriptions, applications, parents, students, employees, unions....
- **Supportive Measures**
Anytime. Document what was offered and how it complies with the standards under the regulations
- **Complaint intake and assessment**
Form to assess complaint; Notice to investigate or not to investigate; decisions on interim measures
- **Investigation reports**
Consistent regardless of investigator, with required information
- **Hearing (if held) & Informal Resolutions**
Forms to document how questions assessed; forms documenting decisions per regulations
- **Appeal**
Appeal assessment form; notice of decision; remember, this is for decision at the beginning as well as the end (two different form notices of decision)
- **Notices of investigation, meeting, hearing, case dismissal, outcome.**

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Documents, Ctd.

- **What about non-sexual harassment matters?**
Tracking and monitoring other Title IX compliance work

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Process Systems

- Meeting steps in process
- Providing structure, training and support for the investigation and hearing process
- Ensuring that notice is properly disseminated
- Annual revisions to policy
- Regular assessments of other compliance obligations

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Technology

- Case management system (students and employees)
- Learning management system or way to track employee attendance at trainings
- Recording hearing
- Systems/triggers for notice



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Training

- Specific for identified stakeholders
- Clarify roles and expectations
- Continue the training on policy with students and employees
- Put certain training on the web
- Do not forget Clery! Prevention programming!



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Staff/people

Understand how regulations impact staffing needs

- Hearing officers
- Advisors
- People to help with coordinating supportive measures
- Meetings with parties
- Preparing documentation
- Investigators
- Appeal officers
- Training and prevention programming
- Athletic compliance
- Academic compliance



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Do not forget about Clery!



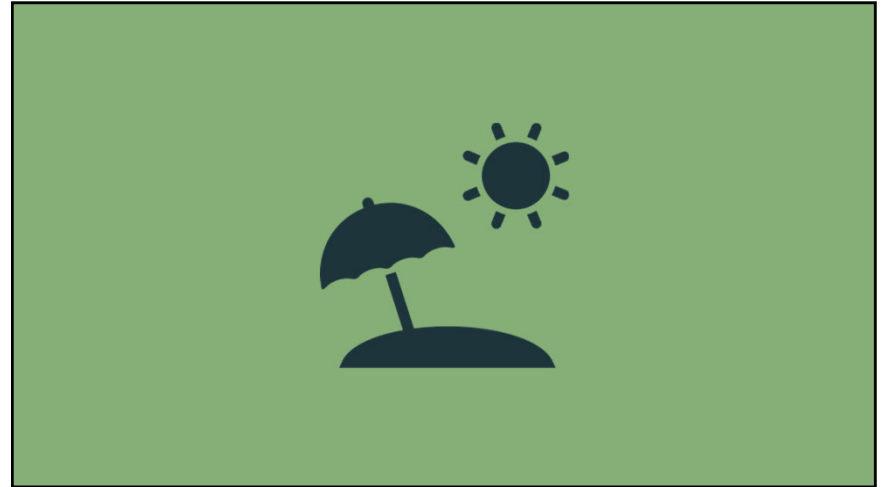
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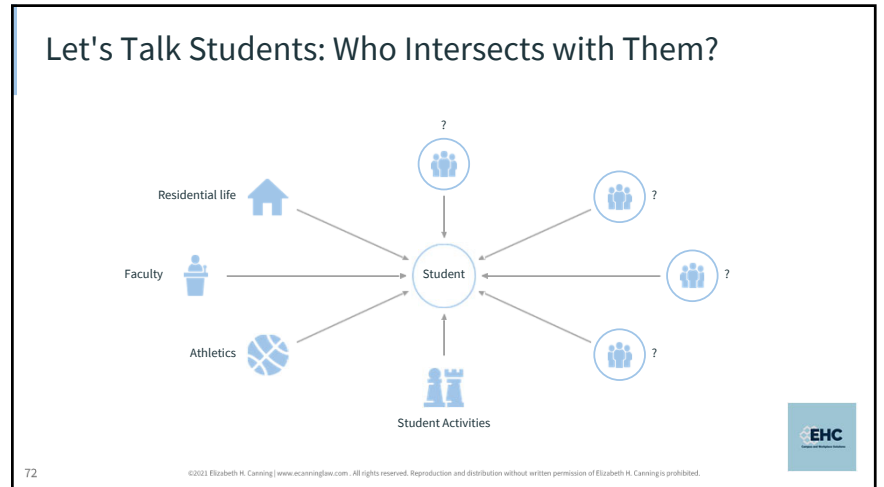
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Let's Talk Employees- Who Interacts with Employees?



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Working with Stakeholders



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What Challenges and Tensions Arise between Roles and People?

- Different responsibilities
- Different agendas
- Different job duties
- Different communication styles and training



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The HR Perspective

- Each role has value and is designed to perform a specific function
- Employees all work in furtherance of the school's mission




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Solutions...

- **Understand roles and differences in roles**
Recognize each position's role and duties
- **Specify ownership of certain Title IX responsibilities**
Make sure people understand what is expected.




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Solutions, continued

- **Find commonality**
Student success
Divisional goals
Community values, mission statement
Be open. Arrive from a curious place.
- **Understand Policy**
So much misunderstanding arises from attaching too firmly to what we think is true




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Exercise



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Getting Started



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What Will You Need and Need to Do?

- Policy and process
- Forms, form documents, checklists, spreadsheets
- Technology
- Roles appropriately staffed
- Stakeholders and compliance partners identified and ready
- Training for employees
- Programming for students
- Clear “launch” of your role and this work
 - with support from senior leadership
 - think about appropriate messaging to the community
 - authority to do the job



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Exercise



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Messaging to Your Community

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