

# Title IX Training



# What is Title IX?



- Title IX is a federal civil rights law passed as part of the Education Amendments of 1972. This law protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that:  
  
“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.”
- Sex discrimination harassment, assault, and violence are forms of prohibited discrimination under Title IX and are expressly prohibited by the United States Sports Academy.

# Title IX Final Rule



- On May 6, 2020, the U.S. Department of Education unveiled a Final Rule changing how colleges and universities must handle allegations of sexual misconduct, harassment, and assault under Title IX of the Education Amendments of 1972, effective as of August 14, 2020.
- Under the Final Rule, Title IX regulations recognize that sexual harassment, including sexual assault, is unlawful sex discrimination.
- With the new Administration, Title IX is again being reviewed and more changes are expected.

# Examples of Title IX Violations



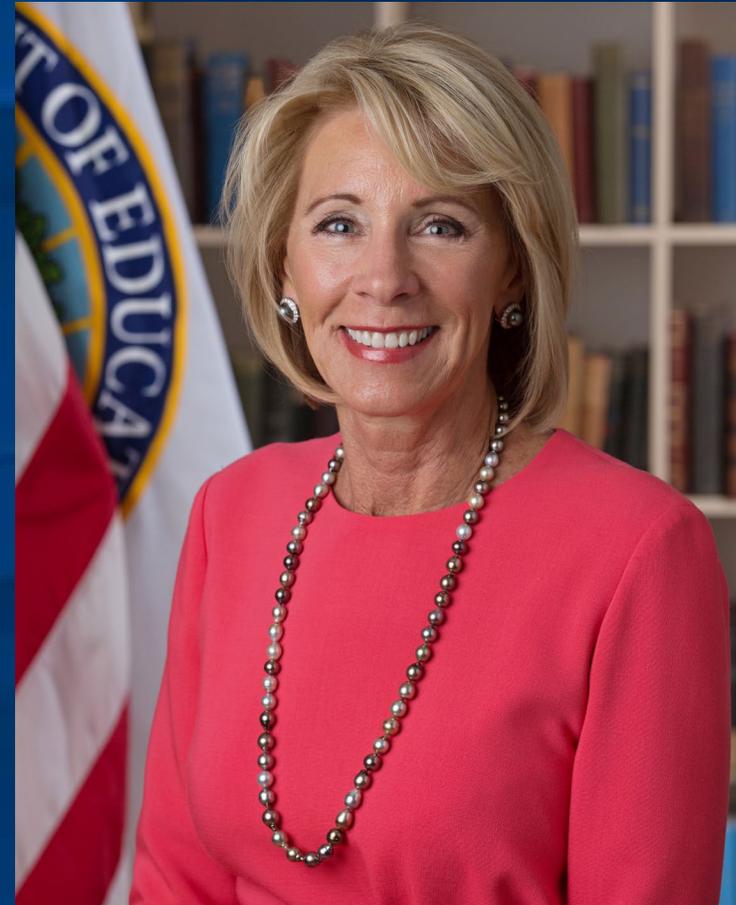
- Failure to provide equal athletic/sports opportunity
- Sexual harassment
- Sexual Assault
- Stalking based on sex
- Sex discrimination including gender and pregnancy
- Retaliation

# What the Department of Education is Saying

“We can continue to combat sexual misconduct without abandoning our core values of fairness, presumption of innocence and due process.”

~ Secretary DeVos

May 6, 2020



# What Others Are Saying

“Betsy DeVos has created a double standard that is devastating for survivors of sexual harassment and assault, who are overwhelmingly women and girls. We are suing to make sure this double standard never takes effect.”

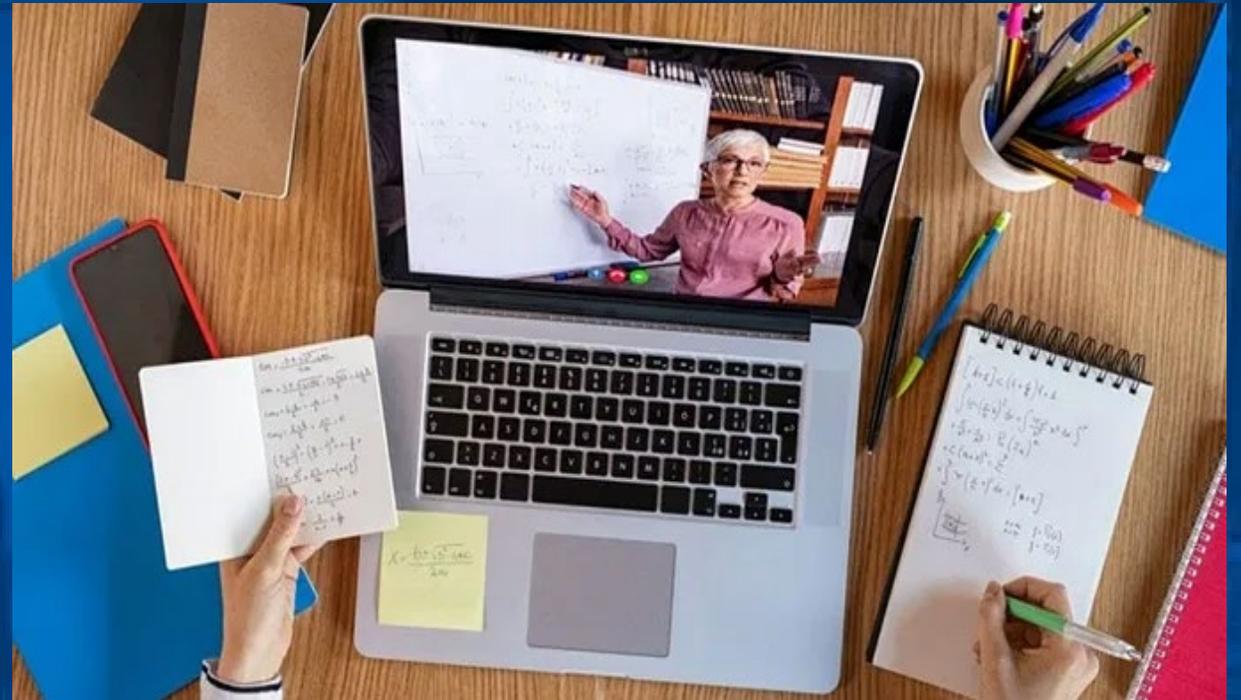
~ Ria Tabacco Mar  
Director Of The ACLU's  
Women's Rights Project



# To Whom Does Title IX Apply?

Title IX applies to the following relationships:

- Student to Student
- Employee to Student
- Student to Employee
- Employee to Employee



# Title IX Final Rule Definitions



A few helpful definitions from the Final Rule:

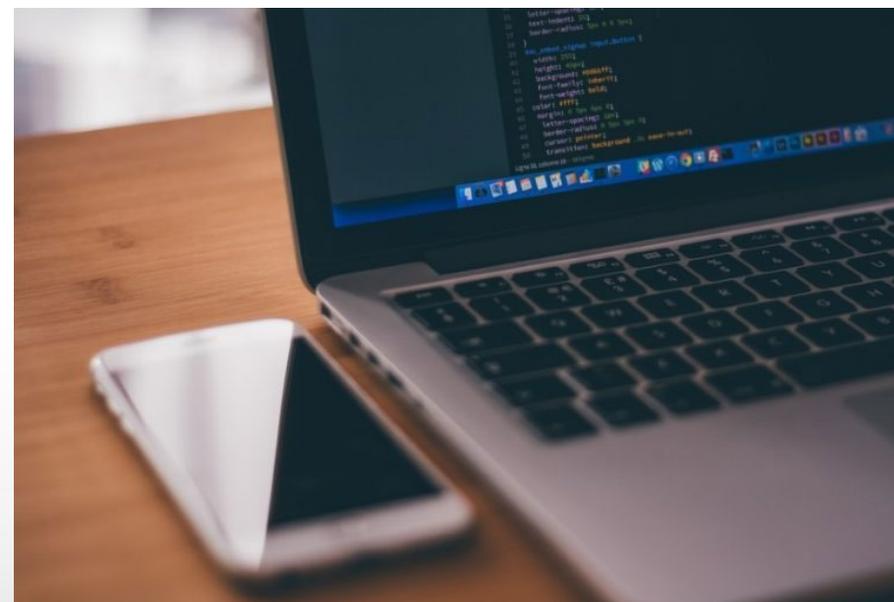
- Responsible Party – Academy designee(s) with the authority to take corrective action on the part of the institution and who may receive actual knowledge of a grievance or allegation.
- Complainant – An individual who is alleged to be the victim of conduct that could constitute sexual harassment. (Accuser)
- Respondent – An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. (The Accused)



# Title IX Grievance Reporting – Who May Report?

A sexual harassment/misconduct grievance may be reported by anyone to an Academy “Responsible Party” with the authority to take corrective action on the part of the Academy. Reports may be provided through:

- The USSA.edu Website
- Email
- Telephone
- Written Notice
- In Person





# Title IX Grievance Reporting – Who May Receive?

- Academy Responsible Parties who can receive actual knowledge of a grievance:

- Title IX Coordinator
- President & CEO
- Provost

- Director of Administration & Finance
- Human Resources Coordinator
- Registrar

- Title IX Coordinator:

Ashley Barnes, Exec. Director of Registration & Financial Aid

[TitleIX@ussa.edu](mailto:TitleIX@ussa.edu), 251-626-3303 x7148

1 Academy Drive, Daphne, AL 36526 Office #148

- What happened to “Mandatory Reporters”?





# Upon Receipt of Grievance Report

When a Title IX / sexual harassment grievance report is received by the Title IX Coordinator:

- The Title IX Coordinator will promptly reach out to the Complainant, or whomever submitted the report, and gather further information.
- The Complainant will be offered Supportive Measures, whether or not a Formal Complaint is filed.
- The Complainant will be offered information on the grievance process and given the opportunity to submit a Formal Complaint.
- Note: A *Grievance Report* is different from a *Formal Complaint*.

# Supportive Measures – Grievance Report Filed



- Examples of Supportive Measures include:
  - Consultation with the Department of Public Safety or local police agency
  - Rescheduling academic assignment or tests
  - Transferring to another course section
- It is the Complainant's choice to accept or not accept.
- Policy defined Supportive Measures are free of charge.

# Conditions for a Formal Title IX Complaint



Under the Title IX Final Rule, sexual harassment/misconduct claims must meet one of the following three conditions to qualify for a formal Title IX Complaint:

## #1

“An employee of the recipient (the Academy) conditioning the provision of an aid, benefit, or service of the recipient on an individual’s participation in unwelcome sexual conduct.”

- This condition is often called “quid pro quo” or “this for that” harassment. It is when favorable professional or educational treatment is conditioned on a sexual activity.

## #2

“Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school’s education program or activity.”

- This condition is often called “hostile environment”.
- This type of sexual misconduct must be based on sex and meet all three measures: severe, pervasive, and objectively offensive.
- Constitutionally protected speech is protected under Title IX.

## #3

“Sexual assault, dating violence, domestic violence, or stalking (as those offenses are defined in the Clery Act, 20 U.S.C Section 1092(f), and the Violence Against Women Act, 34 U.S.C. Section 12291(a)), expressly including sexual assault, dating violence, domestic violence, and stalking.”

- Title IX now includes the Clery Act/VAWA definitions of dating violence, domestic violence, and stalking.

# Additional Conditions for a Formal Title IX Complaint



In addition the following two conditions must also be met to qualify for a formal Title IX Complaint:

1. The conduct must occur within the context of an “Educational Program or Activity” for which the Academy exercises control over the Respondent.
2. The conduct must occur in the United States.

# Failure to Meet Title IX Conditions



- Mandatory dismissal of a reported grievance is required if allegations by the Complainant do not meet the Title IX conditions.
- However, dismissal does not preclude action under other Academy policies and processes as outlined in the:
  - Student Conduct Policy
  - Academy Catalogs
  - Employee Handbook

# Title IX Formal Complaints

- Although anyone may report a sexual misconduct grievance (file a report), the Academy must have a signed Formal Complaint provided to the Title IX Coordinator to proceed with the grievance procedure. The Formal Complaint must be signed by the Complainant.
- Note that a Formal Complaint may be signed by the Title IX Coordinator ***only for limited reasons***, such as an overall safety concern for the Academy community.

# When a Title IX Formal Complaint is Filed



A written notice will be provided to both the Complainant and the Respondent.



The Respondent must receive notice with sufficient time to prepare for an initial meeting and the notice must state that the Respondent is presumed not responsible, may have an Advisor, and may inspect and review any evidence collected.



The Respondent will be offered Supportive Measures which are non-disciplinary in nature.



Respondent has the choice to accept Supportive Measures except for mutual "No Contact" orders or interim actions of emergency removal or administrative leave.

# Supportive Measures - Formal Complaint



- Examples of Supportive Measures include:
  - Consultation with the Department of Public Safety or local police agency
  - Rescheduling academic assignment or tests
  - Transferring to another course section
  - Mutual “No Contact” Order
  - Emergency Removal of Respondent
  - Administrative Leave of Employees
- It is the Respondent's choice to accept or not accept –EXCEPT:
  - Emergency Removal of Respondent (only for physical threat of safety)
  - Administrative Leave of Employees
- No punitive actions can be taken until there is a Finding of Responsibility. There must to Equity in Supportive Measures.



# Formal Complaint – Grievance PROCEDURE

## Informal Resolution:

- Except for allegations that an employee harassed a student, an informal resolution process is allowed if both parties agree in writing.
- Either party may withdraw from the informal process and resume the grievance procedure.

## Formal Grievance Procedure:

- If a Formal Complaint is not resolved through informal resolution, a *live hearing* is required.

# Formal Grievance Process – Live Hearing



- Provides the opportunity to test the credibility of parties and witnesses through cross-examination by Advisors.
- Must be recorded and available to parties for review.
- May be conducted in person or remotely.
- The parties must be “physically present” and able to see and hear each other.
  - If a party does not attend, any statements from the party regarding the complaint developed during the investigation cannot be used as evidence in the hearing.



# Formal Grievance Process Roles

- Advisor – Both parties must be assigned an Advisor and may have an Advisor of their choosing. The Advisors will perform the cross-examination function at the live hearing stage of the process.
- Investigator(s) – An Academy appointed Investigator or Investigators will gather facts regarding the alleged incident described in the Formal Complaint. Both the Complainant and the Respondent may gather and present evidence to the Investigator.
- Decision Maker(s) – An Academy appointed Decision Maker or Decision Makers will determine the relevant evidence for the live hearing, the relevancy of questions proposed to be asked during the hearing and will ultimately determine if a Title IX policy was violated.
- Appellate Decision Maker(s) – The final Decision Maker(s) if an appeal is requested and allowed.

# Standard of Evidence & Impartiality



- The evidentiary stand used for The Academy Title IX Grievance Procedure is that of Clear and Convincing evidence, meaning that the evidence presented must be highly and substantially more probable to be true than not.
- All steps of the Grievance Procedure will be conducted with impartiality and the Respondent will be deemed not responsible unless proven to be responsible based on the evidentiary standard.





# Major Changes from Previous Title IX Regulations

- Complainant can make the decision whether or not to file a Formal Complaint.
- Stated Presumption of “Not Responsible” & Equitable Treatment for Respondents
- No More “Single Investigator” Model
- No More “Gag Orders”
- Recorded Live Hearings
- Appeal Process

# Title IX on Academy Website



Per Federal Regulations, Title IX information must be easily located on our website: [ussa.edu/consumer-information/title-ix](http://ussa.edu/consumer-information/title-ix).

The screenshot shows the USSA website's navigation menu with options: ABOUT, ACADEMICS, ADMISSIONS, INTERNATIONAL, ALUMNI, and a search icon. Below the menu is a button labeled "USSA TITLE IX POLICY". The main content area features a "Non-Discrimination Statement" section with two paragraphs of text. At the bottom, there is a profile for the Title IX Coordinator, Ashley Barnes, and a "Report A Grievance Online" button.

ABOUT ACADEMICS ADMISSIONS INTERNATIONAL ALUMNI Q

USSA TITLE IX POLICY

### Non-Discrimination Statement

The Academy accepts students and employees regardless of race, color, sex, national origin, religion, age, disability or genetic information.

The Academy does not discriminate on the basis of sex in its education programs or any activities it conducts, and it is required by Title IX not to discriminate in such a manner. Any questions regarding Title IX may be referred to the Academy's Title IX Coordinator or to the U.S. Department of Education's Office for Civil Rights (OCR).

  
**Title IX Coordinator**  
**Ashley Barnes**  
*Director of the Office of Registration and Records*  
**Phone:** 251-626-3303 x7148  
**Email:** [titleIX@ussa.edu](mailto:titleIX@ussa.edu)  
**Address:** One Academy Drive, Daphne, AL 36526 Office #148

  
**Report A Grievance Online**



## For More Title IX Information

For additional information and details on the Title IX Final Rule or the Academy's Title IX Policy, please go to the following resources:

- Title IX Policy #5716 in the Academy Administrative Manual on the Intranet.
- Title IX Training Resources in the Title IX section of the Academy website at <https://www.USSA.edu> .
- Department of Education Website: <https://www.ed.gov> .

Presented at Faculty Summit

August 2021

By Gayla Jackson

America's Sports University®



# Thank You!

Questions?

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