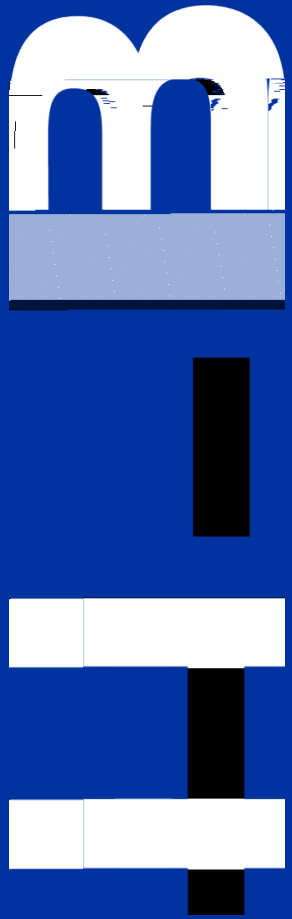

Participants in Sexual Harassment policy process

Spring 2022

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- Recording is not permitted
- Change Zoom name to match registration
- Please list your institution with your name
- Raise hand or use chat function to ask questions
- Anticipated break at 3:00 pm
- Other breaks—take individually as needed

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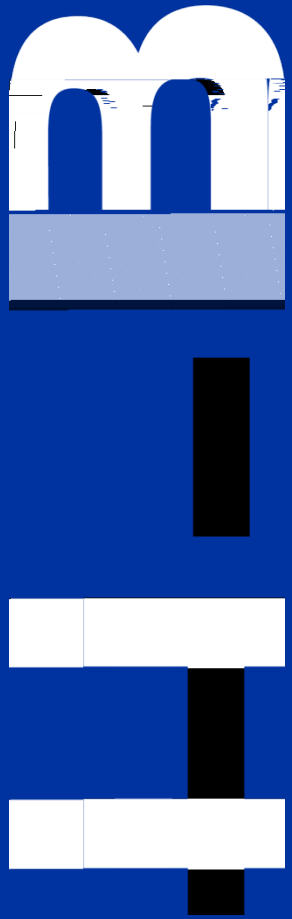

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- Fear of retaliation
- Loss of control
- Confusion about what happened
- Lack of knowledge about process
- Concern about reputation
- Fear of friends' responses
- What others?

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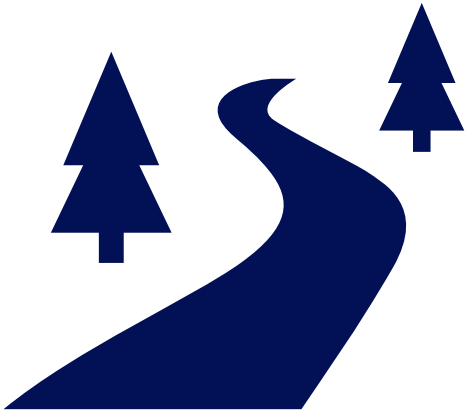
- Whether to report at all
- Whether to respond to outreach
- Whether to file a formal complaint
- Whether to be interviewed
- Whether to participate in hearing
- What others?



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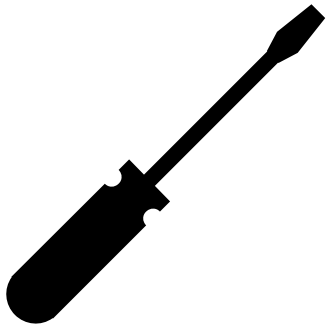
- Institution may never learn of potential sexual harassment
- Institution may not proceed beyond supportive measures
- Title IX Coordinator may have to file formal complaint
- Formal complaint may have to be dismissed
- Outcome may result in “no violation” finding
- What others?

Student makes cursory formal complaint of sexual assault but then is unwilling to meet with investigator. Student requests that the Title IX process “stop” and that student just be provided counseling.



- Information
- Advocacy/counseling support
- Time
- No-contact orders and other accommodations
- Others?

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- Title IX Coordinator files a formal complaint
- Institution prosecutes other conduct violations/standards
- Title VII process (employment-based sexual harassment)
- Admonishment
- Training
- Others?

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Student A accuses Student B of providing Student A with alcohol and then having sex with Student A after Student A became heavily intoxicated. Student A is a minor. The institution prohibits alcohol in the residence hall where the alleged sexual assault occurred.

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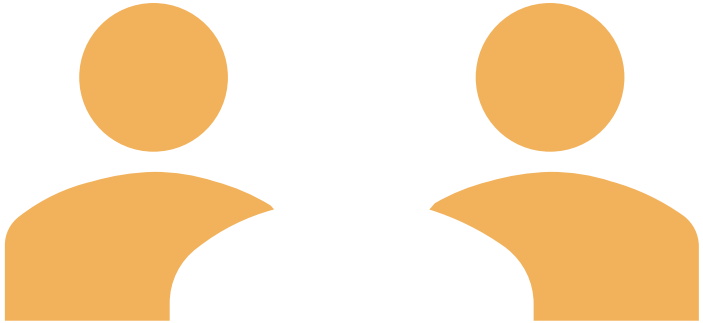

- If institution is aware of danger posed to students or others on its property
- Institution must act reasonably to protect against danger
- Considers risk to putative victim and to others

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Employee is accused of sexually assaulting co-worker in a parking lot on campus. Institution allows employee to continue working without any restriction. Employee subsequently sexually assaults a second co-worker in the same parking lot.

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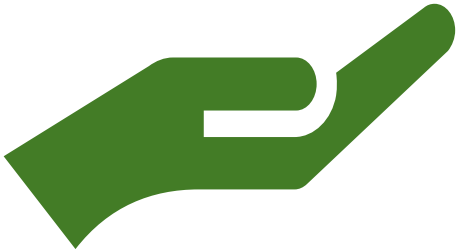

- Non-disciplinary, non-punitive supports and accommodations designed to preserve access to education programs and activities
- Reasonably available without fee or charge
- Without unreasonably burdening the other party

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- Cannot be automatically imposed in every case
- May be reasonably necessary where there is a specific concern about ongoing contact or interaction
- Scope of a no contact order can vary substantially depending on the facts

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Employee A accuses Employee B of stalking. Title IX Coordinator prohibits Employee B from having any in-person or electronic communication with Employee A and further prohibits Employee B from entering the building where Employee A works.

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- Students may be removed on emergency basis if:
  - Individualized safety and risk analysis
  - Determines an immediate threat to physical health or safety of any student or other individual arising from the alleged sexual harassment justifies removal
  - Student is given immediate notice and opportunity to contest the removal

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Student accuses faculty member of offering a better grade in exchange for sex. Faculty member did not engage in violence or threaten violence. Student has transferred to another section of the class. Faculty member has no history of Title IX Complaints.

- Under Title IX employees can be placed on administrative leave without a showing of physical danger to any person
- But consider whether contracts and handbooks provide required certain substantive standards or procedural due process to be met

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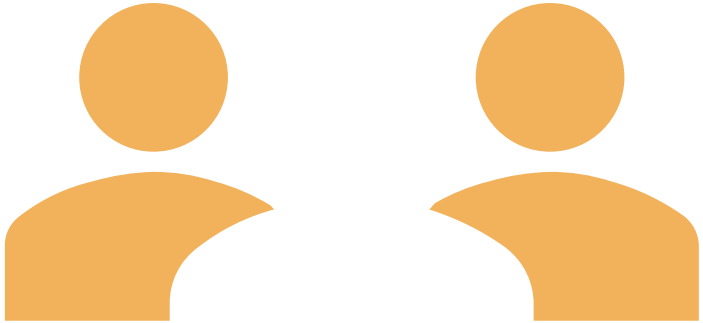
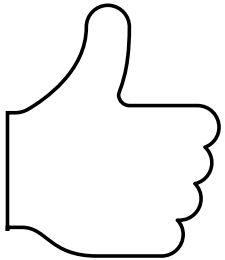
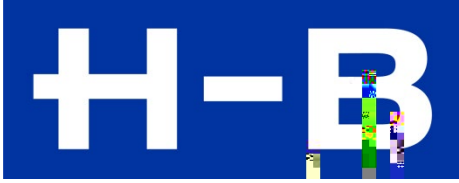
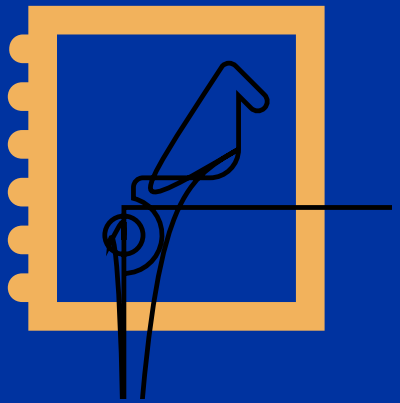


- Institution cannot allow informal







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Student A accuses Student B of sexual assault resulting from a sexual

- The substantive terms
- How compliance will be verified
- The punishment for non-compliance
- The effect on the pending formal complaint
- The effect on collateral conduct charges/policy violations
- Others?

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Student A and Student B enter into an informal resolution requiring Student B to receive counseling and to follow the treatment plan of Student B's psychologist. How would this agreement be verified?

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- Documented in writing
- All essential terms in the same document
- Signed by the parties
- Dated
- Indicating institutional approval
- Indicating closure of grievance procedure

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Student A sends email with proposal for informal resolution. Title IX Coordinator forwards to Student B. Student B responds with a modified proposal that Title IX Coordinator forwards to Student A. Student A replies “okay, I agree to that.” Title IX Coordinator prints the emails and puts them in the file.

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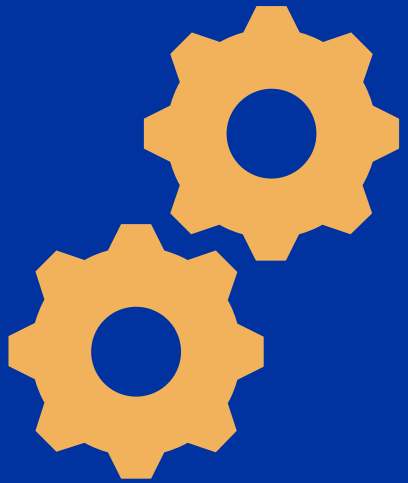
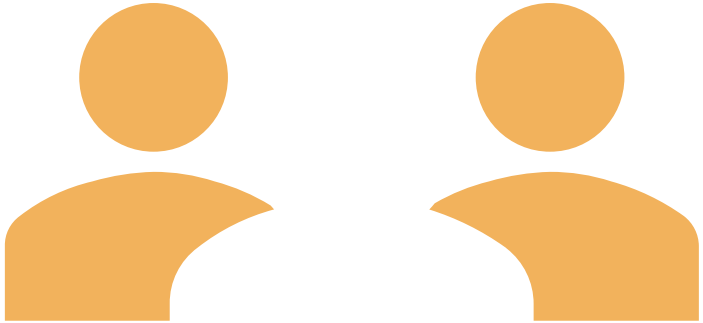
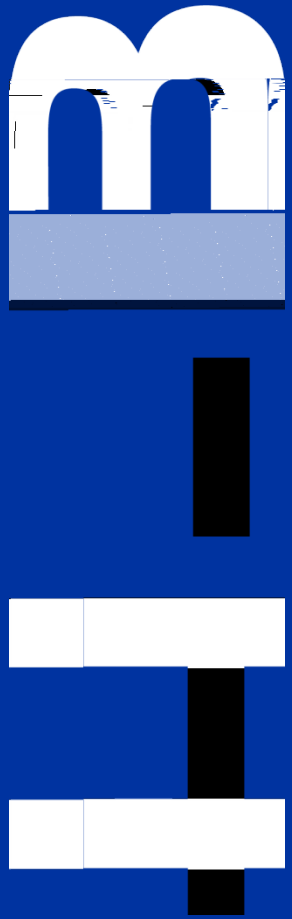


Poe and Quinn are sophomores who have been romantically involved for 18 months. After a particularly nasty argument in which Quinn was high on drugs and called Poe the “c word,” Poe filed a formal complaint of dating violence, accusing Quinn of being verbally abusive, forcefully grabbing Poe on two occasions in Poe’s dorm room, and isolating Poe from other friends by monitoring Poe’s phone and emails. Poe indicates they have broken up with Quinn and would prefer never to see Quinn again. Quinn indicates they are devastated by the breakup because they love Poe; Quinn asks if Poe will accept an apology and Quinn’s





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- Effectively implement remedies for the victim if the respondent is found responsible
- Take not clearly unreasonable steps to prevent the

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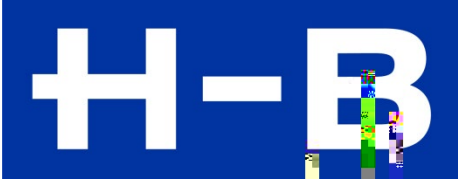

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Student A accuses Student B of sexual assault. Hearing panel finds that Student B did not commit sexual assault. After appeal is final, Student A prints posters with Student B's face and the caption "rapist" and places them around campus.

- May be required to remedy the effect the sexual harassment had on the victim's participation
- May be required by the institution's mission and values
- May be necessary to mitigate the risk of civil liability

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- Course retakes
- Tuition refunds
- Leaves of absence
- Housing moves

- Counseling
- Academic extensions
- Scheduling assistance
- Parking changes
- Others?

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Student A alleges Student B committed sexual assault that caused Student A to get Cs and Ds for the semester instead of usual As and Bs. After hearing determines sexual assault did occur, Student A requests Cs and Ds be changed to “Pass.”

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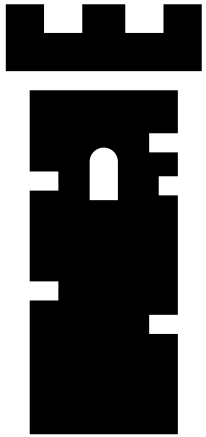
Student A alleges Student B engaged in a single act of fondling at a dance

- Permanent no contact order
- Permanent proximity restrictions
- Permanent schedule de-conflicting
- Security escorts
- Others?



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Student A reports that Student B engaged in hostile environment harassment by repeated sexual propositioning. After a hearing officer finds Student B responsible, institution imposes no

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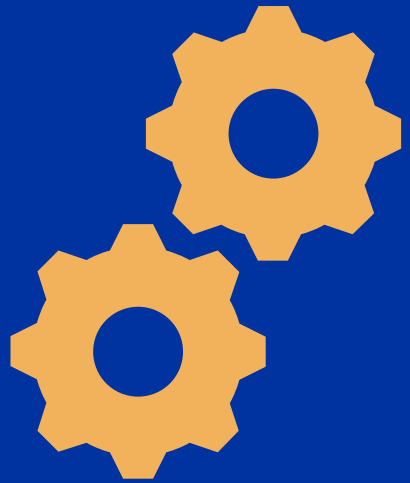

Oakley complains that Devin sexually assaulted Oakley while Oakley was incapacitated from alcohol. The Title IX Coordinator imposed a mutual no-contact order and restricted Devin from Oakley's residence hall. Devin vigorously denies the complaint and files a counter-complaint, accusing Oakley of making the complaint in bad baith only after Oakley learned that Devin was having sex with someone else. The hearing includes vigorous cross-examination. The hearing officer issues a decision finding a preponderance of the evidence does not support either complaint. After the written decision is issued, the Title IX Coordinator removes both the no-contact order and the residence hall restriction. In response, Oakley's attorney sends the Title IX Coordinator a letter demanding the no-contact order be reinstated and that the restriction be broadened to prohibit Devin from being within 50 yards of Oakley. Oakley also requests that the school release Oakley from the housing contract so Oakley can move off campus where Oakley feels safer.

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