



MAINTAINING TITLE IX PROGRAM INTEGRITY IN THE FACE OF A PANDEMIC

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YOUR FACULTY



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AGENDA



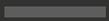
- Campus Status
 - Open/Closed
 - Conducting Classes
- Current Investigations
 - Level of Investigations
 - Triage
- Interim Measures
 - What is in place
 - Effectiveness when campus is partially or fully closed
- Hearings
 - Scheduling considerations

AGENDA



- Future Cases
 - Risk factors
 - Incoming cases
 - Training
- Other Considerations
 - Length of closure (full or partial)
 - Maintenance of practices post-crisis

CAMPUS STATUS



CAMPUS STATUS



- Is your campus fully closed?
 - Are staff expected to report to campus or work remotely?
- Is your campus partially open?
 - Do you have students who cannot leave because of resources, visa concerns, etc.?
- OCR considerations.
 - Ongoing investigations by OCR
 - Regs
 - Promptness complaints
 - Failure of remedy complaints

Although this crisis is evolving rapidly, thoughtfully anticipating issues and needs will benefit you when this crisis ends.

CURRENT INVESTIGATIONS

- What is the level of those investigations (e.g. major or minor allegations)?
- This is the time to print a spreadsheet or other document that allows you to view the current level and status of those investigations.
 - Triage as needed
 - Can lower end cases be put on hold and interim measures maintained until the campus fully reopens?
 - Are there cases that can be resolved informally and quickly using a remote communication platform (e.g. Zoom, Skype, FaceTime)?
 - Some parties may have more availability during this time.
 - Some parties may want to be fast-tracked, while others may resist.

- Are there more complex cases that can be put on hold and interim measures maintained until the campus fully reopens?
 - This is more likely if the campus is completely closed (including administrative functions).
 - Consider pros and cons
 - What are the real effects on the parties if the case is put on hold?
 - Is future enrollment at stake?
 - Will a party complete their classes online (during this downtime) and graduate?
 - You MUST put the parties on notice as to the delay.
- This may be a good time to complete interviews remotely.
 - Schedules may be freer or more flexible - especially with online/recorded classes.

INTERIM MEASURES

INTERIM MEASURES



- What interim measures are currently in place?
- Will those measures reasonably stop and prevent sex-based discrimination or harassment (as defined in your policy) while the campus is partially or fully closed?
 - Do any new interim measures need to be put in place given the new circumstances? Can current interim measures be modified accordingly?
 - Housing relocations – especially with “lockdowns” in effect.
 - Existing No Contact Orders between students who are in the same class, but now class discussion is online.
 - Physical separation is easier now but difficulty may arise with online class discussion.
 - Should you modify the language of current No Contact Orders so that class participation does not result in failure to comply with a No Contact Order?

INTERIM MEASURES



- For students who cannot go home or relocate during this crisis, access to cafeterias and other services may be limited and affect existing No Contact Orders.
 - May need to get more detailed and establish schedules for the parties to access the cafeteria and other services (e.g. counseling).

HEARINGS

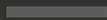
- Are any hearings scheduled during the time campus is closed?
- Can the hearing be rescheduled?
 - If so:
 - Put the parties and witnesses on notice and/or get their agreement.
 - Schedule for some reasonable time further out (e.g. summer).
 - Do NOT leave these hearings unscheduled – you do NOT want to be in the position of scheduling multiple hearings at the same time.
 - If people are working remotely, can everyone video into a central location?
 - Be sure this technologically possible before you offer this option.
 - Do a practice run to understand the technology so you can avoid glitches.
 - Do not oversell it as anything more than less than ideal – manage expectations.

HEARINGS



- Are remote hearings an option?
 - Much to choreograph logistically, but feasible, if sufficient Wifi connection enabled. Phone may not be sufficient.
 - Will need to arrange and test technology beforehand.
 - Use a technology that can record.
 - Make sure materials are disseminated as necessary, in advance.
 - Establish rules for use of the technology platform to avoid cross-talk.
 - Use a technology that allows parties to sidebar and consult with their advisors off-camera/outside of hearing.
 - You may be able to use the same technology to facilitate deliberation by a panel, but make sure connection is private.
 - Third-party neutral services (like TNG's) can provide you with remote hearing officers if you cannot find enough on campus or yours are not trained in time for a needed hearing.
 - Will advisors be physically present with parties, or participating remotely themselves?
 - Same with appeals.

FUTURE CASES



- Risk factors:
 - Students are having extended spring breaks – this could result in more cases.
 - Students may be “locked down” in their homes, apartments, and residence halls.
 - If classes are also cancelled, this may provide an environment with students confined without much to do. This can increase the risk of sexual misconduct.
 - You should be prepared to implement interim measures for reports received during this period, especially if housing remains open.
 - Residential protective measures (safe housing).
 - Who will enforce?

FUTURE CASES



- Prepare now for incoming cases.
 - Be sure your online portal for incident reports is still being monitored.
 - Be sure first responders are aware of what TIX resources are available and not available.
 - This includes resources both on- and off-campus.
 - Be sure campus officials know how to contact the TIX coordinator and/or TIX team members during this time.
- Training
 - Students are home or on some sort of lockdown.
 - This is a good time to send out reminders of overall behavioral expectations. This is an opportunity to highlight policy that prohibits discrimination - including TIX and race-based discrimination.

FUTURE CASES



- This may be a good time for students and employees to complete their required online trainings.
- There may be some opportunity to leverage technology and live-stream training for students and employees that you planned to do in-person.

OTHER CONSIDERATIONS



- How long will this last?
- Can we (and should we) retain any of these practices post-COVID-19 crisis?
 - Should we make remote interviews for parties and witnesses a standard option?
 - What about remote hearings – especially in light of recent court decisions and the proposed regs?

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