

# Title IX Basics

Equity & Title IX Volunteer Training

August 2024



What is Title IX?

“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....”

20 U.S.C. 1681



# CRR 600.020

## Sexual Harassment under Title IX

- “The University is committed to affording equal employment and education opportunities to its employees and students, and to creating an environment free from discrimination and harassment. In furtherance of these commitments, both University policy and applicable state and federal law, prohibit all students, employees, volunteers and visitors at the University from engaging in sexual harassment in a University education program or activity against a person in the United States.”





# Quid Pro Quo

“something for something”

- An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual’s participation in unwelcome sexual conduct.
  - *Elements that must be established by preponderance of the evidence:*
    - *Respondent is an employee of the University*
    - *Conditioning the provision of an aid, benefit, or service of the University*
    - *On complainant’s participation in unwelcome sexual conduct.*



# Hostile Environment

- 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 University's education program or activity.
- *Elements that must be established by a preponderance of the evidence:*
  - *Unwelcome conduct on the basis of sex*
  - *As judged from the perspective of a reasonable person in the complainant's position*
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# Sexual Assault: *Rape*

- Rape: **New Definition**
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# Sexual Assault: *Sodomy*

- “Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.”





# Sexual Assault:

## *Sexual Assault with an Object*

- Using an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
- An “object” or “instrument” is anything used by the offender other than the offender’s genitalia.



# Sexual Assault:

## *Fondling*

- The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.





# Dating Violence

- Violence committed by a person –
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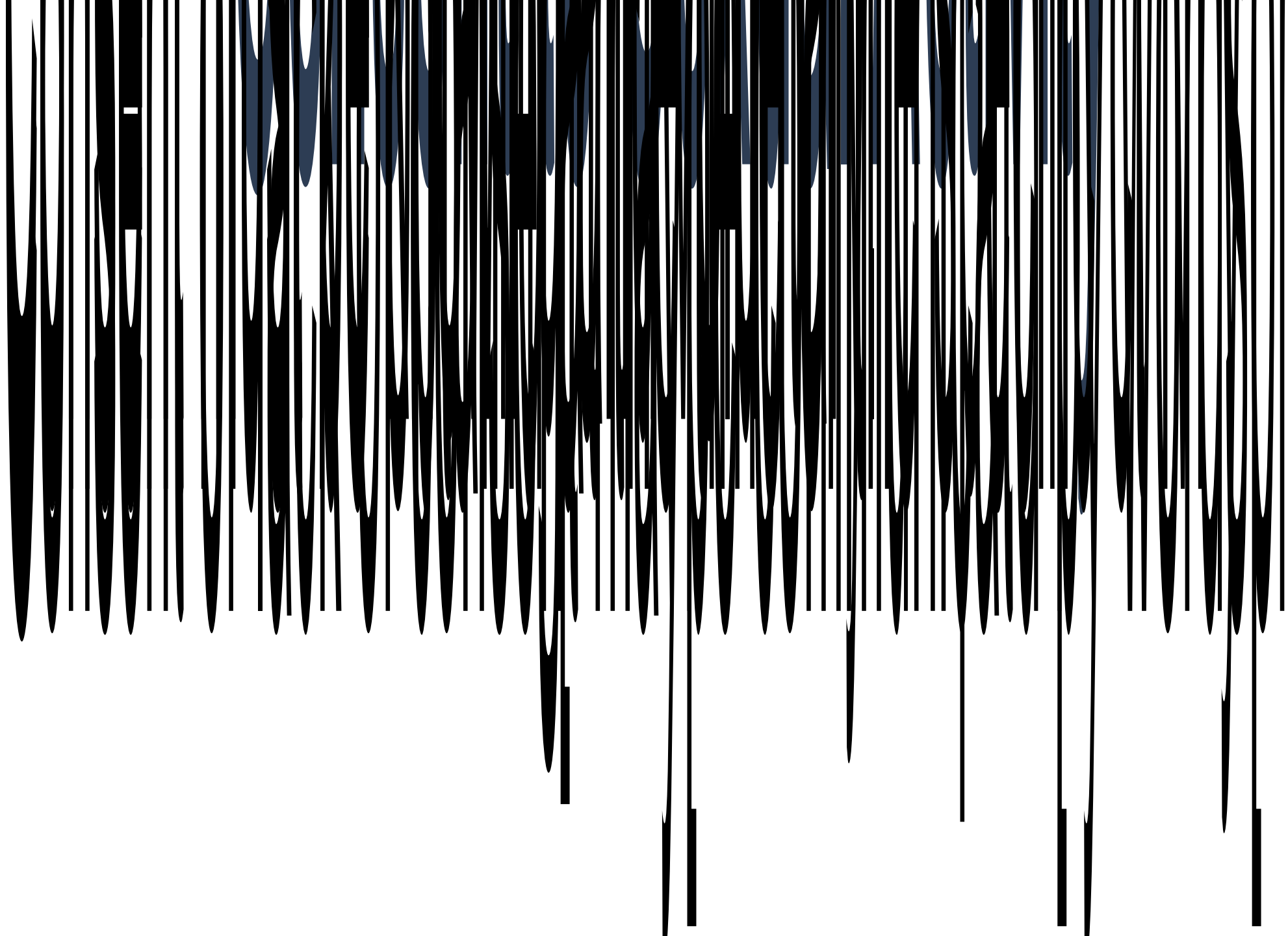




# Stalking

- Engaging in a course of conduct directed at a specific person knowing or





- Cannot be coerced or compelled by force,





# What it means to be Incapacitated:

- A person is incapable of consent if they are unable to understand the facts, nature, extent, or implications of the situation due to drugs, alcohol, a mental disability, or a physical condition (and t)3.5 (he )T-J0



1. Report.
2. Supportive Measures.
3. Formal Complaint.
4. Notice of Allegations.
5. Investigation.
6. Dismissal.
7. Informal Resolution.
8. Hearing.



# Important Terms to Know

- Complainant
- Respondent
- Hearing Officer
- Hearing Panel
- Advisor
- Support Person
- Equity Resolution Appellate Officer



# Selection of Hearing Panel

- 1. Hearing Panelist Pool: individuals selected to serve as hearing panel members.
  - ❖ Renewable **two year terms**.
- ❖ Hearing Panel consists of three individuals as follows:
  - ❖ Two members shall be randomly selected from the Hearing Panelist Pool by the Hearing Panel Pool Chair.
  - ❖ **One member shall be the Hearing Officer.**
  - ❖





# Conduct of the Hearing





1. Questions and evidence about the Complainant's pre-disposition or prior sexual behavior are generally not relevant.
2. Evidence concerning a Party's character is of limited utility.
3. Incidents or behaviors of a Party not directly related to the possible violation(s) will not be considered unless they show a pattern of related misconduct.
- 4.





# Special Rules for Title IX Proceedings

- ❑ Each Party has an Advisor to conduct all questioning at a hearing, including cross-examination of the other Party.
- ❑ If a Party or witness does not submit to cross-examination at a hearing, the hearing panel may not rely on any statement by that Party or witness in reaching a conclusion about whether a violation of policy occurred.
- ❑ However, the hearing panel may not draw any inference, good or bad, from the failure of a party or witness to submit to cross-examination.



# Findings of the Hearing Panel

- The hearing panel will deliberate with no others present, except the legal advisor to the hearing panel.
- The hearing panel's determination will be based on a preponderance of the evidence.
- A determination requires a majority of the hearing panel; each member of the hearing panel has an equal vote.
- If the Respondent is found responsible for a violation of University policy, the hearing panel will determine appropriate sanctions and remedial actions by a majority vote.
- The Hearing Officer will prepare a written determination reflecting the decision of the hearing panel.



# The Appeal Process:

## *Grounds for Appeal*

- Either or both Parties may appeal the findings of a hearing panel.
- Appeals are limited to the following grounds:
  - A procedural irregularity that affected the outcome of the matter.
  - To consider new evidence that was not reasonably available at the time the determination regarding responsibility was made, that could affect the outcome of the matter.
  - There was a conflict of interest on the part of the Title IX Coordinator, the Investigator or the decision-makers that affected the outcome of the matter.
  - The sanctions fall outside the range typically imposed for the offense, or for the cumulative conduct record of the Respondent.



All requests for appeal must be submitted in writing







