

How, When, and the What Ifs of Dismissing Title IX Complaints

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1



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2

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3



Agenda

- Review of the Regulations
- Post-Dismissal
- Case Studies

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REVIEW OF THE REGULATIONS

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Dismissal of Formal Complaint





If the conduct alleged in the formal complaint would not constitute sexual harassment as defined in 106.30 even if proved, did not occur in the recipient's education program or activity, or did not occur against a person in the United States, then the recipient must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under this part; such dismissal does not preclude action under another provision of the recipient's code of conduct.

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6

Must Dismiss






Does Not Constitute Sexual Harassment



Not in Educational Program or Activity



Not in the United States

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Does Not Preclude Action





Student Conduct



Human Resources




Other Options

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8


Dismissal of Formal Complaint – May Dismiss




The recipient may dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing; a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; the respondent is no longer enrolled or employed by the recipient; or the specific circumstances present the recipient from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.


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9


May Dismiss 



Complainant Withdraws
Complaint




Respondent No Longer
Enrolled/Employed




Prevented from
Gathering Evidence


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10


When Does Dismissal Occur 



Intake



Investigation



Hearing

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11

Notification of Dismissal 



Written Notice



Reason(s) for Dismissal





Simultaneous to the
Parties

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12

Appeal






Procedural Irregularity



New Evidence



Bias or Conflict of Interest

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13




POST-DISMISSAL

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14

Next Steps



Supportive Measures

Separate Process


Reopen Investigation

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15



16




Case Study: Off-Campus

You are the Title IX Coordinator and receive a report involving a student who reported being sexually assaulted off-campus by multiple members of the debate team. The names of the members of the team are not included in the report.

What are your next steps?

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17



Case Study: Sexual Harassment?

You are the Title IX Coordinator and receive a report alleging that Professor Blum is making comments of a sexual nature in class. The report contains a student's name but indicates that they do not want to file a formal complaint, they just want to "put it on your radar." This is the third report you have received about Professor Blum. You have dismissed the other two reports as they were anonymous reports.

What are your next steps?

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18




Case Study: Brick Wall

You are the Title IX Coordinator and receive a call from your investigators who tell you that “they have hit a brick wall” and have only been able to interview the Complainant. The Complainant does not have any memory of the night and is not sure if any sexual behaviors took place.

What are your next steps?

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19



Case Study: No Response

You are the Title IX Coordinator and are responsible for sending out all notice documents to the parties and witnesses. The Complainant has not responded to your multiple attempts to schedule an interview with the investigators. Your last email to the Complainant indicated that you would close the investigation if you did not receive a response from the Complainant. You have not heard back from the Complainant.

What are your next steps?

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20



Case Study: Goodbye?

You are the Title IX Coordinator and oversee all investigations involving students and employees. Coach Stella is accused of engaging in sexually harassing behaviors directed at multiple members of the team. These behaviors include verbal statements and inappropriate contact. Coach Stella tells you that they are going to retire at the end of the season (which is in 2 weeks) and that you will never see Coach Stella again.

What are your next steps?

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21



22

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Upcoming D. Stafford Virtual Classes

- Title IX Coordinator (11:00 AM - 5:00 PM Eastern)
 - October 4 - 8, 2021
- Combined Sexual Misconduct and Domestic/Dating Violence and Stalking Investigation (11:00 AM - 5:00 PM Eastern)
 - August 23 - 27, 2021
- Advanced Investigations (9:00 AM - 5:00 PM (Eastern Time)
 - November 8 - 12, 2021

23

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Upcoming D. Stafford Virtual Classes

- Behavioral Intervention Team/Threat Assessment Team Training (10:00 AM - 5:30 PM Eastern)
 - June 22 - 24, 2021
 - December 1 - 3, 2021

24



**8TH ANNUAL NACCOP CONFERENCE:
A Live, Virtual Event**

Conference – July 21-23, 2021
Pre-Conferences – July 20, 2021

- Pre-Con #1 for CCOs - Addressing VAWA Policy Statements for Non-Title IX Procedures in the Annual Security Report
- Pre-Con #2 for CCOs - Developing Internal Memorandums of Understanding (MOUs) with Key Departments to Facilitate a Higher Level of Institutional Cooperation with Clery Act Compliance
- 2021 ADVANCED TRACK OPTION - Case Reviews: These sessions include a Case Review where attendees will participate in reviewing a sample incident report narrative to determine the correct classification and count for each report and to practice adding entries to the Daily Crime Log. This session will provide practitioners with an opportunity to apply their knowledge to real-world scenarios.
- The finalized agenda will be released in the late Spring of 2021.

Register at www.naccop.org

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21
