

ILLINOIS INSTITUTE OF TECHNOLOGY

Title IX Comprehensive Training and Preventing Sexual Violence in Higher Education Act

**Presented By: Kaitlin Atlas
2025-2026 School Year**

30
YEARS

FRANCZEK

Agenda

- What is Title IX?
- What is Title IX Sexual Harassment?
- When Must a School Respond to Title IX Sexual Harassment?
- Responding to Allegations of Sexual Harassment
- Title IX Team Members
- Bias, Conflicts of Interest, and Prejudgment
- Record Keeping



What is Title IX?

Title IX Statute

"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. 1681-1688.

Title IX Regulations

- Under the Title IX Regulations, harassment on the basis of sex is *prohibited*.

What Falls Under Title IX?

Sex-Based
Harassment

Recruitment,
Admissions, and
Counseling

Financial Assistance

Athletics

Treatment of
Pregnant &
Parenting Students

Discipline

Single Sex
Education

Employment

Retaliation

What Do The Title IX Regulations Require?

- Each educational institution must have a Title IX Policy and detailed Title IX Grievance Procedure.
- Each educational institution must designate a Title IX Coordinator.
- Each educational institution must follow the regulations when investigating allegations of Title IX Sexual Harassment.



Policy

POLICY

Illinois Institute of Technology - Policy

Title IX Sex Discrimination/Sex-Based Harassment Policy

<https://www.iit.edu/sites/default/files/2025-02/Title-IX-Sex-Discrimination-Sex-Based-Harassment-Policy-Effective-Jan-9-2025-Appendix-A-10-Days.pdf>

Illinois Institute of Technology - Title IX Compliance

The Office of Title IX Compliance oversees Illinois Institute of Technology's response to Title IX Sexual Harassment within the university. The Office of Title IX Compliance educates Illinois Tech students, faculty, and staff about matters related to sexual harassment and distributes options for support, and resolves formal Title IX complaints through formal and informal processes. Illinois Tech is committed to creating an environment for all students and employees that is fair, humane, and respectful.

Illinois Institute of Technology – Non-Discrimination Policy

The Title IX Educational Amendments of 1972 prohibit discrimination based on sex in education programs and activities that receive federal financial assistance. No person 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.

It is the intention and commitment of Illinois Tech to not discriminate on the basis of sex in our educational programs or activities. The types of discrimination that are covered under Title IX include but are not limited to: sex-based harassment, sexual violence (sexual assault, domestic and dating violence, and stalking), admission, employment, disability, marital or parental status including pregnancy or related conditions, and access to and treatment in the programs and activities of Illinois Tech. This policy is effective as of January 9, 2025, and will also be used to resolve reports before January 9, 2025.

Illinois Institute of Technology - Title IX Coordinator

Virginia Foster

Associate Vice President of HEA Compliance,
Title IX Compliance Coordinator

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Illinois Institute of Technology - Title IX Coordinator

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What is Title IX Sexual Harassment?

Title IX Sexual Harassment

Hostile Environment

Quid Pro Quo

Specific Offenses:
Sexual Assault
Domestic Violence
Dating Violence
Stalking



Quid Pro Quo Sexual Harassment



Quid Pro Quo

Quid = Something

Pro = For

Quo = Something

Quid Pro Quo

- **Definition:** An employee of the educational institution conditioning an aid, service, or benefit of the educational institution on the individual's participation in unwelcome sexual conduct.
- **Respondent:** Must be an employee (not a volunteer, another student, etc.).
- **Severity and harm are presumed.**

Quid Pro Quo: Illinois Tech Policy

An employee of the recipient to provide an aid, benefit, or service under Illinois Tech's educational program or activity conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual behavior.

A photograph of a library shelf filled with law books. The books are bound in dark red leather with black labels that read "LAW REPORTS". The text "Specific Offenses" is overlaid in white, bold font in the center of the image. There are blue horizontal bars at the top and bottom, and white squares in the bottom corners.

Specific Offenses

Specific Offenses

Sexual Assault

Domestic Violence

Dating Violence

Stalking

Sexual Assault

- **Definition:** An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system (UCR Program) of the Federal Bureau of Investigation (FBI), and includes rape, fondling, incest, and statutory rape.
- NIBRS' forcible and nonforcible sex offenses consist of: rape, sodomy, and sexual assault with an object (as well as fondling, statutory rape, and incest).

Sexual Assault: Illinois Tech Policy

An offense classified as a forcible or nonforcible sex offense under the Federal Bureau of Investigation, Criminal Justice Information Services Systems (NIBRS), which includes rape, sodomy, sexual assault with an object, or fondling directed against another person, without the consent thereof, including instances where said other person is incapable of giving consent, as well as incest and statutory rape.

Sexual Assault: Rape: NEW NIBRS Definition

- **Definition:** Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, or by a sex-related object. This definition also includes instances in which the victim is incapable of giving consent because of temporary or permanent mental or physical incapacity (including due to the influence of drugs or alcohol) or because of age. Physical resistance is not required on the part of the victim to demonstrate lack of consent.

Sexual Assault: Criminal Sexual Conduct: NEW NIBRS Definition

- **Definition:** The intentional touching of the clothed or unclothed body parts without consent of the victim for the purposes of sexual degradation, sexual gratification, or sexual humiliation. The forced touching by the victim of the actor's clothed or unclothed body parts, without the consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation. The offense includes instances where the victim is incapable of giving consent because of age or incapacity due to temporary or permanent mental or physical impairment or intoxication for the purpose of sexual degradation, sexual gratification, or sexual humiliation.

Sexual Assault: Incest

- **Definition:** Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Sexual Assault: Statutory Rape

- **Definition:** Non-forcible sexual intercourse with a person who is under the statutory age of consent.

Consent: Illinois Tech Policy

Consent represents the cornerstone of respectful and healthy intimate relationships. Illinois Tech strongly encourages its community members to communicate – openly, honestly, and clearly – about their actions, wishes, and intentions when it comes to sexual behavior, and to do so before engaging in sexual behavior or other forms of intimate conduct. It is always the requirement of the individual initiating intimate conduct (or undertaking a new type of sexual behavior) to ensure that consent is present before acting and is present during intimate conduct.

Consent: Illinois Tech Policy

When determining whether consent was present, Illinois Tech will consider whether a reasonable person in the same circumstances should have known whether the other party could or could not consent to the sexual activity. Thus, to have sex with someone who you know to be, or should have known to be incapable of knowingly, voluntarily, and clearly giving permission, by words and/or actions to engage in sexual behavior is a violation of this policy. Consent is not present when an individual cannot give permission, voluntarily or involuntarily, due to age (younger than 17 in Illinois), physical condition, or disability that impairs the individual's ability to give consent. Reasons why one could lack the capacity to give consent due to a physical condition include, but are not limited to, incapacitation due to the consumption of drugs or alcohol (voluntarily or involuntarily) or being in a state of unconsciousness, sleep, or other state in which the person is unaware that sexual activity is occurring. To be clear, a person may appear to be giving consent, but may not have the capacity to do so; in which case, the apparent consent is not effective. If there is any doubt as to another person's capacity to give consent, one should assume that the other person does not have the capacity to give consent. Being intoxicated or impaired by drugs or alcohol does not exclude one from the responsibility to obtain consent.

Consent: Illinois Tech Policy

With the foregoing, consent means the existence of clearly understandable words or actions that manifest a knowing, active, voluntary, and present and ongoing agreement to engage in specific sexual behavior or intimate conduct by one not suffering from incapacitation. Consent must be all of the following:

- Knowing
- Active
- Voluntary
- Present and ongoing
- Threat or coercion
- Incapacitation

Consent: Knowing

Consent must demonstrate that all individuals are in a state of mind to understand, to be aware of, and to agree to the 'who' (same partners), 'what' (same acts), 'where' (same location), 'when' (same time), and 'how' (the same way and under the same conditions of sexual or intimate activity).

Consent: Active

Consent must be communicated in clearly understandable words or actions that reveal one's expectations and agreement to engage in specific sexual or intimate activity. This means that silence, passivity, submission, or the lack of verbal or physical resistance (including the lack of a 'no') should not – in and of itself – be understood as consent. Consent cannot be inferred by an individual's manner of dress, the giving or acceptance of gifts, the extension or acceptance of an invitation to go to a private room or location, or going on a date.

Consent: Voluntary

Consent must be freely given and cannot be the result of force (violence, physical restraint, or the presence of a weapon); threat or coercion (defined below); or fraud (misrepresentation or material omission about oneself or the present situation in order to gain permission for sexual or intimate activity).

Consent: Present and Ongoing

Consent must exist at the time of the sexual or intimate activity. Consent to previous sexual or intimate activity does not imply consent to later sexual or intimate acts; similarly, consent to one type of sexual or intimate activity does not imply consent to other sexual or intimate acts. Consent may also be withdrawn at any time by the person making known, by articulated word or concrete action, his or her intention to withdraw it, and thereupon, the sexual or intimate activity should immediately cease.

Consent: Threat or Coercion

The direct or implied threat of force, violence, danger, hardship, or retribution sufficient to persuade a reasonable person one would have to submit. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. A person's words or conduct cannot amount to coercion unless they wrongfully impair the other's freedom of will or ability to choose whether or not to engage in sexual activity. When someone makes it clear that they do not want to engage in sexual activity, that they want it to stop, or they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be threatening or coercive.

Consent: Incapacitation

The inability to understand the nature of the activity or to give knowing consent. Incapacitation is also the inability to understand the "who, what, when, where, & how" of the intimate conduct that took place. When a person is sufficiently intoxicated, high, intellectually disabled, or the like such that the person is not capable of appreciating what is happening establishes incapacitation. The legal inability to give effective consent because of age or declared incompetent.



Hostile Environment Sexual Harassment

Title IX Hostile Environment Sexual Harassment

- **Definition:** Unwelcome conduct determined by a reasonable person to be so severe, pervasive, **and** objectively offensive that it effectively denies a person's equal access to the school's education program or activity.

Title IX Hostile Environment Sexual Harassment: Illinois Tech Policy

Unwelcome sex-based conduct, that based on a reasonable person and the totality of the circumstances, is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Illinois Tech's education program or activity. Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the type, frequency, and duration of the conduct, the parties' ages, and the degree to which the conduct affected the complainant's ability to access their educational program or activity.

Unwelcome Conduct

- Not Participation
- Not Silence
- Age Matters
- Intoxication Matters
- Ability Matters



Unwelcome Conduct

When determining whether conduct is unwelcome, look at whether a **subjective and reasonable person** would consider the conduct unwelcome.



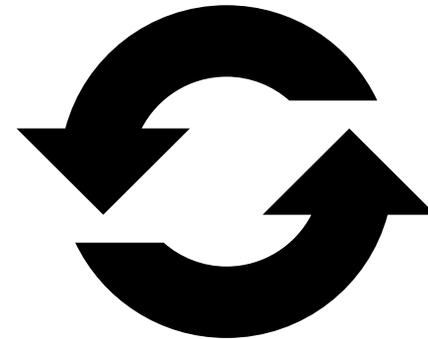
Severe Conduct



- Something more than juvenile behavior.
- Something more than antagonistic, non-consensual, and crass conduct.
- Simple acts of teasing and name calling are not enough to meet the severity standard, even when those comments are based on sex.
- It is not enough to show that a student has been teased or called offensive names.

Pervasive Conduct

- Systemic or widespread.
- Multiple instances of harassment.
- One incident is not enough, even if it is very severe.



Objectively Offensive Conduct



- Behavior that would be offensive to a reasonable person under the circumstances.
- Not just offensive to the victim, personally or subjectively.
- Consider the ages, numbers, relationships – the constellation of surrounding circumstances, expectations, and relationships.

Hostile Environment Factors

Context

Nature

Scope

Frequency

Duration

Location

Identity

Number

Ages

Relationships
of Individuals
Involved

Denial of Access





Pop Quiz!
Is it Title IX Sexual Harassment?

Pop Quiz

A student makes multiple insensitive jokes to another student.

Is it Title IX Sexual Harassment?

Pop Quiz

A teacher makes a sexually inappropriate comment to a student in class.

Is it Title IX Sexual Harassment?

Pop Quiz

One student grabs another student's breasts during a soccer game.

Is it Title IX Sexual Harassment?

Pop Quiz

A teacher tells a student to trade a back rub in the classroom for a good grade on the test.

Is it Title IX Sexual Harassment?



TAKE ACTION
When Must A School Respond to Title IX Sexual Harassment?

When must a school respond?

- A school with **actual knowledge** of Title IX Sexual Harassment in an education program or activity against a person in the United States must respond.

Actual Knowledge

- Sense
- Report



Actual Knowledge: Illinois Tech Policy

Actual Knowledge means notice of sex discrimination/sex-based harassment or allegation of sex discrimination/sex-based harassment to Illinois Tech's Title IX Coordinator or designee or to any Official With Authority. Assumption of knowledge based solely on Illinois Tech's status as an employer or other presumption under the law does not constitute Actual Knowledge. This standard is not met when the only official of Illinois Tech with Actual Knowledge is the Respondent. "Notice" as used here includes, but is not limited to, a report or complaint of sex discrimination/sex-based harassment to the Title IX Coordinator or an Official With Authority in person, by mail, by telephone, or by email directly to the Title IX Coordinator, Virginia Foster, foster@iit.edu, or by any means that results in the Title IX Coordinator or an Illinois Tech Official With Authority receiving the person's verbal or written report.

Official with Authority



- Title IX Coordinator.
- Any other officials who have been given authority to institute corrective measures by the school district.
- At the K-12 level, *all employees* are officials with authority.

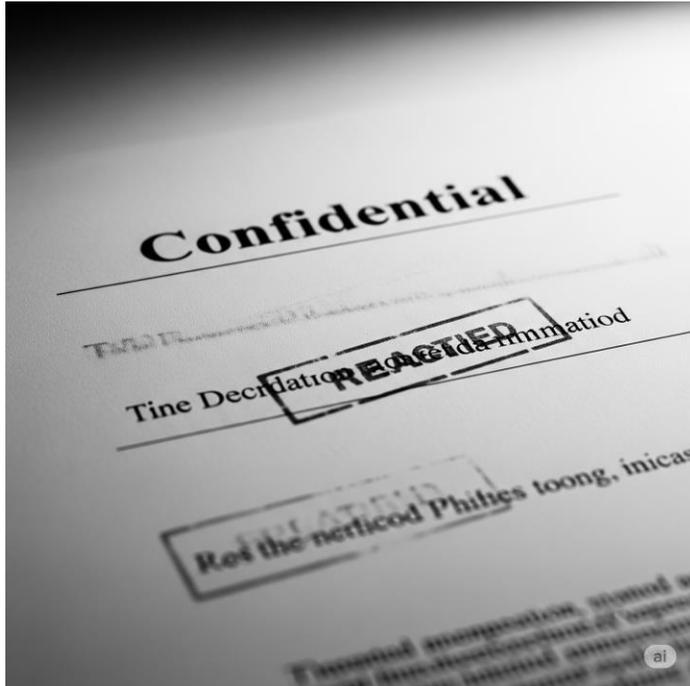
Responsible Employees: Illinois Tech Policy

Responsible Employees have an obligation to report immediately any information they come to learn regarding sex discrimination/sex-based harassment. At Illinois Tech, Responsible Employees are to report such information to officials designated by Illinois Tech to have authority to institute corrective measures on the institution's behalf. Illinois Tech has designated individuals holding the following titles/positions as Responsible Employees:

- Office of the Vice Provost of Student Affairs
- Title IX Coordinator
- President
- Provost
- Vice Presidents/Provosts
- Academic Deans, Directors, and Department Chairs (including those serving in Associate roles)
- Student Affairs Directors
- Residential Life Personnel (including Resident Advisors)
- Greek Life Coordinators
- Athletic Administrators (including Directors, Assistant Directors, Coaches, Assistant Coaches, and Trainers)
- Student Activities Coordinators
- Faculty and Staff Advisors to Illinois Tech Recognized Student Organizations
- Academic Advisors
- Department of Public Safety Staff



Confidential Advisors: Illinois Tech Policy



- Confidential Advisors are the only individuals who generally have an obligation to maintain privacy and confidentiality and not to report information that they may learn regarding sex discrimination/sex-based harassment. In addition, Illinois law has established the recognized role of Confidential Advisor, which is an individual retained by a higher education institution that has certain mandated training and has the duty and ability to provide emergency and ongoing support to students who have experienced sex-discrimination/sex-based harassment. Illinois Tech has elected to contract for Confidential Advisor Services. The provider of such services is:
 - Resilience, 444 N. Michigan Avenue, Suite 970, Chicago, Illinois 60611, 312-907-1062
- Illinois Tech's Student Health and Wellness Center has licensed health professionals who can meet with victims on a professional basis and discuss matters in confidence. Staff members of the Student Health and Wellness Center, whose official capacities include providing mental health counseling to members of the student body, when acting within the scope of their license or certification, are generally obligated by law to maintain confidentiality, and these individuals when so acting are not required by law to report criminal offenses, including some sex discrimination/sex-based harassment, about which they are informed.

Reporting Sexual Harassment

- Any person may report sexual harassment, regardless of whether the person is the alleged victim of the reported conduct.
- Reports can be made by mail, by telephone, or by email, using the contact information listed for the Title IX Coordinator.
- Reports can be made by any means that result in the Title IX Coordinator receiving the person's report.
- Such a report may be made at any time, including during non-business hours, by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator.



Reporting ≠ Filing a Complaint

Report

Analysis by
Title IX
Coordinator

Formal
Complaint



Key Word: Allegation

Once a school has notice of an allegation that, **if true**, would constitute Title IX Sexual Harassment, **it must** respond.

"Well, we didn't believe there was enough evidence it happened," is not a valid excuse to avoid using your Title IX Sexual Harassment grievance process.

Education Program or Activity



- Title IX Sexual Harassment must be "in a program or activity."
- Any location, events, or circumstances over which the school exhibits substantial control both over the alleged harassment and the "context" in which the harassment occurs.

Education Program or Activity

Schools need only address Title IX Sexual Harassment occurring against a person in the United States under Title IX.



Education Program or Activity



ThePhoto by PhotoAuthor is licensed under CCYYSA.

- Locations, events, or circumstances in the United States over which Illinois Tech exercises substantial control over both the respondent and the context in which Title IX sex discrimination/sex-based harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by Illinois Tech. Depending on the facts, such as whether it was an Illinois Tech sponsored event, this phrase may extend to off-campus reports occurring in the United States.



Responding to Allegations to Title IX Sexual Harassment

Overview of Title IX Response



A photograph of two young men in a supportive interaction. One man, wearing glasses and a white t-shirt, sits behind the other, resting his hands on the first man's shoulders and knees. The second man, wearing a white patterned sweater and jeans, sits on the floor with his head bowed. The background is a simple, bright room. The text 'Initial Response/Supportive Measures' is overlaid in white, bold font across the center of the image. There are blue horizontal bars at the top and bottom, and white rectangular shapes in the bottom corners.

Initial Response/Supportive Measures

Initial Response/Supportive Measures

Title IX Coordinator or designee must promptly, even if no Formal Complaint is filed:

1. **Contact** the Title IX Complainant to discuss the availability of "supportive measures."
2. **Consider** the Title IX Complainant's wishes with respect to supportive measures.
3. **Inform** the Title IX Complainant of the availability of supportive measures with or without filing a Formal Complaint.
4. **Explain** the process for filing a Formal Complaint.

Formal Complaint



Document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the school investigate the allegations of sexual harassment.

Supportive Measures

- Non-punitive, individualized services offered as appropriate and without charge to a Complainant or a Respondent before or after the filing of a Formal Complaint, or where no Formal Complaint has been filed.
- Should be designed to restore or preserve equal access to the education program or activity without "unreasonably" burdening the other party.
- Should be confidential.



Illinois Tech Supportive Measures

"Supportive Measures may include but are not limited to:

- Counseling
- Extension of work assignment deadlines
- Modification of work schedules
- Campus escort services
- Mutual restrictions on contact between the parties
- Changes in work locations
- Leaves of absence
- Work and housing changes
- Other similar measures

A close-up, slightly blurred photograph of a red emergency light bar on a vehicle at night. The lights are illuminated, creating a bright white and yellow glow against the red housing. The background is dark with out-of-focus city lights. A blue horizontal bar is at the top left, and a white square is at the bottom left. Another blue horizontal bar is at the bottom right, and another white square is at the bottom right.

Emergency Removal

Emergency Removal

Immediate Emergency Removal (Student)

- Based on an individualized safety and risk analysis.
- Necessary to protect a student or other individual from immediate threat to physical health or safety.
- Notice and an opportunity to challenge must be provided "immediately."
- Consider other laws – expulsion (SB100), change in placement under IDEA or 504.

Employee Administrative Leave

- Not prohibited.
- Must follow state law, Board Policies, Employee Handbooks, and Collective Bargaining Agreements.



DISMISSED

Dismissals

Mandatory Dismissals



The Title IX Coordinator must dismiss a complaint if the conduct alleged:

- Is not Title IX Sexual Harassment.
- Did not occur in the school's program or activity.
- Did not occur in the United States.

****Remember, you can still address the alleged conduct under non-Title IX policies****

Permissive Dismissals

The Title IX Coordinator may dismiss a complaint if:

- The Complainant requests to withdraw in writing.
- The Respondent's enrollment or employment in/at the institution ends.
- Specific circumstances prevent the institution from gathering evidence sufficient to reach a determination (e.g., passage of time, lack of cooperation).





Informal Resolution

Informal Resolution: Not Required

- An institution cannot condition enrollment, employment, or any right on a waiver of the right to an investigation and adjudication of Formal Complaints under the grievance procedure.
- Both parties must voluntarily consent in writing to participate in Informal Resolution.

Informal Resolution: Not Allowed for Employee – Student Allegations



Informal Resolution is not available to resolve allegations that an employee sexually harassed a student.

Informal Resolution: Timing

- An institution cannot offer Informal Resolution *until* the Formal Complaint is filed.
- Once the Formal Complaint is filed, the institution can offer Informal Resolution at any time prior to reaching a determination.
- Either party can request Informal Resolution.
- Either party can withdraw from Informal Resolution prior to reaching an agreement.



Informal Resolution: Facilitators



- Informal Resolution Facilitators must be trained.
- We do not recommend using the Title IX Coordinator or the Investigator or the Decision Maker as the Informal Resolution Facilitator.

A man in a dark suit and tie is leaning over a desk in a dimly lit office. He is holding a magnifying glass over a piece of paper that has a dark, vertical stain on it, resembling a bloodstain. The desk is cluttered with papers and a laptop. The background is dark and out of focus, showing shelves with books or papers. The overall mood is serious and investigative.

Investigations

Who Should Investigate?

- The Investigator can be the Title IX Coordinator.
- But should it?



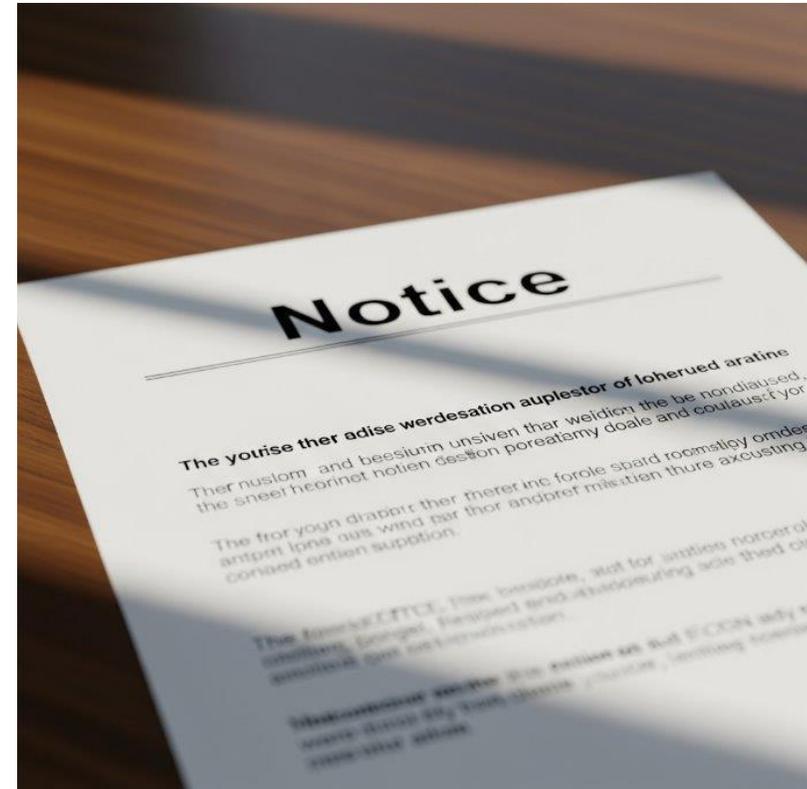
Written Notice



- The Institution must provide written notice to all known parties "upon receipt of the written complaint."
- The Institution must provide sufficient time to allow the Respondent to prepare a response before any initial interview.
- The Institution must supplement the written notice if new allegations are opened for investigation or new parties are identified.

Written Notice

- The Written Notice must include:
 - Notice of the grievance process, including any Informal Resolution process.
 - Notice of the allegations, in sufficient detail to allow the Respondent to prepare a response.
 - Known parties
 - Conduct alleged
 - Date and location of conduct



Written Notice



- The Written Notice must include:
 - Statement that the Respondent is presumed not responsible and that responsibility will be determined at the conclusion of the grievance process.
 - Notice of the parties' rights to have an attorney or non-attorney advisor.
 - Notice of the parties' rights to inspect and review evidence.
 - Notice of any provision in the Code of Conduct that prohibits knowingly making false statements or providing false evidence during the grievance process.

Investigation Elements

- Burden of proof is on the school, not the parties.
- Certain treatment records cannot be obtained without voluntary, written consent.
- No restriction of the rights of the parties to discuss allegations or gather and present evidence.
- The parties must be provided the same opportunities for others to be present during interviews or related proceedings (e.g., attorney or non-attorney-advisor).

Investigation Elements

- The Institution must provide written notice to the parties of the date, time, participants, purpose, and location of each investigative interview with sufficient time to prepare.
- All directly related evidence must be provided to the parties and their advisor with ten days to respond before the investigative report is issued.
- The written investigative report must "fairly summarize the evidence," and be provided to the parties and their advisors at least ten days before the determination of responsibility.

Privileged Information



ATTORNEY CLIENT
PRIVILEGE



PRIVILEGE AGAINST SELF-
INCRIMINATION



CONFESSIONS TO CLERGY
OR RELIGIOUS FIGURE



SPOUSAL PRIVILEGE

Rape Shield

- The Institution must exclude evidence of the Complainant's sexual behavior or predisposition (not applicable to Respondent).
- There are two narrow exceptions:
 - To show that someone other than the Respondent committed the conduct; or
 - To show past conduct between the Complainant and the Respondent to show consent.

Treatment Records



Can't access, consider, disclose, or use records



Made by a physician, psychologist, or other recognized professional



Which are made and maintained in connection with the provision of treatment,



Unless the party gives voluntary, written consent

Opportunity to Review Evidence

- Before the investigative report is complete, all directly related evidence must be sent to each party and their advisor.
- This includes evidence that the school does not intend to rely upon (both exculpatory and inculpatory evidence must be shared).
- Parties have ten days to provide a written response to the directly related evidence.



Investigative Report



Investigative Report

- The Investigative Report must fairly summarize all relevant evidence.
- Provide the report to the parties and their advisors for review and written response at least ten days before a determination of responsibility.

ARTICLE IX DECISION

CASE NO. 2021-03-000024011
IUCLE03, 2021-03-000024011

ABERRRY Cecaled DAL CLD
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Decision (Determination of Responsibility)

Decision Maker

- The Decision Maker cannot be the Title IX Coordinator or the Investigator.
- The Decision Maker must be trained.



Determinations of Responsibility

- Live hearing with live cross-examination is required for higher education institutions but not required for K-12 institutions.

Illinois Tech: Live Hearing

- At the hearing, the Title IX Decision Maker must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those that challenge credibility; such questions are referred to as "cross-examination." Only relevant cross-examination may be asked of a party or witness. With respect to cross-examination:
 - Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.
 - The Title IX Decision Maker must explain to the party proposing the questions any decision to exclude a question as not relevant.

Illinois Tech: Live Hearing

- Cross-examination at the live hearing must be conducted by the party's advisor and never by the party. If a party does not have an advisor present at the live hearing, Illinois Tech will provide an advisor of its choice, without charge to the party, who may be, but likely will not be, an attorney to conduct cross-examination on behalf of the party.
- If a party or witness does not submit to cross-examination at the live hearing, the Title IX Decision maker may still consider and rely on any statement of that party or witness in reaching a determination regarding responsibility. However, the Decision Maker cannot draw an inference about the determination regarding responsibility based solely on the party's or witnesses' absence or refusal to answer cross-examination or other questions.

Decisions on Relevance (Cross Examination)



- The Decision Maker must provide the reasoning for determining the question was irrelevant or the exception for exclusion.
- The Decision Maker must admit and consider all relevant evidence.
- Questions must be appropriate.

Written Determination

Identify	Identify the allegations
Describe	Describe procedural steps taken
Cite	Cite potential policy violations
Summarize	Fairly summarize all relevant evidence
Provide	Provide statement of result, with rationale, for each allegation
Appeal	Appeal procedures

Standard of Proof

Preponderance of the Evidence

- A fact is more likely than not to be true.



Remedies

Can be
punitive/disciplinary

Can be supportive
measures or similar
actions as well

Can address
individuals or larger
community

Appeals

- Appeals must be available to both parties.
- Parties may appeal a dismissal or a determination.

Bases for Appeal

Procedural issue that impacted the outcome

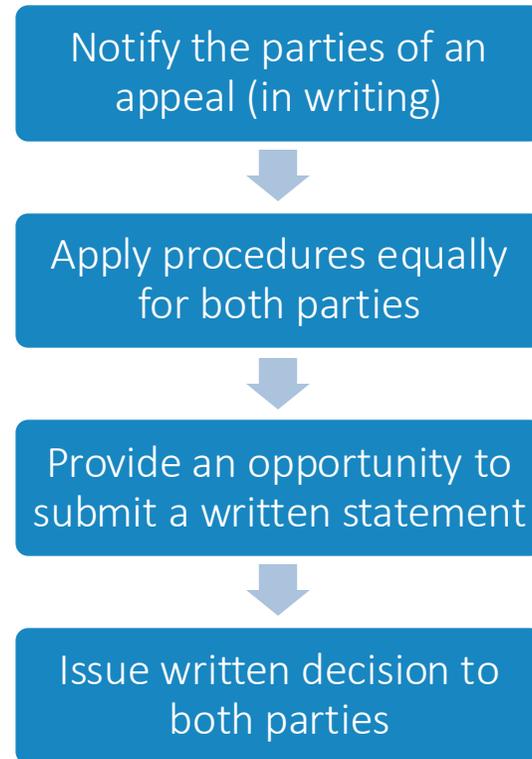
New evidence that would have impacted the outcome

Bias/conflict of interest

Illinois Tech: Additional Basis for Appeal

The sanction is disproportionate with the violation.

Appeal Process



A professional photograph of a diverse group of business people in a meeting. In the foreground, a man with grey hair and glasses, wearing a dark suit and blue tie, is looking towards the camera with a slight smile. To his right, a young woman with dark hair and blue eyes, also in a dark suit and white shirt, is looking directly at the camera. Further right, another woman is seen in profile, looking down, wearing a dark suit and white shirt. The background shows another person in a grey suit. The overall scene is brightly lit, suggesting an office environment. The text "Title IX Team Members Roles & Responsibilities" is overlaid in the center in a bold, black font. There are blue horizontal bars at the top and bottom of the image, and white rectangular boxes at the bottom corners.

Title IX Team Members Roles & Responsibilities

Title IX Team Members

Title IX
Coordinator

Title IX
Investigator

Title IX Informal
Resolution
Facilitator

Title IX
Decision Maker

Title IX
Appellate
Decision Maker

Title IX Coordinator Responsibilities

- Must be identified as the Title IX Coordinator in Board Policy, District website, and in handbooks.
- Must meet with alleged victims of Title IX Sexual Harassment.
- Inform Complainant of availability of supportive measures with or without a Formal Complaint.
- Decides whether to "sign" a Formal Complaint when the Complainant does not wish to file a Formal Complaint.

Title IX Coordinator Responsibilities

- Coordinates the implementation of supportive measures.
- Ensures effective implementation of remedies.
- Monitors the District's ongoing compliance with Title IX.

Illinois Tech: Title IX Coordinator Responsibilities

The individual designated and authorized by Illinois Tech to coordinate its efforts to comply with and carry out its responsibilities under the regulations implementing Title IX at 85 Fed. Reg. 30026, 30026-30579. The identity of and contact information for the Title IX Coordinator is as follows: Virginia Foster, foster@iit.edu, 312-567-5725 and is also available on the Title IX Office website at https://www.iit.edu/title_ix/title-ix-compliance. The Title IX Coordinator may delegate authority to perform any task under this Title IX sex discrimination/sex-based harassment to any duly trained individual.

Title IX Informal Resolution Facilitator Responsibilities

- Act as an intermediary between the parties, make suggestions, and help draft an agreement.
- The agreement itself is between the parties; the institution is not a party.

Illinois Tech: Informal Resolution Facilitator

An individual designated by the Title IX Coordinator to seek an informal resolution of a Formal Title IX Complaint in accordance with this Title IX sex discrimination/sex-based harassment process. The Title IX Informal Resolution Facilitator cannot be the Title IX Coordinator, Title IX Investigator, Title IX Decision Maker or Title IX Appellate Decision Maker assigned to the same Formal Title IX Complaint, must be free from conflicts of interest or bias against complainants and respondents generally and against an individual complainant or respondent, and must be trained to properly implement Illinois Tech's Title IX grievance procedures and to serve impartially.

Title IX Investigator Responsibilities

- Identify and interview parties and witnesses.
- Gather and assess evidence.
- Share evidence with the parties and provide an opportunity for written response.
- Write and share investigative report.

Illinois Tech: Investigator

An individual designated by the Title IX Coordinator to investigate a Formal Title IX Complaint according to this Title IX sex discrimination/sex-based harassment process. The Title IX Investigator cannot be the Title IX Decision maker, Title IX Informal Resolution Facilitator, or the Title IX Appellate Decision Maker assigned to the same Formal Title IX Complaint, must be free from conflicts of interest or bias against complainants and respondents generally and against an individual complainant or respondent, and must be trained to properly implement Illinois Tech's Title IX grievance procedures and to serve impartially

Title IX Decision Maker Responsibilities

- Review evidence collected during the investigation.
- Facilitate written-cross examination.
- Make relevancy determinations.
- Make independent judgment on responsibility and sanctions.

Illinois Tech: Decision Maker

An individual designated by the Title IX Coordinator to reach a determination regarding responsibility in a Formal Title IX Complaint by applying the preponderance of the evidence standard of proof in a proceeding conducted in accordance with this Title IX sex discrimination/sex-based harassment process. An individual designated by the Title IX Coordinator or designee to reach a determination regarding responsibility in a formal complaint, using the preponderance of evidence standard of proof, and applying Illinois Tech's Title IX grievance procedures. The Title IX Decision Maker cannot be the Title IX Coordinator, Title IX Investigator, Title IX Informal Resolution Facilitator, or Title IX Appellate Decision Maker assigned to the same Formal Title IX Complaint, must be free from conflicts of interest or bias against complainants and respondents generally and against an individual Title IX complainant or respondent, and must be trained to properly implement Illinois Tech's Title IX grievance procedures and to serve impartially.

Title IX Advisor Responsibilities

- Parties must have the same opportunity to be accompanied to any related meeting or proceeding by an advisor of choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of an advisor for either the complainant or respondent in any meeting or proceeding.

Title IX Advisor Responsibilities

- Cross-examination at the live hearing must be conducted by the party's advisor and never by the party. If a party does not have an advisor present at the live hearing, Illinois Tech will provide an advisor of its choice, without charge to the party, who may be, but likely will not be, an attorney to conduct cross-examination on behalf of the party.

Title IX Advisor Responsibilities

- At the hearing, the Title IX Decision Maker must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow up questions, including those that challenge credibility; such questions are referred to as cross examination.
 - Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.
 - The Title IX Decision Maker must explain to the party proposing the questions any decision to exclude a question as not relevant.

Title IX Advisor Responsibilities: Cross Examination

- Cross examination is an important part of truth seeking partly because of its live, in the moment nature and because it is conducted by someone whose purpose is to advance one side's perspective.
- Both parties' advisors may direct the Decision Maker's attention to implausibility, inconsistency, unreliability, ulterior motives, and lack of credibility.
- An advisor may appear and conduct cross examination even when the party does not appear.
- Generally, recommend closed ended questions.
- Questions must be relevant.

Title IX Advisor Responsibilities: Advisor Decorum

- The essential function is not to embarrass, blame, humiliate, or emotionally berate.
- Essential function is to give the Decision Maker the fullest view possible of the relevant evidence.

Title IX Appellate Decision Maker Responsibilities

- Review Decision-Maker's written determination.
- Review appeal documents.
- Grant parties the opportunity to respond to the appeal.
- Review party responses.
- Make independent judgment on appeal.

Illinois Tech: Appellate Decision Maker

An individual designated by the Title IX Coordinator to conduct an appeal required by the Title IX sex discrimination/sex-based harassment process. The Title IX Appellate Decision Maker cannot be the Title IX Coordinator, Title IX Investigator, Title IX Decision Maker, or the Title IX Informal Resolution Facilitator assigned to the same Formal Title IX Complaint, must be free from conflicts of interest or bias against complainants and respondents generally and against an individual complainant or respondent, and must be trained to properly implement Illinois Tech's Title IX grievance procedures and to serve impartially.



The Title IX Hearing

Illinois Tech: Live Hearing

- A live hearing will be provided as part of the sex discrimination/sex-based harassment process. The live hearing will comply with the following requirements:
 - The live hearing may, upon the request of either the complainant or the respondent, be held virtually, with parties located in separate rooms with technology enabling the Title IX Decision-Maker and parties to simultaneously see and hear the party or witness answering questions. Any live hearing may, at the discretion of the Title IX Decision-Maker, also be held virtually as outlined above. Unless the live hearing is held virtually as outlined above, all parties must be physically present in the same geographic location.

Illinois Tech: Live Hearing

- A live hearing will be provided as part of the sex discrimination/sex-based harassment process. The live hearing will comply with the following requirements:
 - All hearings will be documented through audio recording, audiovisual recording, or transcript, at Illinois Tech's discretion, and will be made available to all parties for inspection or review.

Illinois Tech: Live Hearing

- A live hearing will be provided as part of the sex discrimination/sex-based harassment process. The live hearing will comply with the following requirements:
 - At the hearing, the Title IX Decision Maker must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those that challenge credibility; such questions are referred to as cross-examination. Only relevant cross-examination may be asked of a party or witness. With respect to cross examination:
 - Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.
 - The Title IX Decision-Maker must explain to the party proposing the questions any decision to exclude a question as not relevant.

Illinois Tech: Live Hearing

- A live hearing will be provided as part of the sex discrimination/sex-based harassment process. The live hearing will comply with the following requirements:
 - Cross-examination at the live hearing must be conducted by the party's advisor and never by the party. If a party does not have an advisor present at the live hearing, Illinois Tech will provide an advisor of its choice, without charge to the party, who may be, but likely will not be, an attorney to conduct cross-examination on behalf of the party.

Illinois Tech: Live Hearing

- A live hearing will be provided as part of the sex discrimination/sex-based harassment process. The live hearing will comply with the following requirements:
 - If a party or witness does not submit to cross-examination at the live hearing, the Title IX Decision-Maker may still consider and rely on any statement of that party or witness in reaching a determination regarding responsibility. However, the Decision-Maker cannot draw an inference about the determination regarding responsibility based solely on the party or witness's absence or refusal to answer cross-examination of other questions.

Elements of a Live Hearing

- Notice
- Process
- Cross-Examination
- Relevance Decision
- Role of the Advisor
- Technology

Live Hearing Tips

- Consider a pre-hearing conference to set expectations
- Maintain decorum throughout the hearing and consider
Advisor Expectations
- Allow breaks as needed

A magnifying glass is positioned over a diverse group of people. The lens of the magnifying glass is centered on three individuals: a Black woman with an afro, a white woman with glasses, and a Black woman. The background shows a blurred crowd of various people. The text "Bias, Conflict of Interest, and Prejudgment" is overlaid in white on the magnified area. There are blue horizontal bars at the top and bottom of the image, and white rectangular boxes in the bottom corners.

Bias, Conflict of Interest, and Prejudgment

Bias/Conflict of Interest/Prejudgment

- The Title IX Coordinator, Investigator, Decision Maker, and Informal Resolution Facilitator must not have a conflict of interest or bias for or against Complainants or Respondents generally or for or against any individual Complainant or Respondent.
- These individuals must also not prejudge any matter before them.

Bias/Conflict of Interest/Prejudgment

- Consider perception, not just reality:
 - Institutional bias.
 - Your friendship or other relationship with the accused.
 - Your personal characteristics.
 - Your personal conflicts (even if just perceived).
 - Personality conflicts.

Conflict of Interest

- Consider training multiple staff members to allow for the flexibility to assign roles for each specific complaint.
- Consider when outsourcing adjudication functions may be appropriate.
- There are no *per se* conflicts of interest when using school employees or individuals with histories of working in the field of sexual violence as decision makers.
- Caution against using generalizations to identify conflicts of interest.

Pre-Judgment

- Tips for Avoiding Pre-Judgment
 - Each case is fact specific.
 - Keep an open mind.
 - Actively listen to the facts presented.

Sex Stereotypes

- Title IX team members must not rely on sex stereotypes.
- Examples of Sex Stereotypes:
 - Women are "asking for it" based on actions or clothing.
 - Men cannot be sexually assaulted.
 - Women only decide they were assaulted after the fact due to regret and embarrassment.
 - Men are more likely to be sexual aggressors.
- Consider the intersection of sex stereotypes with race, ability, sexuality, and gender identity.



Recordkeeping

Written Notice Required

Notice of Allegations

Informal Resolution

Dismissal

Interview

Investigator Report

Irrelevant or Excluded Questions

Written Determination & Right to Appeal

Written Notice Recommended

Supportive Measures

Provision of Directly Related Evidence

Cross-Examination

Records Must Be Maintained for Seven Years

- Responses to Formal Complaints and informal allegations of Title IX Sexual Harassment.
- All actions taken in response.
- The basis for the school's conclusion that its response was not deliberately indifferent.
- Documentation that the school has taken measures designed to restore or preserve equal access to the education program or activity.
- Supportive measures or the reasons why supportive measures were clearly unreasonable in light of known circumstances.



**Preventing Sexual
Violence in Higher
Education Act**

Policy

- All higher education institutions in Illinois must develop a, "single comprehensive policy concerning sexual violence, domestic violence, dating violence, and stalking that includes reporting procedures and university response guidelines. 110 ILCS 155/10.
 - The policy must state available interim protection measures and accommodations and the range of sanctions the institution can impose.
 - The institution must include an amnesty provision."

Confidential Advisor

- All higher education institutions in Illinois must, "provide a confidential advisor to survivors to help them understand their options to report and seek medical, legal, and other services. 110 ILCS 155/20.
 - Institutions may not designate a 'responsible employee' (as defined by Title IX of the Education Amendments of 1972) for this position.
 - Communications between a confidential advisor and survivors regarding an incident of sexual violence are subject to a privilege outlined in the Illinois Code of Civil Procedure. 110 ILCS 155/20(d)(4); 735 ILCS 5/8-804."

Reporting Options

- All higher education institutions in Illinois must, "offer students options to report electronically, confidentially, or anonymously and provide for bystander/third party reports. 110 ILCS 155/10(2)(D)-(G).
 - Institutions must respond in 12 hours to an electronic report. 110 ILCS 155/15(b)."

Consent

- All higher education institutions in Illinois must, "define consent in the institution's comprehensive policy. 110 ILCS 155/10(1).
 - The Act sets out minimum requirements for the definitions, but institutions may establish stricter standards for consent.
 - A person cannot consent to sexual activity if unable to understand the nature of the activity or give knowing consent. This includes circumstances where the person is incapacitated due to drugs, alcohol, asleep, or unconscious."

Notice

- All higher education institutions in Illinois must, "notify survivors about their rights, including reporting options, interim remedies, and accommodations (e.g., changing a class schedule, room assignment, and dining hall privilege), and the campus complaint resolution procedure. 110 ILCS 155/15."
 - Institutions must provide a short, clear written explanation of rights and options when it receives a report from a student."

Procedure

- All higher education institutions in Illinois must, "adopt a fair, balanced procedure to resolve complaints of alleged student violations of the comprehensive policy. 110 ILCS 155/25.
 - The same procedure must apply to all students at that campus.
 - The institution shall use a preponderance of the evidence standard.
 - Students shall receive notice of which individuals will resolve the complaint in time to request substitution where a conflict of interest exists.
 - Students may have an advisor of their choice present for meetings and hearings.
 - Institutions may not compel a student to testify in the presence of the other party."

Training

- All higher education institutions in Illinois must, "annually train students and campus employees to improve awareness of and responsiveness to allegations of sexual violence beginning in the 2016-2017 academic year. 110 ILCS 155/30(b)-(c).
 - Institutions must provide student trainings of consent, retaliation, reporting, resources, bystander intervention, and risk reduction strategies and other topics.
 - Campus employees who could receive a report of campus sexual assault will receive trauma informed survivor centered training on topics including: the comprehensive policy, relevant laws, and how to respond to a survivor.
 - Individuals who resolve complaints must receive 8 to 10 hours of additional annual training, including training on how to resolve complaints.
 - All confidential advisors must complete 40-hour sexual violence training before appointment and 6 hours of ongoing education annually."

Task Force

- All higher education institutions in Illinois must, "participate in a campus wide or regional task force. 110 ILCS 12/10(b).
 - Task forces must include representatives from law enforcement, campus administration, the advocacy community, and students.
 - They must meet at least twice a year to evaluate policies, practices, and procedures as well as bolster collaboration and information sharing among stakeholders."

Reporting

- All higher education institutions in Illinois must, "annual report data regarding trainings, prevention programs, incidents, reports, and complaint resolution outcomes to the Illinois Attorney General's Office (OAG). 110 ILCS 205/9.21(b).
 - The reports are due each year by November 1, beginning in November 2017.
 - The OAG will list on its website institutions that fail to report."

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