



TITLE VI VS. TITLE VII VS. TITLE IX: WHAT YOU NEED TO KNOW

MICUA

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MEET YOUR FACILITATOR



Emma Hempel

Emma Hempel is the Regional Account Manager for the Northeast at Grand River Solutions. She comes to this role after being an essential part of the Director and Coordinator Services Team for nearly four years. She is frequently sought after as a trainer and has trained thousands of individuals across the country on Title VI, Title IX, and other equity topics. With over 15 years of experience in higher education, Emma has served as Title IX and EEO Coordinator for both large and small public and private institutions across the country.

ABOUT US

Vision

We exist to create safe, equitable, and respectful work and educational environments.

Mission

To bring systemic change to how school districts and institutions of higher education address matters of harassment, discrimination and equity/access.

Core Values

- Responsive Partnership
- Innovation
- Accountability
- Transformation
- Integrity



Let Our Team Support The Good Work You And Your Team Are Doing.

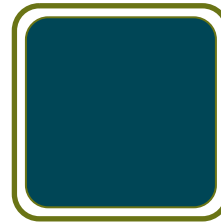
- Delegated Roles
- Investigations
- Hearings & Appeals
- Alternative Resolutions
- Program Review
- Policy & Procedures
- Consulting & Coaching
- Training & Free Webinars
- Resources
- Case Tracker Software



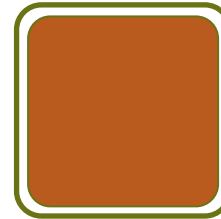
AGENDA



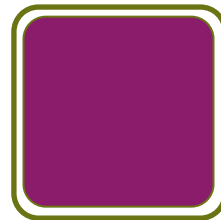
Title VI, Title VII, Title IX
Scope and Practice



Addressing Complaints
& Concerns



Questions



MICUA Partnership

Federally Protected Classes & the Basics of Titles VI, VII, & IX and More



FEDERALLY PROTECTED CLASSES

These groups or identities are protected from discrimination and harassment, under a combination of statutes

- Sex*
- Pregnancy
- Race
- Color
- Religion
- National Origin (ancestry & ethnicity)
- Disability
- Genetic Information
- Military Status
- Age (over & under 40)

TITLE VI

- Prohibits discrimination in federally funded programs
- Applies to student and employees as either respondents or complainants

Prohibits discrimination based on:

- Race
- Color
- National Origin

Covers students who are or are perceived to:

- Share ancestry or ethnic characteristics
- Have citizenship or residency in a country with a dominant religion or distinct religious identity (2023 OCR DCL)

TITLE VII

Title VII covers:

- Discrimination in the workplace
- Employee v. Employee claims
- Employee complainants targeted by third-parties

Discrimination based on:

- Race
- Color
- National Origin
- Sex
- Religion

Exception for religious educational institutions in hiring & exempts certain religious employees from the law.

HOSTILE ENVIRONMENT HARASSMENT: TITLES VI & VII

Hostile environment under Title VI:

- Severe, pervasive **or** persistent
- Interferes with or limits participation or benefit from services, activities or privileges
- Determined by a reasonable person

Hostile environment under Title VII:

- Severe **or** pervasive
- Creates an objectively intimidating, abusive or offensive work environment
- Determined by a reasonable person in the employee's position

TITLE IX

Title IX covers:

- Sex discrimination in federally funded education programs and activities
- Employees & students & others participating in an education program or activity as either complainants or respondents

Title IX's regulations are:

- Specific to sexual harassment which occurs within an educational program or activity
 - Hostile environment
 - Quid pro quo
- Include sexual violence as a form of sexual harassment
 - sexual assault
 - domestic violence
 - dating violence
 - stalking

We will focus on the definition of hostile environment under Title IX which differs from hostile environment under Titles VI & VII.

TITLE IX

If at least **one** allegation may meet a definition of **Title IX sexual harassment**, it's best to **use your Title IX-compliant procedure** to address **all** the allegations.

Title IX supersedes Title VII:

- Unlike Title VII, Title IX is specific to educational institutions.
- Title IX requires a higher level of due process.

Some policy structuring options:

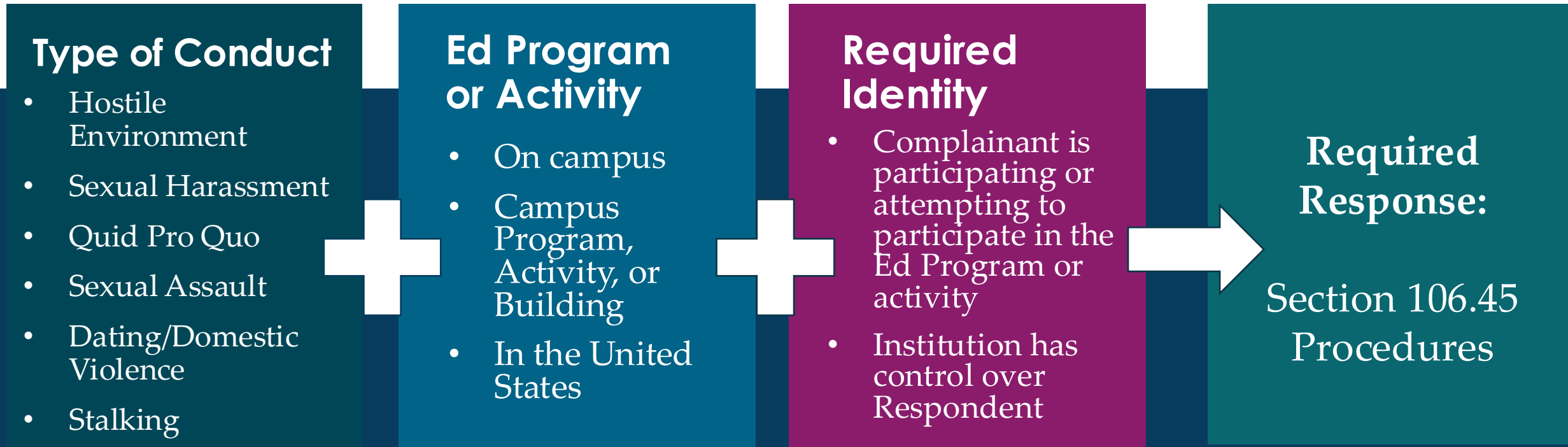
- One policy for conduct prohibited by Title IX; or
- One policy for all sexual misconduct (Title VII & Title IX), and separate policy for other forms of harassment and discrimination; or
- One policy for all, but with separate processes

HOSTILE ENVIRONMENT HARASSMENT: TITLE IX

Hostile environment under Title IX:

- Unwelcome conduct based on sex
- Severe, pervasive **and** objectively offensive
- Denies equal access to the institution's education program or activity
- Determined by a reasonable person

TITLE IX APPLICATION (POST-MAY 2020)



PROHIBITIONS ON DISCRIMINATION BEYOND TITLES VI, VII, & IX

- Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act (ADA)
- The Age Discrimination Act
- The Age Discrimination in Employment Act (ADEA)
- The Pregnancy Discrimination Act (PDA) of 1978
- The Americans with Disabilities Act (ADA) and the ADA Amendments Act (ADAAA)
- The Pregnant Workers Fairness Act (PWFA)
- The Genetic Information Nondiscrimination Act (GINA)
- The Uniformed Services Employment and Reemployment Rights Act (USERRA)
- The Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA)

A PAUSE FOR POLICY

Assessments of reports & allegations are based on institutional policy.

Your policy may go beyond Title VII.



Assessment Criteria

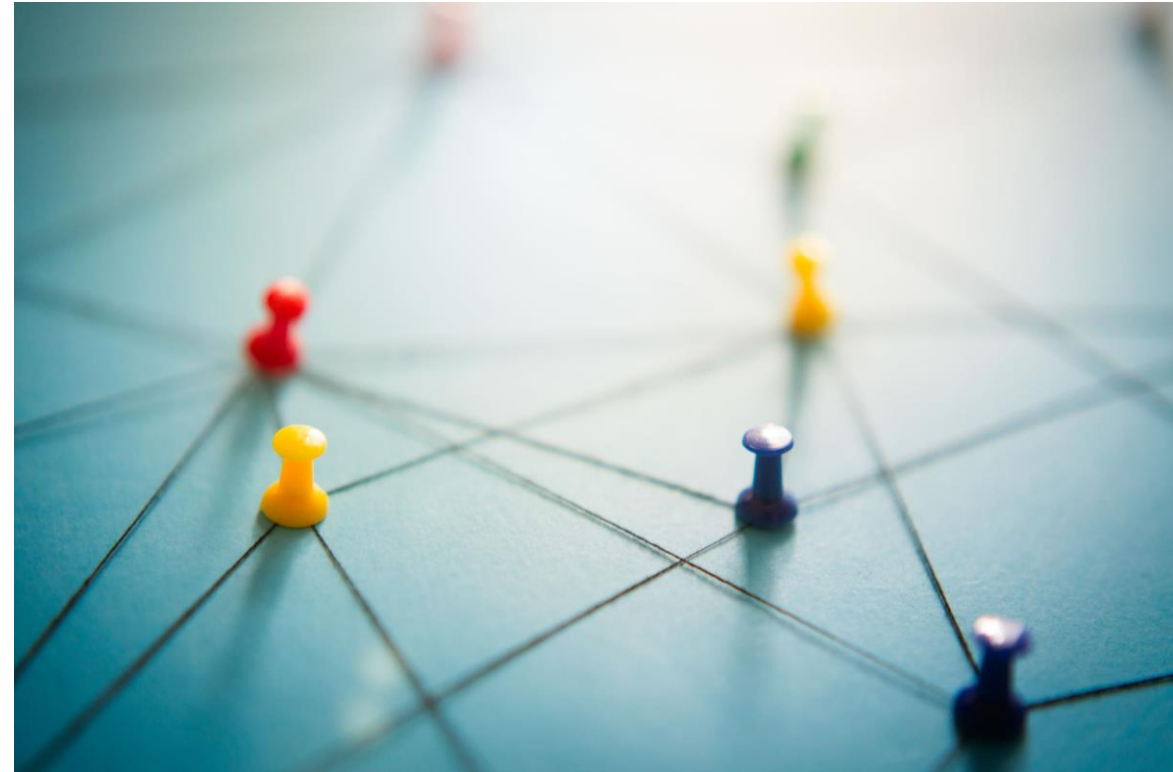
Discrimination v. OTHER unprofessional behavior:



ASSESSMENT FRAMEWORK: IDENTIFYING A CAUSAL CONNECTION

As reported, is there a potential causal connection between the conduct & the complainant's protected class?

Did the conduct occur **because** of an employee's protected class?



CAUSAL CONNECTIONS

A chairperson has been complaining to faculty and leadership that a male Asian professor is teaching the course *Black Women's History*.

According to the chairperson, the professor does not have the same connection to the material nor grasp of it that a Black woman would.

CAUSAL CONNECTIONS

An academic advisor has repeatedly encouraged a pregnant student not to enroll in more classes until after their baby is about a year old because “pregnant students and young mothers are unlikely to be successful in higher education.”

IDENTIFYING A CAUSAL CONNECTION

Assessment
≠
Finding



If everything reported is true, is there a link between the alleged conduct and a protected class?

Open up a
dialogue



“Please share some examples of what was said.”
“Tell me more about what that comment mean to you.”

ASSESSMENT FRAMEWORK PART 2: HOSTILE ENVIRONMENT CRITERIA

As reported, is the conduct:

- sufficiently severe or pervasive or persistent
- so as to interfere with or limit participation in or benefit from services, activities or privileges?
- as determined by a reasonable person



ASSESSMENT FRAMEWORK: HOSTILE ENVIRONMENT

- Who is a **reasonable person**?
 - Someone in the same protected class as the complainant.
 - Historical and/or cultural context informs severity and impact.
- How do you perform a **neutral** assessment **regardless** of whether you share the complainant's protected characteristics?
 - Use open-ended questions focused on understanding – “*What does the comment mean to you?*” and/or “*What most concerns you?*”
 - Search online for comments, phrases or other references that are unfamiliar to you.



SCENARIO: LEON AND THE PROFESSORS

Leon, a student, tells you that Professors Lammert and Nowak were sitting in Professor Nowak's office with the door open while Leon was waiting in the department suite to meet with his instructor. While he was waiting, Leon overheard Professor Lammert tell Professor Nowak a "Polish joke" which implied that Polish people are unintelligent, and both Professors laughed loudly at the joke. Professor Nowak then responded with his own joke about Polish people which Professor Lammert laughed at, but Leon found the joke to be equally offensive. While Leon did not recall what the jokes were exactly, he mentioned that he has Polish ancestry, and he found such behavior to be boorish and disappointing coming from professors. While Leon does not know the professors personally and does not interact with them for any of his classes, he is aware that they are well-known at the university for their contributions to their field.

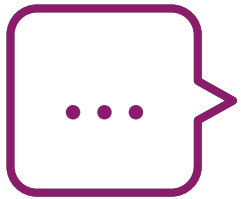
ASSESSING FOR CAUSAL CONNECTION: LEON & THE PROFESSORS



If everything Leon said is true, is the behavior of the professors connected to a protected class?



Yes, because as reported, the “jokes” negatively depict people due to their national origin.



Moving to the next criteria ...

EXPLORING HOSTILE ENVIRONMENT CRITERIA: LEON & THE PROFESSORS

We've determined a likely causal connection between the professors' "jokes" and national origin.

As reported, is the behavior severe?

SEVERE OR PERVASIVE/PERSISTENT?



**Power
differential &
other context**



History



Duration

**UNPROFESSIONAL
BUT NOT
UNLAWFUL: What's
next?**



IN CONCLUSION ...

Identify if there is a causal connection.

As reported, is there potential to meet criteria for a hostile environment?

Use the reasonable person standard.

Determine the best policy to use based on this assessment.

Refer out if applicable.



RESOLUTION SERVICES

Title VI, Title VII, Title IX & ADA | 504

Our experienced practitioners are available to serve as facilitators of alternative resolutions, investigators, decision-makers, hearing officers, chairs, panel members, advisors or appellate officers for all equity and discrimination cases.



Cherie Scricca Co-founder
Kelly Whitney Investigation, Hearing, & Appeal Services



DELEGATED ROLES

INTERIM OR LONG-TERM

Gap in staffing? We can help.

- Title IX Coordinators and Staff
- Title VI Coordinators and Staff
- EO Director
- Equity Director
- ADA | 504 Coordinators and Staff
- Investigators
- Hearing & Appeal Practitioners
- Facilitators of Alternative Resolutions
- Advisors | Process Advisors

LaNell Shirley Investigation, Hearing, & Appeal Services

GRAND RIVER | SOLUTIONS
GRAND RIVER | SOLUTIONS

TRAINING AND TRAINING MEMBERSHIP

Please check out our wide selection of trainings and learn about our new unlimited training membership. ***Unlimited open training access for your whole campus, one annual fee.***



Equity
Titles VI, VII, IX



Clery
Stop Campus
Hazing Act



ADA/504
&
Digital Accessibility



CASE MANAGEMENT SOFTWARE

Case Tracker

Titles VI, VII, IX & Equity
Software Solution

by Grand River Solutions



**Designed for you,
by people like you**

We are experts and practitioners working in response and resolution for discrimination, harassment, & equity concerns.

Case Tracker allows you to:

- track and manage your cases
- communicate with campus stakeholders without compromising case privacy, and
- provide parties with the ability to follow the status of their case

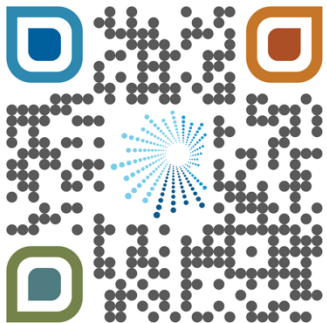


Schedule a Demo

GRAND RIVER SOLUTIONS

FREE RESOURCES

- The River Connect
- News Updates
- Thought Leadership
- Templates





*The equity case
management software*

Your policies and procedures are
uploaded and synched with each stage of
the process that follows your policy,
leading to smarter work and less errors.





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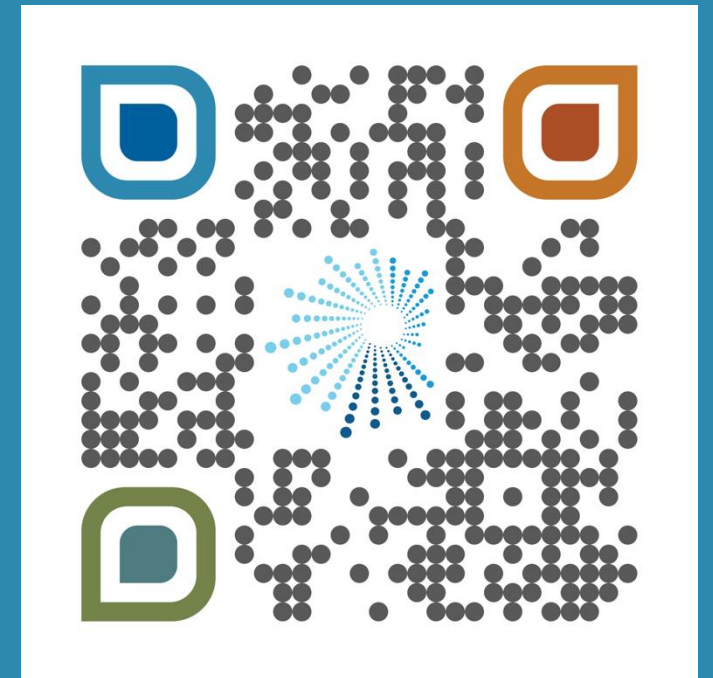


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