

Issues for Senate Assembly to Consider for November 16 Meeting

OIE, Interim Umbrella Policy and Title IX

Read about the Interim Umbrella Policy and access the policy and procedures in this [University Record Article](#).

Access the [Interim Umbrella Policy FAQ here](#).

OIE Procedures

The Title IX coordinator may dismiss a Formal Complaint of Sexual or Gender-Based Misconduct and/or Title IX Misconduct if the Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw their formal Complaint, or any allegations therein.

Potential Questions:

What steps will OIE take to ensure that a complaint is not withdrawn (or never filed) due to a fear of or threat of retaliation?

What steps is OIE taking to ensure that reports of misconduct do not slip through the cracks when there are findings of no policy violations or inappropriate behavior, but the report is not the first?

Where does the information reside when there are findings of inappropriate behavior, but no policy violation is found, and no action is taken?

How will OIE ensure transparency while protecting the privacy of complainants and respondents when no policy violations have been found, but a pattern of alleged misconduct exists?

The Title IX coordinator has the discretion to consolidate or sever claims of Title IX Misconduct and Sexual and Gender-Based Misconduct into a single investigation. All information is then made available to all parties.

Potential Question:

How will the complainants' or respondents' privacy be protected if cases are consolidated?

Appeals

Faculty have long requested the ability to appeal OIE findings. The Interim Umbrella Policy permits appeals to findings in Title IX cases in limited circumstances and for student cases, but the same rights to appeal are not available to complainants and respondents in non-Title IX cases for employees, including faculty.

The right to appeal findings in a Title IX case is available under the following circumstances:

- Procedural irregularity that materially affected the outcome of the matter;

- New evidence that was not reasonably available at the time the determination regarding responsibility was made, that could materially affect the outcome of the matter; and/or
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against the Complainants or the Respondents generally or the individual Complainant or Respondent that materially affected the outcome of the matter.

Note: Students also have the ability to appeal sanctions if the sanction was “clearly inappropriate and/or disproportionate to the conduct for which the person was found responsible.”

Single Investigator Model

SACUA has questioned the single investigator model of handling sexual and gender-based misconduct complaints. The single investigator model is used for Title IX cases and for student cases, but not for employee cases that fall outside of Title IX.

Sexual and Gender-Based Misconduct Process

The employee procedures under the Umbrella Policy provide for a single investigator model where the investigator both collects evidence and serves as the decision maker.

The investigator will be responsible for gathering evidence, for issuing a final investigation report and for making a finding concerning whether the Policy has been violated.

Title IX Misconduct Process (Title IX is defined on page 32 of the [Interim Umbrella Policy](#))

The investigation is handled using the same process as for a Sexual and Gender-Based Misconduct process, except the investigator does not make a finding and the investigation report is not sent to relevant University officials. OIE provides the final report to the parties, their advisors, and the hearing officer simultaneously.

Hearings will be facilitated by a hearing officer who will make decisions as to whether or not the Respondent violated the Policy using a preponderance of the evidence standard.