



Managing Multiple Policies and Processes

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Agenda

- Policies vs. Procedures
- Title IX Considerations
- What's the Big Deal? Policy Considerations
- Models for addressing multiple policies

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POLICY VS. PROCEDURES

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Policy vs Procedures






Policy

What are the rules, why they exist, when they apply



Internal Procedures

Step by step actions for the staff



External Process Information

Information through a notice letter or information sheet explaining the process and steps for the involved parties

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Examples

Policy statement

- Prior to completion of the investigative report, the respondent and complainant, and their respective advisors, if any, will be provided a copy of the evidence in an electronic format or a hard copy. The parties will have 10 calendar days to submit a written response.

Internal procedure

- All documents considered evidence should be converted and merged into one pdf.
- The pdf should be watermarked for each party, and security settings should be set to prohibit editing.
- A transfer link is sent to the parties simultaneously via email.

External process information

- "Prior to the completion of the report, you and your advisor, if applicable, will receive a Dropbox link to access a copy of the evidence. You will have until [DATE] to review the evidence and provide a written response to the investigator. To provide the written response, use the following link: [submission link]."

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Examples

Policy statement

- Either party may request, no later than seven calendar days prior to the hearing, for the hearing to occur with the parties located in separate rooms with technology enabling the hearing body and parties to simultaneously see and hear the party or the witness answering questions.

Internal procedure

- Notify both parties of the request for a virtual hearing.
- Book the space and technology.
- Send login information to the hearing officer and parties.
- Include an instruction sheet on using the technology.

External process information

- "Either the complainant or respondent may request to have the parties located in separate rooms and the hearing will be held using Zoom technology. If you wish to utilize this option, you must notify [NAME] at [EMAIL] no later than [DATE]."

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WHAT'S THE BIG DEAL?
TITLE IX
CONSIDERATIONS

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New Definition of Sexual Harassment



Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
2. 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 recipient's education program or activity;
3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

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Sexual Harassment

- Quid pro quo
- Hostile Environment

Sexual Assault

- Rape (including sodomy, sexual assault with an object)
- Fondling

Dating Violence

Domestic Violence

Stalking

Title IX Specific Prohibited Conduct

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Applicability/Jurisdiction





Who



Location



Educational program or activity

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Mandatory Dismissal

For it to be covered under Title IX, it must meet:

- New Definitions
- Jurisdiction of person
- Jurisdiction of activity

If it does NOT meet these requirements...

- Mandatory dismissal
- Can go to a different resolution process

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Likely outside of Title IX

- Title VII

 - Hostile environment harassment below Title IX bar
- VAWA Requirements

 - Non-Sex-based Stalking
 - Domestic violence involving family member
- Other Sex-based behaviors

 - Gender-based discrimination
 - Sexual Exploitation

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Limitations on Interim Action



Supportive Measures

Non-punitive



Emergency Removal


Immediate health and safety risk

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Advisors



Throughout investigation



Role at hearing

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Adjudication

Requires a Hearing

Cross-examination by advisor

Non-Participation limits evidence reliance

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Standard of Evidence



Options

Preponderance
Clear and Convincing



Must match other discipline

Student codes
Employee/Faculty codes
Collective Bargaining

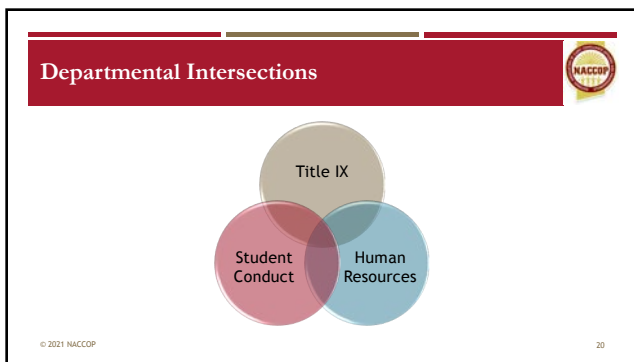
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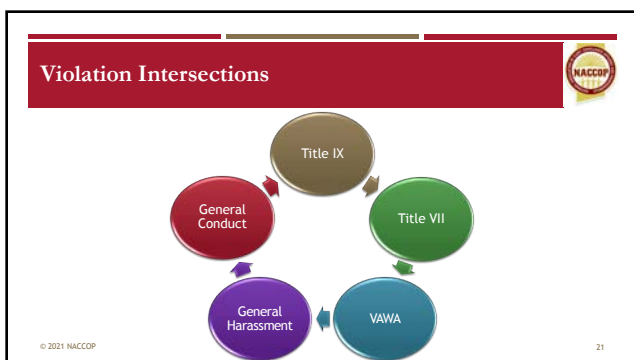
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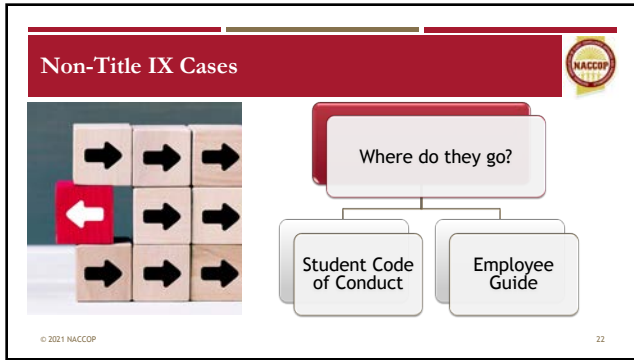
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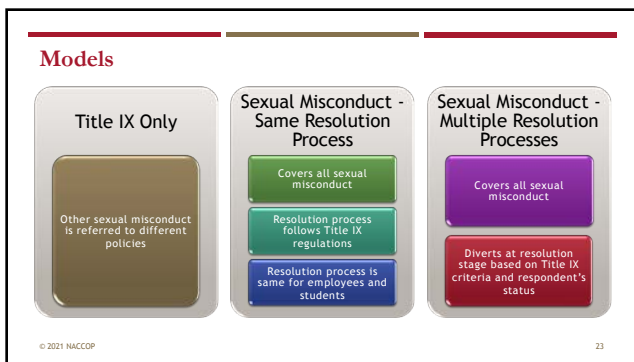
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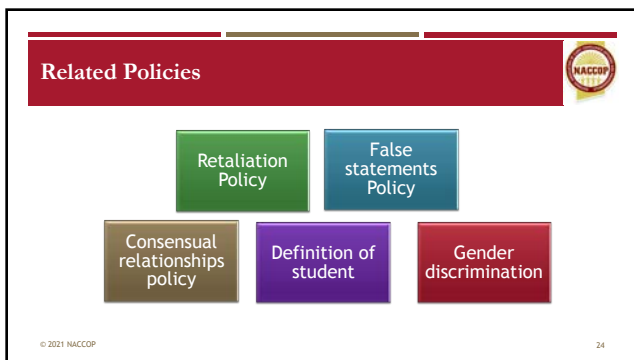
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Must haves for ALL policies





Legally compliant (Title IX, VAWA, State laws)



Comprehensive and flexible



True to institutional mission



Clear and understandable!

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Upcoming D. Stafford Virtual Classes


- Title IX Coordinator (11:00 AM - 5:00 PM Eastern)
 - May 3 - 7, 2021
 - October 4 - 8, 2021
- Combined Sexual Misconduct and Domestic/Dating Violence and Stalking Investigation (11:00 AM - 5:00 PM Eastern)
 - April 12 - 16, 2021
 - August 23 - 27, 2021
- Advanced Investigations (9:00 AM - 5:00 PM (Eastern Time))
 - June 7 - 11, 2021
 - November 8 - 12, 2021

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Upcoming D. Stafford Virtual Classes


- Behavioral Intervention Team/Threat Assessment Team Training (10:00 AM - 5:30 PM Eastern)
 - April 7 - 9, 2021
 - June 22 - 24, 2021
 - December 1 - 3, 2021

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2021 NACCOP Title IX Webinar
Where We Are, Where We Are Going - An Overview of the Biden Administration's Higher Education Plan




- This session will cover compliance related topics that are currently being discussed by the Biden administration, including Title IX, intersectional issues between Title IX and the Clery Act, institutional funding, student loan forgiveness, and other compliance-related issues.
- Thursday, April 29, 2021 from 2:00 PM - 3:30 PM (Eastern Time)
- Individual Cost: \$49.00 (Member) \$99.00 (Non-Member)
- Group Rate: \$129.00 (NACCOP Member) \$249.00 (Non-Member)

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2021 NACCOP Title IX Webinar

Student and Employee Conduct Policies in 2021 and Beyond: Updating for Compliance and the Times



- NACCOP is offering a comprehensive webinar presented by experts with practical experience analyzing and updating student conduct and employee policies and procedures to ensure Title IX and Clery Act compliance, fair and equitable processes, and the ability to manage an evolving higher education landscape.
- **Tuesday, May 13, 2021 from 2:00 PM - 3:30 PM (Eastern Time)**
- **Individual Cost:** \$49.00 (Member) \$99.00 (Non-Member)
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