

What is Title IX?

Title IX of the Educational Amendments of 1972 is a federal law that prohibits colleges and universities from discriminating "on the basis of sex." Under Title IX, "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."

Because Tennessee Tech receives Federal funding assistance, the university must comply with Title IX regulations. Policy 144, Title IX Policy and Grievance Procedures, is Tennessee Tech's Title IX policy.

Who is covered under Title IX?

Title IX applies to anyone, regardless of gender, who believes they were excluded from participation in, have been denied the benefits of, or have been subjected to discrimination under any education program or activity on the basis of sex. The law covers students, staff, faculty and visitors. However, the law only covers discrimination or harassment that occurs within the United States.

What is an education program or activity?

An education program or activity includes locations, events, or circumstances over which Tennessee Tech exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by Tennessee Tech.

There is an exception for fraternities, sororities, and other officially recognized student organizations. Title IX applies to officially recognized student organizations, events, or circumstances regardless of location or whether Tennessee Tech exercised substantial control over the respondent and the context of the harassment.

Can anyone report sexual discrimination or harassment? Where should these reports be made?

Yes. Anyone may report sex discrimination, including sexual harassment, whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment.

Who should I contact if I have questions about Title IX or wish to file a formal complaint?

Tennessee Tech Title IX Coordinator (Title IX Coordinator) is the appropriate person to contact with questions or to report sexual discrimination and harassment under Title IX. Reports may be made in person, by mail, by telephone, or by electronic mail at any time (including during non-business hours) to the Title IX Coordinator at 931-372-6062, titleix@tnitech.edu, 1 William L. Jones Drive, Box 5037, Cookeville, TN 38505 or to the U.S. Department of Education, Office of Civil Rights.

Title IX regulations and Tennessee Tech policy refer to complainant and respondent. What do those terms mean?

Complainant is a person who is alleged to be the victim of conduct that could constitute sexual harassment.

Respondent is the person who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

What is Tennessee Tech required to do when it receives notice of sexual harassment in an education program or activity?

If Tennessee Tech has actual knowledge of sexual harassment in an education program or activity committed against a person while in the United States, Tennessee Tech will respond promptly and follow its grievance procedures in a manner that is not deliberately indifferent. Actual knowledge means Tennessee Tech's Title IX Coordinator or any Tennessee Tech official who has authority to institute corrective measures on behalf of Tennessee Tech receives notice of sexual harassment or allegations of sexual harassment.

If Tennessee Tech receives a formal complaint of sexual harassment signed by the complainant who is participating in or attempting to participate in the university's education program or activity, then the university must follow a grievance process that complies with Title IX.

Will I be treated fairly regardless of whether I am a complainant or a respondent?

Yes. Title IX regulations and Tennessee Tech policy require the Title IX Coordinator, investigator, hearing officer, or decisionmaker to have no conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

What about confidentiality?

Tennessee Tech will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted or required by federal or state law, or to carry out the purposes of this rule and attendant policies, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

Tennessee Tech will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality does not impair Tennessee Tech's ability to provide the supportive measures.

What is sexual harassment under Title IX?

Sexual harassment is defined as conduct on the basis of sex that satisfies one or more of the following:

- A university employee conditioning the provision of an aid, benefit, or service of the university on an individual's participation in unwelcome sexual conduct (quid pro quo).

An example would be a faculty member agreeing to raise a student's exam grade or an employee agreeing to award a scholarship in return for unwanted sexual activity

- 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 university's education program or activity
- Sexual violence: sexual assault, dating violence, domestic violence, and stalking as defined by federal law

How are Sexual Assault, Stalking, Domestic Violence, and Dating Violence defined under Title IX?

Sexual Assault

Sexual Assault: Any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent.

- a. Rape: 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, without the consent of the victim. This offense includes the rape of both males and females.
- b. Fondling: Touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental capacity.
- c. Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- d. Statutory Rape: Sexual intercourse with a person who is under the age of consent (18 years old).

Stalking engaging in a course of conduct directed at a specific person that:

1. Would cause a reasonable person to fear for his or her safety or the safety of others; or
2. Suffer substantial emotional distress.

Dating violence -- as defined under federal law, violence committed by a person:

1. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
2. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - a. The length of the relationship;
 - b. The type of relationship; and

c. The frequency of interaction between the persons involved in the relationship.

Domestic violence -- as defined under federal law, includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

What happens when the Title IX Coordinator receives a report of sexual harassment or a formal complaint is filed?

Upon receiving a report of sexual harassment or upon the filing of a formal complaint, the Title IX Coordinator will promptly contact the complainant to:

1. Discuss the availability of supportive measures;
2. Consider the complainant's wishes with respect to supportive measures;
3. Inform the complainant of the availability of supportive measures with or without the filing of a formal complaint; and
4. Explain the process for filing a formal complaint.

In cases where a formal complaint is filed and an investigation is commenced, Tennessee Tech will offer supportive measures to the respondent as well.

What are supportive measures?

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed.

Such measures are designed to restore or preserve equal access to Tennessee Tech's education programs or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the university's educational environment, or deter sexual harassment.

Supportive measures may include, but are not limited to:

- Residence modifications
- Academic accommodations
- Changes in on-campus work schedule
- Security escorts
- Off-campus assistance and resource information

Must I file a Title IX complaint to get supportive measures?

No. A person is not required to file a formal complaint to receive assistance from the Title IX Office.

May I bring someone with me to meet with the Title IX Coordinator?

Yes. Complainant and respondent have the opportunity to have others present during any related meeting or proceeding, including the opportunity to be accompanied by the advisor of their choice, who may be, but is not required to be, an attorney.

GRIEVANCE PROCESS

What is a formal complaint?

A formal complaint is a written notice of the allegations potentially constituting sexual harassment, including sufficient details known at the time; sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known.

The formal complaint must contain the complainant's physical or digital signature, or otherwise indicate that the complainant is the person filing the formal complaint.

What happens after a formal complaint is filed?

Filing a formal complaint triggers the investigatory process. Tennessee Tech will provide both complainant and respondent (the parties) written notice of the allegations potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known.

In addition the parties will receive written notice that:

1. The respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process;
2. The parties may have an advisor of their choice, who may be, but is not required to be, an attorney; however, the advisor may not participate in any investigative interview or proceeding other than to render advice to the party or to cross examine the other party or witnesses during the live hearing;
3. The parties may inspect and review evidence; and
4. Identifies any provision in its codes of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If, during the course of an investigation, Tennessee Tech decides to investigate allegations about the complainant or respondent that were not included in the initial written notice, Tennessee Tech will provide notice of the additional allegations to the parties

Can formal complaints be dismissed?

Yes. There are two ways in which formal complaints may be dismissed.

Voluntary Dismissal

A formal complaint may be dismissed:

- if the complainant withdraws the complaint;
- the respondent is no longer enrolled or employed by the university; or
- specific circumstances prevent the university from gathering evidence sufficient to reach a determination.

Compulsory Dismissal

A formal complaint must be dismissed:

- if the conduct alleged in a formal complaint would not constitute sexual harassment even if proved;
- if the conduct alleged did not occur in the university's education program or activity; or
- if the conduct alleged did not occur against a person in the United States.

Such a dismissal under Title IX does not preclude action under another provision of the university's codes of conduct or other policies.

May the Title IX Coordinator attempt to resolve the matter after a formal complaint is filed?

Yes, but only if the parties voluntarily agree to informal resolution. After the filing of a formal complaint, the Title IX Coordinator may facilitate the informal resolution process, such as mediation, that does not involve a full investigation and adjudication. The informal resolution process may go forward only if the Title IX Coordinator:

1. Obtains the parties' *voluntary, written consent* to the informal resolution process;
2. Provides to the parties a written notice disclosing the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

The Title IX Coordinator will not facilitate an informal resolution process if a formal complaint is made by a Tennessee Tech student against a staff or faculty member.

Prior to agreeing to an informal resolution, a party may withdraw from the informal resolution process and resume grievance procedures with respect to the formal complaint. The informal

resolution process will conclude within 30 days of the parties agreeing to participate, absent good cause.

Will I be treated fairly if I am accused of violating Title IX

Yes. Title IX regulations and Tennessee Tech policy require the Title IX Coordinator, investigator, hearing officer, or decisionmaker to have no conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

INVESTIGATION

Tennessee Tech will investigate, to the extent necessary or possible, the allegations in a formal complaint and create an investigative report that fairly summarizes relevant evidence.

A. During the investigatory process, both parties will have an equal opportunity to:

1. Present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence; and
2. Inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which Tennessee Tech does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

B. Tennessee Tech will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

Prior to completion of the investigative report, Tennessee Tech will:

1. Send the investigative report along with the evidence subject to inspection and review in an electronic format or a hard copy to each party and the party's advisor, if any;
2. Allow the parties 10 business days to submit a written response to the investigative report, which the investigator will consider prior to completion of the investigative report; and

C. At the conclusion of 10 business days, the Title IX Coordinator will send the investigative report along with the evidence subject to inspection and review in an electronic format or a hard copy to the Hearing Officer for a formal complaint hearing.

What is a Formal Complaint Hearing?

Unless a complaint is dismissed or withdrawn, the investigation *must* be followed by a formal complaint hearing before a hearing officer provided by Tennessee Secretary of State's Office. The formal complaint hearing (hearing) is live, i.e., they must occur in "real time," and may be conducted with all parties physically present in the same geographic location or at Tennessee Tech's discretion, any or all parties, witnesses, and other participants may appear at the live

hearing virtually, with technology enabling participants simultaneously to see and hear each other.

Either party may request the live hearing to occur with the parties located in separate rooms with technology enabling the hearing officer and parties to simultaneously see and hear the party or the witness answering questions.

During the hearing, the hearing officer will make evidence subject to review and inspection during the investigation phase available to give each party equal opportunity to refer to that evidence, including for purposes of cross-examination.

Is cross examination of the parties and witnesses allowed during the hearing?

Yes. Title IX regulations allow that relevant cross examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the hearing officer will first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

Who conducts the cross examination?

The hearing officer will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing will be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally.

If a party does not have an advisor at the live hearing, Tennessee Tech will provide without fee or charge to that party an advisor of Tennessee Tech's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party

Must a party agree to be cross examined?

No. However, if a party or witness does not submit to cross-examination at the live hearing, the hearing officer will not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the hearing officer cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

What happens after the hearing?

After the hearing, the hearing officer will issue a written determination regarding responsibility simultaneously to the parties. The written determination will include:

1. The allegations potentially constituting sexual harassment;
2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;

3. The findings of fact supporting the determination;
4. The conclusions regarding the application of Tennessee Tech's rules, policy, and if applicable, code of conduct to the facts;
5. A statement of, and rationale for, the result as to each allegation, including a determination of responsibility, any disciplinary sanctions Tennessee Tech imposes on the respondent, and whether remedies designed to restore or preserve equal access to Tennessee Tech's education program or activity will be provided to the complainant; and
6. The procedures and permissible bases for the complainant and/or respondent to appeal.

Can the decision of the Hearing Officer be appealed?

Yes. Both parties may appeal a determination of responsibility or the dismissal of a formal complaint or any allegations therein.

A. A party wishing to appeal a determination or the dismissal must file a written appeal with the Title IX Coordinator within 10 business days of the date of the determination or dismissal. The written appeal must identify the basis or bases for the appeal and explain with specificity the facts supporting the basis or bases of the appeal.

B. The following are the only bases for an appeal:

1. A procedural irregularity affected the outcome of the matter;
2. New evidence that could affect the outcome of the matter that was not reasonably available at the time the determination or dismissal was made; and
3. A conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent by the Title IX Coordinator, investigator(s), or hearing officer that affected the outcome of the matter.

If a party is a student, the Vice President for Student Affairs is the appeal decision maker. If a party is an employee, the Vice President for Planning and Finance is the appeal decision maker. The respective Vice President will issue a written appeal decision describing the result of the appeal and the rationale for the result within the anticipated timeframe, absent good cause. The Title IX Coordinator will provide the written appeal decision simultaneously to both parties.

Can I be retaliated against for filing a Title IX complaint or participating in an investigation?

No. Neither Tennessee Tech nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing.

Complaints alleging retaliation may be filed with the Title IX Coordinator who will follow the procedures and processes used for Title VII retaliation allegations as set forth in Tennessee Tech Policy 141, Prohibited Discrimination and Harassment. Retaliation will result in disciplinary measures up to and including termination or expulsion.

How long does the grievance process usually take after a formal complaint is filed?

Tennessee Tech will make reasonable efforts to conclude the grievance process, including the investigation, hearing, and appeal within ninety (90) calendar days following receipt of the complaint, absent good cause.

The anticipated timeframe for the investigation hearing appeal or informal resolution are:

1. Investigation -- 45 calendar days
2. Hearing -- 30 calendar days
3. Appeal (if applicable) -- 15 calendar days
4. Informal Resolution (if applicable) -- 30 calendar days