



# SEXUAL ASSAULT TASK FORCE REPORT

NOVEMBER 2014

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## **Introduction**

Ferris State University seeks to provide all members of its campus community, including students and employees, with a safe and inviting environment to live, work, and attend classes.

One concern that has a direct impact on our campus environment is the concern that all students and employees are free from unwanted sexual verbal and physical misconduct. These behaviors fall on the spectrum from inappropriate sexual harassment to criminal sexual assault commonly referred to as sexual violence.

Postsecondary institutions across the United States are grappling with how best to educate their campus communities on appropriate sexual conduct. They are looking to ensure that their policies and procedures reflect the law while implementing meaningful preventive strategies. The U.S. Department of Education, Office of Civil Rights (OCR), in the context of Title IX, has provided educational institutions with significant guidance specifically on how to provide educational opportunities free from sexual harassment and sexual violence. The most recent guidance from OCR was issued on April 29, 2014.

It is in this context that the University initiated this task force to ensure that the University's current policies and practices provide the campus community with a safe learning environment while ensuring that its efforts accurately reflect the most recent guidance from OCR.

The recommendations offered in this report look to align our efforts with the OCR guidance and to create a community environment that not only meets the requirements of the law, but aligns with our core values of providing students with an opportunity to obtain knowledge while living and learning in an ethical community.

## **Task Force Scope and Charge**

### Scope:

In contemplating the scope for this Task Force the Vice President for Advancement & Marketing, the Vice President for General Counsel, and the Vice President for Administration and Finance collaborated in reviewing the many different aspects of this topic. In the broader array of topics considered we looked at policy implications, legal requirements, education, prevention, reporting, medical and counseling assistance, accommodations, victims' rights, alleged perpetrator's rights, informational resources, sexual harassment, response, communications, processes in working with the victim, and processes working with alleged perpetrators. This review helped shape the following Task Force charge.

### Charge:

This Task Force is being created to review selected issues related to the institution's handling of alleged sexual violence as part of a process improvement effort to try to ensure that the

institution is doing all that it can to educate, prevent and properly handle sexual violence. The specific elements that are part of this scope include the following:

1. Education of students on what is sexual violence, how to avoid situations that might lead to sexual violence, alcohol awareness and other related topics.
2. The university strives to not only handle acts of sexual violence professionally and in a timely and thoughtful way, but also aspires to do everything practical to help prevent future sexual violence. This Task Force will look at issues related to how the university might more proactively prevent future sexual violence from occurring.
3. Identify and train “reporting officials” about the responsibilities related to reporting sexual violence.
4. Review the effectiveness of our processes and protocols, as well as the resulting execution of those protocols for providing medical assistance, counseling assistance, communication of victims’ rights and the availability of informational resources in a post incident context.
5. In light of the renewed emphasis in this Task Force charge to review and potentially expand our efforts in the areas of education and prevention, our communication protocols need to be updated through our University Advancement & Marketing office to proactively advance our messages in student recruitment and otherwise on education and prevention as well as updating our communication pieces that are prepared and are in draft form that are part of our readiness for communication of future sexual violence incidents.

### **History**

This topic has become an increasingly important topic nationally over the last several years. While it has been a topic of concern and focus for parts of the university for many years, certainly the level of activity has been dramatically increased over the last three years. Following is a list of selected dates and more critical events, topics, or actions since early in 2011.

April 2011	U.S. Department of Education Office of Civil Rights (OCR) issued an extensive “Dear Colleague Letter”. Committee was formed by the Associate Vice President of Student Affairs to review the OCR “Dear Colleague Letter” and minors on campus related issues.
June 2011	The Director of Student Conduct and others reviewed OCR recommendations and created a spreadsheet to track Ferris.
Summer 2011	Reviewed spreadsheet and progress related to how Ferris is meeting OCR requirements.
October 2012	Dear Colleague Letter response was shared with committee. Subcommittee formed to review response and how it applied to Human Resources, Equal Opportunity & Student Conduct.

March 2013	Minors on Campus Committee was formed separate from addressing Title IX requirements.
January 2014	Launched a new Task Force to review how the University is handling sexual violence cases and related activities.
April 2014	Additional Federal Guidance issues on sexual violence.
August 2014	Task Force issued a draft report for President's Council and campus consideration.
November 2014	Task Force issued this final report.

## **Recommendations**

### Policies & Procedures

- 1. Update current policies to align with new federal guidance.** As per the April 2014 Office of Civil Rights Title IX guidance, the heightened focus of federal and state elected officials and Violence Against Women Act (VAWA,) and Clery updates, it is recommended that the current sexual assault policy, nondiscrimination and related policies be updated and be expanded to include sexual violence and new federal mandates during the fall of 2014. Incorporate language in updated sexual violence policies or create new policies to outline congruence of policies and responses, regardless of which Ferris State University site the incident occurs or affects. Note: the policy was updated in 2013 but the new guidance requires additional changes.  
Responsible parties: Director of Public Safety, Director of Student Conduct, Title IX Coordinator, and representatives from Kendall and Statewide sites.  
Proposed completion date: December 2014
- 2. Define “responsible employees” and develop a policy and set of procedures “responsible employees” should use to respond to sexual violence.** Policy and procedures should include a definition of their role, their responsibilities and what they are required to report to whom and when.  
Responsible party: Title IX Coordinator(s)  
Proposed completion date: December 2014
- 3. Update Department of Public Safety Victim Packets.** The Department of Public Safety creates packets to distribute when working with victims of sexual violence. The packet should be updated to meet the needs of our current students and inclusive of information about Title IX investigations. The information should also be available on the University Title IX website.  
Responsible parties: Director of Public Safety, Title IX Coordinator(s), Director of Student Conduct and Director of Health and Counseling Center.  
Proposed completion date: September 2014 (Complete)

4. **Create a source of information for alleged perpetrators.** Because most of the alleged perpetrators of sexual violence cases involving the Ferris State University community are also students, a packet of information should be created to inform them of policies, procedures and resources. This information should be available on the Title IX webpage and in paper.  
Responsible parties: Director of Public Safety, Title IX Coordinator(s), Director of Student Conduct and Director of Health and Counseling Center.  
Proposed completion date: September 2014 (Complete)
5. **Utilize a tracking mechanism to identify trends, and log prevention and education efforts regarding sexual violence.** Review current university systems for functionality, or seek new technology that would enable the Title IX Coordinator to track cases and easily identify sexual violence trends that need to be responded to as well as prevention and educational efforts offered across campus.  
Responsible parties: Title IX Coordinator(s), Dean of Students, Director of Student Conduct and Director of Health and Counseling Center.  
Proposed completion date: January 2015
6. **Staffing Title IX Coordinator role.** Currently two interim Title IX Coordinators exist on campus, to move to a more permanent structure, a full-time continuous Title IX coordinator should be hired or the responsibilities should be permanently added to a staff member's current position description. Regardless of the final organizational structure, deputy coordinators should be assigned representing students (including athletes), faculty, staff, and visitors and the role of investigator should be clearly defined.  
Responsible parties: Vice President for Student Affairs, Title IX Coordinator(s), Dean of Students and Vice President for Administration and Finance.  
Proposed completion date: February 2015

#### Education and Training

1. **Sexual Assault Climate Survey.** As per the April 2014 Office of Civil Rights Title IX guidance, a new and separate sexual assault climate survey should be developed and administered to Ferris State University students beginning the 2014 fall semester and in compliance with OCR guidance after that timeframe. Questions and results from the 2009 survey should be reviewed to inform the new survey, and in addition consideration could/should be given to include climate questions on other surveys already administered to students in order to meet our obligations and continually receive feedback.  
Responsible party: Director of Health and Counseling Center, Assistant Director of Housing, and Director of Institutional Research.  
Proposed completion date: Distribute survey in January 2015, results by March 2015
2. **Develop a comprehensive Title IX webpage.** As part of an educational campaign, a comprehensive Title IX webpage should be developed on the University website. Included on the site should be: sexual violence resource materials; policies and procedures; prevention measures; bystander resources; consequences for individuals found responsible for sexual violence; alcohol, drugs and sexual assault prevention;

public service announcements; and university provided training. Other strategies should include social media campaigns; residence hall programming; university bulletin boards; and general community outreach.

Responsible party: Vice President for Advancement and Marketing

Proposed completion date: September 2014

- 3. Design and deliver training for employees.** As per the April 2014 Office of Civil Rights Title IX guidance, training for responsible employees should be offered a periodic basis. In addition, offer and strongly encourage attendance at training for faculty and staff (for example, Title IX Coordinator(s), DPS, Student Affairs staff, Housing and Residence Life, etc.) on sexual violence and their respective roles in prevention and intervention should be offered through the Center for Training and Development or Title IX Coordinator(s).

Responsible party: Title IX Coordinator(s)

Proposed completion date: Partial September 2014; full implementation May 2015

### Prevention

- 1. Create and implement educational programming focused on preventing and reducing sexual violence.** Inclusive in this programming should be awareness for students regarding the risk with alcohol consumption and correlation with sexual violence, and a focus on bystander and peer education/training. Alcohol and drug awareness will help define personal responsibility and risk reduction. Bystander training will educate targeted audiences regarding how community members can be part of prevention strategies and take responsibility to step out of the passive bystander role into a take charge approach and report any activity they know is not right to Public Safety. Peer education will enable consistent educational messages regarding all of these topics to be delivered through peer voices and actions. Target audiences for this training would include athletic teams, Greek organizations, 1<sup>st</sup> year students, Hall Directors, Resident Assistants, and the campus in general.

Responsible party: Director of Health and Counseling Center, Title IX Coordinator(s), and Assistant Director of Housing and Residence Life.

Proposed completion date: December 2014 for spring 2015 implementation

- 2. Create and advertise additional night and weekend programming to engage students in alternative venues and reduce risk.** A plethora of programming already occurs on campus and with the opening of the new University Center, the venues for programming will be enhanced. Collaborative efforts should be instituted to review the current programming offerings at Ferris, determine what additional programming needs exist and decide when programming should occur in order to make a positive impact on student behavior.

Responsible party: Dean of Student Life, Director of Health and Counseling Center, Director of CLASC, Director of University Center, and Assistant Director of Housing.

Proposed completion date: Partial September 2014; full implementation January 2015

## External Partnerships

1. **Improve alignment of community sexual violence resources.** A meeting should be convened with the University Health and Counseling Center, Title IX Coordinator(s), the Mecosta County Prosecutor or Assistant Prosecutor, Spectrum Health Big Rapids Hospital Emergency Room staff, and anyone else who would add value to this conversation to discuss how current processes and protocols on handling victims of sexual violence might be improved.  
Responsible party: Vice President for Student Affairs  
Proposed completion date: January 2015
  
2. **Host meeting(s) to create greater understanding of protocols.** A meeting (or series of meetings) should be convened between the Office of Student Conduct, the Department of Public Safety, Big Rapids Public Safety, Sheriff's Office, and the Prosecutor's Office to discuss case handling protocols, learn more about how the university departments might improve case documentation and how the Prosecutor's Office determines which cases they will pursue or drop.  
Responsible parties: Director of Public Safety  
Proposed completion date: December 2014
  
3. **Memos of Understanding (MOUs).** Enter into separate MOUs with WISE, Spectrum Health Big Rapids Hospital, and amend the local MOU with law enforcement agencies in Mecosta County.
  - a. MOU with WISE would proactively strengthen our partnership and advance our mutual goals such as prevention, education, appropriate support for victims, proper treatment of alleged perpetrators, awareness of victims resources (including how to report incidents), etc.
  - b. MOU with Spectrum Health Big Rapids Hospital would document mutual goals and roles and responsibilities of respective parties when a victim goes to the local hospital.
  - c. The existing MOU with the other local law enforcement agencies in Mecosta County should be amended to better define roles, responsibilities and expectations regarding how reported sexual violence would be handled by the agency that receives such a complaint.Responsible parties: WISE and Hospital -- Title IX Coordinator(s), Vice President for Student Affairs, Dean of Student Life and Director of Health and Counseling Center.  
Local Law Enforcement Agencies -- Title IX Coordinator(s), Director of Public Safety and Director of Student Conduct  
Proposed completion date: December 2014
  
4. **Counseling Resources available 24/7.** The Counseling Center staff should update and advertise the strategy to enable access to counseling resources 24/7. Strategy could include community resources, change to current personal counseling center staffing model or other measures.  
Responsible parties: Dean of Student Life and Director of Health and Counseling Center.  
Proposed completion date: December 2014

## Miscellaneous

1. **Future Task Force Meeting.** The Task Force members should reconvene to review the results of the climate survey administered during the fall semester and to determine if there are any changes that would be warranted to this Task Force Report as a result of the survey results.

Responsible party: Vice President for Administration and Finance

Proposed completion date: April 2015

2. **Sexual Violence Response Team.** The University has had a longstanding practice of immediately assembling a senior level group of persons to deal with the relevant issues in the first few hours of being notified of an act of sexual violence. This process is led by the Vice President for Administration and Finance, the team members vary depending on the circumstances, and this protocol should continue.

A new Sexual Violence Response Team should be created, which would step in after the initial group noted above, to enable Ferris State University to fully and consistently follow-up on any facts or circumstances on each alleged sexual violence case.

Membership should include Title IX Coordinator (chair), Director of Public Safety, Vice President for Student Affairs, Dean of Students, Director of Student Conduct, University Advancement and Marketing Representative, General Counsel's Office representative, and others should be added as needed.

Responsible party: Title IX Coordinator

Proposed completion date: February 2015

3. **Clarify the Ferris State University Role at Off-Campus Properties.** We need to review the environments for non-Ferris State University properties in which we have some formal programming to determine the university's role versus the role of the various landlords. These properties specifically include the residential spaces at 5 Lyon in Grand Rapids, our co-location at Grand Rapids Community College, and the other locations where we have programming across the state.

Responsible party: Interim Dean of Extended International Office and President of Kendall College of Art and Design

Proposed completion date: December 2014

4. **It is Recommended that Two Addenda Be Created for this Report.** One addenda would identify the applicable portions of this report to be utilized at Kendall College of Art and Design and at UICA and the second addendum would be to identify the applicable portions of this Task Force Report for our off-campus locations for EIO.

Responsible party: President of Kendall College of Art and Design and Interim Dean of Extended International Office respectively.

Proposed completion date: December 2014

**Task Force Membership**

Shelly Armstrong, Vice President, University Advancement & Marketing

Bruce Borkovich, Director, Public Safety

Sandy Gholston, News Services, University Advancement & Marketing

Lisa Ortiz, Assistant Director, Residential Programs

Ken Plas, Attorney, Governmental Relations and General Counsel

Renee Vander Myde, Director, Counseling and Health Center

Jeanine Ward-Roof, Vice President, Student Affairs

Erik Wessel, Director, Student Conduct

Leroy Wright, Dean of Students

Jerry Scoby, Vice President for Administration and Finance, Chair

### Recommendations Sorted by Completion Date

- 1. Update Department of Public Safety Victim Packets.** The Department of Public Safety creates packets to distribute when working with victims of sexual violence. The packet should be updated to meet the needs of our current students and inclusive of information about Title IX investigations. The information should also be available on the University Title IX website.

Responsible parties: Director of Public Safety, Title IX Coordinator(s), Director of Student Conduct and Director of Health and Counseling Center.

Proposed completion date: September 2014 (Complete)
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Responsible party: Vice President for Advancement and Marketing

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Responsible party: Title IX Coordinator(s)

Proposed completion date: Partial September 2014; full implementation May 2015
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current programming offerings at Ferris, determine what additional programming needs exist and decide when programming should occur in order to make a positive impact on student behavior.

Responsible party: Dean of Student Life, Director of Health and Counseling Center, Director of CLASC, Director of University Center, and Assistant Director of Housing.  
Proposed completion date: Partial September 2014; full implementation January 2015

6. **Define “responsible employees” and develop a policy and set of procedures “responsible employees” should use to respond to sexual violence.** Policy and procedures should include a definition of their role, their responsibilities and what they are required to report to whom and when.  
Responsible party: Title IX Coordinator(s)  
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Responsible parties: Director of Public Safety, Director of Student Conduct, Title IX Coordinator, and representatives from Kendall and Statewide sites.  
Proposed completion date: December 2014
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Responsible parties: Director of Public Safety  
Proposed completion date: December 2014
9. **Memos of Understanding (MOUs).** Enter into separate MOUs with WISE, Spectrum Health Big Rapids Hospital, and amend the local MOU with law enforcement agencies in Mecosta County.
  - a. MOU with WISE would proactively strengthen our partnership and advance our mutual goals such as prevention, education, appropriate support for victims, proper treatment of alleged perpetrators, awareness of victims resources (including how to report incidents), etc.
  - b. MOU with Spectrum Health Big Rapids Hospital would document mutual goals and roles and responsibilities of respective parties when a victim goes to the local hospital.
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regarding how reported sexual violence would be handled by the agency that receives such a complaint.

Responsible parties: WISE and Hospital -- Title IX Coordinator(s), Vice President for Student Affairs, Dean of Student Life and Director of Health and Counseling Center.

Local Law Enforcement Agencies -- Title IX Coordinator(s), Director of Public Safety and Director of Student Conduct

Proposed completion date: December 2014

10. **Counseling Resources available 24/7.** The Counseling Center staff should update and advertise the strategy to enable access to counseling resources 24/7. Strategy could include community resources, change to current personal counseling center staffing model or other measures.

Responsible parties: Dean of Student Life and Director of Health and Counseling Center.  
Proposed completion date: December 2014

11. **Clarify the Ferris State University Role at Off-Campus Properties.** We need to review the environments for non-Ferris State University properties in which we have some formal programming to determine the university's role versus the role of the various landlords. These properties specifically include the residential spaces at 5 Lyon in Grand Rapids, our co-location at Grand Rapids Community College, and the other locations where we have programming across the state.

Responsible party: Interim Dean of Extended International Office and President of Kendall College of Art and Design

Proposed completion date: December 2014

12. **It is Recommended that Two Addenda Be Created for this Report.** One addenda would identify the applicable portions of this report to be utilized at Kendall College of Art and Design and at UICA and the second addendum would be to identify the applicable portions of this Task Force Report for our off-campus locations for EIO.

Responsible party: President of Kendall College of Art and Design and Interim Dean of Extended International Office respectively.

Proposed completion date: December 2014

13. **Create and implement educational programming focused on preventing and reducing sexual violence.** Inclusive in this programming should be awareness for students regarding the risk with alcohol consumption and correlation with sexual violence, and a focus on bystander and peer education/training. Alcohol and drug awareness will help define personal responsibility and risk reduction. Bystander training will educate targeted audiences regarding how community members can be part of prevention strategies and take responsibility to step out of the passive bystander role into a take charge approach and report any activity they know is not right to Public Safety. Peer education will enable consistent educational messages regarding all of these topics to be delivered through peer voices and actions. Target audiences for this training would include athletic teams, Greek organizations, 1<sup>st</sup> year students, Hall Directors, Resident Assistants, and the campus in general.

Responsible party: Director of Health and Counseling Center, Title IX Coordinator(s), and Assistant Director of Housing and Residence Life.

Proposed completion date: December 2014 for spring 2015 implementation

14. **Utilize a tracking mechanism to identify trends, and log prevention and education efforts regarding sexual violence.** Review current university systems for functionality, or seek new technology that would enable the Title IX Coordinator to track cases and easily identify sexual violence trends that need to be responded to as well as prevention and educational efforts offered across campus.

Responsible parties: Title IX Coordinator(s), Dean of Students, Director of Student Conduct and Director of Health and Counseling Center.

Proposed completion date: January 2015

15. **Improve alignment of community sexual violence resources.** A meeting should be convened with the University Health and Counseling Center, Title IX Coordinator(s), the Mecosta County Prosecutor or Assistant Prosecutor, Spectrum Health Big Rapids Hospital Emergency Room staff, and anyone else who would add value to this conversation to discuss how current processes and protocols on handling victims of sexual violence might be improved.

Responsible party: Vice President for Student Affairs

Proposed completion date: January 2015

16. **Sexual Violence Response Team.** The University has had a longstanding practice of immediately assembling a senior level group of persons to deal with the relevant issues in the first few hours of being notified of an act of sexual violence. This process is led by the Vice President for Administration and Finance, the team members vary depending on the circumstances, and this protocol should continue.

A new Sexual Violence Response Team should be created, which would step in after the initial group noted above, to fully and consistently follow-up on any facts or circumstances on each alleged sexual violence case. Membership should include Title IX Coordinator (chair), Director of Public Safety, Vice President for Student Affairs, Dean of Students, Director of Student Conduct, University Advancement and Marketing Representative, General Counsel's Office representative, and others as needed.

Responsible party: Title IX Coordinator

Proposed completion date: February 2015

17. **Sexual Assault Climate Survey.** As per the April 2014 Office of Civil Rights Title IX guidance, a new and separate sexual assault climate survey should be developed and administered to Ferris State University students beginning the 2014 fall semester, and in compliance with OCR guidance after that timeframe. Questions and results from the 2009 survey should be reviewed to inform the new survey, and in addition consideration could/should be given to include climate questions on other surveys already administered to students in order to meet our obligations and continually receive feedback.

Responsible party: Director of Health and Counseling Center, Assistant Director of Housing, and Director of Institutional Research.

Proposed completion date: Distribute survey by January 2015, results by March 2015

18. **Staffing Title IX Coordinator role.** Currently two interim Title IX Coordinators exist on campus, to move to a more permanent structure, a full-time continuous Title IX coordinator should be hired or the responsibilities should be permanently added to a staff

member's current position description. Regardless of the final organizational structure, deputy coordinators should be assigned representing students (including athletes), faculty, staff, and visitors and the role of investigator should be clearly defined.

Responsible parties: Vice President for Student Affairs, Title IX Coordinator(s), Dean of Students and Vice President for Administration and Finance.

Proposed completion date: February 2015

19. **Future Task Force Meeting.** The Task Force members should reconvene to review the results of the climate survey administered during the fall semester and to determine if there are any changes that would be warranted to this Task Force Report as a result of the survey results.

Responsible party: Vice President for Student Affairs

Proposed completion date: April 2015



# SEXUAL ASSAULT TASK FORCE REPORT

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AN "X" INDICATES ALREADY IN PLACE	NOTES	PROVISION
		<b>School's Obligation to Respond</b>
		<b>REQUIRED</b>
	<i>Practice</i>	1. If a student files a complaint with the school, regardless of where the conduct occurred, the school <u>must</u> process the complaint in accordance its established procedures.
	<i>Practice</i>	2. Regardless of whether a harassed student, his or her parent, or a third party files a complaint under the school's grievance procedures or otherwise requests action on the student's behalf, a school that knows, or reasonably should know, about possible harassment <u>must</u> promptly investigate to determine what occurred and then take appropriate steps to resolve the situation.
		3. Yet as discussed in more detail below, the school's inquiry <u>must</u> in all cases be prompt, thorough, and impartial.
	<i>Practice</i>	4. In cases involving potential criminal conduct, school personnel <u>must</u> determine, consistent with State and local law, whether appropriate law enforcement or other authorities should be notified.
	<i>Practice</i>	5. For example, the alleged harasser may have a right under FERPA to inspect and review portions of the complaint that directly relate to him or her. In that case, the school <u>must</u> redact the complainant's name and other identifying information before allowing the alleged harasser to inspect and review the sections of the complaint that relate to him or her.
	<i>Practice</i>	6. If an investigation reveals that sexual violence created a hostile environment, the school <u>must</u> then take prompt and effective steps reasonably calculated to end the sexual violence, eliminate the hostile environment, prevent its recurrence, and, as appropriate, remedy its effects. (pg 2)
		7. Title IX <u>requires</u> a school to protect the complainant and ensure his or her safety as necessary, including taking interim steps before the final outcome of any investigation.
	<i>Practice</i>	8. The school <u>should</u> take these steps promptly once it has notice of a sexual violence allegation and should provide the complainant with periodic updates on the status of the investigation. If the school determines that the sexual violence occurred, the school <u>must</u> continue to take these steps to protect the complainant and ensure his or her safety, as necessary.
	<i>Practice</i>	9. If a school delays responding to allegations of sexual violence or responds inappropriately, the school's own inaction may subject the student to a hostile environment. If it does, the school will also be <u>required</u> to remedy the effects of the sexual violence that could reasonably have been prevented had the school responded promptly and appropriately.
		10. In cases involving a student who meets the legal age of consent in his or her state, there will still be a strong presumption that sexual activity between an adult school employee and a student is unwelcome and nonconsensual. When a school is on notice that a school employee has sexually harassed a student, it is <u>responsible</u> for

		taking prompt and effective steps reasonably calculated to end the sexual harassment, eliminate the hostile environment, prevent its recurrence, and remedy its effects.
		11. A school <i>should</i> take steps to protect its students from sexual abuse by its employees. It is therefore <i>imperative</i> for a school to develop policies prohibiting inappropriate conduct by school personnel and procedures for identifying and responding to such conduct.
		<b>SHOULD NOT</b>
	<i>Practice</i>	12. A school <i>should not wait to take steps to protect its students until students have already been deprived of educational opportunities.</i>
		<b>RECOMMENDED</b>
		13. Schools also are required to publish a notice of nondiscrimination and to adopt and publish grievance procedures. Because of these requirements, which are discussed in greater detail in the following section, schools <i>need to ensure</i> that their employees are trained so that they know to report harassment to appropriate school officials, and so that employees with the authority to address harassment know how to respond properly. Training for employees <i>should</i> include practical information about how to identify and report sexual harassment and violence. OCR <i>recommends</i> that this training be provided to any employees likely to witness or receive reports of sexual harassment and violence, including teachers, school law enforcement unit employees, school administrators, school counselors, general counsels, health personnel, and resident advisors.
		14. OCR <i>recommends</i> that a school coordinate with its international office and its undocumented student program coordinator, if applicable, to help communicate information about Title IX in languages that are accessible to these groups of students. OCR also <i>encourages</i> schools to provide foreign national complainants with information about the U nonimmigrant status and the T nonimmigrant status.
		15. OCR <i>recommends</i> that a school take steps to ensure that its employees who work with international students, including the school's DSO, are trained on the school's sexual violence policies and that employees involved in handling sexual violence complaints and counseling students who have experienced sexual violence are aware of the special issues that international students may encounter
	<i>Practice</i>	16. <b><i>How should a school respond to sexual violence when the alleged perpetrator is not affiliated with the school?</i></b> <i>However (and subject to the confidentiality provisions discussed in Section E), it should conduct an inquiry into what occurred and should report the incident to the visiting school and encourage the visiting school to take appropriate action to prevent further sexual violence. The home school should also notify the student of any right to file a complaint with the alleged perpetrator's school or local law enforcement.</i>
		<b>SHOULD</b>
		17. A school <i>should</i> provide training for administrators, teachers, staff, parents, and age-appropriate classroom information for students to ensure that

		everyone understands what types of conduct are prohibited and knows how to respond when problems arise.
	<i>Practice</i>	18. The school <u>should</u> also ensure that the complainant is aware of any available resources, such as victim advocacy, housing assistance, academic support, counseling, disability services, health and mental health services, and legal assistance, and the right to report a crime to campus or local law enforcement.
AN "X" INDICATES ALREADY IN PLACE	NOTES	PROVISION
		Students Protected by Title IX
		<b>REQUIRED</b>
		1. School <u>must</u> investigate and resolve allegations of sexual violence involving parties of the same sex using the same procedures and standards that it uses in all complaints involving sexual violence.
	<i>Practice</i>	2. A school <u>must</u> also ensure that any school reporting forms, information, or training about sexual violence be provided in a manner that is accessible to students and employees with disabilities, for example, by providing electronically-accessible versions of paper forms to individuals with print disabilities, or by providing a sign language interpreter to a deaf individual attending a training.
	<i>Practice</i>	3. A school <u>must</u> also ensure that any school reporting forms, information, or training about sexual violence be provided in a manner accessible to students who are English language learners.
	<i>Practice</i>	4. Even though a school's ability to take direct action against a particular perpetrator may be limited, the school <u>must</u> still take steps to provide appropriate remedies for the complainant and, where appropriate, the broader school population.
		<b>SHOULD</b>
	<i>Practice</i>	5. School <u>should</u> investigate and resolve allegations of sexual violence regarding LGBT students using the same procedures and standards that it uses in all complaints involving sexual violence.
		6. If a school's policies related to sexual violence include examples of particular types of conduct that violate the school's prohibition on sexual violence, the school <u>should</u> consider including examples of same-sex conduct.
		7. In addition, a school <u>should</u> ensure that staff are capable of providing culturally competent counseling to all complainants. Thus, a school <u>should</u> ensure that its counselors and other staff who are responsible for receiving and responding to complaints of sexual violence, including investigators and hearing board members, receive appropriate training about working with LGBT and gender-nonconforming students and same-sex sexual violence.
		8. A school <u>should</u> ensure that all students regardless of their immigration status, including undocumented students and international students, are aware of their rights under Title IX.

AN "X" INDICATES ALREADY IN PLACE	NOTES	PROVISION
		Procedural Requirements
		<b>Required</b>
		1. Recipients of Federal financial assistance <i>must</i> comply with the procedural requirements outlined in the Title IX implementing regulations. Specifically, a recipient <i>must</i> :
		(A) Disseminate a notice of nondiscrimination
		(B) Designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title IX;
		(C) Adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee sex discrimination complaints.
		<b>STRONGLY DISCOURAGES</b>
		2. OCR <i>strongly discourages</i> schools from allowing the parties personally to question or cross-examine each other during the hearing. Allowing an alleged perpetrator to question an alleged victim directly may be traumatic or intimidating, thereby possibly escalating or perpetuating a hostile environment.
AN "X" INDICATES ALREADY IN PLACE	NOTES	PROVISION
		Notice of Non-Discrimination
		<b>REQUIRED</b>
		1. The notice <i>must</i> state that inquiries concerning the application of Title IX may be referred to the recipient's Title IX coordinator or to OCR.
		2. The notice <i>must</i> be widely distributed to all students, parents of elementary and secondary students, employees, applicants for admission and employment, and other relevant persons. OCR <i>recommends</i> that the notice be prominently posted on school Web sites and at various locations of general distribution that provide information to students and employees about the school's services and policies. The notice <i>should</i> be available and easily accessible on an ongoing basis.
		3. OCR therefore <i>recommends</i> that a recipient's nondiscrimination policy state that prohibited sex discrimination covers sexual harassment, including sexual violence, and that the policy include examples of the types of conduct that it covers.
		4. The notice of nondiscrimination <i>must</i> state that the school does not discriminate on the basis of sex in its education programs and activities, and that it is required by Title IX not to discriminate in such a manner. The notice <i>must</i> state that questions regarding Title IX may be referred to the school's

		Title IX coordinator or to OCR. The school <u>must</u> notify all of its students and employees of the name or title, office address, telephone number, and email address of the school's designated Title IX coordinator.
		<b>SHOULD</b>
		5. It <u>should</u> include the name or title, office address, telephone number, and e-mail address for the recipient's designated Title IX coordinator.
		6. The notice <u>should</u> be available and easily accessible on an ongoing basis.
AN "X" INDICATES ALREADY IN PLACE	NOTES	PROVISION
		Title IX Coordinator
		<b>REQUIRED</b>
		1. Recipients <u>must</u> ensure that employees designated to serve at Title IX coordinators have adequate training on what constitutes sexual harassment, including sexual violence, and that they understand how the recipient's grievance procedures operate.
		2. The Title IX coordinator <u>must</u> have knowledge of the requirements of Title IX, of the school's own policies and procedures on sex discrimination, and of all complaints raising Title IX issues throughout the school.
		<b>SHOULD NOT</b>
		3. Title IX coordinators <u>should not</u> have other job responsibilities that may create a conflict of interest. Because some complaints may raise issues as to whether or how well the school has met its Title IX obligations, designating the same employee to serve both as the Title IX coordinator and the general counsel (which could include representing the school in legal claims alleging Title IX violations) poses a serious risk of a conflict of interest. Other employees whose job responsibilities may conflict with a Title IX coordinator's responsibilities include Directors of Athletics, Deans of Students, and any employee who serves on the judicial/hearing board or to whom an appeal might be made.
		<b>SHOULD</b>
	<i>Practice</i>	4. <i>The Title IX coordinator or designee <u>should</u> be available to meet with students as needed.</i>
		5. If a recipient designates more than one Title IX coordinator, the notice <u>should</u> describe each coordinator's responsibilities ( <i>e.g.</i> , who will handle complaints by students, faculty, and other employees). The recipient <u>should</u> designate one coordinator as having ultimate oversight responsibility, and the other coordinators <u>should</u> have titles clearly showing that they are in a deputy or supporting role to the senior coordinator. The Title IX coordinators <u>should not</u> have other job responsibilities that may create a conflict of interest. For example, serving as the Title IX coordinator and a disciplinary hearing board member or general counsel may create a conflict of interest.
		6. Because sexual violence complaints often are filed with the school's law enforcement unit, all school law enforcement unit employees <u>should</u> receive

		training on the school's Title IX grievance procedures and any other procedures used for investigating reports of sexual violence. In addition, these employees <i>should</i> receive copies of the school's Title IX policies.
		7. Schools <i>should</i> instruct law enforcement unit employees both to notify complainants of their right to file a Title IX sex discrimination complaint with the school in addition to filing a criminal complaint, and to report incidents of sexual violence to the Title IX coordinator if the complainant consents.
		8. The school <i>should</i> ensure that the Title IX coordinator is given the training, authority, and visibility necessary to fulfill these responsibilities.
		9. The Title IX coordinator also <i>should</i> be given access to school law enforcement unit investigation notes and findings as necessary for the Title IX investigation, so long as it does not compromise the criminal investigation.
AN "X" INDICATES ALREADY IN PLACE	NOTES	PROVISION
		Grievance Procedures
		<b>REQUIRED</b>
	<i>Practice</i>	1. <i>The grievance procedures <u>must</u> apply to sex discrimination complaints filed by students against school employees, other students, or third parties.</i>
	<i>Practice</i>	2. <i>Any procedures used to adjudicate complaints of sexual harassment or sexual violence, including disciplinary procedures, however, <u>must</u> meet the Title IX requirement of affording a complainant a prompt and equitable resolution.</i>
	<i>Practice</i>	3. <i>In addition, as stated in the 2001 Guidance, the complainant <u>must</u> be notified of the right to end the informal process at any time and begin the formal stage of the complaint process. Moreover, in cases involving allegations of sexual assault, mediation is not appropriate even on a voluntary basis. OCR <u>recommends</u> that recipients clarify in their grievance procedures that mediation will not be used to resolve sexual assault complaints.</i>
		4. These procedures <u>must</u> apply to all students, including athletes. If a complaint of sexual violence involves a student athlete, the school <u>must</u> follow its standard procedures for resolving sexual violence complaints. Such complaints <u>must not</u> be addressed solely by athletics department procedures.
	<i>Practice</i>	5. Schools <i><u>should not</u></i> wait for the conclusion of a criminal investigation or criminal proceeding to begin their own Title IX investigation and, if needed, <u>must</u> take immediate steps to protect the student in the educational setting.
		6. Any agreement or Memorandum of Understanding (MOU) with a local police department <u>must</u> allow the school to meet its Title IX obligation to resolve complaints promptly and equitably.
	<i>Practice</i>	7. <i><u>Although a school may need to delay temporarily the fact-finding portion of a Title IX investigation while the police are gathering evidence, once notified that the police department has completed its gathering of evidence (not the ultimate outcome of the investigation or the filing of any charges), the school <u>must</u> promptly resume and complete its fact-finding for the Title IX investigation.</u></i>

		8. Thus, in order for a school’s grievance procedures to be consistent with Title IX standards, the school <u>must</u> use a preponderance of the evidence standard ( <i>i.e.</i> , it is more likely than not that sexual harassment or violence occurred).
		9. Throughout a school’s Title IX investigation, including at any hearing, the parties <u>must</u> have an equal opportunity to present relevant witnesses and other evidence.
		10.
		11.
		12.
		13. The complainant and the alleged perpetrator <u>must</u> be afforded similar and timely access to any information that will be used at the hearing.
		14. Access to this information <u>must</u> be provided consistent with FERPA. For example, if a school introduces an alleged perpetrator’s prior disciplinary records to support a tougher disciplinary penalty, the complainant would not be allowed access to those records.
		15. While OCR does not require schools to permit parties to have lawyers at any stage of the proceedings, if a school chooses to allow the parties to have their lawyers participate in the proceedings, it <u>must</u> do so equally for both parties.
		16. OCR also <i>recommends</i> that schools provide an appeals process. If a school provides for appeal of the findings or remedy, it <u>must</u> do so for both parties.
		17. Schools <u>must</u> maintain documentation of all proceedings, which may include written findings of facts, transcripts, or audio recordings.
		18. All persons involved in implementing a recipient’s grievance procedures ( <i>e.g.</i> , Title IX coordinators, investigators, and adjudicators) <u>must</u> have training or experience in handling complaints of sexual harassment and sexual violence, and in the recipient’s grievance procedures. The training also <u>should</u> include applicable confidentiality requirements. In sexual violence cases, the fact-finder and decision-maker also <u>should</u> have adequate training or knowledge regarding sexual violence.
		19. Public and state-supported schools <u>must</u> provide due process to the alleged perpetrator. However, schools <u>should</u> ensure that steps taken to accord due process rights to the alleged perpetrator do not restrict or unnecessarily delay the Title IX protections for the complainant.
		20. Both parties <u>must</u> be notified, in writing, about the outcome of both the complaint and any appeal <i>i.e.</i> , whether harassment was found to have occurred. OCR <i>recommends</i> that schools provide the written determination of the final outcome to the complainant and the alleged perpetrator concurrently.
		21. Postsecondary institutions also are subject to additional rules under the Clery Act. This law, which applies to postsecondary institutions that participate in Federal student financial aid programs, requires that “both the accuser and the accused <u>must</u> be informed of the outcome of any institutional disciplinary proceeding brought alleging a sex offense.” Compliance with this requirement does not constitute a violation of FERPA.

	Practice	22. As discussed above, if a school determines that sexual harassment that creates a hostile environment has occurred, it <u>must</u> take immediate action to eliminate the hostile environment, prevent its recurrence, and address its effects.
		23. As part of their Title IX obligations, schools <u>must</u> have policies and procedures in place to protect against retaliatory harassment. At a minimum, schools <u>must</u> ensure that complainants and their parents, if appropriate, know how to report any subsequent problems, and <u>should</u> follow-up with complainants to determine whether any retaliation or new incidents of harassment have occurred.
		24. The Clery Act requires postsecondary institutions to develop and distribute a statement of policy that informs students of their options to notify proper law enforcement authorities, including campus and local police, and the option to be assisted by campus personnel in notifying such authorities. The policy also <u>must</u> notify students of existing counseling, mental health, or other student services for victims of sexual assault, both on campus and in the community.
		25. Title IX requires that a school adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints of sex discrimination, including sexual violence. In evaluating whether a school's grievance procedures satisfy this requirement, OCR will review all aspects of a school's policies and practices, including the following elements that are critical to achieve compliance with Title IX:
		<ul style="list-style-type: none"> <li>• notice to students, parents of elementary and secondary students, and employees of the grievance procedures, including where complaints may be filed;</li> </ul>
		<ul style="list-style-type: none"> <li>• application of the grievance procedures to complaints filed by students or on their behalf alleging sexual violence carried out by employees, other students, or third parties;</li> </ul>
		<ul style="list-style-type: none"> <li>• provisions for adequate, reliable, and impartial investigation of complaints, including the opportunity for both the complainant and alleged perpetrator to present witnesses and evidence;</li> </ul>
		<ul style="list-style-type: none"> <li>• designated and reasonably prompt time frames for the major stages of the complaint process</li> </ul>
		<ul style="list-style-type: none"> <li>• written notice to the complainant and alleged perpetrator of the outcome of the complaint</li> </ul>
		<ul style="list-style-type: none"> <li>• assurance that the school will take steps to prevent recurrence of any sexual violence and remedy discriminatory effects on the complainant and others, if appropriate.</li> </ul>
		<b>RECOMMENDS</b>
		26. OCR <u>recommends</u> that the grievance procedures be prominently posted on school Web sites; sent electronically to all members of the school community; available at various locations throughout the school or campus; & summarized in or attached to major publications issued by the school, such as handbooks, codes of conduct, & catalogs for students, faculty, & staff.
		27. OCR also <u>recommends</u> that a school's MOU include clear policies on when a school will refer a matter to local law enforcement.
		28. OCR also <u>recommends</u> that schools provide an appeals process. If a school provides for appeal of the findings or remedy, it <u>must</u> do so for both parties.
		29. Both parties <u>must</u> be notified, in writing, about the outcome of both the complaint and any appeal <i>i.e.</i> , whether harassment was found to have

		occurred. OCR <i>recommends</i> that schools provide the written determination of the final outcome to the complainant and the alleged perpetrator concurrently.
		<b>SHOULD</b>
		30. If the recipient relies on disciplinary procedures for Title IX compliance, the Title IX coordinator <i>should</i> review the recipient’s disciplinary procedures to ensure that the procedures comply with the prompt and equitable requirements of Title IX.
	<i>Practice</i>	31. <i>The procedures for resolving complaints of sex discrimination, including sexual harassment, should be written in language appropriate to the age of the school’s students, easily understood, easily located, and widely distributed. OCR recommends that the grievance procedures be prominently posted on school Web sites; sent electronically to all members of the school community; available at various locations throughout the school or campus; and summarized in or attached to major publications issued by the school, such as handbooks, codes of conduct, and catalogs for students, parents of elementary and secondary students, faculty, and staff.</i>
	<i>Practice</i>	32. <i>A school should notify a complainant of the right to file a criminal complaint, and should not dissuade a victim from doing so either during or after the school’s internal Title IX investigation. For instance, if a complainant wants to file a police report, the school should not tell the complainant that it is working toward a solution and instruct, or ask, the complainant to wait to file the report.</i>
	<i>Practice</i>	33. <i>Schools should not wait for the conclusion of a criminal investigation or criminal proceeding to begin their own Title IX investigation and, if needed, must take immediate steps to protect the student in the educational setting. For example, a school should not delay conducting its own investigation or taking steps to protect the complainant because it wants to see whether the alleged perpetrator will be found guilty of a crime.</i>
	<i>Practice</i>	34. <i>For example, a school should not conduct a pre-hearing meeting during which only the alleged perpetrator is present and given an opportunity to present his or her side of the story, unless a similar meeting takes place with the complainant; a hearing officer or disciplinary board should not allow only the alleged perpetrator to present character witnesses at a hearing; and a school should not allow the alleged perpetrator to review the complainant’s statement without also allowing the complainant to review the alleged perpetrator’s statement.</i>
	<i>Practice</i>	35. <i>Additionally, access should not be given to privileged or confidential information. For example, the alleged perpetrator should not be given access to communications between the complainant and a counselor or information regarding the complainant’s sexual history.</i>
	<i>Practice</i>	36. <i>Additionally, any school-imposed restrictions on the ability of lawyers to speak or otherwise participate in the proceedings should apply equally.</i>
	<i>Practice</i>	37. <i>Additionally, a school’s investigation and hearing processes cannot be equitable unless they are impartial. Therefore, any real or perceived conflicts of interest between the fact-finder or decision-maker and the parties should be disclosed.</i>

		38. OCR will evaluate whether a school’s grievance procedures specify the time frames for all major stages of the procedures, as well as the process for extending timelines. Grievance procedures <i>should</i> specify the time frame within which: (1) the school will conduct a full investigation of the complaint; (2) both parties receive a response regarding the outcome of the complaint; and (3) the parties may file an appeal, if applicable. Both parties <i>should</i> be given periodic status updates.
	<i>Practice</i>	39. <i>For instance, if an investigation or hearing involves forensic evidence, that evidence should be reviewed by a trained forensic examiner.</i>
		40. To ensure that students and employees have a clear understanding of what constitutes sexual violence, the potential consequences for such conduct, and how the school processes complaints, a school’s Title IX grievance procedures <i>should</i> also explicitly include the following in writing, some of which themselves are mandatory obligations under Title IX:
		<ul style="list-style-type: none"> <li>• a statement of the school’s jurisdiction over Title IX complaints;</li> </ul>
		<ul style="list-style-type: none"> <li>• adequate definitions of sexual harassment (which includes sexual violence) and an explanation as to when such conduct creates a hostile environment;</li> </ul>
		<ul style="list-style-type: none"> <li>• reporting policies and protocols, including provisions for confidential reporting;</li> </ul>
		<ul style="list-style-type: none"> <li>• identification of the employee or employees responsible for evaluating requests for confidentiality;</li> </ul>
		<ul style="list-style-type: none"> <li>• notice that Title IX prohibits retaliation;</li> </ul>
		<ul style="list-style-type: none"> <li>• notice of a student’s right to file a criminal complaint and a Title IX complaint simultaneously;</li> </ul>
		<ul style="list-style-type: none"> <li>• notice of available interim measures that may be taken to protect the student in the educational setting;</li> </ul>
		<ul style="list-style-type: none"> <li>• the evidentiary standard that must be used (preponderance of the evidence) (i.e., more likely than not that sexual violence occurred) in resolving a complaint;</li> </ul>
		<ul style="list-style-type: none"> <li>• notice of potential remedies for students;</li> </ul>
		<ul style="list-style-type: none"> <li>• notice of potential sanctions against perpetrators; and</li> </ul>
		<ul style="list-style-type: none"> <li>• sources of counseling, advocacy, and support.</li> </ul>
		<ul style="list-style-type: none"> <li>• When using disciplinary procedures, which are often focused on the alleged perpetrator and can take considerable time, a school <i>should</i> be mindful of its obligation to provide interim measures to protect the complainant in the educational setting.</li> </ul>
	<i>Practice</i>	41. <i>When using disciplinary procedures, which are often focused on the alleged perpetrator and can take considerable time, a school should be mindful of its obligation to provide interim measures to protect the complainant in the educational setting.</i>
		42. Before a student reveals information that he or she may wish to keep confidential, a responsible employee <i>should</i> make every effort to ensure that the student understands: (i) the employee’s obligation to report the names of the alleged perpetrator and student involved in the alleged sexual violence, as well as relevant facts regarding the alleged incident (including the date, time, and location), to the Title IX coordinator or other appropriate school officials,

		<p>(ii) the student’s option to request that the school maintain his or her confidentiality, which the school (e.g., Title IX coordinator) will consider, and  (iii) the student’s ability to share the information confidentially with counseling, advocacy, health, mental health, or sexual-assault-related services (e.g., sexual assault resource centers, campus health centers, pastoral counselors, and campus mental health centers).</p>
		<p>43. If an RA is a responsible employee, the RA <i>should</i> make every effort to ensure that <i>before</i> the student reveals information that he or she may wish to keep confidential, the student understands the RA’s reporting obligation and the student’s option to request that the school maintain confidentiality. It is therefore important that schools widely disseminate policies and provide regular training clearly identifying the places where students can seek confidential support services so that students are aware of this information. The RA <i>should</i> also explain to the student (again, before the student reveals information that he or she may wish to keep confidential) that, although the RA <i>must</i> report the names of the alleged perpetrator (if known), the student who experienced the alleged sexual violence, other students involved in the alleged sexual violence, as well as relevant facts, including the date, time, and location to the Title IX coordinator or other appropriate school designee, the school will protect the student’s confidentiality to the greatest extent possible. Prior to providing information about the incident to the Title IX coordinator or other appropriate school designee, the RA <i>should</i> consult with the student about how to protect his or her safety and the details of what will be shared with the Title IX coordinator. The RA <i>should</i> explain to the student that reporting this information to the Title IX coordinator or other appropriate school designee does not necessarily mean that a formal complaint or investigation under the school’s Title IX grievance procedure must be initiated if the student requests confidentiality. Regardless of whether a reporting obligation exists, all RAs <i>should</i> inform students of their right to file a Title IX complaint with the school and report a crime to campus or local law enforcement. If a student discloses sexual violence to an RA who is a responsible employee, the school will be deemed to have notice of the sexual violence even if the student does not file a Title IX complaint. Additionally, all RAs <i>should</i> provide students with information regarding on-campus resources, including victim advocacy, housing assistance, academic support, counseling, disability services, health and mental health services, and legal assistance. RAs <i>should</i> also be familiar with local rape crisis centers or other off-campus resources and provide this information to students</p>

AN "X" INDICATES ALREADY IN PLACE	NOTES	PROVISION
		<p><b>Responsible Employees</b></p> <p>According to OCR's <i>2001 Guidance</i>, a responsible employee includes any employee: who has the authority to take action to redress sexual violence; who has been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX coordinator or other appropriate school designee; or whom a student could reasonably believe has this authority or duty.</p>
		<p><b>REQUIRED</b></p>
		<p>1. A responsible employee <i>must</i> report incidents of sexual violence to the Title IX coordinator or other appropriate school designee, subject to the exemption for school counseling employees. This is because, a school is <i>obligated</i> to address sexual violence about which a responsible employee knew or should have known. The Title IX coordinator <i>must</i> be informed of all reports and complaints raising Title IX issues, even if the report or complaint was initially filed with another individual or office, subject to the exemption for school counseling employees.</p>
		<p>2. A school <i>must</i> make clear to all of its employees and students which staff members are responsible employees so that students can make informed decisions about whether to disclose information to those employees. A school <i>must</i> also inform all employees of their own reporting responsibilities and the importance of informing complainants of: the reporting obligations of responsible employees; complainants' option to request confidentiality and available confidential advocacy, counseling, or other support services; and complainants' right to file a Title IX complaint with the school and to report a crime to campus or local law enforcement.</p>
		<p>3. Subject to the exemption for school counseling employee, a responsible employee <i>must</i> report to the school's Title IX coordinator, or other appropriate school designee, all relevant details about the alleged sexual violence that the student or another person has shared and that the school will need to determine what occurred and to resolve the situation. This includes the names of the alleged perpetrator (if known), the student who experienced the alleged sexual violence, other students involved in the alleged sexual violence, as well as relevant facts, including the date, time, and location. A school <i>must</i> make clear to its responsible employees to whom they should report an incident of alleged sexual violence.</p>
		<p>4. Subject to the exemption for school counseling employees, a responsible employee <i>must</i> report to the school's Title IX coordinator, or other appropriate school designee, all relevant details about the alleged sexual violence that the student or another person has shared and that the school will need to determine what occurred and to resolve the situation. This includes the names of the alleged perpetrator (if known), the student who experienced the alleged sexual violence, other students involved in the alleged sexual violence, as well as relevant facts, including the date, time, and</p>

		location. A school <u>must</u> make clear to its responsible employees to whom they should report an incident of alleged sexual violence.
		<b>SHOULD</b>
		5. Before a student reveals information that he or she may wish to keep confidential, a responsible employee <u>should</u> make every effort to ensure that the student understands: (i) the employee’s obligation to report the names of the alleged perpetrator and student involved in the alleged sexual violence, as well as relevant facts regarding the alleged incident (including the date, time, and location), to the Title IX coordinator or other appropriate school officials, (ii) the student’s option to request that the school maintain his or her confidentiality, which the school (e.g., Title IX coordinator) will consider, and (iii) the student’s ability to share the information confidentially with counseling, advocacy, health, mental health, or sexual-assault-related services (e.g., sexual assault resource centers, campus health centers, pastoral counselors, and campus mental health centers)
		6. The duties and responsibilities of RAs vary among schools, and, therefore, a school <u>should</u> consider its own policies and procedures to determine whether its RAs are responsible employees who must report incidents of sexual violence to the Title IX coordinator or other appropriate school designee. When making this determination, a school <u>should</u> consider if its RAs have the general authority to take action to redress misconduct or the duty to report misconduct to appropriate school officials, as well as whether students could reasonably believe that RAs have this authority or duty. A school <u>should</u> also consider whether it has determined and clearly informed students that RAs are generally available for confidential discussions and do not have the authority or responsibility to take action to redress any misconduct or to report any misconduct to the Title IX coordinator or other appropriate school officials. A school <u>should</u> pay particular attention to its RAs’ obligations to report other student violations of school policy (e.g., drug and alcohol violations or physical assault). If an RA is required to report other misconduct that violates school policy, then the RA would be considered a responsible employee obligated to report incidents of sexual violence that violate school policy.
		7. Prior to providing information about the incident to the Title IX coordinator or other appropriate school designee, the RA <u>should</u> consult with the student about how to protect his or her safety and the details of what will be shared with the Title IX coordinator. The RA <u>should</u> explain to the student that reporting this information to the Title IX coordinator or other appropriate school designee does not necessarily mean that a formal complaint or investigation under the school’s Title IX grievance procedure must be initiated if the student requests confidentiality.
AN “X” INDICATES ALREADY IN PLACE	NOTES	PROVISION
		<a href="#">Confidentiality and a Schools Obligation to Respond</a>

		<b>MUST</b>
		1. A school <i>must</i> also take immediate action as necessary to protect the student while keeping the identity of the student confidential. These actions may include providing support services to the student and changing living arrangements or course schedules, assignments, or tests.
		<b>DOES/ARE NOT</b>
	<i>Practice</i>	2. OCR <i>does not</i> require campus mental-health counselors, pastoral counselors, social workers, psychologists, health center employees, or any other person with a professional license requiring confidentiality, or who is supervised by such a person, to report, without the student's consent, incidents of sexual violence to the school in a way that identifies the student.
	<i>Practice</i>	3. Public awareness events such as "Take Back the Night" or other forums at which students disclose experiences with sexual violence <i>are not</i> considered notice to the school for the purpose of triggering an individual investigation unless the survivor initiates a complaint. The school <i>should</i> instead respond to these disclosures by reviewing sexual assault policies, creating campus-wide educational programs, and conducting climate surveys to learn more about the prevalence of sexual violence at the school.
		<b>SHOULD</b>
		4. There are situations in which a school must override a student's request for confidentiality in order to meet its Title IX obligations; however, these instances will be limited and the information <i>should</i> only be shared with individuals who are responsible for handling the school's response to incidents of sexual violence. Given the sensitive nature of reports of sexual violence, a school <i>should</i> ensure that the information is maintained in a secure manner.
		5. Even if a student does not specifically ask for confidentiality, to the extent possible, a school <i>should</i> only disclose information regarding alleged incidents of sexual violence to individuals who are responsible for handling the school's response. To improve trust in the process for investigating sexual violence complaints, a school <i>should</i> notify students of the information that will be disclosed, to whom it will be disclosed, and why.
		6. For Title IX purposes, if a student requests that his or her name not be revealed to the alleged perpetrator or asks that the school not investigate or seek action against the alleged perpetrator, the school <i>should</i> inform the student that honoring the request may limit its ability to respond fully to the incident, including pursuing disciplinary action against the alleged perpetrator. The school <i>should</i> also explain that Title IX includes protections against retaliation, and that school officials will not only take steps to prevent retaliation but also take strong responsive action if it occurs.
		7. If the school determines that it can respect the student's request not to disclose his or her identity to the alleged perpetrator, it <i>should</i> take all reasonable steps to respond to the complaint consistent with the request.
	<i>Practice</i>	8. Pastoral and professional counselors and non-professional counselors or advocates <i>should</i> be instructed to inform students of their right to file a Title IX complaint with the school and a separate complaint with campus or local law enforcement. In addition to informing students about campus resources for

		<i>counseling, medical, and academic support, these persons <u>should</u> also indicate that they are available to assist students in filing such complaints. They <u>should</u> also explain that Title IX includes protections against retaliation, and that school officials will not only take steps to prevent retaliation but also take strong responsive action if it occurs.</i>
	<i>Practice</i>	9. <i>In order to identify patterns or systemic problems related to sexual violence, a school <u>should</u> collect aggregate data about sexual violence incidents from non-professional counselors or advocates in their on-campus sexual assault centers, women’s centers, or health centers.</i>
		10.
		11. For Title IX purposes, if a student requests that his or her name not be revealed to the alleged perpetrator or asks that the school not investigate or seek action against the alleged perpetrator, the school <u>should</u> inform the student that honoring the request may limit its ability to respond fully to the incident, including pursuing disciplinary action against the alleged perpetrator. The school <u>should</u> also explain that Title IX includes protections against retaliation, and that school officials will not only take steps to prevent retaliation but also take strong responsive action if it occurs.
AN “X” INDICATES ALREADY IN PLACE	NOTES	PROVISION
		<a href="#">Investigation and Hearing</a>
		<b>MUST</b>
		1. The investigation may include, but is not limited to, conducting interviews of the complainant, the alleged perpetrator, and any witnesses; reviewing law enforcement investigation documents, if applicable; reviewing student and personnel files; and gathering and examining other relevant documents or evidence. While a school has flexibility in how it structures the investigative process, for Title IX purposes, a school <u>must</u> give the complainant any rights that it gives to the alleged perpetrator. A balanced and fair process that provides the same opportunities to both parties will lead to sound and supportable decisions. Specifically:
		<ul style="list-style-type: none"> <li>Throughout the investigation, the parties <u>must</u> have an equal opportunity to present relevant witnesses and other evidence.</li> </ul>
		<ul style="list-style-type: none"> <li>The school <u>must</u> use a preponderance-of-the-evidence (i.e., more likely than not) standard in any Title IX proceedings, including any fact-finding and hearings.</li> </ul>
		<ul style="list-style-type: none"> <li>If the school permits one party to have lawyers or other advisors at any stage of the proceedings, it <u>must</u> do so equally for both parties. Any school-imposed restrictions on the ability of lawyers or other advisors to speak or otherwise participate in the proceedings must also apply equally.</li> </ul>
		<ul style="list-style-type: none"> <li>If the school permits one party to submit third-party expert testimony, it <u>must</u> do so equally for both parties.</li> </ul>
		<ul style="list-style-type: none"> <li>If the school provides for an appeal, it <u>must</u> do so equally for both parties.</li> </ul>

		<ul style="list-style-type: none"> <li>Both parties <i>must</i> be notified, in writing, of the outcome of both the complaint and any appeal</li> </ul>
		<p>2. Under Title IX, a school <i>must</i> process all complaints of sexual violence, regardless of where the conduct occurred, to determine whether the conduct occurred in the context of an education program or activity or had continuing effects on campus or in an off-campus education program or activity. A school <i>must</i> determine whether the alleged off-campus sexual violence occurred in the context of an education program or activity of the school; if so, the school <i>must</i> treat the complaint in the same manner that it treats complaints regarding on-campus conduct. In other words, if a school determines that the alleged misconduct took place in the context of an education program or activity of the school, the fact that the alleged misconduct took place off campus <i>does not</i> relieve the school of its obligation to investigate the complaint as it would investigate a complaint of sexual violence that occurred on campus.</p>
		<p>3. Even if the misconduct did not occur in the context of an education program or activity, a school <i>must</i> consider the effects of the off-campus misconduct when evaluating whether there is a hostile environment on campus or in an off-campus education program or activity because students often experience the continuing effects of off-campus sexual violence while at school or in an off-campus education program or activity.</p>
		<p>4. Once a school is on notice of off-campus sexual violence against a student, it <i>must</i> assess whether there are any continuing effects on campus or in an off-campus education program or activity that are creating or contributing to a hostile environment and, if so, address that hostile environment in the same manner in which it would address a hostile environment created by on-campus misconduct. The mere presence on campus or in an off-campus education program or activity of the alleged perpetrator of off-campus sexual violence <i>can</i> have continuing effects that create a hostile environment.</p>
		<p>5. Title IX <i>requires</i> both parties to be notified, in writing, about the outcome of both the complaint and any appeal. OCR recommends that a school provide written notice of the outcome to the complainant and the alleged perpetrator concurrently.</p>
		<p>6. For Title IX purposes, a school <i>must</i> inform the complainant as to whether or not it found that the alleged conduct occurred, any individual remedies offered or provided to the complainant or any sanctions imposed on the perpetrator that directly relate to the complainant, and other steps the school has taken to eliminate the hostile environment, if the school finds one to exist, and prevent recurrence. The perpetrator <i>should</i> not be notified of the individual remedies offered or provided to the complainant.</p>
		<b>DOES/SHOULD NOT</b>
		<p>7. A school <i>should not</i> wait for the conclusion of a criminal investigation or criminal proceeding to begin its own Title IX investigation. Although a school may need to delay temporarily the fact-finding portion of a Title IX investigation while the police are gathering evidence, it is important for a school to understand that during this brief delay in the Title IX investigation, it <i>must</i> take interim measures to protect the complainant in the educational</p>

		setting. The school <i>should</i> also continue to update the parties on the status of the investigation and inform the parties when the school resumes its Title IX investigation.
		8. If a school delays the fact-finding portion of a Title IX investigation, the school <i>must</i> promptly resume and complete its fact-finding for the Title IX investigation once it learns that the police department has completed its evidence gathering stage of the criminal investigation. The school <i>should not</i> delay its investigation until the ultimate outcome of the criminal investigation or the filing of any charges.
		9. Questioning about the complainant’s sexual history with anyone other than the alleged perpetrator <i>should not</i> be permitted.
		10. OCR <i>does not</i> require a school to complete investigations within 60 days; rather OCR evaluates on a case-by-case basis whether the resolution of sexual violence complaints is prompt and equitable.
		<b>SHOULD</b>
		11. When investigating an incident of alleged sexual violence for Title IX purposes, to the extent possible, a school <i>should</i> coordinate with any other ongoing school or criminal investigations of the incident and establish appropriate fact-finding roles for each investigator. A school <i>should</i> also consider whether information can be shared among the investigators so that complainants are not unnecessarily required to give multiple statements about a traumatic event.
	<i>Practice</i>	12. <i>If a school uses its student disciplinary procedures to meet its Title IX obligation to resolve complaints of sexual violence promptly and equitably, it <u>should</u> recognize that imposing sanctions against the perpetrator, without additional remedies, likely will not be sufficient to eliminate the hostile environment and prevent recurrence as required by Title IX.</i>
	<i>Practice</i>	13. <i>At the same time, when requested, a school <u>should</u> make arrangements so that the complainant and the alleged perpetrator do not have to be present in the same room at the same time. These two objectives may be achieved by using closed circuit television or other means.</i>
	<i>Practice</i>	14. <i>A school <u>should</u> recognize that the mere fact of a current or previous consensual dating or sexual relationship between the two parties does not itself imply consent or preclude a finding of sexual violence.</i>
AN “X” INDICATES ALREADY IN PLACE	NOTES	PROVISION
		Education and Prevention
		<b>SHOULD</b>
		1. Recipients <i>should</i> refer to the 2001 Guidance for further information about employee harassment of students.
		2. Training for employees <i>should</i> include practical information about how to identify and report sexual harassment and violence. OCR <i>recommends</i> that this training be provided to any employees likely to witness or receive reports of sexual harassment and violence, including teachers, school law enforcement

		unit employees, school administrators, school counselors, general counsels, health personnel, and resident advisors.
		3. Because students often experience the continuing effects of off-campus sexual harassment in the educational setting, schools <i>should</i> consider the effects of the off-campus conduct when evaluating whether there is a hostile environment on campus. For example, if a student alleges that he or she was sexually assaulted by another student off school grounds, and that upon returning to school he or she was taunted and harassed by other students who are the alleged perpetrator’s friends, the school <i>should</i> take the earlier sexual assault into account in determining whether there is a sexually hostile environment. The school also <i>should</i> take steps to protect a student who was assaulted off campus from further sexual harassment or retaliation from the perpetrator and his or her associates.
		4. Schools also <i>should</i> inform and obtain consent from the complainant (or the complainant’s parents if the complainant is under 18 and does not attend a postsecondary institution) before beginning an investigation. If the complainant requests confidentiality or asks that the complaint not be pursued, the school <i>should</i> take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation. If a complainant insists that his or her name or other identifiable information not be disclosed to the alleged perpetrator, the school <i>should</i> inform the complainant that its ability to respond may be limited. <sup>14</sup> The school also <i>should</i> tell the complainant that Title IX prohibits retaliation, and that school officials will not only take steps to prevent retaliation but also take strong responsive action if it occurs.
		5. As discussed in the <i>2001 Guidance</i> , if the complainant continues to ask that his or her name or other identifiable information not be revealed, the school <i>should</i> evaluate that request in the context of its responsibility to provide a safe and nondiscriminatory environment for all students.
		6. The school <i>should</i> inform the complainant if it cannot ensure confidentiality. Even if the school cannot take disciplinary action against the alleged harasser because the complainant insists on confidentiality, it <i>should</i> pursue other steps to limit the effects of the alleged harassment and prevent its recurrence.
		7. Schools <i>should</i> refer to the <i>2001 Guidance</i> for additional information on confidentiality and the alleged perpetrator’s due process rights.
		8. OCR <i>advises</i> recipients to examine their current policies and procedures on sexual harassment and sexual violence to determine whether those policies comply with the requirements articulated in this letter and the <i>2001 Guidance</i> . Recipients <i>should</i> then implement changes as needed.
	<i>Practice</i>	9. <i>In addition to ensuring full compliance with Title IX, schools should take proactive measures to prevent sexual harassment and violence.</i>
	<i>Practice</i>	10. <i>Schools may want to include these education programs in their (1) orientation programs for new students, faculty, staff, and employees; (2) training for students who serve as advisors in residence halls; (3) training for student athletes and coaches; and (4) school assemblies and “back to school nights.” These programs should include a discussion of what constitutes sexual</i>

		<i>harassment and sexual violence, the school's policies and disciplinary procedures, and the consequences of violating these policies.</i>
	<i>Practice</i>	11. The education programs also <u>should</u> include information aimed at encouraging students to report incidents of sexual violence to the appropriate school and law enforcement authorities. Schools <u>should</u> be aware that victims or third parties may be deterred from reporting incidents if alcohol, drugs, or other violations of school or campus rules were involved. <sup>40</sup> As a result, schools <u>should</u> consider whether their disciplinary policies have a chilling effect on victims' or other students' reporting of sexual violence offenses. For example, OCR <u>recommends</u> that schools inform students that the schools' primary concern is student safety, that any other rules violations will be addressed separately from the sexual violence allegation, and that use of alcohol or drugs never makes the victim at fault for sexual violence.
	<i>Practice</i>	12. OCR also <u>recommends</u> that schools develop specific sexual violence materials that include the schools' policies, rules, and resources for students, faculty, coaches, and administrators. Schools also <u>should</u> include such information in their employee handbook and any handbooks that student athletes and members of student activity groups receive. These materials <u>should</u> include where and to whom students should go if they are victims of sexual violence. These materials also <u>should</u> tell students and school employees what to do if they learn of an incident of sexual violence. Schools also <u>should</u> assess student activities regularly to ensure that the practices and behavior of students do not violate the schools' policies against sexual harassment and sexual violence.
		13. Title IX requires a school to take steps to protect the complainant as necessary, including taking interim steps before the final outcome of the investigation. The school <u>should</u> undertake these steps promptly once it has notice of a sexual harassment or violence allegation. The school <u>should</u> notify the complainant of his or her options to avoid contact with the alleged perpetrator and allow students to change academic or living situations as appropriate. For instance, the school may prohibit the alleged perpetrator from having any contact with the complainant pending the results of the school's investigation. When taking steps to separate the complainant and alleged perpetrator, a school <u>should</u> minimize the burden on the complainant, and thus <u>should not</u> , as a matter of course, remove complainants from classes or housing while allowing alleged perpetrators to remain. In addition, schools <u>should</u> ensure that complainants are aware of their Title IX rights and any available resources, such as counseling, health, and mental health services, and their right to file a complaint with local law enforcement.
		14. Schools <u>should</u> be aware that complaints of sexual harassment or violence may be followed by retaliation by the alleged perpetrator or his or her associates. For instance, friends of the alleged perpetrator may subject the complainant to name-calling and taunting. As part of their Title IX obligations, schools <u>must</u> have policies and procedures in place to protect against retaliatory harassment. At a minimum, schools <u>must</u> ensure that complainants and their parents, if appropriate, know how to report any subsequent problems, and <u>should</u> follow-up with complainants to determine whether any retaliation or new incidents of harassment have occurred.

		15. Schools <u>should</u> proactively consider the following remedies when determining how to respond to sexual harassment or violence. These are the same types of remedies that OCR would seek in its cases.* (see Appendix I)
	Practice	16. A school <u>should</u> provide training to all employees likely to witness or receive reports of sexual violence, including teachers, professors, school law enforcement unit employees, school administrators, school counselors, general counsels, athletic coaches, health personnel, and resident advisors. Training for employees <u>should</u> include practical information about how to prevent and identify sexual violence, including same-sex sexual violence; the behaviors that may lead to and result in sexual violence; the attitudes of bystanders that may allow conduct to continue; the potential for re-victimization by responders and its effect on students; appropriate methods for responding to a student who may have experienced sexual violence, including the use of nonjudgmental language; the impact of trauma on victims; and, as applicable, the person(s) to whom such misconduct must be reported. The training <u>should</u> also explain responsible employees' reporting obligation, including what should be included in a report and any consequences for the failure to report and the procedure for responding to students' requests for confidentiality, as well as provide the contact information for the school's Title IX coordinator.
	Practice	17. A school also <u>should</u> train responsible employees to inform students of: the reporting obligations of responsible employees; students' option to request confidentiality and available confidential advocacy, counseling, or other support services; and their right to file a Title IX complaint with the school and to report a crime to campus or local law enforcement.
	Practice	18. There is no minimum number of hours required for Title IX and sexual violence training at every school, but this training <u>should</u> be provided on a regular basis. Each school should determine based on its particular circumstances how such training <u>should</u> be conducted, who has the relevant expertise required to conduct the training, and who should receive the training to ensure that the training adequately prepares employees, particularly responsible employees, to fulfill their duties under Title IX. A school <u>should</u> also have methods for verifying that the training was effective.
		19. Responsible employees <u>should</u> understand that they do not need to determine whether the alleged sexual harassment or sexual violence actually occurred or that a hostile environment has been created before reporting an incident to the school's Title IX coordinator
		20. All persons involved in implementing a school's grievance procedures (e.g., Title IX coordinators, others who receive complaints, investigators, and adjudicators) <u>must</u> have training or experience in handling sexual violence complaints, and in the operation of the school's grievance procedures. The training <u>should</u> include information on working with and interviewing persons subjected to sexual violence; information on particular types of conduct that would constitute sexual violence, including same-sex sexual violence; the proper standard of review for sexual violence complaints (preponderance of the evidence); information on consent and the role drugs or alcohol can play in the ability to consent; the importance of accountability for individuals found to have committed sexual violence; the need for remedial actions for the

		perpetrator, complainant, and school community; how to determine credibility; how to evaluate evidence and weigh it in an impartial manner; how to conduct investigations; confidentiality; the effects of trauma, including neurobiological change; and cultural awareness training regarding how sexual violence may impact students differently depending on their cultural backgrounds.
		21. To ensure that students understand their rights under Title IX, a school <u>should</u> provide age-appropriate training to its students regarding Title IX and sexual violence.
		22. The school <u>may</u> want to include this training in its orientation programs for new students; training for student athletes and members of student organizations; and back-to-school nights. A school <u>should</u> consider educational methods that are most likely to help students retain information when designing its training, including repeating the training at regular intervals. OCR <u>recommends</u> that, at a minimum, the following topics (as appropriate) be covered in this training:
		<ul style="list-style-type: none"> <li>• Title IX and what constitutes sexual violence, including same-sex sexual violence, under the school’s policies;</li> </ul>
		<ul style="list-style-type: none"> <li>• the school’s definition of consent applicable to sexual conduct, including examples;</li> </ul>
		<ul style="list-style-type: none"> <li>• how the school analyzes whether conduct was unwelcome under Title IX;</li> </ul>
		<ul style="list-style-type: none"> <li>• how the school analyzes whether unwelcome sexual conduct creates a hostile environment;</li> </ul>
		<ul style="list-style-type: none"> <li>• reporting options, including formal reporting and confidential disclosure options and any timeframes set by the school for reporting;</li> </ul>
		<ul style="list-style-type: none"> <li>• the school’s grievance procedures used to process sexual violence complaints;</li> </ul>
		<ul style="list-style-type: none"> <li>• disciplinary code provisions relating to sexual violence and the consequences of violating those provisions;</li> </ul>
		<ul style="list-style-type: none"> <li>• effects of trauma, including neurobiological changes;</li> </ul>
		<ul style="list-style-type: none"> <li>• the role alcohol and drugs often play in sexual violence incidents, including the deliberate use of alcohol and/or other drugs to perpetrate sexual violence;</li> </ul>
		<ul style="list-style-type: none"> <li>• strategies and skills for bystanders to intervene to prevent possible sexual violence;</li> </ul>
		<ul style="list-style-type: none"> <li>• how to report sexual violence to campus or local law enforcement and the ability to pursue law enforcement proceedings simultaneously with a Title IX grievance; and</li> </ul>
		<ul style="list-style-type: none"> <li>• Title IX’s protections against retaliation.</li> </ul>
		23. The training <u>should</u> also encourage students to report incidents of sexual violence. The training should explain that students (and their parents or friends) do not need to determine whether incidents of sexual violence or other sexual harassment created a hostile environment before reporting the incident.

		24. It is also important for a school to educate students about the persons on campus to whom they can confidentially report incidents of sexual violence. A school's sexual violence education and prevention program should clearly identify the offices or individuals with whom students can speak confidentially and the offices or individuals who can provide resources such as victim advocacy, housing assistance, academic support, counseling, disability services, health and mental health services, and legal assistance. It <i>should</i> also identify the school's responsible employees and explain that if students report incidents to responsible employees these employees are required to report the incident to the Title IX coordinator or other appropriate official.
AN "X" INDICATES ALREADY IN PLACE	NOTES	PROVISION
		Appeals
		<b>MUST</b>
		1. The appeals process <i>must</i> be equal for both parties. For example, if a school allows a perpetrator to appeal a suspension on the grounds that it is too severe, the school <i>must</i> also allow a complainant to appeal a suspension on the grounds that it was not severe enough.
AN "X" INDICATES ALREADY IN PLACE	NOTES	PROVISION
		Interim Measures
		<b>SHOULD</b>
	<i>Practice</i>	1. Title IX <i>requires</i> a school to take steps to ensure equal access to its education programs and activities and protect the complainant as necessary, including taking interim measures before the final outcome of an investigation. The school <i>should</i> take these steps promptly once it has notice of a sexual violence allegation and <i>should</i> provide the complainant with periodic updates on the status of the investigation. The school <i>should</i> notify the complainant of his or her options to avoid contact with the alleged perpetrator and allow the complainant to change academic and extracurricular activities or his or her living, transportation, dining, and working situation as appropriate. The school <i>should</i> also ensure that the complainant is aware of his or her Title IX rights and any available resources, such as victim advocacy, housing assistance, academic support, counseling, disability services, health and mental health services, and legal assistance, and the right to report a crime to campus or local law enforcement. If a school does not offer these services on campus, it <i>should</i> enter into an MOU with a local victim services provider if possible.
		2. A school <i>should</i> consider a number of factors in determining what interim measures to take, including, for example, the specific need expressed by the complainant; the age of the students involved; the severity or pervasiveness of the allegations; any continuing effects on the complainant; whether the

		complainant and alleged perpetrator share the same residence hall, dining hall, class, transportation, or job location; and whether other judicial measures have been taken to protect the complainant ( <i>e.g.</i> , civil protection orders).
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Schools ***should*** proactively consider the following remedies when determining how to respond to sexual harassment or violence. These are the same types of remedies that OCR would seek in its cases.

**Depending on the specific nature of the problem, remedies for the complainant might include, but are not limited to:**

- providing an escort to ensure that the complainant can move safely between classes and activities;
- ensuring that the complainant and alleged perpetrator do not attend the same classes;
- moving the complainant or alleged perpetrator to a different residence hall or, in the case of an elementary or secondary school student, to another school within the district;
- providing counseling services;
- providing medical services;
- providing academic support services, such as tutoring;
- arranging for the complainant to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the complainant's academic record; and
- reviewing any disciplinary actions taken against the complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the complainant being disciplined.

**Remedies For The Broader Student Population Might Include, But Are Not Limited To:**

#### **Counseling and Training**

- Offering counseling, health, mental health, or other holistic and comprehensive victim services to all students affected by sexual harassment or sexual violence, and notifying students of campus and community counseling, health, mental health, and other student services;
- Designating an individual from the school's counseling center to be "on call" to assist victims of sexual harassment or violence whenever needed;
- Training the Title IX coordinator and any other employees who are involved in processing, investigating, or resolving complaints of sexual harassment or sexual violence, including providing training on:
  - the school's Title IX responsibilities to address allegations of sexual harassment or violence
  - how to conduct Title IX investigations
  - information on the link between alcohol and drug abuse and sexual harassment or violence and best practices to address that link;
  - training all school law enforcement unit personnel on the school's Title IX responsibilities and handling of sexual harassment or violence complaints;

- Designating an individual from the school’s counseling center who is specifically trained in providing trauma-informed comprehensive services to victims of sexual violence to be on call to assist students whenever needed;
- Training or retraining school employees on the school’s responsibilities to address allegations of sexual violence and how to conduct Title IX investigations;
- Conducting bystander intervention and sexual violence prevention programs with students;
- training all employees who interact with students regularly on recognizing and appropriately addressing allegations of sexual harassment or violence under Title IX; and
- informing students of their options to notify proper law enforcement authorities, including school and local police, and the option to be assisted by school employees in notifying those authorities.

### **Development of Materials and Implementation of Policies and Procedures**

- developing materials on sexual harassment and violence, which should be distributed to students during orientation and upon receipt of complaints, as well as widely posted throughout school buildings and residence halls, and which should include:
  - what constitutes sexual harassment or violence
  - what to do if a student has been the victim of sexual harassment or violence
  - contact information for counseling and victim services on and off school grounds
  - how to file a complaint with the school
  - how to contact the school’s Title IX coordinator
  - what the school will do to respond to allegations of sexual harassment or violence, including the interim measures that can be taken
- requiring the Title IX coordinator to communicate regularly with the school’s law enforcement unit investigating cases and to provide information to law enforcement unit personnel regarding Title IX requirements;
- requiring the Title IX coordinator to review all evidence in a sexual harassment or sexual violence case brought before the school’s disciplinary committee to determine whether the complainant is entitled to a remedy under Title IX that was not available through the disciplinary committee;
- requiring the school to create a committee of students and school officials to identify strategies for ensuring that students:
  - know the school’s prohibition against sex discrimination, including sexual harassment and violence
  - recognize sex discrimination, sexual harassment, and sexual violence when they occur
  - understand how and to whom to report any incidents
  - know the connection between alcohol and drug abuse and sexual harassment or violence
  - feel comfortable that school officials will respond promptly and equitably to reports of sexual harassment or violence;

- issuing new policy statements or other steps that clearly communicate that the school does not tolerate sexual harassment and violence and will respond to any incidents and to any student who reports such incidents; and
- revising grievance procedures used to handle sexual harassment and violence complaints to ensure that they are prompt and equitable, as required by Title IX.

### **School Investigations and Reports to OCR**

- conducting periodic assessments of student activities to ensure that the practices and behavior of students do not violate the school's policies against sexual harassment and violence;
- investigating whether any other students also may have been subjected to sexual harassment or violence;
- investigating whether school employees with knowledge of allegations of sexual harassment or violence failed to carry out their duties in responding to those allegations;
- conducting, in conjunction with student leaders, a school or campus "climate check" to assess the effectiveness of efforts to ensure that the school is free from sexual harassment and violence, and using the resulting information to inform future proactive steps that will be taken by the school; and
- submitting to OCR copies of all grievances filed by students alleging sexual harassment or violence, and providing OCR with documentation related to the investigation of each complaint, such as witness interviews, investigator notes, evidence submitted by the parties, investigative reports and summaries, any final disposition letters, disciplinary records, and documentation regarding any appeals.

## Exploration of Ferris Sexual Violence Prevention & Education Initiatives

### *Appendix Introduction*

To better understand the current landscape of sexual violence education initiatives at Ferris State University the Sexual Assault Taskforce implemented a targeted survey to a diverse group of campus faculty and staff. Concurrently, members of the taskforce conducted an environmental scan of prevention initiatives currently implemented across campus.

General findings from the survey and environmental scan are included in the following. *Table I* provides a visual representation of education and prevention efforts that fit into the categories of Speaker, passive programming, and facilitated programming. *Table II* provides a visual representation of education and prevention efforts that fit into the categories of information distribution, direct support services, and training opportunities.

### *General Findings:*

- **High Diversity of Responses.** The survey identified a wide array of programs and services that are available for the purposes of prevention, education, awareness, and support. 44 distinct programs, resources and services were identified. 10 services that were identified are provided outside of the Big Rapids community at other Ferris locations.
- **Low Response Consistency.** Most frequently listed resources were “Staff, Faculty, and Advisors” (3), “WISE” (4), “Birkam Health Center” (3), “Personal Counseling Center” (3) and “Ferris Department of Public Safety” (3). Most respondents only identified programs, services or activities directly related to their functional area or geography.
- **Need for Improved Communication & Collaboration.** The survey indicated that there is a need for more comprehensive communication about campus programs and initiatives to prevent sexual violence and educate the community. Out of 39 total responses, 23% (9) indicated no knowledge of campus programs, resources or services relating to sexual violence. One respondent noted, “I don’t know the resources, [and] that is a problem...” Another noted the importance of partnering with “community agencies.”
- **Need for Improved Training.** Training, Peer advocacy, Communication of available resources, and Community partnerships were all identified qualitatively as areas of need. 9 Individuals indicated no knowledge of sexual violence education initiatives. One respondent noted “...with the magnitude of the issue in terms of salience and importance, the entire University community needs to have access to comprehensive training.”
- **Alcohol & Drug Education.** The integration of alcohol and drug education was mentioned as an exceptionally important component to consider when addressing the concern of sexual assault.
- **Other Ferris Locations.** Although nearly ¼ of resources identified were outside of big rapid, colleagues from other Ferris locations indicated a strong expectation of reliance on the Big Rapids campus for guidance if/when an allegation of sexual violence occurs.

*Table I: Sexual Violence Prevention & Education Initiatives: Speaker/Forum, Activity, Passive & Facilitated Programming*

Dept. / Category	Speaker Series/Forum, Facilitated or Passive Programming
Academic Affairs/ Support Center	Sex and the college Student with Dr. Friar
Birkam Health and Counseling	<ul style="list-style-type: none"> <li>- Poster/flyer campaigns (sexual assault awareness month)</li> <li>- Utilizing NCHA data for social norm campaigns</li> <li>- Collaboration for Bystander Intervention (Fall 2014)</li> <li>- Facilitates BASICS and Primed for Life –AOD Programs</li> <li>- Co-sponsor "Take back the night"</li> </ul>
Public Safety	<ul style="list-style-type: none"> <li>- Student Athlete Conversations</li> <li>- Partnerships and discussions with coaches.</li> <li>- RH presentations on alcohol, drugs and assault.</li> <li>- RAD course, Self Defense courses</li> <li>- Drug ID class in RH's</li> <li>- Alcohol presentation to Greek Life</li> <li>- Alcohol awareness in FSUS classes</li> <li>- RH programs on sexual assault (5)</li> </ul>
Greek Life	<ul style="list-style-type: none"> <li>- 2014 5 Star—"Picking Cotton"</li> <li>- (Upcoming) 2014 5 Star—"Sex Diaries"</li> </ul>
HR/Risk Management	(Upcoming) Fall 2014—Janet Judge Title IX presentation
Student Conduct	<ul style="list-style-type: none"> <li>- Flyer campaign for sexual assault awareness month</li> <li>- Collaboration for Bystander Intervention (Fall 2014)</li> </ul>
OMSS	<ul style="list-style-type: none"> <li>- Programs and training focused on promoting cultural sensitivity.</li> </ul>
Residential Life Programs	<ul style="list-style-type: none"> <li>- Collaboration for Bystander Intervention (Fall 2014)</li> <li>- Bulletin boards/Posters on Sexual Violence</li> <li>- 10 RH programs related to drugs/alcohol, safer partying, safer sex, consent, STI education, Date rape and drugs, etc.</li> </ul>
School of Social Work	Sponsorship of "take back the night" 5 star speaker.
General Counsel/Equal Opportunity	Title IX speaker and external consulting opportunities.
CLACS	5 Star Speakers on Sexual violence awareness. & Education
FLITE Library	Implementation of Sexism Museum
Dean, Student Life	Providing support , resources and supervision of campus initiatives and programmatic experiences for students.
International Education	International Student Orientation

*Table 2: Sexual Violence Prevention & Education Initiatives: Information, Direct Services, & Training*

Dept. / Category	Information Distribution, Direct Support Services & Community Training
Academic Affairs/ Support Center	Academic accommodations and support for survivors of sexual violence
Birkam Health and Counseling	<ul style="list-style-type: none"> <li>- Pamphlet distribution in Student affairs lobbies and campus-wide events.</li> <li>- Ongoing services for confidential treatment, support and referral options to prevent recurrence.</li> <li>- Annual training for RA and HD staff</li> </ul>
Public Safety	<ul style="list-style-type: none"> <li>- Serves as a primary referral resource for survivors of sexual violence and harassment, focused on preventing recurrence.</li> <li>- Blue Emergency campus lights</li> </ul>
Greek Life	<ul style="list-style-type: none"> <li>- House programs on sexual assault prevention in collaboration with PCC and DPS</li> </ul>
HR/Risk Management	Global compliance network trainings for Harassment and Sexual Assault.
Student Conduct	<ul style="list-style-type: none"> <li>- Development, implementation and distribution of policies for sexual assault prevention and response primarily through the Code of Student Community Standards.</li> <li>- Serves as a primary referral resource for survivors of sexual violence and harassment, focused on preventing recurrence.</li> <li>- Monthly training for Hall director staff covering topics including sexual assault response, bullying, and other forms of gender discrimination and harassment</li> </ul>
OMSS	<ul style="list-style-type: none"> <li>- Collaborates to provide and promote the women's virtual resource center.</li> <li>- Serves as a referral resource, particularly for those identifying as belonging to a minority population, focused on providing resources and information to prevent recurrence</li> </ul>
Residential Life Programs	Information provided on bulletin boards, student meetings with professional and paraprofessional hall staff.
School of Social Work	Partnership with Personal Counseling Center for provide Social Work student internships that support our student support services.
General Counsel/Equal Opportunity	Monthly Anti-harassment & Non-discrimination training for faculty and staff.
CLACS	Student organization advisors training
FLITE Library	Maintains resources on sexual assault (e-books, online resources, guides for LGBT issues)
Dean, Student Life	Engaged in responding to allegations of sexual assault and coordinating student support.
International Education	<ul style="list-style-type: none"> <li>- Orientation Brochure</li> <li>- Individualized support for international students who experience harassment.</li> </ul>