TITLE IX PART III - NUTS AND BOLTS OF THE TITLE IX COORDINATOR’S ROLE

November 10, 2020

Presented by:

Monica D. Batanero,
Senior Associate General Counsel
Experience
Ms. Batanero has over 14 years of experience in administrative law; over 10 years of experience in education law. Ms. Batanero’s practice touches upon myriad legal issues relating to students and school personnel. She advises school districts, county offices of education and special education local plan areas statewide regarding all aspects of special education law, student discipline and anti-discrimination laws. In addition to regularly participating in IEP meetings, Ms. Batanero has represented clients before the Office of Administrative Hearings, the California Department of Education and the Office for Civil Rights. Ms. Batanero also assists school districts in negotiating agreements and reaching settlements with parents regarding special education issues. Ms. Batanero also assists school districts and County Boards of Education at all levels of the student discipline process and conducts investigations on behalf of her clients of allegations of discrimination. Prior to joining SCLS, Ms. Batanero worked in education law in Southern California representing school districts in special education matters as well as addressing various legal matters as they arose. Ms. Batanero is a Member of the California State Bar and the California Council of School Attorneys.

Education
Juris Doctorate, University of San Francisco School of Law (2003); Master of Science in Gerontology, University of Southern California (1999); Bachelor of Science in Gerontology, University of Southern California (1998).

School and College Legal Services (SCLS) is a joint powers authority serving school districts, county offices of education, SELPAs, and community colleges in over fifteen counties in Northern California. Our primary focus, as a preventative law firm, is helping clients avoid future costly legal problems. We are a collaborative office, working to ensure our clients receive the most legally defensible advice in the most efficient manner possible.
# Title IX Part III – Nuts and Bolts of the Title IX Coordinator’s Role

**November 10, 2020**

<table>
<thead>
<tr>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Presentation Slides</td>
</tr>
<tr>
<td>1. OCR Q&amp;A re DOE’s Final Title IX Rule (September 2020)</td>
</tr>
<tr>
<td>2. A. Letter to Complainant Re: Determination Regarding Responsibility (K-12)</td>
</tr>
<tr>
<td>B. Letter to Respondent Re: Determination Regarding Responsibility (K-12)</td>
</tr>
<tr>
<td>3. A. Administrative Determination Re: Responsibility to Complainant (CCD)</td>
</tr>
<tr>
<td>B. Administrative Determination Re: Responsibility to Respondent (CCD)</td>
</tr>
<tr>
<td>4. OCR Dear Colleague Letter – Athletics (April 2010)</td>
</tr>
<tr>
<td>5. Office on Violence Against Women Frequently Asked Questions: Campus Climate Surveys (October 2016)</td>
</tr>
<tr>
<td>6. Rutgers Campus Climate Survey (November 2014)</td>
</tr>
<tr>
<td>7. 2018 HEDS Sexual Assault Campus Climate Survey</td>
</tr>
<tr>
<td>8. Office on Violence Against Women Campus Climate Survey Revised (2016)</td>
</tr>
<tr>
<td>9. OCR Athletics Interest Assessment</td>
</tr>
<tr>
<td>10. OCR Resolution Letter with New York City DOE (February 2015)</td>
</tr>
</tbody>
</table>

These materials have been prepared by School & College Legal Services of California for informational purposes only and are not intended to constitute legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. Persons receiving this information should not act on it without seeking professional counsel. This information is not intended to create and does not constitute an attorney-client relationship between parties.

© 2020 School and College Legal Services of California

All rights reserved. However, SCLS grants permission to any current SCLS client to use, reproduce, and distribute these materials in its entirety for the client’s own non-commercial purposes.
Title IX Part III: Nuts & Bolts of the Title IX Coordinator’s Role
November 10, 2020

Presented by:
Monica D. Batanero, Senior Associate General Counsel
School & College Legal Services of California

Agenda
• Brief overview of Title IX
• Training requirements
• Title IX coordinator’s role
• Grievance Process
• Decision-maker’s role
• Data review
• Campus climate surveys

Fall 2020
Title IX Workshop Series
• Part 1 – Title IX Coordinator Essentials, September 15, 2020
• Part 2 – Conducting Title IX Investigations, October 14, 2020
• Part 3 – Nuts and Bolts of the Title IX Coordinator’s Role, November 10, 2020
• Part 4 – CCD Only – Additional Title IX Challenges for Community Colleges, December 8, 2020
I. Brief Overview of Title IX

What is Title IX?

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance.”


Sex-Based Discrimination

• Title IX prohibits sex-based discrimination
• Sex-based discrimination includes:
  • Sexual harassment
  • Sexual violence
  • Discrimination based on gender stereotypes
  • Gender-based discrimination
• Does NOT prohibit discrimination on the basis of sexual orientation (but California law does)
**Defined Terms**

- **Complainant** means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.
- **Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
- **Recipient** means elementary and secondary schools, as well as postsecondary institutions, that receive Federal financial assistance.

**Title IX Sexual Harassment Definition**

1. Unwelcome conduct on the basis of sex that a reasonable person would determine is so "severe, pervasive and objectively offensive" that it effectively denies a person equal access to the recipient’s education program or activity;
2. Quid pro quo harassment; or
3. Sexual assault, dating violence, domestic violence, or stalking as defined in the Clery Act/Violence Against Women Act ("VAWA").

**Sexual Assault (Forcible Offenses)**

- Any sexual act directed against another person, forcibly and/or against that person’s will or where the person is incapable of giving consent.
  1. **Forcible Rape**: the penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.
  2. **Forcible Sodomy**: oral or anal sexual intercourse with another person, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
Sexual Assault (Forcible Offenses)

3. Sexual Assault with an Object: To use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

4. Forcible Fondling: the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

Sexual Assault (Nonforcible Offenses)

1. Incest: Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

2. Statutory Rape: sexual intercourse with a person who is under your state’s statutory age of consent (18).

Dating Violence

- Violence committed by a person:
  1. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
  2. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
     - The length of the relationship.
     - The type of relationship.
     - The frequency of interaction between the persons involved in the relationship.
Domestic Violence

- Domestic Violence is defined as a felony or misdemeanor crime of violence committed:
  - By a current or former spouse or intimate partner of the Complainant;
  - By a person with whom the Complainant shares a child in common;
  - By a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;
  - By a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of California;
  - By any other person against an adult or youth Complainant who is protected from that person’s acts under the domestic or family violence laws of California.

Stalking

- Stalking is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
  - Fear for his or her safety or the safety of others; or
  - Suffer substantial emotional distress.

Where Does Title IX Apply?

- Title IX protects students in connection with all academic, educational, extracurricular, athletic, and other programs of the district.

- Programs can take place in a district facility, on a school bus, at a program sponsored by the district at another location, or on a school-sponsored field trip.
Scope of a School’s Educational Program or Activity

- Title IX Coordinator, Investigator, Decision-maker and Informal Resolution Facilitator must be knowledgeable of the scope of the recipient’s program or activity to determine if the conduct falls under Title IX jurisdiction.
- Includes locations, events, or circumstances over which the recipient exercised substantial control over both the respondent and the context in which the harassment occurs.
- Includes any building owned or controlled by a student organization that is officially recognized by a CCD.

II. Training Requirements

Title IX Training

- Title IX coordinator must have specified training
- Title IX coordinator is responsible for providing training to staff and students
Title IX Training

- Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must receive training on:
  1. The definition of sexual harassment,
  2. The scope of the recipient’s education program or activity,
  3. How to conduct an investigation,
  4. How to conduct a grievance process including hearings, appeals, and informal resolution processes, as applicable, and
  5. How to serve impartially.

Title IX Training, Cont’d.

- Decision-makers must receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant’s sexual predisposition or prior sexual behavior are not relevant.
- Investigators must receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

Trainings Provided by Title IX Coordinators

- School policies related to sex discrimination, including grievance procedures
- What constitutes sex- and gender-based harassment
- How to respond appropriately to reports of sex- and gender-based harassment
- Assemblies and schoolwide trainings
- Class, departmental, or smaller group trainings
- Individual trainings, as appropriate
**Trainings for Students**
- Trainings should focus on prohibited conduct and how Title IX protects against sex discrimination
- Include information on the school’s grievance procedures and how to file a complaint of sex discrimination, including sexual harassment and sexual assault
- Present the information so the students can understand it

**Trainings for Staff**
- What constitutes sex-based discrimination and sexual harassment, how to identify it, and how to report it
- How to respond to student complaints
- The school’s Title IX grievance procedures
- The school’s obligations toward pregnant and parenting students
- Awareness of their own (employment) rights under Title IX

**Trainings for Respondents**
- If an individual is determined to have violated Title IX, training may be an appropriate remedy
- Training may be targeted at the individual respondent only, or may encompass specific groups or the entire school community
Schoolwide Trainings

- If through a Title IX investigation the school determines that a hostile environment exists, it may need to provide special training to impacted students
- May encompass a class, a club, a team, a grade level, department, or the entire school
- Purpose is to repair the educational environment
- Training may also need to be provided to the larger student body to ensure that harassment or discrimination does not recur

Pop Quiz

The district hired a Title IX coordinator 5 years ago. She is one of the nation’s foremost experts on Title IX, but hasn’t attended a training herself since she was hired.

Is there any violation here?

Additional Clery Act Requirements

- Community colleges have additional training requirements under the Clery Act
- Individuals responsible for conducting disciplinary proceedings must receive annual training about how to conduct an investigation and hearing process that:
  - Promotes accountability, and
  - Protects the safety of victims
- Law enforcement personnel should be trained in the district’s policies for handling complaints of sexual assault
- “Campus security authorities” should receive training on issues related to dating violence, domestic violence, sexual assault, and stalking, and how to fulfill their obligations under Clery
Pop Quiz

Are School Resource Officers required to have special training, besides what is provided to other staff members?

A Word of Caution

- Some complainants file suit against their school for "failure to train" employees in how to investigate Title IX complaints
- School or district may be found liable even if there is no official written policy or custom of not training its employees
- If it rises to the level of "deliberate indifference," courts will find against schools/districts

Pop Quiz

School personnel are investigating an allegation of sexual assault. Investigator asks the victim: "Why didn't you do more to fight off your attacker?"

Is this relevant? Are there any issues with this approach?
Regular Assessment

- Title IX Coordinator should regularly assess the adequacy of current training opportunities and programs.
- One way to do this is through campus climate surveys.
- Another method is by reviewing institutional data.

III. Title IX Coordinator’s Role

“Each recipient must designate and authorize at least one employee to coordinate its efforts to comply with its responsibilities under this part, which employee must be referred to as the “Title IX Coordinator.” The recipient must notify [1] applicants for admission and employment, [2] students, [3] parents or legal guardians of elementary and secondary school students, [4] employees, and [5] all unions or professional organizations holding collective bargaining or professional agreements with the recipient, of the name or title, office address, electronic mail address, and telephone number of the employee or employees designated as the Title IX Coordinator pursuant to this paragraph.”
Title IX Coordinator

- The Title IX Coordinator has many responsibilities, including broadly:
  - Promoting gender equity in education
  - Overseeing the response to Title IX reports and complaints
  - Determining if jurisdiction exists under Title IX
  - Training students, staff, and faculty
  - Involvement in drafting and revising Title IX policies and regulations
  - Ensuring proper posting of notices
  - Identifying and addressing patterns of gender inequity revealed by reports and complaints

Title IX Coordinator

- Plays an essential role in ensuring every person involved in the activities and programs of the educational institution is aware of their rights under Title IX
- Should have community-wide visibility and comprehensive knowledge and training
- Must be knowledgeable about other applicable federal and state laws, regulations, and policies that overlap with Title IX

Institutional Obligations

- Must ensure that the Title IX coordinator has the institution’s full support
- Title IX coordinator must have the authority to oversee the institution’s compliance with Title IX
- In the district’s organizational structure, Title IX coordinator should report directly to senior leadership, such as the superintendent or president
- OCR recommends that the Title IX coordinator be a full-time position
IV. Grievance Process

Title IX Grievance Procedures

• A formal complaint initiates the grievance process.
• Grievance procedures MUST include:
  1. Treat complainants and respondents equitably.
  2. Impose disciplinary sanctions only after following a grievance process that complies with the new regulations.
  3. An objective evaluation of all relevant evidence.
  4. No conflict of interest or bias by the Title IX Coordinator, investigator or decision-maker.
  5. Training for Title IX Coordinator, investigator or decision-maker on definition of sexual harassment, scope of the recipient’s education program or activity, how to conduct an investigation and grievance process (including hearings, appeals), and how to serve impartially.

Title IX Grievance Procedures, Cont’d.

• Grievance procedures MUST include:
  6. Presumption of respondent’s innocence until conclusion of grievance process.
  7. Reasonably prompt time frames, to include limited extension of time frames for good cause.
  8. Description of range of possible disciplinary sanctions and remedies.
  10. Appeal rights.
  11. Range of supportive services available.
  12. Not use or require evidence that is legally privileged, unless privilege is waived.
**Investigation Process**

1. Provide written notice of allegations to the parties.
2. Offer an informal resolution process, if applicable.
3. Determine if an “emergency removal” is appropriate.
4. Provide an equal opportunity to present evidence.
5. Send parties (and advisors) all evidence directly related to allegations for the parties to meaningfully respond at least 10 days before the final report.
6. Send parties (and advisors) an investigative report that fairly summarizes relevant evidence with at least 10 days for the parties to respond.

**V. Decision-maker’s Role**

- Title IX Coordinator or Investigator cannot be the decision-maker.
- Can be a single person or a panel of decision-makers.
- Cannot have a conflict of interest or bias that affects the outcome of the matter.
- Decision-maker on appeal must not have been previously involved.
How to Serve Impartially

• Avoid intentional or unintentional injection of sex-based biases and stereotypes.
• Treat complainants and respondents equitably.
• Objectively evaluate all relevant evidence.
• Avoid credibility determinations based on a person’s status as a complainant, respondent, or witness.
• Uphold the presumption of respondent’s innocence until conclusion of the grievance process.
• Avoid prejudgment of the facts.

Decision-Maker: What?

• Must issue a written determination regarding responsibility (“Determination”) simultaneously to the parties.
• The Determination must include:
  • Allegations;
  • Procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
  • Findings of fact supporting the determination;
  • Conclusions regarding the application of the recipient’s code of conduct to the facts;
  • Rationale for the result as to each allegation;
  • Any disciplinary sanctions imposed on the respondent;
  • Whether remedies will be provided to the complainant;
  • Appeal process and bases for appeal.

Decision-Maker: How?

• Review the investigative report and relevant evidence. However, may review the file of “directly related” evidence that ultimately was not relied upon by the investigator.
• Be knowledgeable of the recipient’s policies, including the code of conduct.
• Apply the applicable standard of evidence.
  • Preponderance of the evidence: more likely than not, or
  • Clear and convincing evidence: highly and substantially more likely to be true than untrue.
• Be mindful of the timeline to issue a written determination.
Decision-Maker: How?, Cont’d.

- If a hearing is held (mandatory for CCD only), facilitate the hearing and permit each party’s advisor to ask any other party and witness all relevant questions and follow-up questions, including questions that go to credibility.
- For K-12, allow the parties at least 10 days to submit written, relevant questions to any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions.
- Limit questions of the parties and witnesses to relevant questions only.

Relevancy

- All relevant evidence, inculpatory and exculpatory, must be admitted.
- However the Title IX Regulations deem certain evidence not relevant:
  - Evidence of the Complainant’s sexual predisposition.
  - Evidence of the Complainant’s prior sexual behavior except for two limited exceptions:
    1. Offered to prove that someone other than the Respondent committed the conduct alleged, or
    2. Concerns specific incidents of the Complainant’s sexual behavior with respect to the Respondent and is offered to prove consent
  - A party’s treatment records without the party’s voluntary, written consent.
  - The use of information protected by any legally recognized privilege (e.g., attorney-client).

Relevancy, Cont’d.

- Relevant = If the information helps to prove or disprove a fact at issue, it should be admitted.
- Title IX regulations do not define relevance; however, recipients cannot exclude relevant evidence because such evidence may be unduly prejudicial, concern prior bad acts, or constitute character evidence.
Relevancy, Cont’d.

- Recipients have discretion governing how admissible, relevant evidence must be evaluated for weight or credibility by a decision-maker.
- The weight assigned to evidence depends on the type of evidence and its credibility:
  - Direct evidence (personal observation or experience)
  - Real evidence (knife)
  - Documentary evidence (emails, texts, photos, videos)
  - Circumstantial evidence (not direct observation, but compelling)
  - Hearsay evidence (something heard from another person)

- An investigator’s opinion on credibility, findings of fact, whether policy was violated, the weight given to evidence, etc., is not binding on the decision-maker.
- Decision-maker has to independently and freely issue a decision and is free to accept or reject an investigator’s recommendations.

Assessing Credibility

- Factors to consider:
  - Complainant telling another person about the discrimination
  - Other complaints against same respondent
  - Witnesses’ conduct during interviews, including body language, eye contact, tone, nervous behaviors, sweating
  - Consistent/inconsistent information
  - Corroboration by other witnesses, documents, or other evidence
  - Motive to lie

- Factors that aren’t as relevant: a delay in reporting, minor inconsistencies in story, that complainant and respondent once had a consensual relationship
Totality of the Circumstances

1. Whether the conduct was verbal or physical, or both;
2. How frequently it occurred;
3. Whether the conduct was hostile and patently offensive;
4. Whether the alleged harasser was a co-worker or a supervisor;
5. Whether others joined in perpetuating the harassment; and
6. Whether the harassment was directed at more than one individual.

Affirmative Consent (Sexual Assault)

• The new regulations specifically note that schools are not required to adopt any particular definition of consent with regard to sexual assault.
• Effective 1/1/20, colleges that receive state funding must adopt a sexual assault policy that includes an affirmative consent standard in the determination of whether consent was given by both parties to sexual activity.
• “Affirmative consent” must be defined as “affirmative, conscious, and voluntary agreement to engage in sexual activity.”

Due Process Considerations during Decision-making

• Is the decision free of bias?
• Is the decision made in good faith?
• Is the decision based on a fair and thorough investigation?
• Did the investigation process give the parties an equal opportunity to present evidence and have access to the evidence?
• Did the recipient procedurally follow its grievance process?
• Was the process fair?
Appeals

A recipient must offer both parties an appeal from a determination regarding responsibility...on the following bases:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

Appeals Process

As to all appeals, the recipient must:

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
2. Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;

Appeals Process, Cont’d.

3. Ensure that the decision-maker(s) for the appeal is unbiased and meets the training requirements under Title IX;
4. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
5. Issue a written decision describing the result of the appeal and the rationale for the result; and
6. Provide the written decision simultaneously to both parties.
VI. Data Review

Data Review

• Title IX coordinator should:
  • Review data regularly to evaluate the school's Title IX compliance
  • Identify any patterns or systemic problems under Title IX
  • Investigate possible causes of any patterns or systemic problems
  • Use the information to recommend next steps to improve Title IX compliance and ensure the school is free from sex-based discrimination

Data Review

• Data review should include consideration of many aspects of Title IX compliance:
  • Equal opportunity in athletics
  • Proportionate participation in courses and programs of study
  • Incidents of sexual violence
  • Incidents of harassment and bullying
  • Consistency of discipline
  • Effectiveness of training efforts
Data Review: Athletics

• Title IX coordinator should regularly review participation in and offerings of sports to ensure equal opportunity

• Regularly reviewing the data should help the Title IX coordinator identify patterns of disproportionality that may be rooted in sex discrimination

Data Review: Athletics

• OCR has provided a three part test to determine if an institution provides nondiscriminatory athletic participation opportunities:
  1. Substantially proportionate participation
  2. History and continuing practice of program expansion for underrepresented sex
  3. Interests and abilities of underrepresented sex fully accommodated

Data Review: Athletics

• Specifically, the data review should include analysis of parts 1 and 2 of the three-part test:
  1. Whether athletic participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollment
  2. Where the members of one sex have been and are underrepresented among intercollegiate athletes, whether the institution can show a history and continuing practice of program expansion which is demonstrably responsive to the developing interests and abilities of members of that sex
Data Review: Athletics – Part 3

- Part 3 of the three-part test
  - Where the members of one sex are underrepresented in athletics, and there isn’t a history and practice of program expansion, the school is fully and effectively accommodating the interests and abilities of that sex with the current program
  - OCR looks to three criteria:
    1. Is there unmet need in a particular sport?
    2. Is there sufficient ability to sustain a team in the sport?
    3. Is there a reasonable expectation of competition for the team?

Data Review: Athletics – Part 3

- Criterion 1: Unmet Interest and Ability
  - Whether district eliminated a viable team for underrepresented sex
  - Multiple indicators
- Criterion 2: Sufficient Ability
  - The athletic experience and accomplishments of the underrepresented sex
  - Opinions of coaches, administrators, and other athletes
  - Previous competition; participation in other sports
- Criterion 3: Reasonable Expectation of Competition
  - Competitive opportunities offered by other schools against which the institution competes, and new competitive opportunities in the geographic area

Data Review: Athletic Scholarships

- When a college awards athletic scholarships, they must be granted to “members of each sex in proportion to the number of students of each sex participating in... intercollegiate athletics”
- There is a strong presumption that an unexplained disparity of more than 1% is in violation of the "substantially proportionate" requirement for funding men’s and women’s athletic scholarships
Data Review: Courses and Programs of Study

- Title IX coordinator should regularly review participation and offerings in courses and programs of study with disproportionate historical participation by one sex
- Is a particular sex underrepresented in some courses of study (e.g., girls in STEM courses, science programs, robotics extracurricular activities)? Why?
- Title IX coordinator should investigate the possible causes of underrepresentation and recommend measures for reaching greater proportionality

Data Review: Harassment & Bullying

- Who is being targeted?
- Who is the perpetrator?
- Who is being disciplined?
- Is this proportionate to each sex’s enrollment?
- Are incidents occurring in a particular setting?
- Reviewing data helps schools analyze problems and understand where change is needed

Data Review: Discipline

- Title IX Coordinators should regularly review discipline data
- Look for:
  - Whether similarly situated students are being disciplined differently based on sex for the same offense
  - Whether discipline policies are in fact having an unlawful disparate impact on students based on sex
VII. Campus Climate Surveys

What is a Campus Climate Survey?

- A survey of students that gathers data relating to an institution’s strengths and weaknesses in areas of discrimination on the basis of sex
- It should assess the prevalence, nature, and extent of sex discrimination, sexual assault, and other sexual misconduct on a campus and at individual sites
- The survey should also address students’ knowledge of resources and procedures relating to sex discrimination, including sexual harassment and sexual misconduct

Why Conduct a Campus Climate Survey?

- Survey should serve as the basis of a comprehensive campus sex discrimination action plan
- Data should inform a comprehensive Title IX compliance plan
- Using the data, institutions can create tailored prevention and response efforts
- OCR has identified campus climate surveys on sexual assault as a best practice
Why Conduct a Campus Climate Survey?

- Evaluate whether any discriminatory attitudes pervade the school culture
- Evaluate whether any harassment or other problematic behaviors are occurring
  - Where do they occur?
  - Which groups/types of students are responsible?
  - Which groups/types of students are targeted?
  - How best to remedy those conditions?
- Reveal whether students perceive certain campus environments or populations as hostile

Why Conduct a Campus Climate Survey?

- Assess the effectiveness of remedial actions
  - Were the actions effective?
  - What are students’ attitudes, knowledge, and experience around sexual harassment?
  - What further steps should be taken?
- Regularly conducted over time, campus climate surveys can reflect changing attitudes, increases in awareness and reporting, and the effectiveness of an institution’s efforts

What Will a Campus Climate Survey Do?

- Identify “blind spots” in existing institutional responses to Title IX complaints and instances of sex discrimination
- Identify student populations most at risk
- Evaluate students’ level of knowledge about campus resources
- Identify any confusion about policies and procedures
- Shed light on whether students feel comfortable reporting sexual harassment/sexual assault to school officials through the school’s grievance procedures
Note

- Campus climate surveys can address many more issues than just sex discrimination/sexual assault
- The Ohio State University conducts an annual campus climate survey on topics related to general health, health-related impediments to academic performance, relationships, alcohol and other drug use, sexual behavior, nutrition, exercise, mental health, and sleep

Creating the Survey

- Identify the survey team
  - Title IX coordinator, expert in survey methodology, advisory board
- Establish the purpose of the survey
- Create the survey instrument
  - Specific questions – language can be explicit (e.g. anus, penetration) but should be age-appropriate
  - Templates available (see attachments)

DOJ’s 5 Best Practices

- #1 – Confidentiality
- #2 – Long-Term Action Plan
- #3 – Electronic Device Accessibility
- #4 – Incentives
- #5 – Content of Questions
## Incentivizing Participation

- Bureau of Justice Statistics suggests an incentive of $20-$30 (more money did not yield more participation)
- School can recruit certain students to participate, but be aware of sample size and representation concerns
- Survey should be open for 28-57 days
- Send a reminder email about once every 10 days
- Survey should be smartphone and tablet accessible
- “Brand” survey campaign: Boston University’s “Speak Up BU” or Rutgers’ “iSpeak” campaigns

## Pop Quiz

Should a district include information assessing interest in sports on its annual campus climate survey?

Why or why not?

## Survey Content

- Include questions necessary to get the information the school wants to learn
- Write questions to help students understand important terms like what constitutes sexual harassment
- Consider the many areas of Title IX – athletics, programs and courses of study, pregnant and parenting students, etc.
- Provide contact information for the Title IX coordinator and how students can report an incident or get more information
Pop Quiz

Is there anything wrong with the question, "How frightened were you by the incident?" on a campus climate survey?

Additional Pointers

- Survey should be administered toward the end of the school or academic year
- Survey should remain available to participants for at least one month, but preferably two
- The methodology should include multiple follow-up reminders for non-respondents (e.g., via email)
- Recruitment materials should be personalized for potential respondents
- Some messages should be customized for male students to increase their participation

Pop Quiz

Which question is better:
1. How safe do you feel on campus?
2. Have you experienced harassment while playing on a school sports team?

Why?
What concerns do you have about each question?
**Campus Climate Survey Resources**

- Department of Justice “Not Alone” Campaign, https://www.justice.gov/ovw/protecting-students-sexual-assault#campusclimate
- Bureau of Justice Statistics, Campus Climate Survey Validation Study, https://www.bjs.gov/content/pub/pdf/ccsvsftr.pdf

**Resources (K-12)**

- Know Your IX - High School, https://www.knowyourix.org/high-school-resource/
- Safe Place to Learn, https://safesupportivelearning.ed.gov/safe-place-to-learn-k12
- OCR Civil Rights Data Collection, https://www2.ed.gov/about/offices/list/ocr/data.html

**Resources (CCD)**

- Center for Changing Our Campus Culture, http://changingourcampus.org/
- Clery Center, https://clerycenter.org/
Information in this presentation, including but not limited to PowerPoint handouts and presenter’s comments, is summary only and not legal advice. We advise you consult with legal counsel to determine how this information may apply to your specific facts and circumstances.

Monica D. Batanero, Sr. Associate General Counsel
mbatanero@sclscal.org
School & College Legal Services of California
5350 Skylane Boulevard
Santa Rosa, CA 95403
(707) 524-2690
www.sclscal.org
ATTACHMENTS
Questions and Answers Regarding the Department of Education's Final Title IX Rule
Office for Civil Rights
N/A
September 4, 2020
Related Index Numbers
505. TITLE IX [OF THE EDUCATION AMENDMENTS OF 1972 - SEX DISCRIMINATION]
Ruling
In a Q&A document clarifying certain provisions of the 2020 Title IX regulations, OCR advised districts that sexual harassment is actionable when a reasonable person would find the unwelcome conduct to be so severe, pervasive, and objectively offensive that it denies equal access to an education. It also emphasized that districts must permit a complainant to file a formal Title IX complaint if she is participating or attempting to participate in the district's programs or activities.

Meaning
An alleged victim of sexual harassment isn't required to suffer a "concrete injury" to seek and receive the district's assistance under Title IX. As long as the alleged harassment is so severe, pervasive, and objectively offensive that it impacts the victim's equal access to her educational program, the district must take steps to resolve the harassment. For example, if a student skips class or has difficulty concentrating in class due to alleged sexual harassment, the district's Title IX coordinator should contact the student to ensure she receives supportive measures and has the opportunity to file a formal sexual harassment complaint.

Case Summary
Highlighting that individuals react to sexual harassment in a wide variety of ways, OCR stated that districts have a duty under Title IX to address such harassment if the alleged victim shows "signs of enduring unequal educational access." It emphasized that a district must properly respond to sexual harassment regardless of whether the alleged victim is presently a student or not. In a Q&A, OCR explained that the 2020 Title IX regulations adopted the definition of sexual harassment outlined in Davis v. Monroe County Board of Education, 3 GASLD 12 (U.S. 1999). According to that Supreme Court case, one form of sexual harassment is "unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the [district's] education program or activity." However, OCR emphasized that neither the Davis decision nor the 2020 Title IX rule requires that a student drop out of school, fail a class, have a panic attack, or otherwise reach a "breaking point" to report sexual harassment and receive a district's support. Rather, OCR stated that a district must respond to sexual harassment when the student shows "signs of enduring unequal access," such as skipping class to avoid a harasser, a decline in GPA, and difficulty concentrating in class. Moreover, OCR stressed that districts must promptly respond to a report of sexual harassment, whether the alleged victim is presently a student or not, in a manner that is not deliberately indifferent or clearly unreasonable. It pointed out that an individual may file a formal Title IX complaint as long as she is participating or attempting to participate in the district's program or activities. For example, a complainant who has graduated may still be "attempting to participate" in the district's program if she intends to remain involved in the district's alumni activities. Additionally, a complainant who left school but expresses a desire to re-enroll is "attempting to participate" in the district's education program, OCR concluded.

Full Text
Questions and Answers Regarding the Department's Final Title IX Rule
The Department of Education's Office for Civil Rights, through its new Outreach, Prevention,
Education and Non-discrimination (OPEN) Center, issues the following technical assistance document to support institutions with meeting their obligations under the Title IX Rule, which was announced on May 6, 2020, and which became effective on August 14, 2020. Many of the questions were derived from questions posed to the OPEN center through e-mail.

OCR may periodically release additional Question and Answer documents addressing the Title IX Rule.

All references and citations are to the unofficial version of the Title IX Rule, which is available here. A link to the official version of the Rule published in the Federal Register is here.

Disclaimer: Other than statutory and regulatory requirements included in the document, the contents of this guidance do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

**Effective Date of the Final Rule**

Question 1: Can you please clarify whether the new Title IX rules that went into effect on August 14, 2020, will be applied retroactively?

Answer 1: The Title IX Rule will not be enforced retroactively. In the Preamble to the Rule at page 127, the Department states unambiguously that the Department will not enforce these final regulations retroactively. The Department also notes, in footnote 290 of the Rule, the general principle that:

Federal agencies authorized by statute to promulgate rules may only create rules with retroactive effect where the authorizing statute has expressly granted such authority. See 5 U.S.C. 551 (referring to a "rule" as agency action with "future effects" in the Administrative Procedure Act); Bowen v. Georgetown Univ. Hosp., 488 U.S. 204, 208 (1988) ("Retroactivity is not favored in the law. Thus, congressional enactments and administrative rules will not be construed to have retroactive effect unless their language requires this result.").

Consistent with the Department's statements in the preamble to the Title IX Rule regarding non-retroactivity, the Rule does not apply to schools' responses to sexual harassment that allegedly occurred prior to August 14, 2020. The Department will only enforce the Rule as to sexual harassment that allegedly occurred on or after August 14, 2020. With respect to sexual harassment that allegedly occurred prior to August 14, 2020, OCR will judge the school's Title IX compliance against the Title IX statute and the Title IX regulations in place at the time that the alleged sexual harassment occurred. In other words, the Rule governs how schools must respond to sexual harassment that allegedly occurs on or after August 14, 2020.

**Title IX Coordinator and Other Personnel Issues**

Question 2: Does the Title IX Rule specify whether each recipient must have a Title IX Coordinator, or is each school required to have a separate Title IX Coordinator, or both?

Answer 2: The Title IX Rule states in § 106.8(a): "Each recipient must designate and authorize at least one employee to coordinate its efforts to comply with its responsibilities under this part, which employee must be referred to as the "Title IX Coordinator."" (emphasis omitted).

Question 3: The Title IX Rule allows schools to continue to address misconduct that does not meet the definition of sexual harassment. Can Title IX personnel still review these complaints, and follow procedures similar to those allegations that do meet the definition of sexual harassment?

Answer 3: Yes. The Title IX Rule does not preclude a recipient from using the same Title IX personnel (including the Title IX Coordinator, who must be an employee of the recipient, and Title IX investigators and decision-makers, who may be a recipient's employees or the employees of a third-party, such as a consortium of schools) to review and investigate allegations of misconduct that fall outside the scope of Title IX. Similarly, the Rule
does not preclude a recipient from using a grievance process that complies with § 106.45 with respect to allegations that fall outside the scope of Title IX. In the Preamble to the Rule at pages 481-82, for example, the Department states:

In response to commenters' concerns, the final regulations revise § 106.45(b)(3)(i) to clearly state that dismissal for Title IX purposes does not preclude action under another provision of the recipient's code of conduct. Thus, if a recipient is required under State law or the recipient's own policies to investigate sexual or other misconduct that does not meet the § 106.30 definition, the final regulations clarify that a recipient may do so. Similarly, if a recipient wishes to use a grievance process that complies with § 106.45 to resolve allegations of misconduct that do not constitute sexual harassment under § 106.30, nothing in the final regulations precludes a recipient from doing so. Alternatively, a recipient may respond to non-Title IX misconduct under disciplinary procedures that do not comply with § 106.45. The final regulations leave recipients flexibility in this regard, and prescribe a particular grievance process only where allegations concern sexual harassment covered by Title IX.

The Definition of Sexual Harassment

Question 4: One form of sexual harassment is conduct on the basis of sex that constitutes "[u]nwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity." In this sentence, does "reasonable person" modify only "severe, pervasive, and objectively offensive" only, or the effective denial clause as well? To clarify, can an "effective denial" be something that a reasonable person would experience, even if there is not evidence to show that the Complainant was in fact effectively denied?

Answer 4: The "reasonable person" standard in the second prong of the definition of sexual harassment under § 106.30(a) applies to each of the elements drawn from the U.S. Supreme Court's decision in Davis v. Monroe County Bd. of Ed., 526 U.S. 629 (1999). These elements include: severity, pervasiveness, objective offensiveness, and the effective denial of equal educational access. In the Preamble to the Rule, at page 515, the Department states: "The Davis standard ensures that all students, employees, and recipients understand that unwelcome conduct on the basis of sex is actionable under Title IX when a reasonable person in the complainant's position would find the conduct severe, pervasive, and objectively offensive such that it effectively denies equal access to the recipient's education program or activity."

With respect to the denial of the equal access element in particular, in the Preamble to the Title IX Rule, at page 525, states:

Neither the Supreme Court, nor the final regulations in § 106.30, requires showing that a complainant dropped out of school, failed a class, had a panic attack, or otherwise reached a "breaking point" in order to report and receive a recipient's supportive response to sexual harassment. The Department acknowledges that individuals react to sexual harassment in a wide variety of ways, and does not interpret the Davis standard to require certain manifestations of trauma or a "constructive expulsion." Evaluating whether a reasonable person in the complainant's position would deem the alleged harassment to deny a person "equal access" to education protects complainants against school officials inappropriately judging how a complainant has reacted to the sexual harassment. The § 106.30 definition neither requires nor permits school officials to impose notions of what a "perfect victim" does or says, nor may a recipient refuse to respond to sexual harassment because a complainant is "high-functioning" or not showing particular symptoms following a sexual harassment incident.

Similarly, the Preamble to the Title IX Rule, at pages 526-27, states:

With respect to the denial of equal access element, neither the Davis Court nor the Department's
final regulations require complete exclusion from an education, but rather denial of "equal" access. Signs of enduring unequal educational access due to severe, pervasive, and objectively offensive sexual harassment may include, as commenters suggest, skipping class to avoid a harasser, a decline in a student's grade point average, or having difficulty concentrating in class; however, no concrete injury is required to conclude that serious harassment would deprive a reasonable person in the complainant's position of the ability to access the recipient's education program or activity on an equal basis with persons who are not suffering such harassment.

(emphasis omitted).

**Filing of a Formal Complaint**

Question 5: The Title IX Rule states: "At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the school with which the formal complaint is filed." If a complainant either withdraws from school because of sexual harassment and then files a complaint, or files a complaint but then withdraws as a result of the sexual harassment or stress of the grievance process, how would the regulations affect the complainant's ability to pursue a formal complaint?

Answer 5: Under the Title IX Rule, recipients must promptly respond to a report that an individual has been allegedly victimized by sexual harassment, whether the alleged victim is presently a student or not, in a manner that is not "deliberately indifferent," or clearly unreasonable in light of known circumstances. Students and others who are participating or attempting to participate in the school's program or activity also have the right to file a formal complaint.

In the Preamble to the Title IX Rule, at pages 411-12, the Department further explains:

A complainant who has graduated may still be 'attempting to participate' in the recipient's education program or activity; for example, where the complainant has graduated from one program but intends to apply to a different program, or where the graduated complainant intends to remain involved with a recipient's alumni programs and activities. Similarly, a complainant who is on a leave of absence may be 'participating or attempting to participate' in the recipient's education program or activity; for example, such a complainant may still be enrolled as a student even while on leave of absence, or may intend to re-apply after a leave of absence and thus is still 'attempting to participate' even while on a leave of absence. By way of further example, a complainant who has left school because of sexual harassment, but expresses a desire to re-enroll if the recipient appropriately responds to the sexual harassment, is 'attempting to participate' in the recipient's education program or activity.

(emphasis omitted). Additionally, the Rule permits Title IX Coordinators to sign a formal complaint, regardless of whether a complainant is "participating or attempting to participate" in the school's education program or activity. A Title IX Coordinator's decision to sign a formal complaint (or not) is evaluated under the deliberate indifference standard: whether the decision was clearly unreasonable in light of the known circumstances.

**Conducting an Investigation Hearing**

Question 6: May a recipient delegate many of the functions required by the Title IX Rule to an outside entity, such as a Regional Center or consortium of schools?

Answer 6: Yes. In particular, many of the elements of the investigation and hearing processes lend themselves to delegation. The recipient itself remains ultimately responsible for ensuring compliance with the legal obligations under the Title IX Rule.

At page 273 of the Preamble to the Title IX Rule, the Department expressly contemplates and encourages recipients to consider innovative approaches such as consortiums and regional centers:

The Department appreciates commenters' recommendations for using regional center models
and similar models involving voluntary, cooperative efforts among recipients to outsource the investigation and adjudication functions required under the final regulations. The Department believes these models represent the potential for innovation with respect to how recipients might best fulfill the obligation to impartially reach accurate factual determinations while treating both parties fairly. The Department encourages recipients to consider innovative solutions to the challenges presented by the legal obligation for recipients to fairly and impartially investigate and adjudicate these difficult cases, and the Department will provide technical assistance for recipients with questions about pursuing regional center models.

To be sure, there are limitations on the extent to which a recipient may delegate certain responsibilities to other entities. For instance, each recipient must itself employ a Title IX Coordinator. See § 106.8 ("Each recipient must designate and authorize at least one employee to coordinate its efforts to comply with its responsibilities under this part, which employee must be referred to as the "Title IX Coordinator."). Similarly, each recipient is responsible for ensuring that its grievance procedures satisfy the Title IX Rule. See § 106.44(c) ("A recipient must adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by this part and a grievance process that complies with § 106.45 for formal complaints as defined in § 106.30"). Still, despite these limitations, the Title IX Rule offers ample opportunity for recipients to find efficiencies in cooperation with other recipients, particularly with respect to investigation and adjudication.

Question 7: What are the rules of evidence at a hearing? Do courtroom rules like the Federal Rules of Evidence apply to a hearing under Title IX?

Answer 7: The Title IX Rule does not adopt the Federal Rules of Evidence for hearings conducted under Title IX. For instance, with respect to which evidence may be introduced, the Rule uses "relevance" as the sole admissibility criterion. See § 106.45(b)(1)(ii) (the recipient's grievance process must provide for objective evaluation of all relevant evidence, including evidence that is inculpatory and exculpatory).

The Title IX Rule also deems certain evidence and information to be not relevant or otherwise precludes the recipient from using it: (i) a party's treatment records, without the party's prior written consent [§ 106.45(b)(5)(i)]; (ii) information protected by a legally recognized privilege [§ 106.45(b)(1)(x)]; (iii) questions or evidence about a complainant's sexual predisposition, and questions or evidence about a complainant's prior sexual behavior unless it meets one of two limited exceptions [§ 106.45(b)(6)(i)-(ii)]; and, for postsecondary institutions, the decision-maker cannot rely on the statements of a party or witness who does not submit to cross-examination [§ 106.45(b)(6)(i)].

In the Preamble to the Title IX Rule, at pages 980-82, the Department explains:

These final regulations require objective evaluation of relevant evidence, and contain several provisions specifying types of evidence deemed irrelevant or excluded from consideration in a grievance process; a recipient may not adopt evidentiary rules of admissibility that contravene those evidentiary requirements prescribed under § 106.45. For example, a recipient may not adopt a rule excluding relevant evidence whose probative value is substantially outweighed by the danger of unfair prejudice; although such a rule is part of the Federal Rules of Evidence, the Federal Rules of Evidence constitute a complex, comprehensive set of evidentiary rules and exceptions designed to be applied by judges and lawyers, while Title IX grievance processes are not court trials and are expected to be overseen by layperson officials of a school, college, or university rather than by a judge or lawyer. Similarly, a recipient may not adopt rules excluding certain types of relevant evidence (e.g., lie detector test results, or rape kits) where the type of evidence is not either deemed "not relevant" (as is, for instance, evidence concerning a complainant's prior...
sexual history) or otherwise barred from use under § 106.45 (as is, for instance, information protected by a legally recognized privilege). However, the § 106.45 grievance process does not prescribe rules governing how admissible, relevant evidence must be evaluated for weight or credibility by a recipient's decision-maker, and recipients thus have discretion to adopt and apply rules in that regard, so long as such rules do not conflict with § 106.45 and apply equally to both parties.

Question 8: Do recipients have latitude to define relevance on their own?

Answer 8: In the Preamble to the Title IX Rule, at page 811, footnote 1018, the Department states: "The final regulations do not define relevance, and the ordinary meaning of the word should be understood and applied." At page 812 of the Preamble, the Department states:

Relevance is the standard that these final regulations require, and any evidentiary rules that a recipient chooses must respect this standard of relevance. For example, a recipient may not adopt a rule excluding relevant evidence because such relevant evidence may be unduly prejudicial, concern prior bad acts, or constitute character evidence. A recipient may adopt rules of order or decorum to forbid badgering a witness, and may fairly deem repetition of the same question to be irrelevant.

However, there is a difference between the admission of relevant evidence, and the weight, credibility, or persuasiveness of particular evidence. At pages 981-82 of the Preamble, the Department further explains:

However, the § 106.45 grievance process does not prescribe rules governing how admissible, relevant evidence must be evaluated for weight or credibility by a recipient's decision-maker, and recipients thus have discretion to adopt and apply rules in that regard, so long as such rules do not conflict with § 106.45 and apply equally to both parties. In response to commenters' concerns that the final regulations do not specify rules about evaluation of evidence, and recognizing that recipients therefore have discretion to adopt rules not otherwise prohibited under § 106.45, the final regulations acknowledge this reality by adding language to the introductory sentence of § 106.45(b): "Any provisions, rules, or practices other than those required by § 106.45 that a recipient adopts as part of its grievance process for handling formal complaints of sexual harassment, as defined in § 106.30, must apply equally to both parties." A recipient may, for example, adopt a rule regarding the weight or credibility (but not the admissibility) that a decision-maker should assign to evidence of a party's prior bad acts, so long as such a rule applied equally to the prior bad acts of complainants and the prior bad acts of respondents. Because a recipient's investigators and decision-makers must be trained specifically with respect to "issues of relevance," any rules adopted by a recipient in this regard should be reflected in the recipient's training materials, which must be publicly available.

(emphasis omitted) (internal footnotes omitted).

Question 9: The Title IX Rule states that at the postsecondary level, if a party does not appear at a live hearing, or chooses to not answer cross examination questions, that party's statement must not be relied upon "in reaching a determination regarding responsibility." If a complainant opts not to answer cross-examination questions, how does that impact that complainant's statements in an investigative report? Does it mean all statements provided by that party before the hearing--including statements made to an investigator and summarized in the investigation report--are excluded?

Answer 9: The Title IX Rule, at § 106.45(b)(6)(i), requires postsecondary institutions to hold a live hearing with the opportunity for each party's advisor to conduct cross-examination of parties and witnesses.

At page 1179 of the Preamble to the Rule, the Department explains:

Because party and witness statements so often
raise credibility questions in the context of sexual harassment allegations, the decision-maker must consider only those statements that have benefited from the truth-seeking function of cross-examination. The recipient, and the parties, have equal opportunity (and, for the recipient, the obligation) to gather and present relevant evidence including fact and expert witnesses, and face the same limitations inherent in a lack of subpoena power to compel witness testimony. The Department believes that the final regulations, including § 106.45(b)(6)(i), strike the appropriate balance for a postsecondary institution context between ensuring that only relevant and reliable evidence is considered while not over-legalizing the grievance process.

(emphasis omitted). And at page 1181 of the Preamble to the Title IX Rule, the Department states:

The prohibition on reliance on "statements" applies not only to statements made during the hearing, but also to any statement of the party or witness who does not submit to cross-examination. "Statements" has its ordinary meaning, but would not include evidence (such as videos) that do not constitute a person's intent to make factual assertions, or to the extent that such evidence does not contain a person's statements. Thus, police reports, SANE reports, medical reports, and other documents and records may not be relied on to the extent that they contain the statements of a party or witness who has not submitted to cross-examination. While documentary evidence such as police reports or hospital records may have been gathered during investigation and, if directly related to the allegations inspected and reviewed by the parties, and to the extent they are relevant, summarized in the investigative report, the hearing is the parties' first opportunity to argue to the decision-maker about the credibility and implications of such evidence. Probing the credibility and reliability of statements asserted by witnesses contained in such evidence requires the parties to have the opportunity to cross-examine the witnesses making the statements.

(emphasis omitted) (footnotes omitted). For a further discussion of this topic and how it relates to unprotected speech that itself constitutes sexual harassment under the Title IX Rule, readers are invited to review OCR's blog post on this topic here.

Question 10: When a post-secondary institution holds a live hearing, is the questioning limited to certain subjects?

Answer 10: The Rule requires that schools provide the opportunity for cross-examination, and that party advisors must be permitted to ask all relevant questions (including follow-up questions), and only relevant questions.

Question 11: At the postsecondary level, are party advisors expected to cross-examine witnesses?

Answer 11: The Title IX Rule, at § 106.45(b)(6)(i), states that a postsecondary institution must hold a live hearing. At the hearing, each party's advisor of choice must be "permitted" to cross-examine witnesses. (Note that the same provision requires the recipient to provide a party with an advisor of the recipient's choice, if the party appears at the hearing without an advisor of the party's choice.)

Question 12: If a party's advisor fails to cross-examine another party on a key statement related to credibility, what is the effect of this on the statement made by the complainant? May the decision-maker consider the key statement?

Answer 12: The Title IX Rule, in § 106.45(b)(6)(i), states: "At the live hearing, the decision-maker(s) must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility."

In the Preamble to the Rule at page 1181, the Department states (emphasis omitted):

Probing the credibility and reliability of statements asserted by witnesses contained in such evidence requires the parties to have the opportunity to cross-examine the witnesses making the statements.
The Department appreciates the opportunity to clarify here that to "submit to cross-examination" means answering those cross-examination questions that are relevant; the decision-maker is required to make relevance determinations regarding cross-examination in real time during the hearing in part to ensure that parties and witnesses do not feel compelled to answer irrelevant questions for fear of their statements being excluded.

(emphasis omitted).

Thus, the decision-maker is obligated to "permit" each party's advisor to ask all relevant questions. However, this provision provides only an "opportunity" for each party (through an advisor) to conduct cross-examination; this provision does not purport to require that each party conduct cross-examination or will conduct cross-examination to the fullest extent possible. If a party chooses not to conduct cross-examination of another party or witness, that other party or witness cannot "submit" or "not submit" to cross-examination. Accordingly, the decision-maker is not precluded from relying on any statement of the party or witness who was not given the opportunity to submit to cross-examination. The same is true if a party's advisor asks some cross-examination questions but not every possible cross-examination question; as to cross-examination questions not asked of a party or witness, that party or witness cannot be said to have submitted or not submitted to cross-examination, so the decision-maker is not precluded from relying on that party's or witness's statements.

Conversely, if a party or witness answers one, or some, but not all, relevant cross-examination questions asked by a party's advisor at the live hearing, then that party or witness has not submitted to cross-examination and that party's or witness's statements cannot be relied on by the decision-maker. See Preamble at page 1183 ("the Department declines to allow a party or witness to "waive" a question because such a rule would circumvent the benefits and purposes of cross-examination as a truth-seeking tool for postsecondary institutions' Title IX adjudications").

Question 13: Does an advisor or party have an opportunity to provide input about how evidence should be weighted by the decision-maker?

Answer 13: Yes. The parties must have an equal opportunity to inspect, review, and respond to evidence directly related to the allegations (see § 106.45(b)(5)(vi)), and an equal opportunity to review and respond to the recipient's investigative report (see § 106.45(b)(5)(vii)), allows each party the opportunity to provide input and make arguments about the relevance of evidence and how a decision-maker should weigh the evidence. In the Preamble to the Rule at p. 1015, the Department states that the Rule:

... balances the recipient's obligation to impartially gather and objectively evaluate all relevant evidence, including inculpatory and exculpatory evidence, with the parties' equal right to participate in furthering each party's own interests by identifying evidence overlooked by the investigator and evidence the investigator erroneously deemed relevant or irrelevant and making arguments to the decision-maker regarding the relevance of evidence and the weight or credibility of relevant evidence.

Note that Sections 106.45(b)(5)(vi) and (vii) require the recipient to "send to each party and the party's advisor, if any" the evidence and the investigative report, so that a party's advisor can advise the party in exercising the party's right to review and respond to the evidence and to the investigative report.

Question 14: Are all witnesses expected to appear at a hearing, or do decision-makers have the flexibility to request witnesses as they deem necessary?

Answer 14: The Title IX Rule does not require that all witnesses appear at a hearing, although it does provide the parties an equal right to present witnesses. At page 1176 of the Preamble of the Title IX Rule, the Department acknowledges that recipients do not have subpoena powers to compel attendance of parties or witnesses at a hearing:
The Department understands that complainants (and respondents) often will not have control over whether witnesses appear and are cross-examined, because neither the recipient nor the parties have subpoena power to compel appearance of witnesses. Some absences of witnesses can be avoided by a recipient thoughtfully working with witnesses regarding scheduling of a hearing, and taking advantage of the discretion to permit witnesses to testify remotely.

Furthermore, § 106.71(a) protects parties and witnesses against retaliation for deciding to participate or not to participate in a Title IX grievance process. Thus, a witness cannot be compelled to appear at a hearing, and cannot be intimidated, threatened, coerced, or discriminated against if the witness chooses not to appear. However, the parties must have an equal opportunity to "present" witnesses, so the decision-maker cannot request the presence only of witnesses the decision-maker has deemed necessary. The decision-maker has discretion to permit witnesses to testify at the hearing remotely, using technology. See § 106.45(b)(6)(i).

Question 15: Some recipients divide hearings between a "responsibility" phase and a "sanctions" phase. Is that bifurcation possible under Title IX?

Answer 15: Yes. The Rule does not preclude a recipient from using one decision-maker to reach the determination regarding responsibility, and having another decision-maker determine appropriate remedies or a complainant or appropriate disciplinary sanctions for the respondent. However, the end result must be that the written determination regarding responsibility includes the remedies and disciplinary sanctions decided upon in the written determination issued under § 106.45(b)(7).

That provision, at § 106.45(b)(7), requires a recipient's decision-maker(s) to issue a written determination that must include, among other items, the result as to each allegation and rationale for the result, any disciplinary sanctions imposed by the recipient against the respondent, and whether remedies will be provided by the recipient to the complainant. The issuance of a written determination cannot be a piecemeal process that is broken down into chronologically occurring sub-parts.

Recipients should also remain aware of their obligation to conclude the grievance process within the reasonably prompt time frames designated in the recipient's grievance process, under § 106.45(b)(1)(v). Additionally, each decision-maker--whether an employee of the recipient or an employee of a third party such as a consortium of schools--owes an individual and ongoing duty not have a conflict of interest or bias for or against complainants or respondents generally, or with respect to an individual complainant or respondent, pursuant to § 106.45(b)(1)(iii).

If you have questions for the Office for Civil Rights (OCR), want additional information or technical assistance, or believe that a school is violating federal civil rights law, visit OCR's website at www.ed.gov/ocr, or the Department's Title IX page at www.ed.gov/titleix. You may contact OCR at (800) 421-3481 (TDD: 800-877-8339), ocr@ed.gov, or contact OCR's Outreach, Prevention, Education and Non-discrimination (OPEN) Center at OPEN@ed.gov, or e-mail the OPEN Center with additional questions about the Title IX Final Rule at T9questions@ed.gov. Additional information regarding the Title IX Final Rule is available here. You may also fill out a complaint form online at https://www2.ed.gov/about/offices/list/ocr/complaintintro.html.
Re: Determination Regarding Responsibility

I am writing you on behalf of the [DISTRICT] (“District”) to provide you with the Determination Regarding Responsibility in regards to the investigation the District conducted after it received a formal complaint from you on [DATE], alleging the following:

**Allegation No. 1:**

**Allegation No. 2:**

The following procedural steps were taken upon the District’s receipt of the formal complaint:

- [DATE THE INITIAL NOTIFICATIONS WERE SENT TO THE PARTIES, E.G., NOTICE OF ALLEGATIONS TO RESPONDENT AND NOTICE OF FORMAL COMPLAINT TO COMPLAINANT]
- [LIST OF NAMES AND DATES OF INTERVIEWS WITH PARTIES AND WITNESSES]
- [DATE OF ANY SITE VISITS]
- [METHODS USED TO GATHER EVIDENCE]
- [DATE PARTIES WERE PROVIDED OPPORTUNITY TO INSPECT AND REVIEW EVIDENCE PRIOR TO THE COMPLETION OF INVESTIGATIVE REPORT]
- [DATE PARTIES WERE PROVIDED INVESTIGATIVE REPORT PRIOR TO A DETERMINATION OF RESPONSIBILITY]
- [DATE PARTIES WERE PROVIDED OPPORTUNITY TO SUBMIT RELEVANT, WRITTEN QUESTIONS TO THE DECISION MAKER THAT THE PARTY WANTS ASKED OF ANY PARTY OR WITNESS]
- [DATE OF HEARING HELD, IF REQUIRED]

The District conducted an impartial investigation under its grievance process pursuant to its Sexual Harassment Administrative Regulation, which is attached to this letter.
The investigation was conducted by [NAME OF INVESTIGATOR] who conducted an investigation into the allegations and applied a "preponderance of the evidence" standard in determining the veracity of the factual allegations. This standard is met if the allegation is more likely to be true than not. [IF THE DISTRICT APPLIED THE CLEAR AND CONVINCING STANDARD, PLEASE STATE SO INSTEAD]

SUMMARY OF ALLEGATIONS, FINDINGS, & CONCLUSIONS

Allegation No. 1

Finding No. 1

[THE DECISION MAKER MUST STATE THE FINDINGS RELEVANT TO THE INVESTIGATION AND ITS OUTCOME BASED ON THE INVESTIGATIVE REPORT AND INPUT FROM THE PARTIES. THE DECISION MAKER SHOULD ALSO INCLUDE THE POLICY(IES) THAT HAVE BEEN ALLEGED TO BE VIOLATED]

Conclusion of Law

[THE DECISION MAKER MUST DETERMINE IF THE ALLEGED CONDUCT OCCURRED BASED ON THE APPROPRIATE STANDARD OF EVIDENCE, AND IF SO, WHETHER THE CONDUCT VIOLATED DISTRICT POLICY OR CODE OF CONDUCT]

[REMEMBER TO USE THE NEW DEFINITION OF SEXUAL HARASSMENT UNDER TITLE IX]

DETERMINATION OF RESPONSIBILITY

[CHOOSE ONE]

The District did not substantiate the allegations you made against [RESPONDENT]; therefore, in light of this, the District will not proceed further at this time. However, this is a reminder that retaliation against you or any witness is unlawful and that the District will not tolerate retaliation of any kind.

OR

As Allegation No. ___ was substantiated, the District will proceed with taking appropriate corrective action to address the findings. [IF CORRECTIVE ACTION IS BEING TAKEN, YOU CAN LIST THEM HERE SO LONG AS ANY CONFIDENTIALITY RULES ARE NOT VIOLATED]
REMEDIES [IF APPLICABLE]

The District is required to notify you of remedies offered to you to restore or preserve your equal access to the District’s education programs or activities. As such, the District is offering the following individual remedies to address the findings: [INSERT INDIVIDUAL REMEDIES]

It is very important to note that this Determination Regarding Responsibility is confidential and that you are not authorized to release this to the public.

APPEAL RIGHTS

Please be advised that you have the right to appeal a determination regarding responsibility (see attached AR _____). You also have the following additional appeal and other rights:

1. You have the right to appeal the District's decision to the California Department of Education (“CDE”) by filing a written appeal within 15 calendar days of receiving the District's decision;

2. You may pursue available civil law remedies outside of the District's complaint procedures, including seeking assistance from mediation centers or public/private interest attorneys, 60 calendar days after the filing of an appeal with the CDE. (Education Code § 262.3);

3. The 60 days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law. (Education Code § 262.3); and

4. Complaints alleging discrimination based on race, color, national origin, sex, gender, disability, or age may also be filed with the U.S. Department of Education, Office for Civil Rights at www.ed.gov/ocr within 180 days of the alleged discrimination.

In conclusion, I would like to thank you for your patience and understanding as this investigation was completed.

If I can be of further assistance, please contact me at your convenience.

Sincerely,

[ADMINISTRATOR]
[TITLE]

Enclosures

Cc: [_______________________], Superintendent
Dear [RESPONDENT],

I am writing you on behalf of the [DISTRICT] (“District”) to provide you with the Determination Regarding Responsibility in regards to the investigation the District conducted after it received a formal complaint against you from [COMPLAINANT] on [DATE], alleging the following:

**Allegation No. 1:**

**Allegation No. 2:**

The following procedural steps were taken upon the District’s receipt of the formal complaint:

- [DATE THE INITIAL NOTIFICATIONS WERE SENT TO THE PARTIES, E.G., NOTICE OF ALLEGATIONS TO RESPONDENT AND NOTICE OF FORMAL COMPLAINT TO COMPLAINANT]
- [LIST OF NAMES AND DATES OF INTERVIEWS WITH PARTIES AND WITNESSES]
- [DATE OF ANY SITE VISITS]
- [METHODS USED TO GATHER EVIDENCE]
- [DATE PARTIES WERE PROVIDED OPPORTUNITY TO INSPECT AND REVIEW EVIDENCE PRIOR TO THE COMPLETION OF INVESTIGATIVE REPORT]
- [DATE PARTIES WERE PROVIDED INVESTIGATIVE REPORT PRIOR TO A DETERMINATION OF RESPONSIBILITY]
- [DATE PARTIES WERE PROVIDED OPPORTUNITY TO SUBMIT RELEVANT, WRITTEN QUESTIONS TO THE DECISION MAKER THAT THE PARTY WANTS ASKED OF ANY PARTY OR WITNESS]
- [DATE OF HEARING HELD, IF REQUIRED]

[DATE]

Via USPS Mail, First Class
Via Certified Mail
Via Email: [EMAIL ADDRESS]
The District conducted an impartial investigation under its grievance process pursuant to its Sexual Harassment Administrative Regulation, which is attached to this letter.

The investigation was conducted by [NAME OF INVESTIGATOR] who conducted an investigation into the allegations and applied a "preponderance of the evidence" standard in determining the veracity of the factual allegations. This standard is met if the allegation is more likely to be true than not. [IF THE DISTRICT APPLIED THE CLEAR AND CONVINCING STANDARD, PLEASE STATE SO INSTEAD]

SUMMARY OF ALLEGATIONS, FINDINGS, & CONCLUSIONS

Allegation No. 1

Finding No. 1

[THE DECISION MAKER MUST STATE THE FINDINGS RELEVANT TO THE INVESTIGATION AND ITS OUTCOME BASED ON THE INVESTIGATIVE REPORT AND INPUT FROM THE PARTIES. THE DECISION MAKER SHOULD ALSO INCLUDE THE POLICY(IES) THAT HAVE BEEN ALLEGED TO BE VIOLATED]

Conclusion of Law

[THE DECISION MAKER MUST DETERMINE IF THE ALLEGED CONDUCT OCCURRED BASED ON THE APPROPRIATE STANDARD OF EVIDENCE, AND IF SO, WHETHER THE CONDUCT VIOLATED DISTRICT POLICY OR CODE OF CONDUCT]

[REMEMBER TO USE THE NEW DEFINITION OF SEXUAL HARASSMENT UNDER TITLE IX]

DETERMINATION OF RESPONSIBILITY

[CHOOSE ONE]

The District did not substantiate the allegations made against you; therefore, in light of this, the District will not proceed further at this time. However, this is a reminder that retaliation against the Complainant or any witness is unlawful and that the District will not tolerate retaliation of any kind.

OR

As Allegation No. ___ was substantiated, the District will proceed with taking the following corrective action to address the findings: [SPECIFY CORRECTIVE ACTION BEING TAKEN]
[LETTER TO RESPONDENT RE: DETERMINATION REGARDING RESPONSIBILITY (K-12)]

It is very important to note that this Determination Regarding Responsibility is confidential and that you are not authorized to release this to the public.

APPEAL RIGHTS

Please be advised that you have the right to appeal a determination regarding responsibility (see attached AR ______).

In conclusion, I would like to thank you for your patience and understanding as this investigation was completed.

If I can be of further assistance, please contact me at your convenience.

Sincerely,

[ADMINISTRATOR]
[TITLE]

Enclosures

Cc: [_______________________], Superintendent
CONFIDENTIAL

Re: Summary of Investigation Findings and Administrative Determination Regarding Responsibility

Dear [Mr./Ms. [__________________]]:

I am writing you on behalf of the [DISTRICT] (“District”) to provide you with the Administrative Determination Regarding Responsibility in regards to the investigation the District conducted after it received a formal complaint from you on [DATE], alleging the following:

Allegation No. 1:

Allegation No. 2:

The following procedural steps were taken upon the District’s receipt of the formal complaint:

- [DATE THE INITIAL NOTIFICATIONS WERE SENT TO THE PARTIES, E.G., NOTICE OF ALLEGATIONS TO RESPONDENT AND NOTICE OF FORMAL COMPLAINT TO COMPLAINANT]
- [LIST OF NAMES AND DATES OF INTERVIEWS WITH PARTIES AND WITNESSES]
- [DATE OF ANY SITE VISITS]
- [METHODS USED TO GATHER EVIDENCE]
- [DATE PARTIES WERE PROVIDED OPPORTUNITY TO INSPECT AND REVIEW EVIDENCE PRIOR TO THE COMPLETION OF INVESTIGATIVE REPORT]
- [DATE PARTIES WERE PROVIDED INVESTIGATIVE REPORT PRIOR TO A DETERMINATION OF RESPONSIBILITY]
- [DATE PARTIES WERE PROVIDED OPPORTUNITY TO SUBMIT RELEVANT, WRITTEN QUESTIONS TO THE DECISION MAKER THAT THE PARTY WANTS ASKED OF ANY PARTY OR WITNESS]
- [DATE OF HEARING HELD]

The District conducted an impartial investigation under its grievance process pursuant to its Sexual Harassment Administrative Procedure, which is attached to this letter.
The investigation was conducted by [NAME OF INVESTIGATOR] who conducted an investigation into the allegations and applied a "preponderance of the evidence" standard in determining the veracity of the factual allegations. This standard is met if the allegation is more likely to be true than not. [IF THE DISTRICT APPLIED THE CLEAR AND CONVINCING STANDARD, PLEASE STATE SO INSTEAD]

SUMMARY OF ALLEGATIONS, FINDINGS, & CONCLUSIONS

Allegation No. 1

Finding No. 1

[THE DECISION MAKER MUST STATE THE FINDINGS RELEVANT TO THE INVESTIGATION AND ITS OUTCOME BASED ON THE INVESTIGATIVE REPORT AND INPUT FROM THE PARTIES. THE DECISION MAKER SHOULD ALSO INCLUDE THE POLICY(IES) THAT HAVE BEEN ALLEGED TO BE VIOLATED]

Conclusion of Law

[THE DECISION MAKER MUST DETERMINE IF THE ALLEGED CONDUCT OCCURRED BASED ON THE APPROPRIATE STANDARD OF EVIDENCE, AND IF SO, WHETHER THE CONDUCT VIOLATED DISTRICT POLICY OR CODE OF CONDUCT]

[REMEMBER TO USE THE NEW DEFINITION OF SEXUAL HARASSMENT UNDER TITLE IX]

DETERMINATION OF RESPONSIBILITY

[CHOOSE ONE]

The District did not substantiate the allegations you made against [RESPONDENT]; therefore, in light of this, the District will not proceed further at this time. However, this is a reminder that retaliation against you or any witness is unlawful and that the District will not tolerate retaliation of any kind.

OR

As Allegation No. __ was substantiated, the District will proceed with taking appropriate corrective action to address the findings. [IF CORRECTIVE ACTION IS BEING TAKEN, YOU CAN LIST THEM HERE SO LONG AS ANY CONFIDENTIALITY RULES ARE NOT VIOLATED]

PROPOSED RESOLUTION OF THE COMPLAINT

For all the reasons above, the District will resolve the complaint by proceeding with disciplinary action against [RESPONDENT]. Student disciplinary matters such as this are confidential. However, as a victim of sexual assault, the District is required to notify you of the
administrative determination regarding responsibility to complainant (ccd)]

results of any disciplinary proceedings taken against [respondent].

the district is required to notify you of remedies offered to you to restore or preserve your equal access to the district’s education programs or activities. as such, the district is offering the following individual remedies to address the findings: [insert individual remedies]

it is very important to note that this determination regarding responsibility is confidential and that you are not authorized to release this to the public.

description of actions taken, if any, to prevent similar problems from occurring in the future

[include proactive steps to be taken in the future to prevent similar problems from occurring, particularly if a systemic issue is discovered. otherwise, delete if not applicable]

complainant's right to appeal

if you are not satisfied with the results of this investigation, you may submit a written appeal to the district governing board within fifteen (15) days from the date of this letter. the board shall review the original complaint, the administrative determination, and the appeal and issue a final decision within 45 days after receipt of the appeal. if the board elects to take no action, the administrative determination shall be deemed approved and become final on the 45th day.

[in any case not involving employment discrimination] you also have the right to file a written appeal of this administrative determination with the chancellor within 30 days after the administrative determination becomes final (by board action or elapse of 45 days from board's receipt of appeal) or the date the college notifies the chancellor of the final decision, whichever is later.

[in any case involving employment discrimination] you also have the right to file a complaint with the department of fair employment and housing.

sincerely,

[administrator]
[title]

enclosures

c: state chancellor's office
CONFIDENTIAL

Via USPS Mail, First Class
Via Certified Mail
Via Email: [EMAIL ADDRESS]

[RESPONDENT]
[ADDRESS]
[ADDRESS]

Re:   Summary of Investigation Findings and Administrative Determination Regarding Responsibility

Dear Mr./Ms. [__________________]:

I am writing you on behalf of the [DISTRICT] (“District”) to provide you with the Administrative Determination Regarding Responsibility in regards to the investigation the District conducted after it received a formal complaint against you on [DATE], alleging the following:

**Allegation No. 1:**

**Allegation No. 2:**

The following procedural steps were taken upon the District’s receipt of the formal complaint:

- [DATE THE INITIAL NOTIFICATIONS WERE SENT TO THE PARTIES, E.G., NOTICE OF ALLEGATIONS TO RESPONDENT AND NOTICE OF FORMAL COMPLAINT TO COMPLAINANT]
- [LIST OF NAMES AND DATES OF INTERVIEWS WITH PARTIES AND WITNESSES]
- [DATE OF ANY SITE VISITS]
- [METHODS USED TO GATHER EVIDENCE]
- [DATE PARTIES WERE PROVIDED OPPORTUNITY TO INSPECT AND REVIEW EVIDENCE PRIOR TO THE COMPLETION OF INVESTIGATIVE REPORT]
- [DATE PARTIES WERE PROVIDED INVESTIGATIVE REPORT PRIOR TO A DETERMINATION OF RESPONSIBILITY]
- [DATE PARTIES WERE PROVIDED OPPORTUNITY TO SUBMIT RELEVANT, WRITTEN QUESTIONS TO THE DECISION MAKER THAT THE PARTY WANTS ASKED OF ANY PARTY OR WITNESS]
- [DATE OF HEARING HELD]

The District conducted an impartial investigation under its grievance process pursuant to its Sexual
Harassment Administrative Procedure, which is attached to this letter.

The investigation was conducted by [NAME OF INVESTIGATOR] who conducted an investigation into the allegations and applied a "preponderance of the evidence" standard in determining the veracity of the factual allegations. This standard is met if the allegation is more likely to be true than not. [IF THE DISTRICT APPLIED THE CLEAR AND CONVINCING STANDARD, PLEASE STATE SO INSTEAD]

SUMMARY OF ALLEGATIONS, FINDINGS, & CONCLUSIONS

Allegation No. 1

Finding No. 1

[THE DECISION MAKER MUST STATE THE FINDINGS RELEVANT TO THE INVESTIGATION AND ITS OUTCOME BASED ON THE INVESTIGATIVE REPORT AND INPUT FROM THE PARTIES. THE DECISION MAKER SHOULD ALSO INCLUDE THE POLICY(IES) THAT HAVE BEEN ALLEGED TO BE VIOLATED]

Conclusion of Law

[THE DECISION MAKER MUST DETERMINE IF THE ALLEGED CONDUCT OCCURRED BASED ON THE APPROPRIATE STANDARD OF EVIDENCE, AND IF SO, WHETHER THE CONDUCT VIOLATED DISTRICT POLICY OR CODE OF CONDUCT]

[REMEMBER TO USE THE NEW DEFINITION OF SEXUAL HARASSMENT UNDER TITLE IX]

DETERMINATION OF RESPONSIBILITY

[CHOOSE ONE]

The District did not substantiate the allegations made against you; therefore, in light of this, the District will not proceed further at this time. However, this is a reminder that retaliation against the Complainant or any witness is unlawful and that the District will not tolerate retaliation of any kind.

OR

As Allegation No. __ was substantiated, the District will proceed with taking the following corrective action to address the findings: [SPECIFY CORRECTIVE ACTION BEING TAKEN]

It is very important to note that this Determination Regarding Responsibility is confidential and that you are not authorized to release this to the public.

APPEAL RIGHTS
If you are not satisfied with the results of this investigation, you may submit a written appeal to the District Governing Board within fifteen (15) days from the date of this letter. The Board shall review the original complaint, the Administrative Determination, and the appeal and issue a final decision within 45 days after receipt of the appeal. If the Board elects to take no action, the Administrative Determination shall be deemed approved and become final on the 45th day.

In conclusion, I would like to thank you for your patience and understanding as this investigation was completed.

If I can be of further assistance, please contact me at your convenience.

Sincerely,

[ADMINISTRATOR]
[TITLE]

Enclosures
Dear Colleague:

Title IX of the Education Amendments of 1972\(^1\) (Title IX) prohibits discrimination on the basis of sex in education programs and activities by recipients of Federal financial assistance, which include schools, colleges and universities. Since its passage, Title IX has dramatically increased academic, athletic and employment opportunities for women and girls. Title IX stands for the proposition that equality of opportunity in America is not rhetoric, but rather a guiding principle.

Although there has been indisputable progress since Title IX was enacted, notably in interscholastic and intercollegiate athletic programs, sex discrimination unfortunately continues to exist in many education programs and activities. I am committed to the vigorous enforcement of Title IX to resolve this discrimination and to provide clear policy guidance to assist a recipient institution (institution) in making the promise of Title IX a reality for all.

To that end, on behalf of the Office for Civil Rights (OCR) of the U.S. Department of Education (Department), it is my pleasure to provide you with this “Intercollegiate Athletics Policy Clarification: The Three-Part Test – Part Three.” With this letter, the Department is withdrawing the “Additional Clarification of Intercollegiate Athletics Policy: Three Part Test – Part Three” (2005 Additional Clarification) and all related documents accompanying it, including the “User’s Guide to Student Interest Surveys under Title IX” (User’s Guide) and related technical report, that were issued by the Department on March 17, 2005.

OCR enforces Title IX and its implementing regulation.\(^2\) The regulation contains specific provisions governing athletic programs\(^3\) and the awarding of athletic scholarships.\(^4\) Specifically, the Title IX regulation provides that if an institution operates or sponsors an athletic program, it must provide equal athletic opportunities for members of both sexes.\(^5\) In determining whether equal athletic opportunities are available, the regulation requires OCR to consider whether an institution is effectively accommodating the athletic interests and abilities of students of both sexes.\(^6\)

---

\(^1\) 20 U.S.C. § 1681 et seq.
\(^2\) 34 C.F.R. Part 106.
\(^3\) 34 C.F.R. § 106.41.
\(^4\) 34 C.F.R. § 106.37(c).
\(^5\) 34 C.F.R. § 106.41(c).
\(^6\) 34 C.F.R. § 106.41(c)(1). The Title IX regulation at 34 C.F.R. § 106.41(c) provides that OCR also will consider other factors when determining whether equal athletic opportunity is available at an institution. This Dear Colleague
The “Intercollegiate Athletics Policy Interpretation” (1979 Policy Interpretation), published on December 11, 1979, provides additional guidance on the Title IX intercollegiate athletic regulatory requirements. The 1979 Policy Interpretation sets out a three-part test that OCR uses to assess whether an institution is effectively accommodating the athletic interests and abilities of its students to the extent necessary to provide equal athletic opportunity. On January 16, 1996, OCR issued the “Clarification of Intercollegiate Athletics Policy Guidance: The Three-Part Test” (1996 Clarification) to provide additional clarification on all parts of the three-part test, including the specific factors that OCR uses to evaluate compliance under the third part of the three-part test (Part Three).

In 2005, OCR issued the Additional Clarification regarding application of the indicators in the 1996 Clarification that guided OCR’s analysis of Part Three. The accompanying User’s Guide included a prototype survey instrument (model survey) that institutions could use to measure student interest in participating in intercollegiate athletics and included specific guidance on its implementation. The Additional Clarification and User’s Guide changed OCR’s approach from an analysis of multiple indicators to a reliance on a single survey instrument to demonstrate that an institution is accommodating student interests and abilities in compliance with Part Three. After careful review, OCR has determined that the 2005 Additional Clarification and the User’s Guide are inconsistent with the nondiscriminatory methods of assessment set forth in the 1979 Policy Interpretation and the 1996 Clarification and do not provide the appropriate and necessary clarity regarding nondiscriminatory assessment methods, including surveys, under Part Three. Accordingly, the Department is withdrawing the 2005 Additional Clarification and User’s Guide, including the model survey. All other Department policies on Part Three remain in effect and provide the applicable standards for evaluating Part Three compliance.

Given the resource limitations faced by institutions throughout the nation and the effect on institutions’ athletics programs, I recognize the importance of assisting institutions in developing their own assessment methods that retain the flexibility to meet their unique circumstances, but are consistent with the nondiscrimination requirements of the Title IX regulation. Therefore, this Dear Colleague letter reaffirms, and provides additional clarification

---

letter only addresses the regulatory requirement, at 34 C.F.R. § 106.41(c)(1), to effectively accommodate interests and abilities.

7 44 Fed. Reg. 71413 (1979). The 1979 Policy Interpretation was published by the former Department of Health, Education, and Welfare, and was adopted by the Department of Education when it was established in 1980.

8 Although the 1979 Policy Interpretation is designed for intercollegiate athletics, its general principles, and those of this letter, often will apply to interscholastic, club, and intramural athletic programs. 44 Fed. Reg. at 71413. Furthermore, the Title IX regulation requires institutions to provide equal athletic opportunities in intercollegiate, interscholastic, club, and intramural athletics. 34 C.F.R. § 106.41(c).

9 As discussed in the 1979 Policy Interpretation, OCR also considers the quality of competitive opportunities offered to members of both sexes in determining whether an institution effectively accommodates the athletic interests and abilities of its students. 44 Fed. Reg. at 71418.

10 OCR’s “Further Clarification of Intercollegiate Athletics Policy Guidance Regarding Title IX Compliance,” which was issued as a Dear Colleague letter on July 11, 2003, also incorporated the 1996 Clarification’s broad range of specific factors and illustrative examples.
on, the multiple indicators discussed in the 1996 Clarification that guide OCR’s analysis of whether institutions are in compliance with Part Three, as well as the nondiscriminatory implementation of a survey as one assessment technique.

The Three-Part Test

As discussed above, OCR uses the three-part test to determine whether an institution is providing nondiscriminatory athletic participation opportunities in compliance with the Title IX regulation. The test provides the following three compliance options:

1. Whether intercollegiate level participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments; or

2. Where the members of one sex have been and are underrepresented among intercollegiate athletes, whether the institution can show a history and continuing practice of program expansion which is demonstrably responsive to the developing interests and abilities of the members of that sex; or

3. Where the members of one sex are underrepresented among intercollegiate athletes, and the institution cannot show a history and continuing practice of program expansion, as described above, whether it can be demonstrated that the interests and abilities of the members of that sex have been fully and effectively accommodated by the present program.11

The three-part test is intended to allow institutions to maintain flexibility and control over their athletic programs consistent with Title IX’s nondiscrimination requirements. As stated in the 1996 Clarification, “[T]he three-part test furnishes an institution with three individual avenues to choose from when determining how it will provide individuals of each sex with nondiscriminatory opportunities to participate in intercollegiate athletics. If an institution has met any part of the three-part test, OCR will determine that the institution is meeting this requirement.”

Part Three of the Three-Part Test — Fully and Effectively Accommodating the Interests and Abilities of the Underrepresented Sex

This letter focuses on Part Three — whether an institution is fully and effectively accommodating the athletic interests and abilities of the underrepresented sex. As the 1996 Clarification indicates, while disproportionately high athletic participation rates by an institution’s students of the overrepresented sex (as compared to their enrollment rates) may indicate that an institution is not providing equal athletic opportunities to its students of the underrepresented sex, an institution can satisfy Part Three if it can show that the underrepresented sex is not being denied opportunities, i.e., that the interests and abilities of

the underrepresented sex are fully and effectively accommodated. This letter provides
information that guides OCR in its evaluation of compliance with Part Three and the
nondiscriminatory implementation of assessments of students’ athletic interests and abilities
under it.

Under Part Three, the focus is on full and effective accommodation of the interests and abilities
of the institution’s students who are members of the underrepresented sex — including
students who are admitted to the institution though not yet enrolled. As stated in the 1996
Clarification, and as further discussed below, in determining compliance with Part Three, OCR
considers all of the following three questions:

1. Is there unmet interest in a particular sport?
2. Is there sufficient ability to sustain a team in the sport?
3. Is there a reasonable expectation of competition for the team?

If the answer to all three questions is “Yes,” OCR will find that an institution is not fully and
effectively accommodating the interests and abilities of the underrepresented sex and
therefore is not in compliance with Part Three.

A. Unmet Interest and Ability — OCR Evaluation Criteria

In determining whether an institution has unmet interest and ability to support an
intercollegiate team in a particular sport, OCR evaluates a broad range of indicators, including:

- whether an institution uses nondiscriminatory methods of assessment when
determining the athletic interests and abilities of its students;
- whether a viable team for the underrepresented sex recently was eliminated;
- multiple indicators of interest;
- multiple indicators of ability; and
- frequency of conducting assessments.

Each of these five criteria is described below. Following the discussion of these criteria, this
section provides technical assistance recommendations for effective assessment procedures
and the nondiscriminatory implementation of a survey as one component of assessing the
interests and abilities of students of the underrepresented sex. This section concludes with a
discussion of the multiple indicators OCR evaluates to determine whether there are a sufficient
number of students with unmet interest and ability to sustain a new intercollegiate team.

---

OCR examines an institution’s recruitment practices under another part of the 1979 Policy Interpretation. See
44 Fed. Reg. at 71417. Accordingly, where an institution recruits potential student athletes for its men’s teams, it
must ensure that its women’s teams are provided with substantially equal opportunities to recruit potential
student athletes.
1. Nondiscriminatory Methods of Assessment

Under Part Three, OCR evaluates whether an institution uses processes and methods for assessing the athletic interests and abilities of its students of the underrepresented sex that are consistent with the nondiscrimination standards set forth in the 1979 Policy Interpretation. The 1979 Policy Interpretation states that institutions may determine the athletic interests and abilities of students by nondiscriminatory methods of their choosing provided:

a. The processes take into account the nationally increasing levels of women’s interests and abilities;

b. The methods of determining interest and ability do not disadvantage the members of an underrepresented sex;

c. The methods of determining ability take into account team performance records; and

d. The methods are responsive to the expressed interests of students capable of intercollegiate competition who are members of an underrepresented sex.13

An institution should document its assessment of students’ interests and abilities.

2. Assessments Not Used To Eliminate Viable Teams

As discussed in the 1996 Clarification, if an institution recently has eliminated a viable team for the underrepresented sex from the intercollegiate athletics program, OCR will find that there is sufficient interest, ability, and available competition to sustain an intercollegiate team in that sport and thus there would be a presumption that the institution is not in compliance with Part Three. This presumption can be overcome if the institution can provide strong evidence that interest, ability, or competition no longer exists.

Accordingly, OCR does not consider the failure by students to express interest during a survey under Part Three as evidence sufficient to justify the elimination of a current and viable intercollegiate team for the underrepresented sex. In other words, students participating on a viable intercollegiate team have expressed interest by active participation, and OCR does not use survey results to nullify that expressed interest.

3. Multiple Indicators Evaluated to Assess Interest

OCR considers a broad range of indicators to assess whether there is unmet athletic interest among the underrepresented sex. These indicators guide OCR in determining whether the institution has measured the interests of students of the underrepresented sex using nondiscriminatory methods consistent with the 1979 Policy Interpretation. As discussed in the

---

13 44 Fed. Reg. at 71417.
1996 Clarification, OCR evaluates the interests of the underrepresented sex by examining the following list of non-exhaustive indicators:

- requests by students and admitted students that a particular sport be added;
- requests for the elevation of an existing club sport to intercollegiate status;
- participation in club or intramural sports;
- interviews with students, admitted students, coaches, administrators and others regarding interests in particular sports;
- results of surveys or questionnaires of students and admitted students regarding interests in particular sports;\(^{14}\)
- participation in interscholastic sports by admitted students; and
- participation rates in sports in high schools, amateur athletic associations, and community sports leagues that operate in areas from which the institution draws its students.\(^{15}\)

In accordance with the 1996 Clarification, OCR also will consider the likely interest\(^{16}\) of the underrepresented sex by looking at participation in intercollegiate sports in the institution's normal competitive regions.

4. Multiple Indicators Evaluated to Assess Ability

As discussed in the 1996 Clarification, OCR considers a range of indicators to assess whether there is sufficient ability among interested students of the underrepresented sex to sustain a team in the sport. When making this determination, OCR examines indicators such as:

- the athletic experience and accomplishments — in interscholastic, club or intramural competition — of underrepresented students and admitted students interested in playing the sport;

---

\(^{14}\) OCR evaluates all of the indicators discussed here so OCR does not consider survey results alone as sufficient evidence of lack of interest under Part Three.

\(^{15}\) As discussed in the 1996 Clarification, this indicator may be helpful to OCR in ascertaining likely interest of an institution’s students and admitted students in particular sports, especially in the absence of more direct indicia. However, in conducting its investigations, OCR determines whether an institution is meeting the actual interests and abilities of its students and admitted students.

An institution’s evaluation should take into account sports played in the high schools and communities from which it draws its students, both as an indication of possible interest at the institution, and to permit the institution to plan to meet the interests of admitted students of the underrepresented sex. For example, if OCR’s investigation finds that a substantial number of high schools from the relevant region offer a particular sport that the institution does not offer for the underrepresented sex, OCR will ask the institution to provide a basis for any assertion that its students and admitted students are not interested in playing that sport. OCR also may interview students, admitted students, coaches, and others regarding interest in that sport.

\(^{16}\) See Footnote 15 above.
- opinions of coaches, administrators, and athletes at the institution regarding whether interested students and admitted students have the potential to sustain an intercollegiate team; and
- if the team has previously competed at the club or intramural level, whether the competitive experience of the team indicates that it has the potential to sustain an intercollegiate team.

Additionally, because OCR recognizes that students may have a broad range of athletic experiences and abilities, OCR also examines other indications of ability such as:

- participation in other sports, intercollegiate, interscholastic or otherwise, that may demonstrate skills or abilities that are fundamental to the particular sport being considered; and
- tryouts or other direct observations of participation in the particular sport in which there is interest.

As the 1996 Clarification indicated, neither a poor competitive record, nor the inability of interested students or admitted students to play at the same level of competition engaged in by the institution's other athletes, is conclusive evidence of lack of ability. For the purposes of assessing ability, it is sufficient that interested students and admitted students have the potential to sustain an intercollegiate team.

5. Frequency of Assessments

As discussed in the 1996 Clarification, OCR evaluates whether an institution assesses interest and ability periodically so that the institution can identify in a timely and responsive manner any developing interests and abilities of the underrepresented sex. There are several factors OCR considers when determining the rate of frequency for conducting an assessment. These factors include, but are not limited to:

- the degree to which the previous assessment captured the interests and abilities of the institution's students and admitted students of the underrepresented sex;
- changes in demographics or student population at the institution;¹⁷ and
- whether there have been complaints from the underrepresented sex with regard to a lack of athletic opportunities or requests for the addition of new teams.

Further, OCR will consider whether an institution conducts more frequent assessments if a previous assessment detected levels of student interest and ability in any sport that were close to the minimum number of players required to sustain a team.

---

¹⁷ For example, in a typical four-year institution, the student body population will change substantially each year, by approximately 25 percent annually.
6. Effective Procedures for Evaluating Requests to Add Teams and Assessing Participation

An institution has a continuing obligation to comply with Title IX's nondiscrimination requirements; thus, OCR recommends that institutions have effective ongoing procedures for collecting, maintaining, and analyzing information on the interests and abilities of students of the underrepresented sex, including easily understood policies and procedures for receiving and responding to requests for additional teams, and wide dissemination of such policies and procedures to existing and newly admitted students, as well as to coaches and other employees.

OCR also recommends that institutions develop procedures for, and maintain documentation from, routine monitoring of participation of the underrepresented sex in club and intramural sports as part of their assessment of student interests and abilities. OCR further recommends that institutions develop procedures for, and maintain documentation from, evaluations of the participation of the underrepresented sex in high school athletic programs, amateur athletic associations, and community sports leagues that operate in areas from which the institution draws its students. This is the type of documentation that may be needed in order for an institution to demonstrate that it is assessing interests and abilities in compliance with Part Three.

The Title IX regulation requires institutions to designate at least one employee to coordinate their efforts to comply with and carry out their Title IX responsibilities. Therefore, institutions may wish to consider whether the monitoring and documentation of participation in club, intramural, and interscholastic sports and the processing of requests for the addition or elevation of athletic teams should be part of the responsibilities of their Title IX coordinators in conjunction with their athletic departments. Another option an institution may wish to consider is to create a Title IX committee to carry out these functions. If an institution chooses to form such a committee, it should include the Title IX coordinator as part of the committee and provide appropriate training on the Title IX requirements for committee members.

7. Survey May Assist in Capturing Information on Students' Interests and Abilities

As discussed in the 1996 Clarification, institutions may use a variety of techniques to identify students' interests and abilities. OCR recognizes that a properly designed and implemented survey is one tool that can assist an institution in capturing information on students' interests and abilities. OCR evaluates a survey as one component of an institution's overall assessment under Part Three and will not accept an institution's reliance on a survey alone, regardless of the response rate, to determine whether it is fully and effectively accommodating the interests and abilities of its underrepresented students. If an institution conducts a survey as part of its assessment, OCR examines the content, implementation and response rates of the survey, as well as an institution's other methods of measuring interest and ability.

---

18 34 C.F.R. § 106.8(a).
Under Part Three, OCR evaluates the overall weight it will accord the conclusions drawn by an institution from the results of a survey by examining the following factors, among others:

- content of the survey;
- target population surveyed;
- response rates and treatment of non-responses;
- confidentiality protections; and
- frequency of conducting the survey.

OCR also considers whether a survey is implemented in such a way as to maximize the possibility of obtaining accurate information and facilitating responses. A properly designed survey should effectively capture information on interest and ability\(^{19}\) across multiple sports, without complicating responses with superfluous or confusing questions.

OCR has not endorsed or sanctioned any particular survey; however, for technical assistance purposes, this letter contains information that an institution may wish to consider in developing its own survey.

a. **Content of the Survey**

i. **Purpose**

To ensure students understand the importance of responding to the survey, OCR evaluates whether a survey clearly states its purpose. For technical assistance purposes, an example of a purpose statement might be:

**Purpose:** This data collection is being conducted for evaluation, research, and planning purposes and may be used along with other information to determine whether [Institution] is effectively accommodating the athletic interests and abilities of its students, including whether to add additional teams.

ii. **Collect information regarding all sports**

In addition, OCR evaluates whether the survey lists all sports for the underrepresented sex recognized by the three primary national intercollegiate athletic associations,\(^{20}\) and contains an open-ended inquiry for other sports to allow students to write in any sports that are not

---

\(^{19}\) Experience in sports generally is one indicator of ability.

\(^{20}\) These associations are the National Collegiate Athletic Association, the National Association of Intercollegiate Athletics, and the National Junior College Athletic Association. A current list of these sports for both sexes is: baseball, basketball, bowling, cross country, fencing, field hockey, football, golf, gymnastics, ice hockey, lacrosse, rifle, rowing, skiing, soccer, softball, swimming and diving, tennis, indoor track and field, outdoor track and field, volleyball, water polo, and wrestling.
listed.  

OCR considers whether the survey allows students to identify their interest in future or current participation in all of the sports they identify and general athletic experience. OCR also considers whether the survey allows students to provide additional information or comments about their interest, experience, and ability. For technical assistance purposes, the types of questions an institution could ask regarding interest in future participation, current participation, and prior athletic experience might be:

<table>
<thead>
<tr>
<th>Sport</th>
<th>Interest in Future Participation: At what level do you wish to participate in this sport at [Institution]?</th>
<th>Current Participation: At what level are you participating in this sport?</th>
<th>Prior Experience: At what level did you participate in this sport or any other relevant sport in high school, college, or in another capacity?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Basketball</td>
<td>□ Intercollegiate  □ Club  □ Intramural  □ Recreational</td>
<td>□ Intercollegiate  □ Club  □ Intramural  □ Recreational  □ Other ___________</td>
<td>College: □ Intercollegiate  □ Club  □ Intramural  □ Recreational  □ Varsity  □ Junior Varsity  □ Club  □ Intramural  □ Recreational  □ Other ___________</td>
</tr>
<tr>
<td>Lacrosse</td>
<td>□ Intercollegiate  □ Club  □ Intramural  □ Recreational</td>
<td>□ Intercollegiate  □ Club  □ Intramural  □ Recreational  □ Other ___________</td>
<td>College: □ Intercollegiate  □ Club  □ Intramural  □ Recreational  □ Varsity  □ Junior Varsity  □ Club  □ Intramural  □ Recreational  □ Other ___________</td>
</tr>
<tr>
<td>Other sport identified by student(^{22})</td>
<td>□ Intercollegiate  □ Club  □ Intramural  □ Recreational</td>
<td>□ Intercollegiate  □ Club  □ Intramural  □ Recreational  □ Other ___________</td>
<td>College: □ Intercollegiate  □ Club  □ Intramural  □ Recreational  □ Varsity  □ Junior Varsity  □ Club  □ Intramural  □ Recreational  □ Other ___________</td>
</tr>
</tbody>
</table>

iii. Contact Information

OCR also looks at whether an institution requests contact information, to allow the institution to follow-up with students who wish to be contacted regarding their interests and abilities.

b. Target Population Surveyed

OCR considers the target population surveyed at the institution. Under Part Three, OCR evaluates whether the survey is administered as a census to all full-time undergraduate

---

\(^{21}\) An open-ended inquiry for other sports should be prominent or otherwise readily visible and contain a line or other mechanism for students to write in the sport for which they wish to express interest and ability.

\(^{22}\) If the survey is provided in paper form, an institution should provide a surplus of rows to ensure that a respondent can provide information for all the sports for which there is interest.
students of the underrepresented sex and admitted students of the underrepresented sex.\textsuperscript{23} Using a census of all students can avoid several issues associated with sample surveys including, but not limited to: selection of the sampling mechanism, selection of the sample size, calculation of sampling error, and using sample estimates. If an institution intends to administer a survey to a sample population to gauge an estimate of interests and abilities, the larger the sample, the more weight OCR will accord the estimate.

c. Responses: Rates and Treatment of Non-Responses

OCR evaluates whether the survey is administered in a manner designed to generate high response rates and how institutions treat responses and non-responses.

OCR looks at whether institutions provide the survey in a context that encourages high response rates, and whether institutions widely publicize the survey; give students, including those participating in club or intramural sports, advance notice of the survey; and provide students adequate time to respond. Generally, OCR accords more weight to a survey with a higher response rate than a survey with a lower response rate, and institutions may want to distribute the survey through multiple mechanisms to increase the response rate.

For example, for enrolled students, an institution may want to administer the survey as part of a mandatory activity, such as during course registration. If administered as part of a mandatory activity, students also should have the option of completing the survey at a later date in order to ensure that they have adequate time to respond. Students who indicate that they wish to complete the survey at a later time should be given the opportunity to provide their contact information to enable the institution to take steps to ensure that they complete the survey. An institution should follow-up with those students who indicate that they wish to respond in the future.

An institution also may choose to send an email to the entire target population that includes a link to the survey. If an institution’s assessment process includes email, OCR considers whether the institution takes appropriate cautionary measures, such as ensuring that it has accurate email addresses and that the target population has access to email.\textsuperscript{24} OCR also expects institutions to take additional steps to follow-up with those who do not respond, including sending widely publicized reminder notices.

If institutions administer the survey through a web-based distribution system, students who indicate that they have no current interest\textsuperscript{25} in athletic participation should be asked to confirm their lack of interest before they exit the system. If response rates using the methods described

\textsuperscript{23} For example, institutions may distribute surveys to all admitted students of the underrepresented sex with acceptance letters.

\textsuperscript{24} OCR also evaluates whether the survey is administered in a manner designed to ensure the accurate identity of the respondent and to protect against multiple responses by the same individual.

\textsuperscript{25} Students may have, or may be unaware of whether they will have, a future interest in athletic participation.
above are low, an institution should consider administering the survey in another manner to obtain higher response rates.

OCR does not consider non-responses to surveys as evidence of lack of interest or ability in athletics. As discussed above, regardless of whether students respond to a survey, OCR also evaluates whether students’ interest and abilities are assessed using the multiple indicators described above.

d. Confidentiality Protections

OCR also looks at whether institutions notify students that all responses as well as any personally identifiable information they provide will be kept confidential, although the aggregate survey information will be shared with athletic directors, coaches, and other staff, as appropriate. When requesting any personal or personally identifiable data, protecting the respondents’ confidentiality helps to ensure that institutions obtain high-quality data and high response rates. If a student has expressed interest in being contacted when responding to the survey, an institution should continue to maintain the student’s confidentiality except to the extent needed to follow-up with the student.

e. Frequency of Conducting the Survey

As discussed above, OCR evaluates whether an institution periodically conducts an assessment of interest and abilities. In addition to the factors OCR considers when determining the rate of frequency for conducting an assessment, OCR also will consider factors such as the size of the previously assessed survey population and the rate of response to the immediately preceding survey(s) conducted by the institution, if any.

8. Multiple Indicators Evaluated to Assess Sufficient Number of Interested and Able Students to Sustain a Team

Under Part Three, institutions are not required to create an intercollegiate team or elevate a club team to intercollegiate status unless there are a sufficient number of interested and able students to sustain a team. When OCR evaluates whether there are a sufficient number of students, OCR considers such indicators as the:

- minimum number of participants needed for a particular sport;
- opinions of athletic directors and coaches concerning the abilities required to field an intercollegiate team; and
- size of a team in a particular sport at institutions in the governing athletic association or conference to which the institution belongs or in the institution’s competitive regions.

When evaluating the minimum number of athletes needed, OCR may consider factors such as the:
Page 13 – Dear Colleague

- rate of substitutions necessitated by factors such as length of competitions, intensity of play, or injury;
- variety of skill sets required for competition; and
- minimum number of athletes needed to conduct effective practices for skill development.

B. Reasonable Expectation of Competition — OCR Evaluation Criteria

Lastly, as indicated in the 1996 Clarification, OCR evaluates whether there is a reasonable expectation of intercollegiate competition for the team in the institution’s normal competitive regions. In evaluating available competition, OCR considers available competitive opportunities in the geographic area in which the institution’s athletes primarily compete, including:

- competitive opportunities offered by other schools against which the institution competes; and
- competitive opportunities offered by other schools in the institution’s geographic area, including those offered by schools against which the institution does not now compete.26

If the information or documentation compiled by the institution during the assessment process shows that there is sufficient interest and ability to support a new intercollegiate team and a reasonable expectation of intercollegiate competition in the institution’s normal competitive region for the team, the institution is under an obligation to create an intercollegiate team within a reasonable period of time in order to comply with Part Three.

Conclusion

The three-part test gives institutions flexibility and affords them control over their athletics programs. This flexibility, however, must be used consistent with Title IX’s nondiscrimination requirements. OCR will continue to work with institutions to assist them in finding ways to address their particular circumstances and comply with Title IX. For technical assistance, please contact the OCR enforcement office that serves your area, found at http://wdcrobscolp01.ed.gov/CFAPPS/OCR/contactus.cfm.

Sincerely,

Russlynn Ali
Assistant Secretary for Civil Rights

---

26 Under the 1979 Policy Interpretation, an institution also may be required to actively encourage the development of intercollegiate competition for a sport for members of the underrepresented sex when overall athletic opportunities within its competitive region have been historically limited for members of that sex. 44 Fed. Reg. at 71418.
FREQUENTLY ASKED QUESTIONS: CAMPUS CLIMATE SURVEYS

1. What is a campus climate survey on sexual assault?

A campus climate survey on sexual assault generates school-specific data on the nature and extent of sexual assault as it exists on a campus, as well as data on the attitudes and perceptions about sexual assault among different campus groups. The survey itself asks a series of questions that may address students’ experiences with sexual victimization both before and after joining the campus; knowledge of the school’s policies and procedures for reporting incidents; perceptions about how well campus authorities and local law enforcement handle reports of sexual assault; and the frequency and nature of sexual assault experienced by students on campus.

2. What are the goals of a campus climate survey?

Campus climate surveys can serve multiple purposes; however, one of their main goals is to generate school-specific data to improve institutional responses, including targeted prevention, intervention, support for victims, and accountability for offenders. These efforts are always more successful when they are tailored to the unique needs of individual campuses, which is why it is so important to have accurate school-specific data. When schools have a clear understanding of the climate around sexual assault as it actually exists on their campuses, they are in a better position to effectively prevent and respond to incidents of campus sexual assault.

3. Why are campus climate surveys important?

Campus climate surveys provide campus-level data on sexual assault in a way that national data, or even data from similarly situated schools, cannot. For example, decades of research has shown that victims rarely report sexual assault to law enforcement, and in many cases do not even access formal services, such as crisis centers. The result is that official statistics may not represent the full extent of the problem on any one campus. They also fail to provide a nuanced view of a complicated issue that usually has contributing factors that may vary from one school to the next.

4. Do campus climate surveys have any benefits outside of data collection?

In addition to the direct benefits that schools receive from the data generated, the act of conducting a survey can in itself have a positive effect on the campus climate because it reflects a school’s genuine commitment to combat campus sexual assault. For example, when campuses address sexual violence, victims may feel more comfortable coming forward to report incidents. This can help campus and local
law enforcement identify and deal with serial perpetrators, making campuses safer in the process. When victims come forward, it can help them heal from the trauma and get better access to support services (such as counseling). Plus, when they feel supported by the community and are confident in a school’s handling of an assault, they are more likely stay in school.

5. Are there best practices for conducting campus climate surveys?

Yes. Best practices for campus climate surveys have been established, and surveys are most effective when they follow these practices. One of the first steps is to do a thorough review of the best practices, with a particular emphasis on the materials referenced in question 6 below.

6. How can I find out what these best practices are?

Many of the established best practices came out of the 2015 Department of Justice Campus Climate Survey Validation Study (CCSVS). The DOJ survey instrument and methodology are free. The Office on Violence Against Women (OVW) is available to answer questions about them. Contact us at: ovw.campus.surveys@usdoj.gov.

Additional resources for campus climate survey best practices include a lessons learned guide from the Rutgers School of Social Work Campus Climate Assessment team, as well as the many resources developed by the Prevention Innovations Research Center at the University of New Hampshire, the result of UNH’s many years of experience conducting campus climate surveys.

7. Are there best practices for developing the content of a campus climate surveys?

Yes. When developing the content for a survey, it is important to keep in mind the goal of the survey and the characteristics of individual campuses. The questions should strive to asses campus-specific rates of sexual violence and also gain a perspective on the campus-wide knowledge of policies and resources. Specific guidelines for creating the content for a campus climate survey can be found in the materials referenced in question 6 above.

8. Are there best practices specific to protecting survivor confidentiality in surveys?

Protecting confidentiality is crucial in a campus climate survey on sexual assault. It is of particular importance when incentives are offered to increase survey response rates, something that is a recommended best practice. Resources to aid schools in determining best practices on climate survey confidentiality include the CCSVS final report; chapters four and six of the lessons learned guide from the Rutgers School of Social Work Campus Climate Assessment Team; and a school’s own Institutional Review Board (IRB), which should always be consulted at the beginning of the survey process.

A few examples of best practices for maintaining confidentiality were demonstrated in the CCSVS:

- Provide a disclosure at multiple points during the survey to make participants aware that no identifying information would be stored with or linked to their survey data.
• Program the survey so that IP addresses are not collected when individuals participate in the survey.

• Provide students with a Survey Access Code that they use to log into the survey website, rather than asking them to log in with personally identifying information, such as an e-mail address or student ID number.

9. Are there best practices for publicizing the results of a campus climate survey?

Yes. The Prevention Innovations Research Center at the University of New Hampshire has developed a guide for campus administrators, faculty, and staff to aid discussions about using and communicating climate survey data. The guide can be used as a reference for schools that want to follow best practices for sharing the results. It is also a useful reference for discussions around campus climate survey confidentiality.

The guide identifies important questions to think about when considering how to publicize the results of a campus climate survey, including:

- Who has ownership of the data?
- Who will write and speak about the results?
- What will your community use the data for?
- What formats will you use to share the findings?
- What should the report(s) look like?
- Who do you need to communicate with prior to the release of the data?
- How will reports and findings be distributed?
- How are you going to respond to people who are challenging your findings?
- How do you use the data to highlight the areas that are in need of change and attention?
- How do you put your local findings in the context of national cases/data?
- How do you use information to mobilize community response?
- How are you going to respond to individuals who are using false data or misconstrued data to counter the findings both in and outside of the institution?
- How will you acknowledge underserved populations and any limitations of your findings based on who responded to the survey?

10. How much does it cost to conduct a campus climate survey?

The cost to conduct campus climate survey depends on several variables, including campus size; type of school; whether the school is participating in a consortium with other schools in the area; and the existing resources at a school’s disposal, such as faculty or staff who can help implement the survey as a part of their regular job functions. However, as a general rule, the cost of a campus climate survey can run from tens to hundreds of thousands of dollars.
11. That sounds expensive. Are there ways for schools to cut down on costs?

Yes. However, it is important to remember that cost-cutting measures should never be at the expense of conducting a survey that follows established best practices.

One way that schools can significantly cut down on the costs associated with survey development and still conduct a scientifically valid survey is to use the survey instrument and methodology tested and validated in the CCSVS. These tools are freely available for any school to use and can be found in the CCSVS final report and the survey instrument as revised based on the results of the CCSVS study, which are both available online.

Another one of the largest costs associated with campus climate surveys are the incentives offered to students for survey completion, a recommended best practice to ensure that surveys produce scientifically valid results. The CCSVS tested monetary incentives at several levels and found that cash incentives should be in the $25 per person range; offering less had a negative impact on survey results. One option that schools can experiment with is providing the incentive in the form of gift certificates or credit to school-owned entities, such as campus food establishments. Schools may also want to consider forming partnerships with businesses or other organizations that want to support the fight against campus sexual assault by providing gift certificates to students who complete the survey.

It is also important to remember that while campus climate surveys can require a large up-front allocation of resources, the data generated by a scientifically valid survey will ultimately help schools save money and conserve resources. With the knowledge gained from the survey, schools will be able to target resources where they are needed most to reduce incidents of campus sexual assault and provide better responses to students when incidents do occur.

12. Are there financial resources available to schools or student groups who want to conduct campus climate surveys?

Yes. The Office on Violence Against Women at the Department of Justice has grants available for activities designed to reduce sexual assault, dating violence, and stalking on campus.

The Office on Women’s Health of the Department of Health and Human Services also funds colleges and universities to address sexual assault through their College Sexual Assault Policy and Prevention Initiative. Grants are awarded to implement policies and practices – including climate surveys – that will prevent sexual assault at post-secondary schools.

There is also potential for grant money through other non-governmental sources, as well as through certain departments at the schools themselves. Student advocates may want to help research additional sources of public and private grant funding for schools to conduct campus climate surveys.

13. Are there best practices for increasing diverse participation in campus climate surveys?

The survey should be made available as widely as possible using various devices, especially phones, and with all types of people in mind; for instance, consider the accessibility of the survey for international students and those with disabilities. Working collaboratively with a wide variety of student organizations...
to encourage broad participation in the survey also can be helpful. To ensure the survey accurately represents the campus makeup, demographic information can be requested in the survey and then used to create a representative sample. A school’s Institutional Review Board (IRB) should also be consulted on the best methods for getting diverse representation in a campus climate survey.

14. Can campus climate surveys be conducted by students? Or does it have to be conducted by the school administration?

Smaller student-conducted surveys can always play a role in the conversation. When student groups are considering conducting their own campus climate survey, however, they must think about all the different pieces necessary to conduct a valid campus climate survey. Such pieces include gathering a representative sample of students; ensuring confidentiality; analyzing the data; using incentives to ensure sufficient participation to obtain valid results; and the development of a campus-wide action plan to address the issues identified in the data generated by a survey. Students can play a key role in helping to make a survey happen, but administrative resources are likely to be important to the success of a survey of the nature being discussed here.

15. What happens after a campus climate survey has been completed and the results disseminated?

As discussed above in question 9, the main purpose of a campus climate survey is to generate valid campus-specific data that schools can use to develop targeted and effective prevention and response efforts. The real benefit to conducting a survey is the campus action plan that is developed as a result of the information gained from the survey. In the Rutgers School of Social Work’s Lessons Learned Guide, Chapter 6, “Action Planning and Dissemination,” you will find specific examples of steps that Rutgers took as a result of their campus climate survey.
This survey is an untested pilot tool. Other institutions wishing to use this survey should be aware that the validity of the instrument as a whole has not yet been determined. Some scales are newly created by the Principal Investigator and research team and should be credited as such.

**CAMPUS CLIMATE SURVEY**

**Introductory Language**

Thank you for taking this survey. Rutgers is committed to ensuring a healthy and nondiscriminatory environment for our students, and your participation in this survey will help us in our work to keep all students safe.

**Section One: Demographic Information**

1. **What is your current gender identity?**
   - Male
   - Female
   - Transgender Male
   - Transgender Female
   - Other (please specify): ________

2. **Which of the following best describes you?**
   - 100% heterosexual/straight
   - Mostly heterosexual/straight but somewhat attracted to people of the same sex
   - Bisexual/interested in men and women equally
   - Mostly homosexual/lesbian/gay but somewhat attracted to people of the opposite sex
   - 100% homosexual/lesbian/gay
   - Not sexually attracted to either males or females
   - Other (please specify): ________

3. **Are you currently a member of an NCAA Rutgers athletic team?**
   - Yes CONTINUE TO QUESTION 3a.
   - No SKIP TO QUESTION 4
     a. Which team(s)? ________

4. **Are you a member of a fraternity or sorority?**
   - Yes
   - No

5. **Are you a member of any other student organization at Rutgers?**
   - Yes CONTINUE TO QUESTION 5a.
   - No SKIP TO QUESTION 6
     a. Which organization(s)? ________

6. **Are you a member of SCREAM Theater or SCREAM Athletes?**
   - Yes
   - No

---

2 Items marked with an asterisk (*) appear in the White House Task Force’s recommended survey instrument, verbatim or with minor modifications. Items marked with a cross (†) have been added.

3 Additional demographic information, including race, ethnicity, and year will be drawn from student data on file. Students’ responses to the survey are matched with these data, and any unique identifying information is stripped from the survey data.
This survey is an untested pilot tool. Other institutions wishing to use this survey should be aware that the validity of the instrument as a whole has not yet been determined. Some scales are newly created by the Principal Investigator and research team and should be credited as such.

7. Which of the following best describes your living situation?
   - Rutgers residence hall
   - Fraternity or sorority house
   - On-campus apartment
   - Off-campus apartment/house
   - At home with parent(s) or guardian(s)
   - Other (please specify): ________
Section Two: Campus Climate

“Sexual assault” and “sexual violence” refer to a range of behaviors that are unwanted by the recipient and include remarks about physical appearance, persistent sexual advances that are undesired by the recipient, threats of force to get someone to engage in sexual behavior, as well as unwanted touching and unwanted oral, anal or vaginal penetration or attempted penetration. These behaviors could be initiated by someone known or unknown to the recipient, including someone they are in a relationship with.

8. Using the scale provided, please indicate the extent to which you agree or disagree with the following statements about your Rutgers-New Brunswick community.

<table>
<thead>
<tr>
<th></th>
<th>Strongly Disagree</th>
<th>Disagree</th>
<th>Neutral</th>
<th>Agree</th>
<th>Strongly Agree</th>
</tr>
</thead>
<tbody>
<tr>
<td>a.</td>
<td>I can get what I need in this campus community.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>b.</td>
<td>This campus community helps me fulfill my needs.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>c.</td>
<td>I feel like a member of this campus community.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>d.</td>
<td>I belong in this campus community.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>e.</td>
<td>I can have an influence on other people in my campus community.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>f.</td>
<td>People in this campus community are good at influencing each other.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>g.</td>
<td>I feel connected to this campus community.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>h.</td>
<td>I have a good bond with others in this campus community.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
</tbody>
</table>

9. Using the scale provided, please indicate the extent to which you agree or disagree with the following statements.

<table>
<thead>
<tr>
<th></th>
<th>Strongly Disagree</th>
<th>Disagree</th>
<th>Neutral</th>
<th>Agree</th>
<th>Strongly Agree</th>
</tr>
</thead>
<tbody>
<tr>
<td>a.</td>
<td>If a crisis happened at Rutgers-New Brunswick, the university would handle it well.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>b.</td>
<td>The university responds rapidly in difficult situations.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>c.</td>
<td>University officials handle incidents in a fair and responsible manner.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>d.</td>
<td>Rutgers-New Brunswick does enough to protect the safety of students.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
</tbody>
</table>

---


10. The following statements describe how the university might handle it if a student reported an incident of sexual assault. Use the scale provided to indicate how likely each scenario is.\textsuperscript{6}

<table>
<thead>
<tr>
<th></th>
<th>Very Unlikely</th>
<th>Unlikely</th>
<th>Neutral</th>
<th>Likely</th>
<th>Very Likely</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. The university would take the report seriously.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>b. The university would maintain the privacy of the person making the report.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>c. If requested by the victim, the university would forward the report to criminal investigators (for example, the police).</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>d. The university would take steps to protect the safety of the person making the report.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>e. The university would support the person making the report.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>f. The university would take action to address factors that may have led to the sexual assault.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>g. The university would handle the report fairly.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
</tbody>
</table>

11. The following questions are about how people would react to someone reporting an incident of sexual assault at Rutgers. Use the scale provided to indicate how likely each scenario is.\textsuperscript{7}

<table>
<thead>
<tr>
<th></th>
<th>Very Unlikely</th>
<th>Unlikely</th>
<th>Neutral</th>
<th>Likely</th>
<th>Very Likely</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Students would label the person making the report a troublemaker.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>b. Students would have a hard time supporting the person who made the report.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>c. The alleged offender(s) or their friends would try to get back at the person making the report.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>d. The academic achievement of the person making the report would suffer.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
</tbody>
</table>


\textsuperscript{7} Ibid.
Section Three: Information about Campus Sexual Assault

12. Using the scale provided, please indicate your level of agreement with the following statements.  

<table>
<thead>
<tr>
<th></th>
<th>Strongly Disagree</th>
<th>Disagree</th>
<th>Neutral</th>
<th>Agree</th>
<th>Strongly Agree</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. If a friend or I were sexually assaulted, I know where to go <strong>to get help</strong> on campus.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>b. I understand what happens when a student reports a claim of sexual assault at Rutgers.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>c. If a friend or I were sexually assaulted, I know where to go <strong>to make a report</strong> of sexual assault.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
</tbody>
</table>

13. **Before coming to Rutgers**, had you received any information or education (that did not come from Rutgers) about sexual assault?†  
   o Yes  
   o No

14. **Since you came to Rutgers**, which of the following have you done? Please check all that apply.  
   o Discussed sexual assault/rape in class  
   o Discussed the topic of sexual assault with friends  
   o Discussed sexual assault with a family member  
   o Seen SCREAM Theater  
   o Attended an event or program about what you can do as a bystander to stop sexual assault  
   o Attended a rally or other campus event about sexual assault/rape  
   o Seen posters about sexual assault (raising awareness, preventing rape, defining sexual assault, etc.)  
   o Seen or heard campus administrators or staff address sexual assault  
   o Seen crime alerts about sexual violence  
   o Read a report about sexual violence rates at Rutgers  
   o Visited a Rutgers website with information on sexual assault  
   o Volunteered or interned at an organization that addresses sexual assault  
   o Seen or heard about sexual assault in a student publication or media outlet (for example, the Daily Targum or RUTV)  
   o Taken a class to learn more about sexual assault

15. **Since coming to Rutgers**, have you received written (i.e. brochures, emails) or verbal information (presentations, training) from anyone at Rutgers about the following? Please check all that apply. †  
   o The definition of sexual assault  
   o How to report a sexual assault  
   o Where to go to get help if someone you know is sexually assaulted  
   o Title IX protections against sexual assault  
   o How to help prevent sexual assault

---


McMahon, Nov. 2014 | 8
This survey is an untested pilot tool. Other institutions wishing to use this survey should be aware that the validity of the instrument as a whole has not yet been determined. Some scales are newly created by the Principal Investigator and research team and should be credited as such.

**IF THE STUDENT RESPONDED “YES” TO QUESTION 3:**

16. Since coming to Rutgers, have any of the topics covered in this survey (sexual assault, rape, reporting sexual assault, preventing sexual assault, etc.) been discussed by your coach?†
   - Yes
   - No

**IF THE STUDENT RESPONDED “YES” TO QUESTION 4:**

17. Since coming to Rutgers, have any of the topics covered in this survey (sexual assault, rape, reporting sexual assault, preventing sexual assault, etc.) been discussed by your fraternity or sorority?†
   - Yes
   - No

**IF THE STUDENT RESPONDED “YES” TO QUESTION 5:**

18. Since coming to Rutgers, have any of the topics covered in this survey (sexual assault, rape, reporting sexual assault, preventing sexual assault, etc.) been discussed by your student organization?†
   - Yes
   - No

19. Please use the following scale to indicate how aware you are of the function of the campus and community resources specifically related to sexual assault response at RUTGERS listed below.†

<table>
<thead>
<tr>
<th>Resource</th>
<th>Not at all Aware</th>
<th>Slightly Aware</th>
<th>Somewhat Aware</th>
<th>Very Aware</th>
<th>Extremely Aware</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Office for Violence Prevention and Victim Assistance (VPVA)</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>b. Office of Student Conduct</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>c. Title IX Compliance</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>d. SCREAM Theater or SCREAM Athletes</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>e. Student Legal Services</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>f. Counseling, Alcohol and Other Drug Assistance Program &amp; Psychiatric Services (CAPS)</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>g. The Office of Employment Equity</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>h. Rutgers Health Services</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
</tbody>
</table>


McMahon, Nov. 2014 | 9
Section Four: Experiences

“Sexual assault” and “sexual violence” refer to a range of behaviors that are unwanted by the recipient and include remarks about physical appearance, persistent sexual advances that are undesired by the recipient, threats of force to get someone to engage in sexual behavior, as well as unwanted touching and unwanted oral, anal or vaginal penetration or attempted penetration. These behaviors could be initiated by someone known or unknown to the recipient, including someone they are in a relationship with.

The following questions below (20-24) are about unwanted sexual contact that involved force or threats of force against you. This could include someone holding you down with his or her body weight, pinning your arms, hitting or kicking you, or threatening to use a weapon against you.

20. Did you ever experience any form of sexual violence before coming to Rutgers?*
   o Yes
   o No

21. Since coming to Rutgers, has anyone had unwanted sexual contact with you by using physical force?¹¹
   o Yes
   o No

22. Since coming to Rutgers, has anyone had unwanted sexual contact with you by coercing you or threatening to use physical force?²
   o Yes
   o No

23. Has anyone attempted but not succeeded in having unwanted sexual contact with you by using physical force against you?¹²
   o Yes
   o No

24. Has anyone attempted but not succeeded in having unwanted sexual contact with you by coercing you or threatening to use physical force against you?³
   o Yes
   o No

The next set of questions (25-26) ask about your experiences with unwanted sexual contact while you were unable to provide consent or stop what was happening because you were passed out, drugged, drunk, incapacitated, or asleep. These situations might include times that you voluntarily consumed alcohol or drugs and times that you were given drugs without your knowledge or consent.¹³

25. Since coming to Rutgers, has someone had sexual contact with you when you were unable to provide consent or stop what was happening because you were passed out, drugged, drunk, incapacitated, or asleep? This question asks about incidents you are certain happened.*
   o Yes CONTINUE TO QUESTION 25.a
   o No SKIP TO QUESTION 26

¹² Ibid.
¹³ Questions 25 and 26: Ibid.
a. Just prior to the incident(s), had you been drinking alcohol? Keep in mind that you are in no way responsible for the assault that occurred, even if you had been drinking.
   - Yes CONTINUE TO QUESTION 25.b.1
   - No SKIP TO QUESTION 25.b.
     1. Do you believe you were drunk?
        - Yes
        - No

b. Just prior to the incident(s), had you voluntarily been taking or using any drugs other than alcohol? Keep in mind that you are in no way responsible for the assault that occurred, even if you were using drugs.
   - Yes
   - No

c. Just prior to the incident(s), do you suspect that you had been given a drug without your knowledge or consent?
   - Yes
   - No

26. Since coming to Rutgers, has someone had sexual contact with you when you were unable to provide consent or stop what was happening because you were passed out, drugged, drunk, incapacitated, or asleep? This question asks about incidents you think (but are not certain) happened.
   - Yes CONTINUE TO QUESTION 26.a
   - No IF RESPONDENT ANSWERED NO TO QUESTIONS 21, 22, AND 25 SKIP TO QUESTION 37. IF RESPONDENT ANSWERED YES TO ANY ONE OF QUESTIONS 21, 21, OR 25, SKIP TO QUESTION 27.

   a. Just prior to the incident(s), had you been drinking alcohol? Keep in mind that you are in no way responsible for the assault that occurred, even if you had been drinking.
      - Yes CONTINUE TO QUESTION 26b.1
      - No SKIP TO QUESTION 26.b.
        1. Do you believe you were drunk?
           - Yes
           - No

   b. Just prior to the incident(s), had you voluntarily been taking or using any drugs other than alcohol? Keep in mind that you are in no way responsible for the assault that occurred, even if you were using drugs.
      - Yes
      - No

   c. Just prior to the incident(s), do you suspect that you had been given a drug without your knowledge or consent?
      - Yes
      - No
The next questions ask about the **MOST SERIOUS INCIDENT** of sexual assault you experienced. If you had only one experience of unwanted sexual contact, please answer the questions about that experience.\(^{14}\)

27. Who did the unwanted sexual contact involve?*
   - Stranger
   - Friend
   - Family member
   - Coworker
   - Employer/supervisor
   - University professor/instructor
   - University staff
   - Current romantic partner (boyfriend or girlfriend)
   - Casual acquaintance or hookup
   - Ex-romantic partner (ex-boyfriend or ex-girlfriend)
   - Other (please specify): ___________

28. Was the person a student at Rutgers?*
   - Yes
   - No
   - I don’t know

29. Was this person affiliated with Rutgers, as an employee, staff, or faculty member?*
   - Yes
   - No
   - I don’t know

30. What was the gender of the person who did this to you?*
   - Male
   - Female
   - Transgender Male
   - Transgender Female
   - I don’t know

31. Was the other person using (check all that apply):*
   - Drugs and alcohol
   - Drugs only
   - Alcohol only
   - Neither
   - I don't know

32. Were you using (check all that apply):*
   - Drugs and alcohol
   - Drugs only
   - Alcohol only
   - Neither

This survey is an untested pilot tool. Other institutions wishing to use this survey should be aware that the validity of the instrument as a whole has not yet been determined. Some scales are newly created by the Principal Investigator and research team and should be credited as such.

34. Where did the incident occur?
   o Your own home or room CONTINUE TO QUESTION 33.a
     a. You indicated that the incident happened in your own home or room. Where did the incident occur? (check one):
        o Your Own Residence Hall
        o Your Own Greek House
        o Your Own On-campus apartment
        o Your Own Off-campus apartment/house near campus
        o Your Own home where you reside with a parent/guardian
        o Other (please specify): __________
   o Somewhere other than your own home or room CONTINUE TO QUESTION 33.b
     b. You indicated that the incident happened somewhere other than your own home or room. Where did the incident occur? (check one):
        o Residence Hall
        o Greek House
        o On-campus apartment
        o Off-campus apartment/house near campus
        o Other (please specify): __________

35. Did you tell anyone about the incident?
   o Yes CONTINUE TO QUESTION 34.a, THEN SKIP TO 35
   o No SKIP TO QUESTION 34.b, AND THEN SKIP TO 36
     a. Who did you tell? (check all that apply)
        o Roommate
        o Doctor/nurse
        o Close friend other than roommate
        o Parent or guardian
        o Other family member
        o Romantic partner (other than the person who did this to you)
        o Religious leader
        o Off-campus rape crisis center staff
        o Off-campus counselor/therapist
        o On-campus counselor/therapist

        If checked: How useful was the on-campus counselor/therapist in helping you deal with the problem?
        o Very Useful
        o Moderately Useful
        o Somewhat Useful
        o Slightly Useful
        o Not at all Useful

        If checked: How useful was Rutgers Health Services in helping you deal with the problem?
        o Very Useful
        o Moderately Useful
        o Somewhat Useful
        o Slightly Useful
        o Not at all Useful

        If checked: How useful was Rutgers University Police Department

McMahon, Nov. 2014 | 13
This survey is an untested pilot tool. Other institutions wishing to use this survey should be aware that the validity of the instrument as a whole has not yet been determined. Some scales are newly created by the Principal Investigator and research team and should be credited as such.

If checked: How useful was the Rutgers University Police Department in helping you deal with the problem?
  o Very Useful
  o Moderately Useful
  o Somewhat Useful
  o Slightly Useful
  o Not at all Useful
  o Local Police
  o Office of Student Conduct
    If checked: How useful was the Office of Student Conduct in helping you deal with the problem?
      o Very Useful
      o Moderately Useful
      o Somewhat Useful
      o Slightly Useful
      o Not at all Useful
  o Resident Advisor (RA) or Residence Life staff
    If checked: How useful was the RA or Residence Life staff in helping you deal with the problem?
      o Very Useful
      o Moderately Useful
      o Somewhat Useful
      o Slightly Useful
      o Not at all Useful
  o University faculty or staff
    If checked: How useful was the University faculty or staff in helping you deal with the problem?
      o Very Useful
      o Moderately Useful
      o Somewhat Useful
      o Slightly Useful
      o Not at all Useful
  o Office for Violence Prevention and Victim Assistance (VPVA) staff
    If checked: How useful was the VPVA staff in helping you deal with the problem?
      o Very Useful
      o Moderately Useful
      o Somewhat Useful
      o Slightly Useful
      o Not at all Useful
  o Other (please specify) : __________

b. Why didn’t you tell anyone? (check all that apply)*
  o Ashamed/embarrassed
  o It is a private matter; I wanted to deal with it on my own
  o Concerned others would find out
  o Didn’t want the person who did it to get in trouble
  o Fear the person who did it would try to get back at me
  o Fear of not being believed
  o I thought I would be blamed for what happened
  o Didn’t think what happened was serious enough to talk about

McMahon, Nov. 2014 | 14
This survey is an untested pilot tool. Other institutions wishing to use this survey should be aware that the validity of the instrument as a whole has not yet been determined. Some scales are newly created by the Principal Investigator and research team and should be credited as such.

- Didn’t think others would think it was serious
- Thought people would try to tell me what to do
- It would feel like an admission of failure
- Didn’t think others would think it was important
- Didn’t think others would understand
- Didn’t know reporting procedure on campus
- Feared I or another would be punished for infractions or violations (such as underage drinking)
- I didn’t feel the campus leadership would solve my problems
- I feared others would harass me or react negatively toward me
- I thought nothing would be done
- Didn’t want others to worry about me
- Wanted to forget it happened
- Had other things I needed to focus on and was concerned about (classes, work)
- Didn’t think the school would do anything about my report
- Other (please specify): __________

**IF THE STUDENT RESPONDED “YES” TO QUESTION 34:**
36. How long after the incident did you first tell someone what happened? †

- Within the first 24 hours
- Within one week
- Within one month
- Within one year
- More than a year
Section Five: Readiness to Help

37. Using the scale provided, please indicate how true each of the following statements is of you.\textsuperscript{15}

<table>
<thead>
<tr>
<th></th>
<th>Not True at All</th>
<th>Not True</th>
<th>Neutral</th>
<th>True</th>
<th>Very Much True</th>
</tr>
</thead>
<tbody>
<tr>
<td>a.</td>
<td>I don’t think sexual violence is a problem at Rutgers-New Brunswick.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>b.</td>
<td>I don’t think there is much I can do about sexual violence at Rutgers-New Brunswick.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>c.</td>
<td>There isn’t much need for me to think about sexual violence at Rutgers-New Brunswick.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>d.</td>
<td>Doing something about sexual violence is solely the job of the crisis center.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>e.</td>
<td>Sometimes I think I should learn more about sexual violence.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>f.</td>
<td>I have not yet done anything to learn more about sexual violence.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>g.</td>
<td>I think I can do something about sexual violence.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>h.</td>
<td>I am planning to learn more about the problem of sexual violence on campus.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>i.</td>
<td>I have recently attended a program about sexual violence.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>j.</td>
<td>I am actively involved in projects to deal with sexual violence at Rutgers-New Brunswick.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>k.</td>
<td>If you are still reading this survey, please mark “Very Much True” for this question.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>l.</td>
<td>I have recently taken part in activities or volunteered my time on projects focused on ending sexual violence on campus.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>m.</td>
<td>I have been or am currently involved in ongoing efforts to end sexual violence on campus.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
</tbody>
</table>

38. Using the scale provided, please indicate how likely you would be to do the following things in the future, if you had the opportunity.\(^{16}\)

<table>
<thead>
<tr>
<th></th>
<th>Very Unlikely</th>
<th>Unlikely</th>
<th>Neutral</th>
<th>Likely</th>
<th>Very Likely</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Call the police or authorities if you saw a group of males bothering a female in a parking lot or similar setting</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>b. Confront a male friend who was hooking up with someone who was passed out</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>c. Confront a female friend who was hooking up with someone who was passed out</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>d. Confront a friend if you heard rumors that they forced someone to have sex</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>e. Tell an RA or other campus authority about information you might have about a rape case even if pressured by others to stay silent</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>f. Go with a female friend to the police department if she said she was raped</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>g. Go with a male friend to the police department if he said he was raped</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
</tbody>
</table>

39. In this section, you will be asked a series of questions about situations you have seen or been in since coming to Rutgers.\(^{17}\)
   a. Have you seen a group of students sexually intimidating/bothering someone in a parking lot or similar setting?
      o Yes CONTINUE TO QUESTION 38.a.1
      o No SKIP TO QUESTION 38.b
   1. What did you do?
      o Did nothing, it wasn’t my business
      o Did nothing because I wasn’t sure what to do
      o Confronted the situation directly
      o Went and got assistance from someone else
      o Other (please specify):


\(^{17}\) Adapted from Bystander Behavior Scale-Revised (adapted from Bystander Scale (Banyard, et al., 2005)); Ibid.
b. Have you seen a girl taking a drunk guy back to her room?  
   o Yes CONTINUE TO QUESTION 38.b.1  
   o No SKIP TO QUESTION 38.c  
   1. What did you do?  
      o Did nothing, it wasn’t my business  
      o Did nothing because I wasn’t sure what to do  
      o Confronted the situation directly  
      o Went and got assistance from someone else  
      o Other (please specify):  

c. Have you seen a guy taking a drunk girl back to his room?  
   o Yes CONTINUE TO QUESTION 38.c.1  
   o No SKIP TO QUESTION 38.d  
   1. What did you do?  
      o Did nothing, it wasn’t my business  
      o Did nothing because I wasn’t sure what to do  
      o Confronted the situation directly  
      o Went and got assistance from someone else  
      o Other (please specify):  

d. Have you seen a girl you didn’t know go to her room with a group of guys and heard her yelling for help?  
   o Yes CONTINUE TO QUESTION 38.d.1  
   o No SKIP TO QUESTION 38.e  
   1. What did you do?  
      o Did nothing, it wasn’t my business  
      o Did nothing because I wasn’t sure what to do  
      o Confronted the situation directly  
      o Went and got assistance from someone else  
      o Other (please specify):  

e. Have you heard a friend say they planned to give alcohol to someone to get sex?  
   o Yes CONTINUE TO QUESTION 38.e.1  
   o No SKIP TO QUESTION 38.f  
   1. What did you do?  
      o Did nothing, it wasn’t my business  
      o Did nothing because I wasn’t sure what to do  
      o Confronted the situation directly  
      o Went and got assistance from someone else  
      o Other (please specify):  

f. Have you heard rumors that a friend forced someone to have sex?  
   o Yes CONTINUE TO QUESTION 38.f.1  
   o No SKIP TO QUESTION 40  
   1. What did you do?  
      o Did nothing, it wasn’t my business  
      o Did nothing because I wasn’t sure what to do  
      o Confronted the friend directly  
      o Went and got assistance from someone else  
      o Other (please specify):
This survey is an untested pilot tool. Other institutions wishing to use this survey should be aware that the validity of the instrument as a whole has not yet been determined. Some scales are newly created by the Principal Investigator and research team and should be credited as such.

40. **Since coming to Rutgers**, have any other students at Rutgers told you they were a victim of an unwanted sexual experience?
   - Yes CONTINUE TO QUESTION 39.a
   - No SKIP TO QUESTION 40
     a. How many women told you they were a victim of an unwanted sexual experience? ______
     b. How many men told you they were a victim of an unwanted sexual experience? ______

41. Has anyone you know – a friend or a family member – ever been forced or coerced by another person to do something sexually that they did not want to do, that you know of?
   - Yes
   - No
Section Six: Conclusion

42. Below you will find a list of statements. Please read each statement carefully and decide if the statement describes you or not. If it describes you, check the word “true”; if not, check the word “false”. 

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>a. I sometimes litter.</td>
<td>True</td>
</tr>
<tr>
<td>b. I always admit my mistakes openly and face the potential negative consequences.</td>
<td>True</td>
</tr>
<tr>
<td>c. In traffic I am always polite and considerate of others.</td>
<td>True</td>
</tr>
<tr>
<td>d. I always accept others’ opinions, even when they don’t agree with my own.</td>
<td>True</td>
</tr>
<tr>
<td>e. I take out my bad moods on others now and then.</td>
<td>True</td>
</tr>
<tr>
<td>f. There has been an occasion when I took advantage of someone else.</td>
<td>True</td>
</tr>
<tr>
<td>g. In conversations I always listen attentively and let others finish their sentences.</td>
<td>True</td>
</tr>
<tr>
<td>h. I never hesitate to help someone in case of emergency.</td>
<td>True</td>
</tr>
<tr>
<td>i. When I have made a promise, I keep it—no ifs, ands or buts.</td>
<td>True</td>
</tr>
<tr>
<td>j. I occasionally speak badly of others behind their back.</td>
<td>True</td>
</tr>
<tr>
<td>k. I would never live off other people.</td>
<td>True</td>
</tr>
<tr>
<td>l. I always stay friendly and courteous with other people, even when I am stressed out.</td>
<td>True</td>
</tr>
<tr>
<td>m. During arguments I always stay objective and matter-of-fact.</td>
<td>True</td>
</tr>
<tr>
<td>n. There has been at least one occasion when I failed to return an item that I borrowed.</td>
<td>True</td>
</tr>
<tr>
<td>o. I always eat a healthy diet.</td>
<td>True</td>
</tr>
<tr>
<td>p. Sometimes I only help because I expect something in return.</td>
<td>True</td>
</tr>
</tbody>
</table>

43. Do you have additional comments, suggestions, or feedback for us? ____________________________________________

Closing Language

Thank you for your participation. Once you submit your responses, you will be entered into a raffle to win one of the following prizes:

- Twenty $300 cash prizes for those who finish in the first three days.
- Fifteen $200 cash prizes for those who finish in the first week and have not won a cash prize already.
- Fifteen $150 cash prizes for those who do the survey at any time during the two weeks and have not won a cash prize already.

If you win, you will be notified by e-mail by campusclimatetestudy@ssw.rutgers.edu

If you are concerned about any of the topics covered in this survey, or if you would like more information on these issues, visit the Rutgers Office for Violence Prevention and Victim Assistance online at http://vpva.rutgers.edu.

Thank you for agreeing to participate in the Sexual Assault Campus Climate Survey. In this survey, we will ask you about your perceptions of [Institution Name]’s climate on unwanted sexual contact and sexual assault, your perceptions of how [Institution Name] addresses and responds to sexual assault, and the extent to which you have experienced unwanted sexual contact or sexual assault.

We would like to hear from all students at [Institution name], both those who have experienced unwanted sexual contact or sexual assault and those who have not. The survey usually takes less than 15 minutes to complete.

Your participation is completely voluntary. We deeply appreciate your cooperation and willingness to provide information that will help us better understand a critical aspect of student life at [Institution Name]. We are committed to ensuring a safe and healthy environment for our students, and your participation in this survey will help us in our work to keep all students safe.

Your responses are completely anonymous, and we will only report them after they are grouped together with the responses of many other individuals. Your name will not be connected in any way with your responses to this survey, and any identifying information from the computer on which you take the survey will be removed before we receive the data. Please note, if other people have access to your computer, they may be able to review your web browsing history, including a link to this survey. For information on how to delete your web browsing history, visit http://www.computerhope.com/issues/ch000510.htm.

You may stop taking the survey at any time or choose not to answer particular questions. You may also go back and change your responses. If you wish to stop taking the survey, simply leave the survey without hitting the “Submit” button at the end. We will not record your responses until you hit the “Submit” button.

Some of the questions will ask you about sexual, personal, and potentially troubling information. It may be emotionally difficult to answer these questions. Should you wish to talk with someone further, you may access information about campus, local, and national resources for unwanted sexual contact, sexual assault, and relationship violence at any point in the survey by clicking on the link in the footer of the survey page. This information will also be provided at the end of the survey.

The information you provide will be used to inform and improve support, policies, and practices at [Institution Name] and will not be used to investigate specific individuals. Disclosing an incident here does not constitute reporting the incident to your campus and will not result in any action, disciplinary or otherwise. Please do not identify anyone by name in your survey responses. If you identify anyone by name, the name will be removed before [Institution Name] receives the data. Please use [Institution Name]’s reporting procedures if you wish to report an incident of sexual assault.

The [Institution Name] leader(s) of this survey effort [is/are] [name(s)], and [he/she/they] can be reached at [email address(es) and/or phone number(s)].

By clicking on the “Continue” button below, you indicate that you have read and considered the above information about the survey and agree to participate in the survey.

Students see a “Continue” button.

Section One: General Climate
1. Below are statements about your views on the general climate at [Institution Name]. Please indicate the extent to which you agree or disagree with each.

<table>
<thead>
<tr>
<th>Statement</th>
<th>Strongly agree</th>
<th>Agree</th>
<th>Neither agree nor disagree</th>
<th>Disagree</th>
<th>Strongly disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>Faculty, staff, and administrators respect what students at [Institution Name] think.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Faculty, staff, and administrators at [Institution Name] are genuinely concerned about students’ welfare.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Faculty, staff, and administrators on this campus treat students fairly.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Students at [Institution Name] are genuinely concerned about the welfare of other students.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>I feel valued in the classroom/learning environment.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>I feel close to people on this campus.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>I feel like I am a part of the [Institution Name] community.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>I feel safe on this campus.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
2. Below are statements about your views on the extent to which different groups contribute to the general climate at [Institution Name]. Please indicate the extent to which you agree or disagree with each.

<table>
<thead>
<tr>
<th>Statement</th>
<th>Strongly agree</th>
<th>Agree</th>
<th>Neither agree nor disagree</th>
<th>Disagree</th>
<th>Strongly disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>The faculty contributes to a positive and supportive campus climate at [Institution name].</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The staff contributes to a positive and supportive campus climate at [Institution name].</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The administration contributes to a positive and supportive campus climate at [Institution name].</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The students contribute to a positive and supportive campus climate at [Institution name].</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

3. Below are statements about your views on [Institution Name]’s response to difficult or dangerous situations. Please indicate the extent to which you agree or disagree with each.

<table>
<thead>
<tr>
<th>Statement</th>
<th>Strongly agree</th>
<th>Agree</th>
<th>Neither agree nor disagree</th>
<th>Disagree</th>
<th>Strongly disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>Campus officials do a good job protecting students from harm.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>If a crisis happened here, I am confident campus officials would handle it well.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Campus officials respond quickly in difficult situations.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Campus officials handle incidents in a fair and responsible manner.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>There is a good support system at [Institution Name] for students going through difficult times.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

4. Below are statements about your views on sexual assault at [Institution Name]. Please indicate the extent to which you agree or disagree with each.

<table>
<thead>
<tr>
<th>Statement</th>
<th>Strongly agree</th>
<th>Agree</th>
<th>Neither agree nor disagree</th>
<th>Disagree</th>
<th>Strongly disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>I believe that the number of sexual assaults that occur on campus, off campus at an event or program connected with [Institution name], or at a social activity or party near campus is low.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>I do not believe that I or one of my friends is at risk for being sexually assaulted on campus, off campus at an event or program connected with [Institution name], or at a social activity or party near campus.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>I believe that students at [Institution Name] would intervene if they witnessed a sexual assault.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

5. Below are statements about your views on what might happen if someone were to report a sexual assault to an official at [Institution Name]. Please indicate the extent to which you agree or disagree with each.

<table>
<thead>
<tr>
<th>Statement</th>
<th>Strongly agree</th>
<th>Agree</th>
<th>Neither agree nor disagree</th>
<th>Disagree</th>
<th>Strongly disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>Campus officials would take the report seriously.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Campus officials would support and protect the person making the report.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Campus officials would conduct a careful investigation in order to determine what happened.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Campus officials would take action against the offender(s).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Students would support the person making the report.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
6. Have you received information or education from [Institution Name] about:

<table>
<thead>
<tr>
<th>What sexual assault is and how to recognize it?</th>
<th>Yes</th>
<th>No</th>
<th>Unsure</th>
</tr>
</thead>
<tbody>
<tr>
<td>How to report an incident of sexual assault?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>[Institution Name]’s confidential resources for sexual assault and how to locate them on campus?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The procedures for investigating a sexual assault?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The actions you can take to help prevent sexual assault, such as bystander intervention, clear communication with a potential partner, or some other action?</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Q7 and Q8 only appear to students who selected “Yes” to one or more of the statements in Q6.

7. Overall, how much do you remember about the information or education from [Institution Name] about sexual assault?
   - Almost all or all of it
   - Most of it
   - Some of it
   - Very little or none of it

8. Overall, how helpful did you think the information or education from [Institution Name] about sexual assault was?
   - Very helpful
   - Helpful
   - Slightly helpful
   - Not at all helpful

Section Two: Assessing Unwanted Sexual Contact and Sexual Assault

The questions in this section of the survey will ask you about sexual, personal, and potentially troubling information. It may be emotionally difficult to answer some of these questions. You may access information about campus, local, and national resources for unwanted sexual contact, sexual assault, and relationship violence at any point in the survey by clicking on the link in the footer of the survey page. This information will also be provided at the end of the survey.

In the following questions we ask about unwanted sexual contact and sexual assault, focusing on experiences you may have had while you were:
- on the [Institution Name] campus;
- off campus at an event or program connected with [Institution name], including study abroad and internships; or
- at a social activity or party near campus such as at an apartment, restaurant, or bar.

We have the following definitions in mind when we ask about unwanted sexual contact and sexual assault. You do not need to remember these definitions. We will provide the definitions again with the questions that ask about these particular experiences.

Unwanted sexual contact includes the following:
- Unwanted verbal behaviors – such as someone making sexual comments about your body; making unwelcome sexual advances, propositions, or suggestions to you; or telling you sexually offensive jokes or kidding about your sex or gender-specific traits
- Unwanted nonverbal behaviors – such as someone sending you sexual emails, texts, or pictures; posting sexual comments about you on blogs or social media; showing you sexually offensive pictures or objects; leering at you or making lewd gestures towards you; or touching him/herself sexually in front of you
- Unwanted brief physical contact – such as someone briefly groping you, rubbing sexually against you, pinching you, or engaging in any other brief inappropriate or unwelcome touching of your body

Sexual assault includes the following types of sexual contact, which you did not want or for which you did not give consent:
- Touching of a sexual nature (kissing you, touching of private parts, grabbing, fondling, rubbing up against you in a sexual way, even if it was over your clothes)
- Oral sex (someone’s mouth or tongue making contact with your genitals, or your mouth or tongue making contact with someone else’s genitals)
- Vaginal sex (someone’s penis being put in your vagina, or your penis being put into someone else’s vagina)
- Anal sex (someone’s penis being put in your anus, or your penis being put into someone else’s anus)
- Anal or vaginal penetration with a body part other than a penis or tongue, or by an object, like a bottle or candle
9. Since starting at [Institution Name], how often have you experienced the following forms of unwanted sexual contact while you were (a) on campus; (b) off campus at an event or program connected with [Institution name], including study abroad and internships; or (c) at a social activity or party near campus such as at an apartment, restaurant, or bar?

<table>
<thead>
<tr>
<th>Desired Form of Contact</th>
<th>Never</th>
<th>Rarely</th>
<th>Sometimes</th>
<th>Often</th>
<th>Very often</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unwanted verbal behaviors – such as someone making sexual comments about your body; making unwelcome sexual advances, propositions, or suggestions to you; or telling you sexually offensive jokes or kidding about your sex or gender-specific traits</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unwanted nonverbal behaviors – such as someone sending you sexual emails, texts, or pictures; posting sexual comments about you on blogs or social media; showing you sexually offensive pictures or objects; leering at you or making lewd gestures towards you; or touching him/herself sexually in front of you</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unwanted brief physical contact – such as someone briefly groping you, rubbing sexually against you, pinching you, or engaging in any other brief inappropriate or unwelcome touching of your body</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Q10 only appears to students who selected an option other than “Never” for at least one statement in Q9.

10. Who was responsible for this behavior? (Check all that apply)
- Student(s) from this institution
- Student(s) from another institution
- Faculty member(s), staff member(s), or administrator(s) from this institution
- Faculty member(s), staff member(s), or administrator(s) from another institution
- Employer(s)/supervisor(s) at this institution
- Person or people from the local community
- Other: ____________

In the next set of questions when we ask about sexual assault, we are referring to five specific types of sexual contact, which you did not want or for which you did not give consent.
- Touching of a sexual nature (kissing you, touching of private parts, grabbing, fondling, rubbing up against you in a sexual way, even if it was over your clothes)
- Oral sex (someone’s mouth or tongue making contact with your genitals, or your mouth or tongue making contact with someone else’s genitals)
- Vaginal sex (someone’s penis being put in your vagina, or your penis being put into someone else’s vagina)
- Anal sex (someone’s penis being put in your anus, or your penis being put into someone else’s anus)
- Anal or vaginal penetration with a body part other than a penis or tongue, or by an object, like a bottle or candle

11. Since starting at [Institution Name], has anyone attempted, but not succeeded in, sexually assaulting you while you were (a) on campus; (b) off campus at an event or program connected with [Institution name], including study abroad and internships; or (c) at a social activity or party near campus such as at an apartment, restaurant, or bar?
- Yes
- No
- I suspect that someone attempted to sexually assault me, but I am not certain.

Q12 only appears to students who selected “Yes” to Q11.

12. Who attempted to sexually assault you? (Check all that apply)
- Student(s) from this institution
- Student(s) from another institution
- Faculty member(s), staff member(s), or administrator(s) from this institution
- Faculty member(s), staff member(s), or administrator(s) from another institution
- Employer(s)/supervisor(s) at this institution
- Person or people from the local community
- Other: ____________
13. Since starting at [Institution Name], have you been sexually assaulted while you were (a) on campus; (b) off campus at an event or program connected with [Institution name], including study abroad and internships; or (c) at a social activity or party near campus such as at an apartment, restaurant, or bar?

   Yes
   No
   I suspect that I was sexually assaulted, but I am not certain.

Students who select “No” or “I suspect that I was sexually assaulted, but I am not certain” and students who do not respond to Q13 skip to Section Three: Bystander Behaviors.

Q14 only appears to students who selected “Yes” to Q13.

14. Since starting at [Institution Name], how many incidents of sexual assault have you experienced while you were (a) on campus; (b) off campus at an event or program connected with [Institution name], including study abroad and internships; or (c) at a social activity or party near campus such as at an apartment, restaurant, or bar?

   Students will select from a drop-down menu that lists: 1, 2, 3, 4, more than 4.

Q15 only appears to students who selected “1” to Q14.

15. Where did the sexual assault occur?

   On the [Institution Name] campus, in a dormitory or other campus housing (not a fraternity or sorority house)
   On the [Institution Name] campus, in a nonresidential building or some other location on campus
   In a fraternity or sorority house, on or off campus, including college-owned housing
   Off campus, at another college or university (not study abroad)
   Study abroad, study away, or other off-campus study program
   Off-campus internship
   Off campus, at an apartment, restaurant, bar, or another location nearby

Q16 only appears to students who selected more than one incident or did not respond to Q14.

16. Please select how many incidents of sexual assault you have experienced at each of the following locations.

   For each location, students will select from a drop-down menu that lists: 1, 2, 3, 4, more than 4.

   __ On the [Institution Name] campus, in a dormitory or other campus housing (not a fraternity or sorority house)
   __ On the [Institution Name] campus, in a nonresidential building or some other location on campus
   __ In a fraternity or sorority house, on or off campus, including college-owned housing
   __ Off campus, at another college or university (not study abroad)
   __ Study abroad, study away, or other off-campus study program
   __ Off-campus internship
   __ Off campus, at an apartment, restaurant, bar, or another location nearby

The following statement only appears to students who experienced multiple incidents of sexual assault.

Thinking about one of these incidents of sexual assault, please answer the following questions. You will have an opportunity to provide more information about additional incidents later in the survey.

17. How many people sexually assaulted you?

   One person
   More than one person
   I am not sure.

Students who select “One person” will see questions and response options for Q18-Q34 worded to only reflect one assailant. Students who select “More than one person” or “I am not sure” and students who do not respond will see questions and response options for Q18-Q34 worded to reflect multiple assailants.

18. When you were sexually assaulted, which of the following happened? (Check all that apply)

   Touching of a sexual nature (kissing you, touching of private parts, grabbing, fondling, rubbing up against you in a sexual way, even if it was over your clothes)
   Oral sex (someone’s mouth or tongue making contact with your genitals, or your mouth or tongue making contact with someone else’s genitals)
   Vaginal sex (someone’s penis being put in your vagina, or your penis being put into someone else’s vagina)
   Anal sex (someone’s penis being put in your anus, or your penis being put into someone else’s anus)
   Anal or vaginal penetration with a body part other than a penis or tongue, or by an object, like a bottle or candle
As you answer the following questions, please keep in mind that drinking alcohol and/or using drugs does not mean you are in any way responsible for being sexually assaulted.

19. Did this incident of sexual assault involve:

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>Unsure</th>
</tr>
</thead>
<tbody>
<tr>
<td>The other person/people threatening to use physical force against you, or using coercion or intimidation?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The other person/people using physical force against you?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The other person/people drinking alcohol?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The other person/people using drugs?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Your drinking alcohol?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Your voluntarily taking or using any drugs other than alcohol?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Your being given a drug without your knowledge or consent?</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

20. Were you unable to provide consent or stop what was happening because you were incapacitated in some way (e.g., passed out, drugged, drunk, asleep)?

   Yes
   No
   Unsure

Section Three: Context and Disclosure

In the next set of questions, we ask for more detail about the sexual assault you reported in this survey so that campus officials might better understand how and when sexual assault occurs in order to combat it. As a reminder, your participation in this survey is voluntary, and you may choose not to answer any question. All your responses are anonymous and will only be reported after they are grouped together with the responses of many other individuals. We deeply appreciate your cooperation and willingness to provide information to help [Institution Name] ensure a safe, healthy environment for students.

21. When in your academic career did the sexual assault occur?

   During the summer before I officially enrolled (summer bridge program, pre-orientation, etc.)
   During new student orientation
   In my first year
   Summer between my first and second years
   In my second year
   Summer between my second and third years
   In my third year
   Summer between my third and fourth years
   In my fourth year
   Other: ____________

22. Was the person/Were the people who sexually assaulted you affiliated with [Institution Name] or another college or university? (Check all that apply)

   Yes, the/at least one person was a student at [Institution Name].
   Yes, the/at least one person was a student at another institution.
   Yes, the/at least one person was a faculty member, staff member, or administrator from [Institution Name].
   Yes, the/at least one person was a faculty member, staff member, or administrator from another institution.
   The person was/people were not affiliated with [Institution Name] or another institution.
   I do not know.
23. Which of the following describes your relationship with the person/people who sexually assaulted you at the time of the assault? (Check all that apply)
   - Stranger
   - Nonromantic friend or acquaintance
   - Casual date or hookup
   - Current romantic partner
   - Ex-romantic partner
   - College professor/instructor
   - College staff member
   - College administrator
   - Employer/supervisor
   - Coworker
   - Family member
   - Other: ____________

24. What was the sex of the person/people who sexually assaulted you?
   - Female
   - Male
   - Both males and females (response option only appears to students who had multiple assailants)
   - I do not know.

Q25 only appears to students who experienced multiple incidents of sexual assault or experienced sexual assault but didn’t indicate how many incidents.

25. Where did the sexual assault occur?
   - On the [Institution Name] campus, in a dormitory or other campus housing (not a fraternity or sorority house)
   - On the [Institution Name] campus, in a nonresidential building or some other location on campus
   - In a fraternity or sorority house, on or off campus, including college-owned housing
   - Off campus, at another college or university (not study abroad)
   - Study abroad, study away, or other off-campus study program
   - Off-campus internship
   - Off campus, at an apartment, restaurant, bar, or another location nearby

26. Please tell us more about the location, being as specific as possible.

27. Were there any bystanders when you were sexually assaulted?
   - Yes
   - No
   - I am not sure.

Q28 only appears to students who selected “Yes” to Q27.

28. Did they intervene?
   - Yes
   - No

Q29 only appears to students who selected “Yes” to Q28.

29. How did they intervene? (Check all that apply)
   - They stepped in and tried to separate us.
   - They asked me if I needed help.
   - They confronted the person who was/people who were assaulting me.
   - They tried to create a distraction.
   - They asked others to step in with them and try to diffuse the situation.
   - They told someone in a position of authority about the situation.
   - Other: ____________
30. Whom did you tell about the sexual assault? (Check all that apply)
   - No one
   - Close friend
   - Romantic partner
   - Parent or guardian
   - Other family member
   - Roommate
   - Resident advisor/assistant or other peer advisor
   - Campus counselor
   - Private counselor
   - Faculty, staff, or administrator from [Institution Name]
   - Faculty, staff, or administrator from another institution
   - Campus security/safety/police
   - Local police
   - Local or national sexual assault hotline
   - Campus pastor, minister, rabbi, or other clergy
   - Campus sexual assault advocate
   - Campus Title IX Coordinator or Deputy Coordinator
   - Campus health services
   - Other: ____________

Q31 only appears to students who selected “No one” to Q30.

31. What stopped you from telling anyone about the sexual assault? (Check all that apply)
   - I did not think I would be believed.
   - I thought I would be blamed for what happened.
   - I wanted to deal with it on my own.
   - I was ashamed/embarrassed.
   - I was concerned others would find out.
   - I did not recognize it as sexual assault at the time.
   - I did not want the people who did it to get in trouble.
   - I was afraid of retaliation.
   - I did not think others would think it was serious.
   - I thought people would try to tell me what to do.
   - It would feel like I was admitting failure.
   - I did not think others would think it was important.
   - I did not think others would understand.
   - I did not have time to deal with it due to academics, work, etc.
   - I did not know the reporting procedure on campus.
   - I feared I would be punished for infractions or violations (e.g., underage drinking).
   - I did not think campus officials could help.
   - I did not think campus officials would do anything about my report.
   - I feared others would harass me or react negatively to me.
   - I thought nothing would be done.
   - I didn’t want others to worry about me.
   - I wanted to forget it happened.
   - Other: ____________

Students who see Q31 next skip to Section Four: Demographics.

Q32 only appears to students who did not select “No one” to Q30.

32. Did you use [Institution Name]’s procedures for making a formal report about the sexual assault?
   - Yes
   - No

Students who select “No” or do not respond to Q32 next skip to Section Four: Demographics.
Q33 and Q34 only appear to students who selected “Yes” to Q32.

33. How satisfied were you with [Institution Name]’s process for making a formal report about sexual assault?
   - Very satisfied
   - Satisfied
   - Neither satisfied nor dissatisfied
   - Dissatisfied
   - Very dissatisfied
   - Unsure at this time

34. How satisfied were you with [Institution Name]’s response to your report?
   - Very satisfied
   - Satisfied
   - Neither satisfied nor dissatisfied
   - Dissatisfied
   - Very dissatisfied
   - Unsure at this time

Students who see Q34 next skip to Section Four: Demographics.

Section Three: Bystander Behaviors

Bystander Branch One – Appears only to those students who did not experience sexual assault or an attempted sexual assault

Q1. Since starting at [Institution Name], have you observed a situation that you believe was sexual assault?
   - Yes
   - No
   - I suspect I observed a situation that was sexual assault, but I am not certain.

Q2 only appears to students who did not select “Yes” to Q1.

Q2. Since starting at [Institution Name], have you observed a situation that you believe could have led to a sexual assault?
   - Yes
   - No
   - I suspect I observed a situation that could have led to a sexual assault, but I am not certain.

Students who do not select “Yes” next skip to Section Four: Demographics.

Q3 only appears to students who selected “Yes” to Q1 or Q2.

Q3. Did you intervene?
   - Yes
     - I considered intervening but did not feel safe doing so.
     - I considered intervening but did not feel comfortable doing so.
     - I considered intervening but did not know how to do so.
     - I did not intervene.
   - Students who do not select “Yes” next skip to Section Four: Demographics.

Q4 only appears to students who selected “Yes” to Q3.

Q4. How did you intervene? (Check all that apply)
   - I stepped in and separated the people involved in the situation.
   - I asked the person who appeared to be at risk if they needed help.
   - I confronted the person who appeared to be causing the situation.
   - I created a distraction to cause one or more of the people to disengage from the situation.
   - I asked others to step in with me and diffuse the situation.
   - I told someone in a position of authority about the situation.
   - Other: ____________

Students who see Q4 next skip to Section Four: Demographics.
Bystander Branch Two – Appears only to those students who a) suspect they were sexually assaulted, b) experienced an attempted sexual assault, or c) suspect they experienced an attempted sexual assault

Q1. Were there any bystanders during the incident?
   Yes
   No
   I am not sure.

Students who do not select “Yes” next skip to Section Four: Demographics.

Q2 only appears to students who selected “Yes” to Q1.

Q2. Did they intervene?
   Yes
   No

Students who do not select “Yes” next skip to Section Four: Demographics.

Q3 only appears to students who selected “Yes” to Q2.

Q3. How did they intervene? (Check all that apply)
   They stepped in and separated us.
   They asked me if I needed help.
   They confronted the person who was assaulting me/was attempting to assault me/I suspect was attempting to assault me.
   They created a distraction.
   They asked others to step in with them and diffuse the situation.
   They told someone in a position of authority about the situation.
   Other: ____________

Students who see Q3 next skip to Section Four: Demographics.

Section Four: Demographics

35. What is your college classification for the 2017–2018 Academic Year?
   Freshman/First Year
   Sophomore
   Junior
   Senior
   Graduate Student
   Other: ____________

36. Thinking about this current academic term, are you a full-time student?
   Yes
   No

37. What is your gender?
   Man
   Woman
   Nonbinary, please specify: ____________

38. Are you transgender?
   Yes
   No

39. What is your citizenship status?
   U.S. citizen
   U.S. permanent resident but not a U.S. citizen
   Not a U.S. citizen or permanent resident

40. Are you Hispanic or Latino/a?
   Yes
   No
41. Please indicate the race or races with which you identify. (Choose one or more)
   - American Indian or Alaska Native
   - Asian
   - Black or African American
   - Native Hawaiian or other Pacific Islander
   - White

42. Which of the following best describes where you are currently living?
   - Dormitory or other campus housing (not a fraternity or sorority house)
   - Fraternity or sorority house (including college-owned housing)
   - Residence (house, apartment, etc.) within walking distance to the institution
   - Residence (house, apartment, etc.) farther than walking distance to the institution
   - None of the above

*Q43 only appears to students who selected “Dormitory or other campus housing” or “Fraternity or sorority house” to Q42.*

43. Is your housing single gender?
   - Yes
   - No

44. Which term best describes your sexual orientation?
   - Asexual
   - Bisexual
   - Gay
   - Heterosexual
   - Lesbian
   - Pansexual
   - Queer
   - Questioning
   - Fill in: ____________

*Q45 only appears to students who did not indicate that they experienced more than one incident of sexual assault.*

45. If there is any additional information you would like to provide about [Institution Name]’s climate for unwanted sexual contact and sexual assault, please use the box below. Like the rest of your responses to this survey, any information you provide is anonymous and will only be reported grouped with other comments. The information you provide will be used to inform and improve support, policies, and practices at [Institution Name] and will not be used to investigate specific individuals. Disclosing an incident here does not constitute reporting the incident to [Institution Name] and will not result in any action, disciplinary or otherwise. Please do not identify anyone by name in your survey responses. If you identify anyone by name, the names will be removed before [Institution Name] receives the data.

46. Earlier in the survey you indicated that you have experienced more than one incident of sexual assault since starting at [Institution Name]. If you would like to provide information about incidents other than the one you described in the survey so far, please use the box below. Like the rest of your responses to this survey, any information you provide is anonymous and will only be reported grouped with other comments. The information you provide will be used to inform and improve support, policies, and practices at [Institution Name] and will not be used to investigate specific individuals. Disclosing an incident here does not constitute reporting the incident to [Institution Name] and will not result in any action, disciplinary or otherwise. Please do not identify anyone by name in your survey responses. If you identify anyone by name, the names will be removed before [Institution Name] receives the data.
47. If there is any additional information you would like to provide about [Institution Name]’s climate for unwanted sexual contact and sexual assault, please use the box below.

**Thank you for participating in this survey. To submit your answers, please click on the "Submit" button below. We will not record your responses until you hit this button. Your name will not be connected in any way with your survey responses.**

Students see a “Submit” button. The following language appears after students click the “Submit” button.

Thank you for participating in the Sexual Assault Campus Climate Survey.

The information you have given us is anonymous. Your name is not connected in any way with your responses to this survey, and any identifying information from the computer on which you took the survey was removed before we received the data.

Please note, if other individuals (e.g., partner, roommate) have access to your computer, they might be able to view your web browsing history, including a link to this survey. For information on how to delete your web browsing history, you can visit http://www.computerhope.com/issues/ch000510.htm.

If you would like information or would like to talk with someone about unwanted sexual contact, sexual assault, or relationship violence, please do not hesitate to contact any of the following campus, local, and national resources. You can take this list of resources with you by printing this page.

We deeply appreciate your cooperation and willingness to provide information that will help us improve the policies and tools we use to reduce the occurrence of sexual assault and unwanted sexual contact at [Institution Name].

**Resources for Sexual Assault and Relationship Violence**

**Campus crisis center or contact person:**
[Each institution provides contact information for and services provided by their campus crisis center or the person that someone would contact for support if she/he has been sexually assaulted or is in a violent relationship.]

**Local and/or state hotline numbers and resources:**
[Institutions provide local and/or state sexual assault hotlines and resources.]

**National resources:**

**National Sexual Assault Hotline**
https://www.rainn.org/get-help/national-sexual-assault-hotline
800-656-HOPE (4673)
The Rape, Abuse & Incest National Network (RAINN) operates the National Sexual Assault Hotline and the Online Hotline. The Online Hotline provides live, secure, anonymous crisis support for victims of sexual violence, their friends, and families. Both hotlines are free of charge and are available 24 hours per day, 7 days per week.

**National Domestic Violence Hotline**
http://www.thehotline.org
800-799-SAFE (7233)
TTY 800-787-3224
Provides 24/7 confidential, one-on-one support to each caller and person on live chat, offering crisis intervention, options for next steps and direct connection to sources for immediate safety for women, men, children, and families affected by domestic violence.

**Love is Respect**
http://www.loveisrespect.org
866-331-9474
TTY 866-331-8453
Text “loveis” to 22522
Designed specifically for teens and young adults, Love is Respect provides 24/7 phone, text, and chat services and offers real-time, one-on-one confidential support from peer advocates. Message and data rates apply on text for help services.
The [Institution Name] leader(s) of this survey effort [is/are] [name(s)] and [he/she/they] can be reached at [email address(es) and/or phone number(s)]. He/She/They can answer additional questions you may have about the survey.

THANK YOU AGAIN FOR YOUR PARTICIPATION IN THIS SURVEY.
Core Demographic Characteristics

This section asks you some basic demographic questions.

D1. How old are you?

Select an answer…

[DROP-DOWN LIST: under 18, 18, 19, 20, 21, 22, 23, 24, 25+]

[RESPONDENT MUST ANSWER THIS QUESTION IN ORDER TO PROCEED.]

D1a. [IF UNDER 18 IN D1] We are sorry, but you are not eligible to participate in the study. Please click "Next" below to end this session.

D2. What is your current student status?

- First year student (freshman)
- Second year student (sophomore)
- Third year student (Junior)
- Fourth year student (Senior)
- Other (please describe your student status ____________________)

D3. Do you currently describe yourself as a woman, man, or transgender person??

- Woman
- Man
- Transgender
- Something else (please specify your current gender identity____________________)


Sexual Harassment Victimization and Coerced Sexual Contact

SH1. Since the beginning of the current academic year in [FILL: August/September], [YEAR], has anyone done the following to you either in person or by phone, text message, e-mail, or social media? Please include things regardless of where they happened.

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Made sexual advances, gestures, comments, or jokes that were unwelcome to you</td>
<td>o</td>
<td>o</td>
</tr>
<tr>
<td>b. Flashed or exposed themselves to you without your consent</td>
<td>o</td>
<td>o</td>
</tr>
<tr>
<td>c. Showed or sent you sexual pictures, photos, or videos that you didn’t want to see</td>
<td>o</td>
<td>o</td>
</tr>
<tr>
<td>d. Showed or sent sexual photos/videos of you or spread sexual rumors about you that you didn’t want shared</td>
<td>o</td>
<td>o</td>
</tr>
<tr>
<td>e. Watched or took photos/videos of you when you were nude or having sex, without your consent</td>
<td>o</td>
<td>o</td>
</tr>
</tbody>
</table>

EC1. Since the beginning of the current academic year in [FILL: August/September], [YEAR], has anyone had sexual contact with you by threatening to tell lies, end your relationship, or spread rumors about you; making promises you knew or discovered were untrue; or continually verbally pressuring you after you said you didn’t want to?

Sexual contact includes:

- touching of a sexual nature (kissing, touching of private parts, grabbing, fondling, rubbing up against you in a sexual way, even if it is over your clothes)
- oral sex (someone’s mouth or tongue making contact with your genitals or your mouth or tongue making contact with someone else’s genitals)
- anal sex (someone putting their penis in your anus)
- sexual intercourse (someone’s penis being put in [IF D3=MALE, FILL “someone’s”, ELSE FILL “your”] vagina)
- sexual penetration with a finger or object (someone putting their finger or an object like a bottle or a candle in your [IF D3 NE MALE, FILL: “vagina or”] anus.

  o Yes
  o No
Sexual Assault Victimization
Victimization Gate Questions (Asked of Everyone)

This section asks about times when you may have experienced unwanted sexual contact. In these questions, **unwanted sexual contact** is sexual contact that you did not consent to and that you did not want to happen. Remember that sexual contact includes touching of your sexual body parts, oral sex, anal sex, sexual intercourse, and penetration of your [IF D3=FEMALE OR TRANSGENDER OR SOMETHING ELSE OR MISSING, FILL “vagina or”] anus with a finger or object.

Please check off each point as you read through these descriptions.

**Unwanted sexual contact** could happen when: [EACH ITEM MUST BE CHECKED TO ADVANCE]

- someone touches or grabs your sexual body parts (e.g., butt, crotch, or breasts);
- someone uses force against you, such as holding you down with his or her body weight, pinning your arms, hitting or kicking you;
- someone threatens to hurt you or someone close to you; or
- you are unable to provide consent because you are incapacitated, passed out, unconscious, blacked out, or asleep. This could happen after you voluntarily used alcohol or drugs, or after you were given a drug without your knowledge or consent.

Please keep in mind that anyone — regardless of gender — can experience unwanted sexual contact. Also, the person who does this could be a stranger or someone you know, such as a friend, family member, or person you were dating or hanging out with.

When you answer the questions in this section, please count any experience of **unwanted sexual contact** (e.g., touching of your sexual body parts, oral sex, anal sex, sexual intercourse, and penetration of your [IF D3=FEMALE OR TRANSGENDER OR SOMETHING ELSE OR MISSING, FILL “vagina or”] anus with a finger or object) that you did not consent to and did not want to happen since the beginning of the current academic year, regardless of where it happened.

P1. Since the beginning of the current academic year in [FILL: August/September], [YEAR], has anyone had unwanted sexual contact with you?

   o Yes
   o No

P2. How many separate incidents of unwanted sexual contact have you experienced since the beginning of the current academic year in [FILL: August/September], [YEAR]?

   o 0 incidents [IF P2 = 0 INCIDENTS, SKIP TO P3]
   o 1 incident
   o 2 incidents
   o 3 incidents
Incident Follow-up Questions (Asked of Those who Reported 1 or More Incident in P2)
The next questions ask about [IF P2=1, FILL: “this incident”; IF P2 = 2 OR MORE, FILL “these incidents”] of unwanted sexual contact that you experienced since the beginning of the current academic year. The questions ask when the incidents happened, if/how you know the person who did it, and whether you sought services after the incident. [IF P2 = 2 OR MORE, FILL: “The questions refer to the incidents as incident #1, incident #2, and so on.”] [IF P2=4 OR 5+, FILL: “You will be asked about 3 incidents.”]

ILF1. [IF P2 = 2 OR MORE, FILL: “Please think about incident #1.”] In what month did this incident of unwanted sexual contact occur?

- Prior to [AUGUST/SEPTEMBER], [YEAR] [IF ILF1 = Prior to August/September, SKIP TO P3]
- August, [YEAR]
- September, [YEAR]
- October, [YEAR]
- November, [YEAR]
- December, [YEAR]
- January, [YEAR]
- February, [YEAR]
- March, [YEAR]
- April, [YEAR]
- May, [YEAR]
- Unsure/Don’t know

[IF P2= 2 OR 3, AS THE RESPONDENT COMPLETES ILF1 FOR THE 2ND OR 3RD INCIDENT, THE INCIDENT(S) AND DATES ALREADY REPORTED WILL DISPLAY (E.G., “INCIDENT #1: December 2016, INCIDENT #2, January 2017”]

ILF1a. [ASK IF RESPONDENT SELECTS 2 INCIDENTS IN THE SAME MONTH IN ILF1] Just to confirm, you reported incident #1 in [FILL WITH MONTH, YEAR] and incident #2 in [FILL WITH MONTH YEAR]. Are these separate incidents?

- Yes, these are separate incidents
- No, this is the same incident [COMBINE THESE INTO 1 INCIDENT]
ILF2. **During [IF P2=1, FILL “the incident”; IF P2=2 OR MORE, FILL “incident #1”], which occurred in [FILL THE MONTH AND YEAR REPORTED IN #ILF1, e.g., “October, 2016.”], which of the following types of unwanted sexual contact happened? Please indicate whether **each** type of unwanted sexual contact happened during this incident.**

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>Unsure</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. <strong>Forced touching of a sexual nature</strong> (forced kissing, touching of private parts, grabbing, fondling, rubbing up against you in a sexual way, even if it is over your clothes)</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>b. <strong>Oral sex</strong> (someone’s mouth or tongue making contact with your genitals or your mouth or tongue making contact with someone else’s genitals)</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>c. <strong>Anal sex</strong> (someone putting their penis in your anus)</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>d. [RESPONSE WILL NOT DISPLAY IF D3=MALE] <strong>Sexual intercourse</strong> someone putting their penis in your vagina)</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>e. <strong>Sexual penetration with a finger or object</strong> (someone putting their finger or an object like a bottle or a candle in your [IF D3=FEMALE TRANSGENDER, SOMETHING ELSE, OR BLANK, FILL: “vagina or anus”; IF D3=MALE, FILL: “anus”])</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
</tbody>
</table>

[IF ILF2a-e ARE ALL LEFT BLANK, FILL “Your responses to this question are very important. Please indicate whether each type of unwanted sexual contact happened during this incident.”]

ILF3. **During [IF P2=1, FILL “the incident”; IF P2=2 OR MORE, FILL “incident #1”] which occurred in [FILL THE MONTH REPORTED IN ILF1, e.g., “October, 2016”], how did the person(s) have unwanted sexual contact with you? Please indicate whether each of the following happened.**

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>Unsure</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. [THIS ITEM ONLY DISPLAYED IF RESPONDENT ANSWERED YES TO ILF2a AND DID NOT ANSWER YES TO ILF2b, ILF2c, ILF2d, OR ILF2e] Touched or grabbed your sexual body parts (e.g., butt, crotch, or breasts)</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>b. <strong>Threatened to hurt you or someone you care about</strong></td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>c. <strong>Used physical force against you, such as holding you down with his or her body weight, pinning your arms, hitting or kicking you</strong></td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>d. <strong>You were unable to provide consent or stop what was happening because you were incapacitated, passed out, unconscious, blacked out, or asleep</strong></td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>e. <strong>Other.</strong> [TEXT FIELD IS ONLY ACTIVE IF ILF3E=YES OR UNSURE] Please describe how the incident happened: ________________</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
</tbody>
</table>
[IF ILF3a-e ARE ALL LEFT BLANK, FILL “Your responses to this question are very important. Please indicate whether each of the following happened during this incident.”]

ILF4. Where did [IF P2=1, FILL “the incident”; IF P2=2 OR MORE, FILL “incident #1”] occur?

- On this school’s campus
- Off-campus but in the same city or town
- In a different city or town
- Unsure/Don’t know

ILF5. During [IF P2=1, FILL “the incident”; IF P2=2 OR MORE, FILL “incident #1”], how many people had unwanted sexual contact with you?

- 1 person
- 2 or more people
- Unsure/Don’t know

ILF6. [IF ILF5 = 1] What was the gender of the person who had unwanted sexual contact with you?

- Male
- Female
- Transgendered/Other
- Unsure/Don’t know

ILF7. [IF ILF5=2+ OR UNSURE OR BLANK] What were the genders of the people who had unwanted sexual contact with you? Please select all that apply.

- Male
- Female
- Transgendered/Other
- Unsure/Don’t know

ILF8. [IF ILF5=1] Was the person a student, professor, or other employee at this school?

- Yes
- No
- Unsure/Don’t know

ILF9. [IF ILF5=2+ OR UNSURE OR BLANK] How many of the people were students, professors, or other employees at this school?

- All of them
Some of them
- None of them
- Unsure/Don’t know

ILF10. [IF ILF5=1] Who was the person who had unwanted sexual contact with you during [IF P2=1, FILL “the incident”; IF P2=2 OR MORE, FILL “incident #1”]? Please select all that apply.

- A stranger
- Someone you had seen or heard about but not talked to
- An acquaintance, friend of a friend, or someone that you had just met
- A professor or teaching assistant
- A current or ex friend or roommate
- A current or ex dating partner or spouse
- Someone else (please specify relationship: _______________________________
- Unsure/Don’t know [NO OTHER RESPONSE OPTION CAN BE SELECTED WITH “UNSURE”]

ILF11. [IF ILF5=2+ OR UNSURE OR BLANK] Who were the people who had unwanted sexual contact with you during [IF P2=1, FILL “the incident”; IF P2=2 OR MORE, FILL “incident #1”]? Please select all that apply.

- A stranger
- Someone you had seen or heard about but not talked to
- An acquaintance, friend of a friend, or someone that you had just met
- A professor or teaching assistant
- A current or ex friend or roommate
- A current or ex dating partner or spouse
- Someone else (please specify relationship: _______________________________
- Unsure/Don’t know

ILF12. [IF ILF5=1] Had the person who had unwanted sexual contact with you been drinking alcohol or using drugs?

- Yes
- No
- Unsure/Don’t know

ILF13. [IF ILF5=2+ OR UNSURE OR BLANK] How many of the people who had unwanted sexual contact with you had been drinking alcohol or using drugs?
o All of them
o Some of them
o None of them
o Unsure/Don’t know

ILF14. In the hours prior to [IF P2=1, FILL “the incident”; IF P2=2 OR MORE, FILL “incident #1”], had you consumed alcohol or drugs? Please keep in mind that you are not responsible for what happened, even if you had been drinking or using drugs or had been given a drug without your knowledge or consent. Remember that your answers will remain completely confidential.

o Yes
o No
o Unsure/Don’t know

The next questions ask about whether you have told anyone about [IF P2=1, FILL “the incident”; IF P2=2 OR MORE, FILL “incident #1”].

ILF15. Have you told any of your roommates, friends, or family members about [IF P2=1, FILL “the incident”; IF P2=2 OR MORE, FILL “incident #1”]?

o Yes
o No

ILF16. Please indicate whether each of the following groups or organizations have been notified about [IF P2=1, FILL “the incident”; IF P2=2 OR MORE, FILL “incident #1”], whether it was by you or someone else.

<table>
<thead>
<tr>
<th>Group or Organization</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Administrators, faculty, or other officials or staff at this school</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>b. A crisis center or helpline, or a hospital or health care center at this school</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>c. A crisis center or helpline, or a hospital or health care center not at this school</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>d. Campus police or security at this school</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>e. Local police not at this school, such as the county or city police department</td>
<td>○</td>
<td>○</td>
</tr>
</tbody>
</table>

ILF17. [ASK IF YES IS SELECTED FOR ANY GROUP IN ILF16] When each of the following groups or organizations were notified about [IF P2=1, FILL “the incident”; IF P2=2 OR MORE, FILL “incident #1”], were they helpful or not?
[GRID DISPLAYS EACH ORGANIZATIONS FOR WHICH ILF16=YES]

<table>
<thead>
<tr>
<th>Group or organization</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Administrators, faculty, or other officials or staff at this school</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>b. A crisis center or helpline, or a hospital or health care center at this school</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>c. A crisis center or helpline, or a hospital or health care center not at this school</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>d. Campus police or security at this school</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>e. Local police not at this school, such as the county or city police department</td>
<td>○</td>
<td>○</td>
</tr>
</tbody>
</table>

[ASK ILF18a-h IF ILF16a=NO.] There are many reasons why students might not notify certain groups or organizations about incidents like this.

ILF18. Which of the following are reasons why you did not contact administrators, faculty, or other officials or staff at this school?

<table>
<thead>
<tr>
<th>Reason</th>
<th>Yes, this was a reason for not contacting group</th>
<th>No, this was not a reason for not contacting group</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. You didn’t know how to contact them</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>b. You were concerned they would not keep your situation confidential</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>c. You were concerned you’d be treated poorly or that no action would be taken</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>d. You did not think the incident was serious enough to report</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>e. You did not want any action taken</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>f. You did not need any assistance</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>g. You felt that other people might think that what happened was at least partly your fault or that you might get in trouble for some reason</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>h. You were worried that either the person who did this to you or other people might find out and do something to get back at you</td>
<td>○</td>
<td>○</td>
</tr>
</tbody>
</table>

[ASK ILF19a-h IF ILF16d=NO.]

ILF19. Which of the following are reasons why you did not campus police or security at this school?
### ILF20. Which of the following are reasons why you did not contact local police not at this school, such as the county or city police department?

| Reason                                                                 | Yes, this was a reason for not contacting group | No, this was not a reason for not contacting group |
|------------------------------------------------------------------------|-------------------------------------------------|------------------------------------------------|---|
| a. You didn’t know how to contact them                                | ☐                                               | ☐                                             |
| b. You were concerned they would not keep your situation confidential | ☐                                               | ☐                                             |
| c. You were concerned you’d be treated poorly or that no action would be taken | ☐                                               | ☐                                             |
| d. You did not think the incident was serious enough to report         | ☐                                               | ☐                                             |
| e. You did not want any action taken                                   | ☐                                               | ☐                                             |
| f. You did not need any assistance                                     | ☐                                               | ☐                                             |
| g. You felt that other people might think that what happened was at least partly your fault or that you might get in trouble for some reason | ☐                                               | ☐                                             |
| h. You were worried that either the person who did this to you or other people might find out and do something to get back at you | ☐                                               | ☐                                             |
ILF21. How upsetting was [IF P2=1, FILL “the incident”; IF P2=2 OR MORE, FILL “incident #1"] for you?
   - Very upsetting
   - Upsetting
   - Not very upsetting
   - Not at all upsetting

ILF22. Did [IF P2=1, FILL “the incident”; IF P2=2 OR MORE, FILL “incident #1"] lead you to have problems with your...

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. schoolwork or your grades?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. friends, roommates, or peers, such as getting into more arguments or fights than you did before, not feeling you could trust them as much, or not feeling as close to them as you did before?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c. family members, such as getting into more arguments or fights than you did before, not feeling you could trust them as much, or not feeling as close to them as you did before?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>d. job or with your boss or coworkers?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

ILF23. As a result of [IF P2=1, FILL “the incident”; IF P2=2 OR MORE, FILL “incident #1"] did you move or change where you live?
   - Yes
   - No

ILF24. [IF ILF23 = No] Did you want to move or change where you live as a result of [IF P2=1, FILL “the incident”; IF P2=2 OR MORE, FILL “incident #1”]?
   - Yes
   - No

ILF25. As a result [IF P2=1, FILL “the incident”; IF P2=2 OR MORE, FILL “incident #1”], did you drop any classes or change your class schedule?
   - Yes
   - No

ILF26. [IF ILF25 = No] Did you want to drop any classes or change your class schedule as a result of [IF P2=1, FILL “the incident”; IF P2=2 OR MORE, FILL “incident #1”]?
   - Yes
   - No
ILF27. Did you think about taking some time off from school, transferring to another school, or dropping out of school as a result of [IF P2=1, FILL “the incident”; IFP2=2 OR MORE, FILL “incident #1”]?  
  
  - Yes
  - No

[IF #P2 = 2 OR MORE, REPEAT ILF1-27 FOR UP TO 3 INCIDENTS, REPLACING “INCIDENT #1” WITH “INCIDENT #2” OR “INCIDENT #3.” FOR RESPONDENTS WHO RECEIVE THIS LOOP FOR 2 OR 3 INCIDENTS, A DISPLAY TOOL WILL BE USED TO HELP THEM KEEP TRACK OF THE INCIDENT. THE TOOL WILL LIST THE INCIDENTS BY NUMBER AND THE MONTH/YEAR OF EACH AND WILL APPEAR AS A HEADER THROUGHOUT ILF1-VQ, WITH THE CURRENT INCIDENT BOLDED. FOR EXAMPLE, DURING THE SECOND LOOP, THE DISPLAY WILL LOOK LIKE THIS:

INCIDENT #1: AUGUST, 2016 (QUESTIONS COMPLETED)  
INCIDENT #2: OCTOBER, 2016  
INCIDENT #3: JANUARY, 2017]
Since Entering College/Lifetime Prevalence Questions

P3. For this next question, please think about the entire time since you entered college. If you have attended more than one school, please think about the time since you first entered any college or university. At any point since you entered college, has anyone had any of the following types of unwanted sexual contact with you (i.e., sexual contact without your consent and that you did not want to happen)?

<table>
<thead>
<tr>
<th>A. Forced touching of a sexual nature (forced kissing, touching of private parts, grabbing, fondling, rubbing up against you in a sexual way, even if it is over your clothes)</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>b. Oral sex</strong> (someone’s mouth or tongue making contact with your genitals or your mouth or tongue making contact with someone else’s genitals)</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td><strong>c. Anal sex</strong> (someone putting their penis in your anus)</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td><strong>d. Sexual intercourse</strong> (someone putting their penis in your vagina)</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td><strong>e. Sexual penetration with a finger or object</strong> (someone putting their finger or an object like a bottle or a candle in your [IF D3= FEMALE OR TRANSGENDER OR SOMETHING ELSE OR MISSING, FILL: “vagina or”] anus)</td>
<td>○</td>
<td>○</td>
</tr>
</tbody>
</table>

P4. [SKIP P4 IF P3a-e ARE ALL = NO] Thinking about your whole life, has anyone had any of the following types of unwanted sexual contact with you (i.e., sexual contact without your consent and that you did not want to happen)?

<table>
<thead>
<tr>
<th>A. Forced touching of a sexual nature (forced kissing, touching of private parts, grabbing, fondling, rubbing up against you in a sexual way, even if it is over your clothes)</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>b. Oral sex</strong> (someone’s mouth or tongue making contact with your genitals or your mouth or tongue making contact with someone else’s genitals)</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td><strong>c. Anal sex</strong> (someone putting their penis in your anus)</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td><strong>d. Sexual intercourse</strong> (someone putting their penis in your vagina)</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td><strong>e. Sexual penetration with a finger or object</strong> (someone putting their finger or an object like a bottle or a candle in your [IF D3= FEMALE OR TRANSGENDER OR SOMETHING ELSE OR MISSING, FILL: “vagina or”] anus)</td>
<td>○</td>
<td>○</td>
</tr>
</tbody>
</table>
IPV Victimization

This section asks more questions about your experiences since the beginning of the current academic year. These questions asks about things that an intimate partner may have done to you. An intimate partner might be a boyfriend, girlfriend, spouse, or anyone you were in an intimate relationship with or hooked up with, including exes and current partners. As you answer the questions, please do not include times you knew they were joking around.

IPV1. Since the beginning of the current academic year in [FILL: August/September], [YEAR], has an intimate partner...

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. threatened to hurt you and you thought you might really get hurt?</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>b. pushed, grabbed, or shook you?</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>c. hit you, kicked you, slapped you, or beat you up?</td>
<td>○</td>
<td>○</td>
</tr>
</tbody>
</table>
## Campus Climate

### School Connectedness

The next questions ask about this school, meaning [FILL WITH UNIVERSITY SHORT NAME].

SC2. Please indicate how much you agree or disagree with each of the following statements. Please provide an answer that best reflects how you feel.

<table>
<thead>
<tr>
<th></th>
<th>Strongly Agree</th>
<th>Agree</th>
<th>Disagree</th>
<th>Strongly Disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. I feel valued as an individual at this school</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>b. I feel close to people at this school</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>c. I feel like I am a part of this school</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>d. I am happy to be a student at this school</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>e. I feel safe when I am on this school’s campus</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>f. I believe there is a clear sense of appropriate and inappropriate behavior among students at this school</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>g. I believe alcohol abuse is a big problem at this school</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>h. I believe this school is trying hard to protect the rights of all students</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>i. I believe this school is trying hard to make sure that all students are treated equally and fairly</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>j. I believe this school is trying hard to make sure that all students are safe</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>k. I believe that students at this school trust one another</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>l. I believe that students at this school respect one another</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
</tbody>
</table>

### General Perceptions of Campus Police, Faculty, and School Leadership

The next questions ask your views about three groups at this school: 1) Campus police/security, 2) Faculty, and 3) School Leadership. Please indicate how much you agree with each of the following statements, and answer as best as you can.

GC1. Overall, the campus police/security at this school...

<table>
<thead>
<tr>
<th></th>
<th>Strongly Agree</th>
<th>Agree</th>
<th>Disagree</th>
<th>Strongly Disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Are genuinely concerned about my well-being</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>b. Are doing all they can to protect students from harm</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>c. Treat students fairly</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>d. Are more interested in protecting the reputation of this school than the students they serve</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
</tbody>
</table>
GC2. **Overall, the faculty at this school...**

<table>
<thead>
<tr>
<th>Statement</th>
<th>Strongly Agree</th>
<th>Agree</th>
<th>Disagree</th>
<th>Strongly Disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Are genuinely concerned about my well-being</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>b. Are doing all they can to protect students from harm</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>c. Treat students fairly</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>d. Are more interested in protecting the reputation of this school ...</td>
<td>○</td>
<td>○</td>
<td></td>
<td>○</td>
</tr>
</tbody>
</table>

GC3. **Overall, the President/Chancellor, Deans, and other leadership staff at this school...**

<table>
<thead>
<tr>
<th>Statement</th>
<th>Strongly Agree</th>
<th>Agree</th>
<th>Disagree</th>
<th>Strongly Disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Are genuinely concerned about my well-being</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>b. Are doing all they can to protect students from harm</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>c. Treat students fairly</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>d. Are more interested in protecting the reputation of this school ...</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
</tbody>
</table>

*Perceptions of School Leadership Climate for Sexual Harassment and Sexual Assault Prevention and Response*

The next questions ask your opinion about this school’s efforts related to sexual harassment and sexual assault.

SAC1. **Please indicate how much you agree or disagree with each of the following statements. Please answer as best as you can when thinking about your school.**

<table>
<thead>
<tr>
<th>Statement</th>
<th>Strongly Agree</th>
<th>Agree</th>
<th>Disagree</th>
<th>Strongly Disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Sexual harassment is not tolerated at this school</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>b. This school takes training in sexual assault prevention seriously</td>
<td>○</td>
<td>○</td>
<td></td>
<td>○</td>
</tr>
<tr>
<td>c. This school is doing a good job of educating students about sexual assault (e.g., what consent means, how to define sexual assault, how to look out for one another)</td>
<td>○</td>
<td>○</td>
<td></td>
<td>○</td>
</tr>
<tr>
<td>d. This school is doing a good job of trying to prevent sexual assault from happening</td>
<td>○</td>
<td>○</td>
<td></td>
<td>○</td>
</tr>
<tr>
<td>e. This school is doing a good job of providing needed services to victims of sexual assault</td>
<td>○</td>
<td>○</td>
<td></td>
<td>○</td>
</tr>
</tbody>
</table>
Participation in Training

SAC2. Have you ever attended an assembly, workshop, or received any other type of training or classes offered by this school that covered...

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. The legal definition of sexual assault?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. What the definition of “consent” is and how to obtain it from a sexual partner?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c. This school’s policy on sexual assault?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>d. How to report sexual assault?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>e. What services are available for survivors of sexual assault?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>f. How to intervene as a bystander to protect other students from sexual assault?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>g. Other strategies for preventing sexual assault?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Awareness and Perceived Fairness of School Sexual Assault Policy and Resources

SAC3. Please indicate how much you agree or disagree with each of the following statements, answering as best as you can when thinking about your school.

<table>
<thead>
<tr>
<th></th>
<th>Strongly Agree</th>
<th>Agree</th>
<th>Disagree</th>
<th>Strongly Disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. I am aware of and understand this school’s procedures for dealing with reported incidents of sexual assault</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. I know what services are available for people who experience sexual assault</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>c. If a friend of mine were sexually assaulted, I know where to take my friend to get help</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>d. At this school, students who are accused of perpetrating a sexual assault are treated fairly</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>e. At this school, when it is determined that sexual assault has happened, the perpetrator gets punished appropriately</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Perceptions of School Leadership Climate for Treatment of Sexual Assault Victims

SAC4. If I were sexually assaulted I believe this school would...
<table>
<thead>
<tr>
<th></th>
<th>Strongly Agree</th>
<th>Agree</th>
<th>Disagree</th>
<th>Strongly Disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Take my case seriously</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>b. Protect my privacy</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>c. Treat me with dignity and respect</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>d. Enable me to continue my education without having to interact with the person who assaulted me</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
</tbody>
</table>

**Likelihood of Reporting**

**SAC5.** How likely or unlikely would you be to go to or get in touch with the following groups or organizations at your school if you were sexually assaulted?

<table>
<thead>
<tr>
<th></th>
<th>Very likely</th>
<th>Likely</th>
<th>Not likely</th>
<th>Not at all likely</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Administrators, faculty, or other officials at this school</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>b. A crisis center or helpline, or a hospital or health care center at this school</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>c. A crisis center or helpline, or a hospital or health care center <strong>not</strong> at this school</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>d. Campus police or security at this school</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>e. Local police not at this school, such as the county or city police department</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
</tbody>
</table>

**Likelihood of Bystander Behavior to Prevent Sexual Misconduct**

**SAC6.** Please indicate how likely or unlikely you are to do each of the following things. Please think about the situation and answer as best as you can.

<table>
<thead>
<tr>
<th></th>
<th>Very likely</th>
<th>Likely</th>
<th>Not likely</th>
<th>Not at all likely</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. If your friends are sending sexual pictures, web pages, or messages to someone who didn’t ask for them, how likely are you to say something to try to get them to stop?</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>b. If people you don’t know very well are making unwanted sexual comments, jokes, or gestures, how likely are you to say something to try to get them to stop?</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
</tbody>
</table>
Perceptions of Student Norms Related to Sexual Misconduct: Student Misconduct

SAC7. Please indicate how much you agree or disagree with each of the following statements. As you consider these statements, please think about the overall population of students at this school and try to answer as best as you can.

<table>
<thead>
<tr>
<th></th>
<th>Strongly Agree</th>
<th>Agree</th>
<th>Disagree</th>
<th>Strongly Disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. At this school, it is common for students to spread sexual comments, photos, or videos that people don’t want shared, either in person or by text, e-mail, or social media</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>b. At this school, it is common for students to call people who are gay or lesbian a negative name</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>c. A lot of sexual assault happens among students at this school when students are unable to provide consent because they are incapacitated, passed out, unconscious, blacked out, or asleep</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>d. At this school, it is common for students to make jokes about sexual assault or rape</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
</tbody>
</table>

Perceptions of Student Norms Related to Sexual Misconduct: Student Bystander Behavior and Involvement

SAC8. Please indicate how much you agree or disagree with each of the following statements.
### Personal Acceptance of Sexual Misconduct

SAC9. Please indicate how much you agree or disagree with each of the following statements.

<table>
<thead>
<tr>
<th></th>
<th>Strongly Agree</th>
<th>Agree</th>
<th>Disagree</th>
<th>Strongly Disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. People get too offended by sexual comments, jokes, or gestures</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>b. It doesn’t really hurt anyone to post sexual comments or photos of people without their consent through e-mail, text, or social media</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>c. A person who is sexually assaulted while he/she is drunk is at least somewhat responsible for putting themselves in that position</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>d. If one of your friends told you that someone had unwanted sexual contact with them, you would encourage him/her to report the incident to campus or local police</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>e. It is not necessary to get consent before sexual activity if you are in a relationship with that person</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>f. Accusations of sexual assault are often used by one person as a way to get back at the other</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>g. A lot of times, what people say is rape is actually consensual sex that they regretted afterwards</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
</tbody>
</table>
Supplemental Demographic Characteristics

D4. When did you first enroll as a student at this school?

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Month</td>
<td>Select an answer…</td>
<td>V</td>
<td>[DROP DOWN LIST: JANUARY, FEBRUARY, MARCH, APRIL, MAY, JUNE, JULY, AUGUST, SEPTEMBER, OCTOBER, NOVEMBER, DECEMBER. IF 2016 IS SELECTED, JUNE-DECEMBER DO NOT DISPLAY.]</td>
</tr>
</tbody>
</table>

D5. What is your ethnicity (as you define it)?

- Hispanic or Latino
- Not Hispanic or Latino

D6. What is your race (as you define it)? Select one or more.

- American Indian or Alaskan Native
- Asian
- Black or African American
- Native Hawaiian or Other Pacific Islander
- White

D7. Which of the following best represents how you think of yourself?

- Gay or lesbian
- Straight, that is, not gay or lesbian
- Bisexual
- Something else (please specify) __________________________
OCR considers whether the survey allows students to identify their interest in future or current participation in all of the sports they identify and general athletic experience. OCR also considers whether the survey allows students to provide additional information or comments about their interest, experience, and ability. For technical assistance purposes, the types of questions an institution could ask regarding interest in future participation, current participation, and prior athletic experience might be:

<table>
<thead>
<tr>
<th>Sport</th>
<th>Interest in Future Participation: At what level do you wish to participate in this sport at [Institution]?</th>
<th>Current Participation: At what level are you participating in this sport?</th>
<th>Prior Experience: At what level did you participate in this sport or any other relevant sport in high school, college, or in another capacity?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Basketball</td>
<td>☐ Intercollegiate  ☐ Club  ☐ Intramural  ☐ Recreational</td>
<td>☐ Intercollegiate  ☐ Club  ☐ Intramural  ☐ Recreational  ☐ Other ___________</td>
<td>College  ☐ Intercollegiate  ☐ Club  ☐ Intramural  ☐ Recreational  ☐ Other ___________  □ High School  ☐ Varsity  ☐ Junior Varsity  ☐ Club  ☐ Intramural  ☐ Recreational  ☐ Other ___________</td>
</tr>
<tr>
<td>Lacrosse</td>
<td>☐ Intercollegiate  ☐ Club  ☐ Intramural  ☐ Recreational</td>
<td>☐ Intercollegiate  ☐ Club  ☐ Intramural  ☐ Recreational  ☐ Other ___________</td>
<td>College  ☐ Intercollegiate  ☐ Club  ☐ Intramural  ☐ Recreational  ☐ Other ___________  □ High School  ☐ Varsity  ☐ Junior Varsity  ☐ Club  ☐ Intramural  ☐ Recreational  ☐ Other ___________</td>
</tr>
<tr>
<td>Other sport identified by student$^{22}$</td>
<td>☐ Intercollegiate  ☐ Club  ☐ Intramural  ☐ Recreational</td>
<td>☐ Intercollegiate  ☐ Club  ☐ Intramural  ☐ Recreational  ☐ Other ___________</td>
<td>College  ☐ Intercollegiate  ☐ Club  ☐ Intramural  ☐ Recreational  ☐ Other ___________  □ High School  ☐ Varsity  ☐ Junior Varsity  ☐ Club  ☐ Intramural  ☐ Recreational  ☐ Other ___________</td>
</tr>
</tbody>
</table>

### iii. Contact Information

OCR also looks at whether an institution requests contact information, to allow the institution to follow-up with students who wish to be contacted regarding their interests and abilities.

#### b. Target Population Surveyed

OCR considers the target population surveyed at the institution. Under Part Three, OCR evaluates whether the survey is administered as a census to all full-time undergraduate

---

$^{21}$ An open-ended inquiry for other sports should be prominent or otherwise readily visible and contain a line or other mechanism for students to write in the sport for which they wish to express interest and ability.

$^{22}$ If the survey is provided in paper form, an institution should provide a surplus of rows to ensure that a respondent can provide information for all the sports for which there is interest.
Re: Case No. 02-11-1028

New York City Department of Education

Dear Chancellor Fariña:

This letter is to notify you of the determination made by the U.S. Department of Education, New York Office for Civil Rights (OCR), with respect to the above-referenced complaint filed against the New York City Department of Education (NYCDOE). The complainant alleged that the NYCDOE subjected high school girls to discrimination on the basis of sex because the selection of interscholastic sports at the NYCDOE’s high schools does not effectively accommodate the interests and abilities of members of both sexes to the extent necessary to provide equal athletic opportunity.

OCR is responsible for enforcing Title IX of the Education Amendments of 1972 (Title IX), as amended, 20 U.S.C. § 1681 et seq., and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in programs and activities receiving financial assistance from the U.S. Department of Education (the Department). The NYCDOE is a recipient of financial assistance from the Department. Therefore, OCR has jurisdictional authority to investigate this complaint under Title IX.

The regulation implementing Title IX, at 34 C.F.R. § 106.41(a), specifically prohibits discrimination on the basis of sex in athletic programs offered by recipients of financial assistance from the Department. The regulation implementing Title IX, at 34 C.F.R. § 106.41(c), states that a recipient that operates or sponsors athletic teams must provide equal opportunity for members of both sexes.

In determining equality of opportunity, OCR considers factors set forth in 34 C.F.R. § 106.41(c), and in the following clarifying policy and guidance documents: the OCR Intercollegiate Athletics Policy Interpretation issued December 11, 1979, 44 Fed. Reg. 71413 (1979) (Policy Interpretation); a letter from OCR, dated January 16, 1996, entitled "Clarification of

OCR’s investigation included a comprehensive review and analysis of documents and other data that the complainant and NYCDOE submitted from school years 2008-2009, 2009-2010, 2011-2012 and 2012-2013. OCR also reviewed historical information that the NYCDOE provided from school year 2002-2003 to 2009-2010, regarding the addition of teams. OCR conducted on-site visits to interview administrators and athletics staff responsible for the operation of the athletic program at NYCDOE high schools in each of the five boroughs. OCR also conducted interviews with Public School Athletics League (PSAL) staff.¹

In determining whether the NYCDOE provided male and female students an equal opportunity to participate in its interscholastic athletics program by effectively accommodating their interests and abilities, OCR first considered the opportunities provided to students of each sex to compete in interscholastic events. If an institution meets any one part of the Three-Part test, OCR will determine that the institution has provided each sex with equitable opportunities to participate. Each part of the Three-Part test is an equally sufficient and separate method of complying with the Title IX regulatory requirement to provide nondiscriminatory athletic participation opportunities. An institution is in compliance, and considered to be providing equal athletic opportunities, if it meets any one of the following: (1) the athletic participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments; or (2) there is a showing by the institution of a history and continuing practice of program expansion that is demonstrably responsive to the developing interests and abilities of the underrepresented sex; or (3) it is demonstrated that the interests and abilities of the underrepresented sex are fully and effectively accommodated by the present program. The results of our investigation and the NYCDOE’s compliance with each component of the Three-Part test are discussed below.

**Part One: Are Competitive Opportunities Substantially Proportionate to Enrollment?**

Under Part One of the Three-Part Test, where the recipient provides participation opportunities for male and female students in numbers substantially proportionate to their respective enrollments, OCR will find that the recipient is providing nondiscriminatory participation opportunities for individuals of both sexes.

The NYCDOE has not claimed compliance with Part One. Enrollment and participation data show that the NYCDOE does not comply with Part One on the system level. During school year 2012-2013, females constituted 48% (152,200) of enrolled high school students, compared to 52% (161,769) for males; however, females accounted for only 44% (21,586) of athletic participants, compared to 56% (27,048) for males. This means that in order to achieve proportionality to

¹ OCR determined that the NYCDOE’s athletic program is administered by the PSAL. The terms NYCDOE and PSAL are used interchangeably herein.
enrollment, the NYCDOE would need to add at least 3,862 athletic opportunities for girls across the system. Thus, OCR has determined that athletic participation is not substantially proportionate to enrollment.

**Part Two: Is There a History and Continuing Practice of Program Expansion Demonstrably Responsive to the Developing Interests and Abilities of the Underrepresented Sex?**

The NYCDOE asserted that it satisfies Part Two of the Three-Part Test, *i.e.*, that it has a history and continuing practice of program expansion that is demonstrably responsive to the developing interests and abilities of the underrepresented sex. The following italicized language excerpts are taken from OCR’s 1996 Clarification regarding the Three-Part Test and set forth the standard for compliance under the Part Two option. Relevant information gathered regarding the NYCDOE is summarized below under each italicized provision:

*OCR will consider the following factors, among others, as evidence that may indicate a history of program expansion that is demonstrably responsive to the developing interests and abilities of the underrepresented sex:*

- **an institution's record of adding teams, or upgrading teams to interscholastic status, for the underrepresented sex.**

The NYCDOE did not provide any information regarding the upgrading of teams to interscholastic status. The NYCDOE provided documentation demonstrating that it added 353 girls’ teams from school year 2002-2003 to school year 2009-2010; however, the documentation also demonstrated that the NYCDOE eliminated 309 girls’ teams over the same time period. Accordingly, there was a net increase of 44 girls’ teams over that eight year period. Over the same time period, NYCDOE’s documentation demonstrated that it added 478 boys’ teams and eliminated 340 boys’ teams; for a net increase of 138 boys’ teams. Accordingly, 94 more boys’ teams than girls’ teams were added over the eight year period. Observed in a different way, the NYCDOE added 125 more boys’ teams than girls’ teams over the relevant period (478 boys’ teams added as compared to 353 girls’ teams added). Accordingly, OCR determined that the NYCDOE does not have a history of adding teams, or upgrading teams to interscholastic status, for the underrepresented sex.

- **an institution's record of increasing the number of participants in athletics who are members of the underrepresented sex.**

The NYCDOE submitted documentation demonstrating that it added 6,241 participation opportunities for girls during the period from 2003 to 2010; however, the elimination of teams over this period resulted in a loss of 3,218 girls’ athletic participation opportunities. Accordingly, a net of 3,023 new athletic participation opportunities were added for girls. Information the NYCDOE submitted also demonstrated that when accounting for fluctuations in overall enrollment, the rate of female participation in athletics was 10.2% in school year 2002-2003, and rose to 14.1% in school year 2012-2013; a total gain of 3.9% over that ten year period. The NYCDOE submitted

---

2 The NYCDOE did not provide information indicating how many teams it added annually over the course of this time period; instead, the information provided was a snapshot of total girls’ and boys’ teams active for each year.
documentation demonstrating that it added 8,894 participation opportunities for boys during the period from 2003 to 2010; however, the elimination of teams over this period resulted in a loss of 3,446 boys’ athletic participation opportunities. Accordingly, a net of 5,448 new athletic participation opportunities were added for boys. This resulted in the addition of 2,425 more boy athletes than girl athletes over that ten year period. When accounting for fluctuations in enrollment, the rate of male participation in athletics was 13.5% in school year 2002-2003, and rose to 16.7% in school year 2012-2013; a total gain of 3.2% over that ten year period. While this data shows a trend in the right direction, the numbers do not establish a history of increasing the number of girl participants in athletics when compared to the number of participation opportunities added for boys.

- an institution’s affirmative responses to requests by students or others for addition or elevation of sports.

The NYCDOE has not provided any documentation to demonstrate that it maintained records of requests for new teams prior to school year 2008-2009. As of school year 2008-2009, the NYCDOE adopted a mechanism for requesting the addition of a new team through the school principal; however, the NYCDOE does not have a process that allows students, parents, or coaches to make direct requests for the addition of teams to the PSAL. The NYCDOE acknowledged that there is no mechanism for, or system-level record of, requests generated by students, parents, coaches or other individuals for new teams or sports.

Principals OCR interviewed stated that although students or parents may bring a request to them or the athletic director, the principals decide which requests are forwarded to PSAL for review. Requests are made by principals through a password-protected application form on the PSAL website. Principals stated that, generally, before submitting a request, they consider whether there is: (a) sufficient interest; (b) facilities for practice and competition; and (c) coaching staff. Athletic directors OCR interviewed stated that if they know that they do not have sufficient numbers of participants, budget, or an available coach in order to support a request, they may not forward the request to the principal for consideration. Accordingly, OCR determined that there may be instances in which there is sufficient interest in a new team or sport that may not be communicated to the PSAL because some requests are filtered out by the structure of the PSAL request system.

During school year 2008-2009, 28 out of 51 (55%) requests for girls’ teams were approved; and 54 of 114 (47%) requests for boys’ teams were approved. During school year 2009-2010, 25 of 102 (25%) requests for girls’ teams were approved; and 46 of 124 (37%) requests for boys’ teams were approved. OCR notes that after the filing of the complaint in school year 2010-2011, none of the 127 requests for boys’ teams were approved; whereas, 85 of 129 (66%) requests for new girls’ teams were approved. Adding data from the two years together, the NYCDOE approved 53 of 153 (34.6%) requests for the addition of girls’ teams, and 100 of 238 (42%) requests for the addition of boys’ teams. It also is reasonable to assume that the number of requests made by students, parents, coaches, or others to high school principals or athletic directors for new girls’ teams not forwarded to PSAL was greater than the number of formal requests actually made by the schools.

Based on the above, OCR has determined that the NYCDOE has not established a pattern of affirmative responses to requests by students or others for the addition of sports and/or teams.
OCR will consider the following factors, among others, as evidence that may indicate a continuing practice of program expansion that is demonstrably responsive to the developing interests and abilities of the underrepresented sex:

- an institution's current implementation of a nondiscriminatory policy or procedure for requesting the addition of sports (including the elevation of club or intramural teams) and the effective communication of the policy or procedure to students.

As stated above, there is no system-level formal procedure for students, coaches, parents, or others to request additional sports. Students, parents and coaches may make requests to their athletic directors or principals, but those requests are not necessarily submitted to the PSAL for a variety of reasons. Information about the request process is included on the PSAL website, but it is not directed to students or parents. The NYCDOE informed OCR that the manner in which schools collect and record student interest in new teams may vary and is not overseen at the system level. For example, some schools may rely on lists of student signatures indicating interest in a new sport, but this is not the case for all schools; and the NYCDOE does not generate or maintain such information itself. The NYCDOE also stated that in addition to ensuring sufficient interest, schools proposing new teams are responsible for reserving space in their budget to cover the entirety of the team’s financial support for its first year, and the approval of new team requests is contingent on available funding. In addition, schools must have a potential coach available, as well as a facility the team can use. OCR determined that this process is insufficient to demonstrate that the NYCDOE has a nondiscriminatory policy or procedure for students or parents to request the addition of a sport, or that the NYCDOE effectively communicates any such policy or procedure to students or parents.

- an institution's current implementation of a plan of program expansion that is responsive to developing interests and abilities.

Beyond the formal request/approval process referenced above, the NYCDOE informed OCR that it has no specific system-level plan of program expansion.

OCR would also find persuasive an institution's efforts to monitor developing interests and abilities of the underrepresented sex; for example, by conducting periodic nondiscriminatory assessments of developing interests and abilities and taking timely actions in response to the results.

The NYCDOE informed OCR that it has not conducted assessments on the system level to monitor developing interests and abilities of the underrepresented sex. OCR determined that during the course of the investigation, in school year 2012-2013, the NYCDOE included questions related to athletic interests and abilities in its annual school climate survey; however, the NYCDOE informed OCR that the athletics questions would not continue to be part of the school climate survey. During school year 2012-2013, the PSAL appointed a Title IX Coordinator who conducted site visits at nine high schools, during which the Coordinator met with small groups of female students regarding their athletic interests.
Based on the above, OCR determined that the NYCDOE has not, on the system level, established a history and continuing practice of athletic program expansion responsive to the interests of female students; thus NYCDOE does not comply with Part Two. Rather, the increased opportunities for male students have, at least until this investigation started, outpaced those for female students. Additionally, the NYCDOE does not have a system for capturing interests expressed by students themselves; student interest is only represented in the requests made at the school level by principals. Even among such school-level requests, as recently as school year 2009-2010, three out of every four requests for new girls’ teams were rejected.

**Part Three: Are the Athletic Interests and Abilities of Female Students Being Fully and Effectively Accommodated?**

Although disproportionately high athletic participation rates by one sex (as compared to their enrollment rates) may indicate that a recipient is not providing equal athletic opportunities to its students of the other, underrepresented sex, a recipient can satisfy Part Three where there is evidence that the imbalance does not reflect discrimination, i.e., where it can be demonstrated that notwithstanding disproportionately low participation rates of the underrepresented sex, the interests and abilities of these students are, in fact, being fully and effectively accommodated. In making this determination, OCR considers whether there is (1) unmet interest in a particular sport; (2) sufficient ability to sustain a team in the sport; and (3) a reasonable expectation of competition for the team. If all three conditions are present, OCR will find that the recipient has not fully and effectively accommodated the interests and abilities of the underrepresented sex.

The 2010 Clarification provides that OCR evaluates a broad range of indicators in determining whether a recipient has unmet interest and ability to support an intercollegiate team in a particular sport, including the following five elements: (1) whether the recipient uses nondiscriminatory methods of assessment when determining the athletic interests and abilities of its students; (2) whether a viable team for the underrepresented sex recently was eliminated; (3) multiple indicators of interest; (4) multiple indicators of ability; and (5) frequency of conducting assessments. The 2010 Clarification adds that a recipient should document its assessment of students’ interests and abilities, and states that OCR evaluates the interests of the underrepresented sex by examining multiple indicators, including:

- Requests by students that a particular sport be added;
- Requests for the elevation of an existing club sport to interscholastic status;
- Participation in club or intramural sports;
- Interviews with students, coaches, administrators and others regarding interests in particular sports;
- Results of surveys or questionnaires of students regarding interest in particular sports;
- Participation in interscholastic sports by students at lower grade levels; and
- Participation rates in sports in middle schools, amateur athletic associations, and community sports leagues that operate in areas from which the institution draws its students.

The 2010 Clarification also explains that OCR’s evaluation of whether an institution assesses interest and ability periodically so as to be able to identify any developing interests and abilities
of the underrepresented sex in a timely and responsive manner takes several factors into account, including:

- The degree to which the previous assessment captured the interests and abilities of the institution’s students of the underrepresented sex;
- Changes in demographics or student population at the institution (e.g. virtually complete student body turnover every four years at a typical four-year institution); and
- Whether there have been complaints from the underrepresented sex with regard to a lack of athletic opportunities or requests for the addition of new teams.

The NYCDOE has not asserted that it is in compliance with Part Three of the Three-Part test. The NYCDOE acknowledged that it did not conduct any surveys or other system-wide assessments of interest until school year 2012-2013, when it included questions regarding sports on its annual school climate survey; nor does it keep track of intramural, community, amateur or other athletic participation by its students on any centralized basis. To the extent that the NYCDOE has not maintained records regarding its accommodation of athletic interests and abilities, OCR cannot conclude that it complies with Part Three of the Three-Part test.

Moreover, OCR found explicit evidence of unmet interest. As discussed under the Part Two analysis above, there have been 282 requests for the addition of new girls’ teams from school years 2008-2009 to 2010-2011, of which more than half (144) were rejected. This pool of rejected requests shows that there was unmet interest from girls in several sports; including volleyball, softball, basketball, soccer, tennis, cross-country, bowling, golf, and swimming. Again, these were requests from the school principal, and do not necessarily reflect less formal expressions of student interest or requests for new teams, of which the NYCDOE keeps no specific records.

Based on the information summarized above, OCR determined that the NYCDOE failed to meet any one part of the Three-Part Test to demonstrate that it is effectively accommodating the athletic interests and abilities of both sexes to the extent necessary to provide equal athletic opportunity. OCR’s investigative activities confirmed that athletic participation is not substantially proportionate to enrollment. Further, the NYCDOE has not demonstrated a history of continued practice of program expansion demonstrably responsive to the developing interests and abilities of the underrepresented sex. Additionally, all of the data and interviews confirmed that there are female students whose interests and abilities are not currently being met by the athletic opportunities available. Therefore, OCR determined that the NYCDOE is in violation of Title IX with respect to the issue investigated.

On January 22, 2015, the NYCDOE entered into the attached Agreement to address this compliance concern. The Agreement requires the NYCDOE to provide participation opportunities for students at the NYCDOE’s high schools that effectively accommodate their athletics interests and abilities, and assess whether there is unmet interest and ability among female students in the NYCDOE’s high schools. The Agreement also provides that if, through the assessments, the NYCDOE identifies a sport or sports in which there is sufficient but unmet interest and, if applicable, ability of female students to participate at the interscholastic level at a particular high school, the NYCDOE will continue to add athletic opportunities at the high school level. The Agreement further provides that the NYCDOE will develop a process or
procedure for students or other interested parties, such as coaches or parents, to use in requesting the addition of new sports or levels of sports at the NYCDOE’s high schools, and will publicize that process; and, provide training to the Athletic Director at each high school on the relevant requirements of Title IX as it pertains to equal athletic opportunities.

OCR will monitor implementation of the Agreement. If the NYCDOE fails to implement the Agreement, OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of the Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce the Agreement, OCR shall give the NYCDOE written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

This letter sets forth OCR’s determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR’s formal policy statements are approved by a duly authorized OCR official and made available to the public. The complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the NYCDOE may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the complainant may file another complaint alleging such treatment.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records, upon request. If we receive such a request, we will seek to protect, to the extent possible, personally identifiable information that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you have any questions about OCR’s determination, please contact Helen Whitney, National Equity Expert, at (646) 428-3838 or helen.whitney@ed.gov; Anna Moretto Cramer, Senior Compliance Attorney, at (646) 428-3826 or anna.moretto.cramer@ed.gov; or Jocelyn Panicali, Senior Compliance Team Attorney, at (646) 428-3796 or jocelyn.panicali@ed.gov.

Sincerely,

Timothy C. J. Blanchard

cc: XXX, Esq.
    XXX, Esq.