



Inter American University of Puerto Rico

President's Office

STANDARDS AND PROCEDURES FOR ADDRESSING ALLEGED VIOLATIONS OF THE PROVISIONS OF TITLE IX

Regulatory Document G-0820-049

Introduction

These policies and procedures are issued in harmony with the institutional policy for compliance with the provisions of Title IX approved by the Board of Trustees on May 22, 2015. In approving said policy, the Board recognized the institutional responsibility to address formal complaints in cases alleging violations of the provisions of Title IX. In order to fulfill this responsibility, these policies and procedures are established.

I. Legal Basis

On May 6, 2020, the federal Department of Education promulgated a new regulation that had the effect of refocusing the scope of Title IX, particularly as it relates to what type of conduct constitutes "sexual harassment" under Title IX and when the institutional response or lack of response could be deemed inconsistent with the new regulation and, consequently, constitute a potential violation of the Civil Rights Act of 1964.

These standards and procedures are promulgated by virtue of the authority vested in the the President of the University by the Board of Trustees in the Bylaws of the University. They are framed in the policy of the university for compliance with the provisions of Title IX and federal and state laws state laws applicable.

II. Scope

The policies and procedures described in this policy document apply to the entire University community including all supervisors, employees, faculty, and students of the University at all levels, provided that for the purposes of this article, those persons within the University's span of control shall be considered to be within the University's control. All such persons shall have the responsibility to observe these policies and procedures and shall be subject to investigation in cases where violations of the provisions of Title IX, as defined in institutional policy, are alleged.

The protections that provided by the Title IX extend to all programs or educational activities of the the University, as defined in this normative document, are carried out by the conducted on or off campus campus.

III. Purpose

This policy document is intended to establish the University ' s policies and procedures for reporting and addressing alleged violations of Title IX. These policies and procedures will promote the best interests of the University and help protect the reputation, integrity, rights, and welfare of the entire University community.

IV. Definitions

For the purposes of this document, the following terms shall have the meanings expressed below:

- 4.1 Stalking - A pattern of conduct directed at a specific person that has the effect of causing a reasonable person to fear for his or her safety or the safety of others or that causes emotional distress.
- 4.2 Sexual Assault - Any offense that meets the definition of rape, lewd acts , incest, or technical rape , as defined in the Federal Bureau of Investigation's Uniform Crime Reporting Program.
- 4.3 Emotional Distress - Refers to significant mental suffering or distress that can or not require treatment or professional counseling.
- 4.4 Hostile Environment- This is conduct constituting sexual harassment of such a severe, pervasive and objectively offensive nature that it has the effect of effectively denying a person, whether student or employee, equal access to academic opportunities or activities or the terms or benefits of his or her employment and that contributes to an intimidating,threatening or abusive educational or work environment in concrete terms.
- 4.5 Consent - Is the action of freely and voluntarily manifesting personal desire to carry out an action or act. The voluntariness of consent is affected when the person is under the influence of drugs, alcohol, or narcotics, no matter if he/she has taken them by him/herself or has been given them by another person with or without his/her knowledge
- 4.6 Title IX Institutional Coordinator - The official responsible for ensuring compliance with TitleIXprovisions IX from of the amendments to the Federal Higher Education Act. The

Institutional coordinator of Title IX works and advises the Coordinators of Title IX.

- 4.7 Auxiliary Coordinator of Title IX - Is the designated official in each of the academic units who is responsible for ensuring compliance with the provisions of Title IX in their academic unit, implementing the training required by the regulations and contributes and participates in the process of investigations and preliminary determinations of formal complaints that may be filed for alleged violations of the provisions of Title IX.
- 4.8 Employee- Any person who works for the University on a contract basis, with or without compensation ,including applicants for employment. For purposes of the protection conferred by the Act, the term employee shall be interpreted as broadly as possible.
- 4.9 Standard of proof - The standard of proof for adjudicating a formal complaint alleging a violation of the provisions of Title IX is a preponderance of the proof.
- 4.10 Student - Any person enrolled in any course or program offered by the University, as well as any applicant for admission.
- 4.11 Sexual Harassment - It is one of the forms in which gender discrimination is manifested against women or men, violating their dignity as a human being. It consists of any type of approach of an unwanted sexual nature. It can be requests for sexual favors and any other verbal or physical conduct of a sexual nature.
- 4.12 Gender identity - Refers to the way in which the person identifies, how they recognize themselves, in terms of gender that may or may not correspond to their biological sex or assigned at birth. For the purposes of achieving the purposes set forth in this statute, this definition will be interpreted as broadly as necessary to extend its benefits to every citizen exposed to an episode or pattern of discrimination.
- 4.13 Examining Officer - Attorney authorized to practice law by the Supreme Court of Puerto Rico designated to conduct formal proceedings to adjudicate a formal complaint as provided in these rules and procedures
- 4.14 Human Resources Officer- The Human Resources Officer of the University unit where the events occur.

- 4.15 Orientation sexual - Is the capacity of each person to feel an emotional, affective or sexual attraction to persons of a different gender, or of the same gender, or of more than one gender. For purposes of achieving the purposes set forth in this statute, this definition shall be interpreted as broadly as necessary to extend its benefits to every citizen exposed to an episode or pattern of discrimination.
- 4.16 Party complained against - The person who is charged with a violation of these Rules and Regulations.
- 4.17 Complainant - A person who alleges that has been subjected to a violation of any provision of Title IX.
- 4.18 Pattern of conduct - Are two or more acts, including, but not limited to, acts in which the harasser directly or indirectly or through third parties, by any action, procedure, device, or means follows, monitors, observes, watches, surveils, threatens, or communicates with a person or interferes with the person's property.
- 4.19 Reasonable person - It is a person who in similar circumstances would act in a similar manner to person who files a formal complaint for alleged violations of the Title provisions IX.
- 4.20 President- The president of the Inter American University of Puerto Rico.
- 4.21 Teacher- includes all members of the faculty of the University.
- 4.22 Educational program or activity - Refers to programs, activities, settings and facilities over which the University exercises substantial control with respect to the respondent and the context in which the conduct constituting sexual harassment occurs.
- 4.23 Formal Complaint - A written document filed by a complainant alleging a violation of the provisions of Title IX against a respondent and requesting that the University investigate the allegation and stating that, at the time the formal complaint is filed, the complainant was participating or desiring to participate in an educational program or activity or was employed by the University, as defined in this policy document. The term "written document" means any document or electronic submission that contains the physical or digital signature of the complainant or otherwise indicates that the complainant is the person filing the formal complaint.

- 4.24 Rebellion- Procedural state of which, being a party to a formal complaint, does not go to court. call formally made by the Examining Official or leaves the orders of this unfulfilled.
- 4.25 Supervisor- Any person who exercises any control or whose recommendation is considered in hiring, classifying, discharging, promoting, transferring, fixing compensation or hours, place or conditions of employment or over duties or functions performed or to be performed by an employee or group of employees or over any other term or conditions of employment, or any person who on a day-to-day basis performs supervisory duties .
- 4.26 Title IX - Are the provisions of the amendments to the federal Higher Education Act that provide protection against discrimination or harassment in- any academic, educational, extracurricular, athletic and any other program, activity or employment offered by an educational institution that receives federal funds regardless of where the activity takes place, on or off campus, as long as it is a University-sponsored or controlled activity.
- 4.27 Academic Unit- Refers to the nine university campuses, the Faculty of Law, School of Optometry, the Central System Office and any other college and professional school, preschool, elementary and secondary school of the System of the University.
- 4.28 University- The system of the Inter American University of Puerto Rico, Inc.
- 4.29 Relationship violence - Is any violent act committed by a person who is or has been in a relationship of a social, romantic or intimate nature with the victim. The existence of this relationship will be determined based on the complainant ' s allegations considering the duration of the relationship, the type of relationship and the frequency of encounters between the persons involved . Violent conduct includes , but is not limited to, sexual or physical abuse and the threat of being subjected to such abuse. This type of violent act does not include conduct defined as domestic violence.
- 4.30 Domestic violence- Domestic violence is a pattern of behavior in which a partner or ex-partner uses physical and/or sexual force, coercion, threats, intimidation, isolation, emotional or economic abuse to control his or her partner. It manifests itself as physical, sexual or psychological abuse, restriction of freedom , the use of strategies to exert power and control against the partner, among others.

V. Procedures for filing and addressing allegations of violations of the provisions of Title IX

5.1 Beginning of the procedure

5.1.1 Any student or employee who understands that they have been the object of any violation of the provisions of Title IX in their study or work center has the prerogative to file a formal complaint with the designated investigator of the unit school in which the situation allegedly occurred. The procedure begins with the presentation of the formal complaint (See Annex A). At the students' home, they may present the formal complaint to the Dean of Students or to the Assistant Coordinator of Title IX of their academic unit as they deem appropriate, however, this implies a change in the official designated to carry out the initial investigation.

The formal complaint can be filed by any tangible means, be it paper or electronic, and must contain a statement that the complainant was participating or wishing to participate in an educational or work program or activity under the substantial control of the University and, in addition, it must contain a physical or digital signature of the complainant so that it can be established that the complainant is the person who files the formal complaint. Any formal complaint that meets these formal requirements will be handled in accordance with these rules and procedures, even if the form provided for such purposes has not been used. (See Annex A).

The formal complaint must be filed within the jurisdictional term of one hundred and eighty (180) calendar days, from the date on which the events occurred. Upon receipt of the formal complaint, the designated investigator will open a case file and notify the Title IX Assistant Coordinator of the academic unit concerned.

5.1.2 The formal complaint must contain a list of the conduct allegedly incurred by the accused party and must be signed by the complainant.

5.1.3 investigator. Person who, in the first instance, is in charge of carrying out the preliminary investigation of the formal complaint.

- a. When a formal complaint is filed by a teaching or non-teaching employee and by a student of the University against members of the faculty, teaching or non-teaching employee,

contractor and visitor, the investigator shall be the Human Resources Officer of the academic unit where the events occur or his/her designee.

- b. In the formal complaint filed by a student against a student, the investigator shall be the Dean of Students of the academic unit where the facts occur or his/her designee.

5.2 Research

5.2.1 The investigator will conduct a confidential investigation of the allegations with the assistance of the Assistant Title IX Coordinator of the academic unit concerned. This investigation shall be initiated within a period of time not to exceed twenty (20) working days from the date the formal complaint was received.

5.2.1.1 Prerogatives of the parties in the initial investigation process

- a. The parties will have an equal opportunity to present evidence to support their allegations at this stage.

- b. During this phase, the parties may collect evidence and submit it to the investigator until the initial report has been completed.

- c. The parties may be assisted by a person of their choice, who may be a lawyer. However, at this stage of the proceedings, the right to be represented by counsel is not recognized; their function at this stage is limited to counseling.

- d. The parties shall be notified in writing of any appointment for interviews or meetings.

- e. The complained party and their counsel shall be notified at least ten (10) days before being summoned for their initial interview of a summary of the formal complaint that has been filed against them.

- f. The complained party and their counsel shall be notified at least ten (10) days before being summoned for their initial interview of a summary of the formal complaint that has been filed against them.

g. At this stage, the accused party must deliver all the evidence in its possession that serves to support its allegations.

h. The complained party has the obligation to keep the investigator informed of any other evidence he/she discovers or intends to use in the formal phase of these proceedings and to make it available to him/her .

i. Complaints arising from the same facts may be consolidated.

j. Neither the Rules of Civil Procedure nor the Rules of Evidence are applicable in the investigation process.

5.2.2 The investigator must present a confidential report of the investigation within an extendable term of forty-five (45) working days, from the date of initiation of the investigation. The days of academic and administrative recess, closing due to major causes or holidays will not count for the purposes of the term of forty-five (45) working days of this subsection.

5.2.3 The report will be sent with a copy of the case file to the director of the Office of Systemic Legal Advice of the University and to the Institutional Coordinator of Title IX. These officials will evaluate the report and forward their recommendations to the Chief Executive Officer of the academic unit where the formal complaint was filed within twenty (20) business days following receipt of the report.

5.3 Resolution of the formal complaint without the need for a hearing

5.3.1 If during the investigation process the complainant freely and voluntarily withdraws the formal complaint, the proceeding will be considered terminated and the case will be archived (See Annex B).

5.3.2 If the investigator's report reveals that there is not sufficient cause to believe that there has been a violation of the provisions of Title IX, he or she will notify the Systemic Legal Advice office and the the Institutional Coordinator of Title IX, who will explain to the complaining party, the findings of fact and the legal grounds that serve as the basis for this conclusion.

5.3.3 The Director of the Office of Systemic Legal Advice will ratify the report of the investigator by resolution written for the purpose. Said resolution will be notified to the parties and to the chief executive of the academic unit. It corresponds to the Director of the Office of Systemic Legal Advice, once the report has been ratified and the resolution notified in accordance with the previous paragraph, to summon the complainant party in writing, to comply with what is required therein.

- 5.3.4 If the complaining party agrees with this conclusion, the case shall be considered closed. If, on the other hand, the complaining party does not agree with this conclusion, he/she shall have the right to appeal to the chief executive of the academic unit in which the proceedings were initiated .
- 5.3.5 Alternative Dispute Resolution Methods - With the voluntary, informed, written consent of the parties, alternative dispute resolution methods may be used to attempt to reach a resolution. The person designated to handle the matter shall be a person certified in the application of alternative dispute resolution methods. Either party, before a resolution is issued, may withdraw from the process and request that the formal grievance adjudication process be continued. This process is not available for cases in which an employee has engaged in Title IX violations against a student.
- 5.3.6 In all other cases, proceed in accordance with the Administrative View section of this document.

5.4 Administrative view

5.4.1 Precautionary measures

In cases where a formal complaint is referred for final adjudication to an Examining Official, the Director of the System's Legal Counseling Office and the Title IX Institutional Coordinator may recommend to the Chief Executive that they take precautionary measures to alleviate the immediate effect of the conduct that may constitute a violation of the provisions of Title IX. These measures may include, but are not limited to, job and salary suspensions, student suspensions, campus access bans, withdrawal of internet access privileges, etc.

5.4.2 Appointment of the Examining Officer

5.4.2.1 Upon receipt of the recommendations of the Director of the System's Office of General Counsel and the Institutional Title IX Coordinator , the Chief Executive Officer will designate an Examining Officer to hear the formal complaint within ten (10) working days . .

5.4.3 Notification of formal complaint

5.4.3.1 The Examining Official will notify the defendant of his appointment within fifteen (15) working days, from the date of his appointment.

5.4.3.2 The notification may be made personally with proof of having been delivered to the respondent or by e-mail or certified mail with acknowledgment of receipt to the postal address that appears in the files of the University or to any other known address.

5.4.3.3 With the notification, the Examining Officer shall attach a copy of the formal complaint filed and shall warn the respondent of his/her right to be represented by an attorney or any other representative of his/her choice. He/she shall also warn the complained party that if he/she does not file an answer to the formal complaint within the jurisdictional term of ten (10) working days , counted from the date of notification or within the extension granted to him/her, the Examining Officer shall proceed to appoint and hold the hearing of the case in default and discharge the rest of his/her responsibilities under these rules and procedures.

If the hearing is held in rebellion, the defendant's participation in it will be limited to witnessing the proceedings and examining the documentary or physical evidence presented against him. The defendant will not be permitted to present evidence of any kind..

5.4.4 Notice of Formal Hearing

5.4.4.1 The Examining Officer shall notify all parties of the administrative hearing within ten (10) working days after receiving the answer to the formal complaint filed by the defendant.

5.4.4.2 The notification shall be made not less than ten (10) working days prior to the date set for the hearing, which shall be held within a term not to exceed thirty (30) working days from the date of receipt of the answer to the formal complaint.

5.4.4.3 The notification shall include the following information:

- a. Date and time of the hearing
- b. Place of view
- c. Purpose of the view
- d. Convenience of attending the hearing and the disadvantage of not doing so
- e. Rights rights, such as such as: the right to be represented by a lawyer or any other person person of of your choice, interrogation, cross-examine and present testimonial testimonial and/or documentary evidence.

5.4.5 Request for adjournment of the hearing

5.4.5.1 The purpose of these rules and procedures is that the complaints filed be adjudicated quickly and efficiently, but within a framework of justice and equity. Due to the foregoing, requests for suspension of proceedings will not be favored.

5.4.5.2 If either party requests the adjournment of a scheduled hearing, the request must be submitted in writing to the Examining Officer at least five (5) working days prior to the date of the hearing. A copy of the request must be served on the other party within the same period. The request must contain the grounds which, in the opinion of the requesting party, justify the granting of the requested remedy (See Annex C).

5.4.5.3 The party requesting the suspension of a hearing must appear before the Examining Official on the date and time set for the hearing, unless previously notified by the Examining Official granting the requested suspension. If the suspension has not been granted, the Examining Officer will hold the hearing as scheduled.

5.4.6 The view

5.4.6.1 In holding the hearing, the Official Examiner will guarantee all parties the following rights, except in the event that it is held in rebellion:

- a. Attend the hearing alone, accompanied and/or represented by an attorney or any other representative of your choice.
- b. The Rules of Civil Procedure or Evidence shall not apply at the hearing except in supplementary form at the discretion of the Examining Officer.
- c. Prior to the commencement of the hearing, any additional evidence that has been submitted after the conclusion of the initial investigation phase shall be provided to the respondent for his/her examination. This shall be done within a reasonable period of time at the discretion of the Examining Officer. Hearings shall not be suspended for not having previously received evidence.
- d. Hear all witness evidence and examine all documentary evidence presented at the hearing.
- c. Questioning and cross-examining witnesses.
- d. Present all testimonial and documentary evidence relevant to the formal complaint.
- F. Have and Submit relevant documents as evidence the dispute in question that are under the custody of University.

5.4.6.2 The proceedings before the Examining Officer shall be recorded by him/her.

5.4.6.3 The Examining Officer shall begin the hearing with a summary of the allegations of the formal complaint and explain how the hearing will be conducted .

5.4.6.4 During the hearing, the Hearing Officer shall have the authority to ensure that the proceeding is conducted in a decorous manner, including-not to be construed as limiting his or her powers-ordering a party, his or her attorney, representative or any witness to keep

silence and request any person who does not behave decently to leave the place where the hearing is taking place. The exercise of the powers herein granted to the Examining Official must be interpreted and applied in such a way as to guarantee the parties due process of law.

- 5.4.6.5 Only the parties, their representatives and an official representing the academic unit may be present at the hearing. The Examining Officer shall not permit the presence of persons not involved in the proceedings, except for witnesses when they are providing evidence, and any person he/she designates to assist him/her.
- 5.4.6.6 The University will start presenting the evidence at the hearing. After the presentation of this evidence, the defendant will present his evidence. Provided, however, that the Examining Official may alter this order whenever he deems it convenient. The burden of proof regarding all the elements related to the formal complaint filed will correspond to the plaintiff. The burden of proof regarding any element of mitigating circumstances or any defense to the charges filed will correspond to the defendant.
- 5.4.6.7 The witnesses who are going to testify at the hearing will take an oath before the Examining Officer. Once sworn in, they will leave the room until it is time to give their statement, unless the parties stipulate that the witnesses, or one of them, remain in the room while others testify.
- 5.4.6.8 The Examining Official will issue his Resolution within a term of forty-five (45) calendar days counted from the date on which the hearing has concluded. Said Resolution must contain, among other information, the following:
 - a. The date and place where the hearing was held, the parties and/or representatives and witnesses who appeared at the hearing.
 - b. The allegations of the formal complaint presented clearly and concisely.
 - c. The determinations of fact based on the **record** from the hearing.

- d. Conclusions of law.
- e. The Resolution based on findings of fact and conclusions of law.
- f. Recommendations regarding sanctions to be imposed, if applicable.

5.4.6.9 It will be the responsibility of the Examining Official to notify the Resolution to the main executive of the academic unit, the director of the Office of Systemic Legal Advice, the Institutional Coordinator of Title IX, the parties and the legal representative of the defendant, if any. Notification can be made by mail or email.

5.4.6.10 If the formal complaint was adjudicated in favor of the complainant, the chief executive shall notify the respondent and his/her legal representative, if applicable, of his/her determination and the disciplinary sanctions to be imposed within ten (10) calendar days, by certified mail with return receipt requested.

5.4.7 Disciplinary sanctions

5.4.7.1 The sanctions that may prevail to a person found in violation of the provisions of Title IX are the following:

5.4.7.2 Teaching, non-teaching and non-university teaching employees

- a. Written reprimand.
- b. Suspension from employment and salary for a term not to exceed three (3) months.
- c. Dismissal shall be imposed in consideration of the degree of the offense committed as expressed in the Resolution of the Officer, Examiner.

5.4.7.3 Students

- a. Suspension from the University for a term not to exceed one year
- b. Suspension for a term longer than one year but not exceeding two years
- c. Permanent expulsion from the university.

5.4.7.4 If at the time the sanction is determined, it entails suspension and the defendant had been preventively suspended, the final suspension that is determined will start counting from the date the preventive suspension began.

5.4.8 Appeal

5.4.8.1 Any of the parties who do not agree with the final determination may file an appeal with the President of the University within the next ten (10) working days of receiving a copy of the Resolution. This term is jurisdictional.

5.4.8.2 The President of the University must issue his decision within ten (10) business days following the presentation of the appeal, if any resolution is issued, it will be considered final and unappealable. If the President fails to take any action in relation to the appeal after ten (10) days after it was filed, it will be understood that it has been rejected out of hand.

5.4.9 Contractors

5.4.9.1 In the case of contractors, suppliers, guests or visitors, the University shall not be liable for their actions except under the following conditions:

- a. that any improper behavior has been reported;
- b. is in a position to take action regarding such conduct;
- d. and fail to take immediate and appropriate corrective action in relation to the situation;
- e. in any case, the degree of control that the University can effectively exercise over the person will be taken into consideration.

5.4.10 Interpretation

5.4.10.1 The provisions of these rules and procedures must be interpreted as broadly as possible in light of their purposes and the set of rules that comprise it and in harmony with the purposes of Title IX.

VI. Prohibition of retaliation

Federal regulations expressly prohibit retaliation against persons who file formal complaints alleging violations of Title IX. Initiating disciplinary proceedings in accordance with applicable institutional regulations against any person who has made false or bad faith statements or representations in a proceeding under this policy document does not constitute retaliation. However, a mere finding of liability, without more, in such a proceeding will not necessarily be considered sufficient to establish that the person made false or bad faith statements or representations.

VII. Separability clause

The provisions of these rules and procedures are separable from each other, so that the declaration of nullity of any of them will not affect the others, which maintain their validity and effectiveness regardless of those that have been declared null and void.

VIII. Repeal and amendments

These policies and procedures supersede policy document G-0216-043 and any other guidelines that conflict with the provisions herein. These policies and procedures may be amended by the President of the University.

IX. Validity

These policies and procedures shall be effective immediately.

X. Approval

President

Date (D -M -Y)

Annexes



COMPLAINT WITHDRAWAL FORM - TITLE IX

Unit: _____

Date of Request _____

Name of Complainant _____

Na

Name of Respondent: _____

Mailing Address: _____

Phone _____

Number of Identification _____

Case filing date: _____ Number of case: _____

Cause for the withdrawal: _____

By signing this document, I agree to withdraw from the complaint filed, freely and without feeling pressured, intimidated or coerced, by the Inter American University of Puerto Rico, the defendant or a third party. With your signature, you are aware that the case will be filed as stipulated in the Normative Document to deal with alleged violations of the provisions of Title IX.

Signature of Complainant



REQUEST FORM FOR SUSPENSION OF HEARING - TITLE IX

Unit: _____ Date of Application _____

Applicant's name: _____

Mailing Address: _____

Identification number _____ Date _____ Phone _____

and time of the hearing _____ Place of view _____

Case filing date: _____ Case Number _____

Reason for requesting suspension: _____

Applicant's signature

OFFICIAL USE OF THE EXAMINING OFFICER (A)

Approved: ___ Denied _____ Date of the new signal _____

Official Examiner

Date: _____