

**Major Provisions of the new Title IX regulations
implemented on August 14, 2020, include:**

- The University can neither compel a party to participate in the Title IX procedure nor retaliate against a party for not participating.
- The University cannot violate a party's First Amendment rights.
- Prescribed definitions of sexual harassment, sexual assault, domestic and dating violence, and stalking that are prohibited under Title IX.
- Procedural due process requirements that apply equally to students, faculty, and staff.
- Supportive measures available to Complainants (the person who is reported to have experienced harm) and Respondents (the person who is accused of engaging in the harmful conduct) equally, regardless of whether a matter is investigated.
- A presumption of innocence for the Respondent.
- A signed formal complaint from the Complainant or the Title IX Coordinator as a requirement prior to any formal investigation.
- An investigation with the opportunity for the parties (the Complainant and Respondent) to make a statement, provide witnesses, and present evidence to the investigator.
- The dismissal of a complaint:
 - at the written request of a complainant;
 - because the reported conduct does not fall within the defined conduct covered by Title IX;
 - because the reported conduct happened outside of the United States;
 - because the reported conduct did not occur within a University education program or activity; or,
 - because the complainant is not participating or seeking to participate in a University program or activity at the time of the filing of the complaint.
 - Parties will have the right to appeal a dismissal.
- The University must state whether it has chosen to use the preponderance of the evidence standard, or the clear and convincing evidence standard, for all formal complaints of sexual harassment (including cases in which employees are respondents). Penn State has chosen the preponderance of the evidence standard, which means that the alleged conduct more likely than not occurred.
- Parties may be accompanied by an advisor of their choice to any grievance-related meeting or proceeding.
- The Complainant and Respondent may enter into a voluntary informal resolution agreement to resolve the matter. However, in matters in which a student files a formal complaint against faculty or staff, the University may not resolve the matter by informal agreement.

- A hearing by trained decision-maker(s). At a hearing, the parties have the following rights:
 - to be provided with an advisor if they do not have one;
 - to have their advisor cross-examine the other party and witnesses;
- Statements from a party or witness who fails to appear or refuses to submit to cross-examination cannot be considered by the decision-maker.
- Following a hearing, the parties have the following rights:
 - to receive a written notice of outcome including the basis for the decision;
 - if there is a finding of responsibility, to receive written sanctions and remedies;
 - to appeal the decision of the decision-maker(s).
- Designated time frames for the review of evidence, including evidence not relied upon by the investigator, and designated time frames for review of investigative reports.

Changes to Penn State Policies and Procedures (to comply with the new regulations):

In response to these sweeping changes, Penn State has taken several steps to comply with the new Title IX regulations. [University policy AD85](#) is now the University's standalone Title IX Policy, which reflects the new regulatory requirements and Penn State's efforts to ensure a fair process for all parties involved. In addition, other University policies and procedures have been revised to address conduct that falls outside of the Title IX jurisdictional requirements (non-Title IX sexual misconduct). Please see the University's revised Discrimination and Harassment Policy ([AD91](#)) for further information.

Key provisions of the University's Title IX Policy (AD85) include:

- Provisions for an advisor of the party's choice. Parties are provided these options:
 - To have an advisor of their choice present at all grievance-related meetings and proceedings;
 - At the hearing stage (only if the other party has an attorney as their advisor), to have an attorney, trained in Penn State's procedure, appointed at no cost to the parties, to review evidence and prepare for the hearing, and to conduct cross-examination(s).
- Informal resolution of complaints. Parties may resolve a matter informally by agreement of the Complainant, Respondent, and the Title IX Coordinator. Informal resolutions cannot be applied in matters in which a student is making a sexual harassment complaint against a faculty or staff member.
- Hearings before a trained hearing panel. The hearing panel will be a mixed-gender, three (3)-person panel who are members of the University's Title IX Hearing Board. The Hearing Panel will:
 - make evidentiary determinations (e.g., relevance); and,
 - make findings of responsibilities.

- Provisions for the application of sanctions and notification to both parties. Following a finding of responsibility, sanctions and remedies will be issued by:
 - For student respondents, the Senior Director, Office of Student Conduct.
 - For employee respondents, their immediate supervisor in consultation with relevant University officials.
 - For an employee subject to the terms of a collective bargaining agreement, the matter shall be referred to Labor and Employee Relations to ensure that any discipline and/or sanctions are imposed in accordance with the collective bargaining agreement applicable to the employee.
 - For a tenured or tenure-eligible faculty member, and the sanction imposed is recommended dismissal of the faculty member's employment and/or revocation of tenure, the matter shall be referred to the appropriate academic administrator to initiate dismissal pursuant to Penn State Policy [AC70](#).
- Designation of appeal decision-makers for student, faculty and staff matters. The decision-maker for appeals is:
 - For undergraduate students, the Associate Vice President for Undergraduate Education or their designee.
 - For graduate students, the Vice Provost for Graduate Education and Dean of the Graduate School or their designee.
 - For staff, the Vice President for Human Resources or their designee
 - For faculty and postdoctoral scholars/fellows, the Vice Provost for Faculty Affairs or their designee.
- Application of the Preponderance of Evidence standard to all Title IX matters. All findings of responsibility for Title IX Prohibited Conduct are rendered using a preponderance of the evidence standard.