



2020 TITLE IX REGULATIONS: PUTTING IT ALL TOGETHER

A review of the required
elements for Title IX sexual
harassment

With Jessica Brown



AGENDA



TITLE IX

equity

Sexual Harassment Definition

Scope

Involved Parties



THE 2020 TITLE IX REGULATIONS

SEXUAL HARASSMENT ONLY

1

Narrows the definition of sexual harassment;

3

Narrows eligibility to file a complaint;

2

Narrows the scope of the institution's educational program or activity;

4

Develops procedural requirements for the investigation and adjudication of sexual harassment complaints, only.



SEXUAL HARASSMENT: SECTION 106.30

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

Quid Pro Quo

(1) An **employee** of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;

Hostile Environment Sexual Harassment

(2) 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 recipient's education program or activity; or

VAWA Crimes

(3) "**Sexual assault**" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "**dating violence**" as defined in 34 U.S.C. 12291(a)(10), "**domestic violence**" as defined in 34 U.S.C. 12291(a)(8), or "**stalking**" as defined in 34 U.S.C. 12291(a)(30).

SEXUAL ASSAULT

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 or by a sex-related object, without the consent of the victim.

Incest

Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Sexual Contact (Replaced Fondling)

The intentional, nonconsensual touching of the clothed or unclothed body parts of another person for the purpose of sexual degradation, sexual gratification, or sexual humiliation. Sexual Contact also includes the forced, nonconsensual touching by the victim of the actor's clothed or unclothed body parts for the purpose of sexual degradation, sexual gratification, or sexual humiliation.

Statutory Rape

Sexual intercourse with a person who is under the statutory age of consent.

DATING VIOLENCE

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim

The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of:

The length of the relationship

The type of relationship

The frequency of interaction between the persons involved in the relationship

DOMESTIC VIOLENCE

The term domestic violence is a “felony or misdemeanor crimes of violence” committed by:

A current or former spouse of the victim

A person with whom the victim shares a child in common

A person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner

A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the violence occurred

Or any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred

STALKING

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

1

fear for the person's safety
or the safety of others

or

2

suffer substantial
emotional distress

JURISDICTION



COVERED LOCATIONS



Institutions must exercise **substantial control** over both the respondent and the context of alleged sexual harassment occurred

- On campus or in a building owned or controlled
- Institution exercised substantial control over the respondent and the context of alleged sexual harassment that occurred off campus pursuant to § 106.44(a); or
- Off-campus incident that occurs as part of the institution's operations



NOT COVERED LOCATIONS

- Off campus conduct, even if it has an impact on the educational program or activity;
- Conduct that occurs outside of the United States.



COVERED INDIVIDUALS

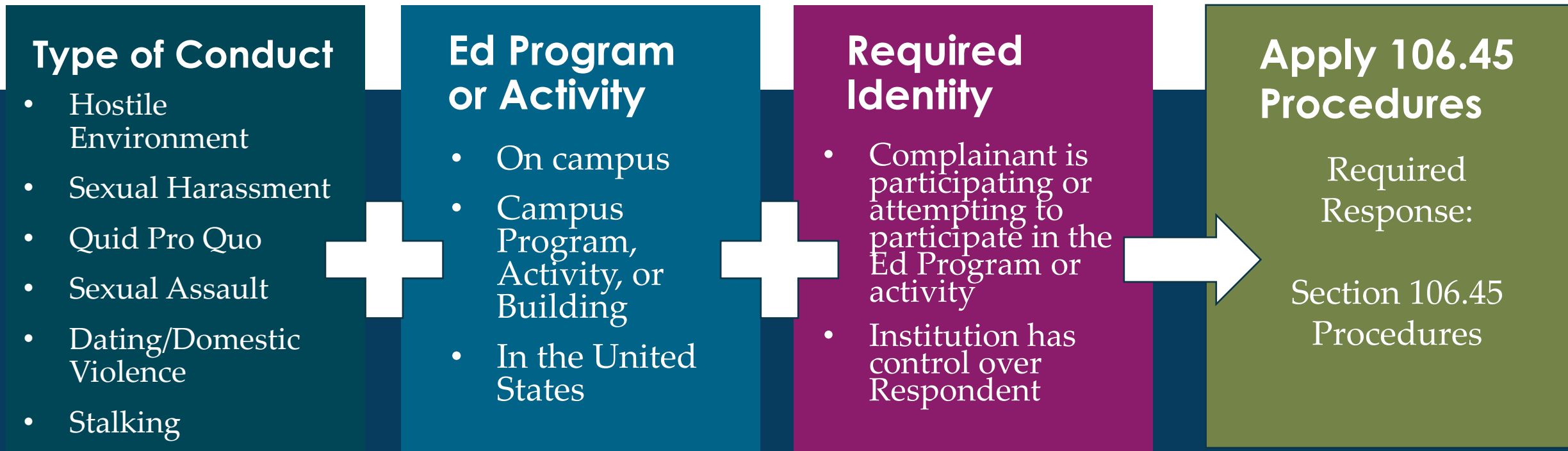
ELIGIBILITY FOR TITLE IX'S PROTECTIONS:

“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 recipient with which the formal complaint is filed.” 34 C.F.R. § 106.30

- Enrolled or Employed
- Applicant
- Accepted or Hired



SUMMARY: TITLE IX APPLICATION (POST-MAY 2020)





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