



COLUMBUS STATE

UNIVERSITY

OFFICE FOR CIVIL RIGHTS

Questions and Answers on Title IX and Sexual Violence

Columbus State University's Compliance

Report by the S.A.V.E Task Force

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A. A School's Obligation to Respond to Sexual Violence

A-1. What is sexual violence?

OCR Answer: Sexual violence, as that term is used in this document and prior OCR guidance, refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Sexual violence can be carried out by school employees, other students, or third parties. All such acts of sexual violence are forms of sex discrimination prohibited by Title IX.

COLUMBUS STATE UNIVERSITY Response: Definition of Sexual Assault (pg. 37, Columbus State University Handbook):

Columbus State University defines sexual assault as offenses, which include, but are not limited to rape, aggravated sodomy, statutory rape, sexual battery and aggravated sexual battery as they are defined in chapter six (6) of the "Official Code of Georgia Annotated". In addition, it should be understood that any form of sexual assault is also considered sexual harassment. Sexual assault includes any physical sexual contact with a person who is unable to consent. A person who is unable to consent includes, but is not limited to: (1) an unmarried person, under the age of 17; (2) a person who is physically helpless (i.e., unconscious or incapable of communicating an unwillingness to engage in an act); or (3) a person who is mentally incapacitated (i.e., one rendered incapable of knowing or controlling his or her conduct, or incapable of resisting an act, due to the influence of any drug, narcotic, anesthetic, alcohol, or other substance; or one who is lacking insufficient capacity to understand and appreciate the act, its implications, and consequences).

A-2. How does Title IX apply to student-on-student sexual violence?

OCR Answer: Under Title IX, federally funded schools must ensure that students of all ages are not denied or limited in their ability to participate in or benefit from the school's educational programs or activities on the basis of sex. A school violates a student's rights under Title IX regarding student-on-student sexual violence when the following conditions are met: (1) the alleged conduct is sufficiently serious to limit or deny a student's ability to participate in or benefit from the school's educational program, i.e. creates a hostile environment; and (2) the school, upon notice, fails to take prompt and effective steps reasonably calculated to end the sexual violence, eliminate the hostile environment, prevent its recurrence, and, as appropriate, remedy its effects.

COLUMBUS STATE UNIVERSITY Response: Columbus State University responds to all reports of student-on-student-sexual violence in a prompt and effective manner using the

Association of Title IX Administrators (ATIXA) Grievance Process Flowchart Model, Investigation Checklist and Timeline that outlines effective steps in response to sexual violence. These ATIXA models are used as a guide for steps in which both the Complainant and the Respondent's rights, safety, confidentiality, and educational pursuits are considered in order to create an environment that is not hostile and does not deny a student the right to attend class if at all possible.

Columbus State University has purchased MyStudentBody which has a sexual violence educational component, along with alcohol and drug educational components. Columbus State University has also taken steps to end sexual violence with educational programming including RAINN Day, Safe Spring Break Week, Speak Up, Speak Out, and many more programs sponsored by the S.A.V. E. Task Force, and BACCHUS Peer Educator group. The S.A.V.E Task Force also offers financial support and incentives for student organizations to sponsor sexual violence prevention and education events.

A-3. How does OCR determine if a hostile environment has been created?

OCR Answer: As discussed more fully in OCR's 2001 Guidance, OCR considers a variety of related factors to determine if a hostile environment has been created; and also considers the conduct in question from both a subjective and an objective perspective. Specifically, OCR's standards require that the conduct be evaluated from the perspective of a reasonable person in the alleged victim's position, considering all the circumstances. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the conduct is physical. Indeed, a single or isolated incident of sexual violence may create a hostile environment.

COLUMBUS STATE UNIVERSITY Response: Sexual Misconduct is evaluated at Columbus State University by a trained Sexual Assault Hearing panel consisting of a representative from faculty, staff, Human Resources and a Student Justice from the Student Government Association. Training consists of four webinars lasting 90 minutes each and includes the training competencies for hearing panels created by ATIXA for hearing board training. The training will continue to be supplemented throughout the academic year with periodic follow up meetings, related and timely articles and webinars, and renewed annually at the beginning of every fall semester.

Actions and Recommendations for Future: As suggested in *Not Alone: The First Report of the White House Task Force to Protect Students From Sexual Assault*, the S.A.V.E Task Force will create a Campus Climate survey using the toolkit provided in the *Not Alone* resources website utilizing Qualtrics survey program. The survey will be administered during the 2014-2015 academic year.

A-4. When does OCR consider a school to have notice of student-on-student sexual violence?

OCR Answer: OCR deems a school to have notice of student-on-student sexual violence if a responsible employee knew, or in the exercise of reasonable care should have known, about the sexual violence. See question D-2 regarding who is a responsible employee.

A school can receive notice of sexual violence in many different ways. Some examples of notice include: a student may have filed a grievance with or otherwise informed the school's Title IX coordinator; a student, parent, friend, or other individual may have reported an incident to a teacher, principal, campus law enforcement, staff in the office of student affairs, or other responsible employee; or a teacher or dean may have witnessed the sexual violence. The school may also receive notice about sexual violence in an indirect manner, from sources such as a member of the local community, social networking sites, or the media. In some situations, if the school knows of incidents of sexual violence, the exercise of reasonable care should trigger an investigation that would lead to the discovery of additional incidents. For example, if school officials receive a credible report that a student has perpetrated several acts of sexual violence against different students, that pattern of conduct should trigger an inquiry as to whether other students have been subjected to sexual violence by that student. In other cases, the pervasiveness of the sexual violence may be widespread, openly practiced, or well-known among students or employees. In those cases, OCR may conclude that the school should have known of the hostile environment. In other words, if the school would have found out about the sexual violence had it made a proper inquiry, knowledge of the sexual violence will be imputed to the school even if the school failed to make an inquiry. A school's failure to take prompt and effective corrective action in such cases (as described in questions G-1 to G-3 and H-1 to H-3) would violate Title IX even if the student did not use the school's grievance procedures or otherwise inform the school of the sexual violence.

COLUMBUS STATE UNIVERSITY Response: Under the section of Policy in Sexual Misconduct Policies and Procedures on page 36 of the Student Handbook:

Sexual Misconduct Policies and Procedures

Introduction

Columbus State University is committed to creating and maintaining a University community in which all persons can work and learn together in an atmosphere free of all forms of harassment. Thus, all campus members should refrain from any conduct that could give rise to a charge of sexual misconduct. Columbus State University treats all members of the campus community the same in sexual misconduct cases whether male or female; straight, gay, lesbian, bisexual or transgender; part-time or full-time; with or without disabilities; and different races or national origins. Persons who engage in sexual misconduct shall be subject to disciplinary action, to include suspension or expulsion when warranted.

The university affords certain rights to campus members who have been sexually harassed and/or assaulted. These rights include assistance in reporting the crime and in securing counseling and health services. Accused persons are subject to arrest, incarceration, and prosecution through the court system. Accused persons are also subject to university judicial proceedings that may result in suspension or permanent

expulsion from Columbus State University. Campus action may proceed independently of action by local, state or federal authorities. Columbus State University offers information regarding the prevention of sex offenses through its University Police Department. To obtain the information, contact University Police at (706) 507-8911.

Sexual Misconduct Offenses includes, but are not limited to:

- a. **Sexual Harassment**- Unwelcome, gender-based verbal or physical conduct that is, sufficiently severe, persistent or pervasive that it, unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the university's educational program and/or activities, and is, based on power differentials (quid pro quo), the creation of a hostile environment or retaliation.
- b. **Non-Consensual Sexual Contact**- Any intentional sexual touching, however slight, with any object, by a man or a woman upon a man or a woman, that is without consent and/or by force. Sexual Contact includes intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice.
- c. **Non-Consensual Sexual Intercourse**- Any sexual intercourse, however slight, with any object, by a man or woman upon a man or a woman, that is without consent and/or by force. Intercourse includes vaginal penetration by a penis, object, tongue or finger, anal penetration by a penis, object, tongue, or finger, and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.
- d. **Sexual Exploitation**- Occurs when a student takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to: invasion of sexual privacy; prostituting another student; non-consensual video or audio-taping of sexual activity; going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex); engaging in voyeurism; knowingly transmitting an STI or HIV to another student; Exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals. Sexually-based stalking and/or bullying may also be forms of sexual exploitation.

The Procedures

Sexual misconduct should be reported immediately to the appropriate authorities if it occurred on campus or to local law enforcement if it occurred off campus. The Office of the Dean of Students or University Police may assist in reporting the crime. Sexual misconduct may also be reported online with the BART (Behavioral Assessment and

Recommendation Team) Reporting system at <http://sa.columbusstate.edu/bart.php>. The Counseling Center, the Student Health Center, and Sexual Assault Support Center are confidential services available.

If the accused party is a student and the assaulted person decides to file charges on campus, an administrator in the office of the Dean of Students will meet with each party individually, review the individual statements, conduct an investigation, and direct the appropriate disposition of the case.

If the accused is an employee and the assaulted person decides to file charges on campus, a written statement of the incident must be submitted to the Director of Human Resources. The Director of Human Resources will meet with each party individually, review the individual statements, conduct an investigation, and make a recommendation as to a disposition of the case.

If anyone in a supervisory capacity or a responsible employee is made aware of such a complaint, he or she must bring the matter to the attention of the Director of Human Resources. No person shall be reprimanded or discriminated against in any way for initiating an inquiry or complaint in good faith. Retaliation in any form will not be tolerated. Columbus State University's objective is to take whatever action may be needed to prevent, correct, and if necessary, discipline persons whose behavior violates this policy.

In Section 103 Sexual Harassment and Consensual Relationship in the Faculty/Staff Handbook:

COMPLAINT PROCEDURES

Any member of the Columbus State University community who believes that he or she has been sexually harassed is encouraged to bring the matter to the attention of the director of human resources. Likewise, if anyone in a supervisory capacity is made aware of such a complaint, he or she must bring the matter to the attention the director of human resources. No person shall be reprimanded or discriminated against in any way for initiating an inquiry or complaint in good faith. Columbus State University's objective is to take whatever action may be needed to prevent, correct, and if necessary, discipline persons whose behavior violates this policy.

Also, any sexual violence or harassment cases reported to University Police are forwarded to the Office of the Dean of Students, and Title IX Coordinator and Deputy Coordinators for further investigation. Faculty and staff are made aware of and trained on an annual basis to report and kind of concerning behavior to the BART reporting.

Actions and Recommendations for Future: Human Resources has purchased the Skillssoft program that can be used to train all Columbus State University employees and will begin utilizing this online mandatory training beginning the 2014-2015 academic year. This training will clarify who a responsible employee is and their requirement for reporting sexual violence. The S.A.V.E Task Force has already begun planning an update to their website that will include a

step by step guideline for faculty and staff to respond to a report of sexual violence. Also, bystander intervention training and student rights in pursuing a student conduct investigation with the University will become a bigger emphasis in programming and preventative education efforts and resource materials. The language of “anyone in a supervisory capacity” will be changed to “responsible employee” in all publications in order to be consistent with the terminology that OCR uses.

A-5. What are a school’s basic responsibilities to address student-on-student sexual violence?

OCR Answer: When a school knows or reasonably should know of possible sexual violence, it must take immediate and appropriate steps to investigate or otherwise determine what occurred (subject to the confidentiality provisions discussed in Section E). If an investigation reveals that sexual violence created a hostile environment, the school must then take prompt and effective steps reasonably calculated to end the sexual violence, eliminate the hostile environment, prevent its recurrence, and, as appropriate, remedy its effects. But a school should not wait to take steps to protect its students until students have already been deprived of educational opportunities. Title IX requires a school to protect the complainant and ensure his or her safety as necessary, including taking interim steps before the final outcome of any investigation.

The school should take these steps promptly once it has notice of a sexual violence allegation and should provide the complainant with periodic updates on the status of the investigation. If the school determines that the sexual violence occurred, the school must continue to take these steps to protect the complainant and ensure his or her safety, as necessary. The school should also ensure that the complainant is aware of any available resources, such as victim advocacy, housing assistance, academic support, counseling, disability services, health and mental health services, and legal assistance, and the right to report a crime to campus or local law enforcement. For additional information on interim measures, see questions G-1 to G-3. If a school delays responding to allegations of sexual violence or responds inappropriately, the school’s own inaction may subject the student to a hostile environment. If it does, the school will also be required to remedy the effects of the sexual violence that could reasonably have been prevented had the school responded promptly and appropriately. For example, if a school’s ignoring of a student’s complaints of sexual assault by a fellow student results in the complaining student having to remain in classes with the other student for several weeks and the complaining student’s grades suffer because he or she was unable to concentrate in these classes, the school may need to permit the complaining student to retake the classes without an academic or financial penalty (in addition to any other remedies) in order to address the effects of the sexual violence.

COLUMBUS STATE UNIVERSITY Response: As mentioned previously in this report, Columbus State University responds to all reports of student-on-student-sexual violence in a prompt and effective manner using the Association of Title IX Administrators (ATIXA) Grievance

Process Flowchart Model. In this model the Title IX Coordinator and any other necessary campus officials meet as soon as possible to determine an Initial Remedial Action, which could include an Interim Suspension, removal of either Complainant or Respondent from a class or university housing, a Duty to Warn the Campus, or other safety measures deemed necessary.

After the Initial Remedial Action takes place the Title IX Coordinator(s) may do a preliminary investigation to determine if there is reasonable cause to believe a policy has been violated or if that information is already determined, assign the investigation to the trained Title IX Investigator. The process that Title IX Investigators use at COLUMBUS STATE UNIVERSITY is the ATIXA Investigation Checklist and the ATIXA Timeline. The Timeline outlines the steps with the recommended time of completion for best practices and the Checklist outlines effective procedures to consider in each step of the Investigation. These steps include providing the complainant with periodic updates on the status of the investigation. After the Title IX Investigator concludes the Investigation Report, it is determined by a Title IX Coordinator if a hearing is necessary. If a hearing is deemed necessary and the trained Hearing Panel determines that sexual violence has occurred, part of the outcome or sanctions will include steps to protect the complainant and ensure his or her safety as well as the safety of the rest of the campus community.

As part of the very first contact with the Complainant and throughout the investigation the Title IX Coordinator and Title IX Investigator ensure that the complainant is aware of any available resources, such as victim advocacy, housing assistance, academic support, counseling, disability services, health services, and legal assistance, and the right to report to law enforcement.

Actions and Recommendations for Future: Educating students, faculty, and staff on how to respond to a report of a suspected incident of sexual violence and what resources are available needs to be a greater emphasis in the education and training efforts in the future. A step by step procedure for reporting sexual violence will be added on the S.A.V.E website. This information will be added as a pop-up on the mandatory education for incoming students with the MyStudentBody website. It will also be included as a follow-up message in the Campus Climate survey that will be created and administered during the 2014-2015 academic year. The S.A.V.E Task Force will also plan a publicity campaign across campus using multiple sources of media to educate the campus community.

A-6. Does Title IX cover employee-on-student sexual violence, such as sexual abuse of children?

OCR Answer: Yes. Although this document and the DCL focus on student-on-student sexual violence, Title IX also protects students from other forms of sexual harassment (including sexual violence and sexual abuse), such as sexual harassment carried out by school employees. Sexual harassment by school employees can include unwelcome sexual advances; requests for sexual

favors; and other verbal, nonverbal, or physical conduct of a sexual nature, including but not limited to sexual activity. Title IX's prohibition against sexual harassment generally does not extend to legitimate nonsexual touching or other nonsexual conduct. But in some circumstances, nonsexual conduct may take on sexual connotations and rise to the level of sexual harassment. For example, a teacher repeatedly hugging and putting his or her arms around students under inappropriate circumstances could create a hostile environment. Early signs of inappropriate behavior with a child can be the key to identifying and preventing sexual abuse by school personnel.

A school's Title IX obligations regarding sexual harassment by employees can, in some instances, be greater than those described in this document and the DCL. Recipients should refer to OCR's 2001 Guidance for further information about Title IX obligations regarding harassment of students by school employees. In addition, many state and local laws have mandatory reporting requirements for schools working with minors. Recipients should be careful to satisfy their state and local legal obligations in addition to their Title IX obligations, including training to ensure that school employees are aware of their obligations under such state and local laws and the consequences for failing to satisfy those obligations. With respect to sexual activity in particular, OCR will always view as unwelcome and nonconsensual sexual activity between an adult school employee and an elementary school student or any student below the legal age of consent in his or her state. In cases involving a student who meets the legal age of consent in his or her state, there will still be a strong presumption that sexual activity between an adult school employee and a student is unwelcome and nonconsensual. When a school is on notice that a school employee has sexually harassed a student, it is responsible for taking prompt and effective steps reasonably calculated to end the sexual harassment, eliminate the hostile environment, prevent its recurrence, and remedy its effects. Indeed, even if a school was not on notice, the school is nonetheless responsible for remedying any effects of the sexual harassment on the student, as well as for ending the sexual harassment and preventing its recurrence, when the employee engaged in the sexual activity in the context of the employee's provision of aid, benefits, or services to students (e.g., teaching, counseling, supervising, advising, or transporting students).

A school should take steps to protect its students from sexual abuse by its employees. It is therefore imperative for a school to develop policies prohibiting inappropriate conduct by school personnel and procedures for identifying and responding to such conduct. For example, this could include implementing codes of conduct, which might address what is commonly known as grooming – a desensitization strategy common in adult educator sexual misconduct. Such policies and procedures can ensure that students, parents, and school personnel have clear guidelines on what are appropriate and inappropriate interactions between adults and students in a school setting or in school-sponsored activities. Additionally, a school should provide training for administrators, teachers, staff, parents, and age-appropriate classroom information for students to ensure that everyone understands what types of conduct are prohibited and knows how to respond when problems arise.

COLUMBUS STATE UNIVERSITY Response: See COLUMBUS STATE UNIVERSITY Response in A4.

B. Students Protected by Title IX

B-1. Does Title IX protect all students from sexual violence?

OCR Answer: Yes. Title IX protects all students at recipient institutions from sex discrimination, including sexual violence. Any student can experience sexual violence: from elementary to professional school students; male and female students; straight, gay, lesbian, bisexual and transgender students; part-time and full-time students; students with and without disabilities; and students of different races and national origins.

COLUMBUS STATE UNIVERSITY Response: Columbus State University treats all students the same in sexual violence cases and investigations and lists all of these student categories in the definition and policies and procedures of sexual discrimination, harassment, and violence.

B-2. How should a school handle sexual violence complaints in which the complainant and the alleged perpetrator are members of the same sex?

OCR Answer: A school's obligation to respond appropriately to sexual violence complaints is the same irrespective of the sex or sexes of the parties involved. Title IX protects all students from sexual violence, regardless of the sex of the alleged perpetrator or complainant, including when they are members of the same sex. A school must investigate and resolve allegations of sexual violence involving parties of the same sex using the same procedures and standards that it uses in all complaints involving sexual violence.

Title IX's sex discrimination prohibition extends to claims of discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity and OCR accepts such complaints for investigation. Similarly, the actual or perceived sexual orientation or gender identity of the parties does not change a school's obligations. Indeed, lesbian, gay, bisexual, and transgender (LGBT) youth report high rates of sexual harassment and sexual violence. A school should investigate and resolve allegations of sexual violence regarding LGBT students using the same procedures and standards that it uses in all complaints involving sexual violence. The fact that incidents of sexual violence may be accompanied by anti-gay comments or be partly based on a student's actual or perceived sexual orientation does not relieve a school of its obligation under Title IX to investigate and remedy those instances of sexual violence.

If a school's policies related to sexual violence include examples of particular types of conduct that violate the school's prohibition on sexual violence, the school should consider including examples of same-sex conduct. In addition, a school should ensure that staff are capable of providing culturally competent counseling to all complainants. Thus, a school should ensure that its counselors and other staff who are responsible for receiving and responding to complaints of sexual violence, including investigators and hearing board members, receive appropriate training about working with LGBT and gender-nonconforming students and same-sex violence. See questions J-1 to J-4 for additional information regarding training.

Gay-straight alliances and similar student-initiated groups can also play an important role in creating safer school environments for LGBT students. On June 14, 2011, the Department issued guidance about the rights of student-initiated groups in public secondary schools under the Equal Access Act. That guidance is available at <http://www2.ed.gov/policy/elsec/guid/secletter/110607.html>.

COLUMBUS STATE UNIVERSITY Response: COLUMBUS STATE UNIVERSITY treats all students the same in sexual violence cases and investigations. Title IX investigators and hearing board members are trained using ATIXA competencies, which include a competency on diversity and discrimination. Student Affairs staff members have periodic training on working with LGBT students and being culturally sensitive including Safe Zone training and speakers such as Waymon Hudson, an activist for LGBT issues.

B-3. What issues may arise with respect to students with disabilities who experience sexual violence?

OCR Answer: When students with disabilities experience sexual violence, federal civil rights laws other than Title IX may also be relevant to a school's responsibility to investigate and address such incidents. Certain students require additional assistance and support. For example, students with intellectual disabilities may need additional help in learning about sexual violence, including a school's sexual violence education and prevention programs, what constitutes sexual violence and how students can report incidents of sexual violence. In addition, students with disabilities who experience sexual violence may require additional services and supports, including psychological services and counseling services. Postsecondary students who need these additional services and supports can seek assistance from the institution's disability resource office. A student who has not been previously determined to have a disability may, as a result of experiencing sexual violence, develop a mental health-related disability that could cause the student to need special education and related services. At the elementary and secondary education level, this may trigger a school's child find obligations under IDEA and the evaluation and placement requirements under Section 504, which together require a school to evaluate a student suspected of having a disability to determine if he or she has a disability that requires special education or related aids and services.

A school must also ensure that any school reporting forms, information, or training about sexual violence be provided in a manner that is accessible to students and employees with disabilities, for example, by providing electronically-accessible versions of paper forms to individuals with print disabilities, or by providing a sign language interpreter to a deaf individual attending a training. See question J-4 for more detailed information on student training.

COLUMBUS STATE UNIVERSITY Response: Columbus State University will continue to be sensitive to the needs of students with disabilities in all services, including in the response to students with disabilities who experience sexual violence. The Office of Dean of Students, Title IX Coordinators and Title IX Investigators have a close working relationship with the Office of Disability Services and the Counseling Center. The Director of Disability Services and the Director of the Counseling Center are often called upon in the decision making process in

the Initial Remedial Actions portion of the University's response to a report of sexual violence and throughout the process as needed. All students who have reported a case of sexual violence to the Office of the Dean of Students are made aware of all services available to them.

Also, both the Sexual Violence training given to all incoming students and the BART reporting form are electronically-accessible.

Actions and Recommendations for Future- Sensitivity to, and awareness of services available to students with disabilities will be included in the training that all faculty and staff receive from Human Resources on responding to sexual harassment and violence on campus.

B-4. What issues arise with respect to international students and undocumented students who experience sexual violence?

OCR Answer: Title IX protects all students at recipient institutions in the United States regardless of national origin, immigration status, or citizenship status. A school should ensure that all students regardless of their immigration status, including undocumented students and international students, are aware of their rights under Title IX. A school must also ensure that any school reporting forms, information, or training about sexual violence be provided in a manner accessible to students who are English language learners. OCR recommends that a school coordinate with its international office and its undocumented student program coordinator, if applicable, to help communicate information about Title IX in languages that are accessible to these groups of students. OCR also encourages schools to provide foreign national complainants with information about the U nonimmigrant status and the T nonimmigrant status. The U nonimmigrant status is set aside for victims of certain crimes who have suffered substantial mental or physical abuse as a result of the crime and are helpful to law enforcement agency in the investigation or prosecution of the qualifying criminal activity.

The T nonimmigrant status is available for victims of severe forms of human trafficking who generally comply with a law enforcement agency in the investigation or prosecution of the human trafficking and who would suffer extreme hardship involving unusual and severe harm if they were removed from the United States. A school should be mindful that unique issues may arise when a foreign student on a student visa experiences sexual violence. For example, certain student visas require the student to maintain a full-time course load (generally at least 12 academic credit hours per term), but a student may need to take a reduced course load while recovering from the immediate effects of the sexual violence. OCR recommends that a school take steps to ensure that international students on student visas understand that they must typically seek prior approval of the designated school official (DSO) for student visas to drop below a full-time course load. A school may also want to encourage its employees involved in handling sexual violence complaints and counseling students who have experienced sexual violence to approach the DSO on the student's behalf if the student wishes to drop below a full-time course load. OCR recommends that a school take steps to ensure that its employees who work with international students, including the school's DSO, are trained on the school's sexual violence policies and that employees involved in handling sexual violence complaints and counseling students who have experienced sexual violence are aware of the

special issues that international students may encounter. See questions J-1 to J-4 for additional information regarding training. A school should also be aware that threatening students with deportation or invoking a student's immigration status in an attempt to intimidate or deter a student from filing a Title IX complaint would violate Title IX's protections against retaliation. For more information on retaliation see question K-1.

COLUMBUS STATE UNIVERSITY Response: The Office of the Dean of Students works with the Center for International Education to conduct an orientation for all international students coming to the University to inform them of their rights as a student. This includes how and where to report all types of harassment including sexual violence. Also, anytime an international student is involved in any type of situation that could affect their status as a student or with their visa, the Designated School Official at the Center for International Education is consulted.

B-5. How should a school respond to sexual violence when the alleged perpetrator is not affiliated with the school?

OCR Answer: The appropriate response will differ depending on the level of control the school has over the alleged perpetrator. For example, if an athlete or band member from a visiting school sexually assaults a student at the home school, the home school may not be able to discipline or take other direct action against the visiting athlete or band member. However (and subject to the confidentiality provisions discussed in Section E), it should conduct an inquiry into what occurred and should report the incident to the visiting school and encourage the visiting school to take appropriate action to prevent further sexual violence. The home school should also notify the student of any right to file a complaint with the alleged perpetrator's school or local law enforcement. The home school may also decide not to invite the visiting school back to its campus. Even though a school's ability to take direct action against a particular perpetrator may be limited, the school must still take steps to provide appropriate remedies for the complainant and, where appropriate, the broader school population. This may include providing support services for the complainant, and issuing new policy statements making it clear that the school does not tolerate sexual violence and will respond to any reports about such incidents. For additional information on interim measures see questions G-1 to G-3.

COLUMBUS STATE UNIVERSITY Response: The Office of the Dean of Students and University Police take all actions available to them to respond to any allegations of sexual violence when an alleged perpetrator is not affiliated with the University in order to keep the campus community safe. This could include conducting an inquiry into what occurred, notifying outside agencies of allegations, issuing a Criminal Trespass Warning to the alleged perpetrator while investigation is in process, putting a Dean of Student's hold on admission, notifying the campus community, informing the complainant of all of their rights to file a complaint, and making individuals aware of all of the services available to them on campus and in the community.

C. Title IX Procedural Requirements

Overview

C-1. What procedures must a school have in place to prevent sexual violence and resolve complaints?

Answer: The Title IX regulations outline three key procedural requirements. Each school must:

- (1) disseminate a notice of nondiscrimination (see question C-2);
- (2) designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title IX (see questions C-3 to C-4); and
- (3) adopt and publish grievance procedures providing for the prompt and equitable resolution of student and employee sex discrimination complaints (see questions C-5 to C-6).

These requirements apply to all forms of sex discrimination and are particularly important for preventing and effectively responding to sexual violence. Procedural requirements under other federal laws may also apply to complaints of sexual violence, including the requirements of the Clery Act. For additional information about the procedural requirements in the Clery Act, please see <http://www2.ed.gov/admins/lead/safety/campus.html>.

COLUMBUS STATE UNIVERSITY Response: See responses C2 through C6.

Notice of Nondiscrimination

C-2. What information must be included in a school's notice of nondiscrimination?

OCR Answer: The notice of nondiscrimination must state that the school does not discriminate on the basis of sex in its education programs and activities, and that it is required by Title IX not to discriminate in such a manner. The notice must state that questions regarding Title IX may be referred to the school's Title IX coordinator or to OCR. The school must notify all of its students and employees of the name or title, office address, telephone number, and email address of the school's designated Title IX coordinator.

COLUMBUS STATE UNIVERSITY Response: Page 76 in the Student Handbook,

XIII. Equal Opportunity Policy

It is the policy of Columbus State University to ensure fulfillment of equal opportunity for all employees, students, applicants for employment and student applicants. No person shall be excluded from participation in, denied benefits of or be subject to discrimination under any University program or activity on the basis of race, color, creed, national origin, religion, gender, disability, or age. Any student with a

complaint or concern that is related to these standards should contact the Affirmative Action/Equal Opportunity Office at (706)507-8920. This office is located in Richards Hall.

Equal Employment Opportunity Policy on page 9 of Staff Handbook:

Columbus State University is committed to providing equal employment opportunity for all persons regardless of race, color, sex, religion, national origin, age, or disability. Equal opportunity extends to all aspects of the employment relationship, including hiring, transfers, promotions, training terminations, working conditions, compensation, benefits, and other terms and conditions of employment. Every member of the University community is expected to uphold this policy as a matter of mutual respect and fundamental fairness in human relations. The policy has the unequivocal support of the President. All Columbus State University employees are expected to ensure that nondiscriminatory practices are followed at Columbus State University. Any concerns regarding the provisions of this policy should be addressed by Human Resources or his/her designee.

Section 102 Columbus State University Equal Opportunity Policy in the Faculty Handbook:

To further its goal of equal employment opportunity for all employees and prospective employees without regard to race, color, religion, sex, age, national origin, disability, or any other basis prohibited by applicable law, the institution states as its policy the following:

- *It is the policy of Columbus State University to, in accordance with all applicable laws, to recruit, hire, train and promote persons in all job titles without regard to race, color, religion, sex, age, disability or national origin, or any other basis prohibited by applicable law.*
- *All employment decisions shall be consistent with the principle of equal employment opportunity, and only valid qualifications will be required.*
- *All personnel actions, such as compensation, benefits, and transfers, will be administered without regard to race, color, religion, sex, age, disability, or national origin, or any other basis prohibited by applicable law.*

As teachers, faculty members should encourage the free pursuit of learning by their students. Faculty should hold before them the best scholarly standards of their disciplines, demonstrate respect for the student as an individual, and adhere to their proper role as intellectual guides and counselors. They should foster honest academic conduct and assure that evaluation of students reflects the students' true merit. Faculty should respect the confidential nature of the relationship between instructor and student, avoid any exploitation of students, and acknowledge significant assistance from them. Faculty should protect students' academic freedom while exercising their own.

On page 36 of the COLUMBUS STATE UNIVERSITY Student Handbook, "*Columbus State University is committed to creating and maintaining a University community in which all persons can work and learn together in an atmosphere free of all forms of harassment.*" Under the *Procedures* section following the *Policy* section it includes the phone numbers of Student Affairs and Human Resources. Also on the S.A.V.E. Task Force website all of the phone numbers are provided.

Title IX Coordinator

C-3. What are a Title IX coordinator's responsibilities?

OCR Answer: A Title IX coordinator's core responsibilities include overseeing the school's response to Title IX reports and complaints and identifying and addressing any patterns or systemic problems revealed by such reports and complaints. This means that the Title IX coordinator must have knowledge of the requirements of Title IX, of the school's own policies and procedures on sex discrimination, and of all complaints raising Title IX issues throughout the school. To accomplish this, subject to the exemption for school counseling employees discussed in question E-3, the Title IX coordinator must be informed of all reports and complaints raising Title IX issues, even if the report or complaint was initially filed with another individual or office or if the investigation will be conducted by another individual or office. The school should ensure that the Title IX coordinator is given the training, authority, and visibility necessary to fulfill these responsibilities.

Because the Title IX coordinator must have knowledge of all Title IX reports and complaints at the school, this individual (when properly trained) is generally in the best position to evaluate a student's request for confidentiality in the context of the school's responsibility to provide a safe and nondiscriminatory environment for all students. A school may determine, however, that another individual should perform this role. For additional information on confidentiality requests, see questions E-1 to E-4. If a school relies in part on its disciplinary procedures to meet its Title IX obligations, the Title IX coordinator should review the disciplinary procedures to ensure that the procedures comply with the prompt and equitable requirements of Title IX as discussed in question C-5.

In addition to these core responsibilities, a school may decide to give its Title IX coordinator additional responsibilities, such as: providing training to students, faculty, and staff on Title IX issues; conducting Title IX investigations, including investigating facts relevant to a complaint, and determining appropriate sanctions against the perpetrator and remedies for the complainant; determining appropriate interim measures for a complainant upon learning of a report or complaint of sexual violence; and ensuring that appropriate policies and procedures are in place for working with local law enforcement and coordinating services with local victim advocacy organizations and service providers, including rape crisis centers. A school must ensure that its Title IX coordinator is appropriately trained in all areas over which he or she has

responsibility. The Title IX coordinator or designee should also be available to meet with students as needed.

If a school designates more than one Title IX coordinator, the school's notice of nondiscrimination and Title IX grievance procedures should describe each coordinator's responsibilities, and one coordinator should be designated as having ultimate oversight responsibility.

COLUMBUS STATE UNIVERSITY Response: Columbus State University has designated the Director of Human Resources, Laurie Jones, to be the University's Title IX Coordinator to oversee all Title IX complaints with two Deputy Coordinators. The Deputy Coordinator in Human Resources, Annette Brown, helps with faculty and staff complaints. The other Deputy Coordinator is the Dean of Students, Dr. Aaron Reese, who assists with student complaints. The Dean of Students, with consultation from the Title IX Coordinator, generally evaluates a student's complaints including requests for confidentiality and oversees investigation and hearing procedures. The Title IX Coordinator or the Deputy Title IX Coordinator in Human Resources does the same for complaints from faculty or staff. If the complaint involves both faculty or staff and a student, both Deputy Coordinators collaborate with the Coordinator.

The Title IX Coordinator, Laurie Jones, has been trained and certified through the ATIXA Coordinator training. The Title IX Investigators, Dana Larkin, Assistant Dean of Students, and Dr. Paula Walker, faculty and Chair of S.A.V.E Task Force, have been trained and certified through the Association of Title IX Administrators. The Director of the Student Health Clinic, Rebecca Tew, has been trained and certified as a Sexual Assault Nurse Examiner (SANE) with the Statesboro Regional Sexual Assault Center that is credentialed by the American Nurses Credentialing Center on Accreditation. Dana Larkin and Rebecca Tew have also been trained and certified in the Advanced Sexual Assault Investigations Training Program with the Georgia Network to End Sexual Assault (GNESA).

C-4. Are there any employees who should not serve as the Title IX coordinator?

OCR Answer: Title IX does not categorically preclude particular employees from serving as Title IX coordinators. However, Title IX coordinators should not have other job responsibilities that may create a conflict of interest. Because some complaints may raise issues as to whether or how well the school has met its Title IX obligations, designating the same employee to serve both as the Title IX coordinator and the general counsel (which could include representing the school in legal claims alleging Title IX violations) poses a serious risk of a conflict of interest. Other employees whose job responsibilities may conflict with a Title IX coordinator's responsibilities include Directors of Athletics, Deans of Students, and any employee who serves on the judicial/hearing board or to whom an appeal might be made. Designating a full-time Title IX coordinator will minimize the risk of a conflict of interest.

COLUMBUS STATE UNIVERSITY Response: Columbus State University has created the Deputy Coordinators positions to avoid conflicts of interest. When hearing sexual misconduct cases,

the Dean of Students does not act as hearing board member, only coordinating the hearing procedures.

Grievance Procedures

C-5. Under Title IX, what elements should be included in a school's procedures for responding to complaints of sexual violence?

OCR Answer: Title IX requires that a school adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints of sex discrimination, including sexual violence. In evaluating whether a school's grievance procedures satisfy this requirement, OCR will review all aspects of a school's policies and practices, including the following elements that are critical to achieve compliance with Title IX:

- (1) notice to students, parents of elementary and secondary students, and employees of the grievance procedures, including where complaints may be filed;
- (2) application of the grievance procedures to complaints filed by students or on their behalf alleging sexual violence carried out by employees, other students, or third parties;
- (3) provisions for adequate, reliable, and impartial investigation of complaints, including the opportunity for both the complainant and alleged perpetrator to present witnesses and evidence;
- (4) designated and reasonably prompt time frames for the major stages of the complaint process (see question F-8);
- (5) written notice to the complainant and alleged perpetrator of the outcome of the complaint (see question H-3); and
- (6) assurance that the school will take steps to prevent recurrence of any sexual violence and remedy discriminatory effects on the complainant and others, if appropriate.

To ensure that students and employees have a clear understanding of what constitutes sexual violence, the potential consequences for such conduct, and how the school processes complaints, a school's Title IX grievance procedures should also explicitly include the following in writing, some of which themselves are mandatory obligations under Title IX:

- (1) a statement of the school's jurisdiction over Title IX complaints;
- (2) adequate definitions of sexual harassment (which includes sexual violence) and an explanation as to when such conduct creates a hostile environment;
- (3) reporting policies and protocols, including provisions for confidential reporting;
- (4) identification of the employee or employees responsible for evaluating requests for confidentiality;

- (5) notice that Title IX prohibits retaliation;
- (6) notice of a student's right to file a criminal complaint and a Title IX complaint simultaneously;
- (7) notice of available interim measures that may be taken to protect the student in the educational setting;
- (8) the evidentiary standard that must be used (preponderance of the evidence) (i.e., more likely than not that sexual violence occurred) in resolving a complaint;
- (9) notice of potential remedies for students;
- (10) notice of potential sanctions against perpetrators; and
- (11) sources of counseling, advocacy, and support.

For more information on interim measures, see questions G-1 to G-3.

The rights established under Title IX must be interpreted consistently with any federally guaranteed due process rights. Procedures that ensure the Title IX rights of the complainant, while at the same time according any federally guaranteed due process to both parties involved, will lead to sound and supportable decisions. Of course, a school should ensure that steps to accord any due process rights do not restrict or unnecessarily delay the protections provided by Title IX to the complainant.

A school's procedures and practices will vary in detail, specificity, and components, reflecting differences in the age of its students, school size and administrative structure, state or local legal requirements (e.g., mandatory reporting requirements for schools working with minors), and what it has learned from past experiences.

COLUMBUS STATE UNIVERSITY Response: As outlined previously, Columbus State University has adopted the Association of Title IX Administrators (ATIXA) Grievance Process Flowchart Model and utilizes the ATIXA Checklist and Timeline for all Title IX Investigations which includes provisions for adequate, reliable, and impartial investigation of complaints and designated and reasonably prompt time frames for the major stages of the complaint process. The University has also purchased MaxStack, an add-on database for Maxient, Columbus State University's student conduct database. MaxStack is specifically for Title IX case documentation and includes all letter templates, form templates, investigation templates, and materials for Title IX investigation organization, documentation and tracking. ATIXA and MaxStack materials help ensure that Columbus State University is following all of elements that should be included in a school's procedures for responding to complaints of sexual violence.

[C-6. Is a school required to use separate grievance procedures for sexual violence complaints?](#)

OCR Answer: No. Under Title IX, a school may use student disciplinary procedures, general Title IX grievance procedures, sexual harassment procedures, or separate procedures to resolve

sexual violence complaints. However, any procedures used for sexual violence complaints, including disciplinary procedures, must meet the Title IX requirement of affording a complainant a prompt and equitable resolution (as discussed in question C-5), including applying the preponderance of the evidence standard of review. As discussed in question C-3, the Title IX coordinator should review any process used to resolve complaints of sexual violence to ensure it complies with requirements for prompt and equitable resolution of these complaints. When using disciplinary procedures, which are often focused on the alleged perpetrator and can take considerable time, a school should be mindful of its obligation to provide interim measures to protect the complainant in the educational setting. For more information on timeframes and interim measures, see questions F-8 and G-1 to G-3 D.

COLUMBUS STATE UNIVERSITY Response: The University uses the ATIXA recommended grievance procedures that includes a 60 day timeline for prompt response as recommended in the OCR’s 2011 Dear Colleague Letter and the ATIXA Timeline. An equitable resolution is provided utilizing a trained Title IX Investigator and a trained Hearing Panel that applies the preponderance of evidence standard of review.

Responsible Employees and Reporting

D-1. Which school employees are obligated to report incidents of possible sexual violence to school officials?

OCR Answer: Under Title IX, whether an individual is obligated to report incidents of alleged sexual violence generally depends on whether the individual is a responsible employee of the school. A responsible employee must report incidents of sexual violence to the Title IX coordinator or other appropriate school designee, subject to the exemption for school counseling employees discussed in question E-3. This is because, as discussed in question A-4, a school is obligated to address sexual violence about which a responsible employee knew or should have known. As explained in question C-3, the Title IX coordinator must be informed of all reports and complaints raising Title IX issues, even if the report or complaint was initially filed with another individual or office, subject to the exemption for school counseling employees discussed in question E-3.

COLUMBUS STATE UNIVERSITY Response: Section 103.1 Sexual Harassment Policy of the Faculty Handbook:

COMPLAINT PROCEDURES

Any member of the Columbus State University community who believes that he or she has been sexually harassed is encouraged to bring the matter to the attention of the director of human resources. Likewise, if anyone in a supervisory capacity is made aware of such a complaint, he or she must bring the matter to the attention of the director of human resources. No person shall be reprimanded or discriminated against in any way for initiating an inquiry or complaint in good faith. Columbus State

University's objective is to take whatever action may be needed to prevent, correct, and if necessary, discipline persons whose behavior violates this policy.

Also, a clear explanation of an employees' obligation to report incidents of sexual violence to Title IX Coordinator is included in faculty and staff training and on the S.A.V.E. Task Force website along with the step by step procedures of what to do.

D-2. Who is a "responsible employee"?

OCR Answer: According to OCR's 2001 Guidance, a responsible employee includes any employee: who has the authority to take action to redress sexual violence; who has been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX coordinator or other appropriate school designee; or whom a student could reasonably believe has this authority or duty.

A school must make clear to all of its employees and students which staff members are responsible employees so that students can make informed decisions about whether to disclose information to those employees. A school must also inform all employees of their own reporting responsibilities and the importance of informing complainants of: the reporting obligations of responsible employees; complainants' option to request confidentiality and available confidential advocacy, counseling, or other support services; and complainants' right to file a Title IX complaint with the school and to report a crime to campus or local law enforcement.

Whether an employee is a responsible employee will vary depending on factors such as the age and education level of the student, the type of position held by the employee, and consideration of both formal and informal school practices and procedures. For example, while it may be reasonable for an elementary school student to believe that a custodial staff member or cafeteria worker has the authority or responsibility to address student misconduct, it is less reasonable for a college student to believe that a custodial staff member or dining hall employee has this same authority.

As noted in response to question A-4, when a responsible employee knows or reasonably should know of possible sexual violence, OCR deems a school to have notice of the sexual violence. The school must take immediate and appropriate steps to investigate or otherwise determine what occurred (subject to the confidentiality provisions discussed in Section E), and, if the school determines that sexual violence created a hostile environment, the school must then take appropriate steps to address the situation. The school has this obligation regardless of whether the student, student's parent, or a third party files a formal complaint. For additional information on a school's responsibilities to address student-on-student sexual violence, see question A-5. For additional information on training for school employees, see questions J-1 to J-3.

COLUMBUS STATE UNIVERSITY Response: See response to D 1. The wording anyone who is in a “*supervisory capacity*” must bring the matter to Human Resource is used in the faculty handbook.

D-3. What information is a responsible employee obligated to report about an incident of possible student-on-student sexual violence?

OCR Answer: Subject to the exemption for school counseling employees discussed in question E-3, a responsible employee must report to the school’s Title IX coordinator, or other appropriate school designee, all relevant details about the alleged sexual violence that the student or another person has shared and that the school will need to determine what occurred and to resolve the situation. This includes the names of the alleged perpetrator (if known), the student who experienced the alleged sexual violence, other students involved in the alleged sexual violence, as well as relevant facts, including the date, time, and location. A school must make clear to its responsible employees to whom they should report an incident of alleged sexual violence.

To ensure compliance with these reporting obligations, it is important for a school to train its responsible employees on Title IX and the school’s sexual violence policies and procedures. For more information on appropriate training for school employees, see question J-1 to J-3.

COLUMBUS STATE UNIVERSITY Response: In the New Employee Training, ongoing workshops, and in departmental trainings and on the S.A.V.E website it is communicated that responsible employees must report all available information. At the very least, contact information for the alleged victim must be reported so that an investigation can be conducted and appropriate action can be taken to insure that person’s safety. Responsible employees are instructed to allow the Dean of Students, Director of Human Resources, or Title IX Investigator or other appropriate investigator to conduct any review or investigation.

D-4. What should a responsible employee tell a student who discloses an incident of sexual violence?

OCR Answer: Before a student reveals information that he or she may wish to keep confidential, a responsible employee should make every effort to ensure that the student understands: (i) the employee’s obligation to report the names of the alleged perpetrator and student involved in the alleged sexual violence, as well as relevant facts regarding the alleged incident (including the date, time, and location), to the Title IX coordinator or other appropriate school officials, (ii) the student’s option to request that the school maintain his or her confidentiality, which the school (e.g., Title IX coordinator) will consider, and (iii) the student’s ability to share the information confidentially with counseling, advocacy, health, mental health, or sexual-assault-related services (e.g., sexual assault resource centers, campus health centers, pastoral counselors, and campus mental health centers). As discussed in questions E-1 and E-2, if the student requests confidentiality, the Title IX coordinator or other appropriate school designee responsible for evaluating requests for confidentiality should make every effort to

respect this request and should evaluate the request in the context of the school's responsibility to provide a safe and nondiscriminatory environment for all students.

COLUMBUS STATE UNIVERSITY Response: In the New Employee Training, ongoing workshops, and in departmental trainings it is communicated what a responsible employee should tell a student who discloses an incident of sexual violence. The University included what information a responsible employee should tell a student who discloses an incident of sexual violence in the step by step process on S.A.V.E website.

D-5. If a student informs a resident assistant/advisor (RA) that he or she was subjected to sexual violence by a fellow student, is the RA obligated under Title IX to report the incident to school officials?

OCR Answer: As discussed in questions D-1 and D-2, for Title IX purposes, whether an individual is obligated under Title IX to report alleged sexual violence to the school's Title IX coordinator or other appropriate school designee generally depends on whether the individual is a responsible employee.

The duties and responsibilities of RAs vary among schools, and, therefore, a school should consider its own policies and procedures to determine whether its RAs are responsible employees who must report incidents of sexual violence to the Title IX coordinator or other appropriate school designee. When making this determination, a school should consider if its RAs have the general authority to take action to redress misconduct or the duty to report misconduct to appropriate school officials, as well as whether students could reasonably believe that RAs have this authority or duty. A school should also consider whether it has determined and clearly informed students that RAs are generally available for confidential discussions and do not have the authority or responsibility to take action to redress any misconduct or to report any misconduct to the Title IX coordinator or other appropriate school officials. A school should pay particular attention to its RAs' obligations to report other student violations of school policy (e.g., drug and alcohol violations or physical assault). If an RA is required to report other misconduct that violates school policy, then the RA would be considered a responsible employee obligated to report incidents of sexual violence that violate school policy.

If an RA is a responsible employee, the RA should make every effort to ensure that before the student reveals information that he or she may wish to keep confidential, the student understands the RA's reporting obligation and the student's option to request that the school maintain confidentiality. It is therefore important that schools widely disseminate policies and provide regular training clearly identifying the places where students can seek confidential support services so that students are aware of this information. The RA should also explain to the student (again, before the student reveals information that he or she may wish to keep confidential) that, although the RA must report the names of the alleged perpetrator (if known), the student who experienced the alleged sexual violence, other students involved in the alleged sexual violence, as well as relevant facts, including the date, time, and location to

the Title IX coordinator or other appropriate school designee, the school will protect the student's confidentiality to the greatest extent possible. Prior to providing information about the incident to the Title IX coordinator or other appropriate school designee, the RA should consult with the student about how to protect his or her safety and the details of what will be shared with the Title IX coordinator. The RA should explain to the student that reporting this information to the Title IX coordinator or other appropriate school designee does not necessarily mean that a formal complaint or investigation under the school's Title IX grievance procedure must be initiated if the student requests confidentiality. As discussed in questions E-1 and E-2, if the student requests confidentiality, the Title IX coordinator or other appropriate school designee responsible for evaluating requests for confidentiality should make every effort to respect this request and should evaluate the request in the context of the school's responsibility to provide a safe and nondiscriminatory environment for all students.

Regardless of whether a reporting obligation exists, all RAs should inform students of their right to file a Title IX complaint with the school and report a crime to campus or local law enforcement. If a student discloses sexual violence to an RA who is a responsible employee, the school will be deemed to have notice of the sexual violence even if the student does not file a Title IX complaint. Additionally, all RAs should provide students with information regarding on-campus resources, including victim advocacy, housing assistance, academic support, counseling, disability services, health and mental health services, and legal assistance. RAs should also be familiar with local rape crisis centers or other off-campus resources and provide this information to students.

COLUMBUS STATE UNIVERSITY Response: Columbus State University RAs have the general authority to take action to redress misconduct or the duty to report misconduct to appropriate school officials, and students could reasonably believe that RAs have this authority or duty. Therefore, the University treats RA's as "responsible employees" when it comes to reporting sexual violence. RA's are trained to report immediately any kind of allegations or information with this severity to their Residence Life Coordinator or the Residence Life professional staff that is on call. The Residence Life professional staff member then reports this to the Deputy Title IX Coordinator, who is the Dean of Students to follow up with necessary actions and to follow the University's Policies and Procedures.

Actions and Recommendations for Future: RA training should continue to stress and clarify the RAs' responsibility of reporting sexual violence and include a training session specifically on sexual violence during RA training and a follow up one during RA in-services throughout the year.

E. Confidentiality and a School's Obligation to Respond to Sexual Violence

E-1. How should a school respond to a student's request that his or her name not be disclosed to the alleged perpetrator or that no investigation or disciplinary action be pursued to address the alleged sexual violence?

OCR Answer: Students, or parents of minor students, reporting incidents of sexual violence sometimes ask that the students' names not be disclosed to the alleged perpetrators or that no investigation or disciplinary action be pursued to address the alleged sexual violence. OCR strongly supports a student's interest in confidentiality in cases involving sexual violence. There are situations in which a school must override a student's request for confidentiality in order to meet its Title IX obligations; however, these instances will be limited and the information should only be shared with individuals who are responsible for handling the school's response to incidents of sexual violence. Given the sensitive nature of reports of sexual violence, a school should ensure that the information is maintained in a secure manner. A school should be aware that disregarding requests for confidentiality can have a chilling effect and discourage other students from reporting sexual violence. In the case of minors, state mandatory reporting laws may require disclosure, but can generally be followed without disclosing information to school personnel who are not responsible for handling the school's response to incidents of sexual violence.

Even if a student does not specifically ask for confidentiality, to the extent possible, a school should only disclose information regarding alleged incidents of sexual violence to individuals who are responsible for handling the school's response. To improve trust in the process for investigating sexual violence complaints, a school should notify students of the information that will be disclosed, to whom it will be disclosed, and why. Regardless of whether a student complainant requests confidentiality, a school must take steps to protect the complainant as necessary, including taking interim measures before the final outcome of an investigation. For additional information on interim measures see questions G-1 to G-3.

For Title IX purposes, if a student requests that his or her name not be revealed to the alleged perpetrator or asks that the school not investigate or seek action against the alleged perpetrator, the school should inform the student that honoring the request may limit its ability to respond fully to the incident, including pursuing disciplinary action against the alleged perpetrator. The school should also explain that Title IX includes protections against retaliation, and that school officials will not only take steps to prevent retaliation but also take strong responsive action if it occurs. This includes retaliatory actions taken by the school and school officials. When a school knows or reasonably should know of possible retaliation by other students or third parties, including threats, intimidation, coercion, or discrimination (including harassment), it must take immediate and appropriate steps to investigate or otherwise determine what occurred. Title IX requires the school to protect the complainant and ensure his or her safety as necessary. See question K-1 regarding retaliation.

If the student still requests that his or her name not be disclosed to the alleged perpetrator or that the school not investigate or seek action against the alleged perpetrator, the school will need to determine whether or not it can honor such a request while still providing a safe and nondiscriminatory environment for all students, including the student who reported the sexual violence. As discussed in question C-3, the Title IX coordinator is generally in the best position to evaluate confidentiality requests. Because schools vary widely in size and administrative structure, OCR recognizes that a school may reasonably determine that an employee other than the Title IX coordinator, such as a sexual assault response coordinator, dean, or other school official, is better suited to evaluate such requests. Addressing the needs of a student reporting sexual violence while determining an appropriate institutional response requires expertise and attention, and a school should ensure that it assigns these responsibilities to employees with the capability and training to fulfill them. For example, if a school has a sexual assault response coordinator, that person should be consulted in evaluating requests for confidentiality. The school should identify in its Title IX policies and procedures the employee or employees responsible for making such determinations.

If the school determines that it can respect the student's request not to disclose his or her identity to the alleged perpetrator, it should take all reasonable steps to respond to the complaint consistent with the request. Although a student's request to have his or her name withheld may limit the school's ability to respond fully to an individual allegation of sexual violence, other means may be available to address the sexual violence. There are steps a school can take to limit the effects of the alleged sexual violence and prevent its recurrence without initiating formal action against the alleged perpetrator or revealing the identity of the student complainant. Examples include providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred; providing training and education materials for students and employees; changing and publicizing the school's policies on sexual violence; and conducting climate surveys regarding sexual violence. In instances affecting many students, an alleged perpetrator can be put on notice of allegations of harassing behavior and be counseled appropriately without revealing, even indirectly, the identity of the student complainant. A school must also take immediate action as necessary to protect the student while keeping the identity of the student confidential. These actions may include providing support services to the student and changing living arrangements or course schedules, assignments, or tests.

COLUMBUS STATE UNIVERSITY Response: Title IX Coordinator and other necessary administrators evaluate all requests for confidentiality and comply with a complainant's request for confidentiality unless it will jeopardize the safety of the campus community or keeps the University from meeting its Title IX obligations.

E-2. What factors should a school consider in weighing a student's request for confidentiality?

OCR Answer: When weighing a student's request for confidentiality that could preclude a meaningful investigation or potential discipline of the alleged perpetrator, a school should consider a range of factors. These factors include circumstances that suggest there is an increased risk of the alleged perpetrator committing additional acts of sexual violence or other

violence (e.g., whether there have been other sexual violence complaints about the same alleged perpetrator, whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence, whether the alleged perpetrator threatened further sexual violence or other violence against the student or others, and whether the sexual violence was committed by multiple perpetrators). These factors also include circumstances that suggest there is an increased risk of future acts of sexual violence under similar circumstances (e.g., whether the student's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group). Other factors that should be considered in assessing a student's request for confidentiality include whether the sexual violence was perpetrated with a weapon; the age of the student subjected to the sexual violence; and whether the school possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence).

A school should take requests for confidentiality seriously, while at the same time considering its responsibility to provide a safe and nondiscriminatory environment for all students, including the student who reported the sexual violence. For example, if the school has credible information that the alleged perpetrator has committed one or more prior rapes, the balance of factors would compel the school to investigate the allegation of sexual violence, and if appropriate, pursue disciplinary action in a manner that may require disclosure of the student's identity to the alleged perpetrator. If the school determines that it must disclose a student's identity to an alleged perpetrator, it should inform the student prior to making this disclosure. In these cases, it is also especially important for schools to take whatever interim measures are necessary to protect the student and ensure the safety of other students. If a school has a sexual assault response coordinator, that person should be consulted in identifying safety risks and interim measures that are necessary to protect the student. In the event the student requests that the school inform the perpetrator that the student asked the school not to investigate or seek discipline, the school should honor this request and inform the alleged perpetrator that the school made the decision to go forward. For additional information on interim measures see questions G-1 to G-3. Any school officials responsible for discussing safety and confidentiality with students should be trained on the effects of trauma and the appropriate methods to communicate with students subjected to sexual violence. See questions J-1 to J-3.

On the other hand, if, for example, the school has no credible information about prior sexual violence committed by the alleged perpetrator and the alleged sexual violence was not perpetrated with a weapon or accompanied by threats to repeat the sexual violence against the complainant or others or part of a larger pattern at a given location or by a particular group, the balance of factors would likely compel the school to respect the student's request for confidentiality. In this case the school should still take all reasonable steps to respond to the complaint consistent with the student's confidentiality request and determine whether interim measures are appropriate or necessary. Schools should be mindful that traumatic events such as sexual violence can result in delayed decision making by a student who has experienced sexual violence. Hence, a student who initially requests confidentiality might later request that a full investigation be conducted.

COLUMBUS STATE UNIVERSITY Response: Title IX Coordinator and other necessary administrators evaluate all requests for confidentiality and comply with a complainant's request for confidentiality unless it will jeopardize the safety of the campus community or keeps the University from meeting its Title IX obligations.

E-3. What are the reporting responsibilities of school employees who provide or support the provision of counseling, advocacy, health, mental health, or sexual assault-related services to students who have experienced sexual violence?

OCR Answer: OCR does not require campus mental-health counselors, pastoral counselors, social workers, psychologists, health center employees, or any other person with a professional license requiring confidentiality, or who is supervised by such a person, to report, without the student's consent, incidents of sexual violence to the school in a way that identifies the student. Although these employees may have responsibilities that would otherwise make them responsible employees for Title IX purposes, OCR recognizes the importance of protecting the counselor-client relationship, which often requires confidentiality to ensure that students will seek the help they need.

Professional counselors and pastoral counselors whose official responsibilities include providing mental-health counseling to members of the school community are not required by Title IX to report any information regarding an incident of alleged sexual violence to the Title IX coordinator or other appropriate school designee.

OCR recognizes that some people who provide assistance to students who experience sexual violence are not professional or pastoral counselors. They include all individuals who work or volunteer in on-campus sexual assault centers, victim advocacy offices, women's centers, or health centers ("non-professional counselors or advocates"), including front desk staff and students. OCR wants students to feel free to seek their assistance and therefore interprets Title IX to give schools the latitude not to require these individuals to report incidents of sexual violence in a way that identifies the student without the student's consent. These non-professional counselors or advocates are valuable sources of support for students, and OCR strongly encourages schools to designate these individuals as confidential sources.

Pastoral and professional counselors and non-professional counselors or advocates should be instructed to inform students of their right to file a Title IX complaint with the school and a separate complaint with campus or local law enforcement. In addition to informing students about campus resources for counseling, medical, and academic support, these persons should also indicate that they are available to assist students in filing such complaints. They should also explain that Title IX includes protections against retaliation, and that school officials will not only take steps to prevent retaliation but also take strong responsive action if it occurs. This includes retaliatory actions taken by the school and school officials. When a school knows or reasonably should know of possible retaliation by other students or third parties, including threats, intimidation, coercion, or discrimination (including harassment), it must take

immediate and appropriate steps to investigate or otherwise determine what occurred. Title IX requires the school to protect the complainant and ensure his or her safety as necessary.

In order to identify patterns or systemic problems related to sexual violence, a school should collect aggregate data about sexual violence incidents from non-professional counselors or advocates in their on-campus sexual assault centers, women's centers or health centers. Such individuals should report only general information about incidents of sexual violence such as the nature, date, time, and general location of the incident and should take care to avoid reporting personally identifiable information about a student. Non-professional counselors and advocates should consult with students regarding what information needs to be withheld to protect their identity.

COLUMBUS STATE UNIVERSITY Response: The University does respect the confidentiality responsibility for all school employees who provide or support the provision of counseling, advocacy, health, mental health, or sexual assault-related services and it is clearly stated in the policies and procedures for faculty, staff or students.

E-4. Is a school required to investigate information regarding sexual violence incidents shared by survivors during public awareness events, such as "Take Back the Night"?

Answer: No. OCR wants students to feel free to participate in preventive education programs and access resources for survivors. Therefore, public awareness events such as "Take Back the Night" or other forums at which students disclose experiences with sexual violence are not considered notice to the school for the purpose of triggering an individual investigation unless the survivor initiates a complaint. The school should instead respond to these disclosures by reviewing sexual assault policies, creating campus-wide educational programs, and conducting climate surveys to learn more about the prevalence of sexual violence at the school. Although Title IX does not require the school to investigate particular incidents discussed at such events, the school should ensure that survivors are aware of any available resources, including counseling, health, and mental health services. To ensure that the entire school community understands their Title IX rights related to sexual violence, the school should also provide information at these events on Title IX and how to file a Title IX complaint with the school, as well as options for reporting an incident of sexual violence to campus or local law enforcement.

COLUMBUS STATE UNIVERSITY Response: Columbus State University hosts several public awareness events on a yearly basis including RAINN DAY, Safe Spring Break Awareness Fair, Speak Up, Speak Out, and different types of Women's Health forums. The University does not consider any disclosure during these events as notice to the school. However, these events are used as opportunities to educate students on their rights, resources available, and the process of the university in responding to sexual violence.

F. Investigations and Hearings

Overview

F-1. What elements should a school's Title IX investigation include?

OCR Answer: The specific steps in a school's Title IX investigation will vary depending on the nature of the allegation, the age of the student or students involved, the size and administrative structure of the school, state or local legal requirements (including mandatory reporting requirements for schools working with minors), and what it has learned from past experiences.

For the purposes of this document the term "investigation" refers to the process the school uses to resolve sexual violence complaints. This includes the fact-finding investigation and any hearing and decision-making process the school uses to determine: (1) whether or not the conduct occurred; and, (2) if the conduct occurred, what actions the school will take to end the sexual violence, eliminate the hostile environment, and prevent its recurrence, which may include imposing sanctions on the perpetrator and providing remedies for the complainant and broader student population.

In all cases, a school's Title IX investigation must be adequate, reliable, impartial, and prompt and include the opportunity for both parties to present witnesses and other evidence. The investigation may include a hearing to determine whether the conduct occurred, but Title IX does not necessarily require a hearing. Furthermore, neither Title IX nor the DCL specifies who should conduct the investigation. It could be the Title IX coordinator, provided there are no conflicts of interest, but it does not have to be. All persons involved in conducting a school's Title IX investigations must have training or experience in handling complaints of sexual violence and in the school's grievance procedures. For additional information on training, see question J-3.

When investigating an incident of alleged sexual violence for Title IX purposes, to the extent possible, a school should coordinate with any other ongoing school or criminal investigations of the incident and establish appropriate fact-finding roles for each investigator. A school should also consider whether information can be shared among the investigators so that complainants are not unnecessarily required to give multiple statements about a traumatic event. If the investigation includes forensic evidence, it may be helpful for a school to consult with local or campus law enforcement or a forensic expert to ensure that the evidence is correctly interpreted by school officials. For additional information on working with campus or local law enforcement see question F-3.

If a school uses its student disciplinary procedures to meet its Title IX obligation to resolve complaints of sexual violence promptly and equitably, it should recognize that imposing sanctions against the perpetrator, without additional remedies, likely will not be sufficient to eliminate the hostile environment and prevent recurrence as required by Title IX. If a school typically processes complaints of sexual violence through its disciplinary process and that process, including any investigation and hearing, meets the Title IX requirements discussed

above and enables the school to end the sexual violence, eliminate the hostile environment, and prevent its recurrence, then the school may use that process to satisfy its Title IX obligations and does not need to conduct a separate Title IX investigation. As discussed in question C-3, the Title IX coordinator should review the disciplinary process to ensure that it: (1) complies with the prompt and equitable requirements of Title IX; (2) allows for appropriate interim measures to be taken to protect the complainant during the process; and (3) provides for remedies to the complainant and school community where appropriate. For more information about interim measures, see questions G-1 to G-3, and about remedies, see questions H-1 and H-2.

The investigation may include, but is not limited to, conducting interviews of the complainant, the alleged perpetrator, and any witnesses; reviewing law enforcement investigation documents, if applicable; reviewing student and personnel files; and gathering and examining other relevant documents or evidence. While a school has flexibility in how it structures the investigative process, for Title IX purposes, a school must give the complainant any rights that it gives to the alleged perpetrator. A balanced and fair process that provides the same opportunities to both parties will lead to sound and supportable decisions. Specifically:

Throughout the investigation, the parties must have an equal opportunity to present relevant witnesses and other evidence.

The school must use a preponderance-of-the-evidence (i.e., more likely than not) standard in any Title IX proceedings, including any fact-finding and hearings.

- If the school permits one party to have lawyers or other advisors at any stage of the proceedings, it must do so equally for both parties. Any school-imposed restrictions on the ability of lawyers or other advisors to speak or otherwise participate in the proceedings must also apply equally.
- If the school permits one party to submit third-party expert testimony, it must do so equally for both parties.
- If the school provides for an appeal, it must do so equally for both parties.
- Both parties must be notified, in writing, of the outcome of both the complaint and any appeal (see question H-3).

COLUMBUS STATE UNIVERSITY Response: Columbus State University's Investigators are trained and certified by ATIXA and utilize the ATIXA Checklist for Investigation and Timeline for Investigation and the MaxStack ATIXA templates for all correspondence. All of these investigative elements are followed.

Intersection with Criminal Investigations

F-2. What are the key differences between a school's Title IX investigation into allegations of sexual violence and a criminal investigation?

OCR Answer: A criminal investigation is intended to determine whether an individual violated criminal law; and, if at the conclusion of the investigation, the individual is tried and found guilty, the individual may be imprisoned or subject to criminal penalties. The U.S. Constitution affords criminal defendants who face the risk of incarceration numerous protections, including, but not limited to, the right to counsel, the right to a speedy trial, the right to a jury trial, the right against self-incrimination, and the right to confrontation. In addition, government officials responsible for criminal investigations (including police and prosecutors) normally have discretion as to which complaints from the public they will investigate.

By contrast, a Title IX investigation will never result in incarceration of an individual and, therefore, the same procedural protections and legal standards are not required. Further, while a criminal investigation is initiated at the discretion of law enforcement authorities, a Title IX investigation is not discretionary; a school has a duty under Title IX to resolve complaints promptly and equitably and to provide a safe and nondiscriminatory environment for all students, free from sexual harassment and sexual violence. Because the standards for pursuing and completing criminal investigations are different from those used for Title IX investigations, the termination of a criminal investigation without an arrest or conviction does not affect the school's Title IX obligations.

Of course, criminal investigations conducted by local or campus law enforcement may be useful for fact gathering if the criminal investigation occurs within the recommended timeframe for Title IX investigations; but, even if a criminal investigation is ongoing, a school must still conduct its own Title IX investigation.

A school should notify complainants of the right to file a criminal complaint and should not dissuade a complainant from doing so either during or after the school's internal Title IX investigation. Title IX does not require a school to report alleged incidents of sexual violence to law enforcement, but a school may have reporting obligations under state, local, or other federal laws.

COLUMBUS STATE UNIVERSITY Response: Columbus State University follows this and notifies both complainant and respondent of the differences between a criminal and a Title IX investigation.

F-3. How should a school proceed when campus or local law enforcement agencies are conducting a criminal investigation while the school is conducting a parallel Title IX investigation?

OCR Answer: A school should not wait for the conclusion of a criminal investigation or criminal proceeding to begin its own Title IX investigation. Although a school may need to delay

temporarily the fact-finding portion of a Title IX investigation while the police are gathering evidence, it is important for a school to understand that during this brief delay in the Title IX investigation, it must take interim measures to protect the complainant in the educational setting. The school should also continue to update the parties on the status of the investigation and inform the parties when the school resumes its Title IX investigation. For additional information on interim measures see questions G-1 to G-3.

If a school delays the fact-finding portion of a Title IX investigation, the school must promptly resume and complete its fact-finding for the Title IX investigation once it learns that the police department has completed its evidence gathering stage of the criminal investigation. The school should not delay its investigation until the ultimate outcome of the criminal investigation or the filing of any charges. OCR recommends that a school work with its campus police, local law enforcement, and local prosecutor's office to learn when the evidence gathering stage of the criminal investigation is complete. A school may also want to enter into a memorandum of understanding (MOU) or other agreement with these agencies regarding the protocols and procedures for referring allegations of sexual violence, sharing information, and conducting contemporaneous investigations. Any MOU or other agreement must allow the school to meet its Title IX obligation to resolve complaints promptly and equitably, and must comply with the Family Educational Rights and Privacy Act ("FERPA") and other applicable privacy laws.

The DCL states that in one instance a prosecutor's office informed OCR that the police department's evidence gathering stage typically takes three to ten calendar days, although the delay in the school's investigation may be longer in certain instances. OCR understands that this example may not be representative and that the law enforcement agency's process often takes more than ten days. OCR recognizes that the length of time for evidence gathering by criminal investigators will vary depending on the specific circumstances of each case.

COLUMBUS STATE UNIVERSITY Response: The University does not wait for the conclusion of a criminal investigation or criminal proceeding to begin a Title IX investigation. The Title IX Coordinators and Investigators do work closely with University Police and have good communication with both Columbus Police Department and University Police in order not to hinder their investigation. If there is a delay in the investigation, the University takes interim measures to insure the safety of the complainant, the campus, and keeps both parties up to date on the investigation process.

Off-Campus Conduct

F-4. Is a school required to process complaints of alleged sexual violence that occurred off campus?

OCR Answer: Yes. Under Title IX, a school must process all complaints of sexual violence, regardless of where the conduct occurred, to determine whether the conduct occurred in the context of an education program or activity or had continuing effects on campus or in an off-campus education program or activity.

A school must determine whether the alleged off-campus sexual violence occurred in the context of an education program or activity of the school; if so, the school must treat the complaint in the same manner that it treats complaints regarding on-campus conduct. In other words, if a school determines that the alleged misconduct took place in the context of an education program or activity of the school, the fact that the alleged misconduct took place off campus does not relieve the school of its obligation to investigate the complaint as it would investigate a complaint of sexual violence that occurred on campus.

Whether the alleged misconduct occurred in this context may not always be apparent from the complaint, so a school may need to gather additional information in order to make such a determination. Off-campus education programs and activities are clearly covered and include, but are not limited to: activities that take place at houses of fraternities or sororities recognized by the school; school-sponsored field trips, including athletic team travel; and events for school clubs that occur off campus (e.g., a debate team trip to another school or to a weekend competition).

Even if the misconduct did not occur in the context of an education program or activity, a school must consider the effects of the off-campus misconduct when evaluating whether there is a hostile environment on campus or in an off-campus education program or activity because students often experience the continuing effects of off-campus sexual violence while at school or in an off-campus education program or activity. The school cannot address the continuing effects of the off-campus sexual violence at school or in an off-campus education program or activity unless it processes the complaint and gathers appropriate additional information in accordance with its established procedures.

Once a school is on notice of off-campus sexual violence against a student, it must assess whether there are any continuing effects on campus or in an off-campus education program or activity that are creating or contributing to a hostile environment and, if so, address that hostile environment in the same manner in which it would address a hostile environment created by on-campus misconduct. The mere presence on campus or in an off campus education program or activity of the alleged perpetrator of off-campus sexual violence can have continuing effects that create a hostile environment. A school should also take steps to protect a student who alleges off-campus sexual violence from further harassment by the alleged perpetrator or his or her friends, and a school may have to take steps to protect other students from possible assault by the alleged perpetrator. In other words, the school should protect the school community in the same way it would had the sexual violence occurred on campus. Even if there are no continuing effects of the off-campus sexual violence experienced by the student on campus or in an off-campus education program or activity, the school still should handle these incidents as it would handle other off-campus incidents of misconduct or violence and consistent with any other applicable laws. For example, if a school, under its code of conduct, exercises jurisdiction over physical altercations between students that occur off campus outside of an education program or activity, it should also exercise jurisdiction over incidents of student-on-student sexual violence that occur off campus outside of an education program or activity.

COLUMBUS STATE UNIVERSITY Response: The University complies with this and processes complaints of alleged sexual violence that occur off campus.

F-5. Must a school allow or require the parties to be present during an entire hearing?

OCR Answer: If a school uses a hearing process to determine responsibility for acts of sexual violence, OCR does not require that the school allow a complainant to be present for the entire hearing; it is up to each school to make this determination. But if the school allows one party to be present for the entirety of a hearing, it must do so equally for both parties. At the same time, when requested, a school should make arrangements so that the complainant and the alleged perpetrator do not have to be present in the same room at the same time. These two objectives may be achieved by using closed circuit television or other means. Because a school has a Title IX obligation to investigate possible sexual violence, if a hearing is part of the school's Title IX investigation process, the school must not require a complainant to be present at the hearing as a prerequisite to proceed with the hearing.

COLUMBUS STATE UNIVERSITY Response: The University complies with this. This is an excerpt from the hearing notice to complainant template letter that is used through MaxStack:

This letter serves as notice that a hearing, addressing each of the above-listed charge(s) has been scheduled before the Title IX Hearing Panel on _____ in the _____, at ____ PM.

Please understand, you may attend this hearing but are not required to do so. You may have an advisor of your choice accompany you in the hearing. As a reminder, advisors may consult with you during the hearing, but may not address the Title IX Hearing Panel or provide testimony.

Please let me know if you are planning to attend so I can make appropriate arrangements for you. If you have any questions or concerns, please contact....

F-6. May every witness at the hearing, including the parties, be cross-examined?

OCR Answer: OCR does not require that a school allow cross-examination of witnesses, including the parties, if they testify at the hearing. But if the school allows one party to cross-examine witnesses, it must do so equally for both parties.

OCR strongly discourages a school from allowing the parties to personally question or cross-examine each other during a hearing on alleged sexual violence. Allowing an alleged perpetrator to question a complainant directly may be traumatic or intimidating, and may perpetuate a hostile environment. A school may choose, instead, to allow the parties to submit questions to a trained third party (e.g., the hearing panel) to ask the questions on their behalf.

OCR recommends that the third party screen the questions submitted by the parties and only ask those it deems appropriate and relevant to the case.

COLUMBUS STATE UNIVERSITY Response: The University does not allow parties to cross examine each other. If a complainant chooses to be present at the hearing and also chooses to be present in the same room with the respondent, all questions are directed to the Dean of Students, who acts as the coordinator of the hearing procedures.

F-7. May the complainant's sexual history be introduced at hearings?

OCR Answer: Questioning about the complainant's sexual history with anyone other than the alleged perpetrator should not be permitted. Further, a school should recognize that the mere fact of a current or previous consensual dating or sexual relationship between the two parties does not itself imply consent or preclude a finding of sexual violence. The school should also ensure that hearings are conducted in a manner that does not inflict additional trauma on the complainant.

COLUMBUS STATE UNIVERSITY Response: Columbus State University does not allow sexual history to be introduced at hearings. The hearing panel is trained on appropriate questions that are allowed and considered during a hearing. Also, the Dean of Students coordinates and oversees the hearing process and will stop any inappropriate questions from being answered by either party.

Timeframes

F-8. What stages of the investigation are included in the 60-day timeframe referenced in the DCL as the length for a typical investigation?

OCR Answer: As noted in the DCL, the 60-calendar day timeframe for investigations is based on OCR's experience in typical cases. The 60-calendar day timeframe refers to the entire investigation process, which includes conducting the fact-finding investigation, holding a hearing or engaging in another decision-making process to determine whether the alleged sexual violence occurred and created a hostile environment, and determining what actions the school will take to eliminate the hostile environment and prevent its recurrence, including imposing sanctions against the perpetrator and providing remedies for the complainant and school community, as appropriate. Although this timeframe does not include appeals, a school should be aware that an unduly long appeals process may impact whether the school's response was prompt and equitable as required by Title IX.

OCR does not require a school to complete investigations within 60 days; rather OCR evaluates on a case-by-case basis whether the resolution of sexual violence complaints is prompt and equitable. Whether OCR considers an investigation to be prompt as required by Title IX will vary depending on the complexity of the investigation and the severity and extent of the alleged conduct. OCR recognizes that the investigation process may take longer if there is a parallel criminal investigation or if it occurs partially during school breaks. A school may need to stop an investigation during school breaks or between school years, although a school should make

every effort to try to conduct an investigation during these breaks unless so doing would sacrifice witness availability or otherwise compromise the process.

Because timeframes for investigations vary and a school may need to depart from the timeframes designated in its grievance procedures, both parties should be given periodic status updates throughout the process.

COLUMBUS STATE UNIVERSITY Response: The University follows the 60-calendar day timeframe as suggested by OCR. This timeframe is part of the ATIXA Timeline of the University's investigation protocol. This protocol breaks each aspect of the investigation down even further into steps with suggested time frames for each step of investigation.

G. Interim Measures

G-1. Is a school required to take any interim measures before the completion of its investigation?

OCR Answer: Title IX requires a school to take steps to ensure equal access to its education programs and activities and protect the complainant as necessary, including taking interim measures before the final outcome of an investigation. The school should take these steps promptly once it has notice of a sexual violence allegation and should provide the complainant with periodic updates on the status of the investigation. The school should notify the complainant of his or her options to avoid contact with the alleged perpetrator and allow the complainant to change academic and extracurricular activities or his or her living, transportation, dining, and working situation as appropriate. The school should also ensure that the complainant is aware of his or her Title IX rights and any available resources, such as victim advocacy, housing assistance, academic support, counseling, disability services, health and mental health services, and legal assistance, and the right to report a crime to campus or local law enforcement. If a school does not offer these services on campus, it should enter into an MOU with a local victim services provider if possible.

Even when a school has determined that it can respect a complainant's request for confidentiality and therefore may not be able to respond fully to an allegation of sexual violence and initiate formal action against an alleged perpetrator, the school must take immediate action to protect the complainant while keeping the identity of the complainant confidential. These actions may include: providing support services to the complainant; changing living arrangements or course schedules, assignments, or tests; and providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred.

COLUMBUS STATE UNIVERSITY Response: Columbus State University utilizes the ATIXA Grievance Process Flowchart Model. In this model, the Title IX Coordinator and any other necessary campus officials meet as soon as possible to determine an Initial Remedial Action that protects the complainant and campus community while still respecting the rights of the respondent. Some of the interim measures that are considered for each case include

Emergency Suspension, removal of either complainant or respondent from a class or university housing, arranging on-line or independent study options if both parties are in a class together, a Duty to Warn the Campus, or other safety measures deemed necessary.

G-2. How should a school determine what interim measures to take?

OCR Answer: The specific interim measures implemented and the process for implementing those measures will vary depending on the facts of each case. A school should consider a number of factors in determining what interim measures to take, including, for example, the specific need expressed by the complainant; the age of the students involved; the severity or pervasiveness of the allegations; any continuing effects on the complainant; whether the complainant and alleged perpetrator share the same residence hall, dining hall, class, transportation, or job location; and whether other judicial measures have been taken to protect the complainant (e.g., civil protection orders).

In general, when taking interim measures, schools should minimize the burden on the complainant. For example, if the complainant and alleged perpetrator share the same class or residence hall, the school should not, as a matter of course, remove the complainant from the class or housing while allowing the alleged perpetrator to remain without carefully considering the facts of the case.

COLUMBUS STATE UNIVERSITY Response: The University complies, see answer to G 1.

G-3. If a school provides all students with access to counseling on a fee basis, does that suffice for providing counseling as an interim measure?

OCR Answer: No. Interim measures are determined by a school on a case-by-case basis. If a school determines that it needs to offer counseling to the complainant as part of its Title IX obligation to take steps to protect the complainant while the investigation is ongoing, it must not require the complainant to pay for this service.

COLUMBUS STATE UNIVERSITY Response: Columbus State University offers free counseling services to all students.

H. Remedies and Notice of Outcome

H-1. What remedies should a school consider in a case of student-on-student sexual violence?

OCR Answer: Effective remedial action may include disciplinary action against the perpetrator, providing counseling for the perpetrator, remedies for the complainant and others, as well as changes to the school's overall services or policies. All services needed to remedy the hostile environment should be offered to the complainant. These remedies are separate from, and in addition to, any interim measure that may have been provided prior to the conclusion of the school's investigation. In any instance in which the complainant did not take advantage of a

specific service (e.g., counseling) when offered as an interim measure, the complainant should still be offered, and is still entitled to, appropriate final remedies that may include services the complainant declined as an interim measure. A refusal at the interim stage does not mean the refused service or set of services should not be offered as a remedy.

If a school uses its student disciplinary procedures to meet its Title IX obligation to resolve complaints of sexual violence promptly and equitably, it should recognize that imposing sanctions against the perpetrator, without more, likely will not be sufficient to satisfy its Title IX obligation to eliminate the hostile environment, prevent its recurrence, and, as appropriate, remedy its effects. Additional remedies for the complainant and the school community may be necessary. If the school's student disciplinary procedure does not include a process for determining and implementing these remedies for the complainant and school community, the school will need to use another process for this purpose.

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

- Providing an effective escort to ensure that the complainant can move safely between classes and activities;
- Ensuring the complainant and perpetrator do not share classes or extracurricular activities;
- Moving the perpetrator or complainant (if the complainant requests to be moved) to a different residence hall or, in the case of an elementary or secondary school student, to another school within the district;
- Providing comprehensive, holistic victim services including medical, counseling and academic support services, such as tutoring;
- Arranging for the complainant to have extra time to complete or re-take a class or withdraw from a class without an academic or financial penalty; and
- Reviewing any disciplinary actions taken against the complainant to see if there is a causal connection between the sexual violence and the misconduct that may have resulted in the complainant being disciplined.

Remedies for the broader student population may include, but are not limited to:

- Designating an individual from the school's counseling center who is specifically trained in providing trauma-informed comprehensive services to victims of sexual violence to be on call to assist students whenever needed;
- Training or retraining school employees on the school's responsibilities to address allegations of sexual violence and how to conduct Title IX investigations;
- Developing materials on sexual violence, which should be distributed to all students;
- Conducting bystander intervention and sexual violence prevention programs with students;
- Issuing policy statements or taking other steps that clearly communicate that the school does not tolerate sexual violence and will respond to any incidents and to any student who reports such incidents;

- Conducting, in conjunction with student leaders, a campus climate check to assess the effectiveness of efforts to ensure that the school is free from sexual violence, and using that information to inform future proactive steps that the school will take; Targeted training for a group of students if, for example, the sexual violence created a hostile environment in a residence hall, fraternity or sorority, or on an athletic team; and
- Developing a protocol for working with local law enforcement as discussed in question F-3.

When a school is unable to conduct a full investigation into a particular incident (i.e., when it received a general report of sexual violence without any personally identifying information), it should consider remedies for the broader student population in response.

COLUMBUS STATE UNIVERSITY Response: Columbus State University considers and will offer any services available to remedy the hostile environment for a complainant. On the S.A.V.E website steps of how to report and how the University will respond is clearly explained.

Actions and Recommendations for Future: The S.A.V.E Task Force should take a closer look at the suggested remedies for the broader student population. Conducting a Campus Climate Survey is part of the Task Force's plan as a result of this FAQ report. Currently some special groups are targeted for training the RAs, but this needs to be expanded to other special groups, such as athletes and Greeks. Also, as mentioned previously, the University needs to be much more aggressive and clear in our communication with the campus community that the University does not tolerate sexual violence.

H-2. If, after an investigation, a school finds the alleged perpetrator responsible and determines that, as part of the remedies for the complainant, it must separate the complainant and perpetrator, how should the school accomplish this if both students share the same major and there are limited course options?

OCR Answer: If there are limited sections of required courses offered at a school and both the complainant and perpetrator are required to take those classes, the school may need to make alternate arrangements in a manner that minimizes the burden on the complainant. For example, the school may allow the complainant to take the regular sections of the courses while arranging for the perpetrator to take the same courses online or through independent study.

COLUMBUS STATE UNIVERSITY Response: The University takes necessary steps to make alternate arrangements for course work that minimizes the burden for the complainant.

H-3. What information must be provided to the complainant in the notice of the outcome?

OCR Answer: Title IX requires both parties to be notified, in writing, about the outcome of both the complaint and any appeal. OCR recommends that a school provide written notice of the outcome to the complainant and the alleged perpetrator concurrently.

For Title IX purposes, a school must inform the complainant as to whether or not it found that the alleged conduct occurred, any individual remedies offered or provided to the complainant or any sanctions imposed on the perpetrator that directly relate to the complainant, and other

steps the school has taken to eliminate the hostile environment, if the school finds one to exist, and prevent recurrence. The perpetrator should not be notified of the individual remedies offered or provided to the complainant. Sanctions that directly relate to the complainant (but that may also relate to eliminating the hostile environment and preventing recurrence) include, but are not limited to, requiring that the perpetrator stay away from the complainant until both parties graduate, prohibiting the perpetrator from attending school for a period of time, or transferring the perpetrator to another residence hall, other classes, or another school. Additional steps the school has taken to eliminate the hostile environment may include counseling and academic support services for the complainant and other affected students. Additional steps the school has taken to prevent recurrence may include sexual violence training for faculty and staff, revisions to the school's policies on sexual violence, and campus climate surveys. Further discussion of appropriate remedies is included in question H-1.

In addition to the Title IX requirements described above, the Clery Act requires, and FERPA permits, postsecondary institutions to inform the complainant of the institution's final determination and any disciplinary sanctions imposed on the perpetrator in sexual violence cases (as opposed to all harassment and misconduct covered by Title IX) not just those sanctions that directly relate to the complainant.

COLUMBUS STATE UNIVERSITY Response: The University notifies both parties in writing about the outcome of a sexual violence hearing or investigation and utilizes the ATIXA template letter called Notification of Outcome for complainant and accused. Included in the complainant letter are all sanctions given to the perpetrator and all of the remedies taken to eliminate a hostile environment. Included in the letter to both parties is notification of the right to appeal, a link to the website with directions, and the appeal form.

I. Appeals

I-1. What are the requirements for an appeals process?

OCR Answer: While Title IX does not require that a school provide an appeals process, OCR does recommend that the school do so where procedural error or previously unavailable relevant evidence could significantly impact the outcome of a case or where a sanction is substantially disproportionate to the findings. If a school chooses to provide for an appeal of the findings or remedy or both, it must do so equally for both parties. The specific design of the appeals process is up to the school, as long as the entire grievance process, including any appeals, provides prompt and equitable resolutions of sexual violence complaints, and the school takes steps to protect the complainant in the educational setting during the process. Any individual or body handling appeals should be trained in the dynamics of and trauma associated with sexual violence.

If a school chooses to offer an appeals process it has flexibility to determine the type of review it will apply to appeals, but the type of review the school applies must be the same regardless of which party files the appeal.

COLUMBUS STATE UNIVERSITY Response: From page 86 of the Student Handbook:

The University will entertain appeals from students that have been suspended, expelled, removed from housing, or removed from class or forced to withdraw from the course and/or department. Victims in a sexual misconduct case are also afforded the same appeal process.

Also included in the letter to both complainant and respondent is:

Appeals must be submitted within 10 working days of the completion of the hearing. Appeals of this decision should be submitted on-line at <http://sa.columbusstate.edu/forms.php>. on the form titled Appeal of the Findings of Non-Academic Misconduct. If you have questions, see the Student Handbook or contact a member of the Student Affairs staff.

I-2. Must an appeal be available to a complainant who receives a favorable finding but does not believe a sanction that directly relates to him or her was sufficient?

OCR Answer: The appeals process must be equal for both parties. For example, if a school allows a perpetrator to appeal a suspension on the grounds that it is too severe, the school must also allow a complainant to appeal a suspension on the grounds that it was not severe enough. See question H-3 for more information on what must be provided to the complainant in the notice of the outcome.

COLUMBUS STATE UNIVERSITY Response: See Response to I 1.

J. Title IX Training, Education and Prevention

J-1. What type of training on Title IX and sexual violence should a school provide to its employees?

OCR Answer: A school needs to ensure that responsible employees with the authority to address sexual violence know how to respond appropriately to reports of sexual violence that other responsible employees know that they are obligated to report sexual violence to appropriate school officials, and that all other employees understand how to respond to reports of sexual violence. A school should ensure that professional counselors, pastoral counselors, and non-professional counselors or advocates also understand the extent to which they may keep a report confidential. A school should provide training to all employees likely to witness or receive reports of sexual violence, including teachers, professors, school law enforcement unit employees, school administrators, school counselors, general counsels, athletic coaches, health personnel, and resident advisors. Training for employees should include practical information about how to prevent and identify sexual violence, including same-sex sexual violence; the behaviors that may lead to and result in sexual violence; the attitudes of bystanders that may allow conduct to continue; the potential for revictimization by responders and its effect on students; appropriate methods for responding to a student who may have experienced sexual violence, including the use of nonjudgmental language; the impact of trauma on victims; and, as applicable, the person(s) to whom such misconduct must

be reported. The training should also explain responsible employees' reporting obligation, including what should be included in a report and any consequences for the failure to report and the procedure for responding to students' requests for confidentiality, as well as provide the contact information for the school's Title IX coordinator. A school also should train responsible employees to inform students of: the reporting obligations of responsible employees; students' option to request confidentiality and available confidential advocacy, counseling, or other support services; and their right to file a Title IX complaint with the school and to report a crime to campus or local law enforcement. For additional information on the reporting obligations of responsible employees and others see questions D-1 to D-5.

There is no minimum number of hours required for Title IX and sexual violence training at every school, but this training should be provided on a regular basis. Each school should determine based on its particular circumstances how such training should be conducted, who has the relevant expertise required to conduct the training, and who should receive the training to ensure that the training adequately prepares employees, particularly responsible employees, to fulfill their duties under Title IX. A school should also have methods for verifying that the training was effective.

COLUMBUS STATE UNIVERSITY Response: All incoming faculty and staff are trained during their new employee orientation of their obligation and requirements. Employees in a supervisory position are provided supplemental training as well.

Actions and Recommendations for Future: All Columbus State University employees will be required to complete the online MyStudentBody course that all incoming students will be required to take. Also, Human Resources has purchased the Skillssoft program that can be used to train all Columbus State University employees, and will begin utilizing this online mandatory training beginning the 2014-2015 academic year. This training will track that all employees are trained on a regular basis about more detailed Title IX and sexual assault reporting obligations, policies, procedures, resources available, and best practices on how to respond to reports of sexual violence.

J-2. How should a school train responsible employees to report incidents of possible sexual harassment or sexual violence?

OCR Answer: Title IX requires a school to take prompt and effective steps reasonably calculated to end sexual harassment and sexual violence that creates a hostile environment (i.e., conduct that is sufficiently serious as to limit or deny a student's ability to participate in or benefit from the school's educational program and activity). But a school should not wait to take steps to protect its students until students have already been deprived of educational opportunities.

OCR therefore recommends that a school train responsible employees to report to the Title IX coordinator or other appropriate school official any incidents of sexual harassment or sexual violence that may violate the school's code of conduct or may create or contribute to the creation of a hostile environment. The school can then take steps to investigate and prevent any harassment or violence from recurring or escalating, as appropriate. For example, the school may separate the complainant and alleged perpetrator or conduct sexual harassment

and sexual violence training for the school's students and employees. Responsible employees should understand that they do not need to determine whether the alleged sexual harassment or sexual violence actually occurred or that a hostile environment has been created before reporting an incident to the school's Title IX coordinator. Because the Title IX coordinator should have in-depth knowledge of Title IX and Title IX complaints at the school, he or she is likely to be in a better position than are other employees to evaluate whether an incident of sexual harassment or sexual violence creates a hostile environment and how the school should respond. There may also be situations in which individual incidents of sexual harassment do not, by themselves, create a hostile environment; however when considered together, those incidents may create a hostile environment.

COLUMBUS STATE UNIVERSITY Response: See response to J-I.

J-3. What type of training should a school provide to employees who are involved in implementing the school's grievance procedures?

OCR Answer: All persons involved in implementing a school's grievance procedures (e.g., Title IX coordinators, others who receive complaints, investigators, and adjudicators) must have training or experience in handling sexual violence complaints, and in the operation of the school's grievance procedures. The training should include information on working with and interviewing persons subjected to sexual violence; information on particular types of conduct that would constitute sexual violence, including same-sex sexual violence; the proper standard of review for sexual violence complaints (preponderance of the evidence); information on consent and the role drugs or alcohol can play in the ability to consent; the importance of accountability for individuals found to have committed sexual violence; the need for remedial actions for the perpetrator, complainant, and school community; how to determine credibility; how to evaluate evidence and weigh it in an impartial manner; how to conduct investigations; confidentiality; the effects of trauma, including neurobiological change; and cultural awareness training regarding how sexual violence may impact students differently depending on their cultural backgrounds.

In rare circumstances, employees involved in implementing a school's grievance procedures may be able to demonstrate that prior training and experience has provided them with competency in the areas covered in the school's training. For example, the combination of effective prior training and experience investigating complaints of sexual violence, together with training on the school's current grievance procedures may be sufficient preparation for an employee to resolve Title IX complaints consistent with the school's grievance procedures. In-depth knowledge regarding Title IX and sexual violence is particularly helpful. Because laws and school policies and procedures may change, the only way to ensure that all employees involved in implementing the school's grievance procedures have the requisite training or experience is for the school to provide regular training to all individuals involved in implementing the school's Title IX grievance procedures even if such individuals also have prior relevant experience.

COLUMBUS STATE UNIVERSITY Response: The University uses all resources available through ATIXA for training within the Dean of Students Office and Title IX Coordinators. Title IX Investigators have been trained and certified through ATIXA. The Hearing Panel is trained

using ATIXA series of four webinars for sexual violence hearing panels. The University has purchased the NCHERM Bundle that gives all employees who need it access to the most updated documents, webinars, and training in Title IX polices. The Coordinators and Investigators keep updated on a daily basis through the ATIXA list serv. The S.A.V.E Task Force keeps updated and trained on new requirements and procedures, and regularly reviews the University's policies and procedures.

J-4. What type of training on sexual violence should a school provide to its students?

OCR Answer: To ensure that students understand their rights under Title IX, a school should provide age-appropriate training to its students regarding Title IX and sexual violence. At the elementary and secondary school level, schools should consider whether sexual violence training should also be offered to parents, particularly training on the school's process for handling complaints of sexual violence. Training may be provided separately or as part of the school's broader training on sex discrimination and sexual harassment. However, sexual violence is a unique topic that should not be assumed to be covered adequately in other educational programming or training provided to students. The school may want to include this training in its orientation programs for new students; training for student athletes and members of student organizations; and back-to-school nights. A school should consider educational methods that are most likely to help students retain information when designing its training, including repeating the training at regular intervals. OCR recommends that, at a minimum, the following topics (as appropriate) be covered in this training:

- Title IX and what constitutes sexual violence, including same-sex sexual violence, under the school's policies;
- the school's definition of consent applicable to sexual conduct, including examples;
- how the school analyzes whether conduct was unwelcome under Title IX;
- how the school analyzes whether unwelcome sexual conduct creates a hostile environment;
- reporting options, including formal reporting and confidential disclosure options and any timeframes set by the school for reporting;
- the school's grievance procedures used to process sexual violence complaints;
- disciplinary code provisions relating to sexual violence and the consequences of violating those provisions;
- effects of trauma, including neurobiological changes;
- the role alcohol and drugs often play in sexual violence incidents, including the deliberate use of alcohol and/or other drugs to perpetrate sexual violence;
- strategies and skills for bystanders to intervene to prevent possible sexual violence;
- how to report sexual violence to campus or local law enforcement and the ability to pursue law enforcement proceedings simultaneously with a Title IX grievance; and
- Title IX's protections against retaliation.

The training should also encourage students to report incidents of sexual violence. The training should explain that students (and their parents or friends) do not need to determine whether incidents of sexual violence or other sexual harassment created a hostile environment before reporting the incident. A school also should be aware that persons may be deterred from reporting incidents if, for example, violations of school or campus rules regarding alcohol or drugs were involved. As a result, a school should review its disciplinary policy to ensure it does not have a chilling effect on students' reporting of sexual violence offenses or participating as witnesses. OCR recommends that a school inform students that the school's primary concern is student safety, and that use of alcohol or drugs never makes the survivor at fault for sexual violence.

It is also important for a school to educate students about the persons on campus to whom they can confidentially report incidents of sexual violence. A school's sexual violence education and prevention program should clearly identify the offices or individuals with whom students can speak confidentially and the offices or individuals who can provide resources such as victim advocacy, housing assistance, academic support, counseling, disability services, health and mental health services, and legal assistance. It should also identify the school's responsible employees and explain that if students report incidents to responsible employees (except as noted in question E-3) these employees are required to report the incident to the Title IX coordinator or other appropriate official. This reporting includes the names of the alleged perpetrator and student involved in the sexual violence, as well as relevant facts including the date, time, and location, although efforts should be made to comply with requests for confidentiality from the complainant. For more detailed information regarding reporting and responsible employees and confidentiality, see questions D-1 to D-5 and E-1 to E-4.

COLUMBUS STATE UNIVERSITY Response: Columbus State University utilizes the MyStudentBody.com online education course for sexual violence education. MyStudentBody will become a mandatory part of the Freshman requirement and a hold will be placed on students' account through the Registrar's office if the online test is not completed by 30 credit hours. Preventative educational and awareness programs are also sponsored throughout the school year including Rape, Abuse, and Incest National Network (RAINN) Day and Safe Spring Break Week activities, and Speak Up, Speak Out. BACCHUS Peer Educator group and Resident Assistants also sponsor regular educational programs on sexual violence and bystander intervention. The S.A.V.E. Task Forces provides financial support and helps co-sponsors sexual violence education programs with student organizations across campus. Also, beginning Summer 2014, all incoming students will see a skit acted out by the Orientation Leaders with a sexual violence scenario, and will be debriefed afterwards by the Orientation Leaders trained on the sexual violence protocol of the University.

K. Retaliation

K-1. Does Title IX protect against retaliation?

OCR Answer: Yes. The Federal civil rights laws, including Title IX, make it unlawful to retaliate against an individual for the purpose of interfering with any right or privilege secured by these

laws. This means that if an individual brings concerns about possible civil rights problems to a school's attention, including publicly opposing sexual violence or filing a sexual violence complaint with the school or any State or Federal agency, it is unlawful for the school to retaliate against that individual for doing so. It is also unlawful to retaliate against an individual because he or she testified, or participated in any manner, in an OCR or school's investigation or proceeding. Therefore, if a student, parent, teacher, coach, or other individual complains formally or informally about sexual violence or participates in an OCR or school's investigation or proceedings related to sexual violence, the school is prohibited from retaliating (including intimidating, threatening, coercing, or in any way discriminating against the individual) because of the individual's complaint or participation.

A school should take steps to prevent retaliation against a student who filed a complaint either on his or her own behalf or on behalf of another student, or against those who provided information as witnesses.

Schools should be aware that complaints of sexual violence may be followed by retaliation against the complainant or witnesses by the alleged perpetrator or his or her associates. When a school knows or reasonably should know of possible retaliation by other students or third parties, it must take immediate and appropriate steps to investigate or otherwise determine what occurred. Title IX requires the school to protect the complainant and witnesses and ensure their safety as necessary. At a minimum, this includes making sure that the complainant and his or her parents, if the complainant is in elementary or secondary school, and witnesses know how to report retaliation by school officials, other students, or third parties by making follow-up inquiries to see if there have been any new incidents or acts of retaliation, and by responding promptly and appropriately to address continuing or new problems. A school should also tell complainants and witnesses that Title IX prohibits retaliation, and that school officials will not only take steps to prevent retaliation, but will also take strong responsive action if it occurs.

COLUMBUS STATE UNIVERSITY Response: All complainants are made aware that the University will not tolerate any retaliation against a student who has made a complaint or participated in an investigation and that the university will take immediate steps to investigate and remedy the retaliation. All students interviewed by the Title IX Investigators sign a Witness Right Agreement Form which includes the statement:

I understand that as a result of my providing witness information in a civil rights investigation I am entitled to certain rights as enumerated below:

- ***I am entitled to be free from any form of retaliation directed toward me as a result of my voluntarily providing information. This includes any physical, written, verbal or academic retaliation, including through the Internet and on social networking sites. Any behavior perceived by me to be retaliatory based on my participation in this civil rights investigation should be immediately reported to Dana Larkin, Assistant Dean of Students, at 706-507-8333.***

L. First Amendment

L-1. How should a school handle its obligation to respond to sexual harassment and sexual violence while still respecting free-speech rights guaranteed by the Constitution?

OCR Answer: The DCL on sexual violence did not expressly address First Amendment issues because it focuses on unlawful physical sexual violence, which is not speech or expression protected by the First Amendment. However, OCR’s previous guidance on the First Amendment, including the 2001 Guidance, OCR’s July 28, 2003, Dear Colleague Letter on the First Amendment, and OCR’s October, 2010, Dear Colleague Letter on harassment and bullying, remain fully in effect. OCR has made it clear that the laws and regulations it enforces protect students from prohibited discrimination and do not restrict the exercise of any expressive activities or speech protected under the U.S. Constitution. Therefore, when a school works to prevent and redress discrimination, it must respect the free-speech rights of students, faculty, and other speakers.

Title IX protects students from sex discrimination; it does not regulate the content of speech. OCR recognizes that the offensiveness of a particular expression as perceived by some students, standing alone, is not a legally sufficient basis to establish a hostile environment under Title IX. Title IX also does not require, prohibit, or abridge the use of particular textbooks or curricular materials.

COLUMBUS STATE UNIVERSITY Response: Columbus State University respects the free-speech rights of students, faculty, and other speakers.

M. The Clery Act and the Violence Against Women Reauthorization Act of 2013

M-1. How does the Clery Act affect the Title IX obligations of institutions of higher education that participate in the federal student financial aid programs?

OCR Answer: Institutions of higher education that participate in the federal student financial aid programs are subject to the requirements of the Clery Act as well as Title IX. The Clery Act requires institutions of higher education to provide current and prospective students and employees, the public, and the Department with crime statistics and information about campus crime prevention programs and policies. The Clery Act requirements apply to many crimes other than those addressed by Title IX. For those areas in which the Clery Act and Title IX both apply, the institution must comply with both laws. For additional information about the Clery Act and its regulations, please see <http://www2.ed.gov/admins/lead/safety/campus.html>.

COLUMBUS STATE UNIVERSITY Response: “The Rap Sheet” is produced annually by Columbus State University Police to inform students and others about how to stay safe at Columbus State. Crime statistics are also presented, as well as information about parking and other topics related to University Police services.

Actions and Recommendations for Future: The Office of the Dean of Students will also keep Clery records in their Maxient Database beginning Fall 2014.

M-2. Were a school's obligations under Title IX and the DCL altered in any way by the Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-4, including Section 304 of that Act, which amends the Clery Act?

OCR Answer: No. The Violence Against Women Reauthorization Act has no effect on a school's obligations under Title IX or the DCL. The Violence Against Women Reauthorization Act amended the Violence Against Women Act and the Clery Act, which are separate statutes. Nothing in Section 304 or any other part of the Violence Against Women Reauthorization Act relieves a school of its obligation to comply with the requirements of Title IX, including those set forth in these Questions and Answers, the 2011 DCL, and the 2001 Guidance.

For additional information about the Department's negotiated rulemaking related to the Violence Against Women Reauthorization Act please see <http://www2.ed.gov/policy/highered/reg/hearulemaking/2012/vawa.html>.

N. Further Federal Guidance

N-1. Whom should I contact if I have additional questions about the DCL or OCR's other Title IX guidance?

OCR Answer: Anyone who has questions regarding this guidance, or Title IX should contact the OCR regional office that serves his or her state. Contact information for OCR regional offices can be found on OCR's webpage at <https://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm>. If you wish to file a complaint of discrimination with OCR, you may use the online complaint form available at <http://www.ed.gov/ocr/complaintintro.html> or send a letter to the OCR enforcement office responsible for the state in which the school is located. You may also email general questions to OCR at ocr@ed.gov.

N-2. Are there other resources available to assist a school in complying with Title IX and preventing and responding to sexual violence?

OCR Answer: Yes. OCR's policy guidance on Title IX is available on OCR's webpage at <http://www.ed.gov/ocr/publications.html#TitleIX>. In addition to the April 4, 2011, Dear Colleague Letter, OCR has issued the following resources that further discuss a school's obligation to respond to allegations of sexual harassment and sexual violence:

- Dear Colleague Letter: Harassment and Bullying (October 26, 2010), <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>
- Sexual Harassment: It's Not Academic (Revised September 2008), <http://www2.ed.gov/about/offices/list/ocr/docs/ocrshpam.pdf>
- Revised Sexual Harassment Guidance: Harassment of Students by Employees, Other Students, or Third Parties (January 19, 2001),

<http://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf> N. Further Federal Guidance

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- Sexual Harassment: It's Not Academic (Revised September 2008), <http://www2.ed.gov/about/offices/list/ocr/docs/ocrshpam.pdf>
- Revised Sexual Harassment Guidance: Harassment of Students by Employees, Other Students, or Third Parties (January 19, 2001), <http://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>