

Title IX Essentials for Michigan Institutions

Session 1:

Conducting Effective Intakes and Implementing Supportive Measures

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Your Presenters



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Disclaimers...

- We are not giving you legal advice.
- Consult counsel regarding specific institutions and practices.
- Ask questions and participation is welcome!
- Yes, you will get the slides (and you should post them!)
- The Title IX Regulations and the Clery Act require specific training, this series will cover some, but not ALL of the required training. Make sure you have completed **all** required training.

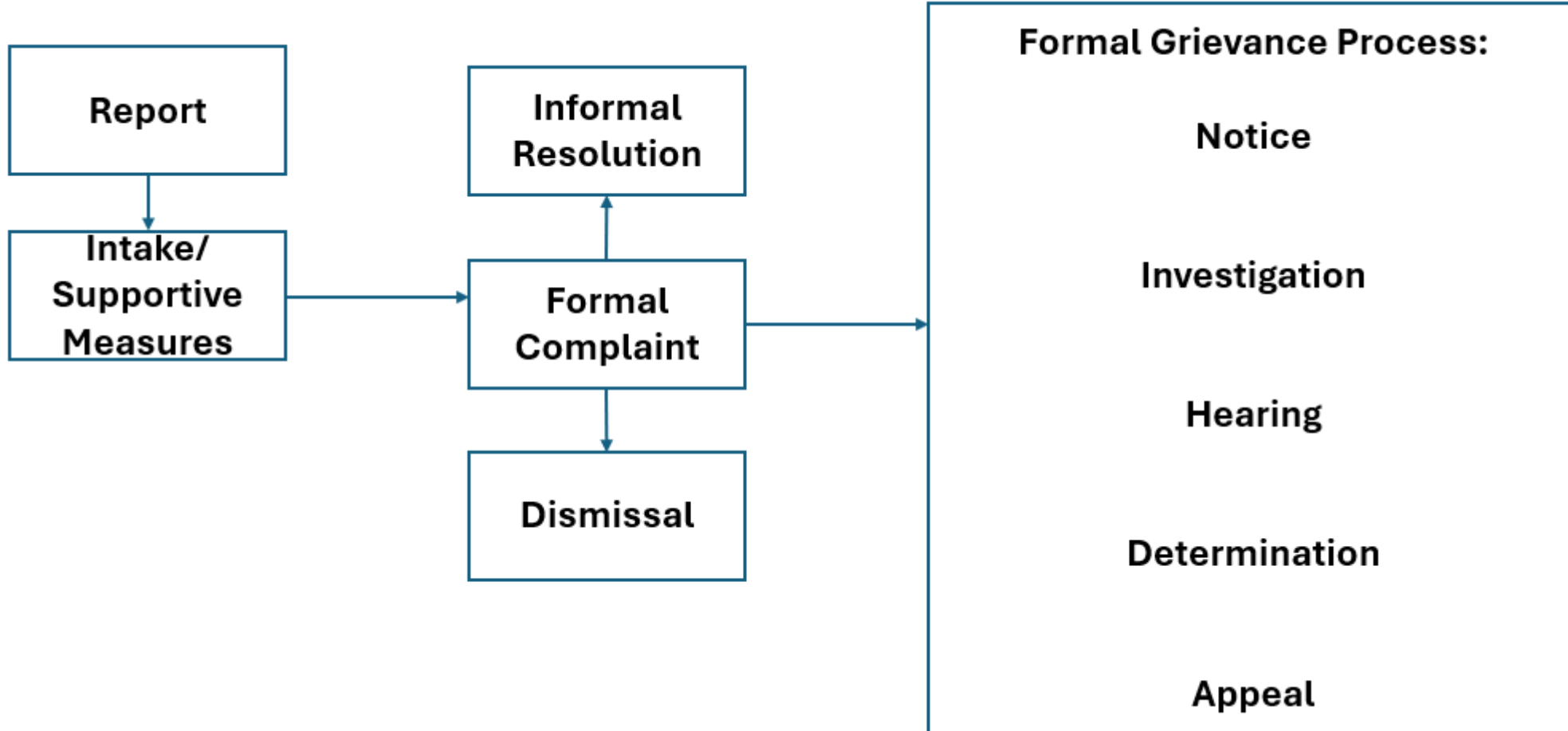
Series Overview

- Session 1: Conducting effective intakes and implementing supportive measures
- Session 2: Investigation Essentials: Interview techniques
- Session 3: Investigation Essentials: Report writing
- Session 4: Michigan-specific Title IX essentials and current events

Today's Agenda

- Conducting effective intakes to prepare effective notices
- Notices of Investigation—What they are and why they matter
- Identifying and Implementing Supportive Measures
- Q&A

The Process



The Legal Foundation for the Intake

- Upon receipt of report, Institution must respond in a manner that is NOT deliberately indifferent.
- 34 CFR 106.44(a): Title IX Coordinator must:
 - Promptly contact Complainant to discuss:
 - Supportive measures
 - Consider Complainant's wishes as to supportive measures
 - Inform Complainant of the availability of supportive measures with or without the formal complaint
 - Explain process for filing the formal complaint

Goals of an Effective Intake

- Share information regarding supportive measures
- Share information about process & policy

- Gather the necessary information to establish:
 - Scope of the allegations
 - Who, what, where, when, how
 - **Follow definitions in your policy**
 - Jurisdiction (and who to hand it off to, if no jurisdiction)
 - Applicable policy provisions
 - Safety concerns

Starting the Intake

- Give the parties agency to decide to either share information first, or hear more about the process
- Information to provide to Complainant during the intake:
 - University's options for responses to reported conduct
 - Prohibition on retaliation.
 - Confidentiality/Privacy
 - Circumstances under which the University would proceed with an investigation even without a participating complainant.
 - If applicable, information about how the University will respond to allegations against an unaffiliated respondent.

Eliciting Information during the Intake

- Begin broadly – elicit a monologue about the incident, but remember the role of an intake. This is NOT the interview.
- Start to narrow the scope of each follow-up question to get information specific to each element of each policy violation

- Example: **Stalking**
 - Was the conduct directed at Complainant?
 - How many incidents occurred?
 - How did these incidents make Complainant feel?
 - Unsafe?
 - Afraid for Complainant?
 - Afraid for someone else?
 - Upsetting?
 - Why based on sex?

Meeting with Respondent

- Not notified automatically – depends on posture of case and how Complainant wishes to proceed
- Same goals!
 - Still eligible for supportive measures
 - May have their own claims of prohibited conduct
- Also allowed to bring an advisor

Intake Checklists

- Who you are and your role
- What happens to the information they provide to you (privacy vs. confidentiality)
 - Explain whether the meeting is recorded/not recorded, whether you are taking notes, and what opportunities the party will have to confirm accuracy.
- Identify what they are reporting generally
 - Identify any jurisdictional issues
 - Review policy options
- Ask about impact – how is this affecting their ability to do what they need to do with regard to the University?
 - Discuss appropriate supportive measures
- Determine what they wish to do next
- After the meeting – document the intake!

Relevant Michigan-Specific Data Tracking

State School Aid: 2025 PA 0015, Sec. 241b (applies to publics receiving money under 2025 PA 0015)

- Prepare an annual summary report including data regarding all Title IX reports
 - Certify that cases involving employees are tracked
 - Certify that that measures are taken to "ensure the matter is investigated thoroughly" including by hiring outside investigators, should additional cases come forth regarding employees with "more than 1 title IX complaint that resulted in" no finding
- Thus, re: intake: Develop consistent system of tracking data to make annual and quarterly reports easier to pull.

Final Thoughts on Intake

- Remember the context in which the intake occurs—not an investigative interview, you are not the decision maker.
- Remember the human in front of you.
- Remember what we know about the potential impacts of trauma.
 - Memories encoded in non-linear ways
 - Gaps in memory
 - Self blame
- If your institution uses an investigative interview as the intake:
 - Set expectations around next steps appropriately
 - Get the details to align with the policy, but also details to aid in assessments of credibility, gather evidence, witnesses, etc.

The Legal Foundation for the Notice

34 CFR 106.45 (b)(2)(i)(B) and 34 CFR 106.45(b)(2)(ii)

- 1) Sufficient details known at the time
- 2) Sufficient details include the identities of the parties involved in the incident, if known,
- 3) The conduct allegedly constituting sexual harassment under § 106.30,
- 4) Date and location of the alleged incident, if known

AND

“If, in the course of an investigation, the recipient decides to investigate allegations about the complainant or respondent that are not included in the notice provided [...] the recipient must provide notice of the additional allegations to the parties[.]”

Notice Pitfalls – an art, not a science

- Insufficient detail --> cannot discern the who, what, where, when
- Too much detail --> not focused enough to aid the investigator/decision maker and/or requires making findings that are not prohibited conduct
- Policy provisions not included --> if just "sexual harassment" then unclear which type of sexual harassment is alleged (fondling, dating violence, stalking, etc.)
- Not updated after interviews --> additional misconduct comes out during investigation, but cannot then use as potential policy violations

Ineffective notice example: Sexual Exploitation

ALLEGATIONS:

1. On or about January 4, 2025, while in their dorm room in Oaks Hall, Respondent recorded surreptitiously and without Complainant's consent two videos of the parties engaging in sexual activity.
2. Complainant became aware of these videos when a mutual friend told her that they had seen the videos on Respondent's phone.
3. Complainant confronted Respondent on February 16, 2025, and Respondent denied making nonconsensual videos.
4. Complainant grabbed Respondent's phone, ran into the bathroom and locked the door.
5. Respondent had previously told Complainant his passcode, so she was able to open his phone.
6. After opening Respondent's phone, Complainant viewed the three videos on his phone.
7. Complainant reported that since she discovered the non-consensual videos recorded by the Respondent, she "just can't function normal." Complainant reported significant emotional impact due to the reported conduct, and that she "can't function now around men normally." Complainant reported that she has also been late to work many times since the initial incident.

Effective notice example: Sexual Assault

It is alleged that Respondent engaged in non-consensual sexual contact and nonconsensual sexual penetration in violation of Section 2.1 and 2.2 of the Policy when:

1. On May 1, 2025, at approximately 12:00 PM, Respondent touched Complainant's breast, buttocks, and thighs without consent while in Complainant's on campus residence hall.
2. On May 4, 2025, at approximately 10:00 PM Respondent penetrated Complainant's vagina with his penis without consent in Respondent's on campus apartment.
3. On an unknown date between approximately May 4 and May 12, 2025, at an unknown time, Respondent placed Complainant's hand on Respondent's penis without consent while Complainant and Respondent were studying in the University Library.

Alignment between Notice, Investigation & Determination

Investigation Report

- Incident on May 1, 2025
 - Complainant Account
 - Respondent Account
 - Witnesses
- Incident on May 4, 2025
 - Complainant Account
 - Respondent Account
 - Witnesses
- Incident between May 4-May 12, 2025
 - Complainant Account
 - Respondent Account
 - Witnesses



Hearing Determination

- Incident on May 1, 2025
 - Findings of Fact
 - Application to Definition of Non-Consensual Sexual Contact In violation of Section 2.1
- Incident on May 4, 2026
 - Findings of Fact
 - Application to Definition of Non-Consensual Sexual Penetration In violation of Section 2.2
- Incident between May 4-May 12, 2025
 - Findings of Fact
 - Application to Definition of Non-Consensual Sexual Contact In violation of Section 2.1

Effective Implementation of Supportive Measures

Supportive Measures

34 CFR 106.30

- “Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge.”
- “Designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party.”
- “Designed to protect the safety of all parties or the recipient's educational environment, or deter sexual harassment”
- “The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.”

Examples of Supportive Measures

- Counseling (EAP for employees)
- Extensions of deadlines or other course-related adjustments
- Modifications of work or class schedules
- Campus escort services
- Mutual contact restrictions (or one-way contact restrictions, as appropriate)
- Changes in work or housing locations
- Leaves of absence
- Increased security and monitoring of certain areas of the campus

Introducing Supportive Measures

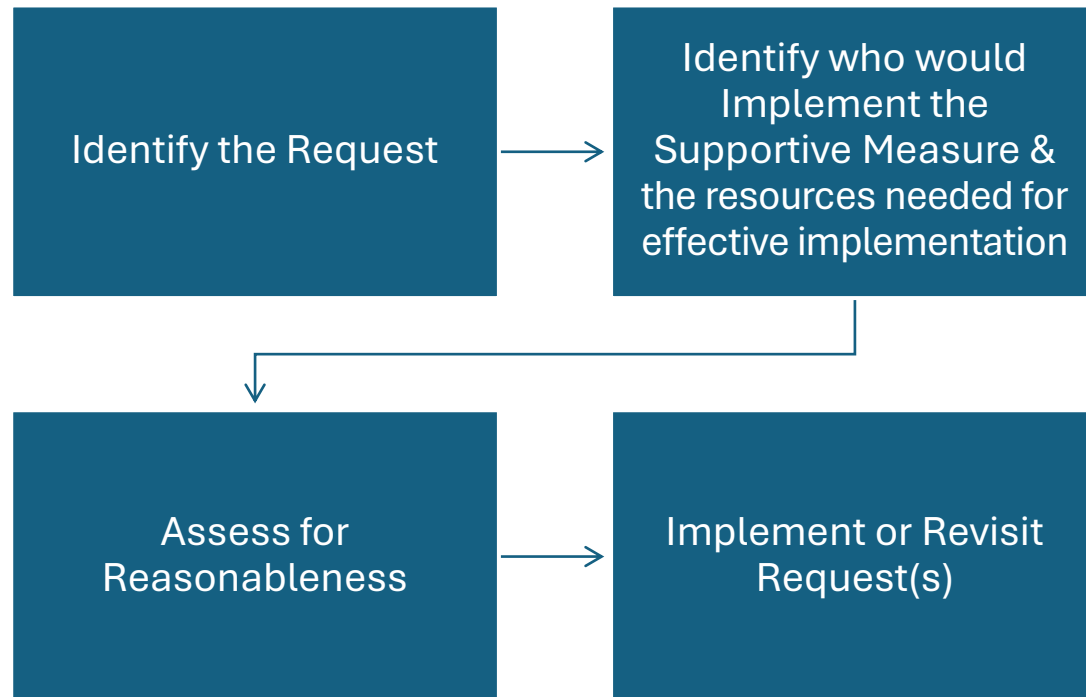
- Create a list and use it during every intake
 - Both Complainants and Respondents
 - Put it out there – the person may not realize what they need or what's available to them
- Don't overpromise (ex: housing, shared clubs, etc.)

- Remember must not unreasonably burden the other party
- Confirm the discussion and next steps in a follow-up email after each intake meeting
- If a requested supportive measure is not available, explain the rationale and document the decision
- Must DOCUMENT

Tips for No Contact Directives (NCD)

- Identify and specify the scope of the NCD
 - Ask the parties what their concerns around contact are and be prepared to troubleshoot
- Identify what would be and would not be a violation of the NCD
 - State this in the meeting and following up in writing; put it in the no contact directive
- Identify process for reporting potential violations of the NCD
- Is the violation part of the course of conduct for stalking or an incident of unwelcome conduct for sexual harassment?

Unreasonable Supportive Measures?



- Unreasonable when it would burden the other party or it would not restore access to the education program
- If unsure, model an interactive process to evaluate
 - Confer with other offices (housing, employment, registrar, financial aid, senior leadership, past practices)

Hypothetical 1

A Complainant contacted the Title IX Coordinator in the spring semester to request a refund and retroactive withdrawal for the fall semester. During the fall, Complainant reported a sexual assault that occurred on campus. The sexual assault occurred before midterms and Complainant struggled to attend class for the rest of the semester.

- Reasonable?
- Restore or preserve access?
- How do you respond?
- Who would you need to consult with?
- What factors would change this analysis?

Hypothetical 2

Complainant and Respondent are both in the Theatre program and are both set to perform in an upcoming performance. Respondent is concerned about interacting with Complainant during the performance and preparation for the performance. Respondent has requested a no-contact directive.

- Reasonable?
- Restore or preserve access?
- How do you respond?
- Who would you need to consult with?

Questions & Answers

Up Next

- Session 2: Investigation Essentials: Interview techniques → March 13, 2026
- Session 3: Investigation Essentials: Report writing → March 20, 2026
- Session 4: Michigan-specific Title IX essentials and current events → March 27, 2026
- Register: [Title IX Essentials for Michigan Institutions: Lessons Learned and Practical Guidance for Practitioners | Bricker Graydon Wyatt LLP](#)