



TITLE IX PROCESS GUIDE FOR ADVISORS/ATTORNEYS*

Q: I have been asked to represent a student/employee/faculty member involved in a Title IX resolution process. How do I establish this with the university?

A: Students/employees/faculty members are expected to represent themselves in all Title IX resolution processes and proceedings, whether or not they are also facing concurrent criminal charges for the same set of circumstances. Students/employees/faculty members facing criminal charges may have an attorney present during all Title IX resolution processes, but the attorney is restricted from any participation in the proceedings. In addition, the university will correspond at all times directly with the student/employee/faculty member, and not through any third party. A third party, such as an attorney, may receive copies of correspondence if the student/employee/faculty member signs a waiver to this affect.

Q: What is my role as an advisor/attorney in the university's Title IX process?

A: Advisors/attorneys may attend all meetings at which their advisee/client is in attendance. Advisors/attorneys are expected to advise ethically, with integrity, and in good faith. They may not make a presentation or represent their advisee/client during any meeting or proceeding and may not speak on their advisee's/client's behalf to the investigator or resolution administrators. Advisors/attorneys may confer quietly with their advisee/client or in writing as necessary, as long as they do not disrupt the process.

Q: My client is charged with a crime off-campus. Can I get the proceedings delayed until the criminal matter is resolved?

A: The Title IX resolution process at Widener University is not attempting to determine whether or not a student/employee/faculty member has violated the law; the university is trying to determine whether or not they violated university rules and regulations. As such, the goals and the means of the criminal justice process and the Title IX process are dissimilar. No delays are given to accommodate the student's/employee's/faculty member's interests in the criminal process. Delays may only be granted when it is established to the satisfaction of the university that such a delay is in the interest of the university.

Q: Isn't the Title IX resolution process double-jeopardy for someone also facing criminal charges?

A: No. "Double-jeopardy" is a concept that applies solely to criminal proceedings. Criminal proceedings do not in any way offer exemptions from civil or administrative proceedings.



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Q: Why isn't my advisee/client being afforded the same protections that they would receive in the criminal process?

A: The courts have long recognized the differing interests of the university community from that of the criminal justice process. Since 1961, a significant body of case law has been established that outlines basic expectations of fairness in any student/employee/faculty member disciplinary process, which includes the Title IX resolution process. Widener University due process protections meet or exceed any required by the courts.

Q: What will happen if my advisee/client refuses to participate in the Title IX resolution process?

A: The process will continue with or without the student's/employee's/faculty member's involvement, and a decision will be reached based on the information that is provided to the administrator. The student/employee/faculty member may not use their refusal to participate as a later ground for appealing a decision.

Q: What if my advisee/client chooses to participate in the process? Are they granted any immunity in the criminal process?

A: No. All Title IX matters are subject to lawful subpoena. This includes tape recordings, written statements and records, and personal recollections. The university may contact the appropriate law enforcement agency if any violations of the law become evident through the Title IX resolution process.

Q: The incident took place off-campus. What interest does the university have?

A: Widener University reserves the right to discipline students for acts that take place off-campus. The university will determine on a case-by-case basis whether or not an individual's alleged conduct is of interest to the university community.

Q: What is the "burden of proof" in the Title IX resolution process?

A: Decisions with respect to student/employee/faculty member responsibility for alleged actions are made based on a preponderance of the evidence; that is, the administrator will determine what is "more likely than not" to have taken place.

Q: As an attorney, what motivation do I have to comply with the university's rules and procedures?

A: As an attorney for the student/employee/faculty member, it is your responsibility to cooperate fully with the university's disciplinary process and to abide by all expectations established by the Bar Association with respect to the autonomy of administrative processes.

** For further information, see pages 31-33 in the university's Equal Opportunity, Harassment, and Nondiscrimination Policy (EOHN).*