



Title IX during the Global Pandemic

Institutions must still comply with Title IX policies even during remote learning:

While COVID-19 is making the lives of millions of Americans more difficult, Title IX offices should remain as available as they were before COVID-19. Students should be made aware of how the Title IX office is adapting to remote life; how to schedule a remote appointment, how communication will be presented during a case. COVID-19 will **NOT** be an excuse for falling behind because “remote learning doesn’t mean sexual violence stops” as Vice President Keeli Sorenson of RAINN noted.

Online hearings/interviews:

The struggle – the impossibility of in-person hearings due to campus closures and local/state health department limited access orders is increased during spikes in the pandemic. Victims of alleged sexual misconduct could suffer prolonged trauma and tribulation if investigations are delayed, but at the same time students accused of the misconduct may be disadvantaged if cases are conducted through telephone calls or videoconferences. THERE MUST BE A BALANCE MAINTAINED IN THE ON-CAMPUS PROCEEDINGS. Title IX Offices must find a “balance [of] of university’s legal obligation to prevent and redress discriminatory or harassing behavior with the reality of the global pandemic,” Sarah Scalese, Syracuse senior associate vice president for communications stated in the university’s movement forward with investigations. University’s are being flexible and modifying operations in order to advance open investigations until a return to normal. KEY in the modifications is ensuring all receive notice/communication of adjustments being made.

Will an online hearing negatively affect me? – While virtual hearings may not have the same effect as face-to-face contact, Title IX mandates fairness in hearings – this requires that each party has the same type of presentation or opportunity. Therefore, one party would not be able to be in person over the other, both would be required to have the same platform.

TIPS

- **Control the Environment** – Dress professionally and find a quiet space where you won’t be disturbed. Make sure confidential information is not visible.
- **Ensure Privacy** – Prior to the interview, suggest to the interviewee that they find a private location to participate in the video call. Ensure the area in which you are working will not be accessed by other people during the interview.
- **Know Your Technology** – Be familiar with the technology you are using. For example, know how to mute, chat, share screen, turn video on/off. Be so familiar with the technology you can help the interviewee troubleshoot if needed.
- **Include Support Persons** – Before the interview, remind the interviewee of their right to have a support person on the line and invite the support person to join the remote meeting.
- **Consult with CIO and/or IT Department** – Consult with these individuals regarding the use of video conferencing technology, particularly with regard to security and encryption. You want to ensure maximum security.
- **Work with your institution’s legal department to ensure you are following internal protocol.**

Remote video conferencing interviews are preferred over audio-only forms of communication. Video conferencing allows investigators to build trust, establish rapport, and read body language.

Remote video conferencing is a preferred method for Title IX training of coaches, administrators, and student-athletes. It helps to ensure accountability and allows for interaction among participants.

Resources:

<https://www.masslive.com/news/2020/07/umass-professor-says-study-shows-covid-19-pandemic-threatens-title-ix-support.html>

- UMass study

<https://www.rainn.org/news/title-ix-during-covid-19>

<https://www.duffylawct.com/title-ix/coronavirus-and-your-case/>

- Law Firm FAQs and insight on COVID-19 Title IX

Hold Off or Proceed, Inside Higher Ed (March 26, 2020), <https://www.insidehighered.com/news/2020/03/26/coronavirus-creates-title-ix-obstacles>

Title IX Considerations in The Era of COVID-19, JD Supra (April 8, 2020), <https://www.jdsupra.com/legalnews/title-ix-considerations-in-the-era-of-44021/>