

Overview of Title IX Changes

Faculty/Staff Institute

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Regulatory Changes to Title IX of the Education Amendments of 1972

- ▶ **Department of Education's Title IX Final Rule issued May 6, 2020**
 - ▶ 2,033 page document
 - ▶ Compliance required by August 14, 2020
 - ▶ Some requirements were already in practice at New River CTC
 - ▶ Controversial and being legally challenged
- ▶ **Policy changes made by Stephanie Adkins and Pete Hoeman**
 - ▶ Thanks to Jenni Canterbury for website updates & additions

Narrower Definition of What Constitutes a Violation

- ▶ **“Sexual harassment”:**
 - ▶ Sexual assault, dating violence, domestic violence, or stalking
 - ▶ Requires Clery Act or Violence Against Women Act (VAWA) definitions – a small change for the College
 - ▶ Unwelcome conduct so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College’s education program or activity
 - ▶ Quid pro quo: conditioning the provision of an aid, benefit, or service on an individual’s participation in unwelcome sexual conduct
- ▶ College may respond outside this definition, but it would not be considered a Title IX investigation

Scope and Responsibility

- ▶ **Emphasis that this applies to applicants as well as students & employees**
- ▶ **Only required to act upon “actual knowledge”**
 - ▶ **Means Title IX Coordinator is aware**
 - ▶ **Or “an official with authority to institute corrective measures”**
- ▶ **New River CTC still considers all employees mandatory reporters**

Roles

- ▶ **Title IX Coordinator – Dean of Student Services**
 - ▶ Contact point for questions and complaints, initiates investigation
- ▶ **Investigators – various**
 - ▶ A pair investigates the complaint
- ▶ **Hearing Officer – Director of HR**
 - ▶ Oversees hearing
 - ▶ Makes decision in favor of either Reporting Party or Respondent
- ▶ **Appeal Officer – President**
 - ▶ Hears and decides appeals

Increased Emphasis on Due Process

- ▶ College must provide written notice of allegations, all meetings, interviews, hearings, final decision
- ▶ Presumption of “not responsible”
 - ▶ Not a change for New River CTC
- ▶ 10 day evidence review/response period
- ▶ Hearing at least 10 days after final report
- ▶ Investigation and resolution will take longer now

Standard of Evidence

- ▶ **New River CTC has chosen Preponderance of the Evidence” (POTE) rather than “Clear and Convincing” (C&C)**
- ▶ **POTE is the accepted standard for workplace discrimination investigations**
 - ▶ **Office of Civil Rights uses POTE when investigating potential discrimination based on age, disability, race, color, or national origin**
- ▶ **C&C would make it significantly easier to find in favor of Respondent than Reporting Party, creating an imbalance between the parties**

Investigation Changes

- ▶ A hearing is now required
- ▶ Must conduct cross-examination
 - ▶ If not, no statements can be considered
 - ▶ Conducted by advisor
 - ▶ Questions approved by hearing officer
- ▶ Both parties are required to have an advisor
 - ▶ Advisor can be an attorney
 - ▶ College must provide advisor if party has none

www.newriver.edu/nondiscrimination

Questions?