



# ICS Team



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Legal Analyst

# Housekeeping

- Virtual Environment
- Not Legal Advice
- Course Materials
- Breaks
- Interactive



# Agenda

Session  
1

Overview &  
Relevant Laws

Session  
2

Bias Training

Session  
3

Tabletop Exercises -  
Collaboration



DIVERSITY, EQUITY & INCLUSION  
INSTITUTIONAL COMPLIANCE SOLUTIONS



# Session 1:

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## Overview and Relevant Laws

**ADA**

**ADEA**

**YOUR EEO & CIVIL  
RIGHTS POLICY**

**Title IX**

**Title VII**

**Title VI**



DIVERSITY, EQUITY & INCLUSION  
INSTITUTIONAL COMPLIANCE SOLUTIONS

# Age Discrimination in Employment Act (ADEA)

-  **Age discrimination involves treating an applicant or employee less favorably because of his or her age.**
-  **The ADEA protects people who are age 40 or older against discrimination.**



# Understanding Title VI

*Enforced by Office for Civil Rights*

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# Understanding Discrimination

## Under Title VI

“ Title VI of the 1964 Civil Rights Act says,  
" No person in the United States shall, on the  
grounds of race, color or national origin, be  
excluded from participation in, be denied the  
benefit of, or be subjected to discrimination  
under any program or activity receiving  
federal financial assistance." ”

42 U.S.C. § 2000d

UNIVERSITY  
APPLICATION

# What Activities are Protected Under Title VI?

**Programs and activities that receive education funds must operate in a non-discriminatory manner which include:**

- admissions
- recruitment
- financial aid
- academic programs
- counseling and guidance
- vocational education
- student treatment and services

# Protected Activities Continued...

- Discipline
- Classroom assignment
- Grading
- Recreation
- Physical education
- Athletics
- Housing

# EXAMPLES OF TITLE VI CASES



Colorado School District - students filed a claim alleging discrimination due to National Origin for failing to provide adequate language services to all English Learner students.



*T.B. et al. v. Independent School District 112* - six current and former African-American students of a suburban Minnesota school district and their parents alleged pervasive race discrimination.

# EXAMPLES OF TITLE VI CASES



USC Investigation - A Jewish faculty member alleges the college failed to protect her from discrimination and harassment because of her support for Israel. The former employee filed a Title VI complaint and the Office for Civil Rights initiated an investigation.



Pfizer - "Pfizer is being sued for racial discrimination under Title VI for a federally funded fellowship program that "categorically excludes white and Asian-American applicants."



*Students for Fair Admissions v. President and Fellows of Harvard College*- At the end of this month, the Supreme Court will hear opening arguments on affirmative action. A similar case at UNC will also be heard before the Court.



# Understanding Title VII

*Enforced by EEOC*



# Title VII Prohibits Employment Discrimination based on:



GENDER  
IDENTITY

AGE

COLOR

MENTAL OR  
PHYSICAL  
DISABILITY

SEXUAL  
ORIENTATION

RELIGION

NATIONAL  
ORIGIN

PREGNANCY

SEX

RACE

IMMIGRATION  
STATUS

VETERAN  
STATUS



# Who is covered by Title VII of the Civil Rights Act?

Not Covered: Federal employees or independent contractors. However, federal employees are protected against discrimination by other federal anti-discrimination laws.

- Private & public sector employers w/15 or more workers
- State and local governmental agencies
- Employment agencies
- Apprenticeship programs

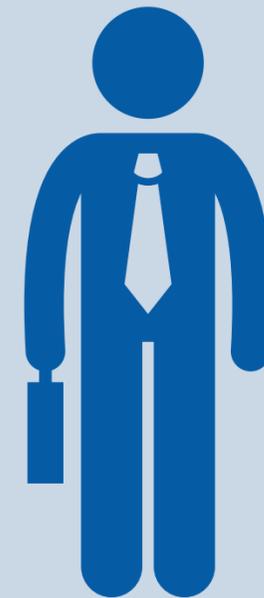


# What Individuals are Protected from Discrimination Under Title VII?

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Applicants



Former

Employees



Employees

# Title VII Cases:

***Bostock v. Clayton County* - Supreme Ct case- Gender identity included under Title VII- Whether the policy was violated depended entirely on sex of the employee. It is this reliance on sex in the employer's decision-making that raises issues under Title VII.**

***State of Texas v. EEOC* (2022)- Federal court held that EEOC's guidance on "sex-based" bathroom policies was unlawful. The court held that *Bostock* does not address whether specific conduct relating to SOGI is protected under Title VII, rather the fact that SOGI are protected statuses under Title VII.**

# HYPOTHESIS

Ralph is a white male and an employee of ICS University. He works in the admissions office. Ralph's supervisor is Ian, a black male. Ralph reports to HR that Ian is discriminating against him because he is white. Does this fall under Title VII?



# What is the difference between Title VI & Title VII?



Discriminatory Conduct





# Understanding Title IX

*Enforced by Office for Civil Rights*

# Understanding Discrimination Under Title IX

“ No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.



DIVERSITY, EQUITY & INCLUSION  
INSTITUTIONAL COMPLIANCE SOLUTIONS

# What Does Title IX Cover?

*Enforced by Office for Civil Rights*

SEXUAL HARASSMENT

EQUITY IN PROGRAMMING  
(INCLUDING ATHLETICS)

PREGNANCY  
DISCRIMINATION





**TITLE IX SEXUAL HARASSMENT**



**EDUCATION PROGRAM/ACTIVITY**



**TITLE IX FORMAL GRIEVANCE PROCESS**



# Sexual Harassment



- Conduct on the basis of sex that satisfies one or more of the following:
  - An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
  - Unwelcome conduct determined by a reasonable person to be so severe, pervasive AND objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or
  - "Sexual Assault," "Dating Violence," "Domestic Violence" or "Stalking" as defined in the Clery Act.

# Other Conduct Covered Under Title IX

## Sexual Assault

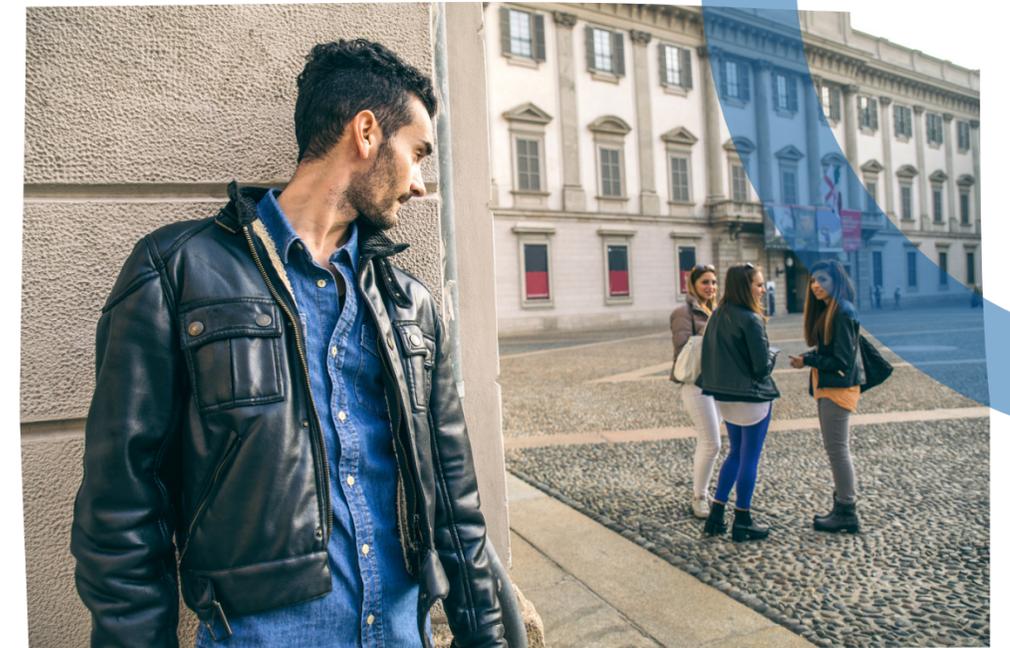
- Fondling
- Incest
- Rape
- Statutory Rape



## Stalking

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- fear for the person's safety or safety of others **OR**
- suffer substantial emotional distress



# Other Conduct Covered Under Title IX

## Dating Violence

Violence Committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. Several factors used to determine such relationship including:

- length
- type
- frequency of interaction between the parties



## Domestic Violence

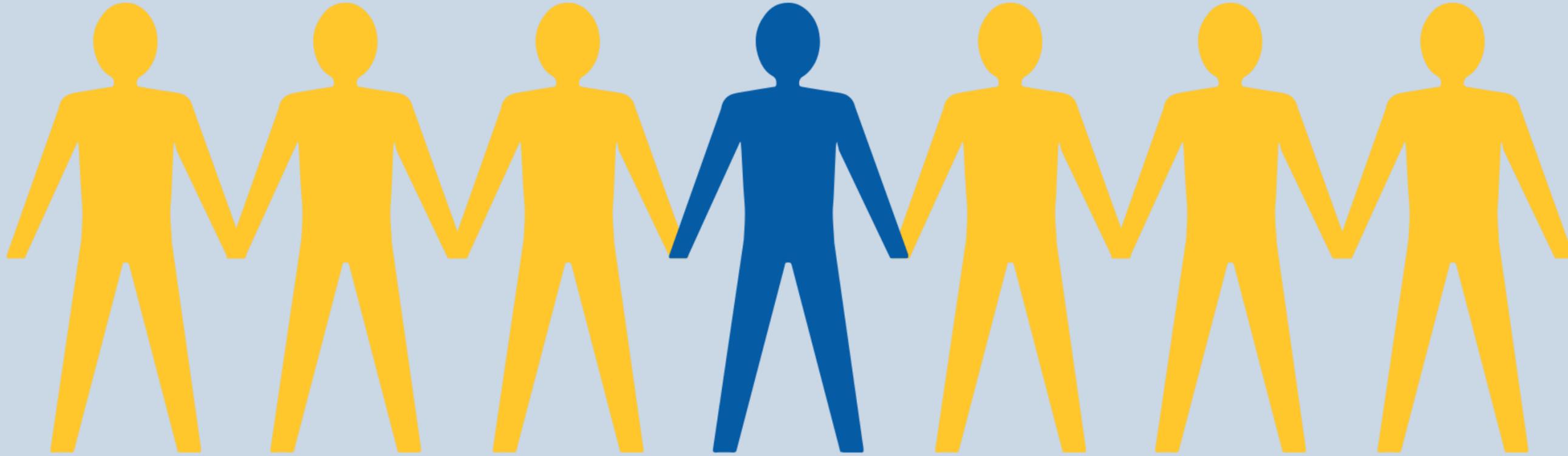
A felony or misdemeanor crime of violence committed by a:

- current or former spouse or intimate partner of the victim
- person with whom the victim shares a child in common
- person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner
- person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred or any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.



# TITLE IX TEAM

**Title IX  
Coordinator**



**Responsible  
Employees/  
Officials  
w/Authority**

**Advisors**

**Investigator(s)**

**Decision-  
Maker(s)**

**Appellate  
Decision-  
Maker(s)**

**Informal  
Resolution  
Facilitator(s)**

## INVESTIGATOR

Cannot serve as the Decision-Maker or Appellate Decision-Maker. May be the Title IX Coordinator but if possible, it is recommended that this individual be separate from the Title IX Coordinator. It is not recommended that an Investigator serve as the Informal Resolution facilitator in a case that they have started, or later serve, as an Investigator.

# TITLE IX TEAM

## TITLE IX COORDINATOR

Cannot serve as the Decision-Maker or Appellate Decision-Maker. May serve as an Investigator-though if possible, it is recommended that another individual serve as an Investigator. May serve as an Informal Resolution Facilitator.

## DECISION MAKER

Cannot be the Title IX Coordinator. Cannot serve as the Investigator or Appellate Decision-Maker. It is not recommended that a Decision-Maker serve as the Informal Resolution facilitator in a case that they may later serve as a Decision-Maker.

## APPELLATE DECISION MAKER

Cannot be the Title IX Coordinator. Cannot serve as the Investigator or Decision-Maker. It is not recommended that an Appellate Decision-Maker serve as the Informal Resolution facilitator in a case that they may later serve as an Appellate Decision-Maker.

## INFORMAL RESOLUTION FACILITATOR

May be the Title IX Coordinator. It is not recommended that an individual who has or will serve as an Investigator, Decision-Maker or Appellate Decision-Maker in the same case serve as the Informal Resolution Facilitator.



# TITLE IX

*Accommodations*

*Discrimination*



**OCR Resolution Agreement  
with College. No interactive  
process and encouraged her  
to withdraw.**

# Pregnancy Discrimination

## Pregnancy + Related Conditions

Title IX Prohibits students and employees from discrimination based on:

- **Pregnancy**
- **False Pregnancy**
- **Childbirth**
- **Termination of Pregnancy**
- **OR recovery therefrom.**



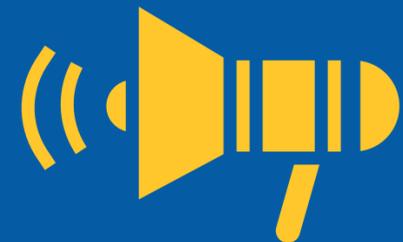
## REMEMBER

- Must be treated the same as any other temporary disability
- Must be reinstated to the status held when individual began their leave



## RECENT UPDATES

- New OCR Resource on Pregnancy Discrimination
- Proposed Rules on Pregnancy Discrimination
- Lingering Questions Post Bostock



# Pregnancy Accommodations

## Must provide the following for students:

- ✓ Leave for as long as physician deems medically necessary
- ✓ After leave, student must be reinstated to status the student held when leave began

## Must provide the following for employees:

- ✓ Leave of absence without pay for a reasonable period of time
- ✓ After leave, reinstated to pre-leave status or comparable position (without reduction of compensation or loss of promotional opportunities or any other employment rights or privileges)