

Specialty Course



EMERGENCY REMOVALS UNDER TITLE IX



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APPROPRIATE FOR...

Title IX Coordinators
Deputy Title IX Coordinators
Student Affairs Professionals
Human Resource Professionals



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A CASE STUDY: EMERGENCY REMOVAL



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CASE STUDY

Alec reports to his teacher, Mr. Smith, that his girlfriend, Amelia, slapped him across the face at school. Both Amelia and Alec are Juniors at No Name High School. Mr. Smith contacts the Title IX Coordinator for the district about the matter.

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FORMAL TITLE IX GRIEVANCE



Does it fall within
definition of sexual
harassment/
program activity?

Intake by Title IX
Coordinator and
triage...



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TITLE IX SEXUAL
HARASSMENT



EDUCATION
PROGRAM/
ACTIVITY



TITLE IX FORMAL
GRIEVANCE
PROCESS



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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 aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct, or...

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.

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Title IX Coordinator will....

1. Attempt to meet with Complainant
2. Offer supportive measures
3. Consider emergency removal



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REMEMBER:

Supportive measures are:

- (1) Non-punitive
- (2) Individualized
- (3) Interactive
- (4) Burden is on the school/institution



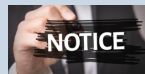
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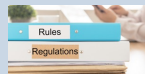
Emergency Removal/Admin Leave



Individualized Safety and Risk Analysis



Notice and explanation to respondent



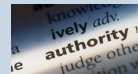
No blanket "rules" for removal



Explained in policy/procedure



Admin leave with pay available; not the same as emergency removal



Authority to issue



Use your BIT/Case Management/Threat Assessment/Care Team

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Individualized Safety and Risk Analysis 106.44(c):

- (1) Immediate threat
- (2) to the physical health or safety of any student or other individual
- (3) arising from the allegations of sexual harassment

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TITLE IX
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Consider the appropriateness of supportive measures in lieu of an emergency removal



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! NOTICE

- ! Sufficiently detailed to alert the respondent to the specifically identified emergency threat of physical safety or harm that compelled the decision.
- ! Immediate Opportunity to Challenge: No definition of immediate. Does not have to follow 106.45 grievance process

*Note: Consider what administrator reviews the challenge to avoid bias/conflict of interest

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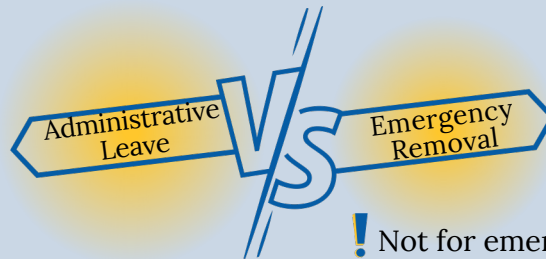


NOTE



Department states that it will not second-guess an emergency removal decision if school/institution adheres to requirements to support its action and EVEN IF Department would have weighed risk differently.

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- ! Not for emergent situations
- ! AFTER a Formal Complaint signed
- ! For non-student employees
- ! HR should be involved

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Involve threat assessment, but
recommend ultimate authority
reside with
Title IX Coordinator



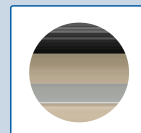
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TITLE IX
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Safety & Risk Assessment/ Emergency Removal



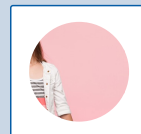
SAFETY IS YOUR
FIRST CONCERN



INDIVIDUALIZED
SAFETY AND RISK
ASSESSMENT



CANNOT JUST PLACE ON
EMERGENCY
REMOVAL/ADMIN LEAVE
TO FIGURE IT OUT



DOCUMENTATION
AND NOTICE
REQUIREMENTS

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CASE STUDY

The Title IX Coordinator meets with Alec and his father. During that meeting, Alec informs the Coordinator that he has been dating Amelia for a few years and she has only hit him on this one occasion because she suspected him of cheating.

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CASE STUDY

Alec signs a Formal Complaint and the matter moves to the investigation. During the meeting with the Title IX investigator, Alec states that Amelia is starting to threaten him. Specifically, she texted him that "if he goes through with this she will kill herself." She also texted a friend, Ian, and stated that "she knows where her dad's gun is and will shoot up the school Friday if the ass hole doesn't call him back."

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REMEMBER:

- Emergency removal analysis is on-going throughout the Title IX Formal Grievance Process.
- Encourage you to involve BIT/threat assessment/CARE, but the decision should rest with Coordinator for consistency.



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Questions

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