

TITLE IX: SEXUAL HARASSMENT AND SEX DISCRIMINATION POLICY

POLICY INFORMATION

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BACKGROUND

Colorado State University Global (“CSU Global” or the “University”) is committed to educating its community and to promptly and effectively responding to and addressing conduct that violates this policy. The University strives to create and maintain a community environment that is free from sexual violence and sexual harassment.

Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq., prohibits discrimination on the basis of sex in any educational program or activity receiving federal financial assistance. The purpose of this policy is to provide the CSU Global community with information and resources to identify, report, and respond to sexual violence and sexual harassment including sexual assault, stalking, dating and domestic violence. This policy addresses the requirements of the Department of Education’s regulations promulgated under Title IX in May 2020 and CSU Global’s response to sexual harassment and sex discrimination.

SCOPE AND JURISDICTION

This policy applies to all University students, employees and all applicable campus communities.

The provisions of this policy apply to all reported instances of alleged sexual harassment that occur while the complainant is in the United States and is participating in, or attempting to participate in, an education program or activity of the University.

CSU Global will act promptly and effectively to end any prohibited sex discrimination that has occurred in our education programs or activities, prevent its recurrence, and remedy its effects.

DEFINITIONS

Actual Knowledge - Notice of sexual harassment or allegations of sexual harassment to the

University's Title IX Coordinator or any official with authority.

Complainant - An individual who, at the time of filing a formal complaint, is participating in or attempting to participate in an education program or activity and who is alleged to be the victim of conduct that could constitute sexual harassment.

Confidential Resource - Individuals or agencies in the community, whose professional license or certification permits that individual or agency to preserve the confidentiality of the patient or client.

Consent - Cooperation in act or attitude pursuant to an exercise of free will and with knowledge of the nature of the act. A current or previous relationship shall not be sufficient to constitute consent. Submission under the influence of fear shall not constitute consent. See Colorado Revised Statute § 18-3-401.

Dating Violence - The term "dating violence" means violence committed by a person:

- a. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- b. Where the existence of such a relationship is determined based on a consideration of the following factors:
 - i. The length of the relationship.
 - ii. The type of relationship.
 - iii. The frequency of interaction between the persons involved in the relationship.

Deliberate Indifference - A response to sexual harassment by CSU Global that is clearly unreasonable in light of the known circumstances.

Domestic Violence - The term "domestic violence" includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by 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.

Education Program or Activity – The term "education program or activity" includes locations, events, or circumstances over which the University exercised substantial control over both the respondent and the context in which the sexual harassment occurs.

Formal Complaint - A document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that CSU Global investigate the allegation of sexual harassment.

Incapacitation - As it applies to this policy, the state of being unable to physically and/or mentally make informed rational judgments and effectively communicate. This may include unconsciousness, sleep, or blackouts, and may result from the use of alcohol or other drugs. Where alcohol or other drugs are involved, evaluation of incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects a person's decision-making ability; awareness of consequences; ability to make informed, rational judgments; capacity to appreciate the nature and quality of the act; or level of consciousness. The assessment is based on objectively and reasonably apparent indications of incapacitation when viewed from the perspective of a sober, reasonable person.

Official with Authority – ("OWA") Any official of CSU Global who has authority to institute corrective measures on behalf of CSU Global and in turn has the obligation to report alleged sexual harassment

and alleged retaliation to the Title IX Coordinator.

Preponderance of the Evidence - A preponderance of the evidence standard of evidence is understood to mean concluding that a fact is more likely than not to be true. This policy applies the preponderance of the evidence standard of evidence.

Party - The complainant or respondent.

Respondent - An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Retaliation - Intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy.

Sexual Assault - An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

Sex Discrimination - Discrimination based on a person's gender, gender identity, or sexual orientation.

Sexual Harassment - Conduct on the basis of sex that satisfies one or more of the following:

- a. An employee of CSU Global conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct;
- b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to education program or activity; or
- c. Sexual assault as defined in 20 U.S.C. § 1092(f)(6)(A)(v), dating violence as defined in 34 U.S.C. § 12291(a)(1), domestic violence as defined in 34 U.S.C. § 12291(a)(8), or stalking as defined in 34 U.S.C. 12291(a)(30).

Stalking - The term "stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- a. Fear for his or her safety or the safety of others; or
- b. Suffer substantial emotional distress.

Student - A person who is enrolled in courses offered by CSU Global either full-time or part-time, pursuing undergraduate, graduate, certificate, professional or continuing education.

Supportive Measures - Measures for non-disciplinary, non-punitive individualized services offered, as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Supportive Measures are discussed in further detail below.

Title IX Coordinator - The Title IX Coordinator is the employee designated and authorized to coordinate the University's efforts to comply with its responsibilities under Title IX. Information regarding the Title IX Coordinator, to include name, title, office address, email and telephone number, will be updated regularly. For the purposes of this policy, actions to be taken by the Title IX Coordinator may also be completed by the Title IX Coordinator's designee.

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POLICY

CSU Global is committed to providing an environment free of sexual harassment and sex discrimination for its students and employees. CSU Global does not discriminate on the basis of sex in its education programs and activities and is prohibited from such discrimination pursuant to Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681-88) and implementing regulations (34 C.F.R. Part 106). This prohibition extends to admissions and employment.

CSU Global prohibits sexual harassment and sex discrimination by and against students and/or employees. When the University has actual knowledge of sexual harassment in an education program or activity of the University against a person in the United States, it will respond promptly and in a manner that is not deliberately indifferent. Such allegations shall be investigated and properly handled up to and including dismissal from the University and termination of employment.

Any complaint that is determined to fall within the jurisdiction of this policy will be handled by the procedures below.

PROCEDURES

1. University Roles and Responsibilities

The University will provide three separate individuals to address a complaint of sexual harassment. Each of these officials must not have any conflict of interest or bias of any kind. If the University is unable to provide three separate individuals to serve in the below roles, it may, in its discretion, request the assistance of trained employees at other CSU System campuses or a designated third party.

- a. **Title IX Coordinator** –The Title IX Coordinator is the employee designated and authorized to coordinate the University's efforts to comply with its responsibilities under Title IX. Information regarding the Title IX Coordinator, to include name, title, office address, email and telephone number, will be updated regularly. For the purposes of this Policy, actions to be taken by the Title IX Coordinator may also be completed by the Title IX Coordinator's designee.

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- b. **Investigator** – The individual who gathers facts, interviews parties and witnesses, and writes the investigation report.
- c. **Decision-maker** – The individual who determines sanctions and remedies for parties.

2. Reports of Alleged Sex Discrimination and Sexual Harassment

At any time, any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of sex discrimination), to the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

Any official with authority who receives a report of alleged sexual harassment must promptly report the alleged sexual harassment to the Title IX Coordinator.

Upon receiving a report of alleged sexual harassment, the Title IX Coordinator will promptly:

- a. Inform the complainant of the method for filing a formal complaint;
- b. Inform the complainant of the availability of supportive measures with or without filing a formal complaint; and
- c. Offer supportive measures to the complainant, the respondent, or both

This policy will be posted on the Faculty, Staff, and Student Portals. The University will also post the Title IX Coordinator's contact information to ensure accessible channels for reporting sexual harassment at any time.

3. Supportive Measures

The Title IX Coordinator will ensure that supportive measures are offered to the complainant and/or respondent as appropriate, as reasonably available, and without fee or charge to either party. Measures may be offered before or after the filing of a formal complaint, or where no formal complaint has been filed.

Supportive measures are designed to restore or preserve equal educational access to the University's education program or activity, protect safety, or deter sexual harassment.

The range of available supportive measures includes, but is not limited to: counseling, extensions of course-related deadlines, modification to work or class schedules, restrictions on contact between the parties, and other similar measures.

Supportive measures do not include disciplinary sanctions. The formal resolution process, as detailed below, must be completed before disciplinary sanctions are imposed on a respondent.

The University will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

4. Emergency Removal

The University may remove a student respondent from its education program or activity on an emergency basis if the University:

- a. Undertakes an individualized safety and risk analysis; and
- b. Determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal; and
- c. Provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.

The University may place a non-student employee respondent on administrative leave during the pendency of the grievance process.

5. Fair and Equitable Process

- a. No individual designated as a Title IX Coordinator, investigator, decision-maker, appeal decision-maker, or person designated to facilitate an informal resolution process may have a conflict of interest or bias for or against complainants or respondents generally or against an individual complainant or respondent.
- b. The University will not make credibility determinations based on an individual's status as a

complainant, respondent, or witness.

- c. A respondent is presumed not responsible for alleged conduct until a determination regarding responsibility is made at the conclusion of the formal resolution process set forth below.
- d. Throughout the processes described in this policy, the University will utilize trained Title IX CSU Global personnel or designees from the CSU System or other third parties, as needed to objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence.
- e. The processes described in this policy are subject to the reasonably prompt time frames stated. These time frames may be extended for good cause upon written notice to the parties setting forth the reason for such extension. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

6. Response Obligations, Time Frame, Filing of a Formal Complaint, and Formal Notice

a. Time Frame

Upon receiving written notice of an allegation of sexual harassment, the University will respond in a reasonably prompt time frame and in a manner that is not deliberately indifferent. The University will comply with the law to complete an investigation and adjudicative process, excluding any appeals, within an average of 60 to 90 days. Extension of this time frame will be permitted for good cause with written notice to the parties of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

b. Filing a Formal Complaint

If the complainant chooses to file a formal complaint, it must contain statements alleging the occurrence of sexual harassment against a respondent and requesting that the University investigate the allegations. While any person may report sexual harassment at any time in person, by mail, by telephone, or by email to the Title IX Coordinator, only the complainant may file a formal complaint. In some instances, the Title IX Coordinator may sign a complaint to initiate an investigation if it is determined that not pursuing an investigation would constitute deliberate indifference or that pursuing an investigation is necessary for community safety or similar reasons.

c. Written Notice of Formal Complaint

Within a reasonably prompt period of time after a formal complaint is received, the Title IX Coordinator will provide simultaneous written notice to both the complainant and the respondent, which will include the following information:

- i. The notice must provide sufficient detail and time to allow the parties to prepare a response before any initial interview.
- ii. The notice must include the identities of the parties involved in the incident, if known, the conduct alleged to constitute sexual harassment, the date and location of the alleged incident, if known, and a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process.
- iii. The notice must inform parties that they have a right to have an advisor of their choosing, including an attorney, throughout the process, and that the parties may inspect and review all evidence.

- iv. The notice must inform the parties of any provisions in the University's code of conduct that prohibit knowingly making false statements or knowingly submitting false information during the grievance process.
- v. If, during the course of an investigation, the University decides to investigate allegations about the complainant or respondent that are not included in the initial notice, the University must provide notice of the additional allegations to the parties whose identities are known.

7. Dismissal Prior to the Formal Grievance Process

If the conduct alleged in the formal complaint would not constitute sexual harassment as defined in this policy even if proved, did not occur within a University education program or activity, or did not occur against a person in the United States, the University must dismiss the formal complaint under this policy.

The University may, in its discretion, dismiss a formal complaint if the complainant informs the Title IX coordinator in writing that the complainant wants to withdraw the complaint or any allegations contained in the complaint, the respondent is no longer enrolled at or employed by the University, or if specific circumstances prevent the University from gathering evidence sufficient to reach a determination regarding responsibility.

A dismissal made pursuant to this section of the policy will be communicated to parties promptly and in writing and will set forth the reasons for dismissal.

A dismissal made under this section does not preclude the University from addressing the allegations in another manner the University deems appropriate.

8. Informal Resolution Options

The University may, in its discretion, choose to offer and facilitate informal resolution options, such as mediation or restorative justice, prior to the initiation of any formal investigation. The Title IX Coordinator may offer the informal resolution process to the parties in certain circumstances.

The informal resolution process is only available after a formal complaint is filed and only if all parties voluntarily consent, in writing, to the informal resolution process. However, at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the formal resolution process.

Parties may not be required to participate in the informal resolution process. Waiver of the right to a formal investigation or adjudication of a formal complaint of sexual harassment as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, is prohibited. Informal resolution is not available to resolve allegations where an employee sexually harassed a student.

After the parties have agreed to an informal resolution that is accepted by the Title IX Coordinator and signed by both parties, the resolution is final and neither party may appeal the resolution.

9. Advisors

Both the complainant and respondent may choose to have an advisor. This may be an advisor of the party's choice, who may be an attorney. The advisor may attend meetings and other proceedings throughout the grievance process, but may not participate at such meetings or other proceedings except for the purpose of conducting cross-examination during the live hearing. Both parties must have an advisor at the live hearing. If a party does not have an advisor at the live hearing, the University must provide one solely for the purpose of conducting cross-examination. The advisor provided by the University may be an attorney, but is not required to be.

10. Investigation

- a. The University will assign an investigator to investigate the allegations made in a formal complaint. The investigator will be a different person than the decision-maker.
- b. The University, and not the complainant or respondent, has the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility.
- c. The University cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a healthcare professional acting in his or her professional capacity, and which are made or maintained in connection with the provision of treatment to the party, unless the University obtains that party's voluntary written consent to do so.
- d. During the investigation, each party has an opportunity to present witnesses and evidence to the investigator.
- e. The investigator will provide written notice of the date, time, location, participants, and purpose of any investigative interview or other meeting to any party whose participation is invited or expected.
- f. Prior to conclusion of the investigation, the investigator will send to each party and to each party's advisor, if any, all evidence obtained as part of the investigation, whether or not the investigator intends to rely on such evidence in reaching a determination regarding responsibility, that is directly related to the allegations raised in the Formal Complaint.
 - i. Each party may submit a written response, which the investigator will consider prior to the conclusion of the investigation and completion of the investigative report.
 - ii. The written response, if any, must be submitted to the investigator by the deadline designated by the investigator, which will be at least ten days after the investigator sends the evidence to the party, unless the deadline is extended for good cause.
- g. The investigator will create an investigative report that fairly summarizes relevant evidence.
 - i. The investigator must conduct an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence.
- h. At least ten days prior to the scheduled hearing, the Title IX Coordinator will send to each party and to each party's advisor, if any, the investigative report.
 - i. Each party may submit a written response, which the Title IX Coordinator will submit to the decision-maker for consideration at the hearing.
 - ii. The written response, if any, must be submitted to the Title IX Coordinator by the deadline designated by the Title IX Coordinator, unless the deadline is extended for good cause.

11. Live Hearing

- a. General Conduct of the Hearing

In order to resolve formal complaints, the University will conduct a live hearing. The University may, in its discretion, choose to have the Colorado Office of Administrative Courts, a designee from CSU System, or a designated third party conduct the live hearing and/or serve as the decision-maker at the hearing. Prior to the hearing, the decision-maker will review the investigative report and the written responses provided by the parties, if any.

The live hearing may be conducted in person or via video conferencing. At the request of either the complainant or respondent, the parties will be physically separated, and technology will be utilized to enable the parties to see and hear one another as needed from different rooms.

The University retains discretion to establish rules of decorum and rules of procedure that will be provided to the parties and their advisors in advance of the live hearing.

b. Record of Live Hearing

The University will record or transcribe each live hearing, which will later be made available to the parties.

c. Standard of Evidence

The determination of responsibility will be made by the decision-maker using the preponderance of the evidence standard.

d. Cross-Examination and Relevancy Determinations

At the hearing, each party's advisor of choice must be permitted to conduct cross-examination directly, orally, and in real time. If the complainant and/or respondent does not have an advisor, the University will provide an advisor of the University's choice, free of charge. The advisor provided by the University may be, but is not required to be, an attorney. Cross-examination may not be conducted by either party; the only method for conducting cross-examination is by a party's advisor. Each party's advisor will be permitted to ask the other party and any witnesses relevant questions and follow-up questions, including those challenging credibility.

Only relevant cross-examination and other questions may be asked of a party or witness. The decision-maker will make all determinations regarding relevancy; before a party or witness answers a cross-examination or other question, the decision-maker will first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

The following information is considered not relevant: information protected by a legally recognized privilege; evidence about a complainant's prior sexual history; any party's medical, psychological, and similar records unless the party has given voluntary, written consent to access such records; and party or witness statements that have not been subjected to cross-examination at a live hearing. Additionally, the rape shield language deems irrelevant *all* questions or evidence of a complainant's sexual behavior *unless* such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

e. Refusal to Submit to Cross-Examination

Only statements that have been tested for credibility will be considered by the decision-maker in reaching a determination regarding responsibility.

If a party or witness does not submit to cross-examination at the live hearing, the decision-maker must not rely on any statement of that party or witness in reaching a determination regarding responsibility. However, the decision-maker cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

f. Role of the Decision-Maker

The decision-maker has the right and responsibility to ask questions and elicit information from parties and witnesses on the decision-maker's own initiative to aid the decision-maker in obtaining relevant evidence, both inculpatory and exculpatory, and the parties also have equal rights to present evidence in front of the decision-maker so the decision-maker has the benefit of perceiving each party's perspectives about the evidence.

12. Remedies and Sanctions

The decision-maker will determine remedies and sanctions. Remedies are designed to restore or preserve equal access to the University's program or activity. Remedies may be disciplinary or punitive and need not avoid burdening the respondent. The Title IX Coordinator is responsible for the effective implementation of remedies.

If a respondent is found responsible for sexual harassment under this policy, potential sanctions include:

- a. Employees: Progressive discipline, as outlined in the Progressive Discipline Policy to include possible termination.
- b. Students: Probation, suspension or expulsion.

13. Written Report and Notification to Parties of Outcome

After considering the investigative report, including any party's written response to the investigative report and all relevant evidence presented at the hearing, the decision-maker will issue a written determination.

The Title IX Coordinator will provide the written determination simultaneously to the parties. The written determination will include:

- a. Identification of the allegations potentially constituting sexual harassment;
- b. A description of the procedural steps from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews, site visits, methods used to gather other evidence, and hearings held;
- c. Findings of fact supporting the determination;
- d. Conclusions regarding the application of this policy to the facts;
- e. A statement of, and rationale for, the result as to each allegation, including:
 - i. A determination regarding responsibility;
 - ii. Any disciplinary sanctions imposed on the respondent;
 - iii. Whether remedies will be provided to the complainant.

- f. The written determination will become final ten days after it is sent to the parties, unless an appeal is filed.

14. Appeals

Either party may appeal dismissal of a formal complaint or any allegations in a formal complaint, or a determination regarding responsibility. No other issue may be appealed.

A party may only appeal for one or more of the following reasons:

- a. A procedural irregularity that affected the outcome of the matter;
- b. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- c. The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias that affected the outcome of the matter.

If a party wishes to file an appeal, the party must notify the Title IX Coordinator in writing no later than ten days after the notice of dismissal or written determination is sent to the party. The written appeal must state with specificity the issues being appealed and the basis for the appeal.

After receiving a timely written appeal, the Title IX Coordinator will notify the parties in writing that the appeal was filed and the process for submitting a written statement in support of, or challenging, the issues being appealed. The appeal, including any written statements submitted by the parties, will be considered by a decision-maker appointed to consider the appeal. The decision-maker appointed to consider the appeal may also consider the investigative report, including any party's written response to the investigative report, all relevant evidence presented at the hearing, and the recording of the hearing.

The decision-maker appointed to consider the appeal will issue a written determination of appeal, which will describe the outcome of the appeal and the rationale for the result. The Title IX Coordinator will provide the written determination of appeal simultaneously to the parties. The result of the appeal is final.

15. Training

Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process will receive training on the definition of sexual harassment as set forth in this policy, the scope of the University's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding pre-judgment of the facts at issue, conflicts of interest, and bias. Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process must not rely on sex stereotypes and must promote impartial investigations and adjudications of sexual harassment.

Decision-makers will receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, as set forth above.

Investigators will receive training on issues of relevance in order for the investigator to draft an investigative report that fairly summarizes relevant evidence.

16. Recordkeeping

Records created under this policy must be retained for seven (7) years. This includes: records of each sexual harassment investigation occurring under this policy and any determination regarding responsibility; any recording of a live hearing; any record of disciplinary sanctions imposed on the respondent; any remedies provided to the complainant designed to restore or preserve equal access to the University's education program or activity; any appeal and the result; any informal resolution and the outcome of such process; and all materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an information resolution process.

RELATED INFORMATION

Office for Civil Rights is responsible for enforcing Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and other education-based discrimination acts. <http://www2.ed.gov/about/offices/list/ocr/complaints-how.html>