

# WAICU Title IX Coordinator Training

## Case Study #1: Coordinated Compliance Scenario

You are the new Title IX Coordinator at Struvite U, a state school. You hold a newly created VP position and report directly to the university president. After being on campus for about a three months, you have developed some concerns about certain elements of the campus culture regarding Title IX and campus constituents and their compliance with/understanding of Title IX:

- A. Dr. Summit, a faculty member in the English department, calls you and says that a student reported a rape to her and Dr. Summit is looking for "the best counseling options" for the student. Dr. Summit promised the student confidentiality even though she is a responsible employee. Dr. Summit refuses to give you the student's name and says, "Well, you never properly trained me on my reporting duties. Students have come to me for years with their personal issues and I have always been able to help them in my own way. I'll never tell you this student's name."
  - B. Sarah Z., a student who was sexually assaulted on campus in her dorm, states she came to you because "she felt pressured by her counselor in the counseling center" to come forward and report.
  - C. None of the advocates in the Women's Crisis Center on campus trust the campus Title IX response system. They don't want to give you limited reports, which you have asked for repeatedly.
  - D. The campus has been historically unsuccessful in getting an MOU with local police.
  - E. Your campus policies state that RAs are "confidential resources."
  - F. You suspect that there could be issues with gender inequality in the faculty promotions and tenure process, yet you are not given access to any of that department's data.
  - G. The process to change campus policies is burdensome and is subject to endless committee approval.
  - H. Your campus conducts a culture/climate survey that asks "Have you or a friend ever been sexually assaulted while attending Struvite U?" Respondent data is linked to a serial number which could, in theory, be linked to a specific student. The entity on campus conducting the survey insists on doing it this way for "continuity with other surveys."
  - I. Each of your athletic teams has appointed a "team advocate." These advocates are billed as completely confidential resources.
  - J. Campus policy states that the university president is the final appeal on Title IX cases.
  - K. HR purchased a pricey Title IX training video package for students, staff and faculty. After watching the video for students, the president of one of the fraternities on campus emails you stating that "all like the perpetrators in the video are men, all the homosexual people are men, and men are made to look like violent, sex-crazed idiots." The fraternity members think the video itself violates Title IX.
  - L. The campus alcohol and other drug prevention office was told by the administration that they could not do any sexual assault prevention programs linked to high-risk alcohol use, for fear of "victim-blaming."
  - M. You heard a rumor that an investigator took another job because of "pressure from a board member" not to investigate her son in a Title IX-related incident.
- Struvite U's General Counsel stated you must allow parties to cross-examine each other in every student conduct hearing, even in hearings on sexual misconduct cases.
- It takes about five clicks to get to any pertinent Title IX information from the Struvite U main webpage.
- P. The university president has requested that you disclose every Title IX-related incident to her via a weekly email report.

What are the potential Title IX implications in each of the above issues? How would you address each of these issues?

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## Dega Bah and Ms. Fett Scenario

**Wookiee College** is a very small private liberal arts college. Student Dega Bah is a 21-year-old junior studying theater arts, and has the lead female role in an upcoming theatrical production put on by the college. The costuming for the play is being done by longtime Wookiee College adjunct professor and 45-year veteran costumer, Ms. Fett.

Dega Bah arrives to her scheduled costume fitting with Ms. Fett in a small room in the performing arts building. They are the only two people in the room. The room has a male dressing room in one corner for the actors to try on costumes. Ms. Fett gives Dega Bah a pair of pants and blouse for her to try on. Dega Bah proceeds to take the clothes into the dressing room, puts them on, and walks out of the dressing room. Ms. Fett and Dega Bah discuss for a few moments the poor fit of the costume pieces and Ms. Fett says that both garments will need to be taken in for a proper fit. Ms. Fett then retrieves her measuring tape and pinning kit from a desk drawer and asks Dega Bah to stand on a small platform in front of a mirror. Dega Bah proceeds to stand on the small platform while Ms. Fett begins to take measurements.

During the measuring process, Ms. Fett touches Dega Bah over the clothing on the bust area, on the inner and outer thighs, arms, neck, waist and shoulders. After Ms. Fett has taken the measurements, she then begins to pin the garments to "better fit Dega Bah's body." Again, Ms. Fett touches Dega Bah's clothed body on the inner and outer thighs, arms, waist, and just under the breasts. During the measuring and pinning process, Ms. Fett and Dega Bah engage in modest conversation. At several points during the measuring and pinning process, Ms. Fett remarks on Dega Bah's physique: "You are a beautiful girl and you will play your part well," "You have such a great figure--this costume will look great on you," "You are so pretty," "You have such a tiny waist," "You will look gorgeous on stage."

The costume fitting takes about 20 minutes. After the pinning is concluded, Dega Bah returns to the dressing room and changes back into her own clothes. She then exits the dressing room and hands the pinned costume to Ms. Fett. Ms. Fett and Dega Bah exchange "Good byes" and then Dega Bah leaves the room.

Three days later, Ms. Fett contacts Dega Bah to schedule a second costume fitting. Dega Bah does not immediately respond to Ms. Fett's request. Dega Bah instead emails Wookiee's Title IX Coordinator, Luke Solo. Dega Bah states in her email that she wishes to lodge a complaint against Ms. Fett under Wookiee's Title IX policies. Dega Bah states that she is uncomfortable participating in the production any further if she has to work with Ms. Fett. Dega Bah states Ms. Fett displayed harassing behavior during the costume fitting by persistently commenting about Dega Bah's physical appearance and touching her inappropriately.

The following week, at the request of Dega Bah, Luke Solo launches a Title IX investigation. Luke Solo sends a letter to both the reporting party and responding party notifying them of the

stigation. Under Wookiee's stated Title IX procedures, Luke Solo will serve as the investigator in this matter since it involves a staff member and student.

Solo first conducts an in-person interview with Dega Bah, who arrives to the interview. Dega Bah described her encounter with Ms. Fett at the costume fitting and states that "was harassed repeatedly" and wants Ms. Fett's employment terminated. Dega Bah states she will probably "quit the play" if Ms. Fett is allowed to continue as the costume maker for the production.

Luke Solo then interviews Ms. Fett. Ms. Fett, who has asked the Chair of the Performing Arts Program, Mr. Greedo, to accompany her to this interview, is mortified at the allegations against her and cannot comprehend why she is "in trouble." She states that she must touch those she is fitting for a costume. She proceeds to take a large scarf out of her handbag and demonstrates on herself how fabric drapes across the body and how it must be pinned to achieve the correct fit. She explains the need for bust darts, pants pleats, correct inseams, etc. When asked about the comments she made to Dega Bah in the costume fitting, Ms. Fett states, "I am a 68-year-old woman and I appreciate the beauty of our young performers. I am from France, and the French appreciate beauty. My husband tells me every day that I am beautiful. Why should I not tell someone she is beautiful? Why didn't Dega Bah tell me she was uncomfortable?" Ms. Fett states she has contacted her attorney and feels "defamed." Mr. Greedo and Ms. Fett leave the interview.

Dega Bah and Ms. Fett do not disagree on the material facts of the costume fitting encounter. Neither party mentioned the facts of the encounter to others and offered no witnesses. Having no other witnesses, Luke Solo's investigation is complete. He will now turn the case over to a three-member hearing panel for adjudication.

Wookiee College uses standards for resolution of Title IX grievances that are consistent with guidance and resolution agreements from OCR/DOJ. Please answer the following:

1. Has Dega Bah experienced harassment in this situation? Why or why not?
2. Does this situation rise to the level of a hostile environment? Why or why not?
3. Is the Title IX system the appropriate place for this complaint? Why or why not?
4. Is a full investigation under the Title IX system the right response? If yes, why? If no, what is another alternative? Are there other ways Wookiee College could address this issue?

Harassment is unwelcome conduct based on —  
It becomes unlawful when  
Offensive  
Severe or pervasive that a reasonable person considers intimidating