

In response to the concerns, questions, and concerns raised in the pamphlet distributed on October 29, 2019, the Office of Student Affairs offers the following as an initial response.

We have been in communication with students involved in the protests and movement and have asked for some clarity on the nature of the concerns that have been raised related to Title IX and the student complaint process in general. Some initial questions have been provided and those questions and their initial answers are included at the end of this document.

As an additional point, the Office of Student Affairs will work with the students involved in the movement to schedule times to meet in person to further discuss these matters and work together with all students to understand the issues and come up with solutions.

INITIAL RESPONSE FROM STUDENT AFFAIRS:

The Office of Student Affairs, through the Dean of Students, has been in communication with students involved in the protest and movement to open lines of communication and work together to identify specific concerns and work together on solutions.

The Office of Student Affairs completed an initial evaluation of the existing student complaint procedures and the procedures in place specifically for Title IX complaints. The

initial review has yielded the following information:

- Title IX complaints are covered under the Cooper Union's [Policy Against Gender-Based Discrimination, Harassment, and Sexual Misconduct](#).
- The specific areas covered under Title IX focus on gender and sexual violence/harassment and include, but are not limited to:
 - Gender-based slurs or stereotyping
 - Circulation of written or graphic material showing hostility toward a gender (including through email or in print)
 - Unwelcome communication of a sexual nature
 - Dating/domestic violence, stalking, and sexual assault
 - Requesting/demanding sexual acts in connection with employment or academic activities
 - Unnecessary/unwanted touching
 - Repeated and persistent sexually-related requests (including asking someone out)
- Student may have complaints that are not based on the specific categories covered under Title IX. Complaints not covered under Title IX may fall under the Cooper Union [Nondiscriminatory Policy](#). Examples of these types of complaints can include, but are not limited to:
 - Publicly disclosing grades or performance (e.g., statements from a

- professor about how someone got the lowest grade on an assignment or failed a test in front of peers)
 - o Slurs or stereotyping based on race, ethnicity, religion, national origin, disability, or another protected class
 - o Circulation of written or graphic material showing hostility toward a race/ethnicity/religion/etc. (including through email or in print)
 - o Excluding someone from opportunities or spreading rumors about someone who has filed a complaint or served as a witness in a complaint of identity-based harassment
- Cooper Union's policy and procedures related to complaints are compliant with all of the relevant local, state, and federal laws that specify how complaints must be received and processed.

Our review of our policies and procedures and our engagement with the students who have raised concerns has yielded some key initial learnings:

- Cooper Union's general [Student Complaint Procedure](http://cooper.edu/students/student-affairs/student-complaint-procedure) (<http://cooper.edu/students/student-affairs/student-complaint-procedure>) needs to be revised and updated with additional details and specific procedures.
 - o While student complaints are registered with the Office of Student Affairs, most complaints are then filtered to the appropriate Cabinet member to review, investigate, and

- respond to the complaint.
 - o Procedures for this review, investigation, and response need to be updated to provide more specificity and details so that the students filing the complaint have the necessary information to ensure that their complaint is being handled and investigated in a way that provides for accountability and transparency.
 - o We are committed to working with students to develop updated policies and procedures that address the issues noted above and to ensure that policies and procedures provide for both accountability and transparency.
- There is a general confusion between what is covered under Title IX and what is covered under other policies and procedures across campus.
 - o We are committed to working with students to develop materials, workshops, etc., that provide necessary details and clarity on the specifics of each type of complaint and the processes and procedures involved in resolving the claims.
- There is lack of clarity on what happens after a complaint is filed.
 - o We acknowledge that these issues can be complex. Complaints involving faculty and staff members are required to follow procedures outlined in various contracts and union agreements.

- o Because complaints involving faculty and staff may result in personnel actions, these outcomes are often not known beyond the faculty and staff involved, and the administrative bodies performing the investigation of the complaint.
- o Again, we are committed to working with students to develop materials, workshops, etc., that provide necessary details and clarity on the specifics of what happens after a complaint is filed.

We acknowledge that the review and evaluation of our policies and procedures needs to be an ongoing endeavor. To this end, we are committed to the following:

- Student Affairs will include students in the review, evaluation, and update of policies and procedures as detailed above. A plan for this review will be created by the end of the fall 2018 semester for implementation for execution during the spring 2019 semester.
- Any future exercises that include an overview, review, evaluation, and/or update of student affairs policies and procedures will be done with student involvement.
- Student Affairs will engage with peers external to Cooper Union to come and assist with future audits and evaluations of policies and procedures.

- Student Affairs commits to continued engagement with all students to determine how we can best use our limited resources to support the student body.

Initial Response to Clarifying Questions

What are the kinds of complaints (in a comprehensive list) that come under Title IX?

Cooper's policy that covers Title IX is formally called the Policy Against Gender-Based Discrimination, Harassment, and Sexual Misconduct. It covers gender-based discrimination or harassment, sexual harassment, sexual assault, dating violence, domestic violence, sexual exploitation, stalking, and retaliation. The definitions and examples of these are described at length in the policy itself. You can access the full policy here: <http://cooper.edu/sites/default/files/uploads/assets/site/files/2015/2015-Unified-Nondiscrimination-policy-Final.pdf>

Here are some examples of gender-based discrimination or harassment:

- Gender-based slurs or stereotyping
- Circulation of written or graphic material showing hostility toward a gender (including through email or in print)
- Unwelcome communication of a sexual nature
- Requesting/demanding sexual acts in connection with employment or academic activities
- Unnecessary/unwanted touching
- Repeated and persistent sexually-related requests (including asking someone out)

Cooper also has policies that cover other types of harassment or misconduct, but they do not fall under Title IX. Any form of identity-based discrimination or harassment is prohibited. FERPA policy covers student privacy concerns, including grades and academic records. Retaliation for filing a good-faith complaint of any kind or for being a witness in a complaint is strictly prohibited and also a violation of policy. Here are some examples of behavior that are not Title IX-related but would fall under other policies

- Publicly disclosing grades or performance (e.g., statements from a professor about how someone got the lowest grade on an assignment or failed a test in front of peers)
- Slurs or stereotyping based on race, ethnicity, religion, national origin, disability, or another protected class
- Circulation of written or graphic material showing hostility toward a race/ethnicity/religion/etc. (including through email or in print)
- Excluding someone from opportunities or spreading rumors about someone who has filed a complaint or served as a witness in a complaint of identity-based harassment

What are the processes associated with Title IX and the timelines?

The full processes (starting on p. 12 of the listed page numbers, and p. 15 of the actual document) and timelines (p. 19/p. 22) of the can be found online within the policy

<https://cooper.edu/sites/default/files/uploads/a>

[ssets/site/files/2015/2015-Unified-Nondiscrimination-policy-Final.pdf](#)

Generally speaking, if someone wants to file a complaint about a possible Title IX violation, they would speak with the Title IX Coordinator, or send an email. They have two options for resolving complaints - formal investigation or negotiated resolution. For negotiated resolution, both parties must agree to this method; if either does not, it reverts to a formal investigation.

In negotiated resolution, the Coordinator attempts to reach a resolution through discussion with both parties; if they can both agree to an outcome that resolves the situation, the process can be closed there. Parties do not have to be in the same room with each other for this process to occur. Negotiated resolution is not an option for complaints of sexual assault.

In a formal investigation, the steps and timelines are more prescribed (details in the policy). A complaint is filed. Someone is appointed to investigate the complaint, which may be the Coordinator or another trained employee. The investigator meets with all relevant parties and any witnesses they identify and gathers any statements and evidence available. The investigator then creates a report outlining the case and the findings and, in cases where someone has been found to have violated policy, determines the appropriate sanction. Notice is then provided to both parties as to the outcome. If at all possible, formal investigations are resolved within 60

calendar days from the time the complaint is filed.

Who looks at the complaints that come through Title IX?

The Title IX Coordinator (Grace Kendall) is responsible for oversight of all Title IX complaints. When the complaint involves an employee (either as the person filing the complaint or as the person being complained about), someone from Human Resources is also involved in the investigation/resolution process. There is a small group of employees who have received training as Title IX investigators who may be called upon to investigate specific complaints as need arises; however ultimately, the Coordinator is responsible for ensuring the process happens and the policy and procedures are followed. Title IX complaints are kept as private as possible. Only those who need to know in order to resolve or respond to the complaint are informed.

What are the follow up processes for students and faculty who go through the Title IX process?

Interim measures (accommodations) are available to those filing complaints (and to respondents, as appropriate). They can include, but are not limited to, things like excused absences, changing of work shifts, and no-contact orders between parties. Once a complaint is resolved, it is mandatory that the finding/resolution be shared with both parties simultaneously. In cases of sexual violence (sexual assault, dating/domestic violence, and stalking), any sanctions and the rationale for them will also be shared with both parties. For cases of other misconduct, the sanction will only be shared

with the complainant (person who filed the complaint) in the event that the sanction(s) relate to them (e.g., the party being restricted from a physical space the complainant has to use). In cases of sexual violence, appeals of the finding are also permitted for both parties, under specific grounds. In these situations, appeals are reviewed by a panel separate from the Title IX Coordinator. The students involved work with the Title IX Coordinator on these details and procedures.

Are students no longer attending the institution able to file Title IX issues?

There is no time limit to filing a complaint under Title IX/Cooper's policy. Former students are welcome to file complaints. It can be easier to investigate complaints when less, rather than more, time has passed, due to availability of evidence and witnesses, and individuals' recollections of events, but every effort will be made to fully investigate/resolve any complaint filed regardless of when it occurred.

Given the history of Title IX, and the recent removal of "Dear Colleague", what are the colleges policies on Title IX complaints? Have they changed or are they status quo?

Title IX is a federal law prohibiting unequal treatment for anyone at an educational institution on the basis of sex. There are also a number of other federal laws (e.g., The Clery Act, The Violence Against Women Act) and New York State's Enough is Enough law that mandate various parts of the Title IX policy. Cooper's policy has not changed since the removal of the Dear Colleague letters. New York State's laws

(and consequently Cooper's policy) regarding classes protected from discrimination are more broad than federal law mandates and specifically include gender and gender-identity protections, which was one of the areas in the rescinded Dear Colleague letters.

Why don't students know about the method that they can address issues or report issues with faculty?

The policy for Title IX issues is the most step-by-step of all of the harassment and discrimination reporting, because of the various federal and state laws. However, it is also long and can feel overwhelming, especially when someone is already dealing with a highly stressful situation. We cover Title IX information for all new students both online and in-person during Orientation every year. There are flyers up and periodic events happen, but given the rigor of the Cooper academics and the many competitions for students' time, we know that it can be hard to get the messages across. We are planning to launch a refresher course online - however, it mainly deals with student-to-student misconduct issues, so additional outreach regarding complaints about faculty will also be necessary. We would welcome the opportunity to continue to engage in dialogue around ways that we can better inform students about these processes and their ability to report.

How many formal Title IX complaints have to be filed before an instructor is fired?

There is not a set rule regarding this. Each situation is different and the policy covers a broad range of misconduct ranging in severity,

from sexual assault to behaviors like telling inappropriate jokes or repeatedly asking someone on a date after being asked to stop. For all people covered under the policy (students, faculty, staff, administrators, contract employees, vendors, and guests) their relationship to Cooper also can influence the pace of resolution. Being found responsible for violations more severe in nature or for repeated offenses that are less severe will result in more serious sanctions. Cases involving faculty and instructors are also covered under other agreements such as collective bargaining agreements.

There is a lot of word of mouth rumor on campus about it not being worth it to file a complaint about someone because people have in the past and "nothing has happened". The policy, as it currently exists, is relatively new, being put into place in 2015, and the current Title IX Coordinator started at Cooper in Fall 2016. All complaints brought to the Coordinator since then have been investigated and resolved under the policy. The number of complaints is very low. If something has happened to you or that you have witnessed, please report it. You can make a report even if the behavior was not targeted at you personally (e.g., a male student could make a report after witnessing gender-based harassment of a female student by someone). Even if you think things were reported in the past and not addressed, please report anything that you are aware of, so it can be addressed.

At times, issues have been brought up but the person reporting them has requested that no action be taken at that time. Unless the

information that is shared implies a danger to the campus or to others, the policy (and state law) dictate that the desires of the person who was the victim of the misconduct guide what action is taken by the school. If someone does not want to file a formal complaint and go through either a formal investigation or a negotiated resolution, we will not force them to do so. There is no time limit on reporting, however, and the person may change their mind at any point and decide to file a complaint.

Can you file an anonymous complaint?

Yes. However, depending on the nature of the issue, it can be hard to investigate and remedy a situation that is reported anonymously. One-on-one harassment issues would be very hard to properly investigate anonymously. Comments made in front of a group of people would be much more likely to be able to be addressed. Additionally, given Cooper's size, anonymity is difficult to preserve. Complaints can be emailed to titleix@cooper.edu or directly to the Coordinator at gkendall@cooper.edu or phoned in to her direct line at 212-353-4053.

Can we work together to create a pamphlet to distribute to the school?

Yes! We welcome any suggestions and insights you have to help students be aware of their rights and the resources available to them in resolving any issues (not just Title IX ones).