

Helpful Hints About Conflicts of Interest

- A. A major aspect of maintaining impartiality in the Title IX formal grievance process is avoiding conflicts of interest.
- B. A conflict of interest exists when personal or private interests (*e.g.*, family, friendships, financial, social, etc.) compromise one's judgment, decisions or actions.
 - 1. *Example:* The complainant is the Title IX investigator's nephew.
 - 2. *Example:* The respondent (a faculty member) is a close family friend of the Title IX Coordinator, who is also an academic dean for the College.
- C. The Title IX regulations do not identify any *per se* conflicts of interest (*e.g.*, an affiliation with a rape survivor's rights organization does not automatically bar a Title IX official from serving in the formal grievance process). However, any conflict of interest that prevents an official from serving impartially is one that disqualifies him or her from the formal grievance process.
- D. Conflicts of interest can be "actual," "perceived," or "potential."
 - 1. An actual conflict of interest is a direct conflict between one's official duties and responsibilities and a competing personal interest or obligation, and is disqualifying.
 - 2. A perceived conflict of interest arises where it could reasonably be perceived that a competing interest could improperly influence the performance of one's official duties and responsibilities. If a perceived conflict exists, you (in connection with the Title IX team) should collectively decide whether you can impartially serve and, if the conflict was public, whether a perception problem would exist due to your participation.
 - 3. A potential conflict of interest arises where a personal interest or obligation could conflict with one's official duties and responsibilities in the future, but is not in and of itself disqualifying.

Conflicts of Interest in the Title IX Context:

- A. Actual conflict of interest - *Example:* The Respondent is a daughter of the investigator. This conflict would be disqualifying, as the investigator could not maintain impartiality when a child is involved in the matter.
- B. Perceived conflict of interest - *Example:* The decision-maker is a former prosecutor of sex crimes, and sits on the Board of Directors for the Victim Rights Law Center. Many could perceive this decision-maker as biased in favor of complainants. As a result, the decision-maker and other Title IX personnel will have to determine whether the decision-maker can serve impartially, as well as whether there will be a perception problem if the decision-maker is not recused.
- C. Potential conflict of interest - *Example:* The Title IX Coordinator's new administrative assistant alleges that a faculty member she previously supported sexually harassed her. Although there may not be a conflict of interest currently, the Title IX Coordinator's

professional relationship with the complainant may deepen as they continue to work together, and render the Title IX Coordinator unable to serve impartially.

How to Avoid Conflicts of Interest: In order to determine whether an actual, perceived or potential conflict of interest exists that would disqualify you from serving impartially in the Title IX formal grievance process, you should ask yourself the following questions:

- A. Would I be happy if my colleagues became aware of the alleged conflict?
- B. Would I be happy if the alleged conflict appeared in the media?
- C. If I saw someone else in the same situation, would I feel that person has a disqualifying conflict of interest?