Title IX Record Keeping Procedure

Title IX Regulations (20 U.S.C. 1681 et seq.) state:

**Recordkeeping.**

In the Final Rule section 106.45(b)(10), the Department requires institutions to adhere to certain recordkeeping requirements.

These requirements include maintaining for seven years, records of:

(A) any sexual harassment investigation, including any responsibility determination, and any required recording or transcript, as well as any sanctions imposed on the respondent, and any remedies provided to the complainant;

(B) Any appeal and its result;

(C) Any informal resolution and its results; and

(D) All materials used to train investigators, adjudicators, and Title IX Coordinators with regard to sexual harassment.

The MCCCD must also create and maintain for a period of seven years any actions, including supportive measures, taken in response to a report or formal complaint of sexual harassment, as well as document the bases for its conclusions and that it has taken measures designed to preserve access to the institution’s educational program or activity.

This period applies even if the MCCCD has a process for expungement. 85 Fed. Reg. 30,395 (May 19, 2020).

The Department of Education has stated that the MCCCD has discretion to determine what happens to records after seven years, including adopting longer retention periods or destroying records. Id. at 30,395. It bases the seven-year period on consistency with the record retention period in the Clery Act regulations, 24 CFR 668.24(e)(92)(ii). Id. at 30,410.

**PROCEDURE**

1. **There should be one repository of all cases (no shadow paper files).**

All files and supporting documents pertaining to Title IX violations (i.e. notification letters, interview notes, investigative reports, evidence such as texts, photos, emails, etc., final determination letters, appeal information) will be uploaded into the Advocate Symplicity database. Naturally, during the course of an investigation, paper files may be needed to provide ease of conducting interviews, but the paper file should be uploaded to Symplicity and the paper records shredded at the end of the investigation.
All files will be accompanied by a succinct explanation of the violation and sanction/decision. There will be no maintenance of paper files or physical recordings of any meeting or proceeding, except the recording of the hearing.

2. Recordkeeping

The investigator who uploads the Title IX case information into Symplicity should also identify its destruction date—seven years for most Title IX cases and permanently for Title IX cases where the sanction was suspension or expulsion.

MCCCD will follow the records retention schedule as outlined by the Arizona State Library, Archive and Public Records, which means that Title IX case files will be maintained in the Symplicity system for seven years. All case files (in their entirety) where the result was a suspension or expulsion, must be maintained permanently.

The District Title IX/504 Coordinator shall be responsible for ensuring the destruction of case files is properly documented and effected.

<table>
<thead>
<tr>
<th>Record Series Number</th>
<th>Record Series Title and Description</th>
<th>Retention Period</th>
<th>Retention Remark</th>
<th>Legal Citation(s)</th>
<th>Approval Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>30306</td>
<td>Federal Disclosure Records: Clergy Records</td>
<td>7 Years</td>
<td>After calendar year of incident.</td>
<td>U.S.C. 1092(f) (Federal Register 59050)</td>
<td>10/24/2018</td>
</tr>
<tr>
<td>53176</td>
<td>Federal Disclosure Records: Title IX Records: All Other Cases</td>
<td>3 Years</td>
<td>After date of complaint.</td>
<td></td>
<td>10/24/2018</td>
</tr>
<tr>
<td>53177</td>
<td>Federal Disclosure Records: Title IX Records: Cases Involving Suspension/Expulsion</td>
<td>Permanent</td>
<td>Retain per Arizona Standards for Permanent Records.</td>
<td></td>
<td>12/21/2018</td>
</tr>
<tr>
<td>53181</td>
<td>Student Disciplinary Records: All Other Records</td>
<td>7 Years</td>
<td>From created date, or from date last sanction imposed, whichever is later.</td>
<td></td>
<td>11/5/2018</td>
</tr>
</tbody>
</table>

General Records Retention Schedule Issued to: All Public Institutions of Higher Learning

Schedule Number: GS-1049