



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 MCCCCD 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 MCCCCD has a process for expungement. 85 Fed. Reg. 30,395 (May 19, 2020).

The Department of Education has stated that the MCCCCD 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 Symplivity 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 Symplivity 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.

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

Schedule Number: GS-1049

Record Series Number	Record Series Title and Description	Retention Period	Retention Remark	Legal Citation(s)	Approval Date
30306	Federal Disclosure Records: Clery Records Including but not limited to: warning notices, daily crime logs, incident reports, review decisions, review meeting notices, witness statements and annual campus security reports required for Clery Act compliance., Annual campus security reports are also required for Clery Act compliance and should be retained according to the Annual Reports series on the Administrative and Management Schedule., Includes records pertaining to the following offenses: Aggravated Assault, Arson, Burglary, Criminal Homicide (including murder, non-negligent manslaughter, and negligent manslaughter records), Drug Law Violations, Illegal Weapons Possession, Liquor Law Violations, Motor Vehicle Theft, Robbery, and Sex Offenses (including forcible sex offenses and non-forcible sex offenses).	7 Years	After calendar year of incident.	U.S.C. 1092(f) (Federal Register 59060)	10/24/2018
30305	Federal Disclosure Records: Code of Conduct Records Should include any Incident Records and Parent / Student Notifications.	7 Years	After calendar year of incident.	U.S.C. 1092(f) (Federal Register 59060)	10/24/2018
53176	Federal Disclosure Records: Title IX Records: All Other Cases	3 Years	After date of complaint.		10/24/2018
53177	Federal Disclosure Records: Title IX Records: Cases Involving Suspension/Expulsion Including but not limited to documentation from Title IX and Code of Conduct cases.	Permanent	Retain per Arizona Standards for Permanent Records.		12/21/2018
53181	Student Disciplinary Records: All Other Records Including but not limited to documentation from Title IX and Code of Conduct cases. Should include any Incident Records and Parent / Student Notifications.	7 Years	From created date, or from date last sanction imposed, whichever is later.		11/5/2018