



Association of
Title IX Administrators

Civil Rights and Your Responsibilities

Highland Community College

August 5, 2024



Strategic Risk
Management Solutions



Any advice or opinion provided during this training, either privately or to the entire group, is never to be construed as legal advice or an assurance of compliance. Always consult with your legal counsel to ensure you are receiving advice that considers existing case law in your jurisdiction, any applicable state or local laws, and evolving federal guidance.

Course Introduction



This course introduces the core elements for addressing and resolving allegations of protected class discrimination and harassment at Highland Community College.



We will discuss the critical importance of adhering to legal requirements for intake and resolution and review the individuals responsible for compliance at Highland.



The goal is to understand and embrace the responsibility to share and route information to the right people in the right position to coordinate an adequate response.

Content Advisory



[This Photo](#) by Unknown Author is licensed under [CC BY-NC](#)

The content and discussion in this course will necessarily engage with sex- and gender-based harassment, discrimination, violence, and associated sensitive topics that can evoke strong emotional responses.

ATIXA faculty members may offer examples that emulate the language and vocabulary Title IX practitioners encounter in their roles including slang, profanity, and other graphic or offensive language.

Ground rules



Civil Rights Overview

Civil Rights Laws

Title VI of the Civil Rights Act

Title VII of the Civil Rights Act

Title IX of the Education Amendments of 1972

Americans with Disabilities Act

Section 504 of the Rehabilitation Act

Section 304 of the Violence Against Women Act



Title VI of the Civil Rights Act

- 42 U.S.C. § 2000e-2(a)

“No person in the United States shall, on the ground of **race, color, or national origin**, be **excluded from participation in, be denied the benefits of, or be subjected to discrimination** under any program or activity receiving federal financial assistance.”

Title VI of the Civil Rights Act of 1964

National Origin

Extends to students who experience discrimination, including harassment, based on their actual or perceived:

- (i) shared ancestry or ethnic characteristics; or
- (ii) citizenship or residency in a country with a dominant religion or distinct religious identity.

Title VII of the Civil Rights Act of 1964

Title VII prohibits employment discrimination based on race, color, religion, sex and national origin.

Title IX

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance.”

20 U.S.C. § 1681 & 34 C.F.R. Part 106 (1972)



Americans with Disabilities Act

Expansive federal civil rights law that addresses protections for those with disabilities in public life

Applicable to all institutions regardless of whether they receive federal funding



Section 504 of the Rehabilitation Act (1973)

- **Prohibits discrimination** on the basis of disability in **all programs or activities** that receive federal financial assistance
- Forbids institutions from excluding or denying individuals with disabilities an **equal opportunity** to receive program benefits and services

Enforced by the U.S. Dept. of Education's Office for Civil Rights (OCR)

Section 504 vs. ADA

Between the two laws, all government-funded programs are covered

Section 504

- Created to protect individuals with disabilities from discrimination for reasons related to their disabilities
- Applied protections to programs or businesses that receive federal funds

ADA

- ADA Titles I-III strengthened 504 by:
 - Requiring accommodations for individuals with a disability
 - Extending it to private institutions, workplaces, and to state and local government-funded programs

Violence Against Women Act, Section 304

- Applies to **higher education**; includes obligations for students and employees.
- Requires educational programming, training, and response for the “Big 4”
 - Sexual Assault
 - Dating Violence
 - Domestic Violence
 - Stalking
- Procedures to address both sex-based and non-sex-based stalking/DV allegations

Civil Rights Equity

- Civil rights laws are equity laws
- Equity refers to the understanding that not all individuals have access to the same resources and opportunities
 - Equity focuses on providing support and resources to reduce disparities in access to the education program
 - Civil rights laws seek to remedy the inequities discrimination and harassment create

Essential Compliance Elements

The requirement to **Stop, Prevent, and Remedy** guides HCC response in its equity and compliance

1

STOP discriminatory conduct

2

PREVENT recurrence, at both individual and College levels

3

REMEDY the effects of discrimination, for both individual and community

PROCESS

THOROUGH

RELIABLE

IMPARTIAL

INVESTIGATION

PROMPT

EFFECTIVE

EQUITABLE

REMEDIES

Act reasonably to **STOP** discrimination

Act reasonably to **PREVENT** recurrence

Act equitably to **REMEDY** effects

Jurisdiction

- Location
- Events
- Circumstances over which the recipient exercised substantial control" over the respondent and the context in which the discrimination and/or harassment occurred, as well as clarifying that it must occur in the United States.
- Online (social media)

A professor does not allow a student with a documented disability the opportunity to use extended time to complete a test.

Is it discrimination/harassment?

Discrimination, Harassment, & Retaliation

Discrimination

- Inequitable treatment on the basis of a protected characteristic.
- Discrimination often takes the form of decisions made regarding an individual or individuals.
 - Admissions/employment
 - Benefits/services
 - Participation

Harassment

- Unwelcome conduct on the basis of a protected characteristic.
- Harassment often takes the form of interpersonal conduct.
 - Hostile environment
 - Violent
 - Humiliating
 - Abusive

Protected Characteristics

- Age
- Physical or mental disability
- Marital status
- National origin or ancestry
- Race or ethnicity
- Religion or creed
- Sex (including gender, pregnancy, sexual orientation, gender identity)
- Veteran status
- Color
- Genetic information
- Citizenship

Retaliation

- Retaliation is established by:
- Complainant was engaged in a protected activity
- The institution knew of the complainant's protected activity
- The institution took adverse action against the Complainant
- There was a causal connection between the protected activity and the adverse action
- Once these elements are established, the institution must be able to show it had a legitimate, non-discriminatory reason for the action taken

Mandatory reporting laws

Title IX

- Sexual assault
- Dating violence
- Domestic violence
- Sex-based stalking
- Sex discrimination
- Sexual harassment

Title VI

- Race
- Color
- National Origin
- Disparate Treatment
- Disparate Impact

Title VII

- Race
- Color
- Religion
- Sex
- National Origin
- Disparate Treatment
- Disparate Impact

Mandatory reporting laws (cont.)

Clery Act Reporting

- Sexual assault
- Dating/Domestic violence
- Stalking (all)
- Criminal offenses
- Hate crimes
- Alcohol, drugs, and weapons

A professor at a University is known for calling a female student “Babycakes”.

Is it discrimination/harassment?

Response and Resolution

Resolution Process Overview

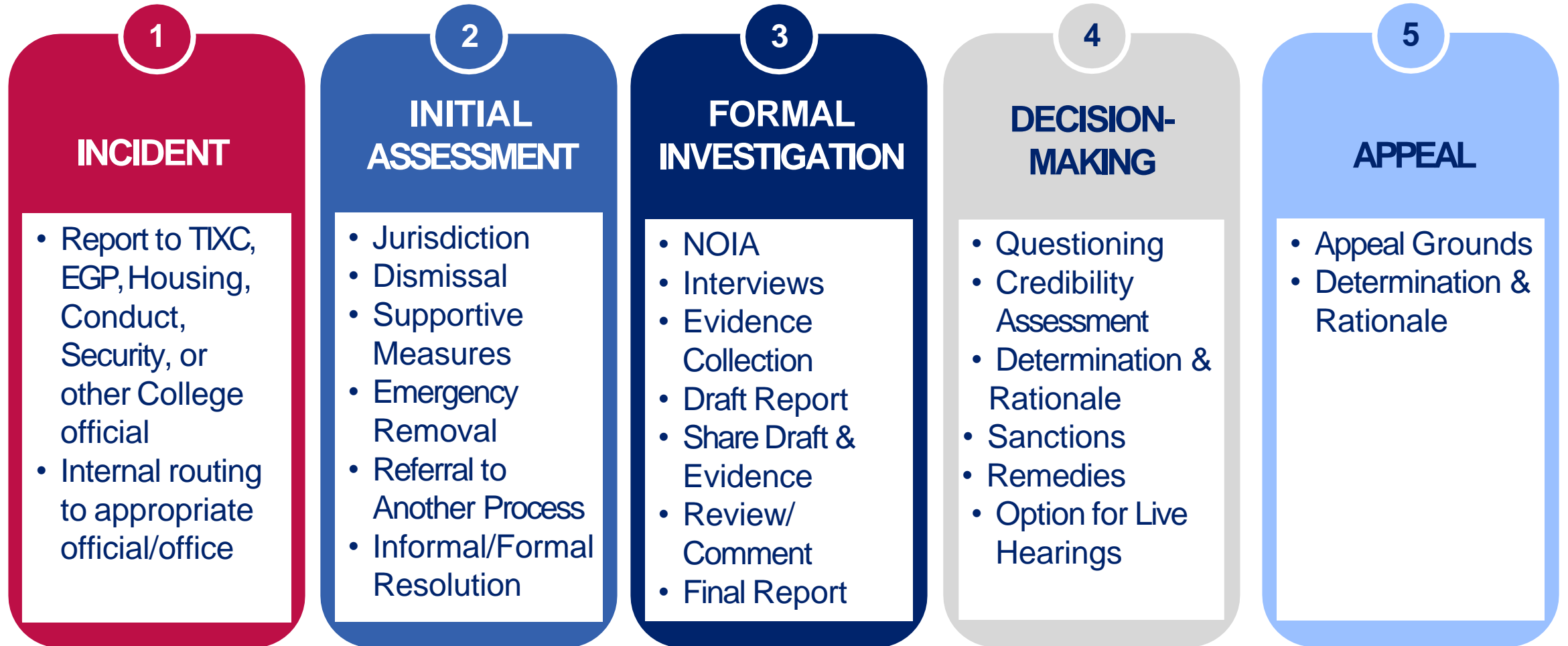
Prompt Resolution

- Complete without undue delay
- Resolution timelines vary widely in complexity and pacing
- Process may take longer than expected
 - Anticipate, mitigate, and document delays
 - Communicate with parties regarding delays

Equitable Resolution

- Treat all parties equitably
- Ensure that all parties have opportunity to fully participate

Formal Grievance Process Overview



TIXC Process Oversight

- Appoint and train Equity Grievance Panel
- Intake and initial assessment of report/complaint
- Strategize and consult with Investigators
- Supportive measures and interim actions
- Timeline compliance
- Review investigation reports
- Oversee recordkeeping
- Serve as parties' primary point of contact

Consistent and Proportionate Sanctions

- Evaluate types and severity of misconduct and corresponding sanctions
- Maintain and update historical sanctioning data
- Evaluate past precedents for current cases
- Provide consultation to disciplinary authorities
- Ensure consistent and unbiased sanctions
- Revised Equity Grievance Policy and Revised Student Handbook include updated sanctioning protocol

A student who is pregnant has to miss class for a doctor's appointment. She cannot make up the points she missed.

Is it discrimination/harassment?

Reporting Alleged Violations

When is the College “On Notice?”

1

INCIDENT

- Report to TIXC, EGP, Housing, Conduct, Security, or other College official
- Internal routing to appropriate official/office

2

INITIAL ASSESSMENT

- Jurisdiction
- Dismissal
- Supportive Measures
- Emergency Removal
- Referral to Another Process
- Informal/Formal Resolution

3

FORMAL INVESTIGATION

- NOIA
- Interviews
- Evidence Collection
- Draft Report
- Share Draft & Evidence
- Review/Comment
- Final Report

4

HEARING

- Questioning
- Credibility Assessment
- Determination & Rationale
- Sanctions
- Remedies

5

APPEAL

- Appeal Grounds
- Determination & Rationale

Point Person for Reports and Complaints

- TIXC receives all reports or complaints regarding potential violations of the Equal Opportunity, Harassment and Nondiscrimination Policy
 - The TIXC oversees College response and resolution efforts
- In addition, the TIXC may forward information to the appropriate official/office when reported circumstances do not implicate the Equal Opportunity, Harassment and Nondiscrimination Policy

Knowledge

The institution has **knowledge** of discrimination/harassment when information about conduct that reasonably may constitute discrimination/harassment is reported to:

TIXC, or

Any non-confidential employee who:

Has authority to **institute corrective measures** on behalf of the institution, **or**

Has responsibility for **administrative leadership, teaching, or advising** in the institution's education program or activity

Mandatory Reporting

- **ALL employees are mandated reporters** (except for **Campus Counselor**)
- Ensures information gets to those trained and tasked to respond appropriately
 - Supports tracking pattern behavior
 - Enables College to best support individuals
 - Provides for simple, uniform, and universal training and reporting
- Policy requires reporting within 24 hours
- College will maintain privacy of all reports, and consider

Confidential Employees

- Employees whose communications are privileged or confidential (at the time of disclosure) under federal or state law
- Employees who the institution has designated as confidential for providing services related to discrimination/harassment
- Institutional Review Board-approved human-subjects research study, designed to gather information about sex discrimination



Why report?

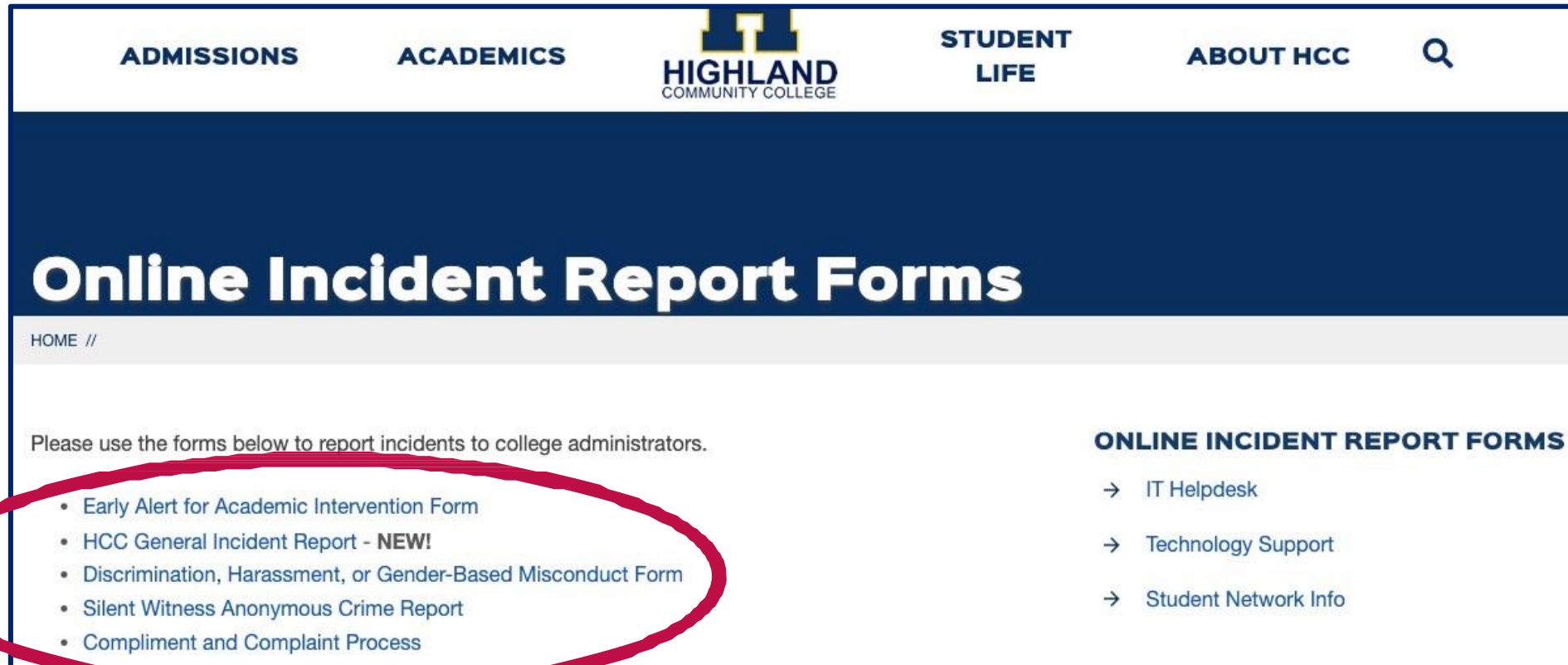
- The TIXCs and the EGP are uniquely situated and specifically trained/equipped to coordinate College response, including supportive measures, interim actions, formal/informal/administrative resolution
- To provide lifelong learning opportunities and contribute to economic development to enhance the quality of life in the communities you serve
- Failure to reasonably respond in light of the known circumstances imputes civil liability to the University. The vast majority of these cases center on process failures.


How do you report?

- Michael Clark, Employee Title IX Coordinator, Office of Human Resources
785-442-6093 | mclark@highlandcc.edu
- Eric Ingmire, Student Title IX Coordinator, Vice President for Student Services
785-442-6020 | eingmire@highlandcc.edu

How do you report?

- highlandcc.edu -> scroll to “Report” link at the bottom of the homepage.



ADMISSIONS ACADEMICS  STUDENT LIFE ABOUT HCC 🔍

Online Incident Report Forms

HOME //

Please use the forms below to report incidents to college administrators.

- Early Alert for Academic Intervention Form
- HCC General Incident Report - **NEW!**
- Discrimination, Harassment, or Gender-Based Misconduct Form
- Silent Witness Anonymous Crime Report
- Compliment and Complaint Process

ONLINE INCIDENT REPORT FORMS

- IT Helpdesk
- Technology Support
- Student Network Info

You are preparing your lecture during your office hours. A student who is in your 8am Monday morning class enters your office crying with apparent bruises. You ask what has happened and the student shares;

I have been dating someone for a few months. The person has become more and more aggressive. I do not know what to do. Please do not tell anyone.

...the person I am dating is married.

...the person is the Dean.



Association of
Title IX Administrators

Questions?