

A photograph of a modern, multi-story building with large glass windows and a sign that reads "S.J. QUINNEY COLLEGE OF LAW". The building is surrounded by greenery and a blue sky with clouds. A semi-transparent white box is overlaid on the image, containing the text "Notice of Allegations" in red.

Notice of Allegations

Presentation Norms

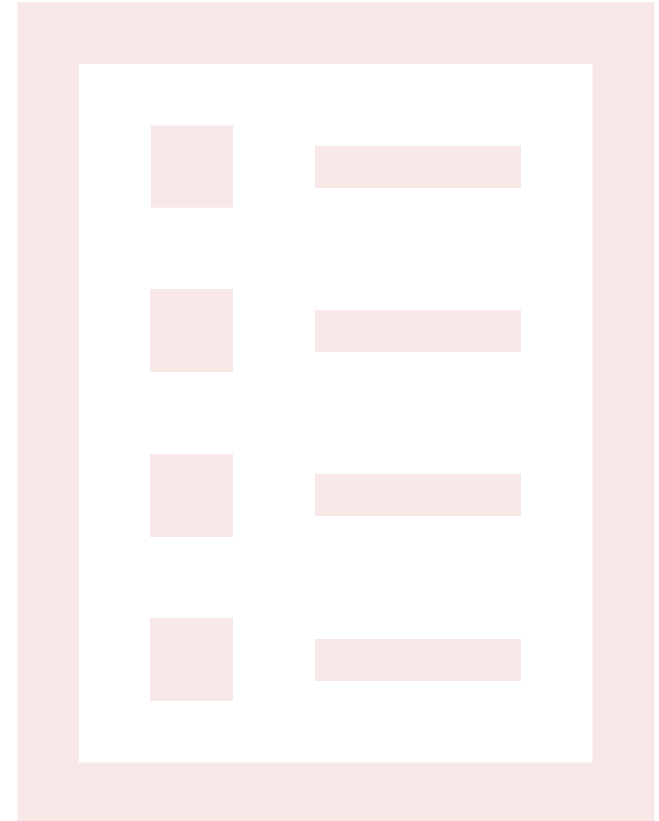
- **Questions don't have to be saved until the end.**
- We are free to discuss **hypothetical and/or generic** examples.
- **The OEO does not do DEI work** (and never has) – we are an administrative office to support all individuals affected by discrimination, consistent with state and federal laws like Title IX.
- We will be talking about all forms of discrimination today, including sexual misconduct. **Please take care of yourself** and know what you can safely discuss.
- **I am a mandatory reporter** and must report possible incidents of discrimination or misconduct I become aware of.



Agenda

- Importance of the NOA
- Regulatory language
- **What is required to be included**
- What is optional, but encouraged
- **How to structure the alleged conduct**

**Activity: Create or Review an NOA
Template for your institution**



Importance of the NOA

The Notice of Allegations is **the most important document** in an investigation.

- Explains the scope of the allegations, meaning the specific alleged conduct under review.
- Explains the policy implications of the alleged conduct
- Allows for the Respondent to reasonably respond to the allegations
- Explains the process of the upcoming investigation



Regulatory Requirements (and How We Get to an NOA)



2020 Title IX Regulations

Good information to know about and utilize...

What we will be zooming in on today.

▼ Title 34	Education	Part / Section
▼ Subtitle B	Regulations of the Offices of the Department of Education	100 – 799
▼ Chapter I	Office for Civil Rights, Department of Education	100 – 199
▼ Part 106	Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance	106.1 – 106.82
▼ Subpart D	Discrimination on the Basis of Sex in Education Programs or Activities Prohibited	106.30 – 106.46
§ 106.30	Definitions.	
§ 106.31	Education programs or activities.	
§ 106.32	Housing.	
§ 106.33	Comparable facilities.	
§ 106.34	Access to classes and schools.	
§ 106.35	Access to institutions of vocational education.	
§ 106.36	Counseling and use of appraisal and counseling materials.	
§ 106.37	Financial assistance.	
§ 106.38	Employment assistance to students.	
§ 106.39	Health and insurance benefits and services.	
§ 106.40	Marital or parental status.	
§ 106.41	Athletics.	
§ 106.42	Textbooks and curricular material.	
§ 106.43	Standards for measuring skill or progress in physical education classes.	
§ 106.44	Recipient's response to sexual harassment.	
§ 106.45	Grievance process for formal complaints of sexual harassment.	
§ 106.46	Severability.	

34 C.F.R. § 106

§ 106.44

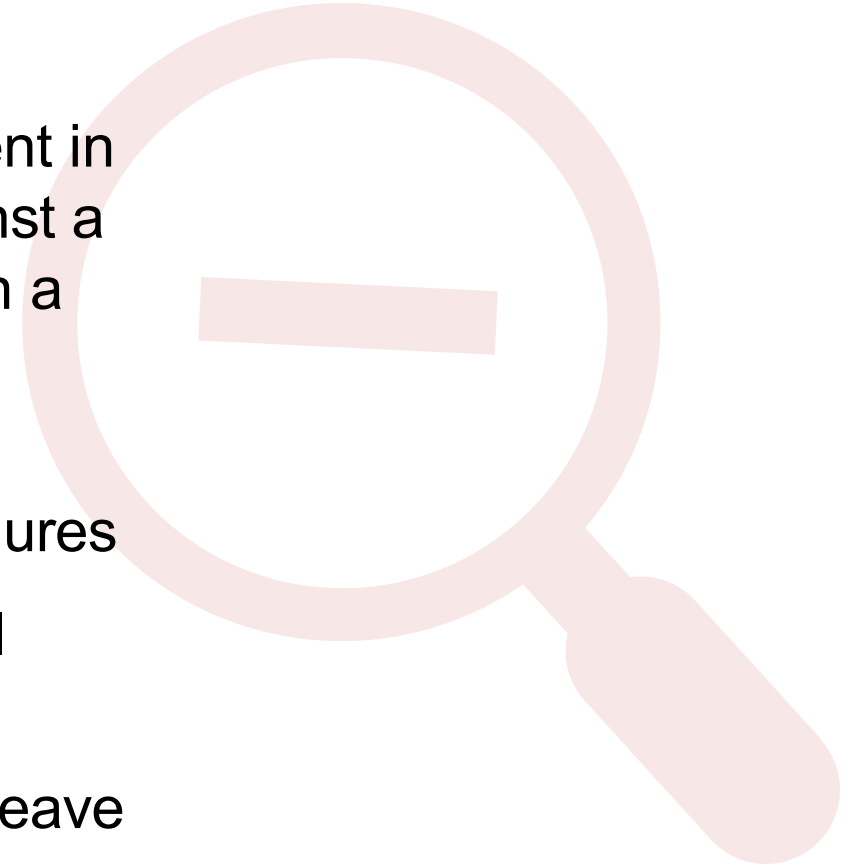
Recipient's response to sexual harassment

Overview of General Response:

- A recipient with actual knowledge of sexual harassment in an education program or activity of the recipient against a person in the United States, must respond promptly in a manner that is not deliberately indifferent.

Gebser/Davis Standard.

- Promptly contact Complainant, offer Supportive Measures
- Inform the Complainant of how they may file a Formal Complaint
- Addresses Emergency Removal and Administrative Leave



§ 106.45

Grievance process for formal complaints of sexual harassment

What we will be
zooming in on

- **Basic Requirements**
- **Notice of Allegations**

Good information, but
not our focus today...

- Dismissal of a Formal Complaint
- Consolidation of Formal Complaints
- Investigation of Formal Complaints
- Hearings
- Determination Regarding Responsibility
- Appeals
- Informal Resolution
- Record Keeping



§ 106.45(b)(1-10)

§ 106.45

Basic Requirements

Follow the Federal Regulations and apply all other procedures equally to all parties.

§106.45(b)

Basic Requirements §106.45(b)(1)

- Treat parties equally §106.45(b)(1)(i)
- Objective evaluation of all "relevant" evidence and avoid presumptive credibility determinations §106.45(b)(1)(ii)
- No conflicts of interest or bias by Title IX Coordinators, investigators decision-makers (e.g., hearing committee members) §106.45(b)(1)(iii)
- **Ensure that investigators receive training on issues of relevance to create an **investigative report** that fairly summarizes relevant evidence** §106.45(b)(1)(iii)
- A presumption that the respondent is not responsible for the alleged conduct §106.45(b)(1)(iv)
- Include "reasonably prompt" time frames for conclusion of the grievance process §106.45(b)(1)(v)
- Describe the range of possible disciplinary sanctions and remedies §106.45(b)(1)(vi)
- State the standard of evidence. This will likely be "preponderance of the evidence" for most institutions §106.45(b)(1)(vii)
- Procedures for any appeals §106.45(b)(1)(viii)
- Range of potential supportive measures §106.45(b)(1)(ix)

**A strong
investigative
report
demonstrates
that you
followed the
basic
requirements.**

Core Principle:

**A strong investigative
report begins with a strong
Notice of Allegations.**



§ 106.45(b)(2)

Notice of Allegations

An institution **must** provide the following **written notice** to the **parties**:

Notice of the allegations of sexual harassment potentially constituting sexual harassment as defined in [these regulations],*** including **sufficient details** known at the time and with **sufficient time [for the Respondent] to prepare a response** for any initial interview.

Sufficient details include:

- The identities of the parties involved in the incident, if known
- The conduct allegedly constituting sexual harassment
- The date and location of the alleged incident, if known



§ 106.45(b)(2)

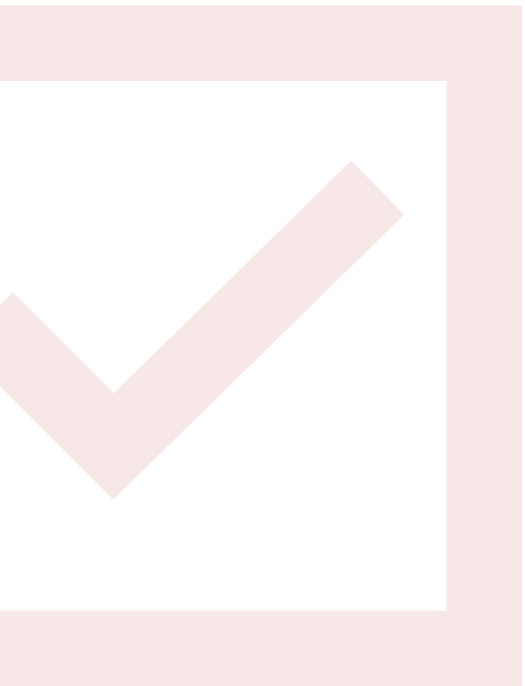
Notice of Allegations

“The written notice must include...”

- A statement that the Respondent is presumed not responsible for the alleged conduct
- And that a determination regarding responsibility is made at the conclusion of the grievance process (i.e., after the investigation and hearing)
- Notice that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney
- Notice that the parties may inspect and review evidence during the investigation
- Notice of any provision of the institution’s code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.



Notice of Allegations Checklist

- 
- ☐ A statement that the Respondent is presumed not responsible for the alleged conduct,
 - ☐ And that a determination regarding responsibility is made at the conclusion of the grievance process (i.e., after the investigation and hearing).
 - ☐ Notice that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
 - ☐ Notice that the parties may inspect and review evidence during the investigation.
 - ☐ Notice of any provision of the institution's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
 - ☐ Sufficient details known at the time:
 - ☐ The identities of the parties involved in the incident, if known;
 - ☐ The conduct allegedly constituting sexual harassment;
 - ☐ The date and location of the alleged incident, if known.

What if new allegations arise later?

“If, in the course of the investigation, the institution decides to investigate allegations about the Complainant or Respondent **that are not included in the Notice of Allegations**, then the institution **must provide notice of the additional allegations** to the parties whose identities are known.”

Takeaway: If you expand the scope of the investigation, you will need to re-issue a new Notice of Allegations. All the same criteria and standards apply.

Best Practices: Re-issue the entire NOA with original allegations and new allegations included as part of a comprehensive document.

Activity:

Create or Review an NOA

- Use the provided rubric to review your NOA Template.
 - If you don't have an NOA Template ready, you can review USHE's as a starting point.
- Review each requirement and see if it's easy to locate in your NOA. If not, what can you do to remedy that?

Notice of Allegations Rubric

Please review the NOA you use at your institution by reading through each requirement and rating it 0 (Not in the NOA) to 2 (Easy to locate in the NOA).

Once completed look at the general pattern—are requirements easy to locate in your NOA? Is anything key missing? If so, how can this be remedied?

Requirements	0 (Not in the NOA)	1 (Hard to locate in the NOA)	2 (Easy to locate in the NOA)
A statement that the Respondent is presumed not responsible for the alleged conduct.	☐	☐	☐
A statement that a determination regarding responsibility is made at the conclusion of the grievance process (i.e., after the investigation and hearing).	☐	☐	☐
Notice that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney.	☐	☐	☐
Notice that the parties may inspect and review evidence during the investigation.	☐	☐	☐
Notice of any provision of the institution's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.	☐	☐	☐
Sufficient Details Known at the Time:			
The identities of the parties involved in the incident, if known;	☐	☐	☐

Structuring the Allegations

The Generic Structure:

[COMPLAINANT] alleges that on or around [DATE & LOCATION] you engaged in [DISCRIMINATION AND/OR HARASSMENT VIOLATION] in violation of [TITLE IX POLICY].

The specific allegations against you are as follows:

1. Specific allegation (example: Quid Pro Quo)
2. Specific allegation (example: severe, pervasive, and objectively offensive)
3. Specific allegation (example: Sexual assault)

Within Each Allegation:

- ☐ Sufficient Details (known at the time)
 - Identities of the Parties
 - Conduct allegedly constituting sexual harassment
 - Date and location of the alleged incident

NOA Example:

Non-Consensual Sexual Contact

Rodger Doe alleges that on or around May 28, 2026, during the annual Student-Faculty Soirée the you engaged in Non-Consensual Sexual Contact in violation of Utah School of Mining's Sexual Harassment Policy 4-300. The specific allegations against you are that you hit or slapped Doe's buttocks with your hand as she walked past you.



NOA Example:

Non-Consensual Sexual Contact

Rodger Doe alleges that on or around May 28, 2026, during the annual Student-Faculty Soirée the you engaged in Non-Consensual Sexual Contact in violation of Utah School of Mining's Sexual Harassment Policy 4-300. The specific allegations against you are that you hit or slapped Doe's buttocks with your hand as she walked past you.

WHAT ARE WE LOOKING FOR?

[COMPLAINANT] alleges that on or around [DATE & LOCATION] you engaged in [DISCRIMINATION AND/OR HARASSMENT VIOLATION] in violation of [TITLE IX POLICY]. The specific allegations against you are as follows:

NOA Example:

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COMPLAINANT

DATE & LOCATION

VIOLATION AND
POLICY

NOA Example:

Non-Consensual Sexual Contact

Rodger Doe alleges that on or around May 28, 2026, during the annual Student-Faculty Soirée the you engaged in Non-Consensual Sexual Contact in violation of Utah School of Mining's Sexual Harassment Policy 4-300. **The specific allegations against you are that you hit or slapped Doe's buttocks with your hand as she walked past you.**

**Is this
sufficient for
an allegation?**

Structuring the Allegations

The Generic Structure:

[COMPLAINANT] alleges that on or around [DATE & LOCATION] you engaged in [DISCRIMINATION AND/OR HARASSMENT VIOLATION] in violation of [TITLE IX POLICY].

The specific allegations against you are as follows:

1. Specific allegation (example: Quid Pro Quo)
2. Specific allegation (example: severe, pervasive, and objectively offensive)
3. Specific allegation (example: Sexual assault)

Within Each Allegation:

- ☐ Sufficient Details (known at the time)
 - **IDENTITIES OF THE PARTIES**
 - **CONDUCT ALLEGEDLY CONSTITUTING SEXUAL HARASSMENT**
 - **DATE AND LOCATION OF THE ALLEGED INCIDENT**

NOA Example:

Quid Pro Quo

GENERIC STRUCTURE

We won't examine this right now.

John Doe alleges that between March 25, 2026, and April 22, 2026, you engaged in sexual harassment in violation of Utah School of Mining's Sexual Harassment Policy 4-300. The specific allegations against you are as follows:

1. On March 25, 2026, in the Earth Sciences Building you approached Doe and told him that you could support his application for the Renshaw Scholarship if you would give him your phone number and discuss your professional goals over dinner.
2. On March 31, 2026, you sent Doe a text message stating: "send your Instagram handle so we can DM there and grab coffee! I might be able to support you in for the fellowship applications coming up!"

NOA Example:

Quid Pro Quo

1. On March 25, 2026, in the Earth Sciences Building you approached Doe and told him that you could support his application for the Renshaw Scholarship if you would give him your phone number and discuss your professional goals over dinner.
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WHAT ARE WE LOOKING FOR?

- ☐ Sufficient Details (known at the time)
 - **IDENTITIES OF THE PARTIES**
 - **CONDUCT ALLEGEDLY CONSTITUTING SEXUAL HARASSMENT**
 - **DATE AND LOCATION OF THE ALLEGED INCIDENT**

NOA Example:

Quid Pro Quo

1. On March 25, 2026, in the Earth Sciences Building you approached Doe and told him that you could support his application for the Renshaw Scholarship if you would give him your phone number and discuss your professional goals over dinner.
2. On March 31, 2026, you sent Doe a text message stating: “send your Instagram handle so we can DM there and grab coffee! I might be able to support you in for the fellowship applications coming up!”

IDENTITIES

CONDUCT

DATE & LOCATION

Closing

- What are your next steps to ensure you have an NOA template that meets requirements and best practice?
- Think back to our core principle—a strong investigative report begins with a strong Notice of Allegations. What do you see about this structure for an NOA that would help create a strong investigative report?

