

From: Iannelli, Clare
Sent: Thu, 10 Jun 2021 13:42:53 +0000
To: T9PublicHearing
Subject: Written Comment: Title IX Public Hearing (Dual Enrollment Students/K-12 Students Enrolled at an Institution of Higher Education)

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Submitter:
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The final regulations state that live hearings are required but then are optional for K-12 schools. The regulations do not adequately address incidents in which K-12 students are participating in a dual enrollment program at an institution of higher education. We see that there may be some confusion by some colleges who have high schools students taking college-level courses on their respective high school campuses or on the college campuses. Since a dual enrollment student may properly be described as a high school student and a college student, it is unclear what standard to apply when a minor student is involved in an incident that takes place while participating in a college program or activity. A K-12 student might report harassment by an adult student in his or her college program or by another minor student, or the K-12 student might report harassment by an adult faculty member. Could the DoE provide more specific guidance around this issue, including coordination between the high school and the institution of higher education to minimize trauma? Having additional guidance could assist colleges in communicating more seamlessly with an institution's high school partners.

Thank you.

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From: Iannelli, Clare
Sent: Thu, 10 Jun 2021 13:47:31 +0000
To: T9PublicHearing
Subject: Written Comment: Title IX Public Hearing (Live Hearing – Party’s Non-Submission to Cross-Examination)

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A provision of the final regulations states that decision-makers must essentially move forward without a party’s response if the party does not submit to cross-examination. However, the non-submission could be a response to multiple factors: the potential trauma that comes with being cross-examined or that party is not available on the hearing date/time, or the party has graduated or moved out of the country. Could the DoE consider an alternative for both parties to the live hearing such as an opt-out option for the live hearing with the possibility of submitting detailed information electronically to the decision-maker(s)? Institutions could formulate their own posted requirements should a student opt to submit their information electronically; this would assist students in submitting a complete packet as well as guide students through that process. Institutions could also ensure that students understand the pros and cons of attending versus opting out of a live hearing. Having this alternative would provide much-needed information to the decision-maker(s) even when a party declines cross-examination. These types of investigations and proceedings can be very traumatic and/or can further increase trauma for the parties involved. Having an alternative option could assist colleges with managing trauma while still affording all the parties their due process rights.

Thank you.

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From: Iannelli, Clare
Sent: Thu, 10 Jun 2021 13:51:08 +0000
To: T9PublicHearing
Subject: Written Comment: Title IX Public Hearing (Live Hearing Alternative)

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The requirement that institutions must conduct live hearings for both parties in sexual harassment investigations has led to great concern around the mental health stability of both parties involved. For example, while discussing a reporting party's options, we have experienced hesitation from reporting parties who did not feel comfortable with the entire process of cross-examination. Would the DoE consider an alternative for both parties to the live hearing where, for example, both parties agree to submit their material electronically? Institutions could formulate their own posted requirements should a student opt to submit their information electronically, which would include procedures of how to question or challenge another parties' evidence (also electronically within a specified period of time). Having this alternative process would assist students in submitting a complete packet as well as guide students through that process. Institutions could also ensure that students understand the pros and cons of attending versus opting out of a live hearing.

These types of investigations and proceedings can be very traumatic and/or can further increase trauma for the parties involved. Having an alternative option could assist colleges with managing trauma while still affording all the parties their due process rights.

Thank you.

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From: Iannelli, Clare
Sent: Thu, 10 Jun 2021 13:54:39 +0000
To: T9PublicHearing
Subject: Written Comment: Title IX Public Hearing (Virtual Hearings – Best Practices)

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At the onset of the final regulations going live in August 2020, there was no way to know the impact of COVID-19 restrictions later that year and into 2021. Any live hearings were held virtually using a video meeting platform, which led to challenges related to providing a professional and transparent process to all parties involved such as whether or not to use breakout rooms and who should/should not manage the running of the virtual hearing platform. Because of the convenience and the ability of students to participate without being in the same physical presence, virtual hearings will likely still be utilized even after the pandemic. It would be highly desirable for the DoE to publish recommended best practices around the proper usage of video meeting platforms to hold live hearings that is free of technological risk. In particular, institutions and students would benefit from guidance regarding, but not limited to, who should manage the virtual hearing platform settings, how breakout rooms can best be utilized, and best practices around disruptive parties during a virtual hearing.

Thank you.

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