

Title IX Office
La Sierra University
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August 30, 2021.

Re: NEW TITLE IX DIRECTIVE

Dear La Sierra University Campus family:

On Tuesday August 24, 2021 the U.S. Department of Education Office of Civil Rights (OCR) issued an update regarding the federal regulations implementing Title IX of the Education Amendments of 1972 as amended in 2020 and included in La Sierra University's Title IX policy.

The new updates are related to OCR's Final Rule Section 106.45(b)(6)(i), which required postsecondary institutions to hold live hearings to adjudicate formal complaints of sexual harassment. According to OCR's former mandate:

“The decision-maker must not rely on the statement of a party or witness who does not submit to cross-examination, resulting in exclusion of statements that remain untested by cross-examination.”

This section is now void.

According to the update issued by U.S. Department of Education Acting Assistant Secretary for Civil Rights Suzanne B. Goldberg, the change implements the decision issued by a federal court in Massachusetts in case Victim Rights Law Center et al v Cardona (Cardona case), No. 1:20-cv-11104, 2021 WL 3185743 which vacated that section of the Title IX Regulations.

The update also amends our Title IX policy Section P where it indicated that:

“The University will follow the aforementioned mandate, therefore if a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s):

- must not rely on any statement of that party or witness in reaching a determination regarding responsibility;”

This section of our Title IX policy is now also void.

La Sierra University will now follow OCR's directives and is amending its policy to the following mandate:

“A decision-maker at a postsecondary institution may now consider statements made by parties or witnesses that are otherwise permitted under the regulations, even if those parties or witnesses do not participate in cross-examination at the live hearing, in reaching a determination regarding responsibility in a Title IX grievance process.”

Therefore, any party or witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. The Decision-maker(s) can only rely on whatever relevant evidence is available through the investigation and hearing in making the ultimate determination of responsibility. The Decision-maker(s) may not draw any inference solely from a party’s or witness’s absence from the hearing or refusal to submit to cross-examination or answer other questions.

If you have any questions regarding this matter please contact the Title IX Coordinator Ms. Madelyn Vega-Ortiz. The Title IX Coordinator’s contact information is the following:

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