



# **TITLE IX CHALLENGE OFFICER TRAINING**

FALL 2024



# AGENDA

Review Role and Responsibilities

2020 Title IX Final Rule: Removal Challenge Process

2024 Title IX Final Rule: Challenge Process

Review Documents

Discuss Common Pitfalls

Q&A



**2020 TITLE IX FINAL  
RULE: REMOVAL  
CHALLENGE  
PROCESS**

# INTERIM ACTION AND TEMPORARY REMOVAL

- The Investigator(s) will:
  - Engage in an individualized safety and risk analysis.
  - Consult with other Collin College departments (e.g., Collin College Police Department, SOBI Care Team, SOBI Threat Assessment Management Team) to assist in the individualized assessment and risk analysis, as appropriate.
  - Determine whether an immediate threat to the physical health or safety of any student or other individual arising from the allegation of prohibited conduct justifies the temporary removal of the Respondent.
- The Investigator(s) may then recommend interim action(s) to the appropriate Title IX Coordinator, Deputy Title IX Coordinator, or designee.

# INTERIM ACTION AND TEMPORARY REMOVAL (CONT.)

- If the appropriate Title IX Coordinator, Deputy Title IX Coordinator, or designee approves the interim action(s), the Investigator(s) will:
  - Provide the Respondent with written notice of the interim action(s).
  - Meet with the Respondent to discuss and explain the interim action(s).
- If the interim action(s) include a temporary removal (e.g., Temporary Immediate Suspension, temporary removal from Collin College Student Housing, temporary employee administrative leave), the Investigator(s) will:
  - Explain to the Respondent their right to challenge the interim action(s) immediately after the temporary removal.
  - Provide to the Respondent the *Notice to Challenge a Temporary Removal* form.

# INTERIM ACTION AND TEMPORARY REMOVAL (CONT.)

- If the Respondent chooses to challenge the temporary removal, they will complete the *Notice to Challenge a Temporary Removal* form.
- The Investigator(s) will then submit to the designated Removal Challenge Officer:
  - The Respondent's completed *Notice to Challenge a Temporary Removal* form and
  - A brief rationale explaining the individualized safety and risk analysis utilized to arrive at the interim action(s).

# REMOVAL CHALLENGE OFFICER'S ROLE

- Title IX Coordinators, Deputy Title IX Coordinators, Informal Resolution Facilitators, Investigators, Live Hearing Advisors, Live Hearing Officers, and Appeal Decision Makers cannot serve as Removal Challenge Officers.
- Collin College maintains a pool of trained Removal Challenge Officers.
- When a Removal Challenge Officer is needed to serve on a case, the appropriate Title IX Coordinator, Deputy Title IX Coordinator, or designee will assign a Removal Challenge Officer from the pool.
- The Removal Challenge Officer must conduct a **prompt, fair, impartial, unbiased, and equitable** process from the beginning of the removal challenge review to the submission of their *Removal Challenge Officer's Decision* form.

# REVIEWING THE RESPONDENT'S CHALLENGE

- The Removal Challenge Officer will:
  - Review the *Notice to Challenge a Temporary Removal* and all documentation received from the Investigator(s).
  - Consider whether the removal is appropriate.
  - Write a rationale explaining their decision.
  - Complete the *Removal Challenge Officer's Decision* form
  - Notify the parties and Investigator(s) in writing whether the removal is upheld or overturned.



# SAFETY AND RISK: THINGS TO CONSIDER

- Is there an **immediate threat** to the physical health or safety of a student or other individual?
- Would the behavior cause a **reasonable** person to fear for their safety or the safety of others?
- Will the temporary removal **unfairly deprive** a party of equal access to Collin College's education program or activity?
  - Alternatively, will **not** imposing the temporary removal unfairly deprive a party of equal access to Collin College's education program or activity?

# SAFETY AND RISK: THINGS TO CONSIDER (CONT.)

- Did any **stalking** behaviors occur before, during, or after the alleged incident(s)? If so, have the stalking behaviors continued to occur?
- Have the Respondent threatened **violence** or made any other communications about intent or plans for violence?
  - Does the Respondent appear to have the resources, intent, and motivation to carry out the threat?
- Were any **weapons** used during the alleged incident(s) or has the Respondent threatened to use any weapons?

# CHALLENGE OFFICER'S DECISION

- The Removal Challenge Officer will complete the *Removal Challenge Officer's Decision* form.
- The Removal Challenge Officer will notify the Complainant, Respondent, and Investigator(s) **simultaneously** in writing whether the removal is upheld or overturned within **10 College District business days** of the challenge.
- The Removal Challenge Officer will copy the appropriate Title IX Coordinator, Deputy Title IX Coordinator, or designee when the *Removal Challenge Officer's Decision* form is sent in electronic format.
- The Removal Challenge Officer's decision is final and non-appealable.
- The Removal Challenge Officer's obligation ends once they send the *Removal Challenge Officer's Decision* form to both parties.

# CALCULATING "COLLEGE DISTRICT BUSINESS DAYS"

- College District business days exclude:
  1. Weekends (i.e., Saturdays and Sundays)
  2. National holidays recognized by Collin College
  3. College District closures
- **Do not** count the day you send the documents.
- Examples:
  1. If you send the documents on **Monday, October 7, 2024**, the parties will have until **4:30 p.m. on Monday, October 21, 2024**, to submit an appeal.
  2. If you send the documents on **Wednesday, December 18, 2024**, the parties will have until **4:30 p.m. on Monday, January 13, 2025**, to submit an appeal due to the Winter Break.



# **2024 TITLE IX FINAL RULE: CHALLENGE PROCESS**

# SUPPORTIVE MEASURES

- When notified of conduct that reasonably may constitute sex discrimination and/or sex-based harassment under Title IX, the appropriate Title IX coordinator, deputy Title IX coordinator, or designee will offer and coordinate supportive measures, as appropriate, for the complainant to restore or preserve access to Collin College's education program or activity or provide support during Collin College's Title IX grievance procedures or during the informal resolution process.
- In addition, if Collin College has initiated grievance procedures or offered an informal resolution process to the respondent, the appropriate Title IX coordinator, deputy Title IX coordinator, or designee will offer and coordinate supportive measures, as appropriate, for the respondent to restore or preserve access to Collin College's education program or activity or provide support during Collin College's Title IX grievance procedures or during the informal resolution process.

# SUPPORTIVE MEASURES (CONT.)

- Supportive measures must not unreasonably burden either party and must be designed to protect the safety of the parties or Collin College's educational environment, or to provide support during Collin College's grievance procedures or during the informal resolution process.
- Collin College must not impose supportive measures for punitive or disciplinary reasons.
- Collin College may, as appropriate, modify or terminate supportive measures at the conclusion of the grievance procedures or at the conclusion of the informal resolution process, or Collin College may continue them beyond that point.

# EXAMPLES OF SUPPORTIVE MEASURES

- Supportive measures may vary depending on what Collin College deems to be reasonably available.
- Supportive measures Collin College may offer to a complainant or respondent include, but are not limited to:
  1. Coordinating access to counseling or mental health services and assistance with setting up an initial appointment.
  2. Coordinating extensions of deadlines or other course-related adjustments.
  3. Modifications of work or class schedules.
  4. Arranging for the Collin College Police Department to provide campus escort services.
  5. Issuing and enforcing mutual restrictions on contact between the parties (i.e., a no-contact directive).



# EXAMPLES OF SUPPORTIVE MEASURES (CONT.)

6. Facilitating changes in work or housing locations. Changes in work locations can only be implemented for individuals who are currently full-time, part-time, or student employees of Collin College. Changes in housing locations can only be implemented for students and employees who are currently residing in Collin College Student Housing located on the Plano Campus.
7. Facilitating voluntary leaves of absence.
8. Coordinating with the Collin College Police Department and appropriate campus provost to increase security and monitoring of certain areas of the campus.
9. Suppression of directory information, as allowed by the [Family Educational Rights and Privacy Act of 1974 \(FERPA\)](#).
10. Assistance in resolving concerns regarding immigration status, visas, or financial aid.
11. Any other similar measures that can be tailored to the involved individual to achieve the goals of Collin College's Title IX policy and are reasonably available.

# CHALLENGING SUPPORTIVE MEASURES

- Collin College must provide a complainant or respondent with a timely opportunity to seek, from an appropriate and impartial employee, modification or reversal of Collin College's decision to provide, deny, modify, or terminate supportive measures applicable to them.
- The impartial employee must be someone other than the employee who made the challenged decision and must have authority to modify or reverse the decision, if the impartial employee determines that the decision to provide, deny, modify, or terminate the supportive measure was inconsistent with the definition of supportive measures.
- Collin College must also provide a party with the opportunity to seek additional modification or termination of a supportive measure applicable to them if circumstances change materially.
- The appropriate Title IX coordinator, deputy Title IX coordinator, or designee will provide to the complainant and/or respondent the *Notice to Challenge the Supportive Measures, Complaint Dismissal, Emergency Removal, and/or Administrative Leave* form.

# DISMISSAL OF A TITLE IX COMPLAINT

- Collin College may dismiss a Title IX complaint if:
  1. Collin College is unable to identify the respondent after taking reasonable steps to do so;
  2. The respondent is not participating in Collin College's education program or activity and is not employed by Collin College;
  3. The complainant voluntarily withdraws any or all of the allegations of sex discrimination and/or sex-based harassment submitted by an employee complainant against an employee respondent in the complaint; the appropriate Title IX coordinator, deputy Title IX coordinator, or designee declines to initiate a complaint; and Collin College determines that, without the complainant's withdrawn allegation(s), the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination or sex-based harassment under Title IX even if proven;

# DISMISSAL OF A TITLE IX COMPLAINT (CONT.)

4. Collin College obtains the complainant's voluntary withdrawal in writing of any or all of the allegations of sex-based harassment in the complaint; the appropriate Title IX coordinator, deputy Title IX coordinator, or designee declines to initiate a complaint; and Collin College determines that, without the complainant's withdrawn allegation(s), the conduct that remains alleged in the complaint, if any, would not constitute sex-based harassment under Title IX even if proven; or
5. Collin College determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination and/or sex-based harassment under Title IX. Before dismissing the complaint, Collin College will make reasonable efforts to clarify the allegation(s) with the complainant.

# DISMISSAL OF A TITLE IX COMPLAINT (CONT.)

- When a complaint is dismissed, Collin College will, at a minimum:
  1. Offer supportive measures to the complainant, as appropriate;
  2. If the respondent has been notified of the allegation(s), offer supportive measures to the respondent, as appropriate; and
  3. Take other prompt and effective steps, as appropriate, through the appropriate Title IX coordinator, deputy Title IX coordinator, or designee to ensure that sex discrimination and/or sex-based harassment does not continue or recur within Collin College's education program or activity.

# CHALLENGING THE DISMISSAL OF A TITLE IX COMPLAINT

- Collin College will notify the complainant that a dismissal may be appealed and will provide the complainant with an opportunity to challenge the dismissal of a complaint.
- If a dismissal occurs after the respondent has been notified of the allegation(s), then Collin College will also notify the respondent that the dismissal may be challenged.
- The appropriate Title IX coordinator, deputy Title IX coordinator, or designee will provide to the complainant and respondent the *Notice to Challenge the Supportive Measures, Complaint Dismissal, Emergency Removal, and/or Administrative Leave* form.
- Dismissals may be challenged only on the following bases:
  1. Procedural irregularity that would change the outcome;
  2. New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
  3. The appropriate Title IX coordinator, deputy Title IX coordinator, investigator, or decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

# CHALLENGING THE DISMISSAL OF A TITLE IX COMPLAINT (CONT.)

- If the dismissal is challenged, the appropriate Title IX coordinator, deputy Title IX coordinator, or designee will:
  1. Notify the parties in writing of any challenge, including notice of the allegation(s), if notice was not previously provided to the respondent;
  2. Implement challenge procedures equally for the parties;
  3. Ensure that the decision-maker for the challenge did not take part in an investigation of the allegation(s) or dismissal of the complaint;
  4. Ensure that the decision-maker for the challenge has been trained consistent with the Title IX regulations;
  5. Communicate to the parties in writing that Collin College will provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
  6. Notify the parties in writing of the result of the challenge and the rationale for the result.

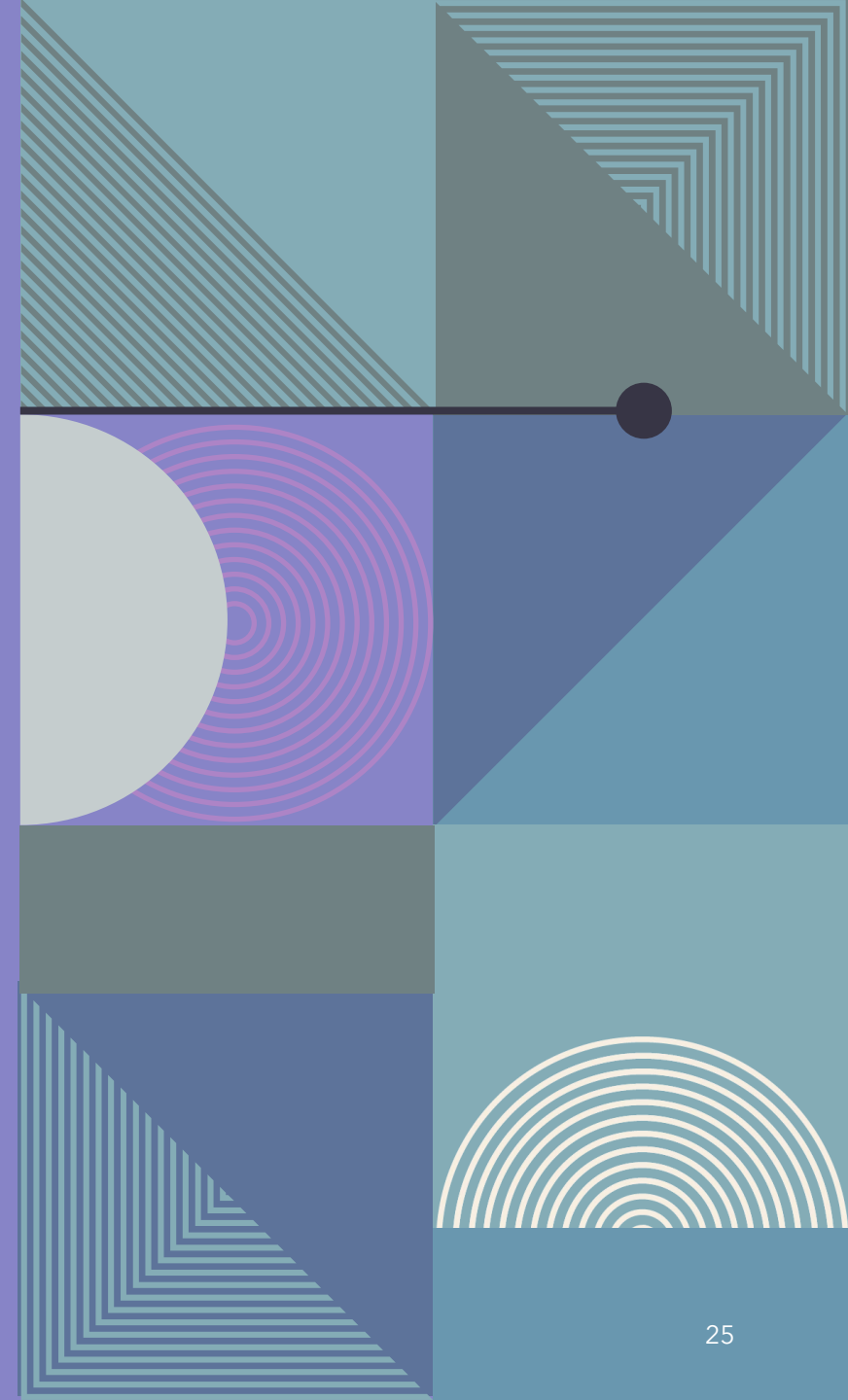
# EMERGENCY REMOVAL OR ADMINISTRATIVE LEAVE

- Nothing in Title IX precludes Collin College from removing a respondent from Collin College's education program or activity on an emergency basis, provided Collin College:
  - Undertakes an individualized safety and risk analysis;
  - Determines that an imminent and serious threat to the health and safety of a complainant or any students, employees, or other persons arising from the allegation(s) justifies the removal; and
  - Provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.



# INDIVIDUALIZED SAFETY AND RISK ANALYSIS

- The individualized safety and risk analysis will be conducted by Collin College's Strategies of Behavioral Intervention (SOBI) Threat Assessment Management Team (TAMT).
- The SOBI TAMT will provide an assessment of the threat by determining:
  1. How credible the threat is;
  2. How serious and/or imminent the threat is; and
  3. Whether the threatening party appears to have the resources, intent, and motivation to carry out the threat.
- If it is determined that an immediate threat to the physical health or safety of any student or other individual arising from the allegation(s) justifies the emergency removal of the respondent, the appropriate Title IX coordinator, deputy Title IX coordinator, or designee will provide the respondent with written notice of the emergency removal.



# CHALLENGING AN EMERGENCY REMOVAL OR ADMINISTRATIVE LEAVE

- The appropriate Title IX coordinator, deputy Title IX coordinator, or designee will:
  - Meet with the respondent to discuss and explain the emergency removal.
  - Explain to the respondent their right to challenge the emergency removal.
  - Provide to the respondent the *Notice to Challenge the Supportive Measures, Complaint Dismissal, Emergency Removal, and/or Administrative Leave* form.

# CHALLENGE OFFICER(S)

- The challenge officer(s) will be a Collin College faculty or staff member.
- The challenge officer(s) will not be the Title IX coordinators, deputy Title IX coordinators, informal resolution facilitators, investigators, decision-makers, Level I appellate officers, Level II appellate officers, or Level III appellate officers.
- The appropriate Title IX coordinator, deputy Title IX coordinator, or designee will assign an individual(s) from the pool of challenge officer(s) to conduct the challenge.
- All challenge officers will receive appropriate training on at least an annual basis to function in this role.
- The challenge officer(s) will be free from conflicts of interest or bias for or against complainants or respondents generally or the individual complainant or respondent.
- The challenge officer(s) will conduct a **prompt, fair, impartial, unbiased, and equitable** process from receipt of the challenge to the submission of the *Challenge Officer(s)'s Determination*.

# ADVISORS' ROLES DURING CHALLENGES

- In accordance with Title IX, both parties will have equal right to be accompanied by an advisor of their choice (e.g., family member, friend, legal counsel) to meetings with the challenge officer(s).
- However, only the party may speak on their behalf.
- Collin College will not provide an advisor for either party during challenges proceedings.
- Collin College retains the right to limit the role of both parties' advisors in meetings with the challenge officer(s).
- Should a party's advisor continuously speak on the party's behalf, become combative, or otherwise disrupt the proceedings, the challenge officer(s) reserves the right to ask them to leave or to end the proceedings and reschedule for a later date.

# CHALLENGE PROCEDURES

- The appropriate Title IX coordinator, deputy Title IX coordinator, or designee will forward all information regarding the allegation(s) and the completed *Notice to Challenge the Supportive Measures, Complaint Dismissal, Emergency Removal, and/or Administrative Leave* form to the challenge officer(s).
- The challenge officer(s) will review the records and evidence and may, at their discretion, meet separately with the complainant and their advisor (if the complainant elects to provide their own advisor during the grievance procedures), respondent and their advisor (if the respondent elects to provide their own advisor during the grievance procedures), and/or witnesses.

# MEETINGS WITH THE CHALLENGE OFFICER(S)

- If the challenge officer(s) elects to meet with the complainant and their advisor (if the complainant elects to provide their own advisor during the grievance procedures), respondent and their advisor (if the respondent elects to provide their own advisor during the grievance procedures), and/or witnesses, the challenge officer(s) will contact the parties and witnesses to request they schedule separate meetings. This communication will be made through one (1) or more of the following methods:
  1. A written communication sent to the individual's Collin College email account;
  2. A written communication sent to the individual's personal email account, if the individual is not a Collin College student or employee and/or the individual requests that communication be sent through this method;
  3. A letter mailed to the individual's address as listed with the Student and Enrollment Services Office or Human Resources Department (HR);
  4. A letter hand-delivered to the individual on campus by the challenge officer(s). The challenge officer(s) will document the date, time, and place of hand-delivery; and/or
  5. A phone call to the individual's number as listed with the Student and Enrollment Services Office, Human Resources Department (HR), or provided to the challenge officer(s).

# MEETINGS WITH THE CHALLENGE OFFICER(S) (CONT.)

- If a party or witness does not respond to the challenge officer(s)'s communication within 10 College District business days, the challenge officer(s) will attempt to contact the individual one (1) more time through at least one (1) of the methods listed on the previous slide.
- If a party or witness does not respond to this second communication within 10 College District business days, the challenge officer(s) will proceed with the challenge determination.

# MEETINGS WITH THE CHALLENGE OFFICER(S) (CONT.)

- If the challenge officer(s) elects to meet separately with the complainant and their advisor (if the complainant elects to provide their own advisor during the grievance procedures), respondent and their advisor (if the respondent elects to provide their own advisor during the grievance procedures), and/or witnesses, they can do so either in person or via Zoom or other web conferencing software approved by Collin College.
- The challenge officer(s) may set reasonable time limits for any meetings.
- All meetings will be audio and/or video recorded.
- If a party or witness does not appear for a scheduled meeting without good cause, the challenge officer(s) may proceed with the challenge.



# CHALLENGE OFFICER(S)'S DETERMINATION

- The challenge officer(s) will deliberate on the evidence provided and make a determination regarding the supportive measure(s), complaint dismissal, emergency removal, and/or administrative leave.
- The challenge officer(s) will compose a *Challenge Officer(s)'s Determination*, which will describe the:
  1. Challenge and
  2. Rationale for the determination.
- The challenge officer(s) will send the *Challenge Officer(s)'s Determination* simultaneously to the parties and their respective advisors (if the parties elect to provide their own advisors during the grievance procedures) in electronic format or hard copy within **10 College District business days** of the challenge.
- The challenge officer(s) will copy the appropriate Title IX coordinator, deputy Title IX coordinator, or designee when the *Challenge Officer(s)'s Determination* is sent in electronic format.
- The challenge officer(s)'s determination is final and non-appealable.

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- College District business days exclude:
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# AFTER THE CHALLENGE

- The appropriate Title IX coordinator, deputy Title IX coordinator, or designee will be responsible for implementing the challenge officer(s)'s determination regarding the provision, denial, modification, or termination of a supportive measure.
- If the dismissal of a complaint is overturned, the appropriate Title IX coordinator, deputy Title IX coordinator, or designee will re-initiate the Title IX grievance procedures at the appropriate level.
  - The Title IX grievance procedures will resume at the same point they ended when the complaint was dismissed.
- If the emergency removal and/or administrative leave is overturned, the appropriate Title IX coordinator, deputy Title IX coordinator, or designee will work with the appropriate Collin College office(s) to reinstate the respondent.

# QUESTION & ANSWER SESSION

