

**Retroactive Remedies  
Office for Civil Rights  
U.S. Department of Education  
September 10<sup>th</sup>, 2015**

**Question:** What is a school's Title IX obligations to respond to a complaint filed by a former student alleging that a few years ago, while he was a student at the school, he was subjected to off-campus domestic violence by a non-student.

**Example:** *Student was enrolled at university during the Spring 2013 semester and received a 0.42 and Fall 2013 semester and received a 0.21 GPA. Since then he has been enrolled at 4 different community colleges and is currently on probation at 2 out of the 4 colleges. His anticipated graduation date from one of the colleges is Fall 2015 and wants to apply for the the Engineering program at the original university but is having difficulties getting in to the program.*

*Student is claiming that during the Spring 2013 semester, he was in a domestic violence relationship off campus. Respondent is not a student, incident occurred off campus. Student stated that he never told anyone about his case and is only bringing it up now. Student stated that he read all of the Title IX regulations and feels that the original university is obligated to provide accommodations (interim measures) and would like his grades wiped out during the semester that the incident occurred. They do not have a statute of limitation for reporting and he is reporting this incident now. What is the original university's obligation under Title IX for this student?*

**Answer:** Each case is fact-specific and each determination is based on the particular set of facts presented. Although we do not give legal advisory opinions, we do provide information on how the civil rights laws that OCR enforces apply generally. While I cannot opine on the specific hypothetical you pose in your email, I can provide information regarding the general principles that apply to a school's duty to respond to complaints under Title IX.

Title IX requires schools to adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints of sex discrimination, including sex-based harassment. As explained in OCR's various policy guidance documents on sexual harassment and sexual violence, school's procedures will vary in detail, specificity, and components, reflecting differences in state or local legal requirements and each school's size, administrative structure, and what it has learned from past experiences. In order for these procedures to comply with the prompt and equitable requirements of Title IX, they must include, among other things, a provision for an adequate, reliable, and impartial investigation of complaints. The specific steps in a school's Title IX investigation will vary depending on the nature of the allegation. OCR does not require the use of a specific set of grievance procedures for handling complaints of sex-based harassment. Provided that a school's procedures meet the prompt and equitable requirements of Title IX, it has the flexibility to determine whether it is appropriate to include a procedure for dismissing complaints that, even if true, would not constitute violations of Title IX in its grievance procedures.

When a school knows or reasonably should know if possible sexual-based harassment, it must take immediate and appropriate steps to investigate or otherwise determine what occurred. Sex-based harassment must be



sufficiently serious to limit or deny a student's ability to participate in or benefit from the school's educational program (i.e., creates a hostile environment) to cause a Title IX violation. If an investigation reveals that the sex-based harassment created a hostile environment, the school must then take prompt and effective steps reasonably calculated to end the sex-based harassment, eliminate the hostile environment, prevent its recurrence, and, as appropriate, remedy its effects. Because not all behaviors associated with domestic or dating violence will be considered conduct of a sexual nature (e.g., hitting or pushing), determining whether such an incident triggers a school's obligations under Title IX requires an in-depth review of the facts at hand. Harassing conduct like domestic or dating violence could still be based on sex or gender, even if not sexual in nature, and therefore may still be prohibited by Title IX. An educational institution should analyze the specific conduct associated with an allegation of domestic or dating violence to determine whether it is sexual in nature or is otherwise based on sex or gender, and meets the other requirements for a hostile environment under Title IX. If so, then Title IX requires the educational institution to respond appropriately. As explained in Question F-4 of OCR's [April 2014 Questions and Answers on Title IX and Sexual Violence](#), if a school receives a complaint of sex-based harassment that occurred off campus, it must process the complaint to determine whether it occurred in the context of an education program or activity or had continuing effects on campus. If there are no continuing effects of the off-campus sex-based harassment experienced by students on campus, the school should still handle these incidents as it would handle other off-campus incidents of misconduct or violence and consistent with other applicable laws and its own code of conduct. OCR is committed to providing the public with information about the civil rights laws OCR enforces. In responding to correspondence, OCR provides general, publicly available information about a wide variety of civil rights issues in the education context. OCR does not, however, provide legal or other advice or issue advisory opinions to customers concerning specific factual scenarios. Correspondence issued by OCR in response to an inquiry from the public does not constitute a formal statement of OCR policy and should not be construed as creating or articulating new policy. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public.

