

What is the 1P2P Model from ATIXA and Why Should You Consider Adopting It?

An ATIXA Tip of the Week by Brett A. Sokolow, Esq., ATIXA President

One Policy, Two Procedures (1P2P) is ATIXA's model for compliance with Title IX and VAWA Section 304. We've heard from a number of ATIXA members that their Presidents and others on campus are pushing back against the length of 1P2P, or seem to prefer policy drafts written by the college's law firm. For those who may need to better understand the value of 1P2P or need talking points to advocate for 1P2P with other campus stakeholders, please see below:

- The drafts of policies we have seen so far from outside law firms look like how a lawyer would write a policy, but not how an administrator operationalizes a policy, or how students/employees relate to one. Our efforts are intended to be highly explanatory, accessible, transparent, and as un-legalistic as they can be, given the nature of the Title IX regulations. Our eight included flowcharts help to facilitate visual comprehension of the process.
- Eight Title IX experts wrote 1P2P, not just as legal experts, but as policy experts. 10 more practitioners peer-reviewed it. Its predecessor 1P1P is in use at 1,000 schools. That's an industry standard, and 1P2P will be as well.
- The level of detail we have provided in 1P2P is your best risk management, if you follow it. More bare bones approaches are certainly shorter, but is less really more give that the regs are 2083 pages long? Too short, and we'll leave too much open to interpretation, and variable/inconsistent application by different administrators over time. Remember there may be turnover in your office. Will your successor know what you know, if it's not on paper?
- We wrote 1P2P to minimize your liability. Remind your president and/or supervisor that ATIXA's clients and policy users have been remarkably free of adverse OCR findings or lawsuits. We have studied the litigation in the field very carefully and baked in the lessons of all major cases.
- Our previous models have been litigated and tested by OCR complaints. Have theirs?
- Why does 1P2P need to be so long? It doesn't. We offered the kitchen sink so that you could whittle down to what you really need. It's much harder to whittle up. 1P2P is full of gray highlight sections that are optional. Take them out, and it's a shorter document.
- Also, 1P2P can be reorganized, so that far less is included in the policy section, and far more can be included in the procedures or appendices. We have intentionally included redundancy in policies and procedures so that it flows and feels cohesive when institutions publish policy and procedures separately. We understand the need to separate policy and procedure from a governance perspective, but they need to be conjoined to be coherent. Taking out a lot of the procedural elements from the policy section would shorten it significantly (we saw one client who got it down under ten pages, this way).
- Finally, we write policies and procedures uniquely. Rather than just writing something for the audience of students/employees, we write as an instruction manual for those who are implementing the policies and procedures. Why? We've seen lawsuit after lawsuit where colleges and schools have failed to follow their own rules. We think this often comes from a lack of clarity about those rules, and/or having unworkable rules written by the lawyers rather than the administrators who have to implement them. Thus, with an instruction manual like 1P2P, it's easier to follow each step, and we've included many visual flowcharts to assure ease understanding.

None of this makes 1P2P (or the narrower ATIXA Model Policies and Procedures (AMPP)) "better" than any other model, but we feel that ATIXA's approaches have unique potential advantages that are worth

pointing out. Clearly, we are evolving the models over time, and as we learn more from OCR/OPEN Center, we will continue to update. The next iteration will come out in the fall, after we'd have a chance to work with it, and see it in action. There will be kinks to work out, for sure. And, hopefully, we'll have more answers from OCR/OPEN by then as well, especially on evidence admissibility, questioning, and inferences.