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DePaul University

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DePaul University

Title IX Program Review

SPRING 2024

Authored by: James Austin



Photo Courtesy of Common App

General Information

Accessibility and Information Provided

Title IX information for DePaul University is easily accessible as the landing page for the Office of Gender Equity [“OGE”] provides comprehensive resources for students and University employees including direct access to policies, multiple reporting resources for survivors, and access to information regarding athletics, pregnancy, and gender identity.

An initial Google search for “DePaul University Title IX” yields relevant results ranging from direct links to DePaul policies to news articles about on-going Title IX litigation and op-eds written in the student-run newspaper, The DePaulia. The first result links directly to the OGE’s landing page.¹ This page immediately displays a “How to Report” section that provides three options to submit a report including a phone number, email address, and a “Report Now” button that directly links to a comprehensive form to collect information from a reporting individual.

How to Report

To report allegations of sex or gender-based discrimination, harassment, or violence (including sexual assault, dating and domestic violence, and stalking), please use the button to complete and submit the report form.

You can also submit a report via phone (312-362-8970) or email (titleixcoordinator@depaul.edu).

Report Now

Additionally, the page also immediately provides three direct links to university policies including the sexual harassment policy, the anti-discrimination and anti-harassment policy, and the sexual and relationship violence policy.² While the page does not specify the plain text of Title IX, it provides a “Notice of Non-Discrimination on the Basis of Sex” that summarizes how Title IX impacts the programs and activities operated by the University. The summary states how the protections extend to sexual harassment, sexual misconduct, sexual violence, gender based dating and domestic violence, and stalking.

¹ *Gender Equity*, DePaul Univ. Div. of Student Affs., <https://offices.depaul.edu/student-affairs/title-ix/Pages/default.aspx> (last accessed Mar. 16, 2024).

² *Formal Title IX Sexual Harassment Policy and Procedures*, DePaul Univ. Div. of Student Affs., <https://offices.depaul.edu/secretary/policies-procedures/policies/Documents/Formal%20Title%20IX%20Sexual%20Harassment.pdf> (last accessed Mar. 16, 2024); *Anti-Discrimination and Anti-Harassment Policy and Procedures*, DePaul Univ. Div. of Student Affs., <https://offices.depaul.edu/secretary/policies-procedures/policies/Documents/Anti-Discrimination%20and%20Anti-Harassment%20Policy%20and%20Procedures.pdf> (last accessed Mar. 16, 2024); *Sexual & Relationship Violence Prevention and Response*, DePaul Univ. Div. of Student Affs., <https://offices.depaul.edu/secretary/policies-procedures/policies/Documents/Sexual%20and%20Relationship%20Violence%20Prevention%20and%20Response.pdf> (last accessed Mar. 16, 2024).



Molly Lamping
Fleck, JD

Director/Title IX Coordinator

The page also provides information about DePaul’s Title IX Coordinator, Molly Lamping Fleck, including her headshot and an overview of her responsibilities which include all Title IX training, education, communication, and the administration of appropriate complaint procedures for students, faculty, and staff. The page also provides the name and headshot of the Associate Director for the OGE and five Deputy Title IX Coordinators, some of whom are tasked with department-specific implementation of Title IX. To note, it appears both of the Gender Equity Investigator roles are currently vacant.

The third and fourth search results are from a third-party source and the student run newspaper regarding the denial of DePaul’s motion to dismiss a Title IX retaliation claim brought by an independent contractor who worked with the University from 2005 – 2018.³ Dr. Jenny Conviser filed a claim against DePaul after her company’s contract to provide student-athletes and staff with mental health services was terminated after she reported instances of abuse perpetrated by DePaul’s “acclaimed” softball coach.⁴ DePaul moved to dismiss the claim arguing that Dr. Conviser, as an independent contractor, lacked statutory standing under Title IX.⁵ In holding that independent contractors are protected under Title IX, the Court stated, “[t]he plain language of the statute does not require a plaintiff to have been denied an educational benefit, nor does the statute limit its application to students, employees, or beneficiaries of the federal financial assistance.”⁶

The sixth search result is a scathing op-ed written by current and former DePaul University students who wished to remain anonymous titled, “50 years with no teeth, Title IX reform is long overdue.”⁷ The article claims that “[e]ven if you do happen across a student who has gone through a Title IX investigation, it is unlikely that their experience will have been positive or that they feel that they would report to the Office of Gender Equity if they experienced another issue.”⁸ In the student’s assessment, there exists a deep distrust of the

³ Susan H. Greenberg, *DePaul Cannot Dismiss Title IX Case, Court Rules*, Inside Higher Ed (Jan. 10, 2023), <https://www.insidehighered.com/quicktakes/2023/01/11/depaul-cannot-dismiss-title-ix-case-court-rules>; Patrick Sloan-Turner, *Judge rules against DePaul’s motion to dismiss Title IX case*, The DePaulia (Jan. 16, 2023), <https://depauliaonline.com/61762/news/judge-rules-against-depauls-motion-to-dismiss-title-ix-case/>.

⁴ *Conviser v. DePaul University*, 649 F.Supp.3d 686, 692 – 694 (N.D. Ill. 2023).

⁵ *Id.* at 695.

⁶ *Id.* at 704.

⁷ *50 Years with no teeth, Title IX reform is long overdue*, The DePaulia (Sept. 12, 2022), <https://depauliaonline.com/59411/opinions/op-ed-50-years-with-no-teeth-title-ix-reform-is-long-overdue/>.

⁸ *Id.*

OGE amongst the student body due to the failure to investigate what students feel are legitimate claims, the lack of transparency with students whose claims *are* investigated, and the failure of the OGE to offer information about how they address incidents students experience while attending DePaul.

Organization of Website

DePaul’s Title IX information is well-organized and easy to navigate. The OGE landing page has a list of tabs on the left-hand side of the site that link to different pages under the OGE umbrella including resources for survivors, individuals accused of misconduct, and pregnant and parenting students. Within these tabs, DePaul provides further breakdowns applicable to the specific audience with links and contact information for various of reporting resources. Notably, the athletics tab is significantly lacking resources and organization as the tab simply instructs all inquiries to be addressed to the Senior Associate Athletics Director and Title IX Coordinator, Jill Hollembeak. This raises the concern that athletic inquiries are somehow treated differently throughout the Title IX investigatory process, though this may not actually be the case. However, on the whole, DePaul does a good job of housing all Title IX information and policies under an accessible and navigable website.

Gender Equity
Rights and Options for Survivors
What do I do if I am Accused?
Discrimination and Harassment
Reporting Obligations
Athletics
Pregnant & Parenting Student Rights
Gender Identity
Sexual Violence Prevention and Education
Reports and Training

Title IX Training Provided

DePaul’s Title IX training materials were easy to locate under the “Reports and Training” tab, though there is not a comprehensive overview of the training programs available to staff. Rather, the University provides an employee-specific search for trainings completed by individuals that serve various roles in the Title IX process. Once inside an employee’s profile, you can explore the trainings they have completed alongside a short description and a link to the training materials. To note, there does not seem to be consistency in training across individuals with the same title nor is there available information for staff who are required, but have not yet completed their trainings. Additionally, while the tab states that all Title IX Coordinators are required to receive training, none of the Title IX Coordinators listed on the main landing page populate in the employee-specific search.

Moreover, the “Reporting Obligations” tab provides a step-by-step explanation for faculty and staff when an individual discloses issues related to sexual or relationship violence.⁹ Importantly, the guide states that these steps should be followed if a student *or* employee discloses specific information to the faculty or staff member. However, these instructions do not direct the faculty or staff member to connect the individual with the OGE, but rather, refer them to other on-campus resources and ensure that the individual is safe while expressing empathy. The steps conclude with a mandatory reporting requirement regardless of whether the individual will personally report the incident they disclosed to the faculty or staff member.

Finally, DePaul’s sexual harassment policy simply states, “DePaul will ensure that University officials acting under this policy, including, but not limited to, the Title IX Coordinator, investigators, hearing officers, administrative officers, and appeals officers receive training in compliance with 34 C.F.R. § 106.45(b)(1)(iii) and any other applicable federal or state law.”¹⁰ However, the policy does not state how training progress will be tracked, who will administer such trainings, or make reference to the individual or department responsible for maintaining a compliant training program.

Ongoing Investigations of DePaul University

DePaul is currently under investigation for three Title IX complaints including discrimination via single sex scholarships, retaliation, and sexual harassment.

State ^	Institution	Institution Type	Type of Discrimination	Open Investigation Date
IL	DEPAUL UNIVERSITY	PSE	Title IX - Single Sex Scholarships	03/03/2020
IL	DEPAUL UNIVERSITY	PSE	Title IX - Retaliation	08/18/2022
IL	DEPAUL UNIVERSITY	PSE	Title IX - Sexual Harassment	08/18/2022

⁹ *Sexual and Relationship Violence and Harassment: Step-by-Step Guide for DePaul Faculty and Staff*, DePaul Univ. Div. of Student Affs., <https://offices.depaul.edu/student-affairs/title-ix/Documents/2022-Step-by-Step-Faculty-and-Employee-Guide.pdf> (last accessed Mar. 16, 2024).

¹⁰ *Formal Title IX Sexual Harassment Policy and Procedures*, *supra* note 2, at 22.

Athletics

Coordinator for Athletics

Jill Hollembeak serves as DePaul’s Deputy Title IX Coordinator for Athletics. She is also the Senior Associate Athletic Director.¹¹



Deputy Title IX
Coordinator for
Athletics (Jill
Hollembeak)
Senior Associate Athletic
Director, Athletics

Filing a Complaint / Lodging a Concern

The University provides little to no information about how to file a Title IX complaint for sex discrimination in athletics. The “Athletics” tab of the OGE site simply states that DePaul “ensures that the athletics program operates in a manner that is consistent with the letter and spirit of Title IX,” but does not expand on the rules for athletic participation, scholarships, or mention any female sports teams available at the University.¹² The site provides that all inquiries may be address to Director Hollembeak along with her phone number and email address.

The DePaul Athletics website similarly provides no practical resources for student athletes looking to file a Title IX complaint. There is, however, a page dedicated to DePaul’s celebration of Title IX’s 50th anniversary available on the website.¹³ The page features articles about former women in athletics at DePaul, videos interviews with women in athletics at DePaul, and even states that women’s participation in athletics at DePaul University began in 1927 – 50 years prior to the passing of Title IX. While these promotional features highlight the best of the University’s history, they seem to fall flat when paired with the current lack of accessible reporting tools specific to Title IX concerns in athletics.

¹¹ DePaul University published a story detailing how Director Hollembeak, a USA Gymnastics Hall of Fame inductee, was able to receive a college education as a result of Title IX. *No College Education for Jill Hollembeak Without Title IX*, DePaul Athletics (Feb. 11, 2022), <https://depaulbluedemons.com/news/2022/2/11/womens-basketball-no-college-education-for-jill-hollembeak-without-title-ix>.

¹² *Athletics*, DePaul Univ. Div. of Student Affs., <https://offices.depaul.edu/student-affairs/title-ix/Pages/athletics.aspx> (last accessed Apr. 6, 2024).

¹³ *Title IX: The 50th Anniversary*, DePaul Athletics, <https://depaulbluedemons.com/sports/2022/6/22/title-ix-50th-anniversary> (last accessed Mar. 16, 2024).

EADA Information

A review of the information in DePaul’s EADA report reveals a slight imbalance in proportionality in favor of women athletes at DePaul alongside significant discrepancies in how money is allocated and spent between men’s and women’s teams.

DePaul has a total undergraduate population of 12,836 students, 6,982 of which are women and 5,854 of which are men. Therefore, women account for 54.4% of the student body while men account for the remaining 45.6% of students. The unduplicated count of participants on women’s teams totals 119 while participants on the men’s teams totals 91. This means that women participate in athletics at a rate of 56.6% while men participate at a rate of 43.4%. Therefore, there is a slight imbalance in proportionality that favors women of about 2.2% when compared against University enrollment.

There are also imbalances in the varsity teams offered at the University. As seen in the EADA chart below, there are a few varsity teams that exist only for one gender. For example, women have both a softball team and a volleyball team, and only men have a golf team. Additionally, in each sport offered to both men and women, there are more male athletes than female athletes, besides basketball, ranging from one – four additional male players when compared to the women’s team. Despite the numerical imbalances in the number of athletes, DePaul offers an additional varsity team to women athletes [six women’s varsity teams and five men’s varsity teams] which accounts for the relative statistical parity amongst total athletes when compared to the general student population. It does not appear that new teams have been added or removed from either gender.

<i>Number of participants as of the day of the first scheduled contest</i>		
Varsity Teams	Men’s Teams	Women’s Teams
Basketball	14	15
All Track Combined	75	73
Golf	9	N/A
Soccer	28	24
Softball	N/A	22
Tennis	10	9
Volleyball	N/A	18
Total Participants M and W Teams	136	161
Unduplicated Count of Participants	91	119

** DePaul’s latest EADA information has been input into this table.*

The most significant disparities in athletics at DePaul are reflected in the amount of money spent between men's and women's teams. To start, women's teams at DePaul received \$4,473,794 in athletically-related student aid, while men's teams received \$2,569,958, which is a \$1,903,836 difference between these categories.

However, despite the additional student aid received by women's teams, men's teams reported higher recruiting expenses [\$248,888 compared to \$212,716], higher game-day operating expenses [\$2,042,266 compared to \$1,619,695], and ultimately, higher total expenses [\$10,776,979 compared to \$9,539,142]. The only sport shared between genders singled out in the EADA reporting shows that the men's basketball team's expenses nearly doubled that of the women's basketball team [\$7,614,927 compared to \$3,850,261]. In sum, the men's team's expenses account for \$1,237,837 more than the women's teams, which, by coincidence or accident, is the exact same difference in revenues reported by the University.

The disparities continue when comparing coaching salaries for men's and women's teams at the University. The total combined salaries for the head and assistant coaches of men's teams is \$3,582,669 compared to \$2,278,737 for women's teams despite DePaul offering more varsity sports teams for women. This \$1,303,932 difference between combined coaching salaries is made worse by the fact that DePaul only employs 19 total coaches for men's teams [9 full-time and 10 part-time] compared to 22 total coaches for women's teams [14 full-time and 8 part-time]. The salary inconsistencies between men's and women's team coaches are troubling in light of the EADA statistics on student athletes and teams available at DePaul.

Complaints and Investigations of DePaul University

There are no recorded complaints or investigations of DePaul in the area of athletics.

Transgender Athletes

DePaul University has a formal "Transgender Policy" available on the DePaul Athletics website, separate from the OGE. The policy does not provide an effective date, points to existing University policies on nondiscrimination and anti-harassment, and does not detail how transgender athletes may participate at the University. The policy states:

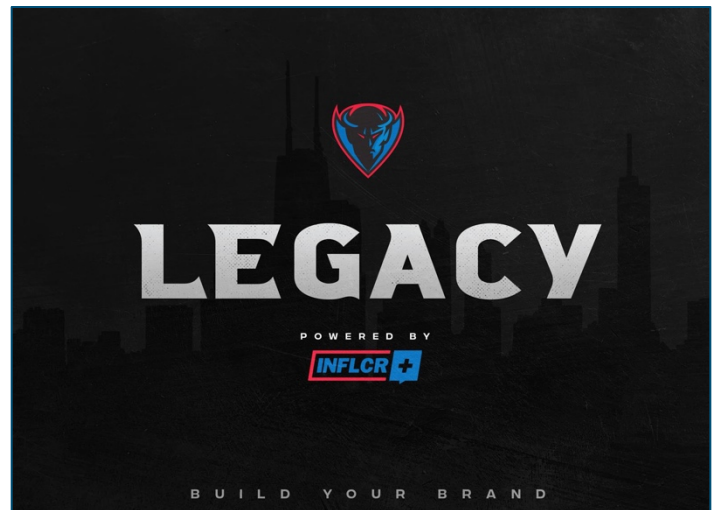
"DePaul University takes equality for all very seriously, and student-athletes are no exception. All student-athletes have an equal opportunity to participate in a safe,

inclusive, and respectful climate where they are valued for their contributions as team members and for their individual commitment and character, regardless of their sexual orientation, gender identity, or gender expression. As an integral component of higher education, DePaul’s athletics department is responsible for upholding existing institutional nondiscrimination and anti-harassment policies, as well as complying with laws prohibiting discrimination based on sexual orientation, gender, identity, or gender expression.”¹⁴

Name, Image, and Likeness Policy

While DePaul does not seem to have a formal Name, Image, and Likeness [“NIL”] policy, the University has launched a program titled “Legacy” aimed at enabling student-athletes to fully leverage NIL legislation through a comprehensive entrepreneurship and brand development program.¹⁵ While the specifics of how the programs works are unclear, it is designed to prepare DePaul student athletes to grow and develop their personal brands while remaining compliant with applicable laws, NCAA guidance, and DePaul policies. Through a frequently asked questions [“FAQ”] section, the University walks through details of the program, in part, outlining appropriate uses of DePaul’s name in NIL opportunities, prohibiting students missing team activities and academic obligations in pursuit of NIL opportunities, and enumerating categories prohibited from endorsement by student athletes.

Additionally, despite the support for student athletes via Legacy, the NIL program makes no mention of Title IX or the various Title IX implications that the University may encounter while directly partnering with student-athletes in this way.



¹⁴ *Transgender Policy*, DePaul Athletics, <https://depaulbluedemons.com/sports/2022/3/30/transgender-policy> (last accessed Mar. 16, 2024).

¹⁵ *Legacy*, DePaul Athletics, <https://depaulbluedemons.com/feature/legacy> (last accessed Mar. 16, 2024); *See also DePaul Athletics Launches Legacy*, DePaul Athletics, <https://depaulbluedemons.com/sports/2021/7/1/name-image-likeness> (last accessed, Mar. 16, 2024).

Sexual Misconduct

Coordinator for Sexual Misconduct

There is no Title IX coordinator specifically designated for sexual misconduct. Instead, Molly Lamping Fleck, DePaul's Title IX Coordinator, is the primary contact provided.

Filing a Complaint / Lodging a Concern

DePaul University's OGE provides substantial information about how to report incidents of sexual misconduct for students. However, further information about the process, including how and when to file a Formal Complaint, is exclusively available within the sexual harassment policy linked on the OGE's homepage.

The "Rights and Options for Survivors" tab of the OGE's website provides information on the options available for students to report an incident, the importance of preserving evidence, and the processes available including internal procedures as well as criminal and civil remedies. The OGE provides clearly labeled drop-down options for available reporting resources that offer contact information and explanations as to how each may best support a reporting individual. The options for reporting include police, public safety, the Director of Gender Equity, confidential resources such as the Office of Health Promotion and Wellness and the University Counseling and Psychological Services, and other University employees.

However, filing a report is just the first step in the process as the policy states, "[r]eporting sexual harassment is not equivalent to filing a Formal Complaint of Sexual Harassment as defined in this policy."¹⁶ The policy further states that there is "no time limit" for reporting an incident of sexual harassment, however, at the time of filing a Formal Complaint, the individual must be "participating in or attempting to participate" in DePaul's education programs or activities.¹⁷

After receiving a report, the Title IX Coordinator conducts a preliminary assessment to determine whether the conduct, as reported, falls within the scope of the DePaul's sexual harassment policy or constitutes Title IX Prohibited Conduct. If they determine that the reported conduct falls outside the scope of either standard, they will close the matter and

¹⁶ *Formal Title IX Sexual Harassment Policy and Procedures*, *supra* note 2, at 6.

¹⁷ *Id.* at 8.

retain the discretion to notify the reporting party of the closure at all or may refer the report to an applicable University office. However, if they determine that the reported conduct falls within the scope of either standard, they will proceed to contact the reporting student. It is only at this point that the Title IX Coordinator will discuss filing a Formal Complaint with the reporting student. The filing of a Formal Complaint is a necessary step prior to starting the clock on any required response by the University or the commencement of an investigation.

While students can easily find information on how to report an incident of sexual violence, the resources only offer surface-level solutions with little transparency as to how the process *really* works after submitting an initial report. Though the information on Formal Complaints is publicly available, it is buried in a policy that is linked on the OGE’s homepage, but notably, not within the Rights and Options for Survivors tab – the primary tab containing resources for students looking for assistance after an incident.

The Investigative Process

The sexual harassment policy linked on the OGE’s homepage offers an in-depth explanation of DePaul University’s investigative process for Title IX claims.¹⁸ While the Rights and Options for Survivors tab outlines, in very broad terms, the University’s process, it does not provide students with many of the necessary details available in the formal policy.

According to the policy, after a Formal Complaint has been filed, the Title IX Coordinator will evaluate the claims (again) and dismiss the Complaint if the conduct alleged falls outside the scope of Title IX or would not constitute Title IX Prohibited Conduct. If, after this second evaluation, the Complaint is not dismissed, the Title IX Coordinator will provide a written Notice of Investigation [“NOI”] to the Complainant and the Respondent including, “sufficient details known at the time so the parties may prepare for an initial interview with the investigator.”¹⁹

Once the NOI has been provided to both parties, the investigation will begin. Importantly, the policy states that “the burden of gathering evidence sufficient to reach a determination in the adjudication lies with the University and not with the parties.”²⁰ DePaul further states that while the length of each investigation will vary depending on the circumstances, the University “strives” to complete each investigation within 90 days of

¹⁸ *Formal Title IX Sexual Harassment Policy and Procedures*, *supra* note 2, at 10.

¹⁹ *Id.* at 9.

²⁰ *Id.* at 10.

delivery of the written NOI.²¹ Notably, the non-binding 90-day timeline does not start at the filing of the Formal Complaint, but rather, the delivery of the NOI, and the policy does not provide a timeline for the completion of the evaluation of the Complaint or the sending of the NOI after a Complaint has not been dismissed. These undefined timelines for two essential steps after submission of an initial report have the potential to significantly extend this 90-day goal while still operating within the bounds of the formal policy.

Throughout the investigation, the investigator(s) (selected by the Title IX Coordinator) will provide an equal opportunity for the parties to be interviewed, suggest witnesses, and provide additional evidence. Additionally, the investigator(s) will take reasonable steps to ensure that the investigation is documented. At the conclusion of the evidence-gathering phase, each party will be given access to all evidence obtained in the investigation, and will have ten days to submit a written response to the investigator which will be “consider[ed] prior to completing the investigation report and may [be] include[d] in the investigation report.”²²

The investigator(s) will then complete a written investigation report that “fairly summarizes the various steps taken during the investigation, summarizes the relevant evidence collected, and lists contested and uncontested facts that are material to the investigation.”²³ Once the report is completed, it is sent to the Title IX coordinator, and at least ten days prior to an adjudication, also provided to each party and their advisor, if applicable.

Notably, there is a lack of communication required by the Title IX Coordinator to the Complainant or Respondent throughout the investigatory process. As noted above, while the University strives to complete the process within 90 days, the language of the policy has the potential to extend this period much longer. Even so, three-months is quite a long time to go with no communication from the Title IX Coordinator on the status of the investigation for either party. Accordingly, the investigations section of this policy should be updated to include more timeline transparency and accountability to ensure a timely resolution of issues surrounding sexual misconduct at DePaul.

²¹ *Id.*

²² *Id.* at 11.

²³ *Id.*

The Hearing Process

Once the final investigation report has been given to the parties, DePaul provides notice of the hearing process for the adjudication of all Formal Complaints.²⁴ DePaul will then designate the hearing officer(s) who will oversee the hearing process. This may include a panel of three hearing officers or a single decision-maker, though DePaul offers no explanation of when multiple investigators or a single investigator will be selected for any given hearing.

The hearing officers conduct the hearing live.²⁵ Throughout the hearing, the parties are guaranteed the opportunity to address the hearing officers directly, respond to questions posed by the officers, cross-examine the other party or any witnesses, and raise objections to evidence and have those objections ruled on by the hearing officers. Outside of these minimum guarantees, the hearing officers have the sole discretion with regard to the length of the hearing, the order of the hearing, and the admissibility of questions at the hearing.

Once the hearing is complete, the hearing officers review the evidence gathered and testimony received to make a determination using a preponderance of the evidence standard, or as DePaul phrases it, a “more likely than not” standard.²⁶ While the length of each adjudication varies depending on the circumstances, the University “strives” to issue a written determination within 14 days after the hearing.²⁷ The written determination includes, in part, the discipline to be imposed on the Respondent should it be determined they violated the policy. The decision is then sent to the parties, and either party may appeal within seven days after receiving the written decision. Either party may appeal only for procedural irregularities that affected the outcome, new evidence not reasonably available that could have affected the outcome, or a conflict of interest or bias on the part of the Title IX Coordinator, investigator, hearing officer, or other administrative officer that materially affected the outcome.

Overall, the process provides both parties with an opportunity to reasonably and thoroughly state their claims or defense throughout the adjudication stage. However, DePaul should consider providing clarity on the hearing officer selection process. The policy states that

²⁴ Alternatively, the parties may consent to an “Administrative Adjudication” for an informal resolution, though the hearing process is the default process for all Title IX adjudications at DePaul. The Administrative Adjudication requires the written consent of both parties and is not permitted if Respondent is a non-student employee. Written consent must be provided within three (3) days of the notice of adjudication. *Id.*

²⁵ While the hearing officers will be together in a physical location, upon request of either party, the parties may be separated with “technology enabling the parties to participate simultaneously ... by video and audio.” *Id.* at 13.

²⁶ *Id.* at 14.

²⁷ *Id.* at 15.

“DePaul” designates the hearing officers for any particular hearing, but does not specify *who* at DePaul selects these officers – is it the Title IX coordinator? If not, why the departure from the selection of investigator(s) earlier in the process? The policy also does not explain *why* DePaul would select more than one hearing officer as there may be up to three officers selected. Accordingly, DePaul should include language to clarify these issues as it would help the University avoid unnecessary appeals over conflicts of interest if they go through a transparent, exhaustive vetting process when selecting hearing officers for adjudications.

Finally, the claims asserted by the DePaulia of a failure by the OGE to investigate legitimate reports necessarily bore out in DePaul’s annual reporting data available within the Reports and Training tab. In 2022, DePaul reported the following data regarding reports received by the Title IX Coordinator:

	Identified Student	Confidential or Anonymous	Totals ²⁸
Reports of Sexual Violence	45	27	72
Reports of Domestic Violence	7	13	20
Reports of Dating Violence	17	19	36
Reports of Stalking	12	3	15

Of these totals, DePaul reported the following data regarding investigations:²⁹

Investigations of Sexual Violence	1
Reports of Domestic Violence	0
Reports of Dating Violence	1
Reports of Stalking	0

This data seems to support the anonymous concerns voiced by students regarding the operation of the Title IX investigatory process. While the report stated there are “numerous other reasons as to why reports were not fully investigated” including non-response from reporting students, the divide between these two charts is concerning.³⁰

²⁸ DePaul University 2022 Preventing Sexual Violence in Higher Education Act Annual Report, DePaul Univ. Div. of Student Affs., <https://offices.depaul.edu/student-affairs/title-ix/training/Documents/reports/DePaulUniversity-ILPSVHEA-Annual-Report-2022.pdf> at 4 – 5, (last accessed Mar. 16, 2024).

²⁹ *Id.* at 7.

³⁰ *Id.* at 10.

Retaliation Policy

DePaul University’s “Reporting Misconduct & Non-Retaliation Policy” is applicable to the entire University community. The policy states:

“No person, including parties and witnesses, who, in good faith, reports or participates in a misconduct investigation at DePaul shall be subject to retaliation or threat of retaliation. Retaliation shall include, but is not limited to, actions taken without legitimate, non-retaliatory business purpose and have a materially adverse effect on a person’s employment, advancement, scholarship, performance, habitation, safety, or property.

By definition, any act of retaliation constitutes reportable misconduct. The finding of retaliation, or threat of retaliation, shall constitute a violation of this policy. Any such acts of retaliation in violation of this policy will be subject to appropriate disciplinary action, which may include termination of employment.”³¹

In addition, the OGE further provides retaliation-specific language in the Rights and Options for Survivors tab. The OGE states DePaul policy prohibits retaliation against a person who reports an issue of sex discrimination, including sexual harassment or sexual and relationship violence, assists someone with such a report, or participates in any manner in an investigation or resolution of such a complaint. The tab states:

“No officer, employee or agent of the university shall retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual for exercising his/her rights or responsibilities. Retaliation includes threats, intimidation, reprisals, and/or adverse actions related to employment or education. Retaliation, if proven, is a violation of university policies and may result in discipline, up to and including termination of employment or expulsion from the university.”³²

³¹ *Reporting Misconduct and Non-Retaliation Policy*, DePaul Univ. Compliance and Risk Mgmt. (Aug. 16, 2023), <https://offices.depaul.edu/secretary/policies-procedures/policies/Documents/Reporting%20Misconduct%20and%20Non-Retaliation%20Policy.pdf>.

³² *Rights and Options for Survivors of Sexual Violence, Sexual Misconduct, Dating Violence, Domestic Violence, and Stalking*, DePaul Univ. Div. of Student Affs., <https://offices.depaul.edu/student-affairs/title-ix/rights-options-survivors/Pages/default.aspx> (last accessed Mar. 24, 2024).

Clery Act Statistics

Clery Act Statistics for sexual misconduct related offenses at DePaul are found under the “Criminal Offenses” and “VAWA Offenses” tabs of the Department of Education’s school search tool available online. The Department organizes offenses into four categories based on where the offense occurred, three of which are relevant to this report.

According to the data, numerous “criminal offenses” occurred over the last three years:

	2020	2021	2022	Totals
On Campus	Rape – 7 Fondling – 1	Rape – 2 Fondling – 2	Rape – 5 Fondling – 7	Rape = 14 Fondling = 10
On-Campus Student Housing Facilities	Rape – 7 Fondling – 1	Rape – 2 Fondling – 2	Rape – 5 Fondling – 3	Rape = 14 Fondling = 6
Public Property ³³	Rape – 0 Fondling – 3	Rape – 0 Fondling – 3	Rape – 2 Fondling – 1	Rape = 2 Fondling = 7

Additionally, numerous “VAWA Offenses” occurred over the last three years:

	2020	2021	2022	Totals
On Campus	Domestic V – 0 Dating V – 3 Stalking – 3	Domestic V – 2 Dating V – 0 Stalking – 3	Domestic V – 4 Dating V – 1 Stalking – 8	Domestic V = 6 Dating V = 4 Stalking = 14
On-Campus Student Housing Facilities	Domestic V – 0 Dating V – 0 Stalking – 0	Domestic V – 2 Dating V – 0 Stalking – 0	Domestic V – 3 Dating V – 1 Stalking – 3	Domestic V = 5 Dating V = 1 Stalking = 3
Public Property	Domestic V – 4 Dating V – 1 Stalking – 1	Domestic V – 8 Dating V – 0 Stalking – 2	Domestic V – 13 Dating V – 0 Stalking – 1	Domestic V = 25 Dating V = 1 Stalking = 4

Here, the data shows that more offenses have occurred on-campus or within campus student housing [77 offenses in total] over the last three years than have occurred on public property immediately adjacent to campus [39 offenses in total] despite DePaul’s campus placement in populous, urban areas of Chicago.³⁴

³³ “Public property” includes “all ... thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus.” To note, two of DePaul’s campuses are located in the City of Chicago – one in the “Loop” neighborhood and another in the “Lincoln park” neighborhood. The Department does not provide how “immediately adjacent” or “accessible” are defined for this report.

³⁴ The data reported includes reports from all of DePaul’s three campuses.

Pregnancy

Resources for Pregnant Students

DePaul University's OGE website has a tab titled "Pregnant & Parenting Student Rights" that explicitly states that pregnant students are protected under Title IX. The tab provides, "Title IX prohibits discrimination on the basis of sex – including pregnancy [] – in education and in programs and activities that receive federal funding."³⁵

Rather than linking directly to the anti-discrimination and anti-harassment policy, the tab addresses concerns from pregnant and parenting students in the form of FAQs including, "How can I use Title IX to ensure that my pregnancy does not interfere with my education?" and "Do my professors have to excuse my absences due to pregnancy, childbirth or related medical conditions?"³⁶ The answers provided by the University go beyond the information provided in the non-discrimination policy by detailing the responsibilities of University faculty and pregnant students under Title IX. The FAQs also provide additional resources available to pregnant students including both on and off-campus support concerning nursing mothers' rooms, pregnant-student-specific scholarship opportunities, and childcare options.

In sum, while the tab should link to formal University policies protecting pregnant students, the OGE offers clear language in an approachable and practical manner explaining how pregnant students are protected under Title IX. DePaul also provides a variety of resources for pregnant and parenting students to support them in navigating their academic careers.

University Compliance

It is clear from the Pregnant & Parenting Student Rights tab that DePaul is meeting its obligations to pregnant students under Title IX. The tab addresses a range of issues including equal access to off-campus programs, excused absences, reasonable accommodations, access to special academic services, reasonable time to makeup assignments after pregnancy-related absences, and resources should an issue of discrimination or harassment arise between a pregnant student and a Professor or another student.

³⁵ *Pregnant & Parenting Student Rights*, DePaul Univ. Div. of Student Affs., <https://offices.depaul.edu/student-affairs/title-ix/Pages/pregnant-parent-student-rights.aspx> (last accessed Apr. 6, 2024).

³⁶ *Id.*

Furthermore, the anti-discrimination and anti-harassment policy explicitly states that “no person shall be the object of discrimination or harassment on the basis of ... marital status, pregnancy, parental status, [or] family relationship status.”³⁷ Additionally, the policy states that the Title IX Coordinator is responsible for receiving, processing, and investigating complaints alleging an employee, student or third party has engaged in discrimination or harassment on the basis of marital status, pregnancy/parental status, or family relationship status.³⁸

Cases Against DePaul University

There have been no recorded cases against DePaul University regarding alleged violations of the rights of pregnant students.

LGBTQ+

Protections and Policies for LGBTQ+ Students

DePaul University’s OGE website has a tab titled “Gender Identity” that provides resources for LGBTQ+ students. On initial inspection, this tab’s title is a bit too specific as gender identity is applicable only to a certain population within the LGBTQ community and is not reflective of the resources provided by the University. Additionally, the resources provided on this page do not refer to specific policies protecting LGBTQ+ students or detail how the Title IX program is designed to support LGBTQ+ students facing discrimination.

For example, the Gender Identity tab leads with a statement that says the OGE “seeks to assist and support students, faculty, and staff who may experience instances of discrimination and/or harassment based upon sexual orientation and gender identity.”³⁹ The tab also provides that if a member of the University community experiences conduct that “could rise to the level of violating an existing policy” then they should submit a report to the OGE.⁴⁰ However, despite this generally supportive language, the tab does not link to any specific policy or general policy bank like the Rights of Survivors tab does, and moreover, the tab does not outline the types of conduct prohibited by the University.

³⁷ *Anti-Discrimination and Anti-Harassment Policy and Procedures*, *supra* note 2, at 1.

³⁸ *Id.* at 5.

³⁹ *Gender Identity*, DePaul Univ. Div. of Student Affs., <https://offices.depaul.edu/student-affairs/title-ix/Pages/gender-identity.aspx> (last accessed Apr. 6, 2024).

⁴⁰ *Id.*

However, the OGE does provide a link to the University’s LGBTQIA Resource Center which houses content about the Center’s signature programming for LGBTQ students. Notably, the LGBTQIA Resource Center page does not reference Title IX or the OGE. The OGE also provides a link to a “Gender Transition Process Form” where individuals seeking to change their gender, pronouns, or name may submit their updated information to one place and have it communicated to all relevant areas of the University necessary to effectuate the change.



The generally applicable anti-discrimination and anti-harassment policy offers clarity surrounding protections for LGBTQ+ students despite not being referenced within the Gender Identity tab.⁴¹ The policy states that “no person shall be the object of discrimination or harassment on the basis of ... gender identity or expression [or] sexual orientation.”⁴² Additionally, the policy specifically states that the Title IX Coordinator is responsible for receiving, processing, and investigating complaints alleging an employee, student or third party has engaged in discrimination or harassment on the basis of gender identity or sexual orientation.⁴³ Despite the language included in the formal policy, the Gender Identity tab does not similarly state the Title IX Coordinator’s role in evaluating reports from LGBTQ+ students, but rather, ambiguously provides that the OGE seeks to “assist and support” students, faculty, and staff experiencing this type of discrimination. Finally, nowhere in the policy is there reference to non-discrimination in housing or facilities at DePaul University.

Overall, while the external-facing resources offer limited support for LGBTQ+ students including events and a form for processing University-wide gender identity changes, the University’s formal Anti-Discrimination policy sufficiently protects LGBTQ+ students facing discrimination while at DePaul. However, the University could stand to update their language on the Gender Identity tab to explicitly state that the Title IX Coordinator is responsible for assisting LGBTQ+ students facing discrimination or harassment, because if this information is difficult to find, then LGBTQ+ students may not adequately use this resource for support.

⁴¹ *Anti-Discrimination and Anti-Harassment Policy and Procedures*, *supra* note 2.

⁴² *Id.* at 1.

⁴³ *Id.* at 5.

Recommendations

This review of DePaul University's Title IX program has highlighted both the strengths and weaknesses of the current program. While the information, policies, and supplemental resources are well-organized and easily accessible, substantive information is buried behind surface-level details outwardly provided by the University. Additionally, DePaul's Title IX resources for Athletics seriously lacks information when compared to the other resources provided by the OGE. Finally, the formal Title IX policies themselves lack timelines and other accountability measures to ensure the timely and exhaustive review of student complaints.

Considering these shortcomings, I have included several recommendations that could be implemented across various areas of DePaul's Title IX program to enhance transparency, improve accessibility, and ensure compliance across the University.

1. Enhance transparency surrounding Title IX trainings for all coordinators, investigators, and decision makers involved in the process.

The OGE should enhance the "Reports and Training" tab to include a comprehensive list of Title IX trainings provided by the University, the frequency at which they must be taken by relevant parties, and details about individual-officer training compliance. Currently, there is no master list of all Title IX trainings available from the University to ensure the compliance of individuals involved in the Title IX process. While you may be able to piece together a list of offered trainings by examining individual officer profiles, there is no way to be sure all of the trainings offered have been taken.

Additionally, you can either search by an individual's name or filter by role to see what trainings have been completed by those involved in the Title IX process. While helpful to see what trainings an individual has taken, the information could be enhanced to include the date they took the training, the outstanding trainings the individual needs to complete, and the due date by which they need to complete the training again, if necessary.

In sum, the training information as provided is disorganized and difficult to navigate. DePaul should implement changes to this portion of the website to increase transparency, enhance accountability, and ensure those involved in the Title IX process have been provided necessary resources to strengthen the integrity of their Title IX program.

2. Provide reporting students with synthesized information on the steps after submitting in initial report of misconduct to the OGE.

The OGE website provides numerous opportunities for reporting instances of sexual misconduct to the Title IX Coordinator, but these resources do not clearly disclose the process that turns a report into a formal investigation. There are currently no user-friendly details explaining how a Formal Complaint is a necessary step in kickstarting the University's investigatory process, which remains within the discretion of the Title IX Coordinator after reviewing an initial report. This may leave students disappointed, confused, and with questions after filing a report and not hearing back from the Title IX Coordinator because the website does not provide accessible details regarding the steps in this delicate process.

Thinking to the DePaulia article that described student distrust of the OGE's Title IX process, the University could improve this relationship with students by providing more user-friendly explanations about the overall process. While the policies provide, in detail, how this process works, they include language that may not be accessible for an individual seeking support after a traumatic experience. Therefore, providing clear details about the steps of this process in the form of graphics, FAQs, or digestible videos would go a long way in enhancing student understanding of the University's Title IX process.

3. Enhance the "Athletics" tab of the OGE website.

The University should provide additional resources and reporting mechanisms for student athletes at DePaul. Currently, the Athletics tab of the OGE website directs all inquiries to the Senior Associate Athletics Director and Deputy Title IX Coordinator, Jill Hollembeak. This creates an unnecessary bottleneck regarding access to information about athletics at DePaul and potential access to federally required resources for student athletes seeking support under Title IX. Therefore, the University should enhance the resources under the "Athletics" tab to ensure compliance, avoid liability, and prevent a potential lapse in support for a student athlete expressing concerns under Title IX.

4. Clarify Title IX's role in DePaul's Legacy program regarding NIL deals with students.

DePaul should clarify the language of their "Legacy" program designed to support students in NIL deals to ensure compliance with Title IX. Considering how new NIL legislation is in the world of college athletics, the program developed by DePaul, as it currently stands, does

not seem to consider the Title IX implications with University involvement in supporting student athletes in this way. For example, the “Legacy” program website does not reference Title IX whatsoever, does not provide details about how many students are supported, how DePaul decides who is supported, or a portfolio of student athletes currently involved in the program. This has the potential to develop into an issue of proportionality should it be discovered that DePaul is supporting more male student athletes than to female student athletes through this program. Therefore, DePaul should provide language on the “Legacy” website about the applicability of Title IX to the program and establish a process for purposefully selecting student athletes to meet the proportionality requirements of Title IX.

5. Increase University accountability by including additional timelines to formal policies.

The University should include clearer timelines in the formal Title IX policies and procedures to enhance accountability to reporting students at DePaul. As discussed previously, the current policies establish non-binding timelines for both the investigatory process (90 days) and the delivery of a final determination after a hearing (14 days) that vary depending on the facts and circumstances of each case. Additionally, the policies do not provide a timeline for either the completion of the evaluation of the Formal Complaint or the sending of the NOI after a Formal Complaint has not been dismissed. While understanding the need for flexibility to provide a sufficient review of reports and investigations, the policies leave students susceptible to a sort of Title IX “purgatory” that could seriously impact reporting and accused students awaiting answers. DePaul should consider including stricter timelines throughout this process to ensure the timely assessment of reports, improve efficiency within the OGE, and enhance student perceptions of the Title IX process at DePaul.