



5-1-2024

The University of Scranton Title IX Program Review

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Recommended Citation

Sansone, Veronica, "The University of Scranton Title IX Program Review" (2024). *Title IX at 50*. 11.
https://digitalcommons.law.villanova.edu/title_ix/11

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Veronica Sansone
April 3, 2023

Title IX Program Review: The University of Scranton

The University of Scranton makes information about Title IX easy to find and understandable on a webpage for the Office of Equity & Diversity. This page contains all the information about the Title IX office. Members of the Scranton community, ranging from students and faculty members, can easily access this information. The way the Title IX office displays the information is helpful because they break all the categories of the statute into various pages. Particularly, this is helpful for information about filing a claim and learning what the process will include. The name and contact information for Elizabeth M. Garcia, the Title IX Coordinator, is listed numerous times whenever the office is discussed.

As a former student at the University, the training provided by the school was focused on how the office can be helpful to students in regard to sexual assaults and harassments. However, the website provides the current first-year curriculum for Title IX. It seems the school updated the program to cover more areas.

I. Athletics

A major component of Title IX is making sure a school's athletic department complies with an element of the three-part test, which examines a schools Participation, Financial Aid, or Other Program Areas. This is why many Universities separate this role from the formal Title IX office. At Scranton, the Associate Director of Athletics Randy Shemanski oversees compliance. However, there is no information about what this role does for the school compared to the Title IX coordinator. In fact, the only way to find who has this title is to look at the staff directory. Thus, a student needing to speak to someone in the athletic area of Title IX may not know where to go and will not find a solution to their problems.

There is no information on the website about where to go for filing a complaint or lodging a concern for athletics. This is concerning, Scranton is a division III school, so the facilities are all shared between teams giving the potential for inequality and discrimination to be greater.

Schools often face the problem where they are spending more money on their male athletes and make the argument that the spending disparity is because those athletes are bringing in revenue for the school. Interestingly at Scranton, the women's teams are bringing in more revenue. The school generally expenses the same amount for both men's and women's teams. Most importantly, since Scranton is a division III school there are no athletic scholarships awarded. The University of Scranton is following Title IX for the spending element of athletics.

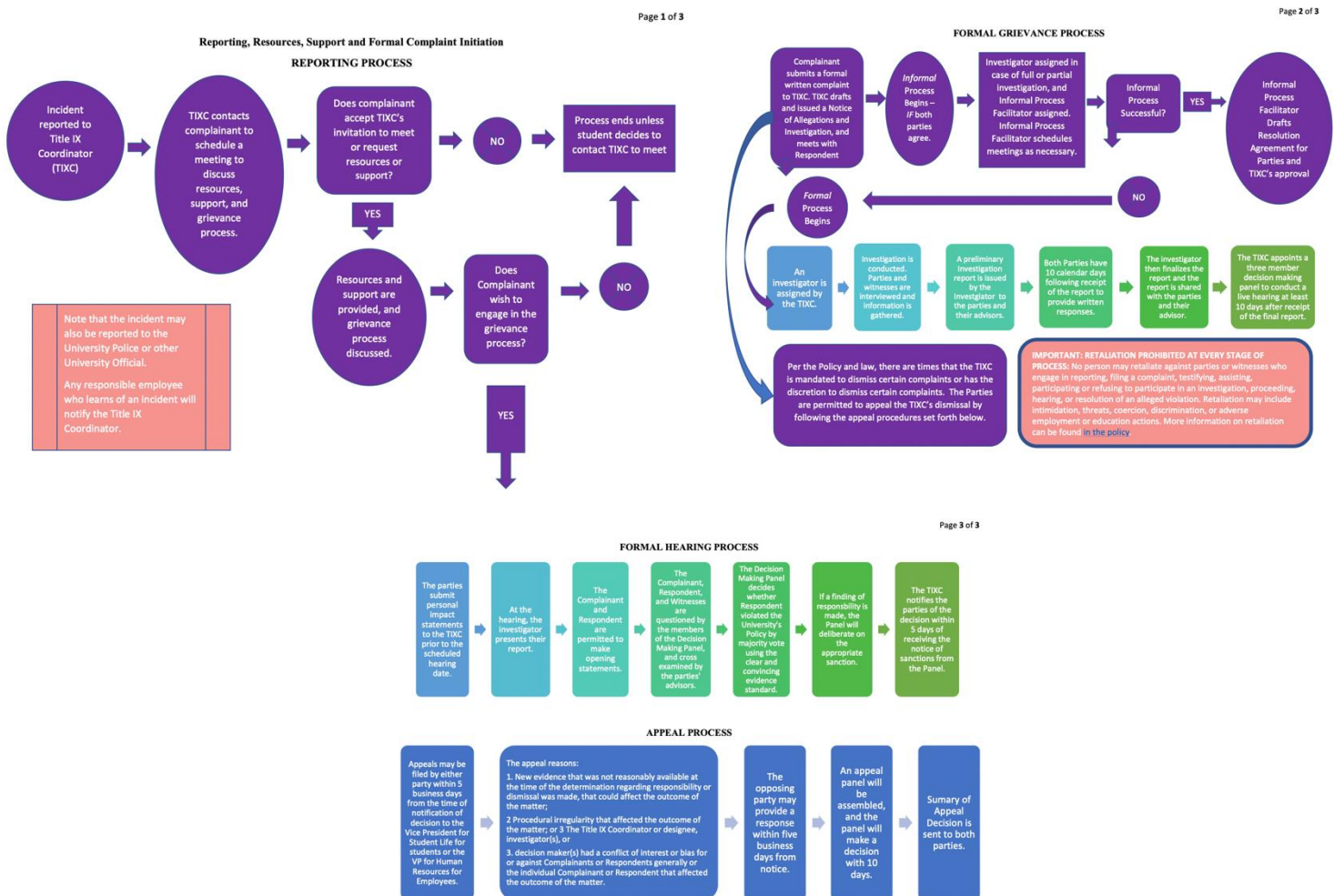
Overall Scranton is giving both Male and Female Athletes the same opportunity to participate in athletics. However, there is a slight imbalance in the male athletic participants compared to women participants. There are a total 3,345 undergraduate students: 1,381 male students and 1,964 female students. The undergraduate population of 261 men and 259 women participate in sports. In analyzing those numbers about 41% of students are male and about 50% of athletic participants are male. At first glance these numbers look like they are violating the proportionality test. If a closer look is given there are more women's sports offered than men's sports and about an equal number of men and women are participating in sports. Due to the proportioned numbers, Scranton has not had to remove any teams in recent years.

Although detailed information about the athletic area of Scranton's Title IX office is nearly impossible to find, there have been no recent complaints or investigations of the institution.

II. Sexual Misconduct

Elizabeth M. Garcia, JD, is the responsible for oversight and implementation of the Sexual Harassment Policy and process. The Office of Diversity and Inclusion Title IX is handled by Elizabeth. The Title IX office has a formal policy about sexual misconduct and a flow chart demonstrating the process in a concise way.

Scranton understood that many students and faculty members do not know where to begin when filing a complaint or lodging a concern. On the sexual misconduct portion of their webpage there are buttons about how someone would be able to file a report and what that process would look like.



The University created a flow chart to explain the investigation process. Based on the flow chart the process overall goes as followed. The incident is reported to the Title IX coordinator. This will cause the Title IX coordinator to reach out to the complainant with an invitation to meet where they will discuss resources, support, and options. The process will then end unless the student decides to continue to the next step. The office will first try to handle it with an informal process, if both parties agree, where there is a variety of meetings, until the informal process facilitator drafts a resolution both parties agree to. However, if a formal process is chosen then an investigator is assigned by the Title IX coordinator. During this process witnesses and parties will be interviewed to gather information for a preliminary investigative report. The parties will have ten days to provide an answer to the report and then the investigator will apply any changes necessary. After the report, three individuals are assigned to a decision-making panel to decide an outcome for the final report. Both parties will submit impact statements and then the investigator will present the case. Parties are questioned at this part of the hearing. The panel will then vote to decide if the individual violated the University's formal policy by the evidence presented using the Clear and Convincing evidence standard of review. The panel will give their decision and sanctions within five days. Once the sanctions have been given, either party may file an appeal within five days and the appeal will be finalized within ten days. For full details please look to the chart pictured above.¹

The University of Scranton's Title IX Office prepares for instances when students in this process face retaliation with a specific policy. It states:

¹ University of Scranton Sexual Misconduct Investigative Process flow chart on the website: <https://www.scranton.edu/equity-diversity/docs/tix-process-roadmap.pdf>

RETALIATION PROHIBITED AT EVERY STAGE OF PROCESS: No person may retaliate against parties or witnesses who engage in reporting, filing a complaint, testifying, assisting, participating, or refusing to participate in an investigation, proceeding, hearing, or resolution of an alleged violation. Retaliation may include intimidation, threats, coercion, discrimination, or adverse employment or education actions. More information on retaliation can be found in the policy.

Although, information about what is considered retaliation is provided up front, there needs to be a sentence of the consequences if someone chooses to act this way.

Overall the sexual misconduct policy clearly lays out what the process will be and based on my understanding, it seems to give both parties a fair opportunity to be heard in the process. Due to the breaks within the process, I wonder how prompt these investigations are and how the length can contribute to the student's mental health. Especially with the five-day waiting period for a decision, jury trials are even decided faster.

An important part of any Title IX policy is consent. The main policy defines consent as:

an active and positive exchange of words or actions that indicate a willingness to participate freely and voluntarily in mutually agreed upon sexual activity.

Effective consent cannot be given under the following circumstances:

- 1. A person is physically or mentally incapacitated, including when the incapacitation stems from alcohol or other drugs*
- 2. A person is unconscious*
- 3. A person is asleep and/or*
- 4. A person is under the age of consent (16 in Pennsylvania).²*

² The University of Scranton SEXUAL HARASSMENT and SEXUAL MISCONDUCT POLICY
<https://www.scranton.edu/equity-diversity/docs/sh-sm-policy.pdf>

The policy goes further to explain that consent can be taken back, and one should not only rely on non-verbal cues. Consent is also described as something that should not involve any type of physical force. The office's full definition of consent and how it directly relates to sexual assault and misconduct is over a page long and can be found within the formal policy.

The Clery Act provides the public with information about the criminal activity statistics on campus. It is important to note that at Scranton you are guaranteed housing all four years and 90% of the dorms are co-ed. Thus it is not surprising all reported rapes from 2019-2021 took place in on campus housing and only one reported incident of Fondling occurred on-campus compared to on campus housing.

III. Pregnancy

The University of Scranton has a policy specifically for pregnant students.³ Even with the University being Jesuit Institution, they still demonstrate the importance of accessible education for all students no matter what is happening within their personal life. The policy states:

Pregnant students should be treated by the University the same way as someone who has a temporary disability, and will be given an opportunity to make up missed work wherever possible. Extended deadlines, make-up assignments (e.g., papers, quizzes, tests, and presentations), tutoring, independent study, and incomplete grades that can be completed at a later date, may also be utilized, in addition to any other ergonomic and assistive supports typically provided to temporarily disabled students.

There is a section explaining how any member of the University can report a violation of this policy to the Title IX coordinator Elizabeth Garcia. A student is made aware to notify the Title IX

³ University of Scranton Pregnant Student policy: <https://www.scranton.edu/equity-diversity/docs/pregnant-parenting-students-policy.pdf>

office if they are pregnant or parenting by using the Pregnancy Adjustment Request Form, if they plan utilizing accommodations. Any student may, but are not required, to take a leave of absence under this policy as long as they can maintain appropriate academic progress. The policy does not specify the amount of time, it only specifies the school must receive notice that the student intends to take a leave 30 days prior. This is great because recovery varies for each mother after birth and will allow the student to do what is best for their family.

Based on everything covered in the policy Scranton seems to meet its obligations for pregnant students. This is further demonstrated with there being no cases against the university for how it handled pregnant students.

IV. LGBTQIA

The University has not specific information about how this group is handled under the Title IX office. There is no information for steps a student can take if they face discrimination. The only information for LGBTQIA students is on the Career Services Center and Academic Inclusion website.⁴ This was shocking because Scranton does have a plan for diversity and inclusion for students, but this specific group was not mentioned within the policy.

V. Recommendations

While the University of Scranton is not currently under investigation for any complaints, there are still areas the Title IX office can improve on. Specifically, the office needs to have resources for LGBTQIA students. There is no information on where and how a student can file a complaint and the school only provides information about general national nonprofits. Based on

⁴ Information for LGBTQIA students under Career Services Center and Academic Inclusion webpage <https://www.scranton.edu/studentlife/studentaffairs/careers/sub-pages/web-resources/LGBTQ-resources.shtml>

the wide range of students who identify under this group a policy should be drafted and a webpage should be created outlining resources for these students.

Additionally, Scranton is generally compliant with athletics under Title IX. However, information about who and where athletes can go to for issues in these areas needs to be accessible. From the short time I was an athlete at Scranton, no information was provided to us as athletes about how we should handle situations where our rights under Title IX were violated. Since the Title IX Office covers almost everything else covered under Title IX on their webpage an athletics page needs to be created.

The easiest form of action for both athletics and LGBTQIA would be creating separate forms like the school uses for pregnancy and sexual misconduct to give students the opportunity to take advantage of the support offered by the Office. Additionally, Scranton may want to hire a third coordinator to the office because of the large practice area the Title IX coordinator works with at the school. Generally, I was impressed with how Scranton implemented Title IX and made it accessible to students and faculty members. It will be interesting to see how the new guidelines change The University of Scranton's policies and procedures.