

OHIO ALLIANCE TO END SEXUAL VIOLENCE

OHIO LEGAL SYSTEMS

MANUAL FOR RAPE CRISIS CENTER ADVOCATES



PREPARED AND PRESENTED BY

OHIO ALLIANCE TO END SEXUAL VIOLENCE
VOLUME II - 2022

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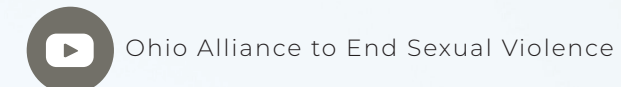
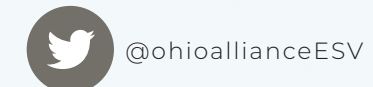
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This manual would not have been possible without the time and energy devoted by the following volunteers, who graciously provided drafting, editing, proofreading, and cite checking:

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This project was supported in part by Grant No. 2018-WL-AX 0015 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Justice.

This publication was supported in part by Grant No. 2022-VOCA-134714175. The opinions, findings, conclusions, and recommendations expressed are those of the authors and do not necessarily reflect the views of the Ohio Attorney General's Office.





DISCLAIMER

USE OF MANUAL

This manual is for information only. It does not constitute legal advice in any manner. It should not under any circumstances be used a substitute for legal representation. OAESV assembled this manual for the sole purpose of helping advocates learn about legal proceedings so that they can better support survivors throughout their involvement with the courts.

OAESV strongly discourages the use of this manual for any other purpose, and cautions that advocates must adhere to all laws prohibiting the unauthorized practice of law.

PUBLICATION DATE & RESULTING ACCURACY OF LAWS

This edition was printed on August 1, 2021. This manual will not reflect statutory, constitutional, or other legal changes after that date.

CITATION SYSTEM

This manual employs an endnote system of citation, meaning that support for any assertion in this text is provided with the corresponding endnote at the end of the manual. If you come across a legal standard, timeline, or rule that does not seem correct to you, first check the endnote for clarification. If you still have questions, please reach out to OAESV. We are happy to help!

CHAPTER 1:

Preface, Glossary, Table of Contents



PREFACE

I. PURPOSE

The purpose of this manual is to provide foundational information on legal systems as it relates to the needs of sexual assault survivors. Accordingly, Volumes I and II collectively describe an array of legal areas, including the criminal justice system, the civil justice system, survivor rights and medical examination procedures, family law and custody proceedings, immigration law, human trafficking law, and Title IX and educational proceedings. Though this resource is designed specifically to bolster the services advocates provide to survivors, OAESV understands that it may be a valuable educational tool for other purposes and encourages non-advocate consumers of this material to reach out to OAESV with questions on how to best adapt it to other types of learning opportunities.

II. ORGANIZATION

This manual is organized into two volumes. Volume I addresses the Criminal Saystem and Medical Advocacy. Volume II addresses Civil Litigation, other Civil and Administrative Systems, and Special Topics. The text provides examples and explanations of laws and administrative guidelines that determine which parties will investigate claims and decide issues of guilt or civil liability, impact the location of hearings or trials, provide payment for and access to post-assault procedures, and impact survivors' experiences with the legal system in other ways. Each chapter begins with a general description of the content involved and proceeds with sections containing detailed descriptions of the laws governing that area. Each section closes with a section titled, "Advocate Take Away." The "Advocate Take Away" sections provide guidance on the proper use of the legal information supplied within.

III. LIMITATIONS

This manual does not in any way address the specific circumstances of any particular survivor. It does not constitute legal advice in any way. Legal advocates should take most **extreme** care to use this information appropriately. Specifically, advocates must never dispense legal advice to a survivor, and should seek the input of a licensed attorney if any part of a survivor's criminal or civil case is unclear.

GLOSSARY OF TERMS FOR CIVIL SYSTEMS

The terms listed below will commonly appear in the text without clarification and are defined here for your convenience. Because one may use an array of terms to describe the persons, legal constructs, and behaviors involved in the sexual violence context, OAESV chose terminology it found most prevalent within the sexual assault advocacy field at the time this manual was produced. The selection of these terms is not intended to diminish identifying terminology any individual survivor assigns to their experiences, nor does it seek to endorse any specific labeling method.

Survivor: an individual who has survived an act of sexual violence

Perpetrator: an individual who commits an act of sexual violence against a survivor (In this manual, the term "perpetrator" does not indicate the actor was charged or convicted. It is important to remember that the criminal system will refer to this person as an "alleged perpetrator/offender" or defendant, depending on whether charges have been filed)

Acquittal: a certification of innocence – i.e. a finding of not guilty in a criminal trial

Administrative Law Judge: an independent hearing examiner who presides at an administrative hearing. They have the power to administer oaths, receive evidence, take testimony, and make initial findings of fact or law. They are sometimes called hearing officers

Advocate/Legal Advocate: a community-based rape crisis program employee; a non-lawyer who supports the survivor and acts on their behalf; advocates provide legal information but cannot give legal advice".

Affirmative Defense: a defense that does not deny the truth of the allegations against the defendant but gives some other reason (like insanity or expiration of the statute of limitation) why the defendant cannot be held liable

Answer: in a civil lawsuit, the Defendant's initial pleading. The answerⁱⁱⁱ is filed in response to the Plaintiff's Complaint.

Appeal: after a trial, the losing party may ask the appellate court or, when applicable, the court of last resort to review the case for legal errors

- o **Appellant:** a person who applies to a higher court to reverse a decision made by a lower court
- o **Appellee:** the respondent in a case appealed to a higher court

Americans with Disabilities Act: prohibits discrimination based on disability and guarantees equal opportunity in public accommodations, employment, transportation, state and local government services, and telecommunications

Arraignment: the initial appearance where a criminal system defendant comes before the court to respond to the accusation contained in the indictment and enter a plea; depending on the jurisdiction, the court may also set bail at this time

Bailiff: this person relays messages and provides security in the courtroom

Bench Trial: a case heard and decided by a judge; no jury is present

Bifurcate (a Lease): to remove a perpetrator from a unit without evicting, removing, terminating assistance to, or otherwise penalizing a survivor who seeks to remain in the unit

Bond: a sum of money determined by the court to secure the perpetrator’s participation in the criminal process

Brady Evidence: material evidence favorable to the defendant and relevant to the prosecution’s case; a prosecutor must turn all of this over to the defense and failure to do so is grounds for reversal

Case-In-Chief: the portion of a trial when the party that carries the burden of proof presents its evidence. In a criminal case, the prosecutor presents the case-in-chief, and the defendant responds through rebuttal. In a civil case, the plaintiff presents the case-in-chief, and the civil defendant responds through rebuttal

Civil Complaint: the document that initiates a civil lawsuit, which must be filed before the statute of limitations lapses on a civil claim

Clerk of Courts: an elected officer charged with overseeing administrative management of the court as a whole

Collectability: the degree to which a Defendant would be able to pay the Plaintiff if the case makes it through to trial and the jury awards the Plaintiff damages

Complainant: a party who makes the complaint in a legal action or proceeding. A complainant may also be called a petitioner

Complaint: the initial pleading that begins the lawsuit and asserts the allegations made by the plaintiff against the defendant; The complaint also includes the plaintiff’s demand for relief

Confidentiality: an ethical principle and internal requirement that forbids rape crisis center employees (and most other regulated or licensed professionals who serve survivors) from divulging the contents of communications with survivors absent informed consent from the survivor or court order

Contingency Fee Agreement: the agreement to pay an attorney for legal services which is contingent upon some recovery or award in the case

Counterclaim: a claim by a defendant opposing the claim of the plaintiff and seeking some relief from the plaintiff

Court of Last Resort: the last court that reviews a case for legal error; in Ohio this is the Ohio Supreme Court; in the federal system this is the United States Supreme Court

Criminal Activity Nuisance Ordinance: these orders typically penalize property owners with fines if repeat incidents of nuisance behavior occur on their property, unless they take steps to abate the nuisance. This includes any criminal activity or minor grievance on the property

Damages: a construct of civil courts: (1) the harm a civil plaintiff must demonstrate they suffered as a result of the act of sexual violence; (2) the monetary award used to “compensate” the survivor or make them whole if the perpetrator is found liable

Decision Maker: (1) the party that hears evidence in a legal proceeding and makes the final decision; this is typically a judge, magistrate, or jury; (2) the party that hears evidence in an administrative proceeding, for example, a Title IX campus hearing

Defamation: false statements about a person that hurt their reputation or deter another person from associating with them

Defense Attorney: a private attorney hired to represent the defendant (in a civil or criminal trial) or a public defender assigned to represent a defendant (in a criminal trial)

Deposition: the sworn testimony of a party or witness prior to the trial used by attorneys to gather information during the discovery period

Discovery: the period of a civil or criminal trial during which parties must exchange all information that will be presented at trial (or is reasonably likely to lead to the discovery of relevant information)

Docket: the court’s official record of a case, including hearing dates, filings, and party information – common pleas court dockets are available online

Duty of Care: the standard of attention and caution the public expects the average “reasonable” person to exercise in a given situation

Enhancement: most states have criminal statutes that enhance or increase a standard punishment if an offender was previously convicted of another crime or if other circumstances apply

Equal Employment Opportunity Commission^{iv}: the entity responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or employee on the basis of race, color, religion, sex, national origin, age, disability, or genetic information

Exculpatory Evidence: in a criminal case, evidence that is favorable to the defendant; This evidence could prove a defendant is innocent or could justify the defendant’s actions. The 1963 Supreme Court case, Brady v. Maryland, 373 U.S. 83 (1963), requires a prosecutor in possession of exculpatory evidence to disclose that evidence to the criminal defendant and their attorney(s)

Expert Witness: a witness who may appear in court and testify because of their special knowledge or experience with a particular subject area; The expert is permitted to give their opinion about a disputed or unclear fact because of their specialized knowledge, skill, experience, or education^v

Felony: acts the criminal system classifies as more serious than misdemeanors, including aggravated murder, rape, and human trafficking

Forbearance (mortgage): temporarily postponing or reducing the borrower’s payments

Grand Jury: a group of 12 citizens, paneled for a period of time, who review evidence in possible felony cases and vote to determine if there is probable cause sufficient to allow the prosecution to indict the accused; In Ohio, a unanimous grand jury vote must precede indictment

Hearing Officer: an official appointed by an entity to convene a hearing, in the campus context this person may facilitate the Title IX hearing process

Hearing Panel: a group of people who serve as decision makers in a campus conduct process, including hearings for Title IX violations (Note that campuses have discretionary variances in their decision making structure and some schools may have one decision maker instead of a panel of

decision makers)
Impeach: attacking the credibility of a witness in criminal or civil court, thereby calling into question the reliability of their testimony

Inchoate Crimes: actions or activities that fall short of a completed criminal act; attempt, conspiracy, and complicity

Interrogatory: a list of questions one party sends to another to answer during the discovery process

Intervention in Lieu of Conviction: offenders charged with certain lower-level criminal offenses, who are either drug or alcohol addicted, suffer from a diagnosed mental illness, have an intellectual disability, or are victims of human trafficking, may be eligible to receive court-supervised treatment instead of a conviction and sentence^{vi}

Judge:

- o **In the Ohio Court System (common pleas and municipal courts):** an elected court official (usually a former lawyer) who hears evidence and determines liability in bench trials;
- o **In the Federal Court System:** an appointed court official (usually a former lawyer) who hears evidence and determines liability in bench trials

Judicial Release: a form of early release that certain convicted persons may be eligible for. If granted, any time remaining on a convicted person’s sentence becomes suspended while they serve 1 to 5 years of community control. If those years are served successfully, no further time must be served, either under local or state supervision. If the terms of community control are violated, the court can re-impose the suspended portion of the sentence^{vii}

Jury/Jury Trials: a body of citizens (in state court) that hear the evidence and determine liability and damages in specified trials; typically, where a defendant invokes their right to a jury trial

Lawsuit: an action brought in court for the purpose of seeking relief or remedy for an alleged wrong

Lay Witness: a witness who testifies based on their perceptions and/or personal knowledge

Letter of Representation: a letter sent by a lawyer to an opposing party informing them that the lawyer represents a specific person, persons, or business

Liability: in civil trials, where guilt and innocence are not measured, a defendant is found either liable or not liable for civil harm; if found liable, a defendant must pay the survivor civil damages

Libel: a false published statement that harms a person’s reputation

Magistrate: a judicial or administrative official with jurisdiction over minor misdemeanor and other criminal matters, preliminary examinations, protection orders, and other matters as specified by county

Misdemeanor: less serious than felonies, ranging from littering to simple assault. Penalties range from payment of court costs to six months in jail and/or a \$1,000 fine per offense^{viii}

Motion Practice: a request for relief from the court

- o **Motion to Dismiss:** a request for the court to dismiss, or “throw out”, a case when a party believes that the complaint is legally invalid
- o **Motion for Summary Judgement:** a request for the court to enter a judgement for one party without a full trial because there is sufficient evidence and undisputed facts for the law to clearly support one party

Ohio Civil Rights Commission^{ix}: the entity that enforces ORC, Chapter 4112 regarding civil rights. The OCRC receives and investigates claims of discrimination in employment and housing on the basis of race, color, religion, sex, national origin, disability, age, ancestry, military status, or familial status.

Ohio Revised Code: the compilation of all Ohio statutes, divided into provisions, titles, chapters and sections

Ohio Rules of Appellate Procedure: rules issued by the State Supreme Court that govern legal practice in both civil and criminal appeals, including filing deadlines and other important standards that may impact a survivor’s case

Ohio Rules of Civil Procedure: rules issued by the State Supreme Court that govern legal practice in civil matters, including filing deadlines and other important standards that may impact a survivor’s case from the initiation of a lawsuit through final appeal

Ohio Rules of Criminal Procedure: rules issued by the State Supreme Court that govern legal practice in criminal matters, including filing deadlines and other important standards that may impact a survivor’s case from investigation through final appeal

Ohio Rules of Evidence: rules that govern the admission of evidence in both civil and criminal cases

Patient: a person under the care of an Ohio medical facility – when a survivor receives treatment or a SAFE exam, they will be referred to as a patient by medical personnel

Petitioner: a party who makes the complaint in a legal action or proceeding. A petitioner may also be called a complainant

Plea: an accused person’s reply to a criminal charge. The Ohio Revised Code sets forth five possible pleas: (1) guilty; (2) not guilty; (3) a former judgment of conviction or acquittal of the offense; (4) once in jeopardy; (5) not guilty by reason of insanity; and (6) no contest^x

Plea Bargain: a deal achieved between the prosecution and defense, leading the defendant to plead guilty to lesser charges in exchange for the prosecutor not having to risk acquittal. Plea bargains are structured around available evidence, and in ideal situations, survivor input

Peace Officer: a term used in the Ohio Revised Code to denote status as a law enforcement officia

Post-Release Control: a period of supervision following release from prison; The Ohio Revised Code mandates post-release control for some offenses. The Parole Board has discretion to impose post-release control for other offenses.^{xi} The Ohio Revised Code mandates the following post-release control periods: (1) persons convicted of felonies of the first degree or sex offenses must serve a five-year post-release term; (2) persons convicted of a felony of the second degree must serve a three-year post-release control term; and (3) persons convicted of a violent felony of the third degree that is not a felony sex offense must serve a three-year post-release term^{xii}

Privilege: a shield that prevents certain professionals from having to testify to or otherwise divulge the contents of communications with survivors; communications between rape crisis center advocates and survivors in Ohio **are not** protected by privilege

Probable Cause: the case provides a factual basis that leads a reasonable person to believe that an individual actually committed an offense; probable is the standard for arrest and charges

Prosecutor: the attorney that represents the state, files criminal charges in state court, and pursues the case on behalf of the state (not the victim)

Rape Crisis Center: an agency whose main purpose is to provide support services to survivors of sexual violence and their family members according to standards of practice

Reasonable Person: a construct developed to illustrate how a “typical person, with ordinary prudence would act in certain circumstances”^{xiii}; The jury must measure the actions of a civil defendant against the expected behaviors of a “reasonable person” with the same knowledge, information, or experience as the defendant in the circumstances at issue

Remand: after considering a case, an appellate court can reverse the decision of a lower court. The appellate court will issue a written decision that sends the case back to be reconsidered by the lower court

Respondent: a party against whom a complaint seeking relief is brought; this term is often used in campus Title IX proceedings and administrative processes

Retaliatory Litigation: a lawsuit filed by the perpetrator because of a survivor reporting the crime, seeking workplace accommodations, initiating a Title IX process, seeking medical care, or otherwise acting in a way that could reveal their criminal conduct to others. These lawsuits are used to harm survivors by attempting to silence or exhaust them

Restitution: a construct of criminal law; payment made by a perpetrator for financial damage done to the survivor

Section/Statute: a statute is another name for an individual law; in Ohio, statutes are also known as “sections” of the Ohio Revised Code

Sentence: the penalty imposed on a person who has been convicted of a crime

Settlement: an agreement that is meant to resolve a civil lawsuit before it goes to trial, or in some cases before the jury returns the verdict

Sex Offender Registry: the Ohio Revised Code requires the attorney general to maintain a sex offender registry that includes specific information about individuals who were convicted of or pleaded guilty to a sexually oriented offense or a child-victim oriented offense or who have been adjudicated a delinquent child for committing a sexually oriented or child-victim offense.^{xiv} Information contained in this registry is publicly available

Sexual Assault Agency: an agency that provides services to survivors of sexual violence and their families; a rape crisis center or another type of agency

Sexual Assault Response Team (SART): a coalition of partners serving sexual assault victims. These coalitions generally include victim advocates, law enforcement officers, forensic medical examiners, forensic scientists, and prosecutors.^{xv} SARTs focus on survivor services in specific locations

Sexual Assault Forensic Exam (SAFE): a medical examination during which evidence of the sexual assault is collected by a medical professional^{xv}

Sexual Assault Nurse Examiner (SANE): “[r]egistered nurses who have completed specialized education and clinical preparation in the medical forensic care of the patient who has experienced sexual assault or abuse”^{xvi}

Sexual Misconduct Policy: a policy that encompasses a wide range of behaviors that are prohibited at a workplace, school, housing development, or other entity

Statute of Limitations: the period of time in which a survivor or prosecutor can bring forth a civil case or criminal charges after the act was committed

Subpoena: a document that orders its recipient to appear as a witness in court

Title VII: a federal law within the Civil Rights Act of 1964 that protects employees against discrimination on the basis on race, color, religion, sex, national origin, disability, age, or genetic information. The law is codified beginning at 42 U.S.C. §2000e

Title VIII: title VIII of the Civil Rights Act of 1968 is known as the Fair Housing Act. The act prohibits discrimination in the sale, rental, and financing of dwellings and other housing-related transactions on the basis of race, color, religion, sex, familial status, national origin, and disability. Title VIII is codified beginning at 42 U.S.C. §3601

Title IX: a Federal civil rights law which prohibits discrimination based on sex in education programs or activities that receive Federal financial assistance. The statute is codified beginning at 20 U.S.C. §1681

Title IX Coordinator: a designated individual who oversees compliance with Title IX at a particular institution

Title IX Investigator: a neutral individual who investigates complaints regarding discrimination based on sex and provides an unbiased report regarding the findings

Tort: a wrongful act which results in physical, psychological, emotional, or financial harm to another

United States Department of Education: a federal agency dedicated to the American education system. Often known as ED, the agency focuses on the prohibition of discrimination in education and enforcement of Title IX violations

United States Department of Housing and Urban Development: a federal agency which promotes Federal housing support. HUD oversees the enforcement of the Federal Fair Housing Act

Verdict: a jury decision on a disputed criminal or civil issue

Victim: a person harmed by a violation of the Ohio Revised Code – in the criminal system, players typically refer to “survivors” as “victims”

Victim Impact Statement: a confidential statement identifying the victim of a criminal offense and the impact that victim suffered as a result of the offense; Although these statements are confidential, copies of the statement may be provided to the defendant, the defendant’s counsel, and the prosecuting attorney^{xviii}

Violation: a violation occurs when a person commits an act that is prohibited by statute

Voir Dire: the jury selection process, in which a larger pool of potential jurors answer standardized questions to disclose potential bias, and each party has the opportunity to challenge the use of individual potential jurors

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CHAPTER 2:

A Brief Introduction to an Advocate's Role in Civil Legal Systems



A Brief Introduction

to an Advocate's Role in Civil Legal Systems

I. THE ADVOCATE'S ROLE GENERALLY

Rape crisis center advocates empower survivors to seek healing, specific legal outcomes, and resources. Advocates provide a span of services including the following:

- Information, resources, and referrals
- Safety planning
- Accompaniment to SAFE exams and other medical appointments
- Accompaniment to law enforcement meetings, hearings, trial, and prosecution discussions
- Referral to legal representation for civil matters related to the assault, accompaniment and support throughout civil processes
- Locating resources for mental health care
- Assistance applying for crime victim compensation
- Help navigating reporting processes at academic institutions

Unlike counselors, doctors, nurses, or attorneys, advocates do not confine their services to one specific role. In part, because the above-listed professionals must see numerous clients, spend significant time on record keeping, and provide recommendations or treatment based on strict licensure requirements. The role of the advocate is to focus on a holistic approach to survivor empowerment and healing based on the survivor's stated wishes. This means an advocate must balance learning about new systems as needed while advocating for survivor-desired outcomes.

Legal advocates do not practice law or give legal advice in any way. This would amount to unauthorized practice of law, which could have serious consequences for the survivor, advocate, and rape crisis center. If a survivor asks for advice on matters that involve the legal system, remind that survivor that you are not permitted to give advice and direct them to a licensed attorney.

II. WITHIN SYSTEMS SPECIFICALLY

For those survivors that disclose and seek advocacy, the criminal system and various civil legal systems may come into play. Survivors frequently encounter the criminal system first, before engagement with civil litigation, civil housing matters, civil family law matters, immigration systems, education processes, or other decision makers impacting their healing and recovery. Advocates working with survivors know that the criminal system is not built to serve survivor needs, and that civil systems often provide access to other critical needs. For example, a survivor may live with or near their perpetrator, leading them to housing court to seek an early lease termination. Similarly, a survivor may need to work with an immigration attorney to apply for certain visas created for survivors of violent crime. Such survivor needs, along with those involving education, employment, financial needs, and others, are addressed in civil court systems instead of the criminal system.

Unlike criminal systems, where a prosecutor represents the state and the survivor has no formal role in driving processes, survivors are a party with (or without) counsel and responsibilities in civil

systems. Providing advocacy for survivors engaged in civil systems can therefore present many challenges for advocates more familiar with the criminal process.

Much like criminal courts preside over various types of statutory violations, the term "civil system" encompasses a range of matters, some taking many years to resolve, others with much shorter turnaround times. Volume II will proceed to discuss various forms of civil relief and resources for supporting survivors in various contexts.

IV. HOW THIS MANUAL HELPS

This manual is meant to serve as an introduction to legal advocacy at the beginning of an advocate's career. It provides in-depth descriptions of substantive and procedural law. In addition, it is organized in a manner that provides quick reference to legal information in a variety of case types. For example, if a survivor wants to know the statute of limitations for a specific crime, you can first reference Volume I, Chapter III-G Statutes of Limitations for a general overview, then reference the specific statute in III-I(iii) for more specific information. Similarly, if an advocate is looking to review information about Ohio eviction processes, they can review Volume II, Chapter IV Housing Matters.



CHAPTER 3:

Civil Actions/Civil Litigation



Civil Actions/Civil Litigation

I. WHAT IS A CIVIL ACTION?

A civil action is a **lawsuit**^{xix} filed by a person or entity (businesses, organizations, etc.) to enforce rights or compensate for harm caused by one party to another party.^{xx} Common causes of action include defamation, breach of contract, violations of federal civil rights legislation (like Title VII, Title VIII, or Title IX), and others. Survivors of sexual violence may utilize causes of action for physical harms, like sexual battery, to seek financial recovery from their abuser. In a civil action, the person initiating the lawsuit is called the **Plaintiff**. The person responding to the lawsuit is called the **Defendant**. Unlike the criminal system, in which the government prosecutes a case, the state only plays a passive role in a civil lawsuit. A Plaintiff and their attorney have some of the same responsibilities in a civil case as a government prosecutor in a criminal case. This means that it is up to the Plaintiff and their attorney to advance a case forward through the civil litigation system.

Attorneys hired to represent Plaintiffs, as well as those representing Defendants, engage in lengthy work of drafting and responding to documents, conducting evidence discovery, and preparing for various decision phases before any trial takes place. Commonly called “**motion practice**,”^{xxi} defense attorneys seek to weaken or dismiss a case through the filing of written motions, and plaintiff’s attorneys spend considerable time responding to and defending against those tactics. Thus, a civil action can take many years, and a case in which the Plaintiff’s attorney misses a deadline outlined below will often be dismissed for “failure to prosecute.”^{xxii} Knowing the general phases of a civil action will help advocates support survivors during this lengthy process.

As a disclaimer, though, it should be stressed that the civil system is very slow. Further, when rules or laws impose deadlines, they must be followed or a number of consequences occur. Consequences can include ethical sanctions for attorneys, financial sanctions for attorneys and their clients, judicial refusal to review and decide on untimely filings, and dismissing lawsuits altogether.

This chapter highlights various components of lawsuits survivors will likely interact with:

- Choosing an Attorney, Fees, & Choosing Appropriate Claims
- Pleadings
- Discovery
- Motion Practice
- Damages
- Counter Claims/Suits
- Appeals

Advocate Tip!

The rules of civil procedure are complex. Attorneys are required to engage in years of study and licensure exams before they engage in the civil system and its rules in a particular case. While reviewing this chapter, advocates may find themselves overwhelmed (we promise the lawyers were at first too) and fear they must memorize or retain the complex steps involved in a civil action. Advocates, however, should not worry about having to memorize these rules or explain an attorney’s choices in practice. This chapter is meant only to provide a framework to help advocates understand the civil litigation process.

II. CHOOSING AN ATTORNEY, FEES, & SELECTING CLAIMS

When a survivor first debates filing a lawsuit, they may contact various law firms for consultations. Finding an attorney can feel like an enormous first step. Most prospective clients must approach firms without knowing which specific claims apply to the facts in their case, making it difficult to identify which firms might be best suited to provide representation. The Ohio Bar Association provides an Attorney Directory^{xxiii} online at <https://www.ohiobar.org/LegalHelp/>, and the Supreme Court of Ohio provides contact information for registered lawyer referral services, generally organized by county (<https://www.supremecourt.ohio.gov/AttySvcs/LawyerReferral/referral/LRIS.pdf>).

A. Intake

When a survivor begins reaching out to firms, the initial process will involve an intake. For attorneys, legal intake phone calls establish the following:

- Whether the matter falls within the firm’s case types (most firms specialize in specific types of cases and have established boundaries for how far outside of that practice area they will veer).
- Whether the firm has a conflict of interest (a relationship that would hinder the firm’s ability to provide the survivor fair representation, for example, if the firm represented the perpetrator in another lawsuit).
- Whether the firm has the capacity to take on the case before the statute of limitations.

Most firms offer initial consultations free of charge, but it is important to establish the bounds of the free consultation when first contacting the firm. Depending on the size of the law firm, a paralegal, attorney, or law clerk may take the call. The firm will ask for a basic narrative to get a sense of the case type and will ask for the names of potential parties and other information to avoid a conflict of interest. If the firm is alerted to a conflict of interest, they will end the intake. Conflicts of interest are not uncommon, especially in counties with lower concentrations of attorneys. Civil litigation firms in larger municipal areas are therefore accustomed to receiving requests from other parts of the state and often consider them.

The call will include specific questions that the firm needs to consider the prospect of representation. Typically, the intake staff will discuss the facts collected with other members of the staff. If they decide not to take the case, they may discuss the reason. If it is a capacity issue or a case-type the firm is not able to handle, they may be willing to recommend other suited firms to contact. If the firm is interested in taking the case, they will typically invite the survivor to their offices to discuss fee arrangements and representation expectations before anyone signs a representation agreement.

Advocate Tip!

Supporting Accessibility in the Attorney Search

Rule 88 of the Rules of Superintendence of Ohio Courts requires appointment of Foreign Language or Sign Language interpreters (when meaningful participation by one or more parties is not possible without them) in courtroom proceedings. However, survivors that would benefit from interpreting services should have access from the outset of seeking an attorney through the conclusion of their representation. Many larger civil litigation firms have retainer agreements with interpreting services and others have access through membership in their local bar association. It can be helpful for advocates to reach out to the local bar association in their communities and the State Bar of Ohio to gain information on how the survivors you serve can ensure access to interpreters throughout representation. This can be especially impactful in creating better access during the initial attorney search.

B. Fee Agreements

In typical legal representation relationships, the attorney establishes an hourly rate and bills the client. For example, if a survivor needs assistance breaking a lease and hires an attorney, that attorney will (unless taking on the case pro bono) charge the survivor an hourly rate and bill them in established increments (usually monthly) throughout the case. However, as discussed further in this chapter, civil lawsuits seek damage awards to compensate the Plaintiff and, in some cases, additional damages to penalize the Defendant. This allows attorneys to utilize a **Contingency Fee Agreement**,^{xxiv} which essentially establishes that the attorney will not charge the client an hourly rate for time worked on the case, but will instead receive a pre-established percentage of the damage award, or settlement if applicable.^{xxv} Contingency Fee Agreements are beneficial for clients in that they recognize that Plaintiffs financially damaged by the Defendant's conduct will likely not have access to funds to pay monthly attorney invoices. They create certain risks for law firms, who will not be compensated for significant time worked if the case goes to trial and their client does not prevail. It is critical that the client understand the percentage chosen to be paid to the attorneys and be comfortable with it before signing. It can be useful to review the draft agreement in a separate setting and contact the Ohio Bar Association^{xxvi} for information about norms and limits in Contingency Fee Arrangements.

Though Contingency Fee Agreements generally preclude charges for time worked, they typically do not cover court costs and discovery fees. These fees can be considerable, and it is important for prospective clients to ask about the range of costs they can expect to incur. Some firms are able to advance these fees and some may work with clients to establish payment plans for these costs.

C. Choosing the Court, the Defendant(s), and Claims

After the representation agreement is signed, the various legal staff working on a survivor's matter will likely meet with them several times over the phone or in person. During these meetings, the attorneys will gather facts about the case and Defendants. These meetings are typically supplemented with independent research by the legal staff, and ultimately lead to strategic decisions about which claims to include in the lawsuit. Attorneys generally include all claims supported by the facts of the case.

Some fact patterns will support claims under both Federal and state law. For example, workplace sexual harassment is prohibited federally by Title VII of the Civil Rights Act of 1964.^{xxvii} Substantially similar conduct is prohibited by Ohio Revised Code Chapter 4112.^{xxviii} This means that a Plaintiff can file their lawsuit in state court or federal court. Plaintiff's attorneys will often analyze respective court treatment of employment claims, consider the influence of specific Defendants on jury pools (state court cases panel jurors from the county in which the court stands, Federal courts pull from the larger district), and other factors when advising their clients on whether to file suit in state or Federal court.

Plaintiffs must also choose which Defendants to include in a lawsuit. In many lawsuits, schools, employers, and government entities are alleged to be legally liable for failing to properly respond to conduct engaged in by a student, employee, or other affiliate. Thus, attorneys will likely discuss with a survivor client whether to include, in addition to the perpetrator, employers (entire businesses or agencies) and specific employees (upper or middle management, direct supervisors, etc.) or other potentially liable individuals. This decision will often involve discussions about and considerations of **Collectability**.^{xxix} Collectability describes the degree to which a Defendant would be able to pay the Plaintiff if the case makes it through to trial and the jury awards the Plaintiff damages.

As sexual violence impacts so many people in so many aspects of life, there is no one standard list of claims attorneys will list in their Complaint. Instead, the circumstances of each survivor's experience will lead what claims attorneys will recommend. Because sexual violence is included in definitions of "sexual harassment" in workplace and education civil rights laws,^{xxx} attorneys representing survivors often file lawsuits for employment or education discrimination on the basis of sex. They may also

file **Tort** suits (lawsuits for intentional or unintentional harm caused by one person to another).^{xxxi}

D. Early Opposing Party Communication and Settlement Efforts

Once claims are chosen (or in some cases before), the attorney or firm will send a **Letter of Representation**^{xxxii} to the Defendant. At that point, the Defendant generally (but not always) retains their own attorney and that attorney responds to the Letter of Representation. After this, the attorneys typically meet over the phone multiple times to discuss possible early settlement negotiations as a standard practice before the survivor's attorney files the **Complaint**^{xxxiii} (the document initiating the lawsuit).

II. PLEADINGS, DISCOVERY, & MOTION PRACTICE

A. Pleadings

Plaintiffs must initiate lawsuits by filing (usually through their attorney) a **Complaint**.^{xxxiv} A Complaint does exactly what the name indicates: it complains to the court that the Defendant has broken a civil law, and as a result the Plaintiff filing the Complaint has been damaged. In the Complaint, the Plaintiff lists the conduct alleged to have broken the civil law, asks for a remedy in the form of money damages, and points to specific laws that have been broken. Complaints initiate the lawsuit and must be filed within a certain time frame after the Defendant's wrongful conduct, called a statute of limitations.

Complaints are just the beginning of a lengthy series of filings leading up to a settlement or trial, and thus they do not in and of themselves need to prove every aspect of the Plaintiff's case. This is an important distinction from criminal processes, in which prosecutors must have a certain degree of evidence before they can bring charges. In the civil system, Plaintiffs do not need to have evidence before filing a Complaint. Instead, both Ohio and the Federal system are **notice-pleading** jurisdictions.^{xxxv} This means that a Complaint merely has to put the Defendant on notice of what conduct is being complained about, what law the Defendant broke by behaving that way, and what damages the Plaintiff claims they deserve.^{xxxvi}

Generally, Defendants can respond to a Complaint in two ways: (1) try to have the court dismiss (eliminate)^{xxxvii} the lawsuit with a **Motion to Dismiss** or (2) respond to the substance of the Plaintiff's claims with an **Answer**.^{xxxviii} A Motion to Dismiss seeks to end the lawsuit at its outset by arguing there are technical problems with the lawsuit that prevent the court from moving forward. In state lawsuits, Rule 12(b) lists the grounds for a Motion to Dismiss: (1) lack of subject matter jurisdiction; (2) lack of jurisdiction over the Defendant; (3) improper venue; (4) insufficiency of process; (5) insufficiency of service of process; (6) failure to state a claim upon which relief can be granted; and (7) failure to join a party under Rule 19 or Rule 19.1.^{xxxix} The most common Motion to Dismiss a survivor will encounter is a Motion to Dismiss for "failure to state a claim upon which relief can be granted."^{xl} In this Motion to Dismiss variety, the Defendant argues that even if everything the **Complainant**^{xli} says is true, the Complainant is not entitled to damages. Such motions very rarely attack the truthfulness of a Plaintiff's claims; instead they attack some aspect of the law behind the Plaintiff's claims. For example, Defendants may argue that the Plaintiff filed the Complaint past the statute of limitations date (even if everything the Plaintiff argued was true, the court would not be able to proceed with a case filed after the statute of limitations lapsed).

The Rules of Civil Procedure provide attorneys with many other motion options to delay or end the case. For example:

- Motion for a More Definite Statement: Defendant asks that the plaintiff make something clearer in the Complaint.
- Motion to Strike: Defendant asks the court that offensive material be removed.
- Motion to Dismiss for Lack of Jurisdiction: Defendant asks the court to remove the case because the court does not have basis/authority/ability to hear it.
- Motion to Dismiss for Failure to Join a Party: Defendant asks the court to remove a case because justice requires another party be part of the lawsuit.

Defendants rarely win these motions, as courts prefer hearing the merits of a Plaintiff’s claims. However, attorneys make the strategic decision to file these motions for a variety of reasons, including but not limited to putting additional barriers between the Plaintiff and trial to encourage settlement or voluntary dismissal when the Plaintiff becomes fatigued with the process.^{xlii}

Defendants may file a motion to change the type of court hearing the case.^{xliii} Specifically, if the case has Federal law claims, but was originally filed in state court, the Defendant can have the case **removed**^{xliiv} to Federal Court. Similarly, if the Plaintiff filed the lawsuit in Federal court despite issues of state law, the Defendant can request that the Court remove the case to state court.^{xliv} Notification of this type of motion can be particularly distressing for survivors, as they likely will implicate the factors discussed when the survivor and attorney decided where to file the lawsuit. Their attorney should be accustomed to such motions and able to answer survivor’s questions about the likelihood the Court will grant the motion and what may happen if the motion is granted.

More commonly, a defendant will forgo filing a Motion to Dismiss or attempt to change the court and instead file an **Answer**.^{xlvi} An Answer provides a response to each allegation in the complaint. Typically, the responses are brief, stating for each allegation that the Defendant either denies, admits, or does not have sufficient information to respond.^{xlvii} An Answer must also include all **Affirmative Defenses** the Defendant wishes to raise during the entirety of the lawsuit. An Affirmative Defense^{xlviii} is different than a traditional defense in that it does not deny the Plaintiff’s allegations. Instead, when raising an Affirmative Defense, the Defendant concedes Plaintiff’s claims while providing a justification that, if proven true, would legally exculpate the Defendant from liability. Common Affirmative Defenses include Consent and Self-Defense.

If the Defendant ignores the lawsuit or otherwise does not file a Motion to Dismiss or Answer before the applicable deadline, the Plaintiff may seek a **Default Judgment**.^{xlix} Upon receipt of the Motion for Default Judgement, the Court will accept the facts in the Plaintiff’s Complaint as true and award appropriate damages.

B. Discovery

If the Complaint survives the pleading phase (the Court denies any Motion to Dismiss and the Defendant files an Answer), both sides will gather evidence to prove their case. The process by which both sides obtain information and documents from the opposing party is called **Discovery**.ⁱ

A Note on Discovery

Discovery is the most intensive fact-finding period for attorneys working on a case, and as such, can be among the most difficult period of the case for survivors (often second only to trial). Many attorneys seek to gather facts at the beginning of representation, but early preparation notwithstanding, generally ask their clients to verify discovery documents before submission. This means survivors may have to review one or more triggering recounting of the violence they endured, usually in dense legal verbiage and in an order that may not align with how they might explain the assault. Depositions, which take place during the discovery period, are often contentious. Depositions are interviews taken by opposing counsel and recorded by a court reporter. The environment can feel extremely formal and very hostile. Attorneys should walk their clients through deposition preparation early and, in some cases, often to ensure comfort and understanding. Survivors will likely need heightened support from non-attorneys during this time.

There are two types of discovery: written and oral. Written discovery happens first, before any oral interviews, and consists of **interrogatories**ⁱ (written questions), requests for production of documents (or

any other type of records, e.g. medical records), and requests for admission (admitting or denying certain facts).ⁱⁱⁱ All responses to these requests are made under oath, and not responding can come with serious penalties.^{liii} Oral discovery usually occurs after document production and takes place in **depositions**.^{liv} During a deposition, attorneys will ask the Defendant, Plaintiff, and, at times, witnesses questions under oath before a court reporter. Typically, the attorneys for the parties handle discovery requests without court intervention, and the Court only gets involved if there is a dispute about a party or witness refusing to respond to a request, or if a party is trying to subpoena an outside person or business. Unlike Ohio courts, which do not have a separate initial discovery phase, Federal courts conduct **initial discovery**.^{lv} In this Federal process, the parties are required to disclose certain information whether or not the opposing party specifically requests it. During this phase, they must state witness names and contact information and the substance of their knowledge of case facts, insurance information, a computation of damages, and other documents that might support their case.

C. Motion for Summary Judgement through Post-Trial Motions

At the end of discovery, Defendants typically file a **Motion for Summary Judgment**.^{lvi} Motions for Summary Judgement, which are technically available to both parties, argue that there is no “genuine issue of material fact” (any disagreements about a fact needed to prove or disprove the case), and as such no jury is necessary and a judge can make a determination by applying these allegedly consistent facts to the law.^{lvii} As Plaintiffs have a more difficult time prevailing on a Motion for Summary Judgement,^{lviii} the tactic is more typically employed by Defendants. Parties can use the evidence gathered in discovery as the basis for the Motion for Summary Judgment. When one party files a Motion for Summary Judgement, the other party responds by filing a **Brief in Opposition** to the Motion for Summary Judgement, stating why a reasonable jury could find for them, and citing to the evidence they now have from discovery.^{lix} If the court agrees they enter a judgement and the lawsuit is over. If not, the lawsuit goes forward to trial.^{lx}

If the Court denies the Motion for Summary Judgement, the parties next each file a **Pre-trial Statement**.^{lxi} The Pre-trial Statement is a summary of each parties’ case in advance of trial, which discloses the evidence the filing party intends to present at trial so that the opposing party can prepare. Thereafter and throughout trial, parties file **Motions in Limine**,^{lxii} which assert that certain evidence should be excluded based on hearsay (statements made out of court), character evidence (evidence that because someone acted someday in the past, they must have acted that way again, e.g. the survivor consented to sex once, so they must have consented again), and “prejudice” (the evidence makes the party look so bad the jury could not make a fair decision),^{lxiii} among others. Parties may also file **Directed Verdict** motions, which are essentially another Motion for Summary Judgment made during trial because the other side has not proven its case.^{lxiv} For example, if one of the required elements can only be proven by a specific witness statement, and that witness does not make that statement as expected on the stand, the opposing party can argue that there is no longer any way to prove that element and thus the case must be dismissed.^{lxv} If the case is a jury trial (and not a bench trial decided by a judge), the party who loses can file a motion for a **Judgment Notwithstanding the Verdict**, which asks the judge to overrule the jury verdict. A Motion for Judgment Notwithstanding the Verdict is an incredibly difficult motion to win.^{lxvi}

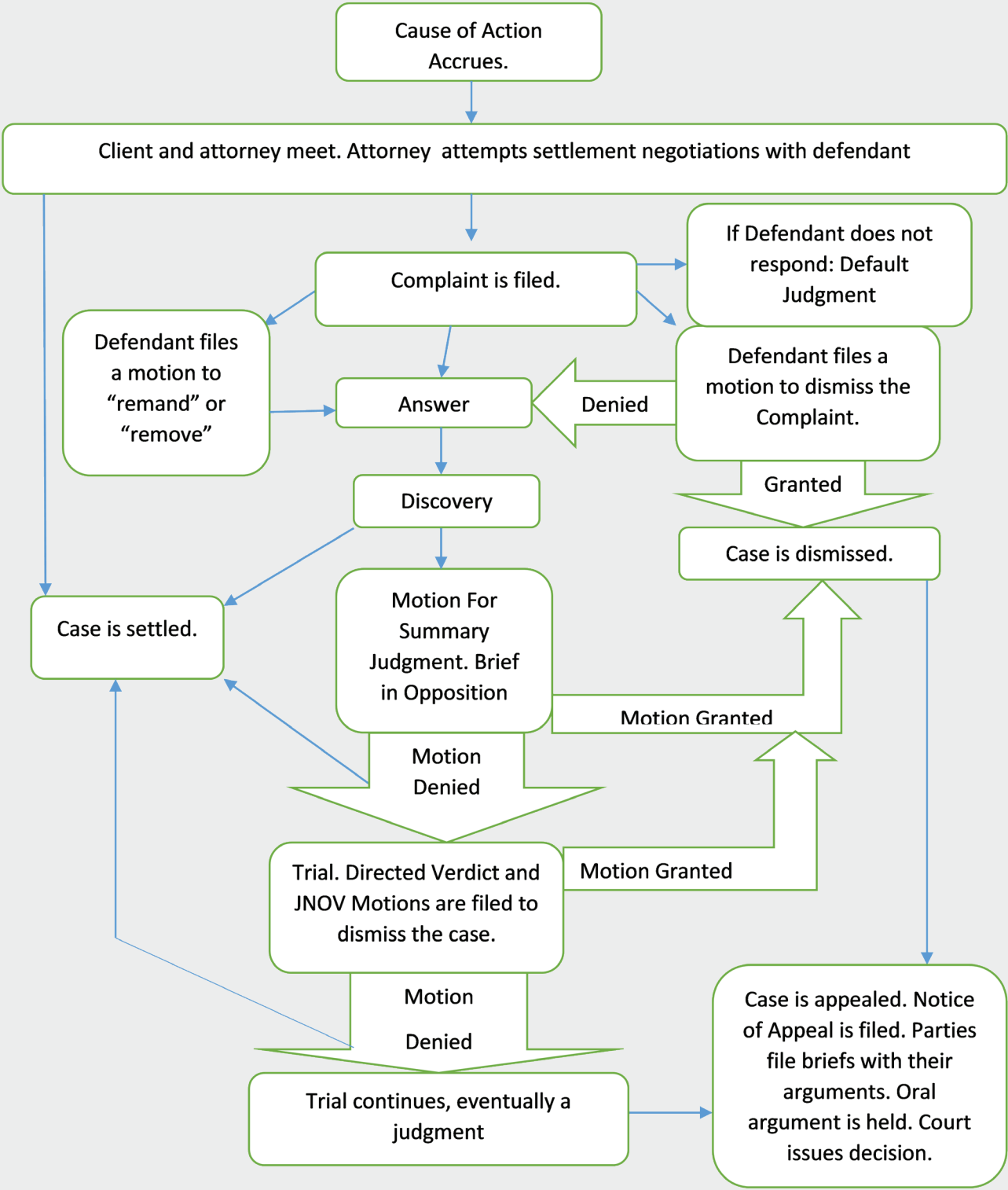
Advocate Tip!

The Rules of Civil Procedure, both Federal and Ohio, are written for attorneys. They are thus cumbersome and confusing for many non-attorneys (and for lawyers too!). It can be helpful to see a bigger picture and potential timeline, which the graphic on the next page provides.

However, it is critical to remember that there is no straightforward/standard lawsuit. The tools below represent frameworks within which attorneys for both sides engage in motion practice designed to disrupt the other party’s objectives. For example, a defendant’s attorney typically files numerous motions to increase the workload necessary for the plaintiff’s attorney to get the case past motions to dismiss or motions for summary judgment and get to trial. To that end, no lawsuit is predictable.

D. Filing Deadlines

Filing	Timeline in Federal Court	Timeline in Ohio
Complaint	Before expiration of Statute of limitations, specific to claim.	Before expiration of Statute of limitations, specific to claim.
Answer/ Motion to Dismiss	21 days after receiving Complaint. F.R.C.P 12(a)(1) (A)	28 days after receiving Complaint. Ohio R. Civ. P. 12(a)(1)
Initial Discovery	14 days after the court holds a scheduling conference. The court is required to hold this conference no later than 90 days after the Defendant receives the Complaint, or 60 days after the defendant Answers. F.R.C.P. 12(a)(1)(C)	N/A
Written Discovery Requests	Anytime after the Answer. Usually after parties receive initial discovery responses. See F.R.C.P. 33	Any time after the party receives the Complaint. Ohio R. Civ. P. 33(A)(2)
Written Discovery Responses	30 days. F.R.C.P. 33(b)	28 days. Ohio R. Civ. P. 33(A)(3)
Depositions	As set by the court at its scheduling conference. But proper notice must be given. See F.R.C.P. 30	As set by the court at its scheduling conference. But reasonable notice must be given. Ohio R. Civ. P. 30.
Summary Judgment	No later than 30 days after close of discovery (or as set by court order). F.R.C.P. 56	For plaintiff: at any time after the Answer. For Defendant: at any time. For both parties: once matter is set for trial, you need permission from the court. Ohio Civ. P. 56
Appeal	30 days after judgment. Fed. R. App. P. 3	30 days after judgment. Ohio R. App. P. 3



Advocate Tip!

Beware the Words “Brief” and “Motion”

The Rules of Civil Procedure use deceiving terms to explain filing requirements, and this can cause misunderstandings between attorneys and clients – particularly in cases where clients are paying attorneys by the hour. Specifically, most “motions” take the form of one or two simple pages of text. However, they are almost universally filed by a “Brief in Support of the Motion for [specific ask].” This brief can range in page numbers and time commitment. Briefs require legal research, writing, and editing before submission. Because they impact the outcome of the case, discussion and review of possible pitfalls usually require additional attorney time. For that reason, it is helpful to be aware that a filing, even a seemingly simple request to the court, may require significant labor and time.

This can be especially true when the attorney representing a survivor receives notice of a motion filed by the defendant – in these instances, they may have to quickly dive in to be able to produce the required responsive documents in a manner that properly represents their client’s interests.

hearing is scheduled for a different date).^{lxx} Courts nearly always grant requests for continuance, which contributes to the already very slow and unpredictable lawsuit process.

IV. DAMAGES

Put simply, damages are the money received from a lawsuit as a result of the Defendant's wrongful conduct. One popular strategy for explaining damages is to divide them into two main types: **compensatory damages** and **punitive damages**. This section also examines other special situations for damages.

A. Compensatory Damages

Compensatory damages compensate the Plaintiff for the Defendant's conduct.^{lxxi} The general idea is to make the Plaintiff “whole.”^{lxxii} As survivor advocates know, a jury verdict cannot reverse harm caused by the perpetrator, and this concept rings true across lawsuits for fraud, personal injury, and others. Simply, the court has few tools at its disposal to make the Plaintiff whole, and for that reason, it tasks juries (after they find the Defendant liable) with calculating the fiscal sum it feels will compensate the Plaintiff for the harm caused.^{lxxiii}

Note that simply adding up the dates in the chart above would give a misleading idea of how long a lawsuit takes. During the lawsuit plaintiffs, defendants, and courts spend a lot of time waiting while attorneys draft the required documents. Further, almost every filing requires or allows for a response. For motions intended to dismiss a case, respondents have 28 days in Ohio courts and 21 days in Federal courts to respond.^{lxxvii} For various other motions, each party gets fourteen days to respond.^{lxxviii}

While this text makes every effort to highlight the most important filings in civil cases, it by no means encompasses all possible motions. Additional motions may be filed to add more parties, delay certain court proceedings, strike language from opponents’ documents, request an in-person hearings to discuss disputes, allow additional written or oral discovery, attend court events by telephone, share costs of producing documents, make the opponents filings clearer, punish the other side's attorney for behavior incompatible with ethical or civil practice rules, and countless other actions. In addition, the court can order **Mediation**,^{lxxix} or an informal process whereby a neutral third party hears each side's arguments and makes a recommendation for settlement. The court also holds numerous conferences and hearings to facilitate scheduling, settle disputes around evidence and filings, and encourage settlement. Attorneys often also have scheduling conflicts or need more time to respond to filings and will in those situations request a **Continuance** (an extension in which a later deadline is set for a response brief or a

Economic damages^{lxxiv} are actual financial costs paid by the Plaintiff because of the Defendant’s conduct. Economic damages include costs for medical care (which can be demonstrated with invoices/bills), lost wages (which can be shown with comparisons to former wages before the Defendant's conduct), travel to and from criminal hearings or medical appointments, and other expenses. Non-economic damages are everything else^{lxxv} – often intangible and not resulting in a specific expenditure. For example, courts ask juries to consider “pain and suffering” and come up with a dollar amount to compensate the Plaintiff for such.

Since the advent of “tort reform,” non-economic damages in Ohio are limited to **\$250,000 or three times the amount of economic damages** (whichever is larger), but with a total maximum of \$350,000. Exceptions exist if there is a physical deformity or the Plaintiff is so harmed they can no longer care for themselves.^{lxxvi}

- **Example 1: \$50,000 in medical bills.**
 - o The most Plaintiff can receive in non-economic damages is \$250,000. This is because \$50,000 x 3 = \$150,000, which is less than the \$250,000 minimum.
- **Example 2: \$100,000 in lost wages and medical bills.**
 - o The maximum Plaintiff can receive in non-economic damages is \$300,000. This is because \$100,000 x 3 = \$300,000, which is over the \$250,000 minimum but under the \$350,000 cap.
- **Example 3: \$150,000 in economic damages (Plaintiff leaves college program as a result of Defendant’s actions, but still owes tuition).**
 - o The maximum Plaintiff can receive is \$350,000. Specifically, \$150,000 x 3 = \$450,000. However, this exceeds the \$350,000 cap, which then becomes the maximum award.

B. Punitive Damages

Unlike compensatory damages, which seek to make the Plaintiff “whole,” punitive damages are meant to punish the defendant and discourage similar behavior in the future.^{lxxvii} Thus, the calculation factors focus on the Defendant and their conduct, not the Plaintiff and their expenses and/or intangible harm.

1. Ohio Law

To receive punitive damages in an Ohio case, the Plaintiff must (1) receive a verdict for compensatory damages and then (2) prove that the Defendant acted with malice (intended to cause harmful consequences).^{lxxviii} In operation, this appears as two phases of a trial: first, the Plaintiff presents evidence on liability and compensatory damages. After a verdict for the Plaintiff awarding compensatory damages, the Plaintiff presents evidence of malice in pursuit of punitive damages.

Ohio’s statute governing punitive damages allocates limits based on the type of defendant and the type of conduct:

	Conduct (Plaintiff Must Prove)	Cap
Defendant is an Individual or “Small Employer”	Malice	The lesser of 2x the compensatory damage award or 10% of the employer’s or individual’s net worth when the harm took place, up to a maximum of \$350,000
Defendant is an Employer (not a Small Employer)	Malice	2x the compensatory damage award

Any defendant (typically an individual)	(1) the Defendant engaged in the harm underlying the lawsuit with either the “purposeful” or “knowingly” mental state described in O.C.R. section 2901.22, and (2) the harm underlying the lawsuit resulted in the Defendant pleading guilty to or being convicted of a felony criminal offense that had as an element either a mental state of “purposely,” “knowingly,” or both	No cap
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As a baseline, the punitive damage cap against business defendants is the compensatory damage award multiplied by two. If the Defendant is an individual or employer of less than 100 full-time employees (or a manufacturing employer with less than 500 full-time employees), the punitive damage cap is the lesser of the compensatory damage cap multiplied by two or ten percent of the Defendant’s net worth at the time the harm took place, up to a limit of \$350,000. However, if the individual Defendant engaged in the harmful conduct with a mental state of “knowingly” or “purposefully,” and was convicted of or pleaded guilty to a felony charge (with the same mental states) for the conduct underlying the civil suit, the punitive damage cap does not apply.

Note that for a Plaintiff’s claim to be exempt from the punitive damages cap, the Defendant has to already be convicted of the felony behind the lawsuit, and the felony cannot be related to negligence, recklessness, or strict liability. Instead, the crime must have been intentional. As such, statutory rape would not meet this definition, because the statutes involved do not require that the Defendant know the survivor is under the specified age. However, convictions for or guilty pleas to many O.R.C. Chapter 2907 offenses would align with the damage cap exclusion because they have such a proof requirement. The following examples can be illustrative:

	Text	Mental State Element	Impact on Punitive Damages
Before the damages phase, the Defendant was convicted of Section 2907.02(a) for the conduct underlying the lawsuit	(A)(1) No person shall engage in sexual conduct with another who is not the spouse of the offender or who is the spouse of the offender but is living separate and apart from the offender, when any of the following applies: (a) For the purpose of preventing resistance, the offender substantially impairs the other person's judgment or control by administering any drug, intoxicant, or controlled substance to the other person surreptitiously or by force, threat of force, or deception.	Intentional	Because the Defendant was convicted of this offense, which is statutorily intentional conduct, for the conduct underlying the lawsuit, the Plaintiff’s damage award is exempt from the punitive damage cap.

Before the damages phase, the Defendant was convicted of Section 2907.02(b) for the conduct underlying the lawsuit. Note that in this case, the Defendant did not know the survivor was less than thirteen years of age.	(b) The other person is less than thirteen years of age, whether or not the offender knows the age of the other person.	Strict Liability	Because the Defendant was convicted of an offense with a Strict Liability mental state, the punitive damage cap applies to Plaintiff's damage award.
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• **Example:**

Jury awards Plaintiff \$100,000 to compensate for lost wages and medical bills (economic damages). The jury also calculates \$500,000 in pain and suffering (non-economic damages). However, because \$500,000 is more than three times the amount of her “economic losses” (3 x \$100,000), the court will reduce the pain and suffering (non-economic damages) award to \$300,000 (3 x \$100,000). Her total compensatory damages will be reduced to a total of \$400,000 total (pain and suffering **plus** economic losses). Let us also assume the plaintiff received one million dollars (\$1,000,000) in punitive damages after finding the Defendant’s conduct was malicious. If the Defendant is an individual or a small business this will be reduced to \$350,000. That is because even though double her compensatory damages is \$800,000, the total maximum the plaintiff would ever be able to recover as punitive damages from an individual or small business is \$350,000 amount. Thus, with the two caps (the non-economic damage cap and the punitive damage cap on individuals not convicted of a felony with the required mindset for the same conduct) in place the most the plaintiff will recover is \$750,000.

Tort Reform

In the early 2000s, state legislatures began a process known as “tort reform,” passing limits on jury awards. This was purportedly done to protect business and their ability to maintain employee salaries after a lawsuit, among other reasons. The result was not just statutory, it resulted in a large cultural shift in the amounts juries believe are fair for compensatory and punitive damages. As a result, lawsuit awards are generally far lower than they were prior to tort reform. Survivors’ attorneys will discuss prospective damage awards throughout the many phases of a lawsuit.

2. Federal Law

As in Ohio cases, Federal punitive damage awards require the Plaintiff to (1) receive a verdict for compensatory damages and then (2) prove that the Defendant acted with malice (intended to cause harmful consequences).^{lxxxii} In the Federal legal system, punitive damage caps vary by the type of claims included in the lawsuit. Because tort suits are matters of state law,^{lxxxiii} this text will focus, for illustration of the complex variances of Federal punitive damages, on two case types often brought in Federal courts on behalf of sexual violence survivors. Specifically, if sexual violence impacted the work or school environment, survivors may be able to bring claims under Title VII^{lxxxiv} or Title IX^{lxxxv} of the Civil Rights Act of 1964. Title VII focuses on workplace sexual harassment (including sexual violence), and Title IX focuses on federally-funded recipients of education funding, each requiring their respective focus institutions to prevent and address sexual violence. The discussion of Title VII and Title IX below demonstrate that punitive damages available in a Federal lawsuit is largely dependent on who the Defendant is – the Defendant’s entity type will determine which type of lawsuit is available, and the lawsuit type determines the amount of punitive damages available.

One nuance of federal damages that a survivor’s attorney should discuss with them is the relationship between collectability and the “malice” required for punitive damage awards. For example, an employer may be added to a lawsuit for failure to prevent and respond appropriately to an individual employee’s act of sexual harassment. Especially in the case of a larger business, the employer will nearly always have

more collectible financial assets than the individual defendant perpetrator. This will be beneficial for compensatory damages. However, it can complicate punitive damages because it is often difficult to prove that an employer/business defendant acted with actual malice. See the illustration below:

Example: Paris works for Simple Widgets, LLC. Paris sexually assaults Joe at work. Joe files a lawsuit against Paris and includes Simple Widgets as a third-party Defendant. The jury finds in favor of Joe against both Paris and Simple Widgets, and the Court orders both Defendants to pay Joe the respective amount of compensatory damages awarded by the jury. While the jury found that Paris acted with actual malice, it did not find that Simple Widgets acted with actual malice. Thus, the jury awarded Joe punitive damages to be paid by Paris. Though Paris is not collectible for the punitive damages, Simple Widgets cannot be compelled to pay punitive damages.

Party	Liable for Violating Title VII	Acted with Actual Malice	Compensatory Damages?	Punitive Damages?
Paris	X	X	X	X
Simple Widgets	X		X	

C. Title VII (Employment)

Damages in employment sexual harassment (including sexual violence) lawsuits are largely determined by wages. A jury finding in favor of a Title VII sexual harassment Plaintiff may award back pay (lost wages from termination or demotion between the date of the adverse employment action and the date of the verdict) and front pay (when reinstatement is not possible, the Plaintiff may be awarded a sum reflective of the wages they would be earning had the discriminatory conduct not occurred). The jury may also award compensatory damages for medical expenses, job search expenses, other out of pocket expenses and emotional distress. Further, if the Plaintiff can prove the employer’s conduct was malicious or amounted to reckless indifference,^{lxxxvii} the jury may also award punitive damages.

While there is no cap on front or back pay amounts (and these do not contribute to the cap detailed below), the combined total of compensatory damages and punitive damages cannot exceed a certain dollar amount. The caps are based on the Defendant’s number of employees:

lxxxviii

Number of Employees	Total Amount of Damages Available
Less than 14	Title VII does not apply
14-100	\$50,000
101-200	\$100,000
201-500	\$200,000
More than 500	\$300,000

D. Title IX^{lxxxix} (Education)

Congress enacted Title IX to prohibit sex discrimination in educational institutions. Title IX imposes certain obligations on educational institutions that receive government funding or tax-exempt status to meet certain obligations in preventing discrimination, and Courts have ruled that sexual violence and harassment are actionable forms of discrimination under Title IX.

Initially, Congress did not draft explicit provisions into Title IX allowing individuals to sue, instead focusing

on administrative enforcement through the United States Department of Education.^{xc} Over time, however, Federal courts established a right to file individual lawsuits under Title IX.^{xcⁱ} As such, there is no code provision capping Title IX damages.^{xcⁱⁱ} Thus, the full remedy of compensatory damages are available.^{xcⁱⁱⁱ} However, the Supreme Court has yet to issue a ruling on the availability of punitive damages in Title IX cases and some federal circuits have ruled that punitive damages are not available to Title IX plaintiffs.^{xc^{iv}} In summary, the complexities of damage awards are significant. A survivor’s attorney can provide specific information about the claims involved, the limits on those claims, and other variances that may impact damage award outcomes (should the jury find in the survivor’s favor).

V. APPEALS

The process above is lengthy, often taking several years, and the conclusion of a civil trial can cause a momentary feeling of relief. However, the losing party often files an appeal to a reviewing court, commencing a writing and filling-heavy process that can add many more years of uncertainty. Survivors will likely notice a distinct shift in experience between the pre-trial process, actual trial, and appeal stage. Where pre-trial focuses on discovering and framing facts and the trial shifts toward the neutral jury deciding which version of facts they believe, the appeal process focuses on questions of law and adherence to various procedural rules.^{xc^v} For example, appeals may argue that a judge erroneously admitted certain pieces of evidence, or that the judge’s conduct in the court room prejudiced the jury against the losing party.^{xc^{vi}} In rare cases, appellants may argue an error in fact finding, but the standard for such an argument is extremely high and thus appeals on these grounds are rarely successful.^{xc^{vii}} Because the appeal process focuses so heavily on questions of law, the survivor has much less involvement than in previous phases.

If a party chooses to appeal, they must wait until the trial court has produced a final judgment (a final order leaving nothing for the trial court left to decide). To proceed on appeal, a party must first file a **Notice of Appeal** in the court that tried the case.^{xc^{viii}} The appealing party must then file a brief describing to the appellate court the trial court’s error.^{xc^{ix}}

The party filing the appeal is called the **Appellant**. The other party is called the **Appellee**. The Appellant files their brief first, the Appellee responds. After the response, the Appellant is afforded one more reply brief.^c After these three filings the court issues a date for **Oral Argument**.^c This is an opportunity for the parties to argue before a panel of three new judges, and for the judges to ask questions of the parties. Attorneys engage in the argument, unless a party is representing them self. After review, the panel of judges issues a decision which states a reasoning for either granting or denying the appeal. If the appeal is granted, the panel **Reverses** the trial court’s decision and **Remands** it to the lower court to have a new trial or otherwise decide the specific issues instructed by the panel.^{cⁱⁱ} If the appeal is denied, the Appellant has one last chance to file an appeal to the **Court of Last Resort**. There is one last chance, a party can file a petition for the court of last resort (either the United States or Ohio Supreme Court). The State and Federal Supreme Court have discretion on which cases to accept for review. Because of the high rate of appeals submitted and the limited amount of time per term, it is generally unlikely the Court of Last Resort will accept cases without a novel issue of law.^{cⁱⁱⁱ}

Term Switch

Unfortunately, once the appeal is filed, courts and their personnel refer to parties not as Plaintiff and Defendant, but as Appellant (the party filing the appeal) and Appellee (the party who won at trial and is fighting the appeal effort). This can be confusing in many ways (the similarity of the term Appellee and Appellant, the abrupt switch after years of referring to parties as Plaintiff and Defendant, etc.), and it is helpful to identify that a survivor involved in an appeal can anticipate shifts in terminology on court document captions, in the text, and in discussion involving the parties.

Ohio State Appellate Court

Court of Appeal	Counties Served/ County Common Pleas Courts Reviewed	Seat
First District	Hamilton	230 East Ninth St. 12th Floor Cincinnati, Ohio 45202 Phone: 513.946.3500
Second District	Champaign, Clark, Darke, Greene, Miami and Montgomery	41 N. Perry, P.O. Box 972 Dayton, Ohio 45422 Phone: 937.225.4464
Third District	Allen, Auglaize, Crawford, Defiance, Hancock, Hardin, Henry, Logan, Marion, Mercer, Paulding, Putnam, Seneca, Shelby, Union, Van Wert and Wyandot	204 N. Main Street Lima, Ohio 45801 Ph.: 419.223.1861
Fourth District	Adams, Athens, Gallia, Highland, Hocking, Jackson, Lawrence, Meigs, Pickaway, Pike, Ross, Scioto, Vinton, and Washington	14 South Paint Street, Suite 38 Chillicothe, Ohio 45601 P.O. Box 790 Circleville, Ohio 43113 Ph.: 740.420.5110
Fifth District	Ashland, Coshocton, Delaware, Fairfield, Guernsey, Holmes, Knox, Licking, Morgan, Morrow, Muskingum, Perry, Richland, Stark and Tuscarawas	110 Central Plaza S. #320 Canton, Ohio 44702-1411 Ph.: 330.451.7765
Sixth District	Erie, Fulton, Huron, Lucas, Ottawa, Sandusky, Williams, and Wood	One Constitution Avenue Toledo, Ohio 43604 Ph.: 419.213.4755
Seventh District	Belmont, Carroll, Columbiana, Harrison, Jefferson, Mahoning, Monroe and Noble	131 West Federal Street Youngstown, Ohio 44503 Ph.: 330.740.2180
Eight District	Cuyahoga	Cuyahoga County Courthouse 1 Lakeside Avenue #202 Cleveland, Ohio 44113-1085 Ph.: 216.443.6350
Ninth District	Lorain, Medina, Summit and Wayne	Main Place 121 South Main Street, #200 Akron, Ohio 44308 Ph.: 330.643.2250
Tenth District	Franklin	373 South High Street 24th Floor Columbus, Ohio 43215-4578 Ph.: 614.525.3580

Federal Appellate Court

Federal Circuit	Reviews Decisions By	Address
6th Circuit	United States District Court for the Northern District of Ohio United States District Court for the Southern District of Ohio (as well as Federal District Courts located in Michigan, Kentucky, and Tennessee)	Clerk of Court 540 Potter Stewart U.S. Courthouse 100 E. Fifth Street Cincinnati, Ohio 45202-3988 Ph: 513.564.7000

VI. WHEN SURVIVORS BECOME DEFENDANTS

Survivors who have filed civil lawsuits, participated in criminal prosecutions, or otherwise engaged in administrative complaint processes may find themselves abruptly in the position of Defendant. This typically happens in two forms – a **Counterclaim** or independent **Retaliatory Litigation**.

A. Counterclaims

Defendants may include in their Answer a **Counterclaim**^{civ} against the survivor. Pursuant to Ohio Civil Rule 13^{cv} and Federal Civil Rule 13,^{cvi} a Defendant in a lawsuit may include in their Answer claims against the Plaintiff arising from the same facts underlying the original lawsuit.^{cvi} Typical Defendant Counterclaims assert that the Defendant suffered damages as a result of the Plaintiff’s actions, and can seek to minimize economic recovery by the original Plaintiff, or seek damages over and above those sought in the original Complaint.^{cvi} Attorneys representing survivors should anticipate the likelihood of a countercomplaint in a given case and discuss the prospect before filing the initial Complaint.^{cix}

B. Independent Retaliatory Litigation

Federal and state courts generally protect persons reporting violations of the Ohio Revised Code to law enforcement and those participating in investigations or prosecutions, as well as administrative and institutional processes. Courts have explained that without this **Privilege**, crime victims and witnesses would too easily be intimidated out of reporting crimes or conduct code violations.^{cx} That notwithstanding, some perpetrators file retaliatory lawsuits after finding out that a survivor reported the crime, sought workplace accommodations, initiated a Title IX process, sought medical care, or otherwise acted in a way that could reveal their criminal conduct to others.^{cx}

If a survivor is served with a Complaint, it is imperative that they seek an attorney as soon as possible. Depending on the specific facts of the case, many defenses will likely be available. The

survivor must file an Answer and defend against the lawsuit through Motion Practice and Discovery, ultimately until the Court dismisses the case. This can be very expensive, as attorneys representing a Defendant do not have access to damage awards at the conclusion of the case for payment and therefore typically charge an hourly rate for their time worked.^{cxii}

C. Frequent Retaliatory Claims and Counterclaims

1. Defamation

Defamation is among the most common counterclaims and forms the basis of many retaliatory lawsuits against sexual violence survivors.^{cxiii} Defamation is an intentional tort,^{cxiv} the elements of which vary across state court systems. In Ohio, the elements of a defamation claim are as follows:^{cxv}

- The Defendant made a false statement
- About the Plaintiff
- That was Published (communicated in conversation or in writing) to a third party
- That was not protected by Privilege (a legal protection for specific activities needed to avoid a chilling effect on those activities)
- That harmed the Plaintiff’s reputation

Ohio courts have long considered and elaborated on each element of Defamation, providing significant defenses applicable to many sexual violence-related cases. For example, many perpetrators cannot prove the Publication element because they allege that the publication took place when the survivor reported the sexual assault to law enforcement. This fails because reporting acts of sexual violence to certain entities (law enforcement, schools, administrative agencies) is protected by Privilege. Thus, the activity was privilege and no publication took place.

Further, many courts look unfavorably upon Counterclaims of defamation.^{cxvi} Specifically, it can appear as a tactic to chill future disclosures by other persons affected.^{cxvii} This is particularly relevant in workplace or school cases, in which future students or employees may fear engaging in the Privileged act of filing suit because they may not be able to pay for or want to emotionally experience defending against defamation claims.

2. Tortious Interference

Depending on the facts, perpetrators may include a **Tortious Interference with a Contract** claim. A Tortious Interference Claim alleges that the survivor’s conduct caused them to lose some kind of business relationship or advantage.^{cxviii} Typically, this involves the perpetrator claiming that the survivor’s report of sexual violence, act of filing a lawsuit, or other related activity directly caused the perpetrator to lose a job, business, or employment prospects or contracts.^{cxix} To prevail, the perpetrator must prove the survivor engaged in “wrongful” conduct,^{cxx} and Ohio courts have consistently declined to classify reporting or discussing sexual violence as “wrongful” (absent certain conditions).

3. Malicious Prosecution/Abuse of Process

A perpetrator may allege that the lawsuit itself is malicious in nature. To prevail on a malicious prosecution claim, the perpetrator must prove that the survivor:

- Brought a prior action (lawsuit, academic conduct code process, workplace resolution process, etc.) with malice
- That lacked probable cause
- And was dismissed in favor of the perpetrator
- Resulting in seizure of the perpetrator’s person or property during the lawsuit^{cxxi}

In a case of sexual violence, if a survivor claims sexual violence through a formal process and the case is dismissed before a judgment is issued (either before or during the hearing), a perpetrator can bring a malicious prosecution lawsuit against the survivor.

D. Intentional Physical Torts

Less common are attempts to incorporate a counterclaim for intentional physical torts. For example, if a perpetrator raises consent as a defense, they may include as a Counterclaim that the survivor engaged in harmful conduct that constituted the torts of assault^{cxxii} (create reasonable apprehension of imminent and harmful conduct) and battery (contact by one person that physically harms another person).^{cxxiii}

Advocate Takeaway

Every lawsuit is unique. A solid awareness of the rules and laws involved will be helpful in an advocate's work supporting survivors, but it is critical to remember that there is no straight forward path to resolution. Lawsuits involve two or more sets of attorneys opposing the others’ objectives in pursuit of their client’s goals. By its very nature, litigation is adversarial and can present survivors with frequent re-traumatization. It is critical to remember that attorneys and advocates play distinct roles. An advocate provides information and support to survivors throughout this process, while an attorney engages in legal representation and case management.

A note on the following legal systems discussed:

Unlike criminal systems, which consistently derive from the Ohio Revised Code, substantive civil laws protecting survivors come from a variety of sources. Some laws were enacted at the Federal level, others by the Ohio Legislature and still others by local counties and municipalities. In many cases, states and local governments follow Federal trends. For example, you will see in the Housing and Employment chapters that the Federal government enacted civil rights legislation that was later replicated by Ohio Revised Code Chapter 4112, with local ordinances in some Ohio communities echoing the same.

CHAPTER 4:

Housing Matters



Housing Matters

As an integral part of safety planning, survivors will often discuss the stability of their housing, and some survivors may reach out for community-based advocacy amid a housing issue related to their sexual assault. Survivors may have been sexually assaulted by a household member, neighbor, or property owner and need support breaking a lease.^{cxxiv} Some survivors may face retaliatory evictions if law enforcement came to the property to investigate a sexual assault or press coverage of the crime brought attention to the property.^{cxxv} Retaliatory evictions may also occur if the survivor refused to engage in sexual activity with the property owner.^{cxxvi} Other survivors may need address confidentiality, reasonable housing accommodations, or financial support with moving expenses.^{cxxvii} Ultimately, survivors may seek housing law protections to stay in the home or to leave the home.

For survivors seeking to stay in, leave, or attain accommodations in Ohio, Ohio Revised Code Chapter 5321^{cxxviii} is the primary source of state law impacting their options. Other provisions of Ohio law^{cxxix} may apply, as well as the Federal Fair Housing Act^{cxxx} and the Violence Against Women Act.^{cxxxi} Individual counties or municipalities may have enacted more robust survivor housing protections, while at the same time enforcing Criminal Activity Nuisance Ordinances.^{cxxxii} Criminal Activity Nuisance Ordinances penalize property owners for criminal acts or behaviors otherwise specified in the ordinance, often leading to survivor evictions in the aftermath of sexual violence.^{cxxxiii}

Variances in each of the above-listed sources of law can make for a complicated analysis to determine which laws apply to a specific case. For example, some laws only apply to specific structure/property types, while others only apply to properties affiliated with Federal funding. Other laws only apply to survivors of specified crimes, certain laws do not apply to student housing, and some only apply in specific geographic locations. To that end, attorneys representing survivors will ask numerous questions to ascertain which laws apply to the case. The summaries below provide a non-exhaustive snapshot of housing laws that may impact Ohio survivors.

I. OHIO LANDLORD/TENANT ACT, OHIO REVISED CODE CHAPTER 5321

Ohio Revised Code Chapter 5321 Landlords and Tenants establishes laws applying to the rental of residential property in Ohio. Ohio Revised Code Chapter 5321 **does not include protections specific to survivors.** Thus, survivors may avail themselves of applicable legal protections available to all Ohio renters, should the protections apply to their specific facts.

A. Chapter 5321 Definitions

Section	Term	Definition
ORC 5321.01(A)	Tenant	“a person entitled under a rental agreement to the use and occupancy of residential premises to the exclusion of others”
ORC 5321.01(B)	Landlord	“the owner, lessor, or sublessor of residential premises, the agent of the owner, lessor, or sublessor, or any person authorized by the owner, lessor, or sublessor to manage the premises or to receive rent from a tenant under a rental agreement”

ORC 5321.01(D)	Rental Agreement	“any agreement or lease, written or oral, which establishes or modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy of residential premises by one of the parties”
ORC 5321.01(E)	Security Deposit	“any deposit of money or property to secure performance by the tenant under the rental agreement”
ORC 5321.01(F)	Dwelling Unit	“a structure or the part of a structure the structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.”
ORC 5321.01(H)	Student Tenant	“any agreement or lease, written or oral, which establishes or modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy of residential premises by one of the parties”
ORC 5321.01(C)	Residential Premises*	“a dwelling unit for residential use and occupancy and the structure of which it is a part, the facilities and appurtenances in it, and the grounds, areas, and facilities for the use of tenants generally or the use of which is promised the tenant”

*Excludes: Occupancy for government or non-profit-provided shelter for domestic violence survivors, homeless persons, or juvenile runaways; rehabilitation services (licensed, registered, certified or government approved) for mentally ill persons, persons with developmental disabilities, persons convicted of criminal offenses, or persons suffering from substance abuse; occupancy by an owner of a condominium unit; specific properties involved in farming and crop production by laborers living on farm property; boarding schools where room and board is part of tuition cost; hospitals and similar institutions; places of incarceration or correction; tourist homes, hotels, motels, recreational vehicle parks, combined park camps, temporary park camps, and other similar facilities designed for temporary/transient occupancy; orphanages and other similar facilities.

B. Landlord and Tenant Duties Under ORC Chapter 5321

Landlord Statutory Obligations Section 5321.04	Tenant Statutory Obligations Section 5321.05
Comply with the requirements of all applicable building, housing, health and safety codes that materially affect health and safety;	Keep that part of the premises that he occupies and uses safe and sanitary;

Make all repairs and do whatever is reasonably necessary to put and keep premises in a fit and habitable condition;	Dispose of all rubbish, garbage, and other waste in a clean, safe, and sanitary manner;
Keep all common areas of the premises in a safe and sanitary condition;	Keep all plumbing fixtures in the dwelling unit or used by him as clean as their condition permits;
Maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, and air conditioning fixtures and appliances, and elevators, supplied or required to be supplied by the landlord;	Use and operate all electrical and plumbing fixtures properly;
When the landlord is a party to any rental agreements that cover four or more dwelling units in the same structure, provide and maintain appropriate receptacles for the removal of ashes, garbage, rubbish and other waste incidental to the occupancy of a dwelling unit, and arrange for their removal;	Comply with the requirements imposed on tenants by all applicable state and local housing, health, and safety codes;
Not abuse the tenant's right to access;	Comply with the requirements imposed on tenants by all applicable state and local housing, health, and safety codes;
Except in the case of emergency or if it is impracticable to do so, give the tenant reasonable notice of the landlord's intent to enter or enter only at reasonable times. Twenty-four hours is presumed to be a reasonable notice in the absence of evidence to the contrary.	Maintain in good working order and condition any range, refrigerator, washer, dryer, dishwasher, or other appliances supplied by the landlord and required to be maintained by the tenant under the terms and conditions of a written rental agreement;
Promptly commence action to remove tenant if landlord has actual knowledge or reasonable belief that the tenant, household member, or tenant's guest has engaged in specified criminal code violations on the premises.	Conduct himself and require other persons on the premises with his consent to conduct themselves in a manner that will not disturb his neighbors' peaceful enjoyment of the premises;
	Conduct himself and require persons in his household and persons on the premises with his consent to conduct themselves, in connection with the premises so as not to violate the prohibitions contained in Chapters 2925. and 3719. of the Revised Code, or in municipal ordinances that are substantially similar to any section in either of those chapters, which relate to controlled substances.
	The tenant shall not unreasonably withhold consent for the landlord to enter into the dwelling unit in order to inspect the premises, make ordinary, necessary, or agreed repairs, decorations, alterations, or improvements, deliver parcels that are too large for the tenant's mail facilities, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen, or contractors.

C. Prohibition Against Landlord Retaliation

Per Section 5321.02, Ohio Landlords are legally barred from retaliating by (1) raising rent, (2) decreasing services due to the tenant, or (3) threatening to or actually bringing about an eviction^{cxxxiv} **because** the Tenant engaged in any of the following:

- Complains to a governmental authority about a building, safety, health, or housing code violation that materially impacts health and safety;
- Complains to the Landlord about a violation of one of the Landlord's above-listed duties.^{cxxxv}
- Joins with other Tenants for the purposes of collectively negotiating or dealing with the Landlord about conditions of a rental agreement.

If the Landlord engages in one of the above retaliatory actions, the Tenant may use Landlord Retaliation as a defense to an eviction action, or on this basis seek to recover possession of the premises or terminate the lease agreement.

What Kind of Retaliation, Specifically?

Like many terms throughout this text, Retaliation has a common meaning in non-legal conversation, and several distinct meanings within various areas of civil and criminal law. It is important to remember the distinct elements required for Retaliation to be an available ground for a Tenant's action to recover property or break a lease, or as a defense for an eviction action.

First: The Tenant must have (1) complained to a government authority about code violations materially impacting health/safety, (2) complained to the Landlord about a 5321.04 obligation violation, or (3) joined with other tenants to collectively negotiate or deal with the landlord on a condition of a lease.

Second: The Landlord must have (1) raised the rent **because of** the Tenant's action, (2) decreased services due to the Tenant **because of** the Tenant's action, or (3) bring an eviction action **because of** the Tenant's action.

The causal relationship is critical in this context, as the statute specifically states that a Landlord may still engage in lawful activities if for another reason. For example, a Landlord may raise rent after making improvements to the property or because the cost of operating the property has correspondingly

D. Eviction Actions

Per ORC Section 5321.03, Ohio Landlords are permitted to pursue an “action for possession” if any of the following apply:

- The Tenant is in default for rent payment;
- Tenant (or other household member or Tenant guest) actions caused property damage (including if the Tenant caused the damage and then complained of the condition to a government authority or the Landlord);
- The Landlord must, to comply with housing, building, health, or safety codes, alter the premises and to do so there can be no Tenant;
- The Tenant is a registered sex offender barred from living within specified range of a school or preschool and the property is located within 1,000 feet of a school or preschool;
- The Tenant is “holding over” the lease term (inhabiting the property after the lease end date);

A. Process

Under Ohio Law, a Landlord cannot simply change the locks on a Tenant, remove their property, or otherwise bar them from inhabiting the premises. Instead, Ohio Landlords must follow a statutory process to bring an eviction action. This process replicates some aspects of the civil litigation process outlined in Chapter III. Specifically, Landlords must file an eviction action with a Complaint. Tenants have the opportunity to file an Answer (though they may also provide defenses at the hearing), relief can take the form of damages, and the Tenant may file a counterclaim for damages.^{cxxxvi} Note that Landlords may file two actions, one to remove the Tenant from the rental property and a second to seek compensatory damages. The table below provides a general overview of an eviction proceeding under Ohio Law, though it is critical to note that each county may have variances in practice.

Step	Landlord Action
1	<p>(A) Cases of non-payment of rent or where Landlord has knowledge of a search warrant against the Tenant for illegal drug activity: Landlord must serve the Tenant with a three-day notice to vacate that states the reason for the demand to vacate^{cxxxvii} and notifies the tenant that they are being asked to leave the premises and if they do not leave, an eviction may be brought against them. The notice must include that if the Tenant is in doubt about their legal rights and obligations, it is recommended that they seek legal assistance.^{cxxxviii}</p> <p>Note: The three-day period does not include the date on which the notice is provided or any Saturday, Sunday, or holiday that comes between the date of notice and the deadline.</p> <p>For example: December 25 is on a Monday. On Friday, December 22, Landlord provides Tenant with the Demand to Vacate. The three-day period in this case ends on December 28. (December 22: Date of Service, December 23: Saturday, December 24: Sunday, December 25 Holiday, December 26: Day 1, December 27: Day 2, December 28: Day 3).</p> <p>(B) All other cases: The landlord must give the Tenant a 30-day notice,^{cxxxix} which does include weekends and holidays. For example: The Landlord files the notice on June 1. The 30-day period, in this case, ends on July 1.</p>
2	<p>After Day 3 or Day 30, whichever applies, the Landlord may file a Complaint^{cxl} in the local Municipal Court (or Housing Court if in one of the three Ohio locations with such) listing a First Cause of Action or a First and Second Cause of Action.</p> <p>The First Cause of Action is an action to physically remove the Tenant from the property. A Second Cause of Action, if filed/requested, will claim that the Tenant owes the Landlord damages, which could include back rent, unpaid utilities, or the cost of repairing property damage.^{cxli}</p>
3	<p>At the time the Landlord files the eviction case complaint, the Court schedules a hearing for the First Cause of Action to take place approximately two weeks after the filing date.^{cxlii}</p>
4	<p>Any Complaint to be served must be accompanied by a Summons stating the following: “A complaint to evict you has been filed with this court. No person shall be evicted unless the person’s right to possession has ended and no person shall be evicted in retaliation for the exercise of the person’s lawful rights. If you are depositing rent with the clerk of this court, you shall continue to deposit such rent until the time of the court hearing. The failure to continue to deposit such rent may result in your eviction. You may request a trial by jury. You have the right to seek legal assistance. If you cannot afford a lawyer, you may contact your local legal aid or legal service office. If none is available, you may contact your local bar association.”^{cxliii}</p> <p>The Clerk of the Court where the eviction action is filed will mail the Summons, Complaint, and other service documents to the Tenant’s address.^{cxliv} Additionally, the Court will deliver a copy of these documents to a bailiff, county sheriff’s department, or other server of process. That entity</p>

	must deliver the service documents by either handing them to the Tenant in person, leaving with a different person “of suitable age” at the property if the Tenant cannot be found, or by posting a copy on a conspicuous place on the property if the Tenant cannot be found and no other person of suitable age is there to receive service on the Tenant’s behalf. ^{cxlv}
5	The Tenant may request a continuance to find an attorney or for another reason. The court is statutorily prohibited from granting a continuance for a period longer than eight days, unless the Landlord consents to a longer continuance. ^{cxlvi}
6	The Tenant may file an Answer or wait to present defenses at the First Cause of Action hearing. ^{cxlvii}
7	<p>At the first hearing, the Court determines the Landlord’s right to regain control of the premises.^{cxlviii} If the Tenant does not show up, the Court will find in the Landlord’s favor as a default judgement.^{cxlix}</p> <p>If the Tenant does come to the First Cause of Action hearing and the Court finds in the Landlord’s favor (that the Landlord does have legal control of the premises), the Landlord may ask for a Writ of Restitution, which authorizes the Court to send a bailiff to the property to remove the Tenant and their belongings from the unit. The bailiff witnesses the change of locks.</p> <p>NOTE: The Landlord may not retain the Tenant’s belongings as rent, and some courts require Landlords to keep Tenant property stored safely for a specified period of time after Tenant removal.</p>
8	If the Landlord wins the First Cause of Action hearing and requested the Second Cause of Action, the Court will proceed with the Second Cause of Action. This process will largely take the form of civil litigation for damages, commencing with a 28-day deadline for the Tenant/Defendant to file a response (from the date the Complaint was filed unless the Court grants a continuance). ^{cl}

B. Variations for Student Housing

Per Ohio’s Landlord and Tenant Act, rental agreements between an Ohio college or university and a student are not subject to Ohio’s statutory eviction process.^{cli} Instead, the following apply:

- Written rental agreements for student housing must specify (1) what conditions or actions will lead to lease termination and (2) the school’s notice and hearing procedure for ending a rental agreement;
- If the school determines before the end of the lease term that the student violated either a term of the rental agreement or the student conduct code, the school must provide the student with a written notice including a right to a hearing;
- Any hearing will follow the school’s procedures for disciplinary hearings;
- If the student is found to have violated the rental agreement, conduct code, or other applicable school policy, the school may order the student to vacate.^{clii}

II. FEDERAL AND OHIO FAIR HOUSING ACTS

In 1968, Congress first passed the Fair Housing Act,^{cliii} which prohibits housing discrimination based on race, color, religion, national origin, familial status, disability, and sex (which applies to sexual harassment/discrimination).^{cliv} In decades that followed, states and local governments passed their own fair housing laws. Thus, some survivors may have more fair housing protections than others based on the county or municipality they live in.

A. Federal

The Fair Housing Act applies to private and government subsidized housing, with a few exceptions based on housing discrimination based on sex. As of 2021, the United States Department of Housing and Urban on the number of properties owned by the Landlord.^{clv} As noted above, the Fair Housing Act prohibits Development incorporated sexual orientation and gender identity into the “sex” class when enforcing the Fair Housing Act.^{clvi}

Federal Fair Housing Act	
Applies to	FHA applies to most properties, with exceptions for owner-occupied properties with no more than four units, ^{clvii} single-family homes owned by a Landlord with three or less rental properties, ^{clviii} religious organizations, ^{clix} and private clubs. ^{clx}
Actions Prohibited	<div>Property owners must not, on the basis of sex, race, color, religion, national origin, familial status, or disability:</div> <div><ul style="list-style-type: none">Refuse to rent (or sell) housing;Refuse to negotiate to rent (or sell) housing;Make housing unavailable;Set different terms, conditions, or privileges for rental (or sale) of a dwelling;Provide different housing services or facilities;Falsely deny that housing is available for inspection, sale, or rental;For profit, persuade, or try to persuade homeowners to sell or rent dwellings by suggesting that people of a protected class are about to move into the neighborhood; orDeny a person access to, membership or participation in, any organization, facility, or service related to the rental (or sale) of dwellings, or discriminate against any person in the terms or conditions of such access, membership or participation</div> <div>*Additional prohibitions for mortgage lending, advertising, and other actions.^{clxi}</div>
Theories of Discrimination	<div>Many civil rights laws, including Title IX and Title VII, state that entities cannot discriminate against persons based on sex. Without further review of case law and administrative guidance, this verbiage can feel very limiting (i.e. “I will not hire you because you are a woman,” or “the school will cut this sport because only men play it,” or “I do not rent to gender non-binary tenants.”). As we know, discrimination based on sex encompasses a wide array of actions. The following three theories of discrimination illustrate the conduct prohibited by the FHA:</div> <div>Sexual Harassment:<div><div>1. Quid Pro Quo: A Landlord (or the Landlord's employees) demands sexual favors as a term or condition of the rental agreement;^{clxii}</div><div>2. Hostile Environment: A Landlord (or the Landlord's employees) engage in sexual advances that alter the terms and conditions of the rental agreement;^{clxiii}</div></div><div>Disparate Impact: The Landlord acts in a manner that may be neutral but has a disproportionately negative impact on one or more of the classes protected by the FHA.^{clxiv}</div><div>Disparate Treatment: A Landlord makes rental decisions based on sex-based stereotypes.^{clxv}</div></div>

Enforcement Mechanisms	The Fair Housing Act can be enforced by the United States Department of Housing and Urban Development, the United States Department of Justice, or a civil lawsuit filed by an individual or organization that experienced housing discrimination. ^{clxvi}
Department of Justice (DOJ)	If HUD refers to the DOJ, the DOJ will file a civil lawsuit on the complaining party’s behalf in the U.S. District Court for the location in which the discrimination took place. As with the ALJ process, the complainant may also choose to hire their own attorney and intervene in the case. ^{clxxxi} Both parties may request a jury trial. If the Federal District Court finds in the complainant's favor, the Judge or jury may order compensatory damages, require the Landlord to make housing available to the complainant, payment of reasonable attorney fees, payment of punitive damages, and a permanent order to cease discriminatory conduct. ^{clxxxii}
Private Civil Litigation	<div>Persons experiencing housing discrimination may file a private lawsuit without first filing a complaint with HUD.^{clxxxiii} Private lawsuits must be filed within two years of the last discriminatory act. If the party has already filed a HUD complaint, the time during which the complaint was pending with HUD does not count toward the two-year limitations period. Note that private lawsuits must be filed at the complainant’s expense, though the court may appoint an attorney if it deems the complainant cannot afford one.</div> <div>Note that previously-signed HUD conciliation agreements may bar a private Federal lawsuit. Similarly, a Federal suit may be barred if the ALJ hearing on the complaint already started.^{clxxxiv}</div>
Housing & Urban Development (HUD) Enforcement	<div>Persons experiencing discrimination they believe violates the FHA may file a complaint with the United States Department of Housing and Urban Development. Complaints must be filed within one year of the last date of discriminatory action.^{clxvii} Upon receipt, HUD may interview the complaining party and draft a formal complaint to be signed by the party.^{clxviii} After the complaint is filed, HUD will assign one or more investigators, who may ask the party more information including a timeline, event locations, witness names and what information they have, and relevant documents.^{clxix}</div> <div>HUD will provide the Landlord a notice and opportunity to respond to the allegations and potentially gather more information. During the investigation process, HUD will offer to prepare an informal agreement to resolve the dispute as an alternative to full legal action.^{clxx} The process may be called Conciliation or Voluntary Compliance, or both.^{clxxi}</div> <div>If one or more parties decline to participate in conciliation/voluntary compliance, HUD will complete their investigation, and provide the complaining party a written report of its findings.^{clxxii}</div> <div>If HUD’s investigation shows no reasonable cause to believe discrimination occurred, HUD will issue a Determination of No Reasonable Cause and dismiss the complaint. Though HUD has no formal appeal process for this determination, a complainant may submit a request for reconsideration of review.^{clxxiii}</div> <div>If HUD’s investigation leads to a determination that “reasonable cause exists to believe discrimination occurred,”^{clxxiv} HUD will issue a Determination of Reasonable Cause and a Charge of Discrimination.^{clxxv} All parties involved then have 20 days to decide whether to proceed with a Federal District Court civil trial.^{clxxvi}</div>

	<p>If neither the Landlord or party experiencing discrimination elects the Federal civil trial option within 20 days, HUD will schedule a case before an Administrative Law Judge to take place in a location near where the discrimination happened.^{clxxvii} A HUD attorney will be assigned to represent the complainant during the ALJ hearing. Though the complainant will not have to pay this attorney, the complainant may also to choose to hire their own counsel to intervene in the matter.^{clxxviii} After hearing evidence, the ALJ will make a determination about whether the Landlord violated the FHA and can order compensation for actual damages, an injunction to cease discriminatory conduct, making housing available to the complainant, payment of reasonable attorney fees, and payment of civil penalties.^{clxxix}</p> <p>If any party (the Landlord or the person discriminated against) elects Federal litigation, HUD is required by law to refer the case to the United States Department of Justice, who will file a civil lawsuit on behalf of the person who alleges discrimination (the person who complained to HUD) in the federal district court with jurisdiction over the place the discrimination happened.^{clxxx}</p>
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B. Ohio
Ohio’s Fair Housing Law provides protections to more protected classes, and has less exceptions than, the Federal Fair Housing Act.

Applies to	All Landlords (and other housing providers), regardless of the number of properties owned. There are no exceptions for owner-occupied dwellings ^{clxxxv}
Actions Prohibited	<p>A Landlord (or other housing provider) may not on the basis of sex, race, color, religion, familial status, ancestry, disability, national origin, or military status:</p> <ul style="list-style-type: none">• Refuse to rent (or sell), lease, or sublease;• Refuse to negotiate for the rental of housing accommodations;• Otherwise deny or make unavailable housing accommodations;• Misrepresent to any person that housing is not available for inspection or rental (or sale);• Discriminate against any person in the terms or conditions of renting, leasing, subleasing (or selling) any housing accommodations or in furnishing facilities, services, or privileges in connection of use of housing accommodations or occupancy (or ownership), including certain insurance policy sales;• Advertise for a rental (or sale) in a manner that indicates any preference, limitation, specification, or discrimination;• Inquire or elicit information, make or keep any record, or use any form asking about a protected class in connection with a lease, housing accommodation, repair, or maintenance;• Coerce, intimidate, threaten, or interfere with the exercise or enjoyment of a rental property;^{clxxxvi} <p>*Ohio’s Fair Housing Law, Ohio Revised Code Section 4112.02(H), provide substantial additional protections for individuals seeking to engage in real estate practice, persons seeking to rent or purchase a burial plot, persons seeking permission to modify properties, persons seeking a mortgage or home improvement loan, and others.</p>

Theories of Discrimination	<p>Sexual Harassment:</p> <p>1. Quid Pro Quo: A Landlord (or the Landlord’s employees) demands sexual favors as a term or condition of the rental agreement;^{clxxxvii}</p> <p>2. Hostile Environment: A Landlord (or the Landlord’s employees) engage in sexual advances that alter the terms and conditions of the rental agreement;^{clxxxviii}</p> <p>Disparate Impact: The Landlord acts in a manner that may be neutral but has a disproportionately negative impact on one or more of the classes protected by the FHA.^{clxxxix}</p> <p>Disparate Treatment: A Landlord makes rental decisions based on sex-based stereotypes.^{cxc}</p>
Enforcement Mechanisms	Persons seeking enforcement of Ohio’s Fair Housing Law, ORC Sec. 4112.02(H), pursue administrative enforcement through the Ohio Civil Rights Commission or file a private lawsuit.
Ohio Civil Rights and Commission Enforcement	<p>A person seeking administrative enforcement of ORC Sec. 4112.02(H) must first file a charge with the Ohio Civil Rights Commission (OCRC) within one year of the last act of discrimination.^{cxc} Upon receipt, OCRC will assign an investigator who will, within two weeks, send a notification letter and copy of the charge to the person who filed the charge and the person against whom the charge was filed.^{cxcii}</p> <p>At the outset, OCRC will offer mediation. However, mediation must be voluntarily accepted by both parties. If both parties agree to engage in mediation and mediation is successful, OCRC will close the case. If mediation is not successful, OCRC will proceed with the full formal investigation.</p> <p>OCRC must complete its investigation within one year. During that time, OCRC will ask the Respondent to respond to the charge with a position statement. OCRC will then give them an opportunity to respond to the position statement and provide any additional information, including witness statements and other evidence. OCRC will continue its fact finding and interviews and engage in analysis, ultimately issuing a written recommendation on whether there was probable cause that a violation of ORC Sec. 4112.02(H) occurred.</p> <p>OCRC’s appeal mechanism is called a request for reconsideration.^{cxciii} A request for reconsideration and all accompanying evidence must be filed within ten days after ORCR mailed its decision (not the date it was received).^{cxciv}</p> <p>If OCRC finds probable cause that housing discrimination occurred, it will issue a complaint and either pursue a conciliation agreement, which will ultimately be publicly published,^{cxcv} or refer the case to the Ohio Attorney General for civil litigation. Within 30 days of receiving the complaint, either party may also elect in writing to have the case transferred to the Ohio Attorney General for civil litigation.^{cxcvi}</p>
Private Litigation	Persons subjected to sex-based housing discrimination may file civil litigation for violations of Ohio’s fair housing statutes.

C. Local Fair Housing Laws
Many communities across Ohio have embraced fair housing laws and created their own county or municipal ordinances and procedures for enforcement. The number of counties and municipalities in Ohio make it impractical to consolidate information about specific protections in each community. Instead, OAESV recommends looking up the health, safety, building, and/or housing codes in specific communities for information on their ordinances and enforcement processes.^{cxcvii}

III. VIOLENCE AGAINST WOMEN ACT (VAWA) PROTECTIONS FOR HUD PROGRAMS

After significant grass roots efforts to adopt legislation to address domestic and sexual violence, Congress passed the Violence Against Women Act (VAWA).^{cxviii} Signed into law in 1994, VAWA created the Federal Office on Violence Against Women and significant grant programs designed to provide services to victims of domestic violence, sexual violence, stalking, and other types of abuse. VAWA has expired and been reauthorized several times, with the last reauthorization in 2013.^{cxix} Each reauthorization adds additional grant programs and updates the federal regulations^{cc} to which VAWA grant recipients must adhere.

As of the 2013 reauthorization, the following United States Department of Housing and Urban Development (HUD) housing programs are covered by VAWA:

- Low-Income Housing Tax Credit
- Section 8 Housing Choice Voucher Program
- Section 8 project-based housing
- Section 202 housing for the elderly
- Section 811 housing for persons with disabilities
- Section 236 multifamily rental housing
- Section 221(d)(3) Below Market Interest Rate (BMIR) housing
- HOME
- Housing Opportunities for People with AIDS (HOPWA)
- McKinney-Vento Act Programs
- Department of Agriculture
- Rural Development (RD) multifamily housing programs such as 515 or 538
- Department of Treasury^{cci}

A. Who must comply?

Owners and managers of the above-listed housing initiatives must comply, as well as all public housing authorities.^{ccii}

B. Who is protected?

Survivors living in private, market-rate housing are not protected by the Violence Against Women Act regulations pertaining to HUD housing programs.^{cciii} These protections only apply to survivors of sexual violence, dating violence, stalking, and domestic violence (as defined in the chart below) participating in one of the above-listed HUD initiatives.^{cciv}

Sexual Assault	Any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent. ^{ccv}
Stalking	Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) fear for their safety or others'; or (2) suffer substantial emotional distress. ^{ccvi}
Domestic Violence	Felony or misdemeanor crimes of violence committed by (1) a current or former spouse or intimate partner of the victim; (2) A person with whom the victim shares a child; (3) A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; (4) A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies; or (5) Any other person who committed a crime against an adult or youth victim who is protected under the domestic or family violence laws of the jurisdiction. ^{ccvii}
Dating Violence	Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, and the existence of such a relationship is determined based on the following factors: (1) length of relationship; (2) type of relationship; (3) frequency of interaction between the persons involved in the relationship. ^{ccviii}

Affiliated Individual	Can include a survivor’s spouse, parent, sibling, or child; an individual to whom that survivor stands “in loco parentis”; or an “individual, tenant, or lawful occupant” living in the survivor’s household. ^{ccix} VAWA does not require “affiliated individuals” to be related by blood or marriage. ^{ccx}
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C. Rights/Protections

Survivors of sexual violence, stalking, domestic violence, and dating violence participating in one of the above-listed HUD programs are protected as follows:

- An owner, manager, or housing authority may not deny a housing application solely because of status as a survivor.
- An owner, manager, or housing authority may not evict a survivor solely because an act of violence was committed against them.
- A survivor cannot lose their federal rental assistance solely because violence was committed against them.
- Acts of violence against a survivor may not be considered to be serious or repeated violations of a lease or good cause for evicting the survivor or ending their federal housing assistance.^{ccxi}
- Under VAWA, an owner, manager, or housing authority may (but are not required to) grant a survivor’s request to “bifurcate” (remove one tenant while maintaining the lease for the other tenant) their lease to remove the abuser.^{ccxii} In such a case, the owner, manager, or housing authority may permit the survivor to stay in the tenancy even if the abuser was the part eligible for participation in the housing program.
- An owner, manager, or housing authority must keep all information about the survivor’s status strictly confidential, subject only to exceptions in the following circumstances: (1) the survivor requests the disclosure in a signed, time-limited release; (2) use in eviction proceedings; or (3) as otherwise required by law.
- A resident who experiences sexual violence on the property may, within 90 days after the sexual violence, seek an emergency transfer from the owner, manager, or housing authority. Since 2017, owners, managers, and housing authorities of qualifying programs must prepare emergency transfer plans to other units within their properties or to other federally-subsidized properties. For example, some properties specify in their plan that if they do not have vacant units available for transfer, they will identify other properties covered by VAWA and provide the survivor with a Housing Choice Voucher.^{ccxiii}

D. How do survivors learn about and exercise their VAWA rights?

Complaint owners, managers, and public housing authorities must provide all tenants with (1) a form informing them of their VAWA rights^{ccxiv} and (2) a VAWA self-certification form.^{ccxv} These forms must be provided to the tenant at each of the following occurrences:

- When they are admitted to the housing program;
- When (if) they are denied admission to the program or other applicable assistance;
- When (if) they receive an eviction notice; and
- When (if) they receive a notice of termination of their housing assistance.

Further, HUD encourages covered housing facilities/programs to post a Notice of Occupant VAWA rights on their website and in public spaces, like community rooms and entry ways.^{ccxvi}

A survivor typically does not need to go to court to exercise their VAWA housing rights. Instead, a survivor seeking to obtain housing (contest a denial of application for housing based on survivor status) remain in their housing (bifurcate a lease to remove the abuser, contest an eviction based on survivor status) or leave their housing (seek emergency transfer to a different unit or property) can communicate with the owner, manager, or housing authority their status as a survivor and the protection requested.^{ccxvii} Upon receipt of the request, the owner, manager, or housing authority are permitted to ask for documentation of survivor status. This request must be in writing,^{ccxviii} and the owner, manager, or housing authority must give the survivor at least 14 days to provide the documentation. The owner, manager, or housing authority may (but

is not required to) grant a survivor’s request for additional time to submit documentation beyond 14 days.^{ccxix}

If the owner, manager, or housing authority asks for documentation, can provide such in one of the following ways:

1. The survivor can complete and submit a VAWA self-certification form,^{ccctx} which will ask for the names of the survivor and the abuser; the relationship to the abuser; the date, time and location of the violence; and a description of the violence;
2. Provide a letter signed by a victim service provider, attorney, or medical or mental health care provider who provided services in response to the abuse; or
3. Provide a police report, copy of a protection order, or administrative record.

An owner, manager, or housing authority may not require a survivor to provide third-party documentation of abuse or sexual violence unless the abuser files their own VAWA self-certification or other documentation claiming to be the survivor (either as retaliation, to maintain their housing, or to prevent a survivor from pursuing emergency transfer).^{ccctxi}

VAWA housing forms are available on the Housing and Urban Development (HUD) website in more than 10 languages (some forms are available in as many as 15 languages).

https://www.hud.gov/program_offices/administration/hudclips/forms/hud5a#4

E. Owner, Manager, or Housing Authority Defenses

1. Abuser’s actions impact others’ safety.

A covered property owner, manager, or public housing authority may be permitted to evict a survivor if they can show that the survivor’s presence is an “actual and imminent threat”^{ccctxii} to the property’s other tenants or employees.^{ccctxiii} However, VAWA does not define “actual and imminent threat”. However, HUD regulations emphasize that an “actual or imminent threat” eviction should be a last resort and only occur when no other action could alleviate the threat.^{ccctxiv} “Other actions” can include prohibiting the perpetrator from entry, providing the survivor with a transfer to a different unit or property, or seeking legal remedies to bar the abuser from threatening behaviors.^{ccctxv}

2. Criminal activity is not related to the abuse.

A survivor is not protected from eviction based on criminal violations unrelated to sexual assault, domestic violence, dating violence, or stalking. However, the property owner, manager, or housing authority may not hold survivors to a higher standard for criminal violations on property than other non-survivor tenants.^{ccctxvi}

F. If an owner, manager, or housing authority refuses the survivor’s request for VAWA protections

Advocate Tip!

The ways in which a survivor provides documentation to an owner, manager, or housing authority may have consequences for future family law, protection order, landlord/tenant, or other civil procedures – or criminal prosecutions. To avoid engaging in the unauthorized practice of law, it is absolutely critical that non-attorney advocates do not provide a survivor with input or advice on which method of documentation to use when seeking VAWA protections from their housing provider.

Depending on many factors, including frequency of housing authority or individual property staff turnover, individuals legally responsible for responding to survivors’ VAWA housing requests may have little experience with or knowledge of the VAWA housing regulations to which they must comply. As such, survivors may face challenges requesting information about their VAWA rights, submitting forms, or receiving responses about their requests. Should a covered housing program or property decline VAWA requests, a survivor may reach out to a legal aid program, housing advocacy agency, or a sexual violence organization or coalition to connect with housing attorneys.

IV. COUNTY AND MUNICIPAL CRIMINAL ACTIVITY NUISANCE ORDERS

County and municipal governments are increasingly passing Criminal Activity Nuisance Ordinances (CANOs), which penalize both private and public property owners and managers for activities the respective code labels a “nuisance”.^{ccctxvii} Many CANOs include criminal violations as nuisances.^{ccctxviii} CANOs typically function by establishing a maximum number of “nuisance activities” that may occur, after which the owner or manager must take action to end the “nuisance”.^{ccctxix} Because CANOs penalize the owner or manager, that party has significant incentive to evict persons involved in “nuisance activities.”^{ccctxx} Unfortunately, many CANOs include sexual violence, stalking, dating violence, or domestic violence as “nuisance activities.”^{ccctxxi} Thus, a survivor who calls the police may be subject to eviction after seeking help.^{ccctxxii} This can have a chilling effect and have dire consequences for survivors.

Researchers, housing advocates, and housing attorneys are at the forefront of disputing and ending CANOs. If a survivor encounters a CANO issue, local legal aid providers and domestic and sexual violence legal services can provide guidance.

V. COVID EVICTION PROTECTIONS

A. Renters

At the start of COVID-19, the Center for Disease Control put an eviction moratorium in place, preventing the eviction of tenants who are unable to make rental payments. The moratorium was scheduled to expire on June 30, 2021 but is currently extended through July 31, 2021.^{ccctxxiii} By preventing evictions people have been able to stay in their homes and away from crowded settings like shelters. Those who qualify under the moratorium may be able to continue living in the home.

In order to qualify,^{ccctxxiv} an individual:

- Must have received a stimulus check (Economic Impact Payment) in 2020 or 2021, or;
- Was not required to report any income tax to the IRS in 2020, or;
- Earned less than \$99,000 as an individual or less than \$198,000 as a joint filer in 2020 or 2021
- AND cannot pay full rent or housing payment due to
 - o Their household income decreasing substantially
 - o Having been laid off from work
 - o Have had their work hours or wages cut
 - o Have extraordinary out-of-pocket medical expenses

Individuals can fill out an Eviction Protection Declaration form to give to their landlord to prevent eviction during the period established by the CDC or other local guidelines. If an individual has already submitted the form, they do not have to do so again to continue to qualify for the extended period.^{ccctxxv} The declaration is signed on the tenant’s own risk of penalty of perjury if it is found that the declaration was

not truthful. If the landlord decides to challenge the declaration by alleging that the tenant fails to meet one or more of the criteria, the court will hold a hearing to determine whether the tenant qualifies. Since the court has to deal with many pending cases, this may take a long time to go through the process of a hearing.

The rent that was not paid during the protection period is still owed once the moratorium ends.^{ccxxxvi} Tenants should talk to their housing providers to discuss a repayment plan once the protection period ends. There is also the possibility that individuals may be charged with extra fees or penalties for being late on their rent.^{ccxxxvii} While the moratorium protects tenants from being evicted for not paying rent, it does not prevent evictions for other legal reasons included in the terms of the lease.^{ccxxxviii} If a survivor is having trouble paying rent, they are encouraged to contact their landlord or public housing agency as soon as possible to discuss payment options. Survivors should not be required to provide financial documents by their landlord as proof to their struggle to pay rent.^{ccxxxix} Many states and local programs are available to help tenants pay the rent they are behind on, and the U.S. Department of Treasury has gathered websites of Emergency Rental Assistance programs which help tenants and landlords find financial assistance in their areas.^{ccxi}

If a survivor is already receiving help from HUD, they can report any decreases in wages, job hours, and family incomes which may temporarily decrease income-based rent payments or increase housing subsidies.^{ccxli} This process is known as an “income recertification”. A renter should ask for an income recertification form from their property manager or landlord as soon as possible in order to apply for recertification. Federal stimulus payments are not included in the income calculation. Some landlords or public housing agencies may allow for retroactive rent adjustment if asked.

B. Homeowners

Homeowners have many options for financial assistance in order to avoid losing their home as well. Homeowners should contact their mortgage servicer immediately if they have a Fair Housing Act insured single family forward mortgage. Mortgage servicers are required to offer a mortgage payment **Forbearance**, which allows folks to reduce or pause making payments to allow individuals time to stabilize their financial situation.^{ccxlii} If the homeowner has still not yet applied for a forbearance, they are eligible for up to a six-month forbearance period as long as they apply by September 30, 2021.^{ccxliii} Homeowners can find more information on their mortgage providers website and may be able to apply for the Forbearance online as well. No extra fees, penalties, or interest will be added to the account, nor will the homeowners be required to pay a lump sum for the total missed payments at the end of the forbearance period.

HUD has also established the COVID-19 Advance Loan Modification (COVID-19 ALM), which is a permanent change in the mortgage loan that achieves a minimum 25 percent reduction to the borrower’s monthly Principal & Interest payment.^{ccxliv} All mortgage servicers are required to review which borrowers may be eligible without the need for any initial contact by the borrower.^{ccxlv} In order to be eligible the borrower must be 90 or more days delinquent, and the property may be owner-occupied or non-owner occupied.^{ccxlvi} If borrowers are also in a COVID-19 forbearance period, the mortgage servicer must review the borrowers eligibility within 30 days of the expiration of the forbearance period.

The COVID-19 ALM only capitalizes amounts needed to bring the borrower current, and includes 1) unpaid accrued interest, 2) any servicer advances for escrow items, 3) any projected escrow shortage amount, and 4) any related legal fees and foreclosure and bankruptcy costs not to exceed the foreclosure-related fees and costs that HUD has identified as customary and reasonable.^{ccxlvii} If a borrower is eligible then the servicer must send out documents that explain the terms of the modified mortgage payment and that if the offer is not accepted, the borrower is still able to obtain other loss mitigation options to bring their mortgage current.^{ccxlviii} The servicer may include an additional month in the total outstanding debt to be resolved in order to allow the borrower more time to return the executed mortgage modification documents before the modified payments begin.^{ccxlix}

Housing counselors are also available to work with tenants and homeowners to discuss housing options and financial situations.^{cccli} HUD has multiple approved counseling agencies throughout the state of Ohio and have provided a directory to find an agency.^{cccli}

C. Eviction Assistance Programs in Ohio

Program	Services Provided	Contact Information
Legal Aid Society of Columbus	• Assistance and representation for tenants facing eviction	1108 City Park Ave, Ste 101 Columbus, OH 43206 P: (614) 224-8374 www.columbuslegalaid.org
Legal Aid Society of Cleveland	• Assistance and representation for tenants facing eviction • May help homeowners facing foreclosure • City of Cleveland passed legislation providing those facing eviction proceedings with assistance from Legal Aid Society of Cleveland	1223 W. 6th St. Cleveland, OH 44113 Tenant Info Line: (440) 210-4533 or (216) 861-5955 www.lasclev.org
Legal Aid Society of Cincinnati	• Assistance and representation for tenants facing evictions • May help prevent lockouts, utility shut-offs, and other emerging threats to housing	215 E. 9th St., Ste 200 Cincinnati, OH 45202 P: (513) 241-9400 www.lascinti.org
Community Legal Aid (Central NEO)	• Assistance and representation for qualifying tenants facing evictions	Various staffed locations in Akron, Canton, Warren, and Youngstown P: (800) 998-9454 www.communitylegalaid.org
National Lawyers Guild	• Maintains directory of Ohio attorneys which may be available for assistance and representation for tenants facing eviction	www.nlg.org/referral-directory
Equality Ohio	• Legal assistance and representation to LGBTQ+ community living within 300% of the federal poverty line • Trauma-informed care • While not specifically dedicated to eviction assistance, Equality Ohio has a wide network of attorneys and is willing to assist by referring potential clients to attorneys	P: (614) 224-0400 E-mail: info@equalityohio.org www.equalityohio.org
Tenant Assistance Project (TAP)	• Dedicated hotline for tenants to call for advice from an attorney • Created by Legal Aid Society of Columbus and works in conjunction with the Franklin County Municipal Court	(330) 983-2528

Advocate Takeaway

Every survivor’s housing circumstances are different, and thus so are the legal protections applicable to their case. Survivors seeking to stay in their home or leave their home may be impacted by the interactive web of housing laws described above. Housing shifts can happen incredibly quickly, and it is important for survivors to seek legal assistance as soon as practical after receiving notification of an eviction.

CHAPTER 5:

Title VII & Employment Matters



Title VII & Employment Matters

Sexual violence impacting the workplace can create potentially life-changing economic and safety concerns for survivors and their families. Survivors may have serious concerns about retaliatory termination or demotion if they report sexual violence perpetrated by a supervisor, coworker, customer, or other affiliate. Depending on the size of their community, their type of job, and the state of hiring, they may face difficulties finding other employment. Workplaces often foster social friendships, and the survivor may have justifiable fears about reporting someone who spends time outside of work with the perpetrator. All of these and many other concerns highlight the critical importance of safety planning and connecting survivors of workplace sexual harassment with potential legal representation as early as they are comfortable to discuss the potential risks and possible outcomes of taking legal action or pursuing accommodations.

Sexual violence that occurs outside of the workplace can also impact a survivor’s employment. For example, in the aftermath of sexual violence, survivors could lose time from work to obtain medical treatment, attend court hearings, and meet with mental health professionals. Extended or frequent absence from work may result in termination or consequences that affect a survivor’s wage of hours. Thus, it is essential for survivors to have workplace accommodations such as schedule adjustments, relocation, and employee-assistance services. Stable wages are essential to obtain life’s basic needs such as housing, food, clothing, childcare, transportation, and health care. The ability to maintain employment can greatly enhance a survivor’s ability to achieve safety.

Various laws protect survivors, some focused more specifically on sexual violence occurring in the workplace or by a colleague/manager/customer/affiliate, and others creating more general access to accommodations after sexual violence occurs.

I. TITLE VII OF THE CIVIL RIGHTS OF 1964

Title VII of the Civil Rights Act of 1964 is a Federal law that protects employees against discrimination based on race, color, national origin, religion, and sex (which relates to sexual harassment and discrimination). The law applies to employers in both the private and public sectors that have 15 or more employees, as well as employment agencies, and labor organizations. Under Title VII, an employer may not discriminate with regard to any term, condition, or privilege of employment. This includes in recruiting, hiring, promoting, transferring, training, disciplining, discharging, assigning work, measuring performance, or providing benefits. The creation of Title VII established the Equal Employment Opportunities Commission which enforces the law and holds workplaces accountable for discriminatory actions.

Title VII also prohibits retaliation. Retaliation occurs when an employer, employment agency, or labor organization takes an adverse action against an employee because they engaged in a protected action such as reporting the discrimination.^{ccliii} Adverse actions are negative actions taken to try to keep a survivor from complaining about a discriminatory practice or to punish someone who has already complained or participated in such proceeding.^{ccliii} Examples include termination, demotion, unjustified negative evaluations, and even filing unfounded civil claims against the survivor.^{ccliv} Note that it is also unlawful for a worker’s current employer to retaliate against a former employee.^{cclv}

Applies to	Employers with at least 15 employees (20 employees in age discrimination cases) and most labor unions and employment agencies.
Actions Prohibited	<p>It is illegal to discriminate on the basis of sex, race, color, religion, familial status, ancestry, disability, national origin, or military status in any aspect of employment, including:</p> <ul style="list-style-type: none">• Hiring and firing;• Compensation, assignment, or classification of employees;• Transfer, promotion, layoff, or recall;• Job advertisement;• Testing;• Use of company facilities;• Training and apprenticeship programs;• Fringe benefits;• Pay, retirement plans, and disability leave; or• Other terms and conditions of employment
Theories of Discrimination	<p>Many civil rights laws, including Title IX and Title VII, state that entities cannot discriminate against persons based on sex. Without further review of case law and administrative guidance, this verbiage can feel very limiting (i.e. “I will not hire you because you are a woman,” or “the school will cut this sport because only men play it,” or “I do not rent to gender non-binary tenants.”). As we know, discrimination based on sex encompasses a wide array of actions. The following three theories of discrimination illustrate the conduct prohibited by Title VII:</p> <p>Sexual Harassment:</p> <ol style="list-style-type: none">1. Quid Pro Quo: An Employer demands sexual favors as a term or condition of the employment agreement, such as for a promotion;^{cclvi}2. Hostile Environment: An employer engages in sexual advances that alter the terms and conditions of the employment agreement; <p>Disparate Impact: The Employer acts in a manner that may be neutral but has a disproportionately negative impact on one or more of the classes protected by Title VII.</p> <p>Disparate Treatment: An Employer excludes individuals from employment opportunities based on one of more of the classes protected by Title VII.^{cclvii}</p>
Enforcement Mechanisms	Title VII of the Civil Rights Act of 1964 is enforced by the Department of Justice and the Equal Employment Opportunity Commission, or a civil lawsuit may be filed by individuals who have experienced employment discrimination.
Equal Employment Opportunity (EEO) Enforcement	<p>An individual seeking to file a complaint against an agency with the EEOC must contact an EEO attorney within 45 days of the discriminatory action.^{cclviii} Within 30 days of the initial contact, attorneys must inform the individual of all their procedural rights.^{cclix} After this initial pre-complaint counseling, the attorney must inform the individual of the right to file a discrimination complaint. This notice is known as the Notice of Final Interview. The formal complaint must be filed within 15 days of the Notice of Final Interview.^{cclx}</p> <p>Alternative Dispute Resolution (ADR) will be available during both the pre-complaint process and the formal complaint process.^{cclxi} The most common</p>

	<p>form of ADR is mediation, which may offer a faster settlement. Note that both parties must agree to ADR or else the investigation of the complaint is continued.</p> <p>Investigations are conducted by the respondent agency, which must develop an impartial and appropriate factual record for the Administrative Law Judge to make findings on the claims raised by the complaint.^{cclxii} All investigations should be completed within 180 days from the filing of the complaint.^{cclxiii} A copy of the investigative file must be provided to the complainant, as well as notice that within 30 days of receipt of the file, the complainant has the right to request a hearing and decision from an EEOC ALJ or an immediate final decision from the agency.^{cclxiv}</p> <p>Prior to the request for a hearing, an agency may dismiss an entire complaint for multiple reasons listed within 29 CFR §1614.107. The agency may also dismiss certain claims if it notifies the complainant and provides its rationale.^{cclxv} This determination is reviewable by the ALJ assigned to the case if a hearing is requested but is not appealable until final action is taken by the agency.^{cclxvi}</p> <p>Agencies may offer a resolution in writing to a person represented by an attorney at any time between the filing of the complaint and the date an ALJ is appointed to conduct a hearing.^{cclxvii} Once parties have received notice that an ALJ has been appointed to conduct a hearing, the agency may make an offer of resolution to the complainant whether they are represented by an attorney or not, as long as it is 30 days prior to the hearing.^{cclxviii}</p> <p>Note that if the complainant fails to accept the agency's offer within 30 days and the relief awarded in the final decision made by the ALJ is not more favorable than the offer, the complainant will not receive attorney's fees or costs incurred after the expiration of the 30-day acceptance period.^{cclxix} The agency's offer must include a notice of these consequences.^{cclxx}</p> <p>Once the EEOC appoints an ALJ to conduct a hearing, the parties may conduct discovery.^{cclxxi} Note that each party bears their own discovery costs unless the ALJ requires the agency to bear the total costs because it failed to conduct its investigation in a timely manner or failed to adequately investigate the claims.^{cclxxii}</p> <p>Hearings are part of the investigatory process and are closed to the public.^{cclxxiii} The ALJ must conduct the hearing and issue a decision within 180 days of the receipt of the complaint file from the agency.^{cclxxiv}</p> <p>The agency has 40 days after the ALJ issues a decision to take final action on the complaint.^{cclxxv} If they do not issue a final order within this time, then the decision of the ALJ becomes the final action.^{cclxxvi} The final order must inform the complainant whether or not the agency will fully implement the decision of the ALJ and must give notice of the complainant's right to appeal to the EEOC or file a civil action. If the agency does not fully comply with the ALJ's decision, they must simultaneously appeal with the EEOC.</p> <p>When an agency dismisses an entire complaint under CFR Sec. 1614.107, receives a request for an immediate final decision, or does not receive a reply to the notice that a person has the right to request a hearing with an ALJ, the agency will issue a final decision. The decision must be issued within 60 days of the request for an immediate final decision, consist of</p>
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	findings on the merits of each issue in the complaint or provide rationale for its decision not to process certain allegations, and notice of the right to appeal to the EEOC. ^{cclxxix}
Private Civil Litigation	<p>A person who has previously filed a complaint under Title VII may file for a civil action within 90 days of receipt of the agency's final action or the decision on an appeal.^{cclxxx} An individual may also file a civil action after 180 days from the date of filing the original complaint or an appeal if no final decision has been made if they request a Notice of Right to Sue from the EEOC.^{cclxxxi}</p> <p>The EEOC does not make recommendations of labor and employment attorneys but can provide a list upon request.^{cclxxxii} Individuals may also check their local Bar Associations for assistance.</p>

II. THE ADVOCATE’S ROLE GENERALLY

Ohio codified an employment discrimination law that largely echoes Title VII, but covers smaller employers.

Advocate Tip!
Law Change January 2021!

For many years, Ohio Revised Code Chapter 4112 provided workers with an option to file a civil lawsuit without first filing a charge with the Ohio Civil Rights Commission. This was distinct from the Federal process, which required plaintiffs to first file with the Equal Employment Opportunity Commission before filing a Title VII lawsuit in Federal court. On **January 12, 2021** Ohio Governor Mike DeWine signed into law sweeping changes to Chapter 4112's employment provisions. These changes impact the length of time a survivor has to file, the steps required before a lawsuit, and other changes. The table below reflects these updates, but please note that the prior standards were in place for quite some time – and there will thus likely be old information available through searches that will not reflect the current law.

Applies to	Employers with four or more employees, employment agencies, personal placement services, labor organizations, or joint labor management agencies. ^{cclxxxiii}
Actions Prohibited	<p>An employer, employment agency, personnel placement service, joint labor management agency, or labor organization may not on the basis of sex, race, color, religion, familial status, ancestry, disability, national origin, or military status:^{cclxxxiv}</p> <ul style="list-style-type: none">• Discharge a person without just cause• Discriminate against that person with respect to hire, tenure, terms, conditions, or privileges of employment or any matter directly or indirectly related to employment• Refuse or fail to accept, register, classify properly, or refer for employment or otherwise discriminate against any person

	<ul style="list-style-type: none">• Adversely affect employment status, wages, hours, or employment conditions• Limit of classify labor organization membership• Limit admission to, or employment in, any program established to provide apprentice training• Inquire or elicit information, make or keep any record, or use any form asking about a protected class in connection to employment• Advertise for employment in a manner that indicates preference, limitation, specification, or discrimination• Announce or follow a policy of denying or limiting employment or membership opportunities of any protected class• Utilize any service for recruitment or hiring that is known to discriminate• Comply with a request from an employer for referral of applicants for employment if the employer fails to comply with Ohio Anti-Discrimination Laws, ORC§§ 4112.01 to 4112.07.
Theories of Discrimination?	<p>Sexual Harassment:</p> <ol style="list-style-type: none">1. Quid Pro Quo: An Employer demands sexual favors as a term or condition of the employment agreement, such as a promotion or salary increases.^{cclxxxv}2. Hostile Environment: An employer engages in sexual advances that alter the terms and conditions of employment.^{cclxxxvi} <p>Disparate Impact: The Employer acts in a manner that may be neutral but has a disproportionately negative impact on one or more of the classes protected by the Employment Discrimination Laws.^{cclxxxvii}</p> <p>Disparate Treatment: An Employer makes employment decisions based on sex-based stereotypes.^{cclxxxviii}</p>
Enforcement Mechanisms	Persons seeking enforcement of ORC §4112.02(A)-(F) must first pursue administrative enforcement before filing a lawsuit.
Ohio Civil Rights Commission Enforcement	<p>A person seeking administrative enforcement of ORC §4112.02(A)-(F) must first file a charge with the Ohio Civil Rights Commission (OCRC) within two years of the alleged unlawful discriminatory practice.^{cclxxxix} Upon receipt, OCRC will assign an investigator who will, within two weeks, send a notification letter and copy of the charge to the complainant (the filing party) and the respondent (the party against whom the charge was filed).^{ccxc}</p> <p>At the outset, OCRC will offer mediation. However, mediation must be voluntarily accepted by both parties. If both parties agree to engage in mediation and mediation is successful, OCRC will close the case. If mediation is not successful, OCRC will proceed with the full formal investigation.</p> <p>OCRC must complete its investigation within one year. The investigation covers all aspects of employment, including but not limited to: job advertisements; the hiring process; terms and conditions of work; harassment; discipline; layoff/recall; promotion/demotion; and termination.</p> <p>During that time, OCRC will ask the Respondent to respond to the charge with a position statement. OCRC will then give the Complainant an opportunity to respond to the position statement and provide any additional information, including witness statements and other evidence. OCRC will continue its fact finding and interviews and engage in analysis, ultimately issuing a written recommendation on whether there was probable cause that a violation of ORC § 4112.02(A)-(F) occurred.</p> <p>OCRC’s appeal mechanism is called a request for reconsideration.^{ccxci} A request for</p>

	<p>reconsideration and all accompanying evidence must be filed within ten days after ORCR mailed its decision (not the date it was received).^{ccxcii}</p> <p>If OCRC finds probable cause that employment discrimination occurred, it will issue a complaint and either pursue a conciliation agreement, which will ultimately be publicly published,^{ccxciii} or refer the case to the Ohio Attorney General for civil litigation. Within 30 days of receiving the complaint, either party may also elect in writing to have the case transferred to the Ohio Attorney General for civil litigation.^{ccxciv}</p>
Private Litigation	<p>Persons subjected to sex-based discrimination may file civil litigation for violations of Ohio's employment discrimination statutes.^{ccxcv} Civil action must be filed within two years after the last act of discrimination with a few exceptions.^{ccxcvi}</p> <p>To file a civil action, the person must have first filed a charge with the OCRC under ORC § 4112.051.^{ccxcvii} To sue, an individual must either receive a Notice of Right to Sue from the OCRC or have requested a Notice of Right to Sue which the OCRC failed to issue within 45 days after the date they are permitted to grant the request.^{ccxcviii}</p> <p>A person may also file for civil litigation if the OCRC determines after a preliminary investigation that it is probable that an unlawful discriminatory employment practice occurred.^{ccxcix}</p> <p>If the prerequisites above are not satisfied, an individual may file a civil action if they seek only injunctive relief.^{ccc} Injunctive relief is a court-ordered prohibition of a certain action.^{ccci} A person may also pursue civil litigation if they have previously filed a charge with both the OCRC and Equal Employment Opportunity Commission (EEOC) within their respective time periods AND they have received notice from the EEOC that they may bring a civil action against the employer.^{cccii}</p>

III. FAMILY AND MEDICAL LEAVE ACT

If a survivor develops a serious health condition as a result of sexual violence they could be covered under the Family and Medical Leave Act. Ohio does not require employers to provide employees with sick leave benefits, but notwithstanding Ohio employers must abide by FMLA.^{ccciii} FMLA entitles eligible employees to take up to 12 weeks of unpaid leave for family or medical reasons with the continuation of health insurance and the guarantee of their position or equivalent position upon their return.^{ccciv} The FMLA applies to all public agencies, public and private elementary and secondary schools, and companies with 50 or employees.^{cccv} A survivor may be able to take medical leave if their condition is considered serious.^{cccvi} Physical or mental conditions related to sexual violence may count as a serious health condition under the FMLA if it requires either an overnight stay in a hospital or “continuing treatment” by a health care provider.^{cccvii} The FMLA generally defines “continuing treatment” as a condition that causes an inability to work or perform daily activities for more than three days and requires two or more doctor visits or a single doctor appointment that establishes a regimen for continued treatment such as physical therapy.^{cccviii} Co-survivors may also be able to take medical leave to care for an immediate family member with a serious health condition.

To qualify for unpaid leave under the FMLA, an employee must have worked for their employer at least 12 months, worked at least 1,250 hours over the past years, and work at a location where the company employees 50 or more employees within 75 miles.^{cccix} FMLA ensures that an employee has the right to return to the same salary and the same, or equivalent positions. An employee also has the right to the same level of health benefits both during the leave and after return.^{cccx}

It is best practice for a survivor to inform their employer in writing as soon as possible that they intend

to take family or medical leave. Survivors should be sure to understand their employer’s rules for family and medical leave before taking leave. Employees are not required to disclose the specific diagnosis to their employer but must provide enough details for the employers to understand that the condition is serious.^{cccxi} Though specific details are not required, employers may ask for certification from a health care provider to ensure that the condition is serious.^{cccxii} Employers may also ask for recertification and regular reports about the status of the condition. It is possible to qualify for part-time or intermittent leave as long as an employee can show that it is medically necessary.

While FMLA leave is typically unpaid, there are ways to receive a paycheck while taking time off. If an employee has saved up vacation, personal leave, and/or sick time this can be used to pay the employee during their 12 weeks of leave.^{cccxiii} However, if an employee decides to use this paid time off during FMLA leave, they will not have any of the available paid time off once the 12 week leave period is over.

If an employee believes their employer has violated the FMLA, a complaint can be filed with a local office of the United States Department of Labor, Wage, and Hour Division within two years of the **earliest** act of discrimination.^{cccxiv} If the employer is found to have violated the FMLA then the court may require them to give the employee their job back, pay wages that would have been paid or a promotion they would have received, as well as legal costs.^{cccxv}

III. FAMILY AND MEDICAL LEAVE ACT

Survivors of sexual violence may experience forms of mental and/or physical disabilities which may qualify them for protection under the Americans with Disabilities Act (ADA). The ADA protects employees who work for employers with at least 15 employees with qualifying disabilities from being fired or discriminated against at work.^{cccxvi} Discrimination can include harassment, moving the employee to a lower position, lower pay, or termination. Individuals protected by the ADA may also get reasonable accommodations, which are changes in the workplace that make it possible for those with disabilities to complete their jobs.^{cccxvii}

To be protected, an employee must have a physical or mental impairment that substantially limits the ability to engage in major life events.^{cccxviii} The cause of the disability does not matter. Along with physical impairments, sexual violence survivors may qualify if they develop panic, anxiety, and stress disorders, post-traumatic stress disorder, or depression that impairs their ability to perform major life events.^{cccxix} Federal courts have interpreted these requirements narrowly and usually require that the survivor show that it is extremely difficult to conduct daily life.^{cccxx}

Deciding to tell an employer about a disability is a highly personal decision. Some people may find disclosing their disability beneficial and feel more supported in their work environment. Protecting their health and doing their job may be easier to handle. Conversely, some fear the loss of privacy. If a survivor does not want to disclose their ability they are not required to do so. The drawback to this is that if their employer is not aware of the disability, they are not required to make any reasonable accommodations.^{cccxxi}

If an employer is made aware of the survivor's disability, the survivor may request reasonable accommodations. Examples of these include change of workspace, part-time or modified work schedule, time away for therapy, policy changes, education for co-workers, or change of position.^{cccxxii} Many employers will ask the employee for assistance in determining how to implement the accommodations or ask for the requests in writing.^{cccxxiii}

The employee must still satisfy the job requirements for educational background, employment experience, skills, licenses, and any other qualification standards that are job related.^{cccxxiv} The employee must also be able to perform the tasks essential to the job with or without the reasonable accommodation. Factors to determine whether the function is essential includes 1) whether the reason of the position exists to perform that function, 2) the number of other employees available to perform the function, and 3) the degree of expertise or skill that is required to perform the function.^{cccxxv}

The procedure to file a complaint against one’s employer is the same as under Title VII employment discrimination with the EEOC or OCRC. Employees may also file a complaint directly with their workplace depending on their workplace grievance procedure. Individuals may also file a civil lawsuit against the employer if they are unhappy with the outcome of the administrative claim.

Advocate Tip!

Sexual violence impacting the work environment can create serious safety concerns for survivors. Further, maintaining financial stability (including access to a home, food, utilities and other necessities for themselves and their dependents) can create barriers for survivors seeking to leave a specific workplace they may share with a perpetrator. An advocate can provide invaluable safety planning during this time, as well as connect the survivor with whom they are working to potential legal representation. Even if a survivor chooses not to pursue legal action, most law firms specializing in representing employees/Plaintiffs provide free consultations to discuss the pros and cons of reporting, the length of time a lawsuit may take, and other critical factors a survivor can consider.

CHAPTER 6:

Title IX & Education Matters



Title IX & Education Matters

Survivors attending K-12 schools or a campus/university may reach out for advocacy amid or after sexual violence. It is important to remember that a school environment can touch on nearly every aspect of a student's life. State laws require K-12 attendance, with variances for home schooling.^{cccxxvi} Schools can commence truancy proceedings in juvenile court if students miss over a specified amount of class time.^{cccxxvii} As such, K-12 survivors face significant challenges when enduring sexual harassment and/or sexual violence at school. Similarly, campus/university students also often live and study in smaller environments with required courses, and often face hurdles when attempting to adjust their schedules or programs to avoid further harm. Survivors seeking advocacy may be looking to find safety in their current school, find legal representation for a school conduct code/ Title IX hearing, seek permission to attend another school, or file a complaint with the Federal government or file a civil suit when they believe their school has failed to uphold their civil rights.

Education laws differ slightly from housing and employment in that Ohio has not yet replicated the Federal civil rights law prohibiting sex discrimination in education. Thus, most students in Ohio are protected by Title IX of the Education Amendments^{cccxxviii} of 1972.^{cccxxix} Depending on the circumstances, student survivors may also be protected by Ohio's anti-bullying statute,^{cccxxx} the Individuals with Disabilities Education Act,^{cccxxxi} and the Rehabilitation Act of 1973.^{cccxxxii} It is important to note that campus/university and K-12 student survivors and perpetrators both have robust privacy protections, which will be discussed throughout.

I. TITLE VII OF THE CIVIL RIGHTS OF 1964

Title IX of the Education Amendments is a Federal law, passed by Congress in 1972, with the purpose of removing barriers that once prevented people, on the basis of sex, from participating fully in educational opportunities. The language of Title IX reads:

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”^{cccxxxiii}

While often thought of in the context of cis-gender women and collegiate sports, Title IX actually applies to all aspects of education programs and activities operated by recipients of Federal financial assistance. The law conditions receipt of Federal funding on a promise by the recipient not to discriminate on the basis of sex.^{cccxxxiv}

Specifically, Title IX prohibits sexual harassment in the context of:

- Pregnancy
- Equal Opportunity in Athletics
- Sexual Assault Policies
- Admissions
- Scholarships
- Financial Aid
- Recreation Services
- Health Services
- Residential Life Programs, Counseling, Classroom Assignments, Grading

- STEM Classes
- Employment and Recruitment
- Marital and Parental Status

Most, but not all education institutions and programs must comply with Title IX. Covered institutions include:

- Public and Private Colleges & Universities
- Public and Private Elementary, Middle, and High Schools
- Education or Training Programs operated by recipients of Federal financial assistance.
 - Examples: State Park Forestry Workshop funded by Department of Interior, County Parks Boater Education Program taught by Coast Guard, Local Small Business Course Convened by Small Business Association, Vocational Training for Incarcerated Persons by Department of Justice

A. History and Purpose

Most Federal civil rights laws change in standards or enforcement, through actions by presidents, Congress, or courts. In the past 20 years, Title IX has received significant attention from both survivor rights groups and activists demanding better protections for respondents. Thus, the law has endured a heightened series of changes in recent decades.

The central objective of Title IX is twofold:

- To avoid and prevent the use of Federal resources to support discriminatory practices in education programs, and
- To provide individual persons effective protection against discriminatory practices in education programs.

1. Congress passes Title IX of the Education Amendments of 1972

In the 1960s and 1970s, activists worked toward reducing the pay gap and eradicating the sexual harassment in the workplace.^{cccxxxv} The movement to end workplace discrimination led Congress to also address discrimination in education by passing Title IX of the Education Amendments of 1972 on June 23, 1972.^{cccxxxvi} The brief verbiage (“No person in the United States shall on the basis of sex, be excluded from participation, in be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”) provided little guidance for standards of implementation or enforcement. As such, President Nixon ordered the creation of Federal Regulations to clarify the broad range of programs and activities protected from sex discrimination in the law.^{cccxxxvii}

2. Enactment of 1975 Title IX Regulations

The regulations ordered by Nixon were published by the Department of Health, Education, and Welfare (the Department of Education was not created until October 1979^{cccxxxviii}), expanding on the language of the law into specific regulations for recipients of Federal funding to follow. The regulations were intended to provide clear guidance on what was permissible – and what was not – under Title IX. President Ford signed the Title IX regulations in 1975. The 1975 Regulations introduce many of the terms used in Title IX practice today. In large part, the original regulations remain intact. However, over time, various administrations have shifted focus away from certain provisions while strengthening the importance of others.

The 1975 Regulations required:

- School systems or other Federal funding recipients must designate at least one employee as the Title IX Coordinator to oversee compliance efforts and to investigate any complaints of sex discrimination;
- All students and employees must be notified of the names, office, address(es), and phone numbers of the designated Title IX Coordinator;
- Grievance procedures and nondiscrimination policies must be made public;

- Recipient schools must perform a one-time self-evaluation, with obligations to modify practices that do not comply with Title IX; and
- Schools must take remedial and affirmative steps to increase participation of students in programs or activities where bias occurred.

3. 1980s – Courts Shift Title IX

During the 1980s, the U.S. Department of Justice challenged the broad coverage of Title IX. The enforcement power of the Office of Civil Rights (OCR) weakened significantly as the reach of Title IX protections were restrained. The U.S. Supreme Court decisions around this time mimicked the trend toward limiting Title IX protection. However, some of the protections were restored by Congress in 1988 through the Civil Rights Restoration Act. For instance, the legislation ensured that entire school systems or universities were liable for Title IX violations if it received any federal funding. The program or activity in which the bias occurred did not have to directly operate on Federal funds. Likewise, case law broadened the remedies available for Title IX discrimination with the ability to sue for monetary damages due to sex discrimination.

1980s Court Decisions and Legislation on Title IX	
<i>Grove City College v. Bell</i> (1984)	Title IX is program-specific. Therefore, only those programs and activities receiving direct Federal funds need to comply.
Civil Rights Restoration Act of 1988	An entire school system or college is held liable for Title IX sanctions if any part of the institution receives Federal education funds.
<i>Franklin v. Gwinnet County Public Schools et al.</i> (1992)	Institution can be held liable for individuals in those institutions who participated in discriminatory behavior based on sex. Plaintiffs who suffer sexual harassment/discrimination can sue for monetary damages.

4. Title IX’s Evolution in the Clinton-Era and Subsequent Cases

During the 1990s, case law and legislation continued to more distinctly define the reach of Title IX and the ramifications of violating the law. Sexual harassment, as a form of sex discrimination, became a societal focus as survivors voiced their experiences – particularly in the campus or education context. The standards developed during this era would set the tone for Title IX practice going forward.

1980s Court Decisions and Legislation on Title IX	
“Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties” – 1997 Guidance by Office of Civil Rights	U.S. Department of Education Office for Civil Rights established more nuanced standards for Title IX compliance, emphasizing that institutions have a responsibility to prevent and penalize student-student sexual harassment.
<i>Davis v. Monroe County Board of Education</i> (1992)	Title IX covers student-student sexual harassment, but aknowledge” of and acted with “deliberate indifference” to the harassment. The harassment must be so severe, pervasive, and objectively offensive that it deprives the victim of access to education benefits.

<i>Gebser v. Lago Vista Independent School District</i> (1998)	A student may sue for monetary damages for sexual harassment by a teacher/employee only if the school had actual notice of the employee’s misconduct and acted with “deliberate indifference” to the harassment.
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5. The George W. Bush Administration and Title IX

In the wake of Gebser and Davis, the Bush Administration tasked the Department of Education with reviewing the 1997 Title IX Guidance to assure compliance with the new Supreme Court precedent. After a public comment period, the Department issued slightly altered regulations.

Bush Administration Guidance and Subsequent Case Law	
“Revised Sexual Harassment Guidance” 2001 Guidance by Office of Civil Rights	Guidance reaffirmed the compliance standards in the 1997 Guidance. <i>Gebser</i> and <i>Davis</i> standards of actual knowledge and deliberate indifference only apply to lawsuits for monetary damages. A student does not have to meet these high standards in OCR enforcement or lawsuits for injunction relief (an order directing the institution to refrain from circumstances that led to discrimination).
<i>Jackson v. Birmingham Board of Education</i> , (2005)	Retaliation for protecting sex discrimination is prohibited. Employees and others can file a lawsuit if retaliated against.

6. Continued Expansion of Title IX and Addressing Sexual Violence during the Obama Presidency

The Obama Administration responded to public concern about sexual violence and harassment on college campuses and similar contexts. The movement toward addressing and ending sexual violence and sex bias generally led to a broad discussion regarding the need and means to protect all students from violence and harassment that may interfere with their education and impact them negatively throughout adulthood. In 2011, The Department of Education issued the *Dear Colleague Letter on Sexual Harassment and Sexual Violence*.^{cccxi} The 2011 Dear Colleague letter provided definitive procedural requirements for schools in responding to reported incidents of sexual harassment/violence.

Under the Dear Colleague Letter, colleges and other education institutions were provided with a list of responsibilities they must fulfill in response to a complaint of sexual harassment. Likewise, schools received a general roadmap for facilitating a grievance process to determine whether sexual harassment or sexual violence occurred. The intent of the new Guidance was to provide clarity for both students and schools in how to report and how to respond to harassment in accordance with Title IX requirements.^{cccxi}

In 2014, the Office of Civil Rights issued further and more defined guidance in its *Questions and Answers of Title IX and Sexual Violence*.^{cccxlii} The 2014 document addressed procedural issues within grievance processes, advising schools on how to adequately comply with the 2011 Dear Colleague Letter. Specifically, the 2014 document noted that Due Process must be provided to both parties in the institution’s handling of Title IX complaints, that rights of both the complainant and accused must be protected, and that institutional procedures must lead to a prompt and equitable resolution.^{cccxliii}

2011 Guidance by Office of Civil Rights
Sexual Harassment is defined as “unwelcome conduct of a sexual nature.” Sexual Harassment includes “requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature.”
Institutions must create and widely distribute a notice of nondiscrimination.

Institutions are required to designate at least one employee to coordinate its efforts and to adopt and publish grievance procedures for the prompt and equitable resolution of complaints of sex discrimination, including sexual harassment and sexual violence.
Institutions must provide training to employees on how to identify and appropriately report harassment, and provide training to officials on how to respond properly to complaints of harassment.
Institutions must investigate allegations in complaint of harassment in prompt, thorough, and impartial way.
Both parties must have equal opportunity to present witnesses and other evidence.
Institutions must use the “preponderance of evidence” standard of proof. This asks if it is more likely than not that sexual harassment occurred, in determining whether sexual harassment occurred.
Institutions cannot require a student complaining of sexual harassment to work out the problem directly with the alleged perpetrator. In cases of sexual violence, even voluntary mediation is not appropriate.
Both parties must be notified in writing about the outcome of a complaint and any appeal.
Direct Cross Examination between the parties is strongly discouraged as allowing an alleged perpetrator to question an alleged victim may be traumatic or intimidating, thereby possibly escalating or perpetuating a hostile environment.
Schools can be held responsible for failing to act if they knew about or “reasonably should have known” about an incident of sexual harassment or assault

7. Trump Administration Changes

In 2017, the Trump Administration rescinded much of the Obama era changes to Title IX. To that end, the Department of Education Office of Civil Rights rescinded^{cccxliv} the *2011 Dear Colleague Letter on Sexual Violence* and the *2014 Questions and Answers of Title IX and Sexual Violence*. Then-Secretary of Education Betsy DeVos released a Notice of Proposed Rulemaking – a proposed set of new Title IX Regulations - to the public in 2018.^{cccxlv} During the Public Notice and Comment period, the public submitted more than 124,000 comments regarding a wide range of concerns with the proposed changes to Title IX.^{cccxlv}

In May 2020, the Department of Education released the Title IX Regulations that took effect August 14, 2020.^{cccxlvi} As of this manual’s publication date, these Title IX Regulations are in effect but are under review by the Biden Administration. This chapter will proceed to describe the current regulations and the requirements institutions must meet in processing claims of sexual harassment and other types of sexual discrimination prohibited by Title IX.

Key Provisions of the 2020 Title IX Regulations
Sexual Harassment is defined as unlawful discrimination of the basis of sex, which includes: sexual assault, dating violence, and stalking.
Instructions are provided regarding various options for any person to report sexual harassment.
K-12 institutions have a duty to respond promptly when any school employee has actual notice of sexual harassment.
Direct cross examination from one party to the other is not permitted in hearings.

Colleges are responsible for off-campus harassment at houses owned or under the control of school-sanctioned fraternities, sororities, and houses.
Schools may provide survivors with supportive measures once a report of sexual harassment is received. Examples of supportive measures are class/dorm reassignments of survivor and mutual no-contact orders. Supportive measures may not be punitive.
Parties to a Title IX matter have a right to written notice of allegations, the right to an advisor, the right to submit and challenge evidence at a live hearing, and the right to cross-examine the opposing party through an advisor.
Schools must choose between two standards of evidence to apply to proceedings for all students, employees, and faculty: preponderance of evidence or clear and convincing evidence.
Parties are not required to divulge medical, psychological, or similar privileged records during Title IX proceedings.
Schools must offer a right to appeal the decision to charge an individual with violations related to sexual harassment and the outcome of Title IX proceedings.
Schools have flexibility in determining how to use technology to conduct Title IX investigation and hearings remotely. Schools are prohibited from violating the First Amendment rights of any parties. ^{cccxlvi}

8. Biden Administration Actions

In January 2021, President Biden issued Executive Order 13988.^{cccxlx} EO 13988 rescinded several anti-LGBTQ policies created by the Trump Administration.^{cccl} Pursuant to this Executive Order, sexual orientation and gender identity are protected classes in Federal civil rights laws, including Title IX.^{cccli} Thus, discrimination based on sexual orientation or gender identity constitute sex discrimination in schools. Subsequently, in March 2021, President Biden issued Executive Order 14021.^{ccclii} This Executive Order did not suspend or otherwise rescind any existing rules. Instead, it directed the Secretary of Education Miguel Cardona to review all actions, orders, and guidance inconsistent with the new administration’s interpretation of Title IX.^{cccliii} This Executive Order signaled the potential for revising, suspending, or rescinding the 2020 Title IX Regulations at the review’s conclusion.

In June 2021, the Department of Education held public hearings seeking feedback from stakeholders on existing regulations.^{cccliv} Thereafter, in July 2021, the Department of Education issued *Questions and Answers on the Title IX Regulations on Sexual Harassment (July 2021)*.^{ccclv} This document lacks the force of law and is not meant to be binding in any way. Instead, it provides clarity for the Biden Administration’s interpretation of each provision of the 2020 Regulations.^{ccclvi}

B. Current Title IX Regulations Addressing Sexual Harassment^{ccclvii}

The Biden Administration’s Executive Orders and Q&A document do not rescind the Trump Title IX changes.^{ccclviii} As such, the Title IX Regulations effective on this manual’s publication date were released in May 2020 by the Department of Education. These Regulations detail what conduct constitutes prohibited sexual harassment (including sexual violence) under Title IX, what triggers a school’s legal obligation to respond to incidents of sexual harassment, and how a school must respond through a prompt and equitable grievance process.

Advocates should familiarize themselves with the terms used in the Regulations, as well as the impact the Regulations may have on survivor outcomes. As survivors and advocates may be familiar with Title IX matters from previous experience, it is critical for advocates to understand the new Regulations create many changes for survivors, campuses, respondents, and witnesses. Additionally, institutions are navigating implementation of standards they know may change again in the near future. Thus, survivors and their supporters can expect a period of uncertainty as institutions, attorneys, and others work to interpret and apply the new Regulations and anticipate coming changes.

Advocate Tip!
Terms & Interpretations

Many terms – some familiar and others new – regarding Title IX policies and practices are used throughout the lengthy new Regulations. Advocates and supporters of survivors should rely upon the definitions provided in the new Regulations instead of their common definitions. This is true even where terms may have been defined differently by individuals or by institutions in the past.

Many definitions include several significant words and elements. Below, we will analyze the definition of Sexual Harassment under the new Regulations to demonstrate the complexity involved in becoming familiar with each term and aspect in the new Regulations. Advocates should always keep in mind – and should remind survivors – that individual institutions are tasked with interpreting the new Regulations on their own. Therefore, advocates may encounter practices that differ between two schools – even when using identical definitions in the Regulations.

A. Terms Applicable to the 2020 Regulations

A number of terms are unique to the Title IX context. Supporters of survivors should be familiar with each of these terms prior to encountering a Title IX concern. Further, with these new terms come a number of procedural changes to the Title IX processes advocates or survivors may have been familiar with in the past. Advocates should anticipate these changes in advance and provide notice to survivors of the impact upon their expectations.

Title IX Process Key Terms ^{ccclix}	
Complainant	Individual who is alleged to be the victim of conduct that could constitute sexual harassment
Reporter	Individual reporting sexual harassment. This may be the complainant or any third party
Respondent	Individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment
Formal Complaint	Document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the school investigate the allegation
Supportive Measures	Individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal access to educational access, protect safety, or deter sexual harassment
Grievance Process	Process for resolving Formal Complaints of Sexual Harassment. May include investigation, hearing, and appeals.

Informal Resolution	Informal options such as mediation or restorative justice which may be provided by schools as an alternative to the formal process. Both parties must provide voluntary, informed, written consent to attempt informal resolution. Informal resolution is not permitted to resolve allegations employee on student harassment.
Investigation	Period upon receipt of a formal complaint in which the school investigates allegations in any formal complaint and sends written notice to parties of the allegations. Period concludes with a final investigation report by individual responsible for investigation.
“Live” Hearing	Both parties are invited to attend a live presentation of testimony and evidence to decisionmaker(s) regarding the Respondent’s responsibility or lack thereof of allegations. Hearing process concludes with decisionmaker’s determination regarding Responsibility and sanctions for any violations.
Cross – Examination	Mandatory opportunity for the advisor of one party to ask relevant and follow-up questions to the other party and any witnesses.
Advisor of [Institution’s] Choice	Individual provided without fee or charge to any party without an advisor for the limited role of conducting cross-examination during a live hearing on behalf of that party. This may be, but is not required to be, an attorney.
Appeal	Mandatory process by which both parties may appeal a determination regarding responsibility or school’s dismissal of a formal complaint or any of its allegations, on the basis that: procedural irregularity occurred, newly discovered evidence obtained, and/or TIX personnel had a conflict of interest or bias and the outcome could be affected as a result.
Retaliation	Conduct prohibited by the Code of Conduct that does not involve sexual harassment but arises out of the same facts or circumstances as a report/formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX.

B. Sexual Harassment Defined

Sexual Harassment means conduct on the basis of sex that satisfies one or more of the following:

- **Quid Pro Quo Harassment:**^{ccclx} An employee of the recipient conditioning the provision of aid, benefit, or service of the recipient on an individual’s participation unwelcome sexual conduct (Quid Pro Quo);
- **Sexual Harassment:**^{ccclxi} Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient’s education program or activity; or
- **Per Se Sexual Harassment:**^{ccclxii} Sexual Assault, Dating Violence, Domestic Violence, or Stalking.^{ccclxiii}

C. When Does Title IX Apply?

Upon receiving a report of potential sexual harassment, an institution will apply the Title IX regulations to determine whether Title IX applies to the conduct. For the conduct to be considered Sexual Harassment – and therefore, subject to Title IX – the institution must establish that the conduct 1) occurred on the basis of sex, 2) meets the definition of Sexual Harassment (in one of the three above-listed ways), 3) occurred in the United States, and 4) occurred within its educational programs or activities.^{ccclxiv}

Below is a depiction of the analysis to taken in determining whether an institution will apply its Title IX policies to an instance of harassment/sexual misconduct. In the event the conduct meets all of the requirements, it is deemed Sexual Harassment. The Title IX process is launched. This process will be reviewed in detail in the next section.

Step 1: Did the conduct occur on the Basis of Sex? <i>Sexual Harassment is conduct on the basis of sex that satisfies one or more of the following:</i>
• There are 3 types of conduct that may be considered sexual harassment under the new Regulations. ^{ccclxv}
• However, first, it must be established that any potential harassing conduct was committed on the basis of sex. ^{ccclxvi}
• Institutions may determine that conduct is not sexual harassment to be addressed through a Title IX process because it was not committed on the basis of sex. (Example: stalking by athletic teammate with no intimate relationship). ^{ccclxvii}
• Conduct NOT on the basis of sex: This conduct can still be addressed through Student Code of Conduct violation policies and procedures where Title IX does not apply. ^{ccclxviii}



If Conduct **was not** based on Sex, then it **may** be addressed by the Code of Student Conduct.^{ccclxix} However, the inquiry into whether/how Title IX will apply has ended.

If Conduct **was** based on Sex, the analysis continues.

Step 1-A: Did Type 1 (“Quid Pro Quo”) Harassment occur? <i>An employee of the recipient conditioning the provision of aid, benefit, or service of the recipient on an individual’s participation in unwelcome sexual conduct.</i> ^{ccclxx}
• Quid Pro Quo harassment can only be committed by Employee Respondents. ^{ccclxxi}
• Complainant may be another employee or a student. This type of sexual harassment only applies if the Respondent is an employee. ^{ccclxxii}
• Institutions may define “employee” in various ways. As a result, certain individuals may be considered an employee in one institution but not in others. ^{ccclxxiii}
• Graduate Students, Teaching/Research assistants, and Independent Contractors may or may not be “employees” of the recipient institution. Advocates should consult the institution’s policies and state law to determine employee status. ^{ccclxxiv}
• Quid Pro Quo harassment only occurs if the Respondent conditions the provision of aid, benefit or service of the recipient on sexual conduct. ^{ccclxxv}
• The fact that a Respondent is an employee, that the complainant is a student, and that the sexual conduct was unwelcome will not be sufficient in of itself to establish that Quid Pro Quo harassment may have taken place. ^{ccclxxvi}

• The aid, benefit, or service being threatened must be identified to establish this type of harassment ^{ccclxxvii}
• That the aid, benefit, or service would have been provided by the recipient (institution or school) itself will need to be established. ^{ccclxxviii}
• Allegations of Quid Pro Quo harassment are not evaluated for severity, pervasiveness, offensiveness, or denial of equal education access, because such misconduct is sufficiently serious to deprive a person of equal access. ^{ccclxxix}



If Quid Pro Quo Sexual Harassment **did occur**, the Title IX policy **may** apply and analysis proceeds to determine jurisdiction.

If the conduct does not constitute Quid Pro Quo Sexual Harassment, analysis continues to determine whether another category of sexual harassment may have occurred.

Step 1-B: Did Type 2 (Sexual Harassment, as Defined) Harassment occur? <i>Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient’s education program or activity.</i> ^{ccclxxx}
• This type of Sexual Harassment concerns behavior that meets the current definition ^{ccclxxxi} of Sexual Harassment. It must be established that the conduct was unwelcome by the complainant. ^{ccclxxxii}
• To establish whether conduct rises to the level of Sexual Harassment, the institution will apply a reasonable person analysis (i.e. the institution will ask: would a reasonable person in the complainant’s position see this act as (1) severe, (2) pervasive, and (3) objectively offensive?). ^{ccclxxxiii}
• Individual institutions have the discretion to define and assess severity, perversity, and offensiveness of behaviors. For example, conduct that is deemed offensive in one scenario or in one institution may not be so in another. ^{ccclxxxiv}
• That conduct is severe, pervasive, and offensive is not enough to establish Sexual Harassment occurred. It must also be established that an individual’s (victim’s) equal access to education was denied as a result. ^{ccclxxxv}
• To demonstrate the denial of access to education, complainants need to demonstrate the effects of the harassment on their education. Examples may include: missed classwork, loss of focus, fear of entering and exiting campus buildings/academic places, inability to attend group activities, etc. ^{ccclxxxvi}



If Sexual Harassment, as defined in the 2020 Regulations, **did occur**, analysis **can** continue into jurisdiction.

If Sexual Harassment, as defined, **did not occur**, analysis **continues** into whether specific acts of Sexual misconduct occurred.

Step 1-C: Did Specific Acts of Sexual Violence Occur?
<i>Instances of Sexual Assault, Dating Violence, Domestic Violence, and Stalking are acts of Sexual Harassment addressed by Title IX.</i> ^{ccclxxxvii}
<ul style="list-style-type: none">Acts of sexual assault, dating violence, domestic violence, and stalking are <i>per se</i> instances of Sexual Harassment. Therefore, these offenses will always be addressed by Title IX as long <i>as the conduct occurred on the basis of sex</i> (Review Step 1 analysis).^{ccclxxxviii}All elements of the definitions of the listed offenses must be present in order for Title IX to apply. These definitions are those found in the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1990 (hereafter, Clery Act).^{ccclxxxix}Sexual assault^{cccxc} is any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent; including,<ul style="list-style-type: none">Rape: The penetration, however slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victimFondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental incapacityIncest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by [State] lawStatutory Rape: Sexual intercourse with a person under the [state law] statutory age of consentDomestic Violence^{cccxi} is violence committed by a current or former <i>spouse or intimate partner</i> of the victim; by a person with whom the victim <i>shares a child</i> in common; by a person cohabitating with, or who has <i>cohabitated</i> with, the victim as a spouse or intimate partner; by a person similarly situated to the spouse of the victim under the domestic or family laws of the [state] jurisdiction which the crime of violence occurred; or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence [state] laws of the jurisdiction in which the crime of violence occurred.Dating violence^{cccxcii} is violence committed by a person who is or has been in a social relationship of a <i>romantic or intimate nature with the victim</i>. The existence of such a relationship shall be based upon the reporting party’s statement with consideration of the following factors:<ul style="list-style-type: none">i. The <i>length</i> of the relationshipii. The <i>type</i> of the relationshipiii. The <i>frequency of interaction</i> between the persons involved in the relationshipDating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

<ul style="list-style-type: none">Stalking^{cccxciii} is engaging in a <i>course of conduct</i> directed at a specific person that would cause a <i>reasonable person to fear</i> for their safety or the safety of others or suffer substantial emotional distress. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, or indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person’s property. <i>Substantial emotional distress</i> means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling. <i>A reasonable person</i> is person under similar circumstances and with similar identities to the victim.The new Regulations specify that the above “Clery” definitions will be applied to the above offenses.^{cccxciv} Institutions that previously used different terms or definitions must change these terms within their Title IX policies to align.If conduct falls within the definition of one of the above offenses, Title IX applies. There is no need to further evaluate the conduct for severity, pervasiveness, offensiveness, or denial of equal educational access, because the conduct is, by its very nature, sufficiently serious to deprive a person of equal access.



If one of the above offenses did not occur, Title IX does not apply to the conduct. However, the conduct may be addressed by the institution’s Code of Conduct.

If one of the above offenses did occur, analysis can continue into jurisdiction.

Once a school determines that conduct occurred on the basis of sex and, it meets one of the three definitions of sexual harassment, the school must determine whether it has **jurisdiction** over the incident. That is, whether the incident occurred within a location and/or context over which the Office for Civil Rights deems the school responsible and able to respond.

Step 2: Did the Sexual Harassment Occur in an Institution’s Education Program or Activity and in the United States?
<i>Title IX regulations apply to Sexual Harassment that occurs in the United States and within the education programs or activities of the Recipient institution.</i> ^{cccxcv}
<ul style="list-style-type: none">The new Regulations specify that Title IX only applies to conduct that occurs in the United States.^{cccxcvi}Survivors who are subjected to sexual harassment in study abroad or other programs outside of the United States may anticipate that Title IX will not apply to the conduct.^{cccxcvii}The scope of a school’s education programs and activities includes: locations, events, or circumstances over which the school exercised substantial control over both the respondent and the context in which the sexual harassment occurred, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution (such as a sorority or fraternity house).^{cccxcviii}

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| <ul style="list-style-type: none"> • Institutions are tasked with interpreting the parameters of education programs and activities. This analysis will be fact-specific. For example, one institution's interpretation of "substantial control" may differ from that of another institution. Likewise, an institution may determine that it had substantial control over a Respondent in one scenario but not in another, even if occurring in the same geographical location^{cccxcix} | |
| <ul style="list-style-type: none"> • A school may address sexual harassment affecting students or employees outside of Title IX's jurisdiction in any alternative manner the school chooses, including providing supportive measures or pursuing discipline through a code of conduct process.^{cd} | |



If Sexual Harassment **did not occur** within an education program or activity in the United States, Title IX **does not** apply to the conduct.^{cdi} However, the conduct **may** be addressed by an Institution's Code of Conduct or by other disciplinary means.^{cdii}

If Sexual Harassment **did occur** within an education program or activity in the United States, then a school **may** apply its Title IX grievance process to the conduct.

D. Title IX Process Accommodations for Students with Disabilities

Students with disabilities may seek to request reasonable accommodations to an institution's Title IX procedure.^{cdiii} The Americans with Disabilities Act (ADA)^{cdiv} provides protections and rights to these students and can be accessed during the Title IX process. If a student qualifies under the ADA, accommodations may be granted to help students report sexual violence and misconduct, participate in the investigation and adjudication process, and determine supportive measures to implement.^{cdv} Accommodations can include extra time to review and respond to documents, longer or more frequent breaks during interviews and/or hearings, and auxiliary aids or assistive devices such as an interpreter, note-taker, recording device, or copies of documents.^{cdvi} Requests are carefully evaluated so not to show preferential treatment to one party over the other.^{cdvii} Though disability accommodations and Title IX cases are handled by separate offices within universities, they can work together to provide students with a way to report sexual violence.

E. Reporting a Title IX Violation

Any person may report conduct that is potentially a violation of Title IX – that is, an incident of sexual harassment including sexual violence – to the Title IX Coordinator at the Institution.^{cdviii} The reporting party does not need to be the survivor. Institutions have an obligation to provide accessible reporting procedures to any person who wishes to report potential misconduct.^{cdix} If a reporting party experiences barriers to reporting discrimination, they should contact the school immediately to remedy the issue. If the school fails to respond, there may be grounds for a complaint to the Office of Civil Rights.

It is crucial that the report is received by the Title IX Coordinator. A report to any other campus^{cdx} employee

will not trigger the school's responsibility to respond to the report – no matter the nature or severity of the conduct described in the report.

The 2020 Title IX Regulations include specific requirements regarding the reporting process.

Institution's Responsibilities to Facilitate an Accessible Reporting Process
Recipient institution must designate an employee to coordinate its efforts to comply with Title IX responsibilities, referred to as the Title IX Coordinator. ^{cdxi}
School must notify applicants for admission and employment, parents or legal guardians of elementary and secondary school students, all unions, and its students and employees of the Title IX Coordinator's contact information, including: the name and title, office address, email, and phone number. ^{cdxii}
Title IX Coordinator contact information must be prominently displayed on their websites. ^{cdxiii}
Any person may report sex discrimination, including sexual harassment, whether or not the person reporting is the person alleged to be the survivor of the conduct that could constitute sexual discrimination or harassment. ^{cdxiv}
Reports of sex discrimination/harassment can be made by phone, mail, in person, email, through Title IX Coordinator's listed contact information, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. ^{cdxv}
A Report of discrimination/harassment may be made at any time, including: non-business hours, by phone or email, or by mail to the office address of the Title IX Coordinator. ^{cdxvi}

F. School's Mandatory Response Obligations to a Report of Sex Discrimination

Schools have a duty to respond promptly to Title IX sexual harassment.^{cdxvii} The response must occur in a manner that is not deliberately indifferent.^{cdxviii} A response (or lack of a response) is only deliberately indifferent where it is clearly unreasonable in light of the known circumstances.^{cdxix} In **post-secondary institutions**, this duty to respond is triggered by the Title IX Coordinator's Actual Knowledge of a report of sex discrimination/harassment.^{cdxx} This means that, unless a school's policies explicitly state a different response requirement, a school has no duty to respond to a report of harassment until the Coordinator – or an official with authority to institute corrective measures on the recipient's behalf – has received notice of the reported incident.^{cdxxi} It is not sufficient that a school or office employee has knowledge of the reported incident.^{cdxxii} A postsecondary institution may choose whether to have mandatory reporting requirements for all employees.^{cdxxiii} Alternatively, it may choose to designate some employees to be confidential resources for college students to discuss sexual harassment. Notice to these individuals does not, however, trigger the response required by Title IX.^{cdxxiv} Therefore, failure to so respond is not a violation of Title IX. An employee's failure to report sexual harassment under these circumstances would be addressed through another process, such as an employment or conduct policy.^{cdxxv}

In **K-12 institutions**, the duty to respond is triggered whenever any employee has notice of sexual harassment or allegations thereof.^{cdxxvi} The Title IX Coordinator does not have to have specific knowledge in order for the school to be mandated to respond promptly.^{cdxxvii}

Institution's Responsibilities upon Actual Knowledge of Report
School must offer supportive measures to the person alleged to be the victim. ^{cdxxviii} This person is referred to as the Complainant through the Title IX process.
School must notify applicants for admission and employment, parents or legal guardians of elementary and secondary school students, all unions, and its students and employees of the Title IX Coordinator's contact information, including: the name and title, office address, email, and phone number. ^{cdxxix}
The Title IX Coordinator must promptly contact the complainant confidentially to discuss: <div><div>1. Availability of Supportive Measures with or without the filing of a formal complaint</div><div>2. Complainant's wishes with respect to Supportive Measures</div><div>3. Explanation of the process for filing a formal complaint^{cdxxx}</div></div>

Upon receiving a report of sex discrimination/harassment, a school does **not** have a duty to inform the alleged perpetrator (Respondent).^{cdxxxi} At this stage, the school's responsibility centers on protecting the victim's^{cdxxxii} right to education and their safety, along with providing the victim with options with proceeding with a disciplinary process.

One of the key ways a survivor can obtain support or accommodations from a school, whether or not they choose to proceed with the disciplinary process, is by seeking supportive measures.^{cdxxxi} Supportive measures are accommodations a school may provide to a victim after receiving a harassment report. The purpose of these measures is to protect the victim's education and/or safety, and to deter harassment.^{cdxxxiv}

Supportive Measures are new to the 2020 Regulations. Advocates may have been familiar with the term “accommodations” (measures offered by schools to support the victim (or the other party) under the 2011 Dear Colleague Letter).^{cdxxxv} Before the 2020 Regulations, some institutions would provide accommodations to a survivor even where they could more negatively affect the Respondent (for example, removing a Respondent from a shared course while allowing the Complainant to stay). Conversely, supportive measures cannot affect the Respondent and must be non-punitive in nature. Supportive measures are offered first to the survivor of potential harassment upon the initial report of the incident.^{cdxxxvi} Supportive measures are also offered to the Respondent after the filing of a formal complaint.^{cdxxxvii} Supportive measures may be provided to the parties throughout the Title IX process and even after a determination has been made.^{cdxxxviii}

Supportive measures differ from Remedies. Remedies are measures that may be provided to a Complainant after there has been a determination that the Respondent is Responsible for one or more allegations of sexual misconduct.^{cdxxxix} These may be punitive in nature, but a school must explain how the actions will protect the victim's safety or education.

Supportive Measures ^{cdxl}	Remedies ^{cdxli}
Non-disciplinary, non-punitive individualized services offered as appropriate and reasonably available	May include the same individualized services as “supportive measures”
Offered without fee or charge to the complainant or respondent	
Offered before or after the filing of a formal complaint or where no formal complaint has been filed	Offered only after a Respondent has been determined to be Responsible for allegation(s) of sexual harassment.

Designed to restore or preserve equal access to the recipient's education program or activity	Designed to Restore or Preserve equal access to recipient's education program or activity
May not unreasonably burden the other party	May be disciplinary/punitive and may burden the Respondent
Includes measures designed to protect the safety of all parties or the recipient's educational environment, or deter sexual harassment.	School must provide a statement on whether remedies to be provided to Complainant are designed to restore or preserve equal access to education program or activity
Must be maintained as confidential as possible	Written notice of decision includes notice of Remedies provided with rationale.
Title IX Coordinator responsible for effective implementation	Title IX Coordinator responsible for effective implementation
A school's selection of supportive measures is subject to the deliberate indifferent standard: A school only violates Title IX when its selection of supportive measures is clearly unreasonable in light of the known circumstances.	A school's selection of Remedies is subject to the deliberate indifferent standard: A school only violates Title IX when its selection of Remedies is clearly unreasonable in light of the known circumstances.
Examples may include: counseling, extensions of deadlines or course-related adjustments, modifications of class/work schedules, mutual no-contact orders between parties, changes in housing or work locations, leaves of absence, increased security/monitoring of certain campus areas, and similar measures.	School must provide parties with a description of the range or list of possible sanctions and remedies that may be implemented following a determination of Responsibility.

Once the school has provided the survivor with all required information and offered supportive measures, the school has no responsibility to take further action regarding the sexual misconduct. The school is only required to take additional measures should the victim decide to file a Formal Complaint.

G. Filing a Formal Complaint^{cdxlii}
To trigger an investigation into sex discrimination/harassment/violence, the survivor must file a Formal Complaint.^{cdxliii} It is not sufficient that a survivor discussed or otherwise informed the Title IX Coordinator of the incident. To be eligible to file a Formal complaint, the survivor must be participating in or attempting to participating in the education program or activity of the school at the time the complaint is filed.^{cdxliv} Institutions are charged with creating a document that constitutes the “Formal Complaint” and a process by which to file the complaint. The Title IX process will only proceed after a Formal Complaint is received by the Title IX Coordinator.^{cdxlv} An institution must respond effectively and promptly to a complaint of sex discrimination/harassment. Unless its response (or, lack thereof) is deliberately indifferent, the school will not be liable for violating Title IX.^{cdxli} A school's response to a complaint of harassment is only deliberately indifferent if it is unreasonable in light of the circumstances known to the school/TIX Coordinator.^{cdxlvii}

Upon receiving a formal complaint, Institutions and their Title IX Coordinators have a number of specific responsibilities, provided in the 2020 Regulations. The Formal Complaint marks the start of the formal Title IX process.

A Formal Complaint must be filed by the survivor (Complainant) of the harassment or signed by the Title IX Coordinator.^{cdxlviii} While an institution may file a formal complaint without the participation of the Complainant, this is an atypical situation. A school must respect Complainant's wishes regarding whether the school should investigate unless the Title IX Coordinator determines that initiating an investigation over the wishes of the Complainant is not clearly unreasonable in light of the known circumstances.^{cdxlix} If the unusual determination to file a formal complaint without the survivor's initiative or consent, then the TIX Coordinator may sign a formal complaint in place of the Complainant.^{cdl} It is likely that this scenario

can only be expected to play out in instances of severe violation, multiple allegations of sexual misconduct by a perpetrator, extreme threat to the campus community.^{cdli} There are no situations in which a Title IX Coordinator is required to submit a Formal Complaint.^{cdliii}

In K-12 Institutions, a Formal Complaint may be filed by the Complainant, the Title IX Coordinator, or a parent or legal guardian of the Complainant-Student.^{cdliii}

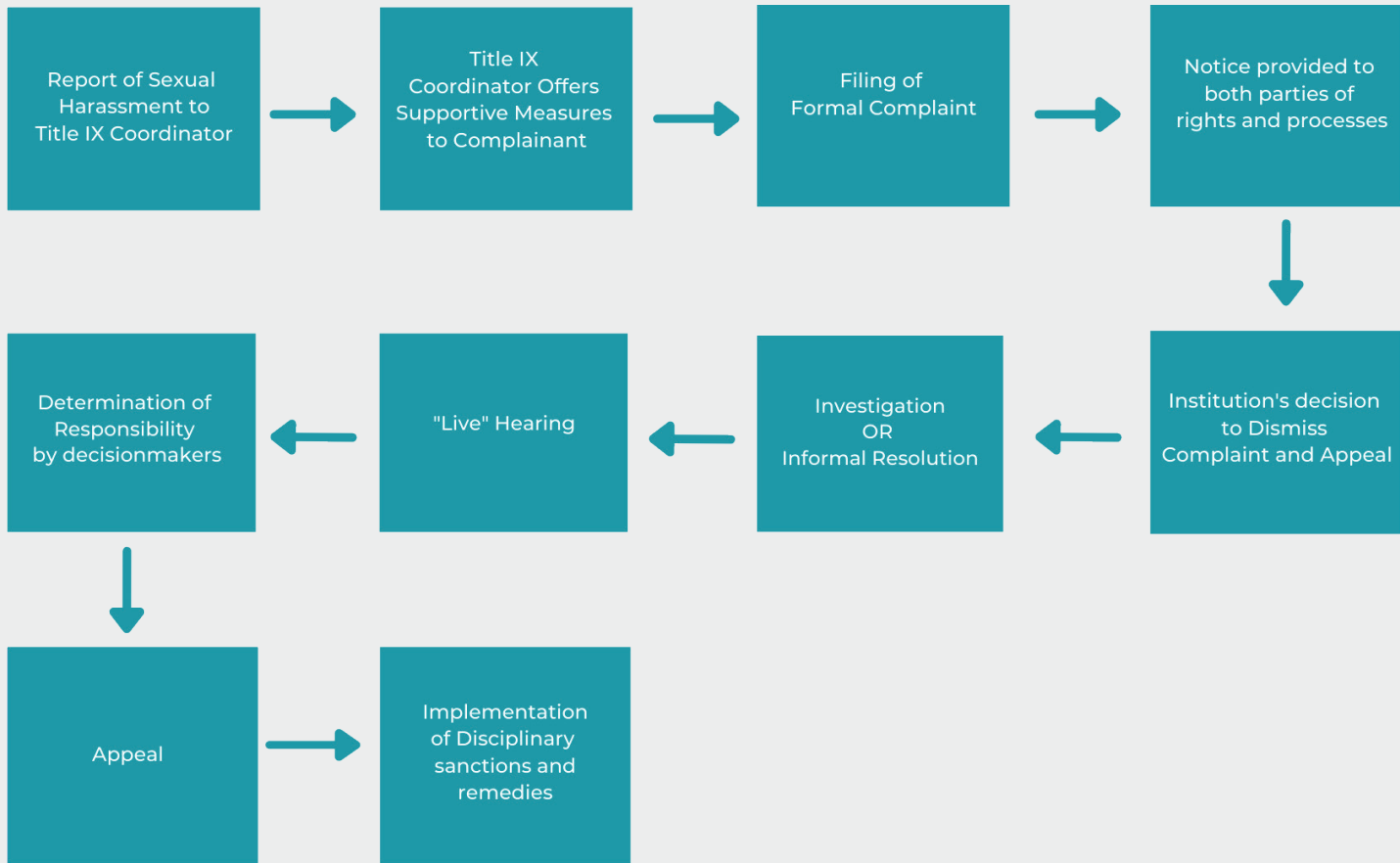
After a Formal Complaint is received by the Title IX Coordinator, the institution has a number of responsibilities to both parties. The school is required to provide notice of the allegations and grievance procedures to both the Complainant and the Respondent.^{cdliv} The failure to do so may result in a finding by the Office of Civil Rights that the school has violated Title IX.

Before analyzing the school's responsibilities to both parties once the Title IX process has begun, it is helpful to review the specific institution's policies, along with the general OCR requirements, in detail.

H. The Grievance Process

The 2020 Regulations require specific items in all Title IX grievance processes.^{cdliv} Survivor advocates should familiarize themselves with all of the elements of a permissible grievance process. An institution that fails to provide any component of the grievance procedure requirements listed in the Regulations may be subject to liability for violating Title IX.

The chart below provides an example of a compliant process.^{cdlvi}



A Compliant Grievance Process Must ^{cdlvii}
Treat complainants equitably by providing Remedies any time a Respondent is found Responsible;
Treat Respondents equitably by not imposing disciplinary sanctions without following the grievance process prescribed;
Provide Remedies to a Complainant when a Respondent is found Responsible. Remedies must be designed to maintain the Complainant's equal access to education. Remedies may be disciplinary, punitive, and may burden the Respondent;
Require objective evaluation of all relevant evidence – inculpatory and exculpatory;
Avoid credibility determinations based on a person's status as Complainant, Respondent, or Witness;
Require Title IX personnel to be free from conflicts or bias for or against Complainant or Respondent. Personnel include Title IX coordinators, investigators, decision-makers, and facilitators of informal resolution processes;
Provide training of personnel, which includes training on the definition of sexual harassment, the scope of the school's education program or activity, how to conduct investigations and grievance processes (such as hearings, appeals, informal resolutions, etc.), and how to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;
Ensure decision makers receive training on technology used in live hearings;
Ensure investigators and decision makers receive training on issues of Relevance and applying Rape Shield protections for Complainants;
Include a Presumption that the Respondent is Not Responsible for alleged conduct until a determination regarding Responsibility is made at the conclusion of the process;
Post materials used to train personnel on school websites or make the materials available for public inspection;
Include reasonably prompt timeframes for conclusion of process, including appeals and informal resolutions;
Allow for short-term, good cause delays or extensions of time frames;
Describe the range or a list of possible remedies and disciplinary sanctions that may be imposed upon a determination of responsibility;
State the school's chosen standard of evidence for all formal complaints of sexual harassment as either the Preponderance of Evidence or Clear and Convincing Evidence;
Describe appeal procedures;
Describe range of Supportive Measures available to both parties;
Never involve disclosure of privileged information unless waived;
Equally apply all provisions, rules, or practices (other than those required by the Regulations that a school adopts) as part of its grievance process to both parties;
Refrain from restricting protected Constitutional rights, including the First Amendment, Fifth Amendment, and Fourteenth Amendment when complying with Title IX.

Upon the receipt of a Formal Complaint, the Institution has the following responsibilities:^{cdlviii}

- Provide notice of all components of the Grievance process;
- Provide notice of all rights afforded to both parties during the grievance process;
- Provide written notice of allegations;
- Provide Supportive Measures to both parties;
- Provide notice of the right to an Advisor of Choice or to an Advisor provided by the school for cross-examination;
- Provide notice of opportunity to voluntarily engage in Informal Resolution process.

I. Formal Complaints: Multiple Complainants or Multiple Respondents

When more than one survivor alleges the same Respondent sexually harassed them, multiple Complainants may file a formal complaint against the same Respondent. Alternatively, one Complainant may file a formal complaint against more than one Respondent, when an incident of sexual harassment involved more than one perpetrator. A school may consolidate – that is, join multiple complaints into a single investigation/grievance process – where the allegations of Sexual Harassment arise out of the same facts or circumstances.^{cdlix} Under no circumstances, however, is a school required to consolidate multiple complaints.

J. Dismissal of Allegations or Formal Complaint^{cdlx}

The new Regulations provide for an additional step in the grievance process that was not specifically called for in previous guidance. After receiving a Formal Complaint, the Institution must review the allegations stated to determine whether the alleged conduct could constitute Sexual Harassment. If the school’s review determines that the allegations would not constitute Title IX Sexual Harassment even if everything the Complainant alleges is proven true, they must dismiss the Complaint.^{cdlxi} In other cases, the institution has the discretion to dismiss some or all of the allegations in a Complaint. After the initial dismissal decision is made, both parties have the opportunity to appeal the dismissal (or, the choice to proceed rather than to dismiss the complaint).^{cdlxii} After the appeal process has concluded, the grievance process continues on to an investigation of any remaining allegations.

Grounds for Dismissal of Formal Complaint:	
Mandatory Dismissal	Discretionary Dismissal
Complaint does not describe conduct that meets any definition of Sexual Harassment.	Complainant provides written notice to Title IX Coordinator that they want to withdraw the Formal Complaint.
Sexual Harassment did not occur in the School’s Educational Program or Activity.	Respondent is no longer enrolled or employed at the Institution.
Sexual Harassment did not occur in the United States.	Specific Circumstances prevent the school from gathering sufficient evidence to reach a determination regarding Sexual Harassment.
School did not have substantial control over the Respondent and context in which the Sexual Harassment occurred.	
	*Under these circumstances, Dismissal of the Complaint is Presumed. However, a school may proceed with the grievance process if it believes that dismissal would be inappropriate.

When an institution applies a Mandatory Dismissal to a complaint, the conduct in the allegations cannot be addressed by Title IX because the institution has determined that it does not constitute Sexual Harassment.^{cdxliii} However, the conduct may constitute a violation of other rules, such as state law or the

institution’s Code of Conduct.^{cdxliv} In these cases, a school may apply other disciplinary procedures to the same conduct, such as that provided within its Code of Conduct. Schools must promptly provide both parties with written notice of a dismissal (mandatory or discretionary) and the reasons for the dismissal.

Advocate Tip!
New Dismissal Conditions

These complaint dismissal procedures are new, and likely unexpected or unfamiliar to survivors and their supporters. Advocates should review each institution’s dismissal procedures. Advocates should warn survivors of the possibility that their complaint may be dismissed. Survivors should also be aware that even where an institution does not dismiss a complaint, a Respondent may appeal the decision not to dismiss the survivor’s complaint. This additional adversarial point in the process may be surprising or distressing to survivors.

K. Appeal of Dismissal^{cdlxv}

Both Complainant and Respondent have the opportunity to appeal a decision to dismiss (or, not to dismiss) some or all of a Formal Complaint. Both parties have the right to appeal a recipient’s mandatory *and* discretionary dismissal decisions upon one or more of three grounds^{cdlxvi} for appeal:

- i. Procedural Irregularity affected the Dismissal decision;
- ii. Newly Discovered Evidence that would impact the Dismissal decision
- iii. Title IX Personnel had a conflict of interest or bias that affected the Dismissal decision

A Complainant has an opportunity to appeal in the event that a school dismisses some or all of the allegations in the Complaint. Because one permissible ground for appeal is based on the existence of new evidence, it is possible that a Complainant may provide new and additional evidence that demonstrates that the conduct was, in fact, an act of Sexual Harassment where the school previously determined that it was not. Alternatively, a Complainant may appeal on the permissible ground that a procedural irregularity occurred when the Complaint was dismissed, as the school using a proper procedure would have concluded that the conduct alleged did constitute Sexual Harassment.

L. Informal Resolution of Formal Complaint of Sexual Harassment^{cdlxvii}

The 2020 Regulations provide for the opportunity for parties to enter into an alternative informal resolution process.^{cdlxviii} This process would occur *instead* of the formal process (investigation, hearing, determination of responsibility, sanction/remedies, appeal).^{cdlxix} Both parties must voluntarily agree to attempt the informal resolution of a complaint.^{cdlxx} Under no circumstances may an institution require parties to attempt an informal resolution.^{cdlxxi} During the informal resolution process, either party may choose to forgo the informal process and return to the formal process at any time prior to signing a resolution agreement.^{cdlxxii}

Informal Resolution procedures will be crafted by individual institutions, as the Regulations allow for broad discretion in implementing informal processes.^{cdlxxiii} Informal resolution processes may resemble mediation, negotiation, or restorative justice measures, and schools must provide facilitators trained specifically for their role in the informal resolution process.^{cdlxxiv} An Informal Resolution process concludes once both parties have agreed upon a resolution agreement and have signed the agreement, acknowledging their consent to its terms.^{cdlxxv} After an agreement is signed, the same conduct cannot thereafter be addressed through the formal complaint process.^{cdlxxvi}

Advocates should be aware of the potential impact and traumatic effects of engaging with a Respondent in an Informal Resolution process. No survivor may be coerced, threatened, or otherwise forced to participate in an informal resolution process. Should a survivor feel pressured into doing so by an institution, the institution may be liable for a violation of Title IX.

M. Investigation of Formal Complaint of Sexual Harassment^{cdlxxvii}

Unless a Formal Complaint is dismissed or resolved through Informal Resolution, the Grievance Process continues with the Investigation phase of the Title IX Process. Here, the school collects evidence and case facts to determine whether the conduct alleged was, in fact, Sexual Harassment (and, therefore, how the process will proceed thereafter).^{cdlxxviii} An investigation into Sexual Harassment may be brief. However, in many cases, the investigation lasts several weeks or more before the investigator comes to their conclusion regarding potential misconduct.

The new Regulations require a school to provide a reasonable timeframe of its grievance process to both parties as soon as the Formal Complaint is filed and the process has begun, though Complainant and Respondent engagement with each step of the process may lengthen the overall timeline. As an institution’s timeline may, impact a survivor’s decision to proceed with a complaint, advocates should explain the school’s process timeline as soon as possible so that the survivor can make choices they find to be best for their own circumstances.

The 2020 Regulations provide a number of specific steps a school must take (and, those they must refrain from taking), during an investigation into Sexual Harassment.^{cdlxix} Additionally, there are a number of notices and opportunities that a school must provide to both parties throughout the investigation. Should a school fail to comply with any of the investigation provisions in the Regulations, it may be liable for violating Title IX.

Advocates should keep in mind that individual institutions have unique policies regarding the grievance procedures for handling cases of sexual misconduct. While every school is required to incorporate all of the provisions in the Regulations, the means by which they do so may vary widely. In each case, a review of the school’s current policy is a crucial first step in supporting survivors through the process.

An institution’s Grievance Process must provide for all of the rights afforded to parties during an investigation.^{cdlxxx} An investigation may *add* additional elements or procedures to its process, as long as the added items do not infringe on the stated requirements or on parties’ rights. All steps during the investigation must *apply equally to both parties*. Neither a Complainant nor a Respondent should have access to any evidence or other information that is not also provided to the other party.^{cdlxxxi} Likewise, any opportunities – listed or not – must be provided equally to both parties.^{cdlxxxii} Should one party’s rights be upheld in way or to an extent that the other’s rights are not, then the Institution may be liable for violating Title IX.

Rights of Complainant and Respondent during Formal Investigation ^{cdlxxxiii}
Right to participate in the investigation process
Right to gather evidence, present fact and expert witnesses, review gathered evidence, and to respond to investigative report and summary of relevant evidence
Right to present fact witnesses and expert witnesses and other inculpatory and exculpatory evidence
Right to be accompanied by any proceeding, meeting, or interview by their advisor of choice (Advisor may be, but is not required to be, an attorney.)
Right to written notice of the date, time, location, participants and purpose of all investigative interviews or meetings (and hearings)
Right to sufficient time to prepare for any interview, meeting, or hearing

Right to Inspect and Review evidence obtained as part of the investigation that is directly related to the allegations in the formal complaint, including evidence that the school does not intend to rely on in reaching a decision regarding responsibility
Right to Inspect and Review any inculpatory or exculpatory evidence, whether obtained by a party or other source
Right to meaningfully respond to the evidence prior to the conclusion of the investigation
Right to have at least 10 days to submit a written response to the evidence received: Investigator must confirm that they have considered written responses prior to completing the final investigation report.
Right to receive the evidence subject to inspection and review in an electronic format or hard copy: A party’s advisor must also receive this evidence, unless a party instructs that their advisor should not receive the evidence.
Right to access all evidence subject to inspection and review during investigation at any hearing.
Right to refer to any evidence subject to inspection and review during investigation during a hearing, including during cross-examination
Right to receive an investigative report by an Investigator. Report must: <div><div>1. Fairly summarize the relevant evidence</div><div>2. Right to receive Investigation Report at least 10 days prior to a hearing (or other time of determination regarding responsibility) in electronic format or hard copy for parties’ review and written response.</div></div>
* An Institution’s Grievance Process may require additional elements in Investigation Reports.

During the Investigation, an Institution is <i>Prohibited From</i> : ^{cdlxxxiv}
Placing the burden of gathering relevant evidence or meeting the burden of proof on either party – the Institution bears the burden of gathering evidence sufficient to reach a determination regarding responsibility;
Accessing, considering, disclosing, or otherwise using a party’s privileged records by a physician, psychology, or other professional made or maintained to provide treatment to the party unless that party provides voluntary, written consent to do so;
Restrict the ability of either Party to discuss the allegations under the investigation;
Limit the choice of or presence of a party’s advisor in any meeting or proceeding: Institutions, however, may establish restrictions on permissible participation by the advisor in proceedings that apply equally to all parties.

N. Hearings:

1. Elementary, Secondary, and other Non-Postsecondary Processes^{cdlxxxv}
Postsecondary institutions *must* provide for a live hearing in its Grievance Process.^{cdlxxxvi} Elementary and Secondary schools (and any other recipients that are not postsecondary institutions) *may* provide for a hearing in its Grievance Process; however, these recipients are not required to provide a hearing.^{cdlxxxvii} With or without a hearing, however, these recipients do maintain the responsibility to provide for the following in its Grievance Procedures:

- The recipient must send an investigative report to the parties.

- The recipient must provide parties an opportunity to submit written, relevant questions that the party wants asked of any parties or witnesses.
- The recipient must provide each party with the answers to their submitted questions.
- The recipient must provide each party with an opportunity to submit additional, limited follow-up questions in response.
- The recipient NOT allow questions and evidence about a Complainant's prior sexual behavior or sexual predisposition, as these facts are not relevant to a decision regarding responsibility. Questions regarding Complainant's prior sexual history are permitted in two limited circumstances:
 1. Questions regarding Complainant's prior sexual history can ONLY be permitted when *offered to prove that someone other than the Respondent committed the conduct* alleged by the Complainant.
 2. Questions or evidence regarding specific incidents of Complainant's prior sexual behavior may ONLY be permitted when the question refers only to behavior with respect to the Respondent specifically and *only if offered to prove consent*.
- The recipient must require decisionmakers to explain any decision to exclude a submitted question as not relevant to the party proposing the question.

2. Post-Secondary Institutions

All postsecondary recipients^{cdlxxxix} must provide for a live hearing in a Grievance Process, and the 2020 Regulations require that hearings take place only after the conclusion of an investigation.^{cdxc} The 2020 Regulations make significant changes to prior hearing standards. As such, all professionals experienced in Title IX should engage in meaningful review of the current rule.

a. Institutions must permit Cross-Examination during hearings.^{cdxci}

- Decisionmaker(s) must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions.
- Cross Examination questions may include questions challenging credibility.
- Cross Examination at live hearings must be conducted directly, orally, and in real time by the party's advisor of choice.
- A party may never personally conduct Cross Examination of parties or witnesses.
- Only relevant questions may be asked of a party or witness.
- Before a Complainant, Respondent, or Witness answers a cross examination or other question, decisionmaker(s) must first determine whether the question is relevant. Decisionmaker(s) must explain any decision to exclude a question as non-relevant.
- A party that does not have an advisor present at a hearing must be provided with an advisor of the recipient's choice without fee or charge to the party. This person may, but is not required to be, an attorney.
- An advisor of the recipient's choice provided to a party without an advisor at a hearing is provided to conduct cross-examination on behalf of that party.
- Questions (or evidence) about Complainant's prior sexual behavior are not permitted. Details of this nature are not relevant to the matter *unless* a question or evidence is offered to: (1) prove someone other than Respondent committed the conduct alleged, or (2) prove consent. Questions posed to prove consent must concern only specific incidents of Complainant's prior sexual behavior with respect to the Respondent.
- If a party or a witness does *not* submit to cross-examination in a live hearing, decisionmaker(s) must not rely on any statement that party or witness made when reaching a determination about responsibility.
- Decisionmakers must not draw an inference about the determination regarding responsibility based solely on a party or witness absence or refusal to answer cross-examination or other questions.

b. Live Hearings must be conducted with all parties physically present in the same location.^{cdxcii}

At the school's discretion, any or all parties, witnesses, or other participants may appear at a live hearing virtually as long as technology enables participants to simultaneously see and hear each other. A recording or transcript of a live hearing must be available to parties for inspection and review. Decision makers must issue a written determination regarding responsibility to both parties that includes:

- Allegations potentially constituting sexual harassment;
- Procedural steps taken from the receipt of the Formal Complaint through Determination, including notifications to parties, interviews with parties/witnesses, site visits, methods of gathering evidence, and hearings held;
- Findings of fact supporting determination;
- Conclusions regarding application of code of conduct to facts;
- Statement and rationale for result as to each allegation, including the determination of responsibility;
- Disciplinary Sanctions imposed on Respondent and Remedies provided to Complainant;
- Statement regarding whether Remedies are designed to restore or preserve equal access to an education program or activity; and
- Procedures and permissible bases for parties to appeal.

Institutions may provide for additional hearing procedures in its grievance process, as long as the above procedures are included as well. For example, an institution may provide an opportunity for both parties to request a separate room from the other party during the hearing or an opportunity for both parties to provide an oral or written opening and/or closing statement to the decisionmaker. Institutions may permit – or, restrict – the presence of others in the live hearing (including advocates and support persons). Advocates should seek information regarding whether and when supporters may be present. Where policies are silent or unclear on this point, advocates may wish to request or advocate for the presence of supporter(s) where preferred by a survivor.

The permissible scope of Advisors' participation in hearings may be defined by individual institutions. Institutions can restrict the advisors' level of participation in hearing procedures (and, throughout the grievance process) as they see fit.

3. Appeal of Determination regarding Responsibility^{cdxciii}

After a determination is made regarding responsibility, and after both parties have received the written findings, then both parties must be provided with an opportunity to appeal. An institution must provide at least the following three grounds for appeal:

Grounds for Appeal of Determination of Responsibility ^{cdxciv}
1. Procedural irregularity that affected the outcome of the matter
2. New evidence that was not reasonably available at the time the determination regarding responsibility was made that could affect the outcome of the matter
3. The TIX Coordinator, investigator(s), or decisionmaker(s) had a conflict of interest or bias for or against complainants or respondents generally, or an individual complainant or respondent, that affected the outcome of the matter
*An institution may also offer additional grounds for appeal in its grievance procedures.

Under previous guidance, institutions did not have uniform appeal procedures.^{cdxcv} However, the 2020 Regulations do provide a number of requirements for the appeal process. Not only must an institution offer all of the above bases from which to appeal, it also must apply certain procedural requirements.^{cdxcvi} An institution's policy may provide for additional steps in its procedures – including additional grounds for appeal – as long any additional elements are applied equally to both parties.^{cdxcvii}

Institution’s Responsibilities During the Appeal Process ^{cdxcviii}
Notify the other party in writing when an Appeal is filed.
Implement appeal procedures equally for both parties.
Ensure appeal decisionmaker(s) is not the same person as the decisionmaker(s) of the initial decision regarding responsibility, the investigator(s), or the Title IX coordinator.
Give both parties a reasonable and equal opportunity to submit appeal or response in support of, or challenging, the finding regarding responsibility.
Issue a written decision on the Appeal that describes the result of the appeal and the rationale for the result.
Provide the written decision on the Appeal simultaneously to both parties.

Because institutions have the discretion to add provisions, appeal procedures may vary from one school to another. For instance, an institution may provide a second appeal opportunity after the first appeal decision. The particulars regarding the grounds for appeal and the steps involved in a grievance process should be reviewed early in the Title IX process. Any disciplinary sanctions or remedies imposed in the written decision regarding responsibility do not take effect until *after* the appeal process has concluded. Supporters of survivors should verify that a survivor is aware of this delay while contemplating and preparing safety plans following a hearing and decision.

4. Retaliation^{cdxcix}
Specific behaviors are considered acts of Retaliation in response to a sexual harassment Complaint.^d The Regulations provide guidance for handling allegations of Retaliation. It is mandatory that schools address Retaliation in its grievance process.^{di} Where schools have already prohibited Retaliation in Title IX matters, the relevant practices and procedures may be modified to follow the 2020 Regulations.^{dii} So, behavior that was once generally seen as retaliation, may not be considered retaliation now, and vice versa. A school’s grievance process and its methods of addressing Retaliation should be reviewed at the outset of every new case.

The rule prohibiting Retaliation reads:

“No recipient or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by title IX or this part, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part.”^{diii}

To determine whether a behavior or set of behaviors constitutes Retaliation, the statement above must be broken down into its elements.

Language of Retaliation Definition	Impact of Language
“No recipient or other person”	Retaliation may be committed by either the Institution itself, by a party to the sexual harassment matter, or by any other person.
... intimidate, threaten, coerce, or discriminate against any individual...	Acts of intimidation, coercion, or discrimination against any person may constitute Retaliation. These actions do not need be taken directly by a party to constitute Retaliation.

... for the purpose of interfering with any right or privilege secured by title IX ...	In order to constitute Retaliation, it must be demonstrated that the perpetrator engaged in one of the above actions with the purpose of interfering with another person’s Title IX rights. There exist a wide range of rights and privileges afforded to participants in a Title IX matter – from broad rights of free speech, to more discreet rights to receive notice of proceedings.
... or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing ...	<p>The act of reporting, filing a complaint, testifying at a hearing, or of any other means of assisting or participating in an investigation (for example, providing an interview, statement, or evidence to an investigator) may be considered Retaliation itself.</p> <p>The refusal to participate in a Title IX investigation (or other proceeding/hearing) may be considered retaliation, too, if the purpose is to interfere with another person’s rights under Title IX.</p>

The Regulations further specify that acts of intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or this part, constitutes retaliation.^{div} This provision leaves open the possibility that a school could be found responsible for Retaliation for charging a party or witness with a violation of the student code of conduct (other than sexual harassment), as long as it is demonstrated that the school did so with the purpose of interfering with Title IX rights.

There are specific circumstances which cannot constitute Retaliation,^{dv} regardless of the facts of the alleged conduct. These exceptions include:

- The exercise of rights protected under the First Amendment
 - As long as an individual is exercising their freedom of speech in discussing another individual involved in a Title IX matter, and is not doing so to interfere with the other individual’s Title IX rights, then they will not be responsible for Retaliation.
- Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance procedure.
 - A determination regarding responsibility alone is not sufficient to conclude that a party made a materially false statement in bad faith. This means that a Respondent cannot be charged with Retaliation simply because they are determined to be Responsible for sexual harassment. Likewise, a Complainant cannot be charged with Retaliation simply because a Respondent is determined to be Not Responsible for sexual harassment.

5. Privacy and Confidentiality^{dvi}
Schools must keep details of a Title IX matter confidential, including:

- The identity of any individual who has made a report of sex discrimination,
- The identity of any individual who has made a formal complaint of sex discrimination,
- The identity of any complainant,
- The identity of any individual who has been reported to be the perpetrator of sex discrimination (any Respondent).

Other laws, including FERPA and the Clery Act (discussed in a later section), may allow for exceptions to the rules of confidentiality listed above. However, in most circumstances, supporters of survivors should anticipate that these details will be kept confidential to the greatest extent possible.

6. Record Keeping

The 2020 Regulations provide for when schools must maintain records involving a Title IX matter, what information must be recorded and maintained, and how long those records must be maintained.

For at least a period of seven years, schools must keep records of all of the following:^{dvii}

- Sexual Harassment investigations, including any determinations regarding responsibility,
- Recordings of Sexual Harassment proceedings,
- Disciplinary sanctions imposed on respondents
- Remedies provided to Complainants
- Appeals and results therefrom
- Informal resolutions and results therefrom
- All training materials used to train TIX Coordinators, investigators, decisionmakers, and informal resolution facilitators.
- Record of all actions, including supportive measures, taken in response to a report or formal complaint of sexual harassment. This record must include:
 - Basis for school's conclusion that its response to report or formal complaint of harassment was not Deliberately Indifferent.
 - Measures taken designed to restore or preserve equal access to recipient's education program or activity.
 - If no supportive measures are provided to a Complainant, then the school must document why this response was not deliberately indifferent (clearly unreasonable in light of the known circumstances).

O. Enforcement of Title IX

1. Administrative Enforcement by the Office of Civil Rights

The U.S. Department of Education enforces Title IX through the Office for Civil Rights (OCR). OCR is located in Washington D.C. and has 12 offices across the U.S.^{dviii} It is OCR's responsibility to ensure that educational institutions or other entities comply with Title IX.^{dx} When OCR receives a Complaint of discrimination by a federally-funded institution, the office investigates and resolves the complaint. Ultimately, OCR determines whether alleged discrimination occurred and provides remedies for sex discrimination committed by recipient institutions.

2. Scope of Enforcement by the Office of Civil Rights

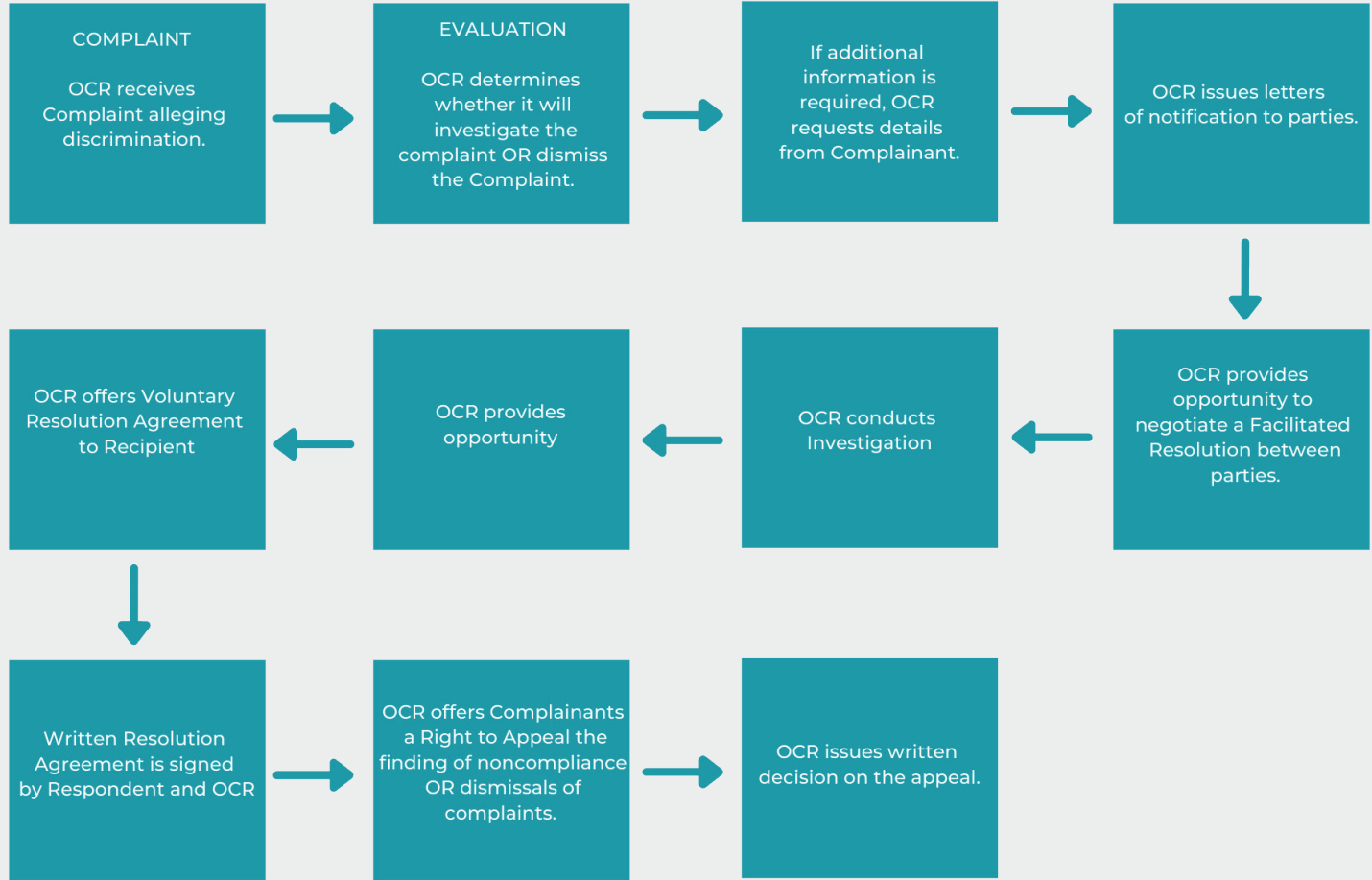
The United States Department of Education Office of Civil Rights is tasked with enforcing anti-discrimination laws in education, generally.^{dx} In the following sections, we will focus on the procedures surrounding Office of Civil Rights and its Title IX, ensuring that federally-funded education institutions do not discriminate on the basis of sex. Generally, OCR is responsible for enforcing other related laws, including:

Title VI of the Civil Rights Act of 1964	Prohibits discrimination on the basis of race, color, or natural origin
Title IX of the Education Amendments of 1972	Prohibits discrimination on the basis of sex
Section 504 of the Rehabilitation Act of 1973	Prohibits discrimination on the basis of disability
Title II of the Americans with Disabilities Act of 1990	Prohibits discrimination on the basis of disability
Age Discrimination Act of 1975	Prohibits discrimination on the basis of age

3. Office of Civil Rights Complaint Process

OCR's Complaint Processing Procedures are detailed in OCR's Case Processing Manual (CPM).^{dx} Advocates

should consult this document when supporting a survivor through complaint process. In any individual case, advocates should check to ensure that the contents of this manual are effective as of the current date. The diagram below illustrates the typical process to be expected when OCR receives a complaint that discrimination has occurred.^{dxii}



An OCR complaint of sex discrimination alleges that a school (recipient of federal funding) discriminated against one or more individuals in its response to a complaint of sexual harassment or other form of sex discrimination.

Filing an OCR complaint is more complex than filing a report or complaint of sex discrimination to a school or other institution to trigger its Title IX process. In considering an OCR complaint, survivors should consult with an attorney experienced in Title IX matters. Prior to filing an OCR complaint, complainants should determine which OCR enforcement office is responsible for cases in the state in which the institution alleged to have committed the discrimination is located. The location of the individual filing the complaint is not relevant.

An OCR complaint must be filed by one of the following means:

- Obtain a Complaint Form (Contact an OCR enforcement office)
- On-line Complaint Form (www.ed.gov)
- Email Complaint to OCR Enforcement Office
- Write a Complaint in a letter to OCR Enforcement Office

The following information must be included in an OCR complaint:^{dxiii}

- Complaint must be filed within 180 days after the discrimination occurred,
- Include which school, college, or other institution complaining of,
- Name of the individual(s) discriminated against,
- Contact information and Signature of individual submitting complaint,
- Date complaint is submitted,
- If filing online, print and mail a Consent Form (link on online complaint form).

In the event that a Complainant is unable to file an OCR complaint within 180 days of the discrimination, OCR will grant a waiver of the deadline under limited circumstances where good cause for the delay can be established. To obtain a waiver, complainants should contact the OCR enforcement office prior to submitting a complaint. It is not sufficient to request a time waiver because the complainant was previously unaware of OCR or related laws. The list below includes examples of reasons in which OCR may grant a waiver, permitting an untimely complaint to be processed. When requesting a time waiver, a complainant should explain how the circumstances leading to their delay in filing a complaint fit into the examples below.

Grounds for Waiver of 180-day Provision ^{dxiv}		
Complainant could not reasonably be expected to know the act [by the institution] was discriminatory within the 180-day period.	AND	Complainant filed complaint within 60 days of the date Complainant could have reasonably become aware of alleged discrimination.
Complainant could not file complaint because of incapacitating circumstances/illness during the 18- day period.	AND	Complainant filed complaint within 60 days after incapacitation ended.
Complainant filed complaint of same/similar allegations within 180-day period in another civil rights agency or court.	AND	Complainant filed complaint within 60 days of the completion of other agency's investigation or court's decision. <i>(If court decision includes a determination of the merits – including a dismissal with prejudice - or settlement of the complaint allegations, then OCR will dismiss complaint.)</i>
Complainant filed an internal grievance with the recipient institution, or a due process hearing, alleging the same discriminatory conduct within 180-day period.	AND	Complainant filed complaint within 60 days of conclusion of internal grievance.
Unique circumstances generated by OCR's actions have adversely affected Complainant.		

Advocate Tip!
OCR Consent Forms

Either at the time of filing, or shortly thereafter, a complainant will typically be expected to sign and submit a “Consent Form” to OCR. If/When OCR determines that disclosure of the identity of the complainant to the recipient-respondent is necessary to resolve the complaint, OCR will require that the complainant consent to disclosure. If the complainant does not consent to disclosure of their identity by signing OCR's Consent Form, the complaint will be dismissed. Survivors should be aware of the likelihood that their identity will be disclosed to personnel at the institution where they have suffered sex discrimination or violence. Survivors, particularly those who still live near or attend the school involved in the Title IX matter, may have fear and complicated feelings regarding the disclosure. Survivors should have the opportunity to consider the consequences and to make the decision regarding filing a complaint with all of the information at hand.

OCR will not consider complaints that are currently being addressed by a school's formal grievance process.^{dxv} The 180-day period does not begin to run until after the grievance process has concluded.^{dxvi} Likewise, OCR will not consider complaints that are being addressed by another agency if the agency provides the Complainant with a resolution process that is comparable to OCR's process.^{dxvii} Once the other agency's process is completed, an OCR complaint must be filed within 60 days. However, in most cases, OCR will defer to the result reached in another agency's process. While a complainant does not need to file an OCR complaint prior to filing a claim in court, OCR will not continue to consider an OCR complaint should a complainant instead proceed with a claim of the same Title IX matter in a court.^{dxviii} Therefore, under most circumstances, a complainant should exhaust the grievance process offered by the institution (or by another agency). Next, a complainant should determine whether they will pursue a claim in court prior to filing an OCR complaint.

An OCR Complaint should include specific details regarding each incident or allegation of discrimination. A complainant should also include information explaining the how the facts of each instance violate Title IX.

4. OCR Complaint Evaluation

Upon recipient of a complaint of discrimination, OCR will first conduct an evaluation of the complaint.^{dxix} During this initial evaluation, OCR reviews the complaint to determine whether it includes all of the information required in a valid complaint.^{dxx} If OCR determines that the complaint can be subjected to further processing, OCR then evaluates whether it can investigate each allegation in the complaint. During the evaluation, OCR will determine whether the complaint alleges a violation of law (Title IX) OCR enforces, providing the legal authority to investigate. OCR will also evaluate whether the complaint was timely filed, whether a waiver should be granted for an untimely complaint, and whether the complaint contains sufficient information about the alleged discrimination to proceed with an investigation.^{dxxi}

During the evaluation, if OCR determines that it will need more information to clarify the complaint to conclude the initial evaluation, OCR will contact the complainant requesting the additional details. The complainant must provide the additional information within the specified response period, or the Complaint will be dismissed, ending OCR's consideration of the complaint. At the conclusion of its initial evaluation of a complaint, OCR will determine whether to (1) open the complaint for investigation, or (2) dismiss the complaint.

5. Dismissal of OCR Complaint^{dxxii}

OCR may dismiss a complaint of discrimination prior to conducting any investigation of the allegations. The diagram below (and onto the next page) lists some common reasons for dismissal of a complaint; however, the list is not exhaustive.

Grounds for Dismissal of OCR Complaint ^{dxxiii}
OCR does not have legal authority to investigate complaint.
Complaint fails to state a violation of one of the laws OCR enforces (herein, Title IX).
Complaint was not timely filed within 180 days of alleged discrimination.
Waiver of the timeliness requirement is not granted (no good cause found for delay).
Complaint is speculative, conclusory, or incoherent.
Complaint lacks sufficient detail to infer discrimination and Complainant failed to provide information within 14 days of OCR's request for additional information.
Allegations in Complaint have been resolved.

Complaint has been investigated by another civil rights agency or through institutional grievance procedures that provided due process to the complainant, or OCR anticipates that there will be a comparable resolution process completed comparable to OCR's process. <i>(In this case, complainant may re-file complaint within 60 days of the termination of the court/other proceeding where there has been no decision on merits of the case or settlement of complaint.)</i>
Credible information indicates allegations are currently resolved.
OCR previously dismissed or closed a complaint against the same recipient based on same/similar allegations and on the same operative facts. (Previous complaint may have been filed by complainant or someone else.)
Complainant withdraws complaint.
Death of complainant makes full investigation of allegations impossible.
OCR's ability to investigate is substantially impaired by Complainant's refusal to provide reasonably accessible information necessary for investigation.
OCR's ability to investigate is substantially impaired by inability to contact Complainant to obtain information necessary for investigation.
Complaint is moot or unripe.

If OCR does not dismiss a complaint during the evaluation stage, then it will proceed to the next step: investigating the complaint. However, OCR may dismiss a complaint during the Investigation stage should it determine during investigation that grounds for dismissal exist.

6. Investigation of Complaint of Discrimination by OCR^{dxxiv}
Upon opening an investigation, OCR will send letters of notification of the investigation to the complainant and to the recipient-respondent. To conduct the investigation, OCR will collect and analyze relevant evidence. OCR will collect this evidence from the complainant, recipient, and other sources or witnesses, as it deems appropriate. Typically, OCR will review documentary evidence submitted by the parties, conduct interviews within the complainant, recipient personnel, and other witnesses, and conduct site visits at recipient institutions. OCR has broad discretion in the steps it takes to collect and analyze information during an investigation and in determining which evidence is relevant to the complaint. OCR's investigation techniques and decisions, however, must be (1) legally sufficient, (2) supported by evidence, and (3) dispositive of the allegations raised in the complaint.

When a complaint is opened for investigation, OCR will issue Letters of Notification to the parties, notifying both of the following:

Letters of Notification of OCR Investigation ^{dxxv}
OCR's jurisdiction/ applicable statutory and regulatory provisions
Allegations to be investigated
Notice that OCR is neutral fact-finder
Information regarding FRBP process
Notice of complainant's right to file a private federal court suit whether OCR does or does not find a violation [of Title IX].

Contact information for OCR staff person serving as parties' primary contact during investigation and resolution of complaint.
Copy of OCR Case Processing Procedures
Copy of complaint (provided to Recipient-respondent)

At various points after receiving a complaint, OCR may invite the parties to engage in an expedited process to resolve the dispute. For example, OCR may offer Rapid Resolution Between the Parties (RRBP) or Facilitated Resolution Between the Parties (FRBP) early after the investigation has been opened. Later in the process, it may engage in a Resolution Agreement with the school.

a. Rapid Resolution Between the Parties (RRBP)^{dxxvi}
Rapid Response Between the Parties (RREP) is an expedited approach to resolving OCR cases. During the evaluation or investigation stage, and after Complainant has submitted a Consent Form, OCR may determine that the complaint is appropriate for RRP. First, OCR contacts the recipient-respondent to determine whether the recipient wishes to engage in an immediate resolution or whether it already has taken steps to resolve the allegations in the complaint.

If a recipient does agree to participate in RREP, then OCR may initiate the resolution process under one of the circumstances below:

- Recipient has taken action to resolve complaint, compliance is verified and does not require monitoring.
- Recipient is willing to take future action to resolve the complaint or has already taken action. If the recipient must be monitored for compliance, then a resolution agreement must be signed.
- Recipient provides sufficient information for OCR to make a compliance determination.

b. Facilitated Resolution Between the Parties (FRBP)^{dxxvii}
In Facilitated Resolution Between the Parties (FRBP), the parties have the opportunity to resolve complaint allegations quickly after the investigation has been opened. When OCR determines that FRBP would be appropriate, it determines whether both parties are willing to participate. To engage in FRBP, both parties must willingly agree to the process.

While there is no required step-by-step process for FRBP, the process generally resembles a mediation or negotiation that may occur in other legal contexts. OCR acts as a facilitator of settlement discussions between the parties. As the facilitator, OCR assist both parties in understanding relevant legal standards and possible remedies. Should parties agree to the terms of a resolution, both parties must sign an agreement stating the terms agreed upon by the parties. FRBP agreements are signed only by the parties themselves. OCR does not sign or approve any agreement between parties. Therefore, should a recipient fail to comply with the terms of a FRBP agreement, OCR does not have authority to enforce the agreement. Instead, the complainant has the opportunity to file a new complaint either within 18- days of the original discrimination or within 60 days of learning of the recipient's failure to comply with the agreement. A confidentiality agreement must be signed or agreed to by all individuals involved in FRBP process. Neither parties nor facilitators are permitted to share information regarding FRBP with investigator(s).

If FRBP does not result in an agreement, OCR will proceed with its process through completion of its case processing procedures. Alternatively, a complaint may be resolved prior to the end of the investigation where OCR enters into a Resolution Agreement with a recipient. Unlike facilitated resolution between the parties that most often takes place shortly after the investigation has begun, this Resolution process more often occurs just before the conclusion of an investigation, after OCR has had the opportunity to collect and analyze relevant evidence of the complaint allegations.

c. Resolution Agreement During Investigation^{dxxviii}
To engage in a resolution agreement, the school must notify OCR it wishes to resolve the complaint and OCR must determine that it is appropriate to do so. Resolution is only appropriate where OCR has

identified issues that can adequately be addressed through a resolution agreement with the school. A resolution agreement must be tied to the allegations and evidence obtained during investigation.

The resolution process is voluntary, even when requested by the school. Prior to entering into an agreement, OCR must notify the other party – the Complainant – that the school wishes to resolve the complaint. After a resolution agreement is agreed upon and signed by both OCR and the recipient, the agreement and recipient’s implementation of the terms of the agreement are monitored by OCR. OCR will issue a Resolution Letter to both parties where an agreement is signed.

d. Findings^{dxxix}

At the close of its investigation, OCR will send a Letter of Findings to the complainant and the recipient, explaining its determination regarding the allegations of discrimination. These Letters of Findings are not formal policy statements. Because they apply only to the complaint at hand, the findings in one case cannot be used or relied upon in another. Ultimately, OCR will make a finding in regard to each allegation. OCR will determine (1) insufficient evidence exists to support a conclusion that the recipient failed to comply with the law (herein, Title IX), (2) a preponderance of evidence supports a conclusion that the recipient failed to comply with the law (herein, Title IX).

e. Determination of Noncompliance by OCR^{dxxx}

At the conclusion of an investigation, OCR may determine that a school has failed to comply with Title IX and offer to negotiate a voluntary resolution agreement with the noncomplying school. Should the school willingly agree to resolve the complaint by signing a written resolution agreement, OCR will negotiate a written agreement that includes the following:

- 1. Specific remedial actions recipient will take to address areas of noncompliance identified by OCR;
- 2. Provision that the terms and obligations of agreement will remedy the identified violations if fully performed.

A school’s implementation of remedial actions in an agreement is monitored by OCR. Should OCR determine that the remedial actions are not being properly implemented, OCR or the Department of Justice will subject the school to further proceedings.

If no voluntary resolution agreement is reached – either between the parties or between OCR and the school – then, OCR may continue the process by initiating proceedings to suspend, terminate, or refuse to grant or continue Federal financial assistance to the recipient. Alternatively, OCR may refer a case of noncompliance to the Department of Justice.

f. Appeal of Finding of Noncompliance^{dxxxi}

Complainants may appeal OCR’s determination(s) of noncompliance or decision to dismiss a complaint. An appeal must be submitted electronically, by mail, by fax, or through a written statement to the Office of Civil Rights.

An appeal must include the following:

Advocate Tip!

The intersection between individual school policies, Title IX, and lawsuits is complex and perplexing – particularly for survivors in the midst of sexual trauma. Advocates should attempt to work with a survivor to identify the survivor’s ultimate goal(s) as soon as possible. This way, advocates can provide realistic notice of the possibilities a survivor has, and when. For example, a survivor may wish to sue the school where they were harmed as their most immediate concern. Advocates and attorneys working with survivors will need to explain the most realistic order of options, and the standards that will need to be met in order to achieve the relief the survivor seeks.

Grounds for OCR Appeal^{dxxxii}

Factual information is incomplete or incorrect
Incorrect legal analysis applied
Inappropriate legal standard was applied
-Or-
Correction of error(s) would change the outcome of the case

If an appeal is not filed within 60 days of the letter of finding or the dismissal, or if an appeal does not explain one or more of the permissible grounds listed above and of how the outcome would be changed if the error(s) alleged had not occurred, OCR will dismiss the appeal. After OCR receives a complainant’s appeal, it forwards a copy of the appeal to the recipient. Once a decision is made, OCR provides a written decision on the appeal to both parties.^{dxxxiii}

2. Enforcement through Private Right of Action/Civil Title IX Lawsuit
Since Title IX’s enactment, the U.S. Supreme Court has concluded that students – or other individuals – who have been discriminated against on the basis of sex in education (an example would be a University student who has suffered sexual assault, asserting that the school did not respond to their suffering appropriately), can file a lawsuit. Individuals have a private right of action in connection with illegal discrimination. That is, individuals who have been discriminated against on the basis of sex can file a lawsuit against the Federally funded institution (most often, a college or a local school system) that allowed or failed to prevent the discrimination that occurred.

Private lawsuits usually seek an order by the Court instructing a recipient institution to do something or to refrain from doing something. However, private lawsuits may also seek an order of monetary damages in connection with intentional discrimination that has occurred. In order to receive monetary damages, a Plaintiff (individual complaining of discrimination) must demonstrate to the court that the institution should be held accountable for creating a hostile environment in which the discrimination could occur.

It is not a simple feat for an individual to convince a Court to make this finding of liability. First, a plaintiff must show that the school – or other recipient entity – exercised substantial control over the environment where the harassment/discrimination occurred and over the perpetrator. Then, the plaintiff must show that the harassment/discrimination was so pervasive, severe, and objectively offensive that it detracted from the victims’ education and resulted in their denial of equal access to the school/entity’s resources and opportunities.

Even if a court agrees that discrimination occurred, that the institution controlled the context in which it occurred, and that it was so severe that the victim’s education was ruined, the road to liability is far from over. Next, a plaintiff must show not only that a school official with authority to address the discrimination has actual knowledge of the discrimination and failed to respond adequate to the discrimination, but they must also show that the official acted with “deliberate indifference” in taking action to stop or provide a remedy for the discrimination/harassment.

II. THE CLERY ACT

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act)^{dxxxiv} is a federal law, originally passed in 1990 and amended by the Higher Education Opportunity Act of 2008. The Clery Act aims to protect those on college campuses from crime while attempting to further their education or employment.^{dxxxv} By requiring schools to report when, where, and what dangerous events happen around campus, students and faculty can be put on notice of what to expect and how to proceed.

The Clery Act requires colleges who receive federal aid to report campus crime information to students and employees, and to report its annual crime statistics to the Department of Education.^{dxixvi}

Under the Clery Act, all Postsecondary institutions must:

- Provide an Annual Security report of safety and training disclosures;
- Continually Maintain Campus Crime Logs and the access to them;
- Provide a Timely Warning (of violence/danger) to the campus community;
- Provide a Campus Sexual Assault Victim’s Bill of Rights; and
- Disseminate Sex Offender information to the campus community.^{dxixvii}

While Title IX and the Clery Act are separate rules, their language is often similar, and one may well affect the other in many cases of sexual violence. In fact, in some instances, definitions of terms already provided in the Clery Act will be used by institutions applying Title IX regulations to instances of sexual violence. For instance, where Title IX does define “on campus,” the Clery Act does.^{dxixviii} Thus, schools may incorporate Clery Act terms in their processes.

III. FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA)

The Family Educational Rights and Privacy Act (FERPA)^{dxixix} is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds from the U.S. Department of Education. FERPA gives students over age 18 control over the release of their school records. However, while students are under 18, parents have certain rights to their children’s education records. These rights transfer to the student when they reach 18 or attend a post-secondary institution. Students to whom these rights have transferred are “eligible students.”

Under FERPA, eligible students or parents have the following rights:

- Right to inspect and review the student’s education records maintained by the school. Schools are not required to provide copies of records unless, it is otherwise impossible for parents or eligible students to review the records. Schools may charge a fee for copies.
- Right to request that a school correct records which they believe to be inaccurate or misleading. If the school decides not to amend the record, the parent or eligible student then has the right to a formal hearing. After the hearing, if the school still decides not to amend the record, the parent or eligible student has the right to place a statement with the record setting forth his or her view about the contested information.
- Right to provide written permission to the school to release any information in a student’s educational records.

Generally, schools must have written permission from the parent or eligible student in order to release any information from a student’s education record. However, FERPA does provide schools with the authority to disclose records, *without consent*, to the following parties or under specific conditions:^{dxli}

Grounds for the Release of private educational records to: ^{dxlii}
School officials have a legitimate educational interest in the information;
Other schools to which a student is transferring;
Appropriate parties in connection with financial aid to student;
Organizations conducting studies for/on behalf of the school;

Accrediting organizations;
Comply with judicial order or lawfully issued subpoena;
Appropriate officials in cases of health and safety emergencies;
State and local authorities, within a juvenile justice system, pursuant to specific State law; and
Provide directory information only.

Schools may, without consent, disclose “directory” information, such as a student’s name, address, telephone number, date and place of birth, honors and awards, and dates of attendance, schools must first tell parents and eligible students about the directory information and allow a reasonable amount of time to request the school not disclose. Finally, Schools must notify parents and eligible students annually of their rights under FERPA.

IV. OHIO REVISED CODE

If you have read earlier chapters, specifically relating to Housing and Employment, you likely noticed that Ohio enacted numerous civil rights laws echoing Federal legislation. Unfortunately, Ohio has not yet passed a state-level law mirroring Title IX. However, skilled education attorneys can support survivors by examining other state and federal laws that may apply. For example, the Ohio anti-bullying statute^{dxliii} provides protections that may be applicable and useful in negotiating safety accommodations or other resolutions.

Advocate Takeaway

Student survivors and their families must navigate a complex series of intersecting laws and processes. At the same time, survivors often must continue going to school each day while seeking safety accommodations. Advocates can provide support in locating information about available options. Further, advocates can build relationships with attorneys who can work with the survivor on options that will allow them to safely continue their education.

CHAPTER 7:

Immigration Law



Immigration Law

The factors survivors face in criminal, civil, and related legal systems are compounded by increased uncertainty and complications in immigration cases. Immigration law is one of the most complex legal practice areas in the United States, in part because immigration law and policies change frequently. Decisions regarding which legal remedies to pursue in any other legal system can result in severe immigration consequences, including removal from the United States. This section will highlight the some of the current significant legal rights and remedies advocates should be familiar with. However, because of the nature of immigration law and its constant changes, the information in this Section should not be considered comprehensive in any given situation. The information herein will provide basic a background to support advocates in connecting survivors with immigration attorneys.

I. ADVOCATE CONSIDERATIONS IN SUPPORTING IMMIGRANT SURVIVORS

First, and most pertinent, survivors should consult with an immigration attorney regarding the impact of any potential legal decisions or proceedings on their immigration status. Advocates should assist immigrant survivors in seeking attorney advice as early as possible. However, it is important to assist survivors in seeking an immigration attorney who will be familiar with and sensitive to unique needs of survivors. Many immigration attorneys have experience in only corporate matters and employment law. Survivors will need an attorney with experience in relevant matters such as sexual violence or family law.

Immigrant survivors may fear facing government officials, concerned that they may be required to discuss their immigration status. This is particularly concerning to undocumented immigrant survivors. Attorney advice should precede any action that may require contact with government institutions or officials. Further, it should be noted that Department of Homeland Security (DHS) officials are not a similar substitute/actor for an immigration attorney. DHS may not have the necessary information to provide accurate advice, and further DHS does not provide information through the lens of the survivor’s best interest. An immigration attorney is the only professional with the duty to advocate for a client’s best interest and individual desired relief.

II. RIGHT AFFORDED TO NON-CITIZENS

Federal law gives all noncitizens certain rights when dealing with governmental immigration officials. However, the burden of asserting these rights falls on the noncitizens themselves. This means, if a noncitizen does not clearly request that specific rights be protected, the government does not have any duty to so honor them. These basic rights belong to *all* noncitizens, even if they are undocumented. It is crucial that all immigrant survivors be advised of these rights and should understand that it is their responsibility to assert them.

The following list provides some rights afforded to non-citizens, however, is not intended to be comprehensive. Advocates working with immigrant survivors should check for modifications to this list regularly.

Noncitizens have the right to:

- Speak to an attorney prior to answering any questions or signing any documents
- A hearing before an immigration judge
- Representation by an attorney at immigration hearings
- Representation by an attorney during any interviews/discussions with government officials
- Request release from detention if eligible (Sometimes, this will require paying bond.)

Advocate Tip!

Immigrant survivors will not be granted a fee appointed attorney, and unless they secure low cost or free representation, they will have to pay for their attorney. Assist survivors in obtaining free of low-cost legal services. It is extremely critical that immigrant survivors have the opportunity to consult with an immigration attorney before signing any formal or informal documentation related to their status.

III. PATHS TO CITIZENSHIP FOR IMMIGRANT SURVIVORS OF SEXUAL VIOLENCE

Federal law provides three mechanisms that can provide safety, justice, and eventually Legal Permanent Resident status in the U.S. They are the U visa, the T visa, and self-petitions under the Violence Against Women Act (VAWA). VAWA petitions are only for individuals who are married to U.S. citizens or Legal Permanent Residents *and* have suffered extreme cruelty from their spouses. Family violence and sexual assault are examples of extreme cruelty under VAWA.

A. U and T Visas

The U visa and the T visa are designed to grant immigration status to noncitizen survivors of violent crime and to survivors of human trafficking.^{dxliv} The U visa and T visas were created by the Victims of Trafficking and Violence Protection Act of 2000 and amended by the Violence Against Women Act of 2005 and the Trafficking Victims Protection Reauthorization Act of 2008.^{dxlv}

U Visas and T Visas provide legal residency to survivors, protecting them from removal.^{dxlvi} In many instances, perpetrators would use the threat of removal to keep their victims silent, and many survivors fear that reporting the violence they suffered to law enforcement would lead to undesired immigration costs. U visas and T visas provide an opportunity for survivors to report violence to law enforcement without fearing these consequences.^{dxlvii}

Both U and T visas give noncitizen survivors temporary immigration status and up to four years of work eligibility in exchange for their cooperation with law enforcement investigating and prosecuting the perpetrator’s crime.^{dxlviii} Survivors who qualify for U or T visas often can also obtain legal residency for certain family members, including children and spouses. Minor victims can obtain legal residency for their parents and siblings.^{dxlix}

1. U Visas

To Apply for a U Visa, a survivor must demonstrate:^{di}

1. Survivor suffered “substantial physical or mental abuse” as a result of one of several criminal offenses (see Table 1-A below.), **AND**

status (commonly referred to as having a “green card”) for their noncitizen relative. To do so, however, the U.S. citizen or legal permanent resident must file a petition with the United States Citizenship and Immigration Service (USCIS) and is often required to attend an interview with Immigration authorities and the applicant.^{dlxiii}

There are a multitude of reasons a noncitizen survivor may fear participating in a process controlled by their abuser or the abuser’s family. As such, it is reasonable to expect that survivors may be less likely to report violence or seek resources when they feel that their residency and family’s circumstances is in the hands of their abuser. VAWA aims to address this concern. VAWA provisions excise – or erase – the requirement that a survivor’s immediate family member with citizenship must file the petition and participate in the process themselves in certain cases involving domestic/family violence.^{dlxiv} Allowing survivors to file a petition for themselves, without the abuser’s knowledge, allows victims to seek both safety and independence from their abuser, who is not notified about the filing.^{dlxv} A successful self-petition allows a survivor to remain in the U.S. as a Legal Permanent Resident, without the assistance of their abuser.^{dlxvi} The law also protects noncitizen children of survivors and/or abusers.^{dlxvii}

The VAWA self-petition form is referred to as I-360. This U.S. Citizenship and Immigration Services form, along with most other immigration related items, are publicly available through the on the U.S.C.I.S. website: www.uscis.gov.

It is not only the survivor of family violence that may seek immigration protection through the VAWA self-petition provision. A spouse or child of an abusive U.S. citizen or lawful permanent resident or the parent of an abusive U.S. citizen, or a child of an abuser may self-petition for VAWA protection.

1. Self-Petitioners: Eligibility Requirements^{dlxviii}

A survivor may file as an *abused spouse* if:

- Survivor is married to a U.S. citizen or permanent resident abuser, **OR**
- Survivor’s marriage to the abuser was terminated by death or a divorce (related to the abuse) within the last 2 years, **OR**
- Survivor’s spouse lost or renounced citizenship or permanent resident status within the last 2 years due to an incident of domestic violence, **OR**
- Survivor believed that they were legally married to an abusive U.S. citizen or permanent resident spouse but the marriage was not legitimate solely because of the bigamy of the abusive spouse, **AND**
- Survivor or the survivor’s child has been subjected to “battery or extreme cruelty” by the survivor’s U.S. citizen or permanent resident spouse, **AND**
- Survivor entered into the marriage in good faith, and not solely for immigration benefits, **AND**
- Survivor has resided with abusive spouse – in or outside of the U.S., **AND**
- Survivor is a person of good moral character (lacking criminal history).

A survivor qualifies as a self-petitioning *abused child* if:^{dlxix}

- Survivor is the child of a U.S. citizen or permanent resident abuser, **OR**
- Survivor is the child of a U.S. citizen or permanent resident abuser who lost immigration status due to an incident of domestic violence, **AND**
- Survivor has been subjected to battery or extreme cruelty by their U.S. citizen or permanent resident parent, **AND**
- Survivor has resided with abusive parent, **AND**
- Survivor is a person of good moral character.
- A child under 14 is presumed to be a person of good moral character.

A survivor qualifies as a *self-petitioning parent* if:^{dlxx}

- Survivor is a parent fo a U.S. citizen son or daughter who is at least 21 years old, **OR**
- Survivor is a parent of a U.S. citizen son or daughter who lost or renounced their immigration status related to an incident of domestic violence, **OR**
- Survivor is a parent of abusive son or daughter who died within the last 2 years, **AND**
- Survivor has been subjected to battery or extreme cruelty by their U.S. citizen son or daughter, **AND**

- Survivor has resided with the abusive son or daughter, **AND**
- Survivor is a person of good moral character (lacking criminal history).

2. VAWA Self—Petitions: What Happens Next?^{dlxxi}

After filing Form I-360, the petitioner will receive notice of approval. After Form I-360 has been approved, the petitioner and the children listed on the approved Form are eligible to work in the U.S. After Form I-360 has been approved, the petitioner and the children listed on the Form may be eligible to apply for a Green Card.

IV. THE GREEN CARD: AN OVERVIEW

A Green Card^{dlxxii} is an identification card that demonstrates an immigrant’s legal status as a Permanent Resident of the United States. Possession of a Green Card allows the cardholder to live and work permanently in the U.S. The previous section discussed three options of beginning the process of ultimately obtaining a Green Card that are available specifically to survivors of violence. In a VAWA self-petition, a survivor is essentially making a request that the U.S. government permit them to obtain permanent residency in a streamlined and safe process.^{dlxxiii} Likewise, once a survivor obtains a U Visa or a T Visa, they can apply after 3 years for an adjustment – turning the temporary visa into permanent U.S. residency. Aside from the options specifically available to survivors, noncitizens may seek permanent residency through a number of other means.

Green Card Eligibility Categories^{dlxxiv}

Green Card through Family	Green Card through Employment	Green Card as a Special Immigrant	Green Card Through Refugee or Asylee Status	Green Card through Residency	Green Card for Human Trafficking and Crime Victims
Immediate Relative of a U.S. citizen	Immigrant Worker	Religious worker	Asylee granted asylum status at least 1 year ago	Continuously resided in U.S. since before 1/2/72.	Victim currently possessing a U visa or a T visa
Relative under a Family- Based Preference Category	Physician National Interest Waiver	Special Immigrant Juvenile	Refugee admitted at least 1 year ago		
Fiancé of a U.S. citizen or the child of the fiancé	Immigrant Investor	Afghanistan or Iraq national			
VAWA self-petitioner as victim of battery or extreme cruelty		International Broadcaster			
		Employee of international organization or family member or NATO-6 employee or family member			

A. Green Card Through Family^{dlxxv}

- Immediate Relatives of a U.S. Citizen may apply for Green Card
 - Spouse of citizen
 - Unmarried child under age 21 of citizen
 - Parent of citizen who is at least age 21
- Other Relatives in Family-Based Preference categories
 - Family member of the U.S. citizen
 - Unmarried son or daughter of citizen, age 21 or older
 - Married son or daughter of U.S. citizen
 - Brother or Sister of citizen, age 21 or older
 - Family member of lawful permanent resident (LPR)
 - Spouse of LPR
 - Unmarried child under age 21 of LPR
 - Unmarried son or daughter of LPR, age 21 or older
 - Fiancés of U.S. citizen and child of Fiancé
 - Noncitizen Admitted to U.S. as fiancé under K-1 nonimmigrant Visa
 - Noncitizen Admitted to U.S. as child of fiancé under K-2 nonimmigrant Visa
 - VAWA self-petitioner
 - Victim of battery or extreme cruelty (See Previous Section)

B. Green Card Through Employment^{dlxxvi}

- Immigrant worker
 - Preference depends upon nature of work and level of skill, etc.
- Physician National Interest Worker
 - Physician agrees to work full time in an underserved area for a set period of time
- Immigrant investor
 - Immigrant has invested or is in the process of investing at least \$1,000,000 in new commercial enterprise which will create at least 10 full time employee positions.

C. Green Card as a Special Immigrant^{dlxxvii}

- Religious worker coming to U.S> to work for nonprofit religious organization
- Afghanistan or Iraq national with service as U.S. employee in that country
- International broadcaster coming to U.S. as a member of the media
- Employee/family members/retirees of international organization or NATO-6

V. INTERSECTION OF IMMIGRATION LAW AND CRIMINAL LAW

Noncitizens face immigration consequences in any interaction with the criminal system. Many noncitizens fear removal and unwanted consequences any time they find themselves in contact with governmental agencies and their officials. Noncitizen survivors may find themselves facing criminal charges for a variety of offenses – related or not to the sexual violence they have suffered. This combination of obstacles can be extremely difficult to navigate. Advocates should work with immigrant survivors to seek resources to meet their immediate needs and legal assistance by an experienced immigration attorney. Likewise, noncitizen survivors may have questions regarding potential consequences that a perpetrator may face. Each survivor has personal preferences regarding what should happen in the future to a perpetrator. While some survivors wish to see a perpetrator held accountable through a criminal conviction, others may not wish to subject a perpetrator to punitive measures. In the immigration context, a survivor may face even more uncertainty when the perpetrator is a noncitizen. A survivor’s decision to report an instance of violence or prosecutors’ decision to seek a conviction may have significant effects on a perpetrator’s immigration status that are unexpected or unwanted by the survivor. This may be a particularly important concern to survivors who share children or other links to the perpetrator.

This section will provide a brief overview of potential immigration consequences by criminal convictions. However, Advocates must keep in mind that these laws and policies are changing constantly. A survivor should consult with an immigration attorney as early as possible, even if other legal professionals or attorneys are involved.

A. Criminal Convictions and Legal Immigration Status

This section will provide an overview of the various offense types that may prevent noncitizens from obtaining various legal statuses or which may result in removal of permanent citizens under various circumstances. In most cases, either a conviction or an admission of an offense can result in the listed consequences. If a perpetrator pleads guilty to an offense and instead of incarceration, they receive the opportunity to participate in alternative resolutions such as Court-ordered drug treatment or domestic violence counseling is a conviction for immigration purposes.

B. Criminal Inadmissibility Grounds^{dlxxviii}

A conviction of the following offenses may prevent a noncitizen from obtaining lawful admission status in the U.S. These convictions may also prevent a noncitizen who already has lawful admission status from returning to the U.S. from abroad:

1. Controlled Substance offense or DHS’s reason to believe noncitizen is drug trafficker
2. Crimes Involving Moral Turpitude (CIMT) (See Table Below)
3. Most Sex Offenses
4. Petty Offense Exception
5. Prostitution/Commercialized vice
6. Conviction of two or more offenses of any type and an aggregate prison sentence of 5 years

Crimes Involving Moral Turpitude

Nature of Offense	Example Offenses
Crimes with intent to steal or defraud as an element	Theft, Forgery
Crimes in which bodily harm is threatened by an intentional act, or serious bodily harm is caused or threatened by a reckless act	Murder, Rape, Some Manslaughter and Assault offenses

C. Criminal Bars on Asylum or Withholding of Removal for Particularly Serious Crimes^{dlxxix}

A conviction or admission of a “Particularly Serious Crime” bars noncitizens from a grant of Asylum based on the noncitizen’s well-founded fear of persecution in their country of removal. Likewise, a conviction or admission will result in the withholding of the removal of a noncitizen from another country based on a threat to life or freedom.

1. Aggravated Felony
2. Violent or Dangerous Crime
3. Other Particularly Serious Crimes as determined by case law

D. Criminal Removal Grounds^{dlxxx}

The conviction of the following offenses will or may result in deportation of a noncitizen who already has lawful admission status, such as a green card holder or a refugee.

1. Conviction of Controlled Substance Offense
2. Crime Involving Moral Turpitude, if:
 - a. Crime is committed within 5 years of admission to U.S. and prison sentence of 1 year or

-
- longer may be imposed upon conviction
 - b. 2 crimes are committed any time after admission to U.S.
 - 3. Conviction of Firearm or Destructive Device Offense
 - 4. Conviction of Crime of Domestic Violence
 - 5. Conviction of Crime Against Children
 - 6. Conviction of Stalking or Violation of Protection Order
 - 7. Conviction of Aggravated Felony
 - 8. Convictions automatically resulting in removal, regardless of felony status:
 - a. Murder
 - b. Rape
 - c. Sexual Abuse of a Minor
 - d. Drug Trafficking
 - e. Firearm Trafficking
 - f. Crime of Violence with at least 1-year prison sentence
 - g. Fraud/Tax Evasion
 - h. Prostitution Business Offenses
 - i. Commercial Bribery, Counterfeiting, Forgery with at least 1 year prison sentence
 - j. Obstruction of Justice or Perjury with at least 1 year prison sentence
 - k. Other Offenses Listed at 8 USC 1101(a)(43)
 - l. Attempt or Conspiracy to commit any of the above

E. Criminal Bars on Obtaining U.S. Citizenship^{dlxxxi}

Conviction of an Aggravated Felony on or after 11/29/1990 or a conviction of Murder at any time will permanently bar a finding of moral character required for citizenship. Conviction or admission of the following offenses bars the finding of good moral character for citizenship for up to 5 years:

- 1. Controlled Substance Offense
- 2. Crime involving moral turpitude
 - a. Exception: single offense is not punishable by prison sentence of more than 6 months
 - b. 2 or more offenses of any type with aggregate prison sentence of 5 years
 - c. 2 gambling offenses
- 3. Confinement to jail for aggregate period of 180 days.
- 4. Aggravated Felony

Advocate Takeaway

Immigrant survivors face additional lack of access and lack of certainty in system responses to their victimization. Immigration laws change frequently, and any action a survivor chooses may have severe consequences. It is critical that advocates build relationships with local immigration attorneys to increase capacity for legal representation that would benefit survivors.

CHAPTER 8:

Supporting Survivors with Disabilities



Supporting Survivors with Disabilities

Every survivor deserves to be treated with holistic care. Supporters must be cognizant of the unique needs, challenges, and issues that each survivor is facing, while also striving to fight against societal stereotypes. A person’s disability is not the problem. Advocates and attorneys are not expected to be experts on every type of disability but can be expected to treat survivors with respect regardless of disability. This chapter is not designed to make anyone an expert on disabilities, people with disabilities, or every aspect of the law regarding disabilities. Instead, it is a resource to help advocates and attorneys recognize some common laws, protections, rights, safety planning, awareness, and considerations. This is the start, not the end of learning about supporting survivors with disabilities.

I. LANGUAGE

Language is a powerful tool and vital to be aware and conscious of when discussing any aspect of a case, plan, or issue with an individual. Person, or People, First Language is a commonly used when working with persons with disabilities. As Kathie Snow writes in “People First Language,” “People First Languages puts the person before the disability, and describes what a person *has*, not who a person is.”^{dlxxxii} This crucial shift in language notifies people that they are the most important, not the diagnosis. Snow goes on to explain:

“The words used to describe a person have a powerful impact on the person’s self-image. For generations, the hearts and minds of people with disabilities have been crushed by negative, stereotypical words which created harmful, mythical perceptions and caused other detrimental consequences. We must stop believing and perpetuating the myths – *the lies* – of labels. Children and adults who have conditions called “disabilities” are unique individuals with unlimited potential, like everyone else!”^{dlxxxiii}

If you are uncertain about a term or what a survivor prefers, ask them. While it is not on survivors with disabilities duty to educate individuals on disabilities, it is commonly considered good practice to ask rather than assume what a survivor’s abilities and limitations are.^{dlxxxiv}

When working with a person who is deaf or hard of hearing, ASL (American Sign Language) and English are different languages. Words, terminology, syntax, and verbiage will be different. If a person who is deaf knows English at all, it may not be their first language. Additionally, specific language may be more difficult to translate or comprehend based upon these difficulties. Medical and legal terminology become difficult to translate and/or comprehend due to legitimately speaking different languages.

The use of body language, aides, service animals, and other devices are all common to facilitate navigating the world.

II. TYPES OF DISABILITIES

While this chapter is meant to be an overview to provide tips and guidance while working with survivors

with disabilities, it is not all inclusive. There are innumerable types of disabilities and ways that those disabilities impact individuals. Disabilities can be sensory, physical, cognitive, and/or developmental.

A Disability May Be...

- Congenital or Adventitious (resulting from a specific event like a car crash)
- Hidden or Overt
- Chronic or Temporary
- Progressive & Degenerative OR Static
- May have episodes of presence OR remission”

dlxxxv

Each disability presents differently and can be unique to each survivor. However, there are some common risk factors in groups. Historically, individuals with developmental disabilities are taught to comply with authority figures. This teaching can create an environment that is more difficult to report violence and victimization. “Although not comprehensive, a common understanding of disability includes the following categories:

- *Physical disabilities* can affect mobility/walking and moving various parts of the body freely as well as muscles and bones and human body systems that include digestive, respiratory, circulatory, cardiovascular, endocrine, and nervous systems.
- *Cognitive or intellectual disabilities* affect thinking, learning, reasoning, processing of new information, memory, and concentration.
- *Sensory disabilities* affect touch, taste, smell, hearing and sight.
- *Mental illness* refers to mental health disorders whose symptoms affect thoughts, moods, behaviors and the impact on everyday functioning.”^{dlxxxvi}

While it is important to recognize that these are all very different, this chapter will discuss survivors with disabilities broadly to include the all the various types of disabilities, knowing that each disability is different with different considerations.

III. PREVALENCE OF SEXUAL VIOLENCE AGAINST SURVIVORS WITH DISABILITIES

Sexual violence happens too frequently across the world. Statistics vary across gender, age, gender identity, sexual orientation, national origin, etc. Every single group is impacted by sexual violence to one degree or another. “In every year from 2009 to 2015, the rate of violent victimization against persons with disabilities was at least twice the age-adjusted rate for persons without disabilities.”^{dlxxxvii}

Unfortunately, caregivers can be the perpetrators of this violence. When that is the case, there are more risks and concerns to consider when determining action steps. The dependence upon a caregiver can create a dynamic that is more difficult to report, leave the situation, and find a new caregiver.

“For people with disabilities, sexual abuse can also take the form of lack of respect for privacy and unwanted exposure during personal care routines like bathing, dressing and toileting; forced abortion, sterilization or pregnancy; and exploitation.”^{dlxxxviii}

IV. INTERSECTION

Although this chapter focuses on sexual violence survivors with disabilities, it is extremely important to remember that people are not only one identity, one incident, one moment in time. While working with survivors, it is crucial to support their whole being, whole identity. The work must be holistic in order to meet all the needs of every survivor.

The rates of victimization are higher against people with disabilities yet “among persons age 65 or older, there was no statistically significant difference between the rates of violent victimization by disability status.”^{dxlxxxix} An elderly survivor with disabilities have unique needs that will be different from those that are not elderly. There may be mobility limitations, cognitive impairments, and/or other limitations to physical or mental function beyond the specified disability. Additionally, there may be generational differences about how a survivor may want to access resources, utilize support services, or report to friends, family, or police.

The elderly are not the only age-based population where this intersection occurs: “Among those with disabilities, persons ages 12 to 15 . . . had the highest rate of violent victimization among all age groups measured.”^{dxlxc} Young people are at high risk of victimization, which becomes even higher if they have a disability. Children and teenagers are unique and must have additional considerations when considering how and when response, intervention, and resources can be offered and provided. Given the non-adult status of this age group, they have less ability to hire attorneys, access transportation alone, and be independent to make safety decisions.

Race is also a significant intersection as “Among racial groups examined, persons of two or more races had the highest rates of violent victimization among persons with disabilities and without disabilities. [Yet] There was no statistically significant difference between the victimization of whites, blacks, Hispanics, and persons of other races with disabilities.”^{dxlxc} Given these statistics, people with disabilities are at a higher risk but may have more or different access to resources and services depending upon their race.

A survivor’s identity matters and is vital to determining what support and resources they may need or want, including every race, creed, color, ethnicity, national origin, religion, sex, sexual orientation, gender expression, age, height, weight, physical or mental ability, veteran status, military obligations, and marital status. This chapter does not explore every possible intersection, but only touches on some of the currently researched intersections. Every survivor is a unique combination of intersections and must be supported as such. Each response must be individualized.

V. RELEVANT LAWS

There are a variety of local, state, and national laws that impact individuals with disabilities. The following is a brief list of those that may be used to assist survivors. Not all aspects of the laws are being described here, this section is designed to provide an overview of the laws and not a comprehensive accounting of the laws. Disability Rights Ohio compiled a list of anti-discrimination laws, particularly those impacting employment.

Law	Also called	Prohibits employment discrimination	Enforced by
Equal Pay Act of 1963	Public Law 88-38 or 29 USC 206(d)	Based on sex, in the payment of wages and benefits	EEOC

Civil Rights Act of 1964, Title VII	Public Law 88-352 or 42 USC 2000e	Based on race, color, religion, sex, and national origin, and prohibits sexual harassment and pregnancy	EEOC
Age Discrimination in Employment Act of 1967	Public Law 90-202 or 29 USC 621	Based on age, 40 years and older	EEOC
Rehabilitation Act of 1973, Section 504	Public Law 93-112 or 29 USC 794	Based on disability, by health care or human services providers who receive federal funds, such as hospitals, nursing homes, mental health centers and other services programs	U.S. Department of Health and Human Services
Rehabilitation Act of 1973, Sections 501 and 505	Public Law 93-112 or 29 USC 794	Based on disability, by federal government employers	EEOC
Americans with Disabilities Act of 1990 Titles I and V	Public Law 101-336 or 29 USC 791	Based on disability, by non-government employers and by state and local government employers	EEOC
ADA Amendments Act of 2008	Public Law 110-325 or 42 USC 12101	Clarifies the definition of disability under the Americans with Disabilities Act (ADA)	EEOC
Lily Ledbetter Fair Pay Act of 2009	Public Law 111-2	Clarifies that each paycheck representing discriminatory pay renews the period of time for filing a claim	EEOC
Ohio Revised Code, Chapter 4112	Civil Rights Commission	Based on race, color, religion, sex, national origin, disability, age, and ancestry	Ohio Civil Rights Commission

Depending upon what and how a survivor with disabilities has been impacted will depend upon what laws there might be to protect someone: housing, employment, or services.

VI. AMERICANS WITH DISABILITIES ACT

The American Disabilities Act, also referred to as the ADA, is a United States Federal law that provides protections for individuals with disabilities. The ADA was passed in 1990, and amended in 2008, as a civil rights law providing protections to people with disabilities. The ADA is an extensive area of law and information.

The ADA defines “disability” as “a physical or mental impairment that substantially limits one or more major life activities of such an individual; a record of such an impairment; or being regarded as having such and impairment.”^{dxlciii} Which means that someone does not necessarily need to be diagnosed in order to qualify under the ADA, even being regarded as having an impairment is enough to initiate protections under the ADA.

Per Title II of the ADA, no “programs, activities, and services of public entities” can discriminate against people with a disability. While Title III of the ADA, expands protections so that “private places of public accommodation” cannot discriminate. Therefore, public or private social services, including shelters and rape crisis centers, cannot discriminate without violating the ADA. Furthermore, public entity includes:

any state or local government, any department or agency of State or local government, certain commuter authorities, and AMTRAK^{dxciv} Local, state, and federal courts must be in compliance with the ADA as well.

Both public entities and private business must ensure effective communication with individuals with disabilities. This includes auxiliary aids and services (examples including providing interpreters, written materials, assistive listening devices, closed captioning, large print, and a variety of other options). People with disabilities cannot be required to bring their own interpreters.

VII. AMERICAN HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

The American Health Insurance Portability and Accountability Act, commonly referred to as HIPAA, provides specific privacy and confidentiality rules for patients. HIPAA required the Secretary of the US Department of Health and Human Services to create regulations to protection health information, resulting in the HIPAA Privacy Rule and the HIPAA Security Rule.

The HIPAA Privacy Rule (45 CFR Part 160 and Subparts A and E of Part 164) creates national standards to protect medical records and certain health information, including health plans, clearinghouses, and health care providers. In brief:

“The Rule requires appropriate safeguards to protect the privacy of personal health information and sets limits and conditions on the uses and disclosures that may be made of such information without patient authorization. The Rule also gives patients’ rights over their health information, including rights to examine and obtain a copy of their health records, and to request corrections.”^{dxcv}

Therefore, a person’s diagnosis and other health information must be protected, and that person has a right to their health information.

The HIPAA Security Rule (45 CFR Part 160 and Subparts A and C of Part 164) focuses on electronic medical information. In brief: “The Security Rule requires appropriate administrative, physical and technical safeguards to ensure the confidentiality, integrity, and security of electronic protected health information.”^{dxcvi} Therefore a person’s health information provided or stored in an online or electronic format may also have protections as provided by HIPAA.

VIII. OHIO LAW

The state of Ohio has several laws that impact the rights and protections of survivors. The Civil Rights Commission (Ohio Revised Code 4112) provides broad protections for a variety of identities, including persons with disabilities. Under this Ohio law,

““Disability” means a physical or mental impairment that substantially limits one or more major life activities, including the functions of caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working; a record of a physical or mental impairment; or being regarded as having a physical or mental impairment.”^{dxcvii}

This definition applies across all this chapter and provides the bounds of which this Ohio law can be utilized. As with federal law, a diagnosis may not be needed in order to be protected by the laws.

IX. COMMUNICATION

One of the primary areas to be aware of when working with survivors with disabilities is communication style. Survivors of trauma often have changes in the way they prefer to communicate. Due to the trauma, survivors may try to avoid discussing the issue, want more updates, need access to more resources, or prefer to speak by phone or text or email. People with disabilities may have specific preferences, requirements, or restrictions on the way they want or need to communicate. One of the first things to determine with the survivor is the means and frequency of communication.

A. Receptive Versus Expressive

Receptive versus expressive is an important distinction when working with any individual, in terms of how they receive and/or express information. Receptive language is how individuals receive information and expressive language is how individuals express information. If someone has difficulty receiving information, they may need information repeated, written down, expressed in a different way, explained differently, etc. Meanwhile, if someone has difficulty expressing information they may need to describe or explain information in a different way. People give and receive information in a variety of ways and methods during everyday conversations, when stress and trauma are added to this communication there is an added need to be clear about communication and ensure everyone in the communication is understanding the information.

B. Verbal and Nonverbal

There are numerous ways, means, and types of communication. Communication can be formal or informal; in individual, small group, large group, or mass media settings. This section focuses primarily on the method of communication, namely verbal and non-verbal communications. These days there are even more ways to communicate technologically. Speaking, gestures, body language, email, text, video chat, close captioning, phone, etc. are all viable options, but what one person is comfortable with may be very different than the next. Everyone should be cognizant of the messages they are sending in each setting, whether it is virtual, physical, and/or otherwise.

X. SEXUAL ASSAULT FORENSIC EXAMS (SAFE)

Before, during, and after a Sexual Assault Forensic Exam (SAFE) it is important to understand how a survivor with disabilities may be impacted by the process. At the hospital and after discharge, there may be additional implications for a survivor with disabilities and the need for additional support and resources. Is the hospital fully complaint with the ADA? How is follow up being performed by medical personnel or advocates? Are additional accommodations needed? Is there physical space for a wheelchair, a service animal, a caregiver, an interpreter?

XI. CRIMINAL LEGAL SYSTEM

The Criminal Legal System is a complex network of rules, regulations, laws, and guidance that even those educated in the system need assistance, additional information, and time in order to successfully navigate. Furthermore, the system has antiquated rules that have not fully adapted to specific populations.

In many areas, the disability community is small and accessing the Criminal Legal System may be quickly known. This small community and system may lead to delays or refusals to report or participate in order to protect themselves, the community, or a family.

Unfortunately, there are societal myths and misunderstandings that continue to be perpetuated about individuals with disabilities that may be used against them in the system. People with disabilities may be considered more fragile or unreliable witnesses. Those in the criminal legal system may need additional education or support for cases. Educating juries and judges on trusting a survivor and the actual effects of a disability can help combat stereotypes.

Witnesses, medical records, photos, social media, text, phone, or email may all be used to provide additional support to cases. Medical expertise and records can be used as an exception to the hearsay rule, meaning that statements to medical third parties may be allowable. However, any addition of medical information should be considered very carefully, as the survivor may want to keep that protected and may open the survivor to other questions during examination.

XI. SAFETY PLANNING

Not every resource or option is for everyone. As with every survivor, it is imperative to treat every person individually. This chapter has already discussed communication in some detail, which should also be considered when safety planning.

Transportation and mobility are key aspects of safety planning. How does a survivor access resources? Are there additional options or resources available to people with disabilities? Are they willing/able to walk, bike, drive, bus, etc. to where they are going?

Per the Excellence in Advocacy manual, “Possible Safety Solutions [for victims with cognitive disabilities include]:

- Conduct frequent safety planning sessions.
- Arrange for shelter that does not have to be kept confidential to support a victim who is not able to maintain confidentiality.
- Ask for a guardian ad litem to be assigned to victims when appropriate.
- Be aware of resources available under Adult Protective Services.
- In group living situations, develop strategies with staff to allow for monitoring and dual oversight of the resident’s safety at all times. This could include providing staff with a photo of the abusive partner, educating staff about the use of protection orders and encouraging them to partner the victim up with other residents when leaving the home.”^{dxcviii}

This list is an example of some options when considering safety planning. Be sure to consider all aspects of a person’s life including housing, transportation, medical, academic, grocery/household access, pets, etc. Depending upon the type of disability, various safety solutions maybe available or need to be considered.

XII. SUPPORT ANIMALS

During the course of working with survivors, animals may be encountered. These animals have a variety of titles: service animal, guide dog, emotional support animal, therapy pet, and comfort animals. The language may vary slightly in terms of how these animals are referenced. It is vital to recognize that not all of these are the same or have the same standing in settings. Only ‘service animals’ are recognized through the ADA and have special uses that must be allowed by entities.

Per the ADA, “A service animal is any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other

mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not considered service animals.”^{dxciix} The work performed by the dog must be directly related to a person’s disability in order to qualify as a service animal and be allowed in in public and private spaces. Although dogs are the only animals that can be considered service animals, miniature horses also have standing in the ADA.

Both dogs and miniature horses have increased protections as providing support to individuals.

“A public entity or private business must allow a person with a disability to bring a miniature horse on the premises as long as it has been individually trained to do work or perform tasks for the benefit of the individual with a disability. However, an organization can consider whether the facility can accommodate the miniature based on the horse’s type, size, and weight. The rules that apply to service dogs also apply to miniature horses.”^{dx}

Examples of emotional support/therapy/comfort

- Dogs
- Cats
- Monkeys
- Birds
- Pigs
- Miniature horses
- Other domesticated animals

XIII. OFFICES AND ORGANIZATION

While supporting survivors with disabilities, offices and organizations should be accessible. This can be done in a variety of ways. Questions regarding a person’s disability should only be used in an attempt to provide more complete services, access, and resources.

Every office and organization should review their ADA plans, non-discriminations polies, grievance policies, and trainings on or including supporting survivors with disabilities. Some quick additional considerations:

Website	Physical Space	Personnel
<ul style="list-style-type: none">• Is the information accessible?• Are there accessible symbols/ language?• Are survivors with disabilities represented?• Is there close captioning as needed?	<ul style="list-style-type: none">• Is large print used or available? Braille?• What accommodations require requests?• Is the space cane, walker, and wheelchair accessible?• Is there proper signage?• Are translators and assisted listening available?• Is there space for companions and service animals? Policies for both?• Is every member of the organization trained?• What are intake procedures?	<ul style="list-style-type: none">• Is there enough time for processing as needed?• Do you repeat information when needed.• What is your body language conveying?• Are you carefully choosing your words and language?• Are you prepared with interpreters?• What are the limits of privacy, confidentiality and privilege?

XIV. RESOURCES TO CONSIDER

The ADA and other agencies and organizations have published comprehensives lists that will not be duplicated here. Please access the resource section for a list.

- United States Access Board, “Guide to the ADA Standards” (Accessed June 2020), www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-ada-standards/guide-to-the-ada-standards
- Ohio Victim Witness Association, “Serving Survivors with Disabilities: An Advocate’s Guide” (2018), www.ovwa.clubexpress.com/docs.ashx?id=426225
- Americans with Disabilities Act, www.ada.gov

CHAPTER 9:

Human Trafficking Courts



Human Trafficking Court Programs

I. WHAT IS HUMAN TRAFFICKING?

Human trafficking centers on commercial sexual or force labor exploitation as a result of force, fraud, or coercion.^{dc1} Frequently identified sectors for trafficking across the United States is: escort services, massage parlors, residential and underground brothels, nail salons, domestic servitude, restaurants, landscaping companies, agricultural services, and large-scale factory environments. A “*victim of human trafficking*” means any person who is or was a victim of a violation of section 2905.32 of the Ohio Revised Code.^{dc11} This is regardless of whether anyone has been convicted of a violation of that section or of any other section for victimizing a person.^{dc111}

II. SPECIALTY COURTS AND DIVERSION PROGRAMS

There are seven human trafficking specialty courts in the state of Ohio known as CATCH Courts (Changing Actions To Change Habits).

Programs that are located in the State of Ohio:

- *Franklin County Municipal Court (CATCH)*
 - o <https://municipalcourt.franklincountyohio.gov/Departments-Services/Specialized-Dockets/CATCH-Court>
 - o Program Description: https://cjinvolwedwomen.org/wp-content/uploads/2016/12/CATCH_Program-Description.pdf
- *Cuyahoga County Municipal Court:*
 - o <https://clevelandmunicipalcourt.org/judicial-services/court-programs-services/human-trafficking-docket>
- *Hamilton County Municipal Court*
 - o <https://hamiltoncountycourts.org/index.php/municipal-specialized-dockets/>
- *Summit County Juvenile Court*
 - o <https://juvenilecourt.summitoh.net/index.php/restore-court>

These programs approach to meet treatment, health, and behavioral medication needs of defendants who have been charged with prostitution, solicitation, loitering to solicit, or other offenses if the defendant has a history of being a victim of human trafficking. These programs present a non-adversarial rather than an exclusively punitive approach; in lieu of jail, referrals to treatments are made. They are usually a two-year intensive program emphasizes treatment for drug addiction, depression, and posttraumatic stress disorder by connecting defendants to appropriate substance abuse and mental health facilities and social services resources and by teaching healthy lifestyle choices, including stable housing, supportive interpersonal relationships, and education.^{dc14}

III. HUMAN TRAFFICKING EXPUNGEMENT PROCESSES

When survivors escape human trafficking, it is difficult to handle everyday life such as obtain employment, housing, connecting with family members or loved ones.

The term “*expunge*” means to destroy, delete, or erase a record as appropriate for the record’s physical or electronic for of characteristic so that the record is permanently irretrievable.^{dcv}

“*Record of conviction*” means any record related to a conviction of or plead guilty to an offense.^{dcvi} In June of 2012, the Ohio Legislature created a new expungement process under the Safe Harbor Law.^{dcvii} This law recognizes that sex trafficking victims are compelled through force, fear, duress, intimidation, or fraud to participate in illegal acts. Consequently, survivors can erase records of convictions.

Ohio Revised Code 2953.38 states:

- Any person who is convicted of a violation of section 2907.24, 2907.241, or 2907.25 of the revised code may apply to sentencing court for the expungement of the record of conviction of any offense, other than the record of conviction of a violation of section 2903.01, 2903.2, or 2907.02 of the Ohio Revised Code, the person participation in which the result of the person being a victim to human trafficking.
- The person may file an application at any time.^{dcviii}
 - o The application may request an order to expunge the record of conviction for more than one offense, but it is does, the court will consider the request for each offense separately as if a separate application.

A. Application

The application shall do the following:^{dcix}

1. Identify the applicant, the offense for which the expungement is sought, the date of the conviction of that offense, and the court in which the offense occurred;
2. Describe the evidence and provide copies of any documentation showing that the person is entitled to relief under the revised code.
3. Include a request for expungement of the record conviction of that offense under this revised code.

B. Denial or Approval

The court may deny this application if it finds that it does not or fails to assert grounds on which relief may be granted.^{dcx}

If the court does not deny an application, it will set a date for a hearing and a prosecutor for the case in which the record of conviction resulted of the hearing on the application.^{dcxi}

- The prosecutor may object to the granting of the application by filing an objection with the court prior to the set date of the hearing.
- They must specify in the objection reasons for believing in denial of the application justified.
- The court may direct its regular probation officer, a state probation officer, or the department of the county in which the applicant resides to make inquires and written reports as the court concerning the applicant residing to make inquires and written reports as courts requires that concerns the applicant.

C. Hearing

At the hearing the court shall do both of the following:

1. If the prosecutor filed an objection, consider the reasons granting the application by the

objecting prosecutor.^{dcxii}

- a. Determine whether or not the applicant has demonstrated by a preponderance of the evidence that the applicants participate in the offense that is the subject of the application was a result that they are or have been a victim or human trafficking^{dcxiii}

2. If the court at the hearing determines that the applicant's participation in the offense that is the subject of the application was a result of the applicant having been a victim of human trafficking and if that subject offense is a felony of the first or second degree. The courts also need to consider the factors determining whether the interests of the applicant in having the record of the conviction of that offense expunged are outweighed by any legitimate needs of the government to maintain that record of conviction:^{dcxiv}

- a. The degree of duress under which the applicant acts in committing the subject offense including, the history of the use force or threatened use of force against the applicant or another person, whether the applicant's judgment or control was impaired by the administration to the applicant of any intoxicant, drug, or controlled substance, and the threat of withholding from the applicant food, water, or any drug.
- b. The seriousness of the subject offense
- c. The length of time that has expired since the commission of the subject offense
- d. Whether the prosecutor represent to the court that criminal proceedings are likely to still be intentioned against the applicant for a felony offense for which the period of limitations has not expired.
- e. Whether the applicant at the time of the hearing is subject to supervision as a result of the subject offenses.
- f. If after the hearing the court finds that the applicant has demonstrated by a preponderance of the evidence that the applicant's participation in the offense that is the subject of the application was the result of the applicant having been a victim of human trafficking, and, if the offense that is the subject of the application is a felony of the first or second degree, after consideration for the factors, it finds that the interest of the applicant in having the record of conviction of that offense expunged are not outweighed by any legitimate needs of the government to maintain that record of conviction, the court shall grant the application and order that the record of conviction be expunged.

D. Notice

The court shall send notice of the order of expungement issued in this section to each public office or agency that the court has reason to believe may have an official recorded pertaining to the case if the court after complying determines both of the following:^{dcxv}

- a. The applicant has been convicted of a violation of section 2907.24, 2907.241, or 2907.25 of the Ohio Revised Code;
- b. That the interest of the applicant in having the records pertaining to the applicant's conviction expunged are not outweighed by any legitimate needs of the government to maintain those records

E. Conclusion

The proceedings in the case that is the subject of an order of expungement issued shall be considered not have occurred and the conviction of the person who is the subject of the proceedings will expunged. The record of the conviction shall not be issued or used for any purpose such as criminal records checked under section 109.572 of the Ohio Revised Code. The applicant may, and the court shall, reply that no records exist with respect to the applicant upon any inquiry into the matter.^{dcxvi}

Senate Bill 4 allows survivors of trafficking to expunge their records of most crimes that can be linked back to trafficking. This will allow survivors to be able to avoid some of the barriers created by lengthy criminal records. They will be able to find meaning achievements in life such as employment, housing, and opportunities for furthering education.

APPENDICES

Appendix A – Guide to Statewide Coalitions
Appendix B – Guide to Ohio Rape Crisis Centers

Appendix A – Guide to Statewide Coalitions

This resource was produced by the Ohio Alliance to End Sexual Violence, and thus relates specifically to the Ohio legal system. If you are seeking comparable information for another state or territory, OAESV recommends reaching out directly to that area’s coalition:

State or Territory	Coalition
Alabama	Alabama Coalition Against Rape 7003 Fulton Ct. Montgomery, AL 36117 T: (334) 264-0123 www.acar.org
Alaska	Alaska Network on Domestic Violence and Sexual Assault 130 Seward Street, Suite 214 Juneau, AK 99801 T: (907) 586-3650 F: (907) 463-4493 www.andvsa.org
American Samoa	American Samoa Alliance Against Domestic and Sexual Violence American Samoa Coalition P.O. Box 4459 Pago Pago, American Samoa 96799-7285 T: (684) 699-0272 F: (684) 699-0273 www.asalliance.co
Arizona	Arizona Coalition to End Sexual & Domestic Violence 2700 N Central Ave, Ste 1100 Phoenix, AZ 85004 T: (602) 279-2900 www.azcadv.org
Arkansas	Arkansas Coalition Against Sexual Assault P.O. Box 3837 Little Rock, AR 72203 T: (501) 246-3276 www.acasa.us

California	ValorUS <i>(Formerly California Coalition Against Sexual Assault)</i> 1215 “K” Street, Ste 1850 Esquire Plaza Sacramento, CA 95814 T: (916) 446-2520 F: (916) 313-3742 www.valor.us
Colorado	Colorado Coalition Against Sexual Assault 1330 Fox Street, Ste 2 P.O. Box 40350 Denver, CO 80204 T: (303) 839-9999 www.ccasa.org
Connecticut	Connecticut Alliance to End Sexual Violence 96 Pitkin Street East Hartford, CT 06108 T: (860) 282-9881 F: (860) 291-9335 www.endsexualviolencect.org
Delaware	Sexual Assault Network of Delaware (New Castle County Contact Information) P.O. Box 9525 Wilmington, DE 19809 T: (302) 761-9800 F: (302) 761-4280 (Kent & Sussex Counties Contact Information) P.O. Box 61 Milford, DE 19963 T: (302) 422-1154 F: (302) 422-2078 www.contactlifeline.org/sand/
District of Columbia	DC Rape Crisis Center P.O. Box 42734 Washington, DC 20015-9998 T: (202) 232-0789 F: (202) 866-0501 www.dcrcc.org

Florida	<p>Florida Council Against Sexual Violence</p> <p>1820 E. Park Avenue, Ste 100 Tallahassee, FL 32301 T: (850) 297-2000 F: (850) 297-2002</p> <p>www.fcasv.org</p>
Georgia	<p>Georgia Network to End Sexual Assault</p> <p>P.O. Box 162505 Atlanta, GA 30321 T: (404) 815-5261 www.gnesa.org</p>
Guam	<p>Guam Coalition Against Sexual and Family Violence</p> <p>P.O. Box 1093 Hagatna, GU 96932 T: (671) 479-2277 F: (671) 479-7233</p> <p>www.guamcoalition.org</p>
Hawaii	<p>Kapi’Olani Sex Abuse Treatment Center Kapiolani Medical Center for Women & Children</p> <p>Harbor Court, 55 Merchant Street, 22nd Floor Honolulu, HI 96813 T: (808) 524-7273</p> <p>www.satchawaii.com</p>
Idaho	<p>Idaho Coalition Against Sexual & Domestic Violence</p> <p>Linen Building 1402 W. Grove St. Boise, Idaho 83706 T: (208) 384-0419</p> <p>www.idvsa.org</p>
Illinois	<p>Illinois Coalition Against Sexual Assault</p> <p>100 N. 16th Street Springfield, IL 62703 T: (217) 753-4117 F: (217) 753-8229</p> <p>www.icasa.org</p>

Indiana	<p>Indiana Coalition Against Sexual Assault</p> <p>9245 North Meridian Street Suite 227 Indianapolis, IN 46260 317-624-2370</p> <p>http://indianacesa.org</p>
Iowa	<p>Iowa Coalition Against Sexual Assault</p> <p>3030 Merle Hay Rd. Des Moines, IA 50310 T: (515) 244-7424 F: (515) 850-1900</p> <p>www.iowacasa.org</p>
Kansas	<p>Kansas Coalition Against Sexual & Domestic Violence</p> <p>634 S.W. Harrison Topeka, KS 66603 T: (785) 232-9784 F: (785) 266-1874</p> <p>www.kcsdv.org</p>
Kentucky	<p>Kentucky Association of Sexual Assault Programs</p> <p>P.O. Box 4028 Frankfort, KY 40604</p> <p>T: (502) 226-2704www.kasap.org</p>
Louisiana	<p>Louisiana Foundation Against Sexual Assault</p> <p>2133 Silverside Dr. Baton Rouge, LA 70808 T: (225) 372-8995 F: (985)345-5592</p> <p>www.lafasa.org</p>
Maine	<p>Maine Coalition Against Sexual Assault</p> <p>45 Memorial Circle, Ste. 302 Augusta, ME 04330 T: (207) 626-0034</p> <p>www.mecasa.org</p>
Maryland	<p>Maryland Coalition Against Sexual Assault</p> <p>P.O. Box 8782 Silver Spring, MD 20907 T: (301) 328-7023 F: (301) 328-7168</p> <p>www.mcasa.org</p>

Massachusetts	<p><i>Massachusetts Coalition Against Sexual Assault and Domestic Violence, Jane Doe Inc.</i></p> <p>745 Atlantic Ave., 8th Floor, Ste. 800 Boston, MA 02111 T: (617) 248-0922</p> <p>www.janedoe.org</p>
Michigan	<p><i>Michigan Coalition to End Domestic & Sexual Violence</i></p> <p>3893 Okemos Road, Suite B2 Okemos, MI 48864-4209 T: (517) 347-7000 F: (517) 347-1377</p> <p>www.mcedsv.org</p>
Minnesota	<p><i>Minnesota Coalition Against Sexual Assault</i></p> <p>161 St. Anthony Avenue St. Paul, MN 55103 T: (651) 209-9993</p> <p>www.mncasa.org</p>
Mississippi	<p><i>Mississippi Coalition Against Sexual Assault</i></p> <p>P.O. Box 4172 Jackson, MS 39296 T: (601) 948-0555 F: (601) 948-0525</p> <p>www.msCasa.org</p>
Missouri	<p><i>Missouri Coalition Against Domestic and Sexual Violence</i></p> <p>217 Oscar Drive, Ste. A Jefferson City, MO 65101 T: (573) 634-4161</p> <p>www.mocadsv.org</p>
Montana	<p><i>Montana Coalition Against Domestic & Sexual Violence</i></p> <p>P.O. Box 818 Helena MT 59624 T: (406) 443-7794</p> <p>mcadsv.com</p>
Nebraska	<p><i>Nebraska Coalition to End Sexual and Domestic Violence</i></p> <p>245 S. 84th Street, Suite 200 Lincoln, NE 68510 T: (402) 476-6256</p> <p>www.nebraskacoalition.org</p>

Nevada	<p><i>Nevada Coalition to End Domestic & Sexual Violence</i></p> <p>(Northern Nevada Address) 250 South Rock Boulevard, Suite 116 Reno, NV 89502</p> <p>(Southern Nevada Address) 3275 E. Warm Springs Rd. Las Vegas, NV 89120</p> <p>T: (775) 828-1115 F: (775) 828-9911</p> <p>www.ncedsv.org</p>
New Hampshire	<p><i>New Hampshire Coalition Against Domestic and Sexual Violence</i></p> <p>P.O. Box 353 Concord, NH 03302-0353 T: (603) 224-8893</p> <p>www.nhcadsv.org</p>
New Jersey	<p><i>New Jersey Coalition Against Sexual Assault</i></p> <p>Crossroads Corporate Center 3150 Brunswick Pike, Suite 160 Lawrence Township, NJ 08648-2420 T: (609) 631-4450 F: (609) 631-4453</p> <p>www.njCasa.org</p>
New Mexico	<p><i>New Mexico Coalition of Sexual Assault Programs</i></p> <p>3909 Juan Tabo NE, Suite 6 Albuquerque, NM 87111 T: (505) 883-8020 F: (505) 883-7530</p> <p>www.nmcsap.org</p>
New York	<p><i>New York State Coalition Against Sexual Assault</i></p> <p>28 Essex St. Albany, NY 12206 T: (518) 482-4222 F: (518) 482-4248</p> <p>www.nysCasa.org</p>

North Carolina	<p><i>North Carolina Coalition Against Sexual Assault</i></p> <p>811 Spring Forest Rd., Suite 100 Raleigh, NC 27609 T: (919) 871-1015 F: (919) 871-5895</p> <p>www.nccasa.org</p>
North Dakota	<p><i>North Dakota Council on Abused Women's Services</i></p> <p>521 E. Main Ave., Ste 320 Bismarck, ND 58501 T: (701) 255-6240 F: (701) 255-1904</p> <p>www.cawsnorthdakota.org</p>
North Marianas	<p><i>Coordinadora Paz Para La Mujer, Puerto Rico</i></p> <p>Apartado 193008 San Juan, PR 00919 T: (787) 281-7579</p> <p>www.pazparalamujer.org</p>
Ohio	<p><i>Ohio Alliance to End Sexual Violence</i></p> <p>6111 Oak Tree Blvd., Ste. 140 Independence, Ohio 44131 T: (216) 658-1381 F: (216) 619-6195</p> <p>www.oaesv.org</p>
Oklahoma	<p><i>Oklahoma Coalition Against Domestic Violence and Sexual Assault</i></p> <p>8524 S. Western, Ste. 111 Oklahoma City, OK 73139 T: (405) 524-0700 F: (405) 524-0711</p> <p>www.ocadvsa.org</p>
Oregon	<p><i>Oregon Coalition Against Domestic & Sexual Violence</i></p> <p>9570 SW Barbur Blvd., Ste. 214 Portland, OR 97219 T: (503) 230-1951 F: (503) 230-1973</p> <p>www.ocadsv.org</p>

Pennsylvania	<p><i>Pennsylvania Coalition Against Rape</i></p> <p>2101 North Front Street Governor's Plaza North, Bld. #2 Harrisburg, PA 17110 T: (717) 728-9740</p> <p>www.pcar.org</p>
Puerto Rico	<p><i>Coordinadora Paz Para La Mujer, Puerto Rico</i></p> <p>Apartado 193008 San Juan, PR 00919 T: (787) 281-7579 F: (787) 767-6843</p> <p>www.pazparalamujer.org</p>
Rhode Island	<p><i>Rhode Island / Day One: The Sexual Assault and Trauma Resource Center</i></p> <p>100 Medway Street Providence, RI 02906 T: (401) 421-4100 F: (401) 454-5565 Hotline: 1-800-494-8100</p> <p>www.dayoneri.org</p>
South Carolina	<p><i>South Carolina Coalition Against Domestic Violence and Sexual Assault</i></p> <p>P.O. Box 7776 Columbia, SC 29202 T: (803) 256-2900 www.sccadvsa.org</p>
South Dakota	<p><i>South Dakota Coalition Against Domestic Violence and Sexual Assault</i></p> <p>122 E. Sioux Ave., Ste. D Pierre, SD 57501-0141 T: (605) 945-0869 F: (605) 945-0870</p> <p>www.sdcedsv.org</p>
St. Croix	<p><i>The Women's Coalition of St. Croix</i></p> <p>P.O. Box 222734 Christiansted, VI 00822 T: (340) 773-9272 F: (340) 773-9062</p> <p>www.wcstx.com</p>

Tennessee	<p><i>Tennessee Coalition Against Sexual Assault</i></p> <p>2 International Plaza Dr. Suite 425 Nashville, TN 37217 T: (615) 386-9406</p> <p>www.tncoalition.org</p>
Texas	<p><i>Texas Association Against Sexual Assault</i></p> <p>7700 Chevy Chase Dr., Ste. 230 Austin, TX 78752 T: (512) 474-7190</p> <p>www.taasa.org</p>
Utah	<p><i>Utah Coalition Against Sexual Assault</i></p> <p>284 West 400 North Salt Lake City, UT 84103 T: (801) 746-0404</p> <p>www.ucasa.org</p>
Vermont	<p><i>Vermont Network Against Domestic Violence & Sexual Assault</i></p> <p>P.O. Box 405 Montpelier, VT 05601-0405 T: (802) 223-1302 F: (802) 223-6943</p> <p>www.vtnetwork.org</p>
Virgin Islands	<p><i>Virgin Islands Domestic Violence Sexual Assault Council</i></p> <p>(St. Croix Office) 4100 Sion Farm Shopping Center Christiansted, VI 00820 T: (340) 719-0144 F: (340) 719-5521</p> <p>(St. Thomas/St. John Office) 9180 Estate Thomas – Unit K 2005 St. Thomas, VI 00802 T: (340) 774-0144</p> <p>www.vidvsac.org</p>
Virginia	<p><i>Virginia Sexual and Domestic Violence Action Alliance</i></p> <p>1118 W. Main Street Richmond, VA 23220 T: (804) 377-0335</p> <p>www.vsdvalliance.org</p>

Washington	<p><i>Washington Coalition of Sexual Assault Programs</i></p> <p>4317 6th Avenue S.E., Suite 102 Olympia, WA 98503</p> <p>www.wcsap.org</p>
West Virginia	<p><i>West Virginia Foundation for Rape Information and Services</i></p> <p>112 Braddock Street Fairmont, WV 26554 T: (304) 366-9500 F: (304) 366-9501</p> <p>www.fris.org</p>
Wisconsin	<p><i>Wisconsin Coalition Against Sexual Assault</i></p> <p>2801 West Beltine Highway, Ste. 202 Madison, WI 53713 T: (608) 257-1516 F: (608) 646-7753</p> <p>www.wcasa.org</p>
Wyoming	<p><i>Wyoming Coalition Against Domestic Violence and Sexual Assault</i></p> <p>PO Box 236 710 Garfield Street, Ste. 218 Laramie, WY 82073 T: (307) 755-5481 F: (307) 755-5482</p> <p>www.wyomingdvsa.org</p>

Appendix B – Guide to Ohio Rape Crisis Centers

County	Serving Agency	Hotline	Business Line	Website
Adams	Women Helping Women	(513) 381-5610	(513) 977-5541	womenhelpingwomen.org
Allen	Day One of Crime Victim Services	1 (877) 867-7273	(419) 222-8666	crimevictimservices.org
Ashland	Rape Crisis & Domestic Violence Safe Haven	(419) 289-8085	(419) 282-6097	safehavenofashland.org
Ashtabula	Cleveland Rape Crisis Center	(216) 619-6192 or (440) 423-2020 (Online Chat Available; call/text)	(216) 619-6194 (440) 354-7364	clevelandrapecrisis.org
Athens	Survivor Advocacy Outreach Program	(740) 591-4266 (option "0")	(740) 591-4266	saopseoh.org
Auglaize	Ohio Sexual Violence Helpline	(844) 644-6435	N/A	ohiosexualviolencehelpline.com
Belmont	Tri-County Help Center	(740) 695-5441	(740) 695-5441	tricityhelp.org
Brown	Women Helping Women	(513) 381-5610	(513) 977-5541	womenhelpingwomen.org
Butler	Women Helping Women	(513) 381-5610	(513) 977-5541	womenhelpingwomen.org
Carroll	COMPASS (Sexual Assault Education, Prevention & Support)	(330) 339-1427	(330) 339-2504	compassrapecrisis.org
Champaign	Ohio Sexual Violence Helpline	(844) 644-6435	N/A	ohiosexualviolencehelpline.com
Clark	Project Woman	1 (800) 634-9893	(937) 328-5308	projectwomanohio.org
Clermont	Ohio Sexual Violence Helpline	(844) 644-6435	N/A	(937) 328-5308
Clinton	Alternatives to Violence Center	(888) 816-1146	(937) 383-3285	avconline.info
Columbiana	Alliance Area Rape Crisis Program	(330) 821-7273	(330) 455-0374	commquest.org
	COMPASS Family & Community Services	(330) 782-3936		compassfamily.org
Coshocton	Ohio Sexual Violence Helpline	(844) 644-6435	N/A	ohiosexualviolencehelpline.com

Crawford	Sexual Assault Response Network (SARN) Helpline	1 (800) 684-2324 or (740) 369-3316 or (419) 947-2520 or text "helpline" to 898211	N/A	helplinedelmor.org
Cuyahoga	Cleveland Rape Crisis Center	(216) 619-6192 or (440) 423-2020 (call/text)	(216) 619-6194 or (440) 354-7364	clevelandrapecrisis.org
Darke	Ohio Sexual Violence Helpline	(844) 644-6435	N/A	ohiosexualviolencehelpline.com
Defiance	YWCA of Northwest Ohio	(419) 241-7273 or 1 (866) 557-7273	(419) 241-3235	ywcanwo.org
Delaware	Sexual Assault Response Network (SARN) Helpline	1 (800) 684-2324 or (740) 369-3316 or (419) 947-2520 or text "helpline" to 898211	N/A	helplinedelmor.org
Erie	Ohio Sexual Violence Helpline	(844) 644-6435	N/A	ohiosexualviolencehelpline.com
Fairfield	Family Health Services of East Central Ohio	(740) 344-9291	(740) 342-3517	fhseco.org
Fayette	Ohio Sexual Violence Helpline	(844) 644-6435	N/A	ohiosexualviolencehelpline.com
Franklin	SARNCO (Sexual Assault Response Network of Central Ohio)	(614) 267-7020 or (800) 656-4673	(614) 267-7020	ohiohealth.com/services/neuroscience/our-programs/behavioral-and-mental-health/sarnco
Fulton	YWCA of Northwest Ohio	(419) 241-7273 or 1 (866) 557-7273	(419) 241-3235	ywcanwo.org
Gallia	Survivor Advocacy Outreach Program	(740) 591-4266 (option "0")	(740) 591-4266	saopseoh.org
Geauga	Cleveland Rape Crisis Center	(216) 619-6192 or (440) 423-2020 (call/text)	(216) 619-6194 or (440) 354-7364	clevelandrapecrisis.org
Greene	Family Violence Prevention Center	937-372-4552 or 937-426-2334 937-347-5917 (text)	937-376-8526 or 937-426-6535	violencefreefutures.org
Guernsey	Haven of Hope	1 (800) 304-4673	(740) 439-7233	havenofhope.org
Hamilton	Women Helping Women	(513) 381-5610	(513) 977-5541	womenhelpingwomen.org
Hancock	Open Arms Domestic Violence & Rape Crisis Services	(419) 422-4766	(419) 420-9261	openarmsfindlay.com

Hardin	Day One of Crime Victim Services	(877) 867-7273	(419) 222-8666	crimevictimservices.org
Harrison	Tri-County Help Center	(740) 695-5441	(740) 942-1018	tricityhelp.org
Henry	YWCA of Northwest Ohio	(419) 241-7273 or 1 (866) 557-7273	(419) 241-3235	ywcawo.org
Highland	Alternatives to Violence Center	(888) 816-1146	(937) 393-8118	avconline.info
Hocking	Survivor Advocacy Outreach Program	(740) 591-4266 (option "0")	(740) 591-4266 x703	saopseoh.org
Holmes	OneEighty	(800) 686-1122	(330) 264-8498	one-eighty.org
Huron	The Nord Center's Sexual Assault Services	1 (800) 888-6161 or (440) 204-4359	(440) 233-7232	nordcenter.org/sexual-assault-services
Jackson	Survivor Advocacy Outreach Program	(740) 591-4266 (option "0")	(740) 591-4266 x703	saopseoh.org
Jefferson	ALIVE, Inc. Sexual Assault Services	1-(888) 611-SAFE (7233) or (740) 512-6092	(740) 283-3444	aliveshelter.org
Knox	New Directions	(740) 367-4357 (call or text)	(740) 397-4357	newdirectionsshelter.org
Lake	Cleveland Rape Crisis Center	(216) 619-6192 or (440) 423-2020 (call/text)	(216) 619-6194 or (440) 354-7364	clevelandrapecrisis.org
Lawrence	Ohio Sexual Violence Helpline	(844) 644-6435	N/A	ohiosexualviolencehelpline.com
Licking	Family Health Services of East Central Ohio	(740) 344-9291	(740) 344-9291	fhseco.org
Logan	Ohio Sexual Violence Helpline	(844) 644-6435	N/A	ohiosexualviolencehelpline.com
Lorain	The Nord Center's Sexual Assault Services	1 (800) 888-6161 or (440) 204-4359	(440) 233-7232	nordcenter.org/sexual-assault-services
Lucas	YWCA of Northwest Ohio	(419) 241-7273 or 1 (866) 557-7273	(419) 241-3235	ywcawo.org
Madison	Project Woman	1 (800) 634-9893 or 1 (844) 644-6435	(937) 328-5308	projectwomanohio.org
Mahoning	Alliance Area Rape Crisis Program	(330) 821-7273	(330) 455-0374	commquest.org
	COMPASS Family & Community Services	(330) 782-3936	(330) 782-5664	compassfamily.org

Marion	Sexual Assault Response Network (SARN) Helpline	1 (800) 684-2324 or (740) 369-3316 or (419) 947-2520 or text "helpline" to 898211	N/A	helplinedelmor.org
	Ohio Sexual Violence Helpline	(844) 644-6435	N/A	ohiosexualviolencehelpline.com
Medina	Rape Crisis Center of Summit & Medina Counties	(330) 434-7273 or 1 (877) 906-7273	(330) 374-0740	hopeandhealingresources.org/ rape-crisis-center/\
Meigs	Survivor Advocacy Outreach Program	(740) 591-4266 (option "0")	(740) 591-4266 x706	saopseoh.org
Mercer	Day One of Crime Victim Services	(877) 867-7273	(419) 222-8666	crimevictimservices.org
	Our Home Family Resource Center	419-586-1133 (call or text)	419-586-1133 (option "2")	ourhomefrc.com
Miami	Ohio Sexual Violence Helpline	(844) 644-6435	N/A	ohiosexualviolencehelpline.com
Monroe	Tri-County Help Center	(740) 695-5441	(740) 472-0255	tricityhelp.org
	Eve, Inc.	1 (800) 974-3111	(740) 374-5820	eveshelter.com
Montgomery	YWCA Dayton	(937) 222-7233	(937) 461-5550	ywcadayton.org
Morgan	Survivor Advocacy Outreach Program	(740) 591-4266 (option "0")	(740) 591-4266 x703	saopseoh.org
	Eve, Inc.	1 (800) 974-3111	(740) 374-5820	eveshelter.com
Morrow	Sexual Assault Response Network (SARN) Helpline	1 (800) 684-2324 or (740) 369-3316 or (419) 947-2520 or text "helpline" to 898211	N/A	helplinedelmor.org
Muskingum	Family Health Services of East Central Ohio	(740) 344-9291	(740) 453-2872	fhseco.org
Noble	Haven of Hope	1 (800) 304-4673	(740) 439-7233	havenofhope.org
	Eve, Inc.	1 (800) 974-3111	(740) 374-5820	eveshelter.com
Ottawa	The Cocoon	(419) 373-1730 ext. 2	(419) 373-1730	cocoonsshelter.org
Paulding	YWCA of Van Wert County	(567) 259-9501	(419) 238-6639	ywcavanwert.org

Perry	Family Health Services of East Central Ohio	(740) 344-9291	(740) 343-3517	fhseco.com
	Survivor Advocacy Outreach Program	(740) 591-4266	(740) 591-4266 x703	saopseoh.org
Pickaway	Ohio Sexual Violence Helpline	(844) 644-6435	N/A	ohiosexualviolencehelpline.com
Pike	Partnership Advocacy Center	740-947-1611 (call) 740-365-4673 (text)	(740) 947-1611	pikepartnership.org
Portage	Townhall II	(330) 678-4357	(330) 678-3006	townhall2.com
Preble	YWCA Dayton	(937) 222-7233	(937) 461-5550	ywcadayton.org
Putnam	Day One of Crime Victim Services	(877) 867-7273	(419) 523-1111	crimevictimservices.org
Richland	The Domestic Violence Shelter, Inc.	(800) 931-7233	(419) 774-5840	thedvshelter.com
Ross	Ohio Sexual Violence Helpline	(844) 644-6435	N/A	ohiosexualviolencehelpline.com
Sandusky	The Cocoon	(419) 373-1730 ext. 2	(419) 373-1730	cocoonshelter.org
Scioto	Ohio Sexual Violence Helpline	(844) 644-6435	(419) 222-8666	ohiosexualviolencehelpline.com
Seneca	The Cocoon	(419) 373-1730 ext. 2	(419) 373-1730	cocoonshelter.org
Shelby	Ohio Sexual Violence Helpline	(844) 644-6435	(419) 222-8666	ohiosexualviolencehelpline.com
	Alliance Rape Crisis Program	(330) 821-RAPE (7273)	(330) 455-0374	commquest.org
	COMPASS (Sexual Assault Education, Prevention & Support)	(330) 452-1111	(330) 437-3705	compassrapecrisis.org
Summit	Rape Crisis Center of Summit & Medina Counties	(330) 434-7273 or 1 (877) 906-7273	(330) 374-0740	hopeandhealingresources.org/rap-crisis-center/
Trumbull	Rape Crisis Team of Trumbull Co., Inc.	(330) 394-4060	(330) 394-4060	rapecrisisanswers.org
	Compass Rape Crisis and Counseling Center	(330) 782-3936	N/A	

Tuscarawas	COMPASS (Sexual Assault Education, Prevention & Support)	(330) 339-1427	(330) 339-2504	compassrapecrisis.org
Union	Ohio Sexual Violence Helpline	(844) 644-6435	N/A	ohiosexualviolencehelpline.com
Van Wert	YWCA of Van Wert County	(567) 259-9501	(419) 238-6639	ywcavanwert.org
Vinton	Survivor Advocacy Outreach Program	(740) 591-4266	(740) 591-4266 x706	saopseoh.org
Warren	SAFE on Main	1 (888) 860-4084	(513) 695-1185	safeonmain.org
Washington	Eve, Inc.	1 (800) 974-3111	(740) 374-5820	eveshelter.com
Wayne	OneEighty	(800) 686-1122	(330) 264-8498	one-eighty.org
Williams	YWCA of Northwest Ohio	(844) 644-6435	N/A	ohiosexualviolencehelpline.com
Wood	The Cocoon	(419) 373-1730 ext. 2	(419) 373-1730	cocoonshelter.org
Wyandot	Sexual Assault Response Network (SARN) Helpline	1 (800) 684-2324 or (740) 369-3316 or (419) 947-2520 or text "helpline" to 898211	N/A	helplinedelmor.org



ⁱ *Administrative Law Judge*, Legal Information Institute, [https://www.law.cornell.edu/wex/administrative_law_judge_\(alj\)](https://www.law.cornell.edu/wex/administrative_law_judge_(alj)) (Last visited July 9, 2021)

ⁱⁱ *Texas Association Against Sexual Assault*, Sexual Assault Legal Advocacy Manual, 5 (2014). *Available at* http://www.taasa.org/wp-content/uploads/2014/11/2014_Legal_Advocacy_Manual_Final.pdf (Last visited July 2, 2021)

ⁱⁱⁱ Ohio Civ. R. 7

^{iv} U.S. Equal Employment Opportunity Commission, *Overview*, eeoc.gov, <https://www.eeoc.gov/overview> (Last visited July 9, 2021)

^v *Tips for Young Lawyers Dealing with Expert Witnesses*, American Bar Association, <https://www.americanbar.org/groups/litigation/committees/diversity-inclusion/articles/2019/summer2019-tips-for-young-lawyers-dealing-with-expert-witnesses> (last visited July 2, 2021); *See also* Ohio Evid. R. 702.

^{vi} Ohio Rev. Code § 2951.041(A)(1).

^{vii} *Judicial Release Packet*, Office of the Ohio Public Defender, https://www.opd.ohio.gov/static/Law+Library/Representing+Yourself/Judicial_Release_Packet.pdf (Last visited July 2, 2021)

^{viii} Ohio Rev. Code §§ 2929.24, 2929.28.

^{ix} Ohio Civil Rights Commission, *About Us*, crc.ohio.gov, <https://www.crc.ohio.gov/AboutUs.aspx> (Last visited July 9, 2021)

^x Ohio Rev. Code § 2943.03.

^{xi} *Post Release Control*, Ohio Department of Rehabilitation & Correction, <http://www.drc.ohio.gov/prc> (last visited July 2, 2021).

^{xii} Ohio Rev. Code § 2967.28(B).

^{xiii} *Negligence and the Reasonable Person Standard*, FindLaw (2018), <https://injury.findlaw.com/accident-injury-law/standards-of-care-and-the-reasonable-person.html> (last visited July 2, 2021).

^{xiv} Ohio Rev. Code § 2950.13(A)(1).

^{xv} *Sexual Assault Response Teams*, Ohio Department of Developmental Disabilities, (2019), available at <https://dodd.ohio.gov/wps/portal/gov/dodd/health-and-welfare/toolkit/sart> (Last visited July 2, 2021).

^{xvi} *What is a Sexual Assault Forensic Exam?*, RAINN <https://www.rainn.org/articles/rape-kit> (last visited July 2, 2021); *Sexual Assault Nurse Examiners*, International Association of Forensic Nurses, <http://www.forensicnurses.org/?page=aboutsane> (last visited July 2, 2021).

^{xvii} *Sexual Assault Nurse Examiners*, International Association of Forensic Nurses, <http://www.forensicnurses.org/?page=aboutsane> (last visited July 2, 2021).

^{xviii} Ohio Rev. Code § 2947.051

^{xix} *Lawsuit*, The People’s Law Dictionary (2005), <https://legal-dictionary.thefreedictionary.com/lawsuit> (Last visited July 3, 2021)

^{xx} *See, e.g. Civil Action*, Legal Information Institute (2020), https://www.law.cornell.edu/wex/civil_action. (Last visited July 2, 2021).

^{xxi} *The Language of Motion Practice*, CUNY, <https://www.law.cuny.edu/legal-writing/students/legal-language/motion-practice/> (last visited July,1 2021).

^{xxii} Fed. R. Civ. P. 41

^{xxiii} *Member Directory*, Ohio State Bar Association, <https://www.ohiobar.org/member-tools-benefits/Business-Development-and-Networking/Member-Directory/> (last visited July 1, 2021).

^{xxiv} *Contingent Fee*, West’s Encyclopedia of American Law (2d ed. 2008). *Available at* <https://legal-dictionary.thefreedictionary.com/Contingent+Fee#:~:text=Payment%20to%20an%20attorney%20for,if%20it%20proceeds%20to%20trial>. (Last visited July 2, 2021).

^{xxv} *See, e.g.,* Ohio Rev. Code §4705.15; *Sample Contingent Fee Agreement*, OBLIC <https://www.oblic.com/wp-content/uploads/2019/09/Sample-Contingent-Fee-Agreement.pdf>. (Last visited July 1, 2021)

^{xxvi} Ohio State Bar Association, <https://www.ohiobar.org> (last visited July 1, 2021).

^{xxvii} 42 U.S.C. §2000e, *et seq.*

^{xxviii} Ohio Rev. Code 4112, *available at* <https://codes.ohio.gov/ohio-revised-code/chapter-4112> (Last visited July 4, 2021)

^{xxix} *Collectability*, U.S. Legal, <https://definitions.uslegal.com/c/collectability/>. (Last visited July 2, 2021).

^{xxx} 20 U.S.C. §1681, *et seq.*; 42 U.S.C. §2000e, *et seq.*; Ohio Rev. Code §4112.

^{xxxi} *Tort*, The People’s Law Dictionary (2005), <https://legal-dictionary.thefreedictionary.com/tort> (Last visited July 2, 2021)

^{xxxii} *Sample Letter of Representation*, Ohio Bar Liability Insurance Co., <https://www.oblic.com/resources/01/30/2011/sample-letter-of-representation/> (Last visited July 1, 2021).

^{xxxiii} *Complaint*, West’s Encyclopedia of American Law (2nd ed. 2008), <https://legal-dictionary.thefreedictionary.com/complaint> (Last visited July 3, 2021)

^{xxxiv} Ohio Civ. R. 3-6

^{xxxv} *See, e.g., Mangelluzzi v. Morley*, 40 N.E.3d 588 (Ohio Ct. App. 2015) *available at* <https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2015/2015-Ohio-3143.pdf>

^{xxxvi} *Notice Pleading*, Legal Information Institute, https://www.law.cornell.edu/wex/notice_pleading#. (Last visited July 1, 2021).

^{xxxvii} Ohio Civ. R. 12

^{xxxviii} *Id.*

^{xxxix} Ohio Civ. R. 12(B)

^{xl} *Id.*

^{xli} *Complainant*, West’s Encyclopedia of American Law (2nd ed. 2008), <https://legal-dictionary.thefreedictionary.com/complainant#> (Last visited July 3, 2021)

^{xlii} Jim Wagstaffe, *Making the Motion for Summary Judgement*, Lexis Nexis (Nov. 2, 2018), <https://www.lexisnexis.com/lexis-practical-guidance/the-journal/b/pa/posts/making-the-motion-for-summary-judgment-federal-2130606407> (Last visited July 3, 2021).

^{xliii} Ohio Civ. R. 3

^{xliv} *Removal*, The People’s Dictionary (2005). *Available at* <https://legal-dictionary.thefreedictionary.com/Removal#:~:text=n.,more%20appropriate%20for%20the%20case>. (Last visited July 2, 2021)

^{xlv} *Id.*; Ohio Civ. R. 12

^{xlvi} Ohio Civ. R. 8

^{xlvii} *Answer*, West’s Encyclopedia of American Law (2nd ed. 2008), <https://legal-dictionary.thefreedictionary.com/Answer> (Last visited July 2, 2021)

^{xlviii} *Affirmative Defense*, Legal Information Institute https://www.law.cornell.edu/wex/affirmative_defense (Last visited July 2, 2021).

^{xliv} Ohio Civ. R. 55

ⁱ Ohio Civ. R. 26-37.

ⁱⁱ *What are Interrogatories and How are They Used?*, Women’s Law, <https://www.womenslaw.org/laws/preparing-court-yourself/trial/interrogatories/what-are-interrogatories-and-how-are-they-used> (Last visited July 3, 2021)

ⁱⁱⁱ *Steps in a Trial: Discovery*, American Bar Association (Sept. 9, 2019), https://www.americanbar.org/groups/public_education/resources/law_related_education_network/how_courts_work/discovery (Last visited July 1, 2021).

^{liii} *Id.*

^{liv} *Id.*

^{lv} John H. Beisner, *“The Centre Cannot Hold”—The Need for Effective Reform of the U.S. Civil Discovery Process* (2011), https://www.uscourts.gov/sites/default/files/john_beisner_the_centre_cannot_hold.pdf

^{lvi} *Motion For Summary Judgement*, Legal Information Institute, https://www.law.cornell.edu/wex/motion_for_summary_judgment (Last visited July 2, 2021)

^{lvii} *Id.*

^{lviii} J. Bradford McCullough, *The Ten Commandments of Summary Judgement Practice*, Pretrial Practice and Discovery (July 21, 2011) <https://www.lercheearly.com/news-detail/the-ten-commandments-of-summary-judgment-practice> (Last visited July 2, 2021).

^{liv} Ohio Civ. R. 56

^{lx} *Id.*

^{lxi} Ohio Civ. R. 16

^{lxii} John M. Losinger & Cynthia M. Vera, *A Guide to the Proper Use of Motions in Limine in Civil Litigation*, American Bar Association (Sept. 30, 2020) <https://www.americanbar.org/groups/litigation/committees/business-torts-unfair-competition/practice/2020/guide-to-motions-in-limine-civil-litigation/> (Last visited July 2, 2021)

^{lxiii} Ohio Civ. R. 12(F)

^{lxiv} *Motion for Directed Verdict*, Legal Information Institute, https://www.law.cornell.edu/wex/motion_for_directed_verdict (Last visited July 2, 2021)

^{lxv} Ohio Civ. R. 50; *Steps in a Trial: Motions for Directed Verdict/Dismissal*, American Bar Association (Sept. 9, 2019), https://www.americanbar.org/groups/public_education/resources/law_related_education_network/how_courts_work/motiondismiss/ (Last visited July 2, 2021)

^{lxvi} *Motion Notwithstanding the Verdict*, Legal Information Institute, <https://www.law.cornell.edu/wex/motion-notwithstanding-the-verdict>

motion_for_judgment_notwithstanding_the_verdict (Last visited July 2, 2021)

^{lxviii} Ohio Civ. R. 6; Fed. R. Civ. P. 12

^{lxviii} Ohio Civ. R. 6

^{lxix} OSBA Committees & Sections, *Law Facts: Court Mediation*, Ohio State Bar Association (June 4, 2018), <https://www.ohiobar.org/public-resources/commonly-asked-law-questions-results/law-facts/law-facts-court-mediation/> (Last visited July 2, 2021)

^{lxx} Ohio Civ. R. 6(B)

^{lxxi} *Damages*, Law Information Institute, <https://www.law.cornell.edu/wex/damages> (Last visited July 2, 2021)

^{lxxii} Jill Wieber Lens, *Honest Confusion: The Purpose of Compensatory Damages in Tort and Fraudulent Misrepresentation*, 59 U. Kan. L. Rev. 231 (2010). Available at https://kuscholarworks.ku.edu/bitstream/handle/1808/20178/02-Lens_Final.pdf?sequence=1 (Last visited July 2, 2021)

^{lxxiii} Id.

^{lxxiv} *Ending the Confusion: Economic, Non-Economic, and Punitive Damages*, American College of Surgeons, <https://www.facs.org/advocacy/federal/liability/guide-to-liability-reform/ending-the-confusion> (Last visited July 1, 2021)

^{lxxv} *Non-Economic Damages in Personal Injury Cases*, Justia, <https://www.justia.com/injury/negligence-theory/non-economic-damages/>, (Last visited July 1, 2021)

^{lxxvi} Ohio Rev. Code 2315.18 (B)(2)

^{lxxvii} *Punitive Damages*, Legal Information Institute, https://www.law.cornell.edu/wex/punitive_damages (Last visited July 2, 2021)

^{lxxviii} Ohio Rev. Code §2315.21(C)

^{lxxix} Statutorily defined as: an organization employing less than 100 full-time workers, except if the organization is considered “in the manufacturing sector” by the North American industrial classification system, in which case the limit is 500 full-time employees. (Ohio Rev. Code §2315.21)

^{lxxx} Ohio Rev. Code §2315.21

^{lxxxi} Id.

^{lxxxii} U.S. 9th Cir., *Manual of Model Civil Jury Instructions* §5.5 (2017), <https://www.ce9.uscourts.gov/jury-instructions/node/111#:~:text=You%20may%20award%20punitive%20damages,purpose%20of%20injuring%20the%20plaintiff.> (Last visited July 2, 2021)

^{lxxxiii} *Introduction to Tort Law*, Congressional Research Service (2019), <https://fas.org/sgp/crs/misc/IF11291.pdf> (Last visited July 1, 2021).

^{lxxxiv} Civil Rights Act of 1964, 42 U.S.C. §2000e, et. Seq.

^{lxxxv} Civil Rights Act of 1964, 20 U.S.C. §1681, et seq. (1972)

^{lxxxvi} Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq.

^{lxxxvii} 42 U.S.C. § 1981(b)(1)

^{lxxxviii} 42 U.S.C § 1981(a).

^{lxxxix} Civil Rights act of 1964, 20 U.S.C. § 1681, et seq. (1972)

^{xc} Civil Rights Act of 1964, 20 U.S.C. § 1682 (1972)

^{xci} *Taking Legal Action Under Title IX: Filing a Title IX Lawsuit*, Know Your IX, <https://www.knowyourix.org/legal-action/taking-legal-action-title-ix/> (Last visited July 6, 2021)

^{xcii} *Franklin v. Gwinnett Cnty. Pub. Sch.*, 502 U.S. 60 (1992).

^{xciii} Brent Case & Jon Fero, *A Roadmap to Defending School Districts in Title IX Disputes*, National School Boards Association, 20 (2017) <https://cdn-files.nsba.org/s3fs-public/11.%20Case%20Fero%20Title%20IX.pdf> (Last visited July 5, 2021)

^{xciv} Id.; *Mercer v. Duke Univ.*, 50 F. App'x 643, 644 (4th Cir. 2002) (“the Supreme Court’s conclusion in *Barnes* that punitive damages are not available under Title VI compels the conclusion that punitive damages are not available for private actions brought to enforce Title IX. We therefore vacate the award of punitive damages.”) (citing *Barnes v. Gorman*, 536 U.S. 181 (2002)).

^{xcv} *Steps in a Trial: Appeals*, American Bar Association, https://www.americanbar.org/groups/public_education/resources/law_related_education_network/how_courts_work/appeals/ (Last visited July 4, 2021).

^{xcvi} Id.

^{xcvii} *Clearly Erroneous*, Legal Information Institute (May 2020), https://www.law.cornell.edu/wex/clearly_erroneous (Last visited July 6, 2021)

^{xcviii} Ohio App. R. 3

^{xcix} Ohio App. R. 16

^c Id.

^{ci} Ohio App. R. 21

^{cii} American Bar Association, *supra* note xeiii

^{ciii} *Supreme Court*, West’s Encyclopedia of American Law (2d ed. 2008) <https://legal-dictionary.thefreedictionary.com/Court+of+last+resort> (Last visited July 2, 2021)

^{civ} Ohio Civ. R. 13

^{cv} Id.

^{cvi} Fed. R. Civ. P. 13

^{cvi} Ohio Civ. R. 13; Id.

^{cviii} *Counterclaim*, West’s Encyclopedia of American Law (2nd ed. 2008), <https://legal-dictionary.thefreedictionary.com/counterclaim> (Last visited July 6, 2021)

^{cix} Shaina Weisbrot, *The Impact of the #MeToo Movement on Defamation Claims Against Survivors*, 23 CUNY L. Rev. 332, 335 (2020). *Available at* <https://academicworks.cuny.edu/clr/vol23/iss2/7/> (Last visited July 6, 2021).

^{cx} Bruce Johnson & Davis Wright Tremaine, *Worried About Getting Sued for Reporting Sexual Abuse?*, ACLU (January 22, 2018), <https://www.aclu.org/blog/womens-rights/worried-about-getting-sued-reporting-sexual-abuse-here-are-some-tips> (Last visited July 6, 2021)

^{cx} Neil Klingshirn, *Retaliatory Counterclaims in Sexual Harassment Suits*, My Employment Lawyer (Aug. 8, 2008, 10:50 AM), <http://www.myemploymentlawyer.com/wiki/Defense-counterclaim-as-actionable-retaliation.htm> (Last visited July 6, 2021)

^{cxii} Public Participation Project, *SLAPP Stories*, anti-slapp.org, <https://anti-slapp.org/slapp-stories> (Last visited July 6, 2021)

^{cxiii} Westbrook, *supra* note evii

^{cxiv} *Intentional Torts and Personal Injury Liability*, Justia, <https://www.justia.com/injury/intentional-torts/> (Last visited July 6, 2021)

^{cxv} *Gosden v. Louis*, 116 Ohio App. 3d 195, 206 (Ohio Ct. App. 1996); Defamation, Legal Information Institute, <https://www.law.cornell.edu/wex/defamation> (Last visited July 6, 2021)

^{cxvi} Public Participation Project, *What is SLAPP?*, Anti-SLAPP.org, <https://anti-slapp.org/what-is-a-slapp> (Last visited July 6, 2021)

^{cxvii} Id.

^{cxviii} *Tortious Interference*, Legal Information Institute, https://www.law.cornell.edu/wex/tortious_interference (Last visited July 6, 2021)

^{cxix} *Tortious Interference*, Find Law (Feb. 15, 2018), <https://www.findlaw.com/smallbusiness/liability-and-insurance/tortious-interference.html> (Last visited July 6, 2021)

^{cxx} Jaime Maggard, Chris Tillery & Fritz Riesmeyer, *What Constitutes “Wrongful Conduct” in Interference with Contractual Relations?*, American Bar Association (May 6, 2019), <https://www.americanbar.org/groups/litigation/committees/business-torts-unfair-competition/practice/2019/wrongful-conduct-interference-contractual-economic-relations/> (Last visited July 6, 2021)

^{cxxi} *Butts v. Bjelovuk*, 129 Ohio App. 3d 134, 139 (Ohio Ct. App. 1998). *Available at* <https://caselaw.findlaw.com/oh-court-of-appeals/1375977.html> (Last visited July 6, 2021)

^{cxxii} *Assault*, West’s Encyclopedia of American Law (2nd ed. 2008), <https://legal-dictionary.thefreedictionary.com/assault> (Last visited July 6, 2021)

^{cxxiii} *Battery*, West’s Encyclopedia of American Law (2nd ed. 2008), <https://legal-dictionary.thefreedictionary.com/battery> (Last visited July 6, 2021)

^{cxxiv} *National Survey of Advocates on Sexual Violence, Housing, and Violence Against Women Act*, National Sexual Violence Resource Center, 9 (2011), https://www.nsvrc.org/sites/default/files/2012-03/Publications_NSVRC_Reports_National-survey-of-advocates-on-sexual-violence-housing-and-VAWA.pdf (Last visited July 5, 2021)

^{cxxv} Michael Schultzman, *Housing Rights and Needs of Sexual Assault Survivors*, National Housing Law Project, slide 6, https://nhlp.org/files/2.%20Housing%20Rights%20of%20Sexual%20Assault%20Survivors_0.pdf (Last visited July 5, 2021)

^{cxxvi} Id.

^{cxxvii} NSVRC, *supra* note i, at 11

^{cxxviii} Ohio Rev. Code § 5321

^{cxxix} For example, the city of Medina passed ordinance protecting people from discrimination based on sexual orientation and identity. City of Shaker Heights added military status and gender identity as protected classes. Michael Lepley & Huiya Lin, *the State of Fair Housing in Northeast Ohio*, Fair Housing Center for Rights & Research, 2 (Apr. 2021), <https://www.thehousingcenter.org/wp-content/uploads/2021/04/SOFH-2021.pdf> (Last visited July 5, 2021)

cxxx 42 U.S.C. § 3601, *et seq.*
cxxxi 42 U.S.C. § 13981
cxxxii Lepley, *supra* note cxxxii, at 15
cxxxiii Michael Lepley & Lenore Mangiarelli, *Domestic Violence Survivor Housing Discrimination in Cuyahoga County*, Fair Housing Center for Rights and Research, 6 (Feb. 2019), <https://www.thehousingcenter.org/wp-content/uploads/2019/10/Domestic-Violence-Discrimination-Study-Final.pdf> (Last visited July 5, 2021)
cxxxiv The statute uses the term “action for possession.” Ohio Rev. Code § 5321.02(A).
cxxxv Ohio Rev. Code § 5321.04
cxxxvi Ohio Rev. Code § 1923.061
cxxxvii Ohio Rev. Code § 5321.17(C)
cxxxviii Ohio Rev. Code § 1923.04 (A)
cxxix Ohio Rev. Code § 52321.11
cxl Ohio Rev. Code § 1923.05; *Filing for Eviction*, Franklin County Municipal Court Self Help Resource Center, <http://www.fcmcselfhelpcenter.org/wp-content/uploads/2016/12/Landlord-Eviction-Brochure.pdf> (Last visited July 5, 2021)
cxli Franklin County Municipal Court, *supra* note xviii
cxlii ORC 5321—*An Overview*, newarkohio.net, 5, <http://www.newarkohio.net/city/OnlineDocs/dod/FH-OhioLandlord&TenantLaw-AnOverview.pdf> (Last visited July 5, 2021)
cxliii Ohio Rev. Code §1923.06(B)
cxliv Ohio Rev. Code § 1923.06(C)
cxlv Ohio Rev. Code § 1923.06(D)
cxlvi Ohio Rev. Code § 1923.08
cxlvii Ohio Rev. Code § 1923.061
cxlviii ORC 5321—An Overview, *supra* note xx
cxlix Ohio Rev. Code § 1923.07.
cl 42 U.S.C. §3601, *et seq.*
cli Ohio Revised Code Section 5321.031.
clii Id.
cliii 42 U.S.C. §3601, *et seq.*
cliv Id.
clv Schultzman, *supra* note ii, at 11
clvi *Housing Discrimination and Persons Identifying as LGBTQ*, HUD, https://www.hud.gov/program_offices/fair_housing_equal_opp/housing_discrimination_and_persons_identifying_lgbtq#_Fair_Housing_Act (Last visited July 5, 2021) ; *Bostock v. Clayton Cty.*, 140 S. Ct. 1731 (2020)
clvii 42 U.S.C. § 3603
clviii Id.
clix 42 U.S.C. § 3607
clx Id.
clxi Erin Eberlin, *The Basics of the Fair Housing Act for Landlords and Others*, The Balance Small Business (June 21, 2020), <https://www.thebalancesmb.com/what-is-the-federal-fair-housing-act-2125014> (last visited July 5, 2021)
clxii Shultzman, *supra* note ii at 12
clxviii Id.
clxiv Id.
clxv Id.
clxvi Lepley, *supra* note cxxxii at 4
clxvii *FHEO Complaint and Investigation Process*, U.S. Department of Housing and Urban Development, https://www.hud.gov/program_offices/fair_housing_equal_opp/complaint-process#_What_Happens_After (Last visited July 5, 2021)
clxviii Id.
clxix Id.
clxx Id.
clxxi Id.
clxxii Id.
clxxiii Id.
clxxiv Id.
clxxv Id.

clxxvi Id.
clxxvii Id.
clxxviii Id.
clxxix Id.
clxxx Id.
clxxxi Id.
clxxxii Id.
clxxxiii Id.
clxxxiv Id.
clxxxv *Fair Housing Guide for Landlords*, Ohio Attorney General, at 3 (May 20, 2019), <https://www.ohioattorneygeneral.gov/Files/Publications-Files/Publications-for-Business/Fair-Housing-Guide#:~:text=Under%20fair%2Dhousing%20laws%2C%20it,national%20origin%20or%20military%20status> (Last visited July 5, 2021)
clxxxvi Ohio Rev. Code § 4112.02(H)
clxxxvii Shultzman, *supra* note ii, at 12
clxxxviii Id.
clxxxix Id.
cxc Id.
cxci *Housing*, Ohio Civil Rights Commission, <https://crc.ohio.gov/FilingaCharge/Housing.aspx> (Last visited July 5, 2021)
cxcii *After Filing a Charge*, Ohio Civil Rights Commission, <https://crc.ohio.gov/FilingaCharge/WhatHappensNext.aspx> (Last visited July 5, 2021)
cxciii *Reconsideration Process*, Ohio Civil Rights Commission, <https://crc.ohio.gov/Businesses/ReconsiderationProcess.aspx> (Last visited July 5, 2021)
cxciv Ohio Adm. Code 4112-3-04
cxcv Ohio Adm. Code 4112-6-01
cxcvi Ohio Adm. Code 4112-6-04; Ohio Rev. Code §4112.05
cxcvii Lepley, *supra* note cxxxii, at 7
cxcviii *History of VAWA*, Legal Momentum, <https://www.legalmomentum.org/history-avaa> (Last visited July 12, 2021)
cxcix The Violence Against Women Act lapsed on December 21, 2018. As of July 5, 2021, it has not been reauthorized.
cc 34 C.F.R. §668. *Available at*, <https://www.federalregister.gov/documents/2014/10/20/2014-24284/violence-against-women-act> (Last visited July 14, 2021)
ccii Ohio Housing Finance Agency, *OHFA’s Policy on the Violence Against Women Act*, ohiohome.org, <https://ohiohome.org/compliance/CC/ViolenceAgainstWomenAct.htm> (July 12, 2021)
ccii 34 U.S.C. § 12491
cciii *Know Your Rights: Domestic Violence and Federally Assisted Housing*, National Housing Law Project (May 2014), <https://nhlp.org/files/VAWA-2013-Packet.pdf> (Last visited July 10, 2021)
cciv Id.
ccv 34 U.S.C. § 12291(a)(29).
ccvi 34 U.S.C. § 12291(a)(30).
ccvii 34 U.S.C. § 12291(a)(8).
ccviii 34 U.S.C. § 12291(a)(10).
ccix 34 U.S.C. §12491(a)(1)(A)-(B)
ccx Id.
ccxi 34 U.S.C. § 12491(b)(2)(A)
ccxii 34 U.S.C. § 12491(b)(3)(B)(i)(A)
ccxiii *VAWA Emergency Transfer Plan*, Cincinnati Metropolitan Housing Authority, <http://cintimha.com/wp-content/uploads/2018/01/9-FY-2018-Emergenct-Transfer-VAWA-Plan.pdf> (Last visited July 10, 2021)
ccxiv *Notice of Occupancy Rights Under the Violence Against Women Act*, Form HUD-5380. Available at https://www.hud.gov/program_offices/housing/mfh/violence_against_women_act
ccxv *Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation*, Form HUD-5382. Available at https://www.hud.gov/program_offices/housing/mfh/violence_against_women_act
ccxvi HUD Multifamily Office, *VAWA Final Rule Q&A*, HUD (May 2017), https://www.hud.gov/sites/dfiles/Housing/documents/Revised_VAWA_QA.pdf (Last visited July 12, 2021)

ccxvii 34 U.S.C. § 12941(c)(1)

ccxviii Id.; National Alliance for Safe Housing & National Housing Law Project, *Community-Based Advocates Toolkit*, nhlp.org (May 2019), https://www.nhlp.org/wp-content/uploads/Survivor-Housing-Protections_NonLegalAdvocateToolkit-Final-5-14-19.pdf (Last visited July 12, 2021)

ccxix 34 U.S.C. §12491(c)(2)(B)

ccxxccxx HUD, *supra* note ccxviii

ccxxi *Rental Housing Rights of Domestic Violence Survivors*, National Housing Law Project (Jan. 29, 2016), <https://www.nhlp.org/wp-content/uploads/2017/09/Rental-Housing-Rights-of-Domestic-Violence-Survivors-2016.pdf> (Last visited July 10, 2021)

ccxxii VAWA 2013, the most recent reauthorization, does not itself define “actual and imminent threat.” National Housing Law Project, *supra* note eexxiv; Guidance prepared by non-government housing advocates recommends relying on the VAWA 2005 definition, “a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm.” 24 C.F.R. §. 5.2005(d) (2). VAWA 2005 further explains that such a threat can be comprised of words, actions, gestures, or other indicators. The 2005 regulations require a balancing test, wherein the decision maker weighs the duration of risk, seriousness of potential harm, likelihood of harm occurring, and the time before harm may occur when determining the presence of “actual or imminent harm.” 24 C.F.R. Sec. 5.2005(e).

ccxxiii 42 U.S.C. §129491(b)(3)(C)(iii).

ccxxiv 24 C.F.R. § 5.2005(d) (3).

ccxxv National Housing Law Project, *supra* note ccxxiv

ccxxvi 34 U.S.C. § 12491(b)(3)(C)(ii).

ccxxvii Lepley, *supra* note cxxxii

ccxxviii Joseph Mead et al., *Who is a Nuisance? Criminal Activity Nuisance Ordinances in Ohio* (Nov. 2017). *Available at* [https://engagedscholarship.csuohio.edu/cgi/viewcontent.cgi?article=2513&context=urban_facpub#:~:text=Criminal%20Activity%20Nuisance%20Ordinances%](https://engagedscholarship.csuohio.edu/cgi/viewcontent.cgi?article=2513&context=urban_facpub#:~:text=Criminal%20Activity%20Nuisance%20Ordinances%20).

ccxxix Id.

ccxxx Lepley, *supra* note cxxxii

ccxxxi I am not a Nuisance: Local Ordinances Punish Victims of Crime, ACLU, <https://www.aclu.org/other/i-am-not-nuisance-local-ordinances-punish-victims-crime> (Last visited July 10, 2021)

ccxxxii Lepley, *supra* note cxxxii

ccxxxiii *Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19*, CDC (June 29, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/covid-eviction-declaration.html> (Last visited July 14, 2021)

ccxxxiv Id.

ccxxxv Id.

ccxxxvi Id.

ccxxxvii Id.

ccxxxviii Id.

ccxxxix *COVID-19 Resources for Renters*, HUD, https://www.hud.gov/coronavirus/resources_for_renters (Last visited July 14, 2021)

ccxl *Find Rental Assistance*, U.S. Department of the Treasury, <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/emergency-rental-assistance-program/program-index> (Last visited July 14, 2021)

ccxli HUD, *supra* note ccxxxvi

ccxlii *COVID-19 Mortgage Relief Resources for Homeowners*, HUD, https://www.hud.gov/program_offices/housing/sfh/owning/covid19resources (Last visited July 16, 2021)

ccxliii Id.

ccxliv Lori P. Kolluri, *Mortgage Letter*, HUD (June 25, 2021), <https://www.hud.gov/sites/dfiles/OCHCO/documents/2021-15hsgm1.pdf> (Last visited July 16, 2021)

ccxlv Id.

ccxlvii Id.

ccxlviii Id.

ccxlix Id.

cccl *HUD Approved Housing Counseling Agencies*, HUD, <https://apps.hud.gov/offices/hsg/sfh/hcc/hcs.cfm?weblistaction=summary> (Last visited July 16, 2021)

cccli Id.

cclii *Sexual Harassment in the Workplace Toolkit*, Equal Rights Advocates (2014), <https://www.equalrights.org/wp-content/uploads/2019/09/Toolkit-for-Advocates-Sexual-Harassment.pdf>

ccliii Id.

ccliv Id.

cclv Id.

cclvi Find Law, *supra* note ccxxxviii

cclvii *Theories of Discrimination*, *supra* note vii.

cclviii 29 C.F.R. §1614.105(a)

cclix Id.

cclx Id.

cclxi 29 C.F.R. §1614.102(b)

cclxii 29 C.F.R. §1614.108(a)-(b)

cclxiii 29 C.F.R. §1614.108(f)

cclxiv Id.

cclxv 29 C.F.R. §1614.107(b)

cclxvi Id.

cclxvii 29 C.F.R. §1614.109(c)

cclxviii Id.

cclxix Id.

cclxx Id.

cclxxi 29 C.F.R. §1614.109(d)

cclxxii EEOC Management Directive 110 § 7-27 (Aug. 5, 2015) <https://www.eeoc.gov/federal-sector/management-directive/management-directive-110> (Last visited July 9, 2021)

cclxxiii 29 C.F.R. §1614.109(e)

cclxxiv 29 C.F.R. §1614.109(i)

cclxxv 29 C.F.R. §1614.110(a)

cclxxvi Id.

cclxxvii Id.

cclxxviii 29 C.F.R. §1614.110(b)

cclxxix Id.

cclxxx 29 C.F.R. §1614.407

cclxxxi Id.

cclxxxii *Filing a Lawsuit*, EEOC, <https://www.eeoc.gov/filing-lawsuit> (Last visited July 9, 2021)

cclxxxiii Ohio Rev. Code § 4112.01(A)(2)

cclxxxiv Ohio Rev. Code §4112.02

cclxxxv *What is Quid Pro Quo Harassment?*, Find Law (Dec. 4, 2018), <https://www.findlaw.com/employment/employment-discrimination/what-is-quid-pro-quo-harassment.html> (Last visited July 9, 2021)

cclxxxvi Id.

cclxxxvii Id.

cclxxxviii *Theories of Discrimination*, EEOC (Aug. 1, 1988), <https://www.eeoc.gov/laws/guidance/cm-604-theories-discrimination> (Last visited July 9, 2021)

cclxxxix Ohio Rev. Code § 4112.051(C)(2)

ccxc *After Filing a Charge*, Ohio Civil Rights Commission, <https://crc.ohio.gov/FilingaCharge/WhatHappensNext.aspx> (Last visited July 5, 2021)

ccxci *Reconsideration Process*, Ohio Civil Rights Commission, <https://crc.ohio.gov/Businesses/ReconsiderationProcess.aspx> (Last visited July 5, 2021)

ccxcii Ohio Adm. Code 4112-3-04

ccxciii Ohio Adm. Code 4112-6-01

ccxciv Ohio Adm. Code 4112-6-04; Ohio Rev. Code §4112.05

ccxcv Ohio Rev. Code § 4112.052

ccxcvi Ohio Rev. Code § 4112.052(C)

ccxcvii Ohio Rev. Code § 4112.052(B)(1)

ccxcviii Id.

ccxcix Id.

ccc Ohio Rev. Code § 4112.052(B)(2)

ccci *Injunctive Relief*, The People's Law Dictionary (2005), <https://legal-dictionary.thefreedictionary.com/injunctive+relief> (Last visited July 9, 2021)

[offices/list/ocr/docs/titleix-regs-unofficial.pdf](#).
ccclxxvii Id.
ccclxxviii Id.
ccclxxix Id.
ccclxxx 34 C.F.R. §106.30(a)(2)
ccclxxxi 34 C.F.R. §106.30
ccclxxxii 34 C.F.R. §106.30(a)(2)
ccclxxxiii 34 C.F.R. §106.30(a)(2); Department of Education, ED-2018-OCR-0064, Page 488, *available at* <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-regs-unofficial.pdf>.
ccclxxxiv 34 C.F.R. §106.30 et seq.; See, e.g., Quinne G. Perini, The Severe and Pervasive Confusion of the New Title IX Policies, The Crimson (Sept. 29, 2020), *available at* <https://www.thecrimson.com/article/2020/9/29/editorial-interim-title-ix-policies/>.
ccclxxxv 34 C.F.R. §106.30
ccclxxxvi 34 C.F.R. §106.30(a)(2); Department of Education, ED-2018-OCR-0064, Page 527, *available at* <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-regs-unofficial.pdf>.
ccclxxxvii 34 C.F.R. §106.30(a)(3)
ccclxxxviii Id.; 34 C.F.R. §106.30(a)(2); Department of Education, ED-2018-OCR-0064, Pages 426-427, *available at* <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-regs-unofficial.pdf>.
ccclxxxix 20 U.S.C. §1092
ccxc 20 U.S.C. §1092(f)(6)(A)(v)
ccxc i 34 U.S.C. §12291(a)(8)
ccxc ii 34 U.S.C. §12291(a)(10)
ccxc iii 34 U.S.C. §12291(a)(30)
ccxc iv 34 C.F.R. § 106.30(a)(3)
ccxc v 34 C.F.R. § 106.30
ccxc vi 34 C.F.R. §106.44(a); 20 U.S.C. §1681(a)
ccxc vii 34 C.F.R. §106.44(a); Department of Education, ED-2018-OCR-0064, Pages 655-658, *available at* <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-regs-unofficial.pdf>.
ccxc viii 34 C.F.R. §106.44(a); Department of Education, ED-2018-OCR-0064, Pages 620-642, *available at* <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-regs-unofficial.pdf>.
ccvc ix Id.
cd OCR, *Questions and Answers on the Title IX Regulations on Sexual Harassment*. July 2021 at Page 6, *Available at* <https://www2.ed.gov/about/offices/list/ocr/docs/202107-qa-titleix.pdf>.
cd i 34 C.F.R. §106.30; §106.44
cd ii OCR, *Questions and Answers on the Title IX Regulations on Sexual Harassment*. July 2021 at Page 6, Available at <https://www2.ed.gov/about/offices/list/ocr/docs/202107-qa-titleix.pdf>.
cd iii Janet Elie Faulkner, *Accommodating Students with Disabilities in the Title IX Process*, United Educators, <https://www.edurisksolutions.org/blogs/?Id=3277> (Last visited July 19, 2021).
cd iv Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12101-12213 (2018).
cd v Id.
cd vi Id.
cd vii Id.
cd viii Department of Education, ED-2018-OCR-0064, Page 32, fn 58, *available at* <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-regs-unofficial.pdf>.
cd ix Id.
cd x This differs in the K-12 context.
cd xi 34 C.F.R. §106.45
cd xii Department of Education, ED-2018-OCR-0064, Pages 21-22, *available at* <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-regs-unofficial.pdf>.
cd xiii Id.
cd xiv 34 C.F.R. §106.8(a)
cd xv Id.
cd xvi Id.
cd xvii Department of Education, ED-2018-OCR-0064, Page 629, *available at* <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-regs-unofficial.pdf>.
cd xviii §106.44(a)
cd xix Department of Education, ED-2018-OCR-0064, Page 23, fn 32, *available at* [184](https://www2.ed.gov/about/</p></div><div data-bbox=)

[offices/list/ocr/docs/titleix-regs-unofficial.pdf](#).
cd xx Department of Education, ED-2018-OCR-0064, Page 46-47, *available at* <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-regs-unofficial.pdf>.
cd xxi Id. at 47-53, 323-325
cd xxii Id.
cd xxiii Id.
cd xxiv Id.
cd xxv Id.
cd xxvi 34 C.F.R. §106.30(a)
cd xxvii Id.
cd xxviii §106.30(a); §106.44(a); For more discussion on Supportive Measures, see Department of Education, ED-2018-OCR-0064, Pages 561-574, *available at* <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-regs-unofficial.pdf>.
cd xxix 34 C.F.R. §106.45
cd xxx Id.
cd xxx i See generally id.
cd xxx ii Herein, the term “victim” is used interchangeably with “survivor” and “Complainant” to refer to the individual who has suffered or experienced an act of sexual discrimination, often sexual violence.
cd xxx iii §106.30(a); §106.44(a); For more discussion on Supportive Measures, see Department of Education, ED-2018-OCR-0064, Pages 561-574, *available at* <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-regs-unofficial.pdf>.
cd xxx iv §106.30(a)
cd xxx v See OCR, *Questions and Answers on the Title IX Regulations on Sexual Harassment*. July 2021 at Page 18, *Available at* <https://www2.ed.gov/about/offices/list/ocr/docs/202107-qa-titleix.pdf>.
cd xxx vi 34 C.F.R. §106.45
cd xxx vii Id.
cd xxx viii Id.
cd xxx ix 34 C.F.R. §106.45(b)(1)(iv); See OCR, *Questions and Answers on the Title IX Regulations on Sexual Harassment*. July 2021 at Page 14, *Available at* <https://www2.ed.gov/about/offices/list/ocr/docs/202107-qa-titleix.pdf>.
cd xl 34 C.F.R. §106.30
cd xli §106.45
cd xlii §106.45
cd xlii §106.45(b)(2)
cd xliv See OCR, *Questions and Answers on the Title IX Regulations on Sexual Harassment*. July 2021 at Page 15, *Available at* <https://www2.ed.gov/about/offices/list/ocr/docs/202107-qa-titleix.pdf>.
cd xlv §106.45(b)(2)
cd xlv i See OCR, *Questions and Answers on the Title IX Regulations on Sexual Harassment*. July 2021 at Page 13, *Available at* <https://www2.ed.gov/about/offices/list/ocr/docs/202107-qa-titleix.pdf>.
cd xlv ii Id.
cd xlv iii §106.45(b)(2)
cd xlix Id.; ED-2018-OCR-0064, Page 707, *available at* <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-regs-unofficial.pdf>.
cd l §106.45
cd li See, e.g., ED-2018-OCR-0064, Page 399, *available at* <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-regs-unofficial.pdf>.
cd lii See §106.30 et seq.
cd liii §106.45; OCR, *Questions and Answers on the Title IX Regulations on Sexual Harassment*, July 2021 at Page 14, *Available at* <https://www2.ed.gov/about/offices/list/ocr/docs/202107-qa-titleix.pdf>.
cd liv §106.45(b)(2)
cd lv §106.45
cd lv i Id.
cd lv ii §106.45
cd lv iii Id.
cd lix §106.44(b)(4)
cd lx §106.45(b)(2)
cd lxi §106.45(b)(3)

cdlxii §106.45

cdlxiii Id.

cdlxiv Both K-12 and Postsecondary schools (and related recipient institutions) provide a Code of Conduct stipulating the behaviors that are inappropriate in the school context or culture, generally. Typically, a Code of Conduct applies to students. A Code may also apply to faculty and staff, administrators, contractors, and/or parents. A Code of Conduct also provides information regarding disciplinary consequences of prohibited behavior. A Code of Conduct is not the equivalent of an institution’s Sexual Misconduct or Title IX policy. Behaviors addressed in the Code of Conduct range from academic and dishonesty to criminal/violent acts. A Code of Conduct does not include provisions required by Title IX; and so, it does not address or apply to sexual discrimination or harassment.

cdlxv §106.45(b)(8)

cdlxvi Id.

cdlxvii §106.45; Department of Education, ED-2018-OCR-0064, Pages 1363-1390, *available at* <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-regs-unofficial.pdf>; OCR, *Questions and Answers on the Title IX Regulations on Sexual Harassment*. July 2021 at Pages 28-29, *Available at* <https://www2.ed.gov/about/offices/list/ocr/docs/202107-qa-titleix.pdf>.

cdlxviii Id.

cdlxix Id.

cdlxx Id.

cdlxxi Id.

cdlxxiii Id.

cdlxxiv Id.

cdlxxvi Id.

cdlxxvii Id.

cdlxxviii Id.

cdlxxix 34 C.F.R. §106.45(b)(5)

cdlxxx Id.

cdlxxxi Id.

cdlxxxii Id.

cdlxxxiii Id.

cdlxxxiv Id.

cdlxxxv Id.

cdlxxxvi Id.

cdlxxxvii 34 C.F.R. §106.45

cdlxxxviii 34 C.F.R. §106.45(b)(6)(i)

cdlxxxix 34 C.F.R. §106.45(b)(6)(ii)

cdxc 34 C.F.R. §106.45(b)(5)-(6)

cdxci A Postsecondary Institution means an institution of graduate higher education as defined in 106.21 of the TIX Regulations, an institution of undergraduate higher education as defined in 106.2(m) of the TIX Regulations, an institution of professional education as defined in 106.2(n) of the TIX Regulations, or an institution of vocational education as defined in 106.2(o) of the TIX Regulations.

cdxcii 34 C.F.R. §106.45(b)(6)

cdxciii 34 C.F.R. §106.45(b)(6)(i)

cdxciv Id.

cdxcv 34 C.F.R. §106.45(b)(8)

cdxcvi Id.

cdxcvii ED-2018-OCR-0064, Pages 912-915, *available at* <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-regs-unofficial.pdf>

cdxcviii §106.71(b)(8)

cdxcix Id.

d Id.

di §106.71

dii §106.71

diii Id.

div ED-2018-OCR-0064, Pages 918-922, *available at* <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-regs-unofficial.pdf>

dv §106.71(a)

dvi §106.71

dvii §106.71(b)

dviii §106.71(a)

dix §106.45(b)(10)

dx United States Department of Education, Office for Civil Rights (OCR), About OCR, <https://www2.ed.gov/about/offices/list/ocr/aboutocr.html> (last visited August 14, 2021).

dxi Id.

dxii Id.

dxiii U.S. Department of Education, Office for Civil Rights (OCR), Case Processing Manual (CPM), Effective August 26, 2020, <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>.

dxiv Id.

dxv Id. at 9.

dxvi Id.

dxvii Id. at 10-12

dxviii Id.

dxxiv Id.

dxxv Id.

dxxvi Id. at 13.

dxx Id.

dxxi Id.

dxxii Id. at 9-12.

dxxiii Id.

dxxiv Id. at 18-21.

dxxv Id.

dxxvi Id. at 14-15.

dxxvii Id.

dxxvii Id. at 16.

dxxix Id. at 19.

dxxx Id. at 18.

dxxxi Id. at 22.

dxxxii Id.

dxxxiii Id. at 22.

dxxxiv Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1990 (Clery, 2018)

dxxxv See id.

dxxxvi §Id.

dxxxvii §Id.

dxxxviii See id.

dxxxix 20 U.S.C. § 1232g; 34 CFR 99.

dxi 34 CFR § 99.31.

dqli Id.

dqlii Ohio Rev. Code Ann. §§ 3301.22, 3313.666-667, 3319.073.

dqliii *Know Your Rights: Immigrants’ Rights*, ACLU, <https://www.aclu.org/know-your-rights/immigrants-rights/> (last visited Aug. 14, 2021).

dxiv *U and T Visas*, U.S. Department of Labor, <https://www.dol.gov/agencies/whd/immigration/u-t-visa> (last visited August 14, 2021).

dylv

dylvi *Differences Between T Visa and U Visa*, Immigration Solutions, <https://immsolutionsllc.com/immigration/visas-victims-crimes-abuse/t-visa> (last visited Aug. 15, 2021).

dylvii *Differences Between T Visa and U Visa*, Immigration Solutions, <https://immsolutionsllc.com/immigration/visas-victims-crimes-abuse/t-visa> (last visited Aug. 15, 2021).

dylviii *U and T Visa Law Enforcement Resource Guide*, U.S. Department of Homeland Security, https://www.dhs.gov/sites/default/files/publications/PM_15-4344%20U%20and%20T%20Visa%20Law%20Enforcement%20Resource%20Guide%2011.pdf (last visited Aug. 15, 2021).

dlix *U and T Visas (Victims of Trafficking and Violence Protection Act)*, Immigration Center for Women and Children, <https://www.icwclaw.org/u-and-t-visa-victims-of-trafficking-violence> (last visited August 15, 2021).

dl Immigration, Women’s Law Center, <https://www.womenslaw.org/laws/federal/immigration/u->

[visa-laws-crime-victims/eligibility?gclid=Cj0KCOjwjo2JBhCRARIsAFG667XqWCaWim90VYuPhagZd_ElqXxi38YHiRla7lQLIGjun9Th-GbpyqYaAp47EALw_wcB](#) (last visited Aug. 15, 2021).

^{dli} *U and T Visa Law Enforcement Resource Guide*, U.S. Department of Homeland Security at 7, https://www.dhs.gov/sites/default/files/publications/PM_15-4344%20U%20and%20T%20Visa%20Law%20Enforcement%20Resource%20Guide%2011.pdf (last visited Aug. 15, 2021).

^{dlii} *Id.* at 9-12.

^{dliii} *Id.*; U Visa Extensions, Adjustment of Status & Derivatives, ASISTA, <https://asistahelp.org/extensions-adjustment-of-status-derivatives/> (last visited Aug. 15, 2021); Extension of Status for U and T

^{dliiv} 8 U.S.C. § 1182

^{dlii} *Id.*

^{dlii} I.N.A.. § 101(a)(13)(C)

^{dlii} I.N.A.. § 101(a)(13)(C)

^{dlii} *Id.*

^{dlix} *Id.*

^{dlix} Violence Against Women Act Provides Protections for Immigrant Women and Victims of Crime, American Immigration Council, <https://www.americanimmigrationcouncil.org/research/violence-against-women-act-vawa-immigration>.

^{dlii} *Id.*

^{dlii} *Immigration*, Women’s Law Center, https://www.womenslaw.org/laws/federal/immigration/u-visa-laws-crime-victims/eligibility?gclid=Cj0KCOjwjo2JBhCRARIsAFG667XqWCaWim90VYuPhagZd_ElqXxi38YHiRla7lQLIGjun9Th-GbpyqYaAp47EALw_wcB (last visited Aug. 15, 2021).

^{dlii} *Green Card for VAWA Self-Petitioner*, U.S. Citizenship and Immigration Services, <https://www.uscis.gov/green-card/green-card-eligibility/green-card-for-vawa-self-petitioner> (last visited Aug. 15, 2021).

^{dlii} Violence Against Women Act Provides Protections for Immigrant Women and Victims of Crime, American Immigration Council, <https://www.americanimmigrationcouncil.org/research/violence-against-women-act-vawa-immigration>.

^{dlii} *Id.*

^{dlii} *Id.*

^{dlii} *U and T Visas* (Victims of Trafficking and Violence Protection Act), Immigration Center for Women and Children, <https://www.icwclaw.org/u-and-t-visa-victims-of-trafficking-violence> (last visited August 15, 2021).

^{dlii} *Immigration*, Women’s Law Center, https://www.womenslaw.org/laws/federal/immigration/u-visa-laws-crime-victims/eligibility?gclid=Cj0KCOjwjo2JBhCRARIsAFG667XqWCaWim90VYuPhagZd_ElqXxi38YHiRla7lQLIGjun9Th-GbpyqYaAp47EALw_wcB (last visited Aug. 15, 2021).

^{dlii} *Immigration*, Women’s Law Center, https://www.womenslaw.org/laws/federal/immigration/u-visa-laws-crime-victims/eligibility?gclid=Cj0KCOjwjo2JBhCRARIsAFG667XqWCaWim90VYuPhagZd_ElqXxi38YHiRla7lQLIGjun9Th-GbpyqYaAp47EALw_wcB (last visited Aug. 15, 2021).

^{dlii} *Id.*

^{dlii} *Id.*

^{dlii} *Green Card*, U.S. Citizenship and Immigration Services, <https://www.uscis.gov/green-card> (last visited Aug. 15, 2021).

^{dlii} Violence Against Women Act Provides Protections for Immigrant Women and Victims of Crime, American Immigration Council, <https://www.americanimmigrationcouncil.org/research/violence-against-women-act-vawa-immigration>.

^{dlii} Green Card, U.S. Citizenship and Immigration Services, <https://www.uscis.gov/green-card/green-card-eligibility-categories> (last visited Aug. 15, 2021).

^{dlii} *Id.*

^{dlii} *Id.*

^{dlii} *Id.*

^{dlii} U.S. Citizenship and Immigration Services, https://www.uscis.gov/sites/default/files/document/foia/Inadmissibility_and_Waivers.pdf (last visited Aug. 23, 2021).

^{dlii} Immigration Consequences of Criminal Activity at 19, Congressional Research Service (May 2021) <https://fas.org/sgp/crs/homesec/R45151.pdf>.

^{dlii} *Id.* at 13.

^{dlii} *Id.*; 8 C.F.R. § 316.10(b)(1)(ii)

^{dlii} Kathie Snow, *People First Language*, 3 (2009), http://www.inclusioncollaborative.org/docs/Person-First-Language-Article_Kathie_Snow.pdf.

^{dlii} *Id.* at 4

^{dlii} Ohio Family Violence Prevention Center, *Excellence in Advocacy: A Victim-Centered Approach*, ocjs.ohio.gov (2010), <https://www.ocjs.ohio.gov/VictimServicesPublication.pdf>

^{dlii} *Id.* at 40

^{dlii} *Supporting Sexual Assault Survivors with Disabilities*, California Coalition against Sexual Assault, 8-9 (2010), <https://www.calcasa.org/wp-content/uploads/2010/12/Survivors-with-Disabilities.pdf>

^{dlii} Erik Harrell, *Crime Against Persons With Disabilities 2009–2015 -- Statistical Tables*, Bureau of Justice Statistics, 1 (July 2017, <https://www.bjs.gov/content/pub/pdf/capd0915st.pdf>

^{dlii} CALCASA, *supra* note v at 5

^{dlii} Harrell, *supra* note vi at 3.

^{dlii} *Id.*

^{dlii} *Id.* at 4

^{dlii} *Employment Discrimination*, Disability Rights Ohio, <https://www.disabilityrightsohio.org/employment-discrimination-rights-remedies-act-quickly>

^{dlii} Americans With Disabilities Act of 1990, Pub. L. No. 101-336, § 1, 104 Stat. 328 (1990)

^{dlii} ADA National Network, *Glossary of ADA Terms*, adata.org, <https://adata.org/glossary-terms#D> on June 26, 2020.

^{dlii} *The HIPAA Privacy Rule*, Health and Human Services, <https://www.hhs.gov/hipaa/for-professionals/privacy/index.html>

^{dlii} *The Security Rule*, Health and Human Services, <https://www.hhs.gov/hipaa/for-professionals/security/index.html>

^{dlii} Ohio Rev. Code §4112.02(A)(13).

^{dlii} Ohio Family Violence Prevention Center, *supra* note iii at 41.

^{dlii} ADA National Network, *Service Animals*, adata.org, <https://adata.org/factsheet/service-animals> on June 26, 2020.

^{dlii} *Id.*

^{dlii} *What is Human Trafficking*, Department of Homeland Security, <https://www.dhs.gov/blue-campaign/what-human-trafficking>

^{dlii} Ohio Rev. Code §2905.32

^{dlii} *Id.*

^{dlii} Franklin County Municipal Court, *Changing Actions to Change Habits: Program Description*, https://cjinvolvementwomen.org/wp-content/uploads/2016/12/CATCH_Program-Description.pdf

^{dlii} Ohio Rev. Code §2953.38 (A)(1)

^{dlii} Ohio Rev. Code §2953.38(A)(3)

^{dlii} Ohio Rev. Code §2953.38

^{dlii} Ohio Rev. Code §2953.38(B)

^{dlii} *Id.*

^{dlii} Ohio Rev. Code §2953.38(C)

^{dlii} Ohio Rev. Code §2953.38(D)

^{dlii} Ohio Rev. Code §2953.38 (E)(1)(a)

^{dlii} Ohio Rev. Code §2953.38(E)(1)(b)

^{dlii} Ohio Rev. Code §2953.38(E)(2)

^{dlii} Ohio Rev. Code §2953.38(G)(1)

^{dlii} Ohio Rev. Code §2953.38(G)(2)

