

**Princeton USG Senate
Meeting 16
June 13, 2020
9:30PM (EST)**



**Undergraduate
Student
Government**

Introduction

1. Question and Answer Session (15 minutes)

2. President's Report (5 minutes)

- USG has created a fund dedicated to racial justice. USG is planning events related to racial justice and is making use of resources that have been sent in by students. This is an ongoing fund, and USG will continue to work with groups to continue this conversation.
- Turquoise Brewington and Lehman Montgomery have been planning a panel which will be moderated by a Princeton professor to discuss social activism and ways for students to get involved, both on and off-campus.
- Allen Liu and the Mental Health Task Force met last week to discuss student experiences with virtual CPS. Allen and Chitra will be meeting with Dr. Chin later this week.
- Discussed hosting focus groups for students to share their opinions or thoughts with Dean Dunne. USG members interested in working on this project should talk to Chitra.

New Business

1. Princeton Implementation of New Title IX Regulations: Michele Minter, Regan Crotty, and Sankar Suryanarayan (45 minutes)

What is Title IX?

- Title IX requires colleges and universities to have a policy and grievance procedures to address Title IX sexual harassment complaints.
- Current University Sexual Misconduct Policy addresses both conduct prohibited under Title IX and conduct of a sexual nature not covered under Title IX.

New Title IX Regulations:

- New regulations went through a formal notice-and-comment process and will have the force of law. The regulations are 25 pages, but the preface, which includes important guidelines, is 2,000.
- Colleges are required to comply by August 14, 2020.
- Implementation will take 4 stages:
 - The Faculty Committee on policy will approve the disciplinary section during the summer.
 - The Rights and Rules Committee of the CPUC will look at the non-disciplinary sections and recommend those sections to the full CPUC.

New definition and Scope of Title IX and Sexual Harassment:

- New definition: Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to an education program or activity.
 - The previous definition said “severe OR pervasive”
 - Complaints that do not fit this definition cannot be treated as Title IX Sexual Harassment.
- The complainant must be a member of the Princeton campus community
 - If they are not, the complaint will not fall under Title IX
- The new definition narrows the definition of an education program or activity.
- The new regulations impose a geographic requirement saying that the conduct must occur within the United States in order to count for Title IX
 - Even if the complaint occurs during a Princeton program or activity outside of the US, it cannot fall under Title IX.
- If a complaint falls under the Trump administration’s definition of Title IX Sexual Harassment, the grievance procedures will be aligned to those of the Trump administration.

Questions from the Senate:

- How will complaints that do not fall under this new definition be handled?
 - Any violations of University policy last year will be a violation this year, but there may be differences in what grievance procedures the University applies.
- How will intersecting types of harassment be treated under these new regulations?
 - The University should continue to have the ability to handle intersecting types of harassment appropriately, given some complexities added by the new regulations. The University policy will continue to protect gender identities and expressions, though these protections may fall under a different policy.

Dismissal of Title IX Complaint:

- If a Title IX complaint fails to meet any of the required elements, the University may still address conduct under a non-Title IX University Sexual Misconduct policy. These required elements are:
 - The alleged conduct is severe but not pervasive.
 - The alleged conduct is pervasive but not severe.
 - The alleged conduct occurs outside of the University’s education program or activity.
 - The alleged conduct occurs outside of the United States.

- The complaint is filed by an individual who is not participating in a University education program or activity.
- The University can still address complaints that do not fulfill these requirements under a different policy.

New Procedural Requirements:

- The University cannot have a single-investigator model (must separate investigator from adjudicator).
 - The current University procedure uses a single-investigator model that needs to be updated.
- A live hearing must include an opportunity for cross-examination by advisers. This gathering can be virtual. If a party does not participate in a cross-examination, any evidence submitted by that party will not be considered.
- A live hearing must be recorded.
- Training materials must be posted.
- All procedural requirements apply to all Title IX cases.

Questions from the Senate:

- Will existing procedures be used for cases that do not fall under Title IX def?
 - The University may adjust existing procedures to make them relatively similar but not identical to Title IX procedures. Complainants who submit Title IX and non-Title IX complaints will be treated fairly and equally.
- Does the adjudicator have to identify a probable cause for Title IX violations?
 - This issue makes the first part of consulting with the complainant and determining which policy the complaint falls under a very important part of the process. This stage is so important that the new regulations allow it to be appealed. The University is working on creating the best possible timeline to consider factors like appeals.
- Would advisers be from the University committee or can they come from external sources, and is there any way to make these cross-examination procedures less traumatic?
 - Students may use an adviser of their choosing. The University is still considering ways to manage these processes to protect all individuals involved.
- If students can choose their own adviser, what type of adviser would the University provide for complainants? Would the University consider offering social workers, legal counsel, or measures to ensure equity in the advisers retained by the complainant and the respondent?
 - The role of a good hearing officer is to reduce the power of advisers to create inequities. The University is working on ways to reduce inequities in advisers. It is also important to consider that more expensive forms of advisers are not always

better for students. Whatever provision of an adviser is given to one party will be given to the other party.

- Is there going to be a comment period from students who have been through the Title IX process on adviser selection, given that there have been students who have complained that they have been inadequately advised during the Title IX process?
 - The University is open to receiving feedback now. There is an email address that can be circulated. The University is mindful of the feedback that it has already received. The University is also operating on a rushed timeline. In addition, Princeton community members who are able to be advisers will not necessarily be explicitly defined in the policies.
- Will the University retain the preponderance of evidence standard?
 - Yes.
- Is the University able to give survivors a choice about whether to participate in a disciplinary or mediated process?
 - Yes.
- How are the recommendations of the working group on restorative justice being considered? Is there any talk of using restorative justice practitioners to help students navigate that mediated process?
 - One of the suggestions the University received was to look at restorative justice practitioners. The University is looking to build restorative justice resources, and there is funding going towards building these resources out this fall. It has been decided how these resources will intersect with the mediation process. Student Life staff members, as well as staff members at UHS, received training a few years ago, but these are not necessarily the people who would be running Title IX mediation. In addition, it is likely that the University will have to hire people to support an informal resolution process.
- How similarly is Princeton planning on implementing the new Title IX regulations in comparison to its peer institutions?
 - As far as Title IX regulations are concerned, there will be uniformity across all universities. However, non-title IX regulations will be handled differently by each school.

Informal Resolutions:

- The new regulations allow for informal resolutions. The University is in the process of figuring out what informal resolutions will look like. The University expects that this will be a popular option given that some of the procedural elements may be difficult for complainants.

Questions from the Senate:

- Would the University provide advisers to help students decide between informal and formal resolutions?
 - The University is still trying to figure out how to best disseminate information about the options available to students.

Preliminary Thoughts Regarding the New Regulations:

- New definition narrows the scope of Title IX Sexual Harassment and expands the scope of non-Title IX University Sexual Misconduct.
- New grievance procedures grant more protection to respondents and less to complainants.
- Complainants averse to cross-examination may decide not to pursue Title IX complaints.
- A stand alone Title IX policy is needed, alongside a separate University Sexual Misconduct Policy.
- Though there may be separation between University Sexual Misconduct Policy and Title IX policy, there will be considerable overlap between available resources, supportive measures, and some definitions.
- With the number of lawsuits filed, there could be a delay or adjunction in the policy but the University still needs to be ready to have it go into effect. If the administration changes, these policies may change but it would still take some time. There are complexities in how these new policies would be implemented.