

UTAH COLLEGE OF APPLIED TECHNOLOGY

AGENDA ITEM

UCAT BOARD OF TRUSTEES 23 March 2017

ITEM: II.I

TOPIC: Policy 210, "Cross-college Title IX Investigation/Adjudication"

BACKGROUND

Title IX of the Education Amendments of 1972 places educational programs and activities receiving federal financial assistance under obligation to provide students with an environment free from sexual discrimination and harassment. If a school determines that sexual discrimination or harassment that creates a hostile environment has occurred, the school must take immediate action to eliminate the hostile environment, prevent its recurrence, and address its effects.

For some UCAT colleges, the duty to investigate allegations of sexual discrimination/harassment and remediate its effects is difficult due to insufficient training, a small student/staff population (i.e., objectivity is difficult when all college staff know all students), etc. The Student Service Officers of each college have suggested that UCAT adopt a system whereby staff from one college may perform Title IX investigations/adjudications at another college upon request. UCAT administration has crafted Policy 210, "Cross-college Title IX Investigation/Adjudication", in response.

Policy 210, "Cross-college Title IX Investigation/Adjudication", includes the following provisions:

- The need for an outside investigator/adjudicator is determined solely by the Title IX Officer and/or president of the college at which a complaint originates (i.e., colleges are not forced to seek outside assistance where none is needed);
- The cross-college investigator/adjudicator is an individual authorized to view germane student information under the provisions of the Family Educational Rights and Privacy Act;
- A college requesting outside assistance is to treat investigative/adjudicative results as if they were produced by the college's own staff; and
- If college policy/procedural changes are recommended by the cross-college investigator/adjudicator, the college president shall issue an official response to the recommendations, to be delivered to the Commissioner of Technical Education within 30 days.

Policy 210 has been reviewed by the college Student Service Officers and the Presidents' Cabinet. Both groups have expressed support for the policy and recommend its adoption. The final draft of Policy 210, "Cross-college Title IX Investigation/Adjudication", is attached here.

RECOMMENDATION

UCAT administration recommends the Board of Trustees approve Policy 210, "Cross-college Title IX Investigation/Adjudication", for immediate implementation.

Attachments: Draft Policy 210, "Cross-college Title IX Investigation/Adjudication"





Subject:	Cross-college Title IX Investigation or Adjudication
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210.1 Purpose

To provide for the objective and equitable investigation, adjudication, and resolution of complaints against applied technology colleges, college faculty/staff, and students with respect to Title IX of the Education Amendments of 1972 ("Title IX").

210.2 Approval

UCAT Board of Trustees approval: March 23, 2017 (pending)

210.3 References

[20 USC 1681-1688](#), Title IX of the Education Amendments of 1972
[34 CFR 99](#), Family Educational Rights and Privacy Act

210.4 Definitions

- 4.1 **Title IX Officer:** A college's employee assigned and trained to perform complaint investigation or adjudication of or related to Title IX.
- 4.2 **Cross-college Investigator/Adjudicator:** An objective and competent individual employed by a college, who is trained in and requested to perform investigative or adjudicative activities related to Title IX at a different college.

210.5 Requesting Cross-college Assistance

- 5.1 Where a college's Title IX Officer is unable to adequately or appropriately investigate or adjudicate a complaint related to Title IX (due to lack of objectivity, conflict of interest, insufficient training or experience, desire for transparency, etc.), the Title IX Officer shall seek an objective and competent designee from another college (i.e., the "Cross-college Investigator/Adjudicator") to perform such activities.
- 5.2 The need for a Cross-college Investigator/Adjudicator is determined solely by the Title IX Officer and/or the president of the college, or his or her designee, at which the complaint originated.
- 5.3 The request for cross-college investigative/adjudicative assistance shall be made in writing to the president of the college employing the desired Cross-college Investigator/Adjudicator. This request shall be included in all files related to the specific complaint housed at the college at which the complaint originated.
- 5.4 A Cross-college Investigator/Adjudicator shall have the written consent of his or her college president before commencing any investigative or adjudicative activities at another college. This consent shall be included in all files related to the specific complaint housed at the college at which the complaint originated.



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210.6 Performing a Cross-college Investigation/Adjudication

- 6.1 The college requesting cross-college assistance, by so doing, authorizes the Cross-college Investigator/Adjudicator to view germane student information belonging to parties involved in a specific complaint, as provided by 34 CFR 99.31 (a)(1)(i)(B).
- 6.2 A Cross-college Investigator/Adjudicator shall not be compensated for his or her service, except through the individual's normal salary and benefits paid by the college at which he or she is regularly employed. However, the Cross-college Investigator/Adjudicator may receive per diem and travel expenses paid by the college requesting investigative or adjudicative assistance. Per diem and travel expenses shall be determined in advance of the college president's consent (5.4).
- 6.3 The scope of Cross-college Investigator/Adjudicators' work shall be limited to the determination of responsibility for any breaches to college policies and/or student or employee codes of conduct. Determination of any disciplinary actions shall remain the purview of the college at which the complaint originated.

210.7 Final Report and Recommendations

- 7.1 Upon the conclusion of his or her investigation or adjudication, the Cross-college Investigator/Adjudicator shall document all findings in a report to be delivered to the president and Title IX Officer of the college at which the complaint originated, and the Commissioner of Technical Education. The report may also include recommendations to the college regarding policies and procedures applicable to the complaint at hand and its subsequent investigation or adjudication.
- 7.2 The college that requested investigative or adjudicative assistance shall treat the Cross-college Investigator/Adjudicator's final report (7.1) as if it were produced by the college's own staff. The report shall be subject to all provisions of Title IX (e.g., subject to appeal, made available to the complainant and alleged perpetrator, etc.).
- 7.3 In a letter to the Commissioner of Technical Education, the president of the college at which the complaint originated shall provide an official response to each recommendation identified by the Cross-college Investigator/Adjudicator in his or her final report (7.1). This letter shall be delivered within 30 days of the report's publication.