

Section Title	Change	Possible Implications
Section 34 CFR 106.44(e)(1)	<p>The definition of sexual harassment. Definition of Sexual Harassment is understood as 1.) Quid pro quo harassment, (“favor for a favor”) 2.) Unwelcome conduct on the basis of sex that is so severe, and objectively offensive, it effectively denies a person equal access to the school's education program or activity, or 3.) Sexual assault as that crime is defined in the Clery Act Regulations.</p>	<p>Conduct would have to be proven severe and objectively offensive and denying access to education. Also, this would limit what situations the university could process as a "Title IX Case". Other situations would be processed as a violation of the code of conduct and the Office of the Dean of Students would respond and the process would be different for survivors.</p>
	<p>Possible Suggested Alternative: Continue to utilize the same definition of sexual harassment as the prior guidance recommended.</p>	
Section 34 CFR 106.45(b) (6)	<p>Alternative informal resolutions. If voluntary and consented to by both parties, a school can facilitate informal resolution of complaints. Resolutions could include but are not limited to: mediation, restorative justice, other models of conflict resolution.</p>	<p>This could be positive but universities would need to have appropriate resources available to be sure that those processes are well-informed, survivor-friendly while remaining equitable to both parties. Individuals implementing alternative resolutions will have to have adequate training and experience on utilizing those techniques.</p>
	<p>Possible Suggested Alternative: Offer universities extensive training and support (including but not limited to financial support) to ensure that personnel responsible for alternative resolutions are well equipped and trained to utilize best practices.</p>	
Section 34 CFR 106.45 (b)(4)(i)	<p>Standard of Evidence. Universities must apply either the preponderance of the evidence standard or the clear and convincing evidence standard and use that standard of evidence for all disciplinary processes, whether that involve complaints against students or employees.</p>	<p>Because faculty use the clear and convincing standard of evidence, TIX processes have to be equitable and use the clear and convincing standard of proof verses preponderance of evidence which is currently in place at UNCW.</p>
	<p>Possible Suggested Alternative: Require universities to hold all student disciplinary processes to the preponderance of evidence standard.</p>	

Section 34 CFR 106.45(b)(3)(vii)	Cross Examination. Universities must allow both participants equal opportunity for cross-examination, while being visible to both the adjudicator and the involved parties.	The complainant would have to visibly see the respondent, making the emotional impact more difficult and could dissuade victims/complainants from participating in the Title IX process.
	Possible Suggested Alternative: Allow universities to offer complainants means to not have to visually face respondents during cross-examination, including utilization of partitions, Skype and teleconferencing means of communication, as is the current standard practice.	
Section 34 CFR 106.44(a)	Jurisdiction More Limited. University Title IX processes are only applicable to incidents that occur within an educational program or activity, defined as academic, extracurricular, research, or occupational training and incidents that occur on campus.	Incidents would not fall into Title IX policies and procedures if the incident occurred while studying abroad or if the behavior occurred off campus at non-university sponsored events.
Possible Suggested Alternative: Allow universities to offer equitable Title IX remedies and processes any time when the parties are affiliated with the university (as student, staff or faculty), whether the conduct occurred during school sponsored events, or occurred on campus, or not.		