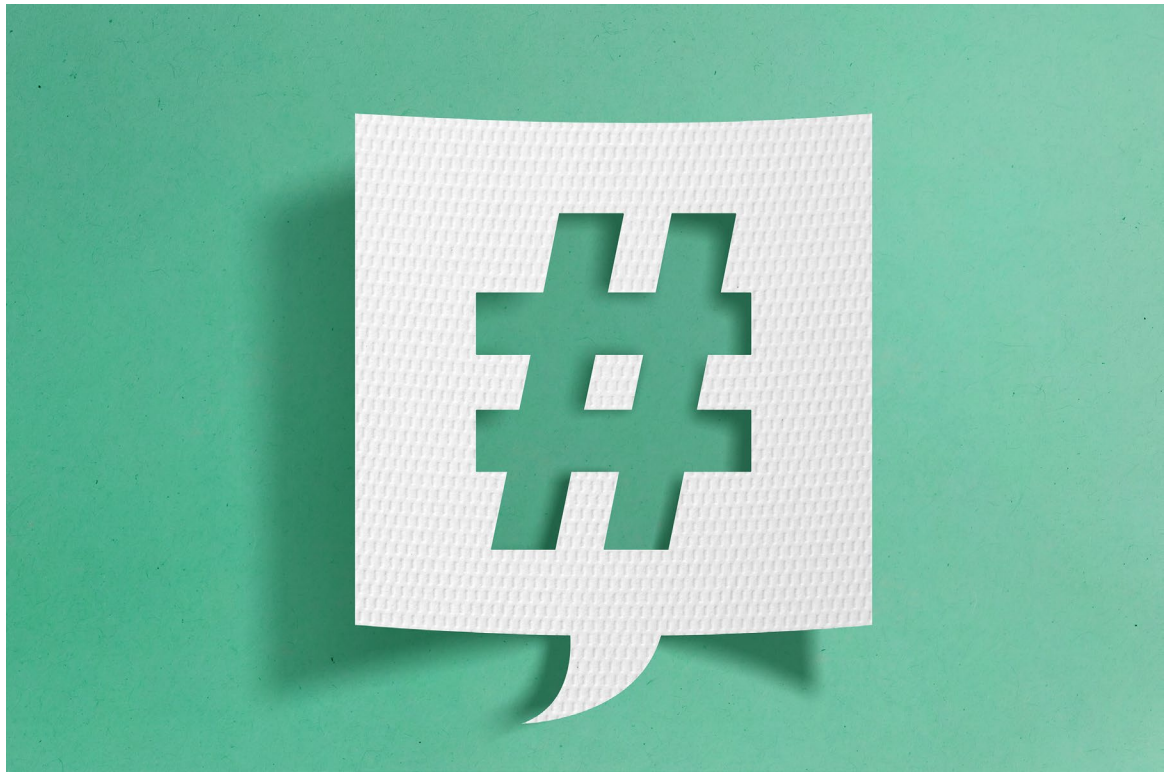

EVALUATING EMERGENCY REMOVAL: EVERYTHING YOU NEED TO KNOW

Molly O'Malley

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ABOUT US

Vision

We exist to create safe and equitable work and educational environments.

Mission

To bring systemic change to how school districts and institutions of higher education address their Clery Act & Title IX obligations.

Core Values

- Responsive Partnership
- Innovation
- Accountability
- Transformation
- Integrity

MEET YOUR FACILITATOR

Molly O'Malley

Senior Solutions Specialist

Molly O'Malley is a member of the Coordinator & Director Services Team at Grand River Solutions. Molly serves as a Title IX Coordinator/EEO Coordinator and Intake Coordinator at both large and small, public and private institutions across the US. Molly also facilitates the Level I Title IX Coordinator training offered by Grand River Solutions.

Molly previously worked in many areas of higher education including housing and residence life, student conduct, and policy development. Most recently, Molly worked at Northeast Ohio Medical University where she oversaw Title IX compliance, developed and implemented a learning and development series for students, faculty, and staff, implemented a case management system, and developed hiring procedures for staff and faculty. Molly has over 10 years of experience in higher education and 2 years of experience in primary and secondary education.

Molly obtained a Master of Higher Education Leadership from Walden University and a Bachelor of Education from Youngstown State University.

Outside of work, you will find Molly in a bowling alley running tournaments, on her favorite 9-hole golf course, or on a softball field playing second base. Molly and her partner James have one son, Keegan, two dogs, Kali (a Border Collie/Blue Heeler) and Marshall (a Shepherd mix), and a cat, Leco.

AGENDA

- Understanding Emergency Removal
- Policy Considerations
- Leveraging Campus Partners
- Conducting Risk Assessments
- Application and Case Studies
- Questions

GETTING TO KNOW YOU

1. Name
2. Pronouns
3. Institution
4. Role
5. Favorite Season (fall, winter, spring, summer)?

Submit your responses in one message using the chat feature!

UNDERSTANDING EMERGENCY REMOVAL

01

LET'S DISCUSS:

- What is emergency removal?
- How would you describe this to someone who is new to this field or to higher education?

WHAT IS EMERGENCY REMOVAL: AN EXAMPLE

The university retains the authority to remove a Respondent from the university's program or activity on an emergency basis, where the university (1) undertakes an individualized safety and risk analysis and (2) determines that an immediate threat to the physical health or safety of any student, employee, or other individual arising from the allegations of prohibited conduct justifies a removal.

LANGUAGE FROM REGS

The Title IX regulations provide process in § 106.44(c) to remove a respondent from a recipient's education program or activity **on an emergency basis if there is an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment that justifies removal.** A recipient must provide a respondent with notice and an opportunity to challenge the emergency removal decision immediately following the removal. Additionally, the grievance process in § 106.45 provides robust due process protections for both parties, and before imposition of any disciplinary sanctions or other actions against a respondent that are not supportive measures as defined in § 106.30 or an emergency removal under § 106.44(c), a recipient must follow a grievance process that complies with § 106.45.

LANGUAGE FROM REGS

§ 106.44(c) requires "...an individualized safety and risk analysis and provides the respondent notice and opportunity to challenge the removal decision. Note that § 106.44(c) does not restrict a recipient's emergency removal authority to removal decisions that are ''narrowly tailored'' to address the risk because § 106.44(c) adequately requires that the threat ''justifies'' the removal. If the high threshold for removal under § 106.44(c) exists (i.e., an individualized safety and risk analysis determines the respondent poses an immediate threat to any person's physical health or safety), then the recipient "should have discretion to determine the appropriate scope and conditions of removal of the respondent from the recipient's education program or activity. "

LET'S DISCUSS:

- Should we consider emergency removal with ***all*** allegations of sexual misconduct? Why? Why not?

What is the difference between emergency removal, interim suspension, and administrative leave?

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WHAT IS THE DIFFERENCE? MAY BE POLICY SPECIFIC

- Emergency Removal – Typically students, but may apply to employees
  - Based on Title IX Regulations and your school's policy
  - Applies to students and may also apply to employees depending on your school's policy
- Interim Suspension—Typically students, sometimes used in the student conduct world.
  - Based on your school's policies
  - **Emergency removal may include an interim suspension** if justified based on an individualized safety and risk analysis
- Administrative leave—Employees
  - Based in part on Title IX Regulations, but may also be allowed in your school's applicable employee and/or Title IX policy
  - In the Title IX Regulations, administrative leave applies to a "non-student employee respondent"

ADMINISTRATIVE LEAVE: A POLICY EXAMPLE

If necessary, during a pending a process under the Policy, the University retains the authority to place an employee on administrative leave. Administrative Leave can be put in place with or without pay as appropriate, consistent with University procedures, policies, and regulations, and/or any applicable collective bargaining agreement. An employee can be placed on Administrative Leave without conducting an individualized safety risk analysis and does not require following the Emergency Removal process outlined above. Any decision to place an employee on administrative leave must be made in consultation with the Title IX Coordinator, the appropriate human resources representative, and the employee's supervisor.

KEY COURT CASES

- **Doe v. San Ramon Valley Unified School District** – Schools have flexibility to emergency remove a student if they have made an individualized safety and risk analysis and assessed whether an immediate threat exists.
- **Goss v. Lopez** – Fundamental right to public education may not be withdrawn without due process (notice and hearing).
- **McLeod v. Duke University** – University cannot expel a student without providing certain due process rights guaranteed to the student through federal law and university policy.
- **Doe v. Regents of the University of California** – Court noted that, although the university had immediately suspended respondent upon receiving complainant's report, after an appeal and hearing, the university modified the interim suspension to allow respondent to participate in certain activities on campus.

LET'S DISCUSS

- What does "immediate" mean?
- How long is "too long" for the removal to last?
- When may you need to lift an Emergency Removal?

TIME LIMITS

- Emergency Removal is typically temporary:
  - Pending conclusion of grievance process
  - For a period of time determined after safety and risk analysis

INDIVIDUALIZED SAFETY OR RISK ANALYSIS

- Must have an immediate threat to the physical health or safety of an individual
- Must have more than generalized, hypothetical, or speculative information
- Cannot be based on general assumptions about sex or profile characteristics of sex offense perpetrators or frequency of false misconduct allegations
- Must be individualized to the respondent and examine the circumstances "arising from the allegations of sexual harassment"

INDIVIDUALIZED SAFETY OR RISK ANALYSIS

- Factors that *may* be included in the analysis:
  - Whether violence was allegedly involved in the conduct constituting sexual harassment
  - Circumstances that arise from the allegations (but are not the conduct itself) such as threat of self-harm by respondent
  - Any other factors that a recipient may consider in reaching a determination
- For a removal, must determine that (1) an immediate threat exists; and (2) that that threat justifies removal
- Schools have the flexibility and discretion to determine who conducts the safety or risk analysis and how to train them

CHALLENGES TO EMERGENCY REMOVAL

- We must offer the respondent the opportunity to challenge the removal decision.
- Title IX Coordinator will provide the respondent with notice and an opportunity to challenge the decision immediately following the removal. The University will designate an individual, not otherwise involved in the case, to consider the challenge to the removal and determine if the emergency removal was justified.

LET'S TALK LOGISTICS: WHAT CAN EMERGENCY REMOVAL LOOK LIKE?

- What does it mean to emergency remove?
- Is not always an interim suspension. Can be emergency removed from a club, team, housing, physical presence on campus.
- Are they completing classes remotely?
- Fundamental right to education and keeping campus safe
- What happens when the semester ends?
- What else?

POLICY CONSIDERATIONS

TITLE IX POLICY VS PROCESS MANUAL

Process manual—Behind the scenes, internal guide to help you with building out a process.

Considerations for your process manual:

- Time frame?
- Who decides initially?
- Who are you notifying?
- Who hears challenges?
- How are students and employees treated differently?

SAMPLE POLICY LANGUAGE

For Title IX Prohibited Conduct, INSTITUTION retains the authority to remove a respondent from INSTITUTION's program or activity on an emergency basis, where:

(1)INSTITUTION undertakes an individualized safety and risk analysis,

(2) INSTITUTION determines that an immediate and serious threat to the health or safety of a complainant or any student, employee, or other individual arising from the allegations of sex discrimination justifies a removal, and

(3) INSTITUTION provides the respondent with notice of and an opportunity to challenge the decision immediately following the removal.

The respondent may challenge the decision immediately following the removal, by notifying the Title IX Coordinator in writing. INSTITUTION will designate an impartial individual, not otherwise involved in the case, to consider the challenge to the removal and determine if the emergency removal was reasonable.

For all other Prohibited Conduct, INSTITUTION may defer to its interim suspension policies for students and administrative leave for employees.

LEVERAGING CAMPUS PARTNERS

WHO SHOULD DECIDE? WHO DECIDES ON YOUR CAMPUS?

WHO SHOULD DECIDE?

- A group/team as opposed to only the Title IX Coordinator
- Committee? BIT Team? Care Team? Threat Assessment Team?
  - Title IX Coordinator
  - Student Conduct
  - Campus Safety/Police
  - University Counsel
  - Counseling/Mental Health
  - Who else?
- Don't forget challenges to removal!
  - Usually not someone involved in the emergency removal decision

RISK ASSESSMENT

QUESTIONS TO CONSIDER

- Was there an individualized safety & risk analysis?
- Is there an immediate threat to the health & safety of any person?
- What is that threat?
- Who is the threatened person(s)?
- How long should the removal last?
- Does it arise from the allegations of sexual harassment?
- Does the respondent have sufficient notice and did the respondent challenge the removal in time?
- What is the timeline and process for challenge?

CAN YOU PROVIDE EXAMPLES OF WHEN YOU CONDUCTED AN EMERGENCY REMOVAL?

SCENARIOS

WHAT WOULD YOU DO?

- You receive an RA incident report, summarized below.
  - *Resident River has been stalking Resident Grand since the start of the spring 2026 semester. Resident Grand told me during my office hours last night that Resident River keeps showing up at a ton of places on campus where Resident Grand is. Additionally, Resident Grand told me that they have seen Resident River be drunk in the middle of the day and shout unsafe things at others. Resident Grand also said that Resident River has a lot of sharp items in their room that they are afraid of being used against them. I haven't seen these, but I believe it because Resident River has always creeped a bunch of us out.*

Would you emergency remove Resident River? If so, what removal actions would you recommend? What additional information would you need to know?

WHAT WOULD YOU DO?

Good morning,

This is Respondent Jones. I have an urgent emergency. I tried to text you but your cell number wasn't listed on the Title IX Instagram page (please fix that ASAP). You met with me last week about the upcoming hearing thing I have next week against Jessica Smith (Complainant) who lied and falsely accused me of raping her.

Jessica's boyfriend Alex messaged me on snapchat today threatening to kill me "for what I've done". This isn't okay. I'm clearly not safe on-campus so please expel him and cancel the hearing ASAP.

Thanks,

Jeff Jones

Would you emergency remove Alex? If so, what removal actions would you recommend? What are your next steps? What additional information would you need to know?

WHAT WOULD YOU DO?

Dear Title IX Coordinator,

This is Graham, the women's basketball coach. Listen, 3 of my girls came to talk to me today about another girl, Amanda, on the basketball team. Last night, some of the girls were drinking in Amanda's suite. Apparently, Amanda had too much to drink and she started grabbing some of the other girls underneath their shirts. The girls told her to stop. Amanda then trapped one of the girls down and said she would shoot them all tomorrow with her father's gun if they told anyone about it. I'm not sure if she has her gun in her residence hall? Amanda is our top defender and I'm happy to talk to her about this. We have a game tonight.

Would you emergency remove Amanda? If so, what removal actions would you recommend? What are your next steps? What additional information would you need to know?

QUESTIONS?

COMPLIMENTARY SUBSCRIPTION

Let Our Team Support The Good Work You And Your Team Are Doing.

- Delegated Roles
- Investigations
- Hearings & Appeals
- Alternative Resolutions
- Program Review
- Policy & Procedures
- Consulting & Coaching

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RESOLUTION SERVICES

Resolution Services

We work to resolve employee, faculty, and student cases at companies and educational institutions.

Our experienced practitioners are available to serve as facilitators of alternative resolutions, investigators, decision-makers, hearing officers, chairs, panel members, or appellate officers for all equity and discrimination cases.

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WE LOVE FEEDBACK

Your Opinion Is Invaluable!

DELEGATED ROLES

Gap in staffing? We can help.

Interim or Long-Term Needs

- Title IX Coordinators and Staff
- Title VI Coordinators and Staff
- EO Director
- Equity Director
- ADA/504 Coordinators and Staff

Delegated Roles

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ADA/504

ADA/504 Coordinator
Policy Development & Review
Training
Accessibility & Compliance Assessment
Investigations

Digital Accessibility

Policy Development & Review
Training
Consulting
Investigations

ADA/504 Services

TRAINING AND TRAINING MEMBERSHIP

Please check out our wide selection of trainings and learn about our new unlimited training membership. ***Unlimited open training access for your whole campus, one annual fee.***

Equity
Titles VI, VII, IX

Clery
Stop Campus
Hazing Act

ADA/504
&
Digital Accessibility

Explore Training

CASE MANAGEMENT SOFTWARE

Schedule a Demo

Designed for you, by people like you

We are experts and practitioners working in response and resolution for discrimination, harassment, & equity concerns.

Case Tracker allows you to:

- track and manage your cases
- communicate with campus stakeholders without compromising case privacy, and
- provide parties with the ability to follow the status of their case

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