

NSU

Florida

NOVA SOUTHEASTERN
UNIVERSITY

Title IX in 2020

Summary of Title IX/Sexual Misconduct Policy

Fall 2020

Why the change?

- On May 6, 2020, the Dept of Education released revisions to Title IX regulations, to be implemented August 14, 2020
- Focus is on how universities and K-12 schools address sexual violence and sexual harassment affecting students and others accessing NSU's educational programs and activities in the U.S.
- 2,033 published pages of new rules and explanation

New Definition of Title IX Sexual Harassment

Limited to:

- Unwelcome “**quid pro quo**” sexual harassment by a school employee against a student;
- Sexual harassment that is “so severe, pervasive, and objectively offensive that it effectively **denies a person equal access**” to educational programs; or
- Acts that meet the VAWA definition of a **sex offense** of sexual assault, dating violence, domestic violence, or stalking.
- In addition, Title IX prohibits **retaliation** against any person for pursuing their rights under Title IX.

New Jurisdiction of Title IX (i.e. where and when)

- The complainant must be a student/person accessing NSU's educational programs **in the United States**, and
- NSU must have **substantial control over the alleged perpetrator and the context of harassment**, and
- A formal complaint must be made by an affected person who is **enrolled or trying to access** an NSU program/activity
 - Parents may file a complaint on behalf of an under 18-year-old student

What does this mean?

Narrows the scope of what the Dept of Ed expects NSU to address under Title IX:

Type of prohibited behavior (violation)

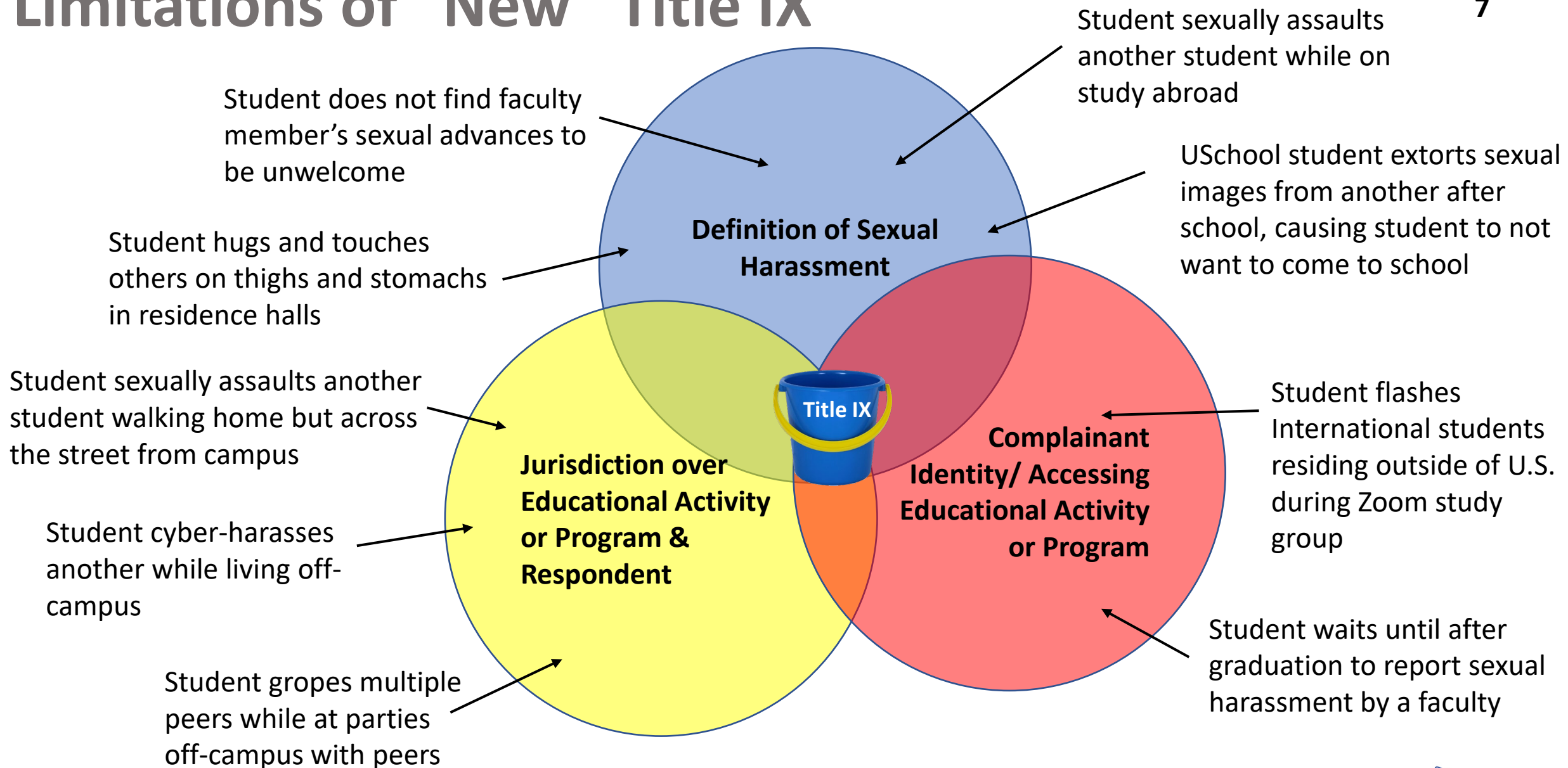
Where & when behavior occurred (jurisdiction)



Requires specific procedures for those cases that are found to be subject to Title IX

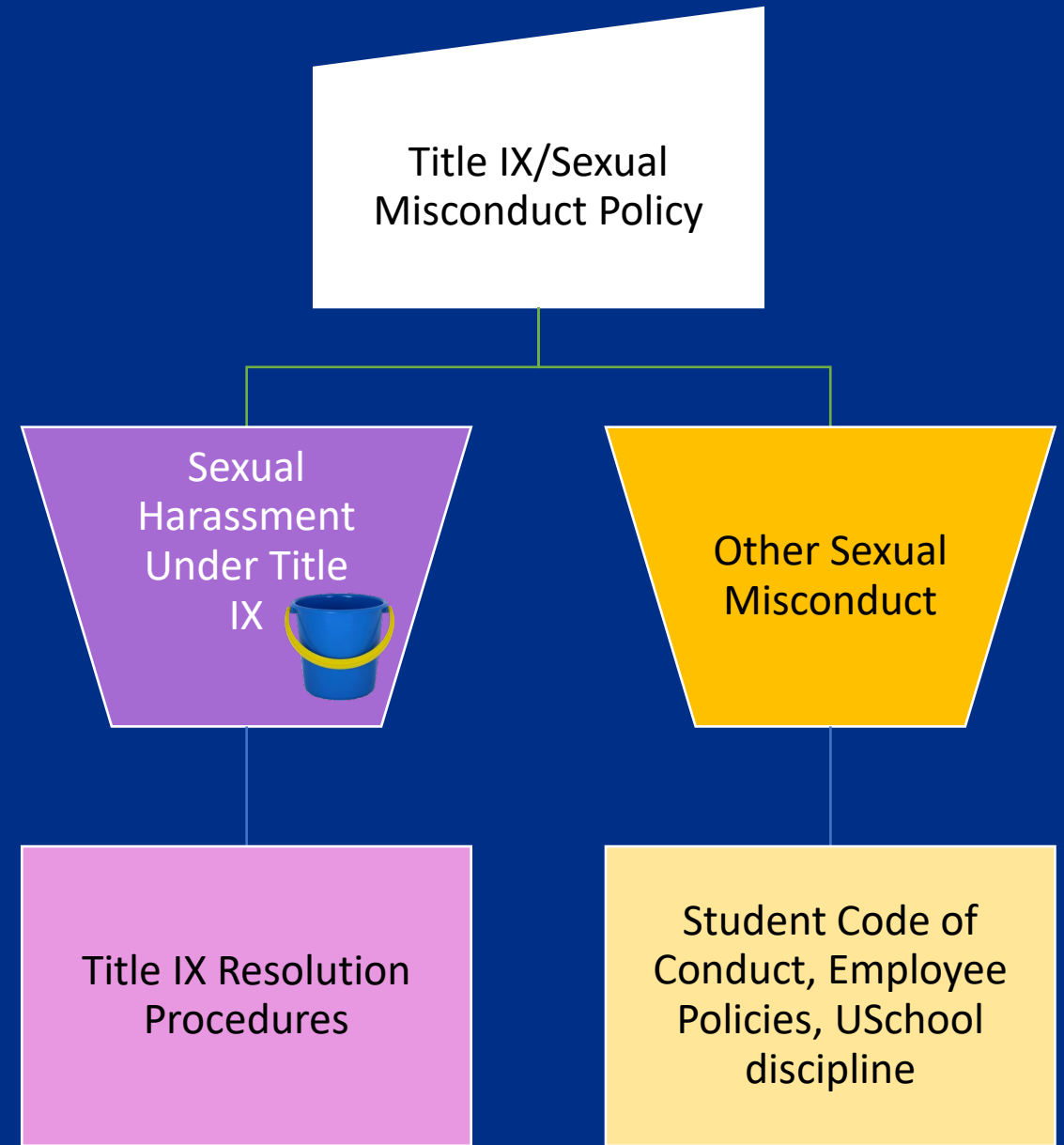


Limitations of “New” Title IX



What does this mean?

- *Narrows* the scope of what the Dept of Ed expects NSU to address under Title IX:
 - Type of behavior
 - Jurisdiction (when, where, who)
- Requires specific procedures for those incidents that fall under Title IX
- Gives NSU authority to address sexual misconduct outside of Title IX under other policies/procedures



Title IX Jurisdiction

Additional Sexual Misconduct

SEX OFFENSES

sexual assault, dating violence, domestic violence & stalking

HOSTILE ENVIRONMENT

denying access to education

limits, disrupts or adversely affects access

SEXUAL HARASSMENT

“Quid pro quo” by NSU Employee

“unwelcome conduct of a sexual nature”

In the United States

NSU has control over context

NSU has control over respondent

Complaint still part of NSU



SEXUAL EXPLOITATION

taking sexual advantage of another person

GENDER-BASED HARASSMENT

unwelcome conduct based on gender expression/identity or sexual orientation

What about non-Title IX Sexual Misconduct?

- Not subject to Title IX Resolution Procedures
- Referred to Student Code of Conduct, HR, USchool discipline, etc.
- Still a fair process – opportunity to review and respond
- Sex offenses under VAWA but outside of Title IX must still provide procedural protections:
 - Be conducted by people with specific annual training
 - Right to an advisor
 - Right to know the outcome

