No Contact Orders to Faculty

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Question:
Our university attorneys do not believe the Title IX Coordinator has authority to issue no contact orders (NCOs) to employees who are faculty. What resource or guidance provides the authority for the Coordinator to issue these?

Brett’s Response:
If the coordinator has legal authority to issue NCOs for students, they have the authority to issue them for faculty. There is no student/faculty distinction within Title IX. Of course, this is not inherent authority. Title IX doesn’t give the TIXC this power, the institution does. NCO authority has to be delegated by the institution to a TIXC, and if the attorneys decided they did not want that delegation, they could do so. Or they could delegate authority for students to one official and authority for faculty to another. But, to couch it in terms of what TIX allows, rather than institutional policy, doesn’t make sense.

Daniel’s Response:
I would add the tacit message in Brett’s response that not allowing a TIX Coordinator to use NCOs for any constituency group is inconsistent with industry standards. This strikes me as a political power issue more than anything. If the TIXC can have some influence over the person who does issue the NCOs, that can be a decent – albeit imperfect – fix. The other portion is to allow the TIXC to issue temporary NCOs (as a safety measure, etc.) that are later reviewed by whomever the institution deems appropriate to implement such measures longer term.