

Title IX Coordinator Training

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Course Overview

- Title IX and Clery – Dear Colleague Letter and Campus SaVE
- The Key Responsibilities of Title IX Coordinators
- Understanding Sexual Harassment and Sexual Violence and the Legal Responsibilities of the Institution
- Overseeing or Conducting Sexual Harassment and Sexual Assault Investigations
- Review of Institutional Policies: Part 1 & 2
- Notice and Training Obligations
- Best Practices in Athletics



Agenda

- **Introduction to Title IX**
 - Sex Discrimination
 - Sexual Harassment
 - Sexual Violence
- **Introduction to the Clery Act**
 - Campus SaVE Act Amendments of the Reauthorization of the Violence Against Women Act (VAWA)
- **Making Title IX and Campus SaVE Work Together**



Title IX

- Statute – 1972
- Regulations – 1975
- Letter Guidance
 - Sexual harassment - 2001
 - Sexual violence - 2011
 - Bullying - 2010
 - Retaliation - 2013
 - Athletics – 1996, 2008, 2010

Clery Act

- Campus Awareness and Campus Security Act – 1990
- Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act – 1998
- Campus SaVE Act – 2013
 - Reporting requirements – effective October 2014
 - Program requirements – effective March 2014
 - Negotiated rulemaking – draft April 2014

Title IX – Sexual Violence

- Dear Colleague Letter April 2011
- Student-on-Student sexual harassment including sexual violence and sexual stereotyping
- Prompt response to stop, prevent, remedy
- Any procedure where sexual harassment/ sexual violence will be at issue
 - Grievance Procedures
 - Student Disciplinary Procedures

Clery/Campus SaVE Act

- Reauthorization of the Violence Against Women Act
- Education, awareness, prevention programs
- Disciplinary procedures considering allegations of sexual assault, dating violence, domestic violence and stalking.
- Both student and employee disciplinary standards and procedures

Title IX & Clery/Campus SaVE

Title IX
Sex Discrimination, including sexual harassment & gender-based harassment

Clery
Domestic Violence, Dating Violence, Stalking (When sex of the victim is not a factor)

Overlap: Sexual Assault, Domestic Violence, Dating Violence & Stalking

Applications

Title IX/ DCL
Student Grievance Procedures

Campus SaVE
Employee Disciplinary Procedures

Overlap: Student Discipline

Requirements for Student Disciplinary Procedures

- Jurisdiction over Title IX complaints
- Definitions of sexual harassment, sexual violence, sexual assault, dating violence, domestic violence, stalking and hostile environment
- Reporting protocols
- Confidentiality and who evaluates requests
- Prohibition on retaliation
- Right to file both criminal *and* a Title IX complaints
- Notice of interim measures & options for assistance
- Description of prompt, fair & impartial procedures that include investigation, resolution & remediation
- Notice officials involved will be trained annually
- Opportunity for parties to have advisors of their choice
- Rights of parties regarding attendance at a hearing, witnesses, etc.
- Preponderance of Evidence
- Equal notice of interim & final outcome & appeal
- Potential sanctions

Sexual Violence Definitions

- Title IX - Sexual Violence
 - "Physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent." *DCL p.1*
 - Includes rape, sexual assault, sexual battery and sexual coercion
- Clery – Sexual Assault
 - "An offense that meets the definition of rape, fondling, incest, or statutory rape." *Proposed Rules, §668.46(a)*
 - Incest or statutory rape – non-forcible offenses

Sexual Violence in Context

- Any student can be a victim of sexual assault
- Any student can sexually assault another student
- Violence and stalking in the LGBTQ community
 - Sexual violence
 - Dating violence
 - Domestic violence
 - Stalking

Other Key Definitions


- **Title IX – Gender-based Harassment**
 - Acts of verbal, non-verbal or physical aggression, intimidation or hostility based on sex or sex-stereotyping even if these acts do not involve conduct of a sexual nature. *DCL, fn.9, 2001 Guidance, 2010 DCL Harassment & Bullying*
- **Campus SaVE**
 - Domestic Violence
 - A felony or misdemeanor crime of violence committed against a current or former spouse, someone similarly situated, a co-parent or an adult or youth protected under state domestic or family violence laws. *Proposed Regulations §668.46(a)*
 - Dating Violence
 - Violence by a person who is or has been in a social relationship of a romantic or intimate nature *Proposed Regulations §668.46(a)*
 - Based on the reporting party's statement with consideration of characteristic of the relationship
 - Stalking
 - A course of conduct directed at a specific person that would cause a reasonable person to fear for her safety, the safety of others or suffer substantial emotional distress. *Proposed Regulations §668.46(a)*
 - Course of conduct means two or more acts
 - Directly, indirectly or through third parties
 - Substantial emotional distress need not require medical or other professional treatment.
- **Consent**
 - Campus SaVE – The definition in reference to sexual activity in the applicable jurisdiction
 - Title IX – Sexual violence is against a person's will or when a person is unable to give consent

Shared Requirements

- **Develop and publicize policies and procedures**
- **Provide training**
- **Investigate**
- **Parity and fairness for parties**
- **Protect confidentiality**

Responsible Employee, Campus Security Authority, or Mandatory Reporter ?

- **Responsible Employee – Title IX**
 - Authority to redress sexual violence
 - Obligation to report incidents
 - Students could reasonably believe have authority
- **Campus Security Authority – Clery Act**
 - Campus Security position or responsibility
 - Identified to receive reports of crime
 - Significant responsibility for student and campus activities
- **Mandatory Reporter – State Law**
 - Obligation to report suspected child abuse & neglect
- **Resident Assistants**
 - Responsible Employee? - Authority or duty to redress or report misconduct -- Title IX
 - CSA? – “Monitors” access to dormitories – Clery Act



Complementing or Competing?

- Application off-campus
- Confidentiality
- Responding to reports and providing assistance
 - Describe support and available options
 - Offer interim measures
- Standard of proof
- Timeliness
- Working with Law Enforcement



Additional Clery Act Resources

- NACUA Online Course: The Fundamentals of Clery Act Compliance for Campus Counsel and Administrators
<http://beta.nacua.org/program-events/online-courses/2015-online-course-series-clery-act>
- Higher Education Compliance Alliance – Campus Safety
<http://www.higheredcompliance.org/resources/campus-safety.html>
- Clery Act Resource Page (NACUA members only):
<http://beta.nacua.org/resource-library/resources-by-topic/campus-police-safety-crisis-management/clery-act>