

TRAINING REQUIREMENTS OVERVIEW – PART 1

TITLE IX OF THE EDUCATION AMENDMENTS OF 1972 AND THE 2013 RE-AUTHORIZATION OF THE VIOLENCE AGAINST WOMEN ACT (VAWA)

“Because laws and school policies and procedures may change, the only way to ensure that all employees involved in implementing the school’s grievance procedures have the requisite training or experience is for the school to provide regular training to all individuals involved in implementing the school’s Title IX grievance procedures, even if such individuals also have prior relevant experience.”

2014 Questions & Answers on Title IX and Sexual Violence

TITLE IX LAW AND GUIDANCE:

April 4, 2011 Dear Colleague Letter Questions and Answers on Title IX and Sexual Violence

- **All University community members must understand:**
 - What constitutes sexual harassment/violence
 - Our policies and procedures; consequences of violating them
 - **Student (including Graduate and Professional Students) Training should:**
 - Be age Appropriate
 - Consider educational methods that are most likely to help students retain information when designing its training, including repeating the training at regular intervals;
 - Encourage students to report incidents of sexual violence and should explain that students (and their parents or friends) do not need to determine whether incidents of sexual violence or other sexual harassment created a hostile environment before reporting the incident;
 - Inform students that the school’s primary concern is student safety, and that use of alcohol or drugs never makes the survivor at fault for sexual violence (and does not excuse a perpetrator’s conduct); and
 - Educate students about the persons on campus to whom they can confidentially report incidents of sexual violence, including the offices or individuals who can provide resources such as victim advocacy, housing assistance, academic support, counseling, disability services, health and mental health services and legal assistance.
 - Should Include:

Training Requirements Overview – Part 1

- Title IX and what constitutes sexual harassment and sexual violence, including same-sex sexual violence, under the school's policies, and how to recognize it when it occurs;
 - The school's definition of consent applicable to sexual conduct, including examples;
 - How the school analyzes whether conduct was unwelcome under Title IX;
 - How the school analyzes whether unwelcome sexual conduct creates a hostile environment;
 - Reporting options, including how and to whom, as well as formal reporting and confidential disclosure options and any timeframes set by the school for reporting;
 - The school's grievance procedures used to process sexual violence complaints;
 - Disciplinary code provisions relating to sexual violence and the consequences (criminal, academic, housing, and student record-related) of violating those provisions;
 - Effects of trauma, including neurobiological changes;
 - The role alcohol and drugs often play in sexual violence incidents, including how such use relates to consent, and how the deliberate use of alcohol and/or other drugs to perpetrate sexual violence;
 - Strategies and skills for bystanders to intervene to prevent possible sexual violence;
 - How to report sexual violence to campus or local law enforcement and the ability to pursue law enforcement proceedings simultaneously with a Title IX grievance; and
 - Title IX's protections against retaliation.
- **All implementers (Title IX Coordinator, Deputy Coordinators, Investigators, Adjudicators, and others who receive complaints) must have:**
 - Training in responding to complaints
 - Training in the institution's grievance procedure
 - How to file a complaint pursuant to the University's Policy and Procedure and a step-by-step overview of what happens from the time such a complaint is filed through the end of a Review Panel, including the role of different individuals in the process;

Training Requirements Overview – Part 1

- Clear examples of what types of actions may constitute sexual harassment or sexual violence in the University's programs or activities, including but not limited to what type of behavior may provide the basis for a complaint pursuant to the University's Policy and Procedure;
 - How the Title IX process differs from the criminal process, how to notify complainants of the right to file or decline to file a criminal complaint, and how to file a criminal complaint if they choose to do so;
 - How to contact the Title IX Coordinator and /or appropriate deputy Title IX Coordinators;
 - How to provide students information regarding resources, both verbally and through the resource guide (i.e., in hard copy and/or electronic form) whenever attendees respond to such reports; and
 - The University reporting requirement for reports of sexual harassment and sexual violence, and the University's policies and practices regarding the confidentiality of such reports.
-
- Information on working with and interviewing persons subjected to sexual violence;
 - Information on particular types of conduct that constitute sexual violence, including same-sex sexual violence;
 - The proper standard of review for sexual violence complaints (preponderance of the evidence);
 - Information on consent and the role drugs or alcohol can play in the ability to consent;
 - The importance of accountability for individuals found to have committed sexual violence;
 - Types of remedies, including remedial actions for the perpetrator, complainant and school community;
 - How to determine credibility; how to evaluate evidence and weigh it in an impartial manner;
 - How to conduct and document adequate, prompt, reliable, and impartial Title IX responses, including investigations;
 - How to apply appropriate substantive and procedural standards in a Title IX review, and how those standards differ from those in a criminal investigation;
 - How to notify complainants of the right to file or decline to file a criminal complaint and how to provide assistance on filing one where a complainant chooses to do so;
 - How to coordinate and cooperate with law enforcement during parallel criminal and Title IX proceedings;

Training Requirements Overview – Part 1

- The link between alcohol and other drug use and sexual harassment and sexual violence and best practices to address this link in the investigative process, including, but not limited to:
 - How to address the challenges of investigating incidents involving alcohol or drug use; and
 - How to encourage victims and witnesses of sexual harassment and sexual violence to cooperate with investigations if they have concerns about possible disciplinary implications of their own alcohol and drug use.
- Confidentiality;
- The effects of trauma, including neurobiological change; and
- Cultural awareness training regarding how sexual violence may impact students differently depending on their cultural backgrounds.
- **All employees likely to witness or receive reports of sexual violence:**
 - How to prevent and identify sexual violence, including same-sex sexual violence;
 - The behaviors that may lead to and result in sexual violence;
 - The attitudes of bystanders that may allow conduct to continue;
 - The potential for re-victimization by responders and its effect on students;
 - Appropriate methods for responding to a student who may have experienced sexual violence, including the use of nonjudgmental language and the impact of trauma on victims;
 - The person(s) to whom such misconduct must be reported;
 - Responsible employees' reporting obligations, including what should be included in a report and any consequences for the failure to report, and the procedure for responding to students' requests for confidentiality, including providing the contact information for the school's Title IX coordinator;
 - Information on how to inform students of the reporting obligations of responsible employees;
 - Students' option to request confidentiality and available confidential advocacy, counseling or other support services; and
 - Rights to file a Title IX complaint with the school and to report a crime to campus or local law enforcement.
- **Prepare responsible employees to fulfill their duties in:**
 - Appropriate response to reports of sexual violence;
 - Understand obligation to report sexual violence incidents to Title IX coordinator;

Training Requirements Overview – Part 1

- Understand what reporting includes (all information);
- Understand how to respond to a request for confidentiality; and
- Do not have to determine whether an incident occurred or whether a hostile environment has been created before reporting it.

VAWA REQUIREMENTS

- **VAWA Training Mandates: educational and training programs must include:**
 - A statement that the school prohibits the offenses of domestic violence, dating violence, sexual assault and stalking;
 - The definition of domestic violence, dating violence, sexual assault and stalking in the applicable jurisdiction;
 - The definition of consent, in reference to sexual activity, in the applicable jurisdiction;
 - Safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of domestic violence, dating violence, sexual assault or stalking against a person other than such individual;
 - Information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks; and
 - Possible sanctions or protective measures that the school may impose following a final determination of an institutional disciplinary procedure regarding sexual assault, domestic violence, dating violence or stalking.
 - Procedures victims should follow if a sex offense, domestic violence, dating violence, sexual assault or stalking has occurred, including information in writing about:
 - The importance of preserving evidence as may be necessary to the proof of criminal domestic violence, dating violence, sexual assault or stalking, or in obtaining a protection order;
 - To whom the alleged offense should be reported;
 - Options regarding law enforcement and campus authorities, including notification of the victim's options to:
 - Notify proper law enforcement authorities, including on-campus and local police;
 - Be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and
 - Decline to notify the authorities.

Training Requirements Overview – Part 1

- The rights of victims and the institution's responsibilities regarding orders of protection, no contact orders, restraining orders or similar lawful orders issued by a criminal, civil or tribal court.
- Procedures for institutional disciplinary action in cases of alleged domestic violence, dating violence, sexual assault or stalking, which shall include a clear statement that the proceedings shall:
 - Provide a prompt, fair and impartial investigation and resolution;
 - Be conducted by officials who receive annual training on the issues related to domestic violence, dating violence, sexual assault and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability;
 - Assure that the accuser and the accused are entitled to the same opportunities to have others present during an institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice;
 - Simultaneously inform both the accuser and the accused, in writing, of:
 - The outcome of any institutional disciplinary proceeding that arises from an allegation of domestic violence, dating violence, sexual assault or stalking;
 - The institution's procedures for the accused and the victim to appeal the results of the institutional disciplinary proceeding of any change to the results that occurs prior to the time that such results become final; and
 - When such results become final.