

Title IX Training

Faculty/Staff

ORU

ORAL ROBERTS UNIVERSITY

Dr. Katie Lentz
Director of Human
Resources
& Title IX Coordinator

What is Title IX?

Federal law that prohibits discrimination based upon a person's sex

1. Passed into law in 1972
 - a. Proper use of federal resources
 - b. Effective protection
2. Overlaps with Title VI & VII of the Civil Rights Act of 1964
 - a. No discrimination based on race, sex, color, religion, or national origin
 - b. Federal funding is the trigger
3. Jurisdiction on/off campus between our people
(faculty/staff/student)

Title IX Definition

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance.” 20 U.S.C. § 1681.

Who does Title IX apply to?

Title IX applies to all educational institutions, elementary, and secondary schools, colleges and universities, both public and private, that receive federal financial assistance.

Title IX protects:

1. Students, faculty, and staff
2. With or without disabilities
3. Different races and national origins

When does Title IX Apply?

- Title IX applies to sex discrimination and harassment in the “education program or activity” of a federal funding recipient
 - Title IX defines “education program or activity” to include the “operations” of educational institutions
- Control over the harasser AND control over the context of the harassment
- A Complainant must be participating in or attempting to participate in the education program or activity
- Title IX does NOT apply to private conduct occurring in a private location that is not part of the education program or activity

Sexual Harassment

Conduct on the basis of sex if it involves:

1. Hostile environment: *Unwelcome* sexual conduct determined by a reasonable person to be so *severe, pervasive, and objectively offensive* that it objectively denies a person equal access to the education program or activity
2. Requests for sexual favors, Quid pro quo harassment
3. Sexual assault
4. Dating violence
5. Stalking

Hostile Environment Definitions

1. Unwelcome: is subjective and determined by the Complainant
2. Reasonable person: Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.
3. Severe: Physical conduct (more likely), accompanied by threats or violence

Hostile Environment Definitions (cont.)

4. Pervasive: widespread, openly practiced, occurring in public spaces, frequency, unreasonable interference
5. Objectively offensive: Age and relationship of complainant and respondent, number of persons involved, frequency, severity, physically threatening, humiliation, intimidation, ridicule, abusive
6. Totality of the circumstances

Quid Pro Quo Harassment

An employee of the institution conditions the provision of some aid, benefit, or service, on another person's participation in unwelcome sexual conduct. Often arises where an employee holds power over a student.

Sexual Assault

Any sexual act directed against another person, without the consent of the Complainant including instances where the Complainant is incapable of giving consent

- Rape
- Sodomy
- Sexual assault with an object
- Fondling
- Incest

Sexual Assault Data

- Students are at an increased risk during the first few months of their first and second semesters in college
- More than 50% of college sexual assaults
 - Occur in August, September, October, or November
 - Involve alcohol consumption
- Perpetrator is known

Dating Violence

Definition: violence committed by a person who is, or has been, in a social relationship of a romantic or intimate nature with the Complainant.

- sexual or physical abuse or the threat of such abuse
- current partner (1:5)
- college aged females

Stalking

Definition: engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- Fear for the person's safety or the safety of others
- Suffer substantial emotional distress (mental suffering or anguish not requiring medical treatment)

Course of conduct:

- 2+ acts in which the stalker directly/indirectly/through 3rd parties
- by any action, method, device or means
- follows, monitors, observes surveils, threatens, or communicates to or about a person/person's property

Stalking

The National Intimate Partner and Sexual Violence Survey (NISVS) reports that stalking is common with 1 in 6 women and 1 in 17 men experiencing an incident.

By the age of 25, 54% of women and 41% of men have experienced stalking.

Consent

- Informed, knowing and voluntary (freely given)
- Active (not passive)
- Creates mutually understandable permission regarding the conditions of sexual activity
- No means no, but nothing also means no.
- Given immediately prior to or contemporaneously with the sexual or intimate activity
- Can be withdrawn at any time, so long as it is clearly communicated verbally/non-verbally
- Cannot be obtained by use of: physical force, intimidation, coercion
- Cannot be given by someone known to be mentally/physical incapacitated

Why should you care?

You are a Responsible Employee

- When you know, the university knows.
- When the university knows, we have been put on notice.
- When we have been put on notice, we have a duty to take immediate and corrective action as required by law.

Confidentiality – we cannot guarantee due to all the involved parties

- Keep it private, but it can't be confidential

Liability for Sexual Harassment Claims

- Davis v. Monroe County in 1999
- The United States Supreme Court has held that a school district and college and university may be held liable under Title IX
- When a school administrator who has authority to stop the harassment, has *actual knowledge of the harassment and is deliberately indifferent to the harassment.*

Office of Civil Rights (OCR)

The United States Department of Education, Office of Civil Rights, (OCR) is responsible for enforcing Title IX

- OCR guidelines state: The college is responsible if it knew or reasonably should have known of the harassment, and failed to promptly take reasonable steps to end the harassment and prevent recurrence.

As a Responsible Employee you must:

Notify the Title IX office of any reports of

1. Sexual misconduct
2. Discrimination
3. Harassment
4. Hostile Environments

Communicate in every situation involving:

1. Minor OR
2. On campus OR
3. Between our people ON/OFF campus

Title IX Protocol and Procedures

First step: a preliminary meeting between the complainant and the Title IX Coordinator or designee to assess the nature and circumstances of the allegations.

- Physical safety and emotional well-being of complainant
- Right to contact law enforcement and seek medical treatment
- Importance of preserving evidence
- Information regarding on campus and off campus resources
- Notice of interim accommodations and remedies
- Discuss procedural options, filing the complaint, and complaint process.
- Right to an advisor and discuss preference for resolution
- Explain ORU's policy prohibiting retaliation

Title IX Protocol and Procedures (cont.)

Second step: The Title IX Coordinator or designee will then notify the respondent of the allegations

- The respondent will be notified of the alleged policy violations being investigated
- Will be provided with explanation of the process
- Importance of the preservation of evidence
- Discuss interim measures and remedies that have been put in place between complainant and respondent
- Notice of on campus and off campus resources
- Notice of right to an advisor
- Explain ORU's policy prohibiting retaliation

Title IX Protocol and Procedures (cont.)

- A prompt, fair, and impartial investigation
- An assessment of the reported conduct and need for a timely warning under the Clery Act will be reviewed.
- The Title IX Coordinator will determine
 - whether the matter is a violation of policy/honor code
 - whether to move forward with the complaint resolution process.
- Both parties will be notified of the decision (ORU reserves the right to move forward even if the victim chooses not make a complaint).
- The Title IX Coordinator and/ or designee has discretion to refer the matter to other disciplinary procedures.

Some obvious practices:

- Don't harass, abuse, assault, kiss, date, or discriminate against students.
- Don't invite students of the opposite sex to be in your apartment alone.
- Don't provide alcohol to or drink with students.
- Don't have dinner alone with a student of the opposite sex.
- Don't invite students into your hotel room.
- Don't tell students that you would date them if you were younger/single/a student.

Best practices:

- Sensitive content should remain professional and only on what is pertinent. (no jokes)
- Comments should not be directed to a student about their personal attributes or to other students.
- Nicknames that could be perceived as derogatory should not be used: honey, sugar, sweetheart, baby, babe, darling, pudding, snowflake, etc.
- The students are adults. Don't reference them as kids, boys, or girls.

What to do?

- What do you do if one of your students or student leaders tell you that they know about someone who may have been assaulted?
- What do you tell a person who may have been assaulted?

When someone comes to you, they trust you, they want help from you, they believe if they tell you, you will help them.

Secondary Victimization

- Attitudes, beliefs and behaviors that victims experience that blame them rather than the perpetrator
- Exacerbates the trauma as a second rape
- Examples would include: discouraging them from reporting, telling them it isn't that serious, asking about behavior, dress, or what they might have done to provoke the assault

Stay calm, listen, be supportive, and take allegations that are reported to you as serious.