



Staff & Faculty

TITLE IX TRAINING

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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

Examples of Educations Programs or Activities

- Admissions
- Academic instruction
- Sports team
- Hiring & work-study
- Residence life
- Games, concerts, and campus events
- Sponsored organization activity
- Off campus trips organized by the institution

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.

Example # 1

A manager tells a subordinate employee they will not get a raise unless the subordinate performs sexual favors.

Example # 2

A faculty member tells a student they can raise their grade if the student wears revealing clothing "more pleasing" to the eye.

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

Sexual Harassment Scenarios

1. You are a faculty or staff member, and Laurel, a student, comes to you telling you that a student friend of hers was sexually harassed, but doesn't want to take action. What do you do?
2. You are a supervisor, and one of your employees tells you that she has been sexually harassed by another employee. The situation she describes doesn't sound like sexual harassment to you, it seems the employee is too sensitive. You suspect the employee may be making more out of the situation to get out of an unwanted assignment. What do you do?
3. You are a staff member and a co-worker tells you that a friend of his in another department has been sexually harassed, but the friend "doesn't want to do anything about it." What do you do?

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

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

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

- Will be provided with explanation of the process
- Discuss interim measures and remedies that have been put in place between complainant and respondent

A prompt, fair, and impartial investigation

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.

Others are less obvious:

- What about hugs?
- What about telling a student that they look pretty?
- What about casual conversations in the dorms/saga?
- What about jokes and forwarding funny emails?
- What about personal interactions at conferences/events/retreats/missions?

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.

QUESTIONS?

Email titleix@oru.edu or call ext. 7874.

