Title IX & Clery: Faculty and Staff Training

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Karen Logsdon, Title IX Deputy Coordinator, EMSA
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Training 2015-2016
Why?

To build a culture of reporting
Training Overview

- Title IX Compliance
  - Background & define sex discrimination
  - Title IX College Officials
  - Employees how/what to report & reporting obligations
- Clery Act Compliance Overview
  - Campus Security Authorities
  - Other Clery Act provisions including VAWA Act reauthorization
Statement of Non-Discrimination

“The college is committed to fostering a diverse community of outstanding faculty, staff, and students, as well as ensuring equal educational opportunity, employment, and access to services, programs, and activities, without regard to an individual's race, color, national origin, religion, creed, age, disability, sex, gender identity, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction. Employees, students, applicants or other members of the college community (including but not limited to vendors, visitors, and guests) may not be subjected to harassment that is prohibited by law, or treated adversely or retaliated against based upon a protected characteristic.”
Title IX Compliance

- Denine Carr, JD, Title IX & College Compliance Officer
  - Coordinates along the implementation of the College’s Title IX & VAWA compliance efforts, including training, education, communications, and administration of complaint procedures for faculty, staff, students and other members of the College community.
  - Leads the College’s efforts for an educational, working and living environment free from gender-based discrimination, including sexual harassment.

- Karen Logsdon, PhD, EMSA, Title IX Deputy
  - Works closely with Title IX & College Compliance Officer as an integral member of the College’s Title IX compliance team.

- Susan Hoffman, Athletics, Title IX Deputy
  - Monitors and ensure compliance with Title IX regulations as they pertain to equity in intercollegiate athletics.
Title IX states:

“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 education program or activity receiving Federal financial assistance.”

Title IX of Education Amendments of 1972 Implementing Regulations at:
College’s Responsibility

- A College must:
  - Eliminate sexual discrimination/harassment
  - Prevent its recurrence
  - Address its effects
  - Response must be prompt and equitable
  - Prevent and address retaliation

- A College violates Title IX if it has notice of a sexually hostile environment and fails to take immediate and effective corrective action.
Liability for Sexual Harassment
Claim Under Title IX

• Per the US Supreme Court, a school district or college may be held liable for sexual harassment of a student by either an employee or a fellow student if:
  
  – a school administrator who has authority to stop the harassment has **actual knowledge** of the harassment and is **deliberately indifferent** to the harassment.
What does OCR Say?

• The US Department of Education, Office of Civil Rights, ("OCR") is responsible for enforcing Title IX.
  - OCR takes a broader view of an institution’s responsibility to respond to sexual harassment against students and to remedy gender discrimination, sexual harassment and sexual assault.

• 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.
Title IX: Who does it cover?

- Students
- Employees
- Vendors
- Visitors

- Sexual discrimination/harassment/violence by employees, students, or third parties against employees, students, or third parties.
The Where of Title IX Reporting

- On Campus
- Campus sponsored activities
- Bus trips/away games
- Study Abroad
- Conferences
- Internships
- Alumni Activities
- Others?
Title IX: What does it cover?

- Prohibits sex (gender-based) discrimination
- Prohibits Sexual harassment and sexual violence, which are forms of sex discrimination
- Prohibits other forms of sex discrimination:
  - Unequal Pay
  - Pregnancy
How to Report

Faculty and staff can file a complaint of sex discrimination with Denine Carr, JD, Title IX & College Compliance Officer through any of the following:

- Email titleix@brockport.edu
- (585) 395-5066
- Office located in Allen Administration Building.
Faculty/Staff Discrimination Complaint Procedure

• After a complaint is received, a preliminary investigation is conducted to determine whether a violation may have occurred.
• If so, a full investigation is conducted.
• In cases not involving sexual assault, the parties may choose to resolve the matter in an informal facilitated conference.
Faculty/Staff Discrimination Complaint Procedure

- In cases involving serious allegations, interim measures may be taken to protect the complainant.
- If the investigation indicates that College policy was likely violated and disciplinary action may need to be taken against the accused employee, then the employee’s union becomes involved.
- The union participates in an additional investigation.
Faculty/Staff Discrimination Complaint Procedure

• If sufficient evidence supports a finding of violation of College policy, appropriate action is recommended which may result in disciplinary measures being taken to remedy the violation.

• Both parties will receive a notice of the outcome of the investigation.

• A panel hearing may be held.
Title IX Reporting Obligations

OCR’s 2001 Guidance “a responsible employee includes:

- any employee who has the authority to take action to redress sexual violence
- who has been given the duty of reporting incidents of sexual violence or other misconduct by students to Title IX coordinator/designee
- or who a student could reasonably believe has this authority or duty”
Responsible Employees

- Responsible employees should make every effort to ensure that a student who is about to make a disclosure to them understands:
  - Their obligation to report: 1) the name(s) of the alleged perpetrator(s); 2) the name of student/victim involved in the incident of sexual violence; and 3) relevant facts regarding the incident (including the date, time, and location), to the Title IX Coordinator.
Sexual Harassment

- Quid Pro Quo
- Hostile Environment
- Retaliation
Quid Pro Quo

- Unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature,
  - When submission to or rejection of such conduct is a basis for decisions affecting the student’s education or participation in a College activity.
  - Examples: Submission to sexual conduct in exchange for a particular grade, favorable job recommendation, or selection as a captain of a sports team.
Hostile Environment

- Unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature which is sufficiently severe, persistent, or pervasive so as to alter the conditions of a student’s education by interfering with the student’s ability to benefit from the educational program.
Under both Title VII (employee sexual harassment) and Title IX (student sexual harassment) it is unlawful to retaliate against an individual who has:

- made a complaint of sex discrimination, including sexual harassment/assault;
- participated in the investigation of such a complaint (i.e., witnesses); or
- opposed conduct that is reasonably believed to violate Title VII or Title IX.
Gender-Based Discrimination

- Dating Violence
- Domestic Violence
- Stalking
- Sexual Assault
SUNY Uniform Policies on Sexual Violence

- December 2014: Governor & BOT issued mandates for all SUNYs in the following areas:
  - Definition of Consent as Affirmative Consent
  - Amnesty Policy
  - Campus Climate biennial assessment
  - Sexual Violence Victim Bill of Rights
  - Sexual Violence Response Policy
  - Confidential Reporting
  - Education for athletes, student leaders and new students
Definition of Affirmative Consent

- Affirmative Consent is the knowing, voluntary, and mutual decision among all participants to engage in sexual activity.
- Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity.
- Silence or lack of resistance, in and of itself, does not demonstrate consent.
- The definition of consent does not vary based upon a participant’s sex, sexual orientation, gender identity, or gender expression.
Student Complaint Process

- Reporting Options
  - Student Conduct-Thompson Hall
  - University Police or local police agency
  - Title IX & College Compliance Officer
  - Confidential options include:
    - Hazen Health Center and Counseling Center
    - RESTORE (rape crisis services) – proxy report
Student Complaint Process

- Code of Student Conduct
  - Sexual Misconduct - four prohibited behaviors:
    - sexual harassment;
    - non-consensual sexual contact;
    - non-consensual sexual intercourse; and
    - sexual exploitation.
Warning Signs in Students

- Change in behavior
  - An engaged student – becomes disengaged
- Emotional/Distressed or Sadness
- Missing practices and classes
- Disinterest in athletic performance or in academics
- Use of alcohol/other drugs
- Desire to leave/withdraw from school

Sharing your observations of a student that you are concerned about is not a FERPA violation.
Clery Act
What Are CSAs?

Campus Security Authorities are:

- “Officials who have significant responsibilities for students and campus activities.”

- An “Official” is any person who has the authority and the duty to take action or respond to particular issues on behalf of the College.
Who Are CSAs?

- Includes coaches, RAs, RDs, athletic directors, student affairs administrators, coordinator of internships, mentors, student organization advisors, Title IX coordinators, Greek life coordinators, event security, campus escort attendees, parking office attendants, international student department, etc.
CSA Obligations

- If you witness, learn of, or hear about a Clery Act crime, you must, as soon as possible, contact University Police and tell them what happened and where it happened. You may identify the victim or keep the victim's identity confidential.

- You do NOT need to investigate, nor convince the victim to directly contact law enforcement.
Clery Act Reportable Crimes

- Murder/Non-negligent Manslaughter
- Negligent Manslaughter
- Forcible Sex Offenses
- Non-forcible Sex Offenses
- Robbery
- Aggravated Assault
- Burglary
- Arson
- Motor Vehicle Theft.
“Dating Violence” refers to a violent act, committed by:

- A person who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- The existence of the relationship is determined based upon the 1) length of the relationship; 2) type of relationship; and 3) frequency of interaction between the persons in the relationship.
Clery Act Reportable Crimes (cont.)

- “Domestic Violence” refers to a violent crime, committed by:
  - Current or former spouse or intimate partner
  - OR
  - Person sharing a child with the victim
  - OR
  - Person living with or who has lived with the victim as a spouse or intimate partner
Clery Act Reportable Crimes (cont.)

- “Stalking” refers to a course of conduct (two or more acts) by which the stalker directly, indirectly, or through third parties follows, monitors, observes, surveils, threatens, or communicates with a person or interferes with his or her property; and

- Is directed at a specific person; and

- Causes a reasonable person to fear for his or her safety or the safety of others or causes that person to suffer substantial emotional distress.
Clery Reporting is Based on Location

- On campus
- Public areas immediately adjacent to campus
- Campus-owned buildings and property
- College-sponsored activities, events and/or trips on non-campus property
How to File a Clery Report

- Call University Police – Chief Kehoe or email rkehoe@brockport.edu

- No personally identifiable information needs to be shared by the reporter to satisfy Clery reporting requirements.
Other Clery Act Provisions

- Designate a department/college official to train CSAs on their obligations under the Clery Act

- Publish an **Annual Security Report (Campus Safety Report)** disclosing security policies and selected crime statistics for previous 3 years – Must be made available to all current students and employees, as well as all prospective students and employees
Other Clery Act Provisions (cont.)

- Institution must issue “Timely Warnings” to the campus community about crimes that pose an ongoing threat to students or employees.
- Police or security departments must have a public crime log.
- Sexual assault victims are assured basic rights. (Student’s Bill of Rights- www.brockport.edu/policies)
- Failure to comply may result in substantial fines and/or loss of eligibility to participate in federal student aid programs.
Sexual Offense Reporting Requirements

- If the sexual offense occurred on campus or at an "included" off-campus location (study abroad, athletic road trip, etc.) it must be reported to University Police for Clery Act purposes.

- If victim requests confidentiality, the basic information (date, general location, nature of offense) must still be reported, but the victim's identity need not be revealed.
Sexual Offense Reporting Requirements (cont.)

- If the offense occurred off campus, there is no legal requirement to file a police report. However, the victim should be encouraged to file a report with local law enforcement.

- If the incident involves a Brockport student or employee, it must be reported to the Title IX & College Compliance Officer, Deputy Coordinator or the Student Conduct Coordinators.

The College at Brockport State University of New York
Clery Act Questions
The College at Brockport prohibits the crimes of dating violence, domestic violence, sexual assault and stalking.
Summary & Questions
Title IX Contact Information

- **Denine Carr, JD, Title IX & College Compliance Officer**
  Allen Administration Building, 395-5066,
  titleix@brockport.edu or dcarr@brockport.edu

- **Karen Logsdon, Title IX Deputy Coordinator**, 707 Allen Building, 395-5042, klogsdon@brockport.edu

- **Title IX Website**: http://www.brockport.edu/titleix/
Clery Contact Information

- Chief Bob Kehoe, University Police, Lathrop Hall
- 395-2226 and for emergency 395-2222
Resources

- Title IX Webpage:  
  - [www.brockport.edu/titleIX](http://www.brockport.edu/titleIX)

- DOE (OCR) Dear Colleague Letter  

- Campus Safety Report:  

- Clery Center for Security on Campus:  
  - [http://clerycenter.org/](http://clerycenter.org/)

- Code of Student Conduct:  
  - [https://www.brockport.edu/policies/docs/code_of_student_conduct.pdf](https://www.brockport.edu/policies/docs/code_of_student_conduct.pdf)
Resources

- Clery Center for Security on Campus: http://clerycenter.org/
- US Department of Education, Title IX at www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html
- US Department of Justice, Violence Against Women at www.ovw.usdoj.gov/
- New York State Coalition Against Sexual Assault (NYSCASA) at www.nyscasa.org
- Rape Abuse Incest National Network (RAINN) at www.rainn.org/
- National Center for Higher Education Risk Management at www.ncherm.org
Resources

- ATIXA at www.atixa.org
- Women’s Law Project at: www.womenslawproject.org/
- College Health Association, *Shifting the paradigm: Primary prevention of sexual violence* found at: www.acha.org/sexualviolence/docs/ACHA_PSV_toolkit.pdf
- Men Can Stop Rape at: www.mencanstoprape.org
- Tough Geise (Dvd), Jackson Katz at: www.jacksonkatz.com/
- Department of Education, Online Clery Tutorial at www2.ed.gov/campus-crime/HTML/cc_on/Contents.html