

# TITLE IX Overview

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# APPLICABLE LAWS

Federal

- Title IX -1972
- Jeanne Clery Act- 1998
- Dear Colleague Letter – 2011
- VAWA - 2013
- Prohibits sex discrimination
- Requires colleges disclose info re: crime on or around campus
- OCR provides guidance re concerns arising in sexual violence cases
- Part of VAWA amendments, revised Clery Act, requires reporting of additional sexual violent crimes

## **Sex Discrimination, Violence, and Harassment on Campuses**

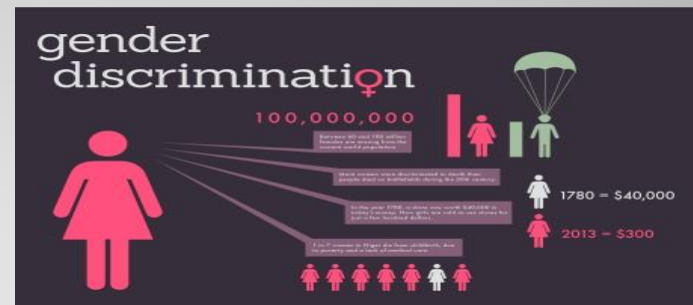
- Part of Educational Amendments to Title IX of the Civil Rights Act of 1964
- “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any education program or activity receiving Federal financial assistance.”
- Most guidance comes from other sources
  - Dear Colleague Letter April 4, 2011

## What is Title IX?

- Title IX protect all students from:
  - sex-based discrimination,
  - harassment, or
  - gender violence at educational institutions receiving federal funding
  - Nonsexual, unwelcome conduct based on student's actual or perceived sex
- Applies to females, male, gender non-conforming students, faculty and staff.
- Applies to lesbian, gay, bi-sexual, transgender, and queer students
- Applies to different races, national origins, int'l, undocumented students

**What is Title IX?**

- Events that denies or limits student's ability to participate in or receive benefits/services; or opportunities in programs, sports, housing, health services
- Prohibits sexual harassment in education and activities:
  - Academic
  - Educational
  - Extracurricular
  - On campus or off campus
  - Programs sponsored at another location



## Sex-Based Discrimination

- Nonsexual, unwelcome conduct based on student's actual or perceived sex
- Includes harassment based on gender, identity, gender expression, and nonconformity with gender stereotypes
- Includes sexual violence:
  - Rape
  - Sexual assault
  - Sexual battery



## Gender-Based Harassment

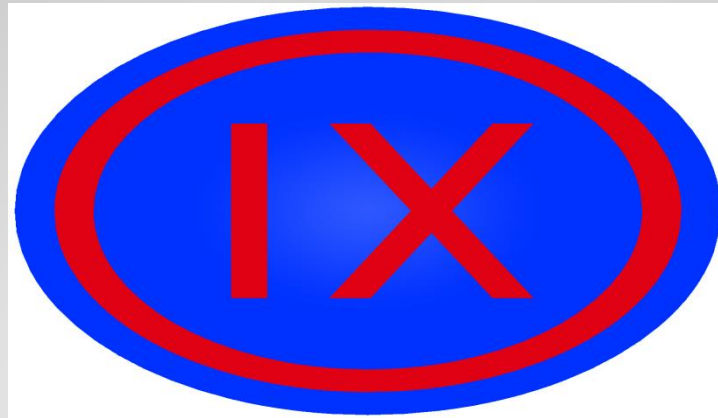


- Harassment/violence is sexual in nature
- Stalking, voyeurism, exhibitionism, verbal or physical sexuality-based abuse or threats
- Violence includes intimate partner or domestic partner violence and dating violence as well as attempted or completed rape or sexual assault



## Sexual Harassment/Sexual Violence

- As of January 2015, 94 postsecondary institutions with pending Title IX sexual violence investigations. Several were in California



**Title IX in the News**

- When sexual misconduct is so severe, persistent, or pervasive as to deny or limit a student's ability to participate in or benefit from the school's programs:
  - a hostile environment exists and the school must respond

## **District Responsibilities**

- Must take immediate and appropriate steps to investigate or determine what occurred:
  - When it knows or should have known of possible sexual harassment
  - If investigation shows sexual harassment created hostile environment, take prompt and effective steps to:
    - Stop the conduct
    - Prevent its recurrent
    - Remedy its effects



## District Responsibilities

- Must provide:
  - Notice of grievance procedures
  - Where to file complaints
  - Reliable and impartial review, including opportunity to present witnesses/evidence
  - Prompt time frames
  - Notice of outcome
  - Assurance will take steps to prevent recurrence and correct discriminatory effects



**Notice**

- School must designate at least one Title IX Coordinator
- School must have “responsible employees”
  - “responsible employees” will connect the student with the Title IX Coordinator
  - Train them to report harassment
  - Train them how to respond to harassment

**District Responsibilities**

- Who is a “responsible employee”?
  - Has authority to redress sexual harassment/violence or
  - Has been given the duty to report sexual violence or other conduct under Title IX or
  - Whom a student could reasonably believe has this authority



# Responsible Employee

- Faculty/staff who receive complaints of sexual harassment or sexual violence must report complaints to Title IX Coordinator
- What do you report?
  - Sexual harassment including when incident occurs off-campus and outside district's educational programs/activities
  - If ongoing effects on-campus and off-campus or the sexual harassment create or contribute to hostile environment, District must address the hostile environment as if it were an on-campus incident

## **Title IX Reporting**



- What to do:
  - Inform student you are mandated reporter
  - Exercise empathy and compassion
  - Listen without judgment
  - Protect privacy but do not guarantee confidentiality
  - You are not the investigator – connect them to campus resources

## Title IX Reporting

- Health services
- Counseling services
- Campus police

**Campus Resources**

- Title IX: Must review and investigate reports
- Appoint Title IX Compliance Coordinator
- Train on identifying and reporting
- Take action assume victim continue education free of discrimination, harassment and violence
- Make accommodations for victim as needed in housing, academic, work and transportation

## **District's Responsibilities**

- Title IX Coordinator – Key Principles
  - Independent
    - Reports directly to Chancellor/Superintendent
  - Full time job
  - May have multiple Coordinator



**Title IX Coordinator**

- When complaint is filed or, employee learns of possible sexual misconduct
  - Investigate
  - Take steps to end misconduct
  - Eliminate effects of misconduct
  - Prevent harassment from recurring



## District's Responsibilities

- **INVESTIGATE**

- Thorough
- Reliable
- Impartial

- **PROCESS**

- Prompt
- Effective
- Equitable

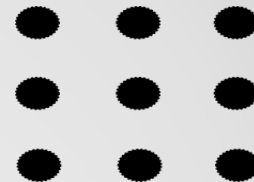
- **REMEDIES**

- End discrimination
- Prevent recurrence
- Remedy effects on victim and community



## **Title IX Concepts**

- Cannot guarantee confidentiality
- District must investigate, even if victim is uncooperative
- Investigation must follow timelines
- Victims entitled to presence of an advisor during hearings, notification of outcomes of complaints and have right to an appeal



**Key Points**

- Interim measures
  - Allow complainant to avoid contact with alleged harasser
    - Change classroom, change dorm rooms
    - Offer interim measures and support
      - Escorts, counseling
  - Minimize burden on complainant

**Interim Measures**



- What to do with reluctant complainants
  - Discuss the concern
  - Offer limited confidentiality
  - Discuss school's concern for safety
  - Offer interim measures



## Reluctant Complaints

- Under Title VII and IX, District may not retaliate against someone who made a complaint of sexual harassment, participated in an investigation, or opposed conduct reasonably believed to violate Title VII or IX



**Retaliation**

- Classroom adjustments
- Academic support
- Allowing student re-take court
- Escort service
- Counseling
- Protective orders



## Remedies

- Must offer new students and employees prevention and awareness programs
  - Promotes awareness of rape, domestic violence, dating sexual, sexual assault, and stalking
  - Encourage everyone to report misconduct to faculty, staff of administrator
  - Training must include:
    - Statement school prohibits these offenses
    - Definition of offenses

## New Requirements



Thank you!

