



November 1, 2023

Responsible Employee Training for Student Facing Roles

University of Louisiana System Title IX Summit

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TRAINING OBJECTIVES



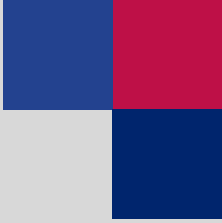
Identify the laws and institutional policies that create reporting responsibilities.



Define reportable behaviors covered under the laws and institutional policies.



Describe actions a mandated reporter should take when responding to a disclosure.



LAW AND POLICY OVERVIEW

FEDERAL AND STATE LAWS

Title IX of the Education Amendments of 1972

The Jeanne

MANDATORY REPORTING LAWS

Title IX

Sexual assault
Dating violence
Domestic violence
Sex-based stalking
Sex discrimination
Sexual harassment

Clery Act

Sexual assault
Dating/Domestic violence
Stalking (all)
Criminal offenses
Hate crimes
Alcohol, drugs, and weapons

VAWA §304

Sexual Assault
Dating Violence
Domestic Violence
Sex-based stalking
Non-sex-based stalking





WHAT MUST BE REPORTED?

Title IX Prohibited Behaviors

Clery Act Crimes

Title VII Prohibited Behaviors

CANRA Behaviors

Sex-Based
Discrimination

Sexual Harassment

Retaliation

SEXUAL HARASSMENT

Sexual Harassment is conduct on the basis of sex meeting one of the following conditions:

An employee of the Recipient conditioning the provision of an aid, benefit, or service of the Recipient on an individual's participation in unwelcome sexual conduct;

Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the Recipient's education program or activity; or

“Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v)

“Dating violence” as defined in 34 U.S.C. 12291(a)(10)

“Domestic violence” as defined in 34 U.S.C. 12291(a)(8)

“Stalking” as defined in 34 U.S.C. 12291(a)(30)





DATING VIOLENCE

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition —

Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

DOMESTIC VIOLENCE

A felony or misdemeanor crime of violence committed —

DOMESTIC VIOLENCE (CONT.)

To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.





CLERY ACT CRIMES

Reportable Criminal Offenses

Homicide
Sexual Assault
Robbery
Aggravated
Assault
Burglary
Motor Vehicle
Theft
Arson

Hate Crimes

Disability
Ethnicity
Gender
Gender Identity
National Origin
Race
Religion
Sexual
Orientation

Alcohol, Drugs, & Weapons

Weapons Law
Violations
Drug Abuse
Violations
Liquor Law
Violations
Disciplinary
Referrals

INTERSECTION OF POWER-BASED VIOLENCE

Power-based violence means any form of interpersonal violence intended to control or intimidate another person through the assertion of power over the person

Domestic violence and family violence

Dating violence

Sexual assault (i.e., rape, statutory rape, incest, sexual battery, female genital mutilations, intentional exposure to HIV)

Sexual Harassment

Sexual Exploitation

Nonconsensual observation of another person's sexuality (i.e., voyeurism, nonconsensual disclosure of a private image, and peeping tom activities)

INTERSECTION OF POWER-BASED VIOLENCE (CONT.)

Power-based violence means any form of interpersonal violence intended to control or intimidate another person through the assertion of power over the person.

Stalking and cyberstalking

Catch-all – unwelcome sexual or sex-or-gender-based conduct that is objectively offensive, had a discriminatory intent, and lacks a bona fide academic purpose

Conduct covered under power-based violence is broader than sexual harassment covered under Title IX.

OTHER LAWS THAT DETAIL REPORTING REQUIREMENTS

Abuse or Suspected Abuse of Minors

All employees are required to report abuse or suspected abuse of minors consistent with state law. This generally includes immediately reporting to law enforcement and to the state's child welfare agency.

Additional state reporting requirements (e.g., elder abuse and felony reporting)



REPORTING OBLIGATIONS

Notice, Reporting, & Confidentiality
Privilege v. Confidential v. Private
Mandatory Reporting Requirements

TITLE IX REPORTING OBLIGATIONS

Official with Authority (OWA)

POINT PERSON FOR REPORTS AND COMPLAINTS

The Title IX Coordinator will be the individual designated to ensure the Title IX protocol is implemented and therefore should be the individual to whom all complaints or notice related to sex/gender harassment, misconduct, and discrimination should be directed

Contact information for Title IX Coordinator must be included on website and in all handbooks/catalogs given to applicants for admission and employment, students, employees, and unions

Recipient may designate multiple portals for receipt of information (e.g., Deputy Coordinators)

- All employees are expected to report notice and complaints to the Title IX Coordinator

NOTICE TO THE INSTITUTION

“Actual Knowledge

MANDATORY REPORTERS – TITLE IX

ATIXA recommends that all employees* report because this:

Enables institution to best support those who have experienced harassment or discrimination

Better enables tracking patterns

Ensures information gets to those trained to respond

PRIVILEGE VS. CONFIDENTIALITY VS. PRIVACY

Privilege

Granted by laws and professional ethics

Attorneys, licensed professional counselors, medical professionals, pastoral counselors

To have privilege, these individuals must be:

- Acting in the capacity for which they are employed,
- Acting within the scope of their license, and
- Receive the disclosure during the scope of that employment

Key exception is child abuse reporting

PRIVILEGE VS. CONFIDENTIALITY VS. PRIVACY

Confidentiality

- Designated by the institution

- Do not have to report harassment or discrimination of which they become aware

- Allows for provision of services and support without concern of reporting

- Examples: Victim advocates/sexual assault-related services, gender-based resource centers, Advisors during resolution processes, ombudspersons

- Must still follow state reporting laws

ATIXA recommends confidential employees report aggregate, non-identifiable data for Clery and Title IX statistical purposes

PRIVILEGE VS. CONFIDENTIALITY VS. PRIVACY

Privacy

Anyone who does not meet the institution's definition of a "Mandatory Reporter" can maintain privacy.

If using the OWA standard, then notice to those deemed

HOW TO DESCRIBE YOUR DUTY TO REPORT

Notify the person of your obligation to report incidents of discrimination, harassment, or violence

Explain that the information will be kept private, not confidential (unless you are a confidential resource)

Frame your duty to report as an opportunity to provide support and resources

Reinforce that you want the person to share the information with you

EXAMPLE SCRIPT

“Thank you for sharing this information with me. I want to you know that I and others at the College are here to help and support you.

It is also important for you to know that I have an obligation to report any incidents that involve things like [sex-or-gender-based discrimination, harassment, or violence] when I become aware of them. So, I’ll need to share this information with the College’s Title IX Coordinator.

Our process is private, which means that only people who need to know this information will know.

The Title IX Coordinator can talk with you about your options, provide resources, and answer your questions.”

MANDATORY REPORTER RESPONSIBILITIES

Upon receiving a disclosure

- Make sure the person is safe

- Thank the person for sharing the information with you

- Inform the person of your obligation to report

- Promptly make a report

Reports should include:

- Names of those involved

- Student ID (if available)

- Date, time, location of the incident (if known)

- Everything else known about what occurred

REPORT VS. COMPLAINT

REPORT VS. COMPLAINT (CONT.)

Upon receiving a “formal complaint:”

Conduct initial assessment to determine jurisdiction

Triggers obligation to follow “grievance process”
including investigation and hearing

FORMAL COMPLAINT

Formal Complaint

- Document or electronic submission

- Filed by Complainant or signed by TIX Coordinator

 - TIXC does not become a party to the complaint

- Alleging sexual harassment

- Requesting an investigation

- Complainant must be participating or attempting to participate in the Recipient's education program or activity at the time of filing

- Initiates mandatory grievance process (investigation and hearing)



REQUESTS FOR CONFIDENTIALITY (CONT.)

The institution's responsive action/remedial abilities may be limited based on the level of confidentiality or privacy requested by the Complainant

Privacy cannot be guaranteed if doing so would jeopardize the safety of the Complainant or others

Only those with a need to know will be informed

If the Respondent is an employee, the institution may need to proceed due to Title VII

REQUESTS FOR CONFIDENTIALITY (CONT.)

The institution should take all reasonable steps to respond consistent with the Complainant's request

Provided that doing so does not prevent the Recipient from responding effectively and preventing the harassment of other students or the Complainant

Title IX Coordinators will use the PPTVWM analysis to determine whether to honor a Complainant's request for confidentiality

Proceeding without a Complainant's participation has due process implications for the Respondent



Questions?

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