

project **IX**

Title IX Track

The Evaluation of Your Role and Your
Responsibilities in 2018

Title IX

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.

What Does Title IX Cover?

- ✓ Achievement Awards
- ✓ Admissions
- ✓ Athletics
- ✓ Benefits
- ✓ Clubs and Activities
- ✓ Faculty Tenure/Rankings
- ✓ Financial Aid
- ✓ Housing
- ✓ Leaves of absence and re-entry policies
- ✓ Leaves of absence
- ✓ Pay Rates
- ✓ Qualifying examinations
- ✓ Recruitment
- ✓ Retention Rates
- ✓ Safety
- ✓ Screening Exams
- ✓ Student and Employee Benefits
- ✓ Transfer Approvals
- ✓ Vocational Counseling

And, of course, sexual discrimination and sexual violence

Goal of a Title IX Response

TITLE
IX

- Eliminate the hostile environment
- End the harassment
- Prevent its recurrence
- Remedy its effects

Why ONE Title IX Coordinator?

- Basic compliance structure
- Eliminates gaps and turf wars
- Advocate for the process at every phase and stage
- (But . . . As many deputies as you like)

Role of Coordinator

- Systemic issues and patterns
- Advocate for process, not parties
- Consistency in process
- Accountability
- Ensuring compliance
- At the end of the day, one person with this overall responsibility

Your Role

- Oversee compliance
- Advocate for equity
- Advocate for the process at every phase and stage
- Scanning the horizon

You don't have to do it, but you
have to make sure it gets done



The View in 2018

- Policy
- Prevention
- Communications
- Outreach
- Decision-maker
- Alternative Resolutions
- Interim Measures
- Data-gathering
- Investigations
- Ensuring sufficiency of investigations
- Policy determinations
- Sanctioning
- Appeals
- Monitoring
- Systemic issues and patterns

Policy Best Practices 2018

- Changes in OCR Guidance
- We get smarter as we go along
- Who can understand it
 - Are your definitions working?
 - Is it written for lawyers or 18 year olds?
- Equity

Prevention Best Practices 2018

- Do they *REALLY* understand consent?
- Smaller doses, more frequently
- Differentiating needs (freshmen versus graduate students)
- Taking culture into account, and shifting the culture

Communications Best Practices 2018

- Websites
- Information in catalogues and “major publications”
- Letters (notifications, outcomes)
- Timing of communications
- Reports

Communications part 2

- Who needs to know?
- Size of campus
- What will be done with the information
- Transparency versus protecting community members

Decision-Making in 2018

- Stakeholder or decision-maker?
- Shared decisions between Title IX, Conduct, HR, Academic Affairs

Alternative Resolutions

- There is nothing informal
- Be clear – can it lead to discipline?
- Sometimes take more time than an investigation
- When someone uses it as a ploy

Interim Measures 2018

- Implementation
- Sufficiency
- Balance

Interim Measures 2018

- No default positions
- NOT an accommodation
- Limited in duration, then revisit
- Need to adjust as new information is known
- For Complainants and Respondent

No-Contact Directives

- Mutual
- Understand the details
- Communicate the details
- No-contact directives when there is no Title IX violation alleged
- Who investigates violations of NCD

Investigations in 2018

- Transparency
- Exchanging information
- Sufficient time to review and respond
- Better gate-keeping
- Dating/Domestic violence cases

Was the Policy Violated?

Consent, Incapacitation
(Other definitions that matter)

Sanctioning

- What is the goal of a sanction?
- Your institution's moral compass
- Foreseeability of repeated conduct

Appeals

- Compassionate Timing of Communications
- Second Bite at apple
- Sanctioning as grounds for appeal?
- Roles; error-correction or substitution of judgment
- Is this a legal process now?

Some days are harder than
others . . .



Remember:

- Being anti-crime, or anti-sexual assault, is not the same as exhibiting gender bias
- Being victim-centered is not the end of due process
- Your words matter
- Be kind to others, be kind to yourself. It's hard work.

Questions?



