

PRESENTATION

TRAINING DAYS:
**Key Considerations for Designing and
Implementing an Effective Title IX Training
Program**

AGENDA

- Overview
- Who Should Receive Training?
- What Should Be Included In the Trainings?
- Obtaining and Allocating the Resources Necessary for Effective Training
- Other Considerations

OVERVIEW:

Campus Sexual Violence Elimination (SaVE) Act

- Signed into law as part of the *Violence Against Women Reauthorization Act of 2013* (VAWA) on March 7, 2013.
- Amends the federal *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act* (Clery Act), 20 U.S.C. § 1092(f).
- Requires public and private colleges and universities participating in federal student aid programs to increase transparency about the scope of sexual violence on campus, guarantee victims enhanced rights, provide for standards in institutional conduct proceedings and provide campus community-wide prevention educational programming related to campus sexual violence, domestic violence, dating violence and stalking.

WHO SHOULD RECEIVE TRAINING?

WHO SHOULD RECEIVE TRAINING?

- Title IX Coordinator(s) and Deputy Title IX Coordinator(s)
- Responsible Employees
- Confidential Resources
- Students
- Investigators
- Hearing Board Members
- Appeal Board Members or Decision Makers (if applicable)
- Any Employee Other than a Responsible Employee Likely to Witness or Receive Reports of Sexual Violence

WHAT SHOULD BE INCLUDED IN THE TRAININGS?

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General Topics

- Overview of Title IX
- Notice of Nondiscrimination
- Identification and Authority of the Title IX Coordinator(s) and Deputy Title IX Coordinator(s);
- Categories of Prohibited Conduct
- Policies and Grievance Procedures (Including Appeal Procedures)
- Institution's Stance on Privacy and Confidentiality
- Rights of the Alleged Victim and the Accused
- Anti-Retaliation Policy

WHAT SHOULD BE INCLUDED IN THE TRAININGS? For Title IX Coordinator(s)

Information about “[a]ll areas over which they have responsibility in order to effectively carry out [their] responsibilities”

- Policies and procedures on sex discrimination and all complaints raising Title IX issues throughout the institution;
- Applicable Federal and State laws, regulations and policies that overlap with Title IX; and
- Various aspects of Title IX

SOURCE: U.S. Department of Education Office for Civil Rights, *Dear Colleague Letter: Title IX Coordinators*, at 6 (April 24, 2015).

WHAT SHOULD BE INCLUDED IN THE TRAININGS?

For Title IX Coordinator(s) (continued)

- *General Topics (see above)*
- *Specific Topics*
 - *Department of Education’s Office for Civil Rights – Existence, Role and Authority*
 - *Duties and Authority of the Title IX Coordinator*
 - *Identifying the Institution’s “Responsible Employees”*
 - *Executing Interim Measures*
 - *Responding to Reports and Complaints*
 - *FERPA Primer*
 - *Responding to, Evaluating and Managing Student Requests for Confidentiality*
 - *Conducting Investigations*
 - *Preparing Notices of Outcome*
 - *Grievance Process Timelines and Deadlines*
 - *Litigation Primer*

WHAT SHOULD BE INCLUDED IN THE TRAININGS?

For Responsible Employees

- *General Topics (see above)*
- *Specific Topics*
 - *Reporting Obligations and Consequences for Failing to Report*
 - *Relationship to the Title IX Coordinator(s)*
 - *Methods for Appropriately Responding to Reports and Complaints*
 - *Reporting Methods*
 - *Litigation Primer*

WHAT SHOULD BE INCLUDED IN THE TRAININGS?

For Confidential Resources

- *General Topics (see above)*
- *Specific Topics*
 - *Extent of Reporting Obligations Under Title IX*
 - *Extent of Reporting Obligations Under the Clery Act*
 - *Responding to Student Requests for Confidentiality*
 - *Assisting Students With Reporting and Making Complaints*

WHAT SHOULD BE INCLUDED IN THE TRAININGS?

For Students

- *General Topics (see above)*
- *Specific Topics*
 - *Identity of All Responsible Employees*
 - *Identity of Those Who Are Not Responsible Employees*
 - *Identity of Confidential Resources*
 - *How the Institution Analyzes Whether Unwelcome Sexual Misconduct Creates a Hostile Environment*
 - *How the Institution Will Respond to, Evaluate and Manage Student Requests for Confidentiality*
 - *Interim Measures*
 - *Institution's Definition of "Consent"*
 - *Reporting Options*
 - *Consequences for Violating Relevant Policies*
 - *Role of Alcohol and Drugs in Incidents of Sexual Violence*
 - *Selection and Role of Advisors, if applicable*

WHAT SHOULD BE INCLUDED IN THE TRAININGS?

For Investigation and Adjudication Officials

STATUTE

20 U.S.C. § 1092(f)(8)(B)(iv)(I)(bb)

Procedures for institutional disciplinary action in cases of alleged domestic violence, dating violence, sexual assault, or stalking, which shall include a clear statement that—such proceedings be conducted by officials who receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.”

IMPLEMENTING REGULATION

34 CFR § 668.46(k)(2)(ii)

“... An institution must include in its annual security report a clear statement of policy that addresses the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking ... and that — provides that the proceedings will be conducted by officials who, at a minimum, receive annual training on the issues related to dating violence, domestic violence, sexual assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.”

WHAT SHOULD BE INCLUDED IN THE TRAININGS?

For Investigation and Adjudication Officials (continued)

In other words . . .

- *Officials must receive annual training on:*
 - *The issues related to dating violence, domestic violence, sexual assault, and stalking;*
 - *How to conduct an investigation that protects the safety of victims and promotes accountability (e.g., investigators); and*
 - *How to conduct a hearing process that protects the safety of victims and promotes accountability (e.g., hearing board members).*

WHAT SHOULD BE INCLUDED IN THE TRAININGS?

For Investigation and Adjudication Officials (continued)

INVESTIGATORS

- *General Topics (see above)*
- *Specific Topics*
 - *Best Practices for Preparing Investigation Plans and Reports*
 - *Questioning the Parties and Third-Party Witnesses*
 - *FERPA Primer*
 - *Maintaining Confidentiality*
 - *Preparing Findings of Fact*
 - *Obtaining and Reviewing Various Forms of Evidence*
 - *Institution's Definition of "Consent"*
 - *Understanding the "Preponderance of the Evidence" Standard*
 - *Conducting an investigation When Anonymity Is Requested*
 - *Litigation Primer*

WHAT SHOULD BE INCLUDED IN THE TRAININGS?

For Investigation and Adjudication Officials (continued)

HEARING BOARD MEMBERS

- *General Topics (see above)*
- *Specific Topics*
 - *Particular Types of Conduct That Would Constitute Sexual Violence, Including Same-Sex Sexual Violence, and How to Respond*
 - *Questioning the Parties and Third-Party Witnesses*
 - *FERPA Primer*
 - *Maintaining Confidentiality*
 - *Weighing Evidence*
 - *Gauging Witness and Evidence Credibility*
 - *Applying the “Preponderance of the Evidence” Standard*
 - *Institution’s Definition of “Consent”*
 - *Role of Alcohol and Drugs in Incidents of Sexual Violence*
 - *Necessity and Scope of Remedial Action*
 - *Board Member “Virtues”*
 - *Impact of Accusation of Sexual Violence on Parties’ Involved*
 - *Litigation Primer*

WHAT SHOULD BE INCLUDED IN THE TRAININGS?

FOR INVESTIGATION AND ADJUDICATION OFFICIALS (continued)

APPEALS

- *General Topics (see above)*
- *Specific Topics*
 - *Grounds for appeal*
 - *Timing to file an appeal*
 - *Form and content of appeal*
 - *FERPA Primer*
 - *Understanding the Application of the “Preponderance of the Evidence” Standard*

OBTAINING AND ALLOCATING THE RESOURCES NECESSARY FOR EFFECTIVE TRAINING

- *Outside Resources*
- *Board Involvement*
- *Inter-departmental partnerships*
- *Outside partnerships*
- *Technology*
- *On- or off-campus facility usage*
- *Communication methods*
- *Use of consultants or outside counsel*

OTHER CONSIDERATIONS

- There is no minimum number of hours required for Title IX and sexual violence training at every school, but this training should be provided on a regular basis.
- Each school should determine *based on the nuances of its particular campus culture* how such training should be conducted, who has the relevant expertise required to conduct the training, and who should receive the training to ensure that the training adequately prepares employees, particularly responsible employees, to fulfill their duties under Title IX.
- A school should also have methods for verifying that the training was effective.

Source: Questions and Answers on Title IX and Sexual Violence, Press Release, April 29, 2014.

THANK YOU!

Our Footprint

