



INTERIOR
DESIGNERS
INSTITUTE

INTERIOR DESIGNERS INSTITUTE-IDI
1061 CAMELBACK ST., NEWPORT BEACH, CA 92660
949-675-4451

Title IX Training

AGENDA:

- ❖ Overview of Title IX
- ❖ Forms of gender discrimination
- ❖ Compliance checklists
- ❖ Title IX Coordinator role
- ❖ Model training

Reference materials:

- ❖ Institution's Title IX Policy and Grievance Procedures
- ❖ Institution's most recent Clery Act Annual Security Report
- ❖ Other Institutional policies, procedures, and program materials relevant to Title IX and the Violence Against Women Act-VAWA

Why this matters:

- ❖ Sexual Harassment/Violence in Colleges
- ❖ As of September 2022, there were 9,498 postsecondary educational Title IX occurrences under investigation by the Department of Education's Office for Civil Rights (OCR) for Title IX Violations

- ❖ Investigations focus on the school's handling of sexual violence and harassment complaints

Overview of Title IX:

- ❖ Sources of Law
- ❖ Statutory: Title IX, VAWA
- ❖ Regulatory: Federal regulations 34 CFR §§ 668.46 (VAWA)
- ❖ Guidance: Dear Colleague Letters and Office for OCR Q&A

Title IX:

No person in the United States shall on the basis of sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance.

What Is Title IX?

- ❖ Prohibits sex-based discrimination in schools that receive any kind of federal funding, including this institution
- ❖ Sexual harassment and sexual violence are forms of sex discrimination
- ❖ Includes harassment based on gender stereotyping
- ❖ It also extends to employees of the school

Gender Discrimination:

“Denial of access to education” is interpreted very broadly, it includes express bans based on gender; treating students differently based on gender; discrimination based on gender; and discrimination includes sexual harassment and sexual violence.

What Is Sexual Harassment?

- ❖ Unwelcome conduct of a sexual nature
- ❖ Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that tends to create a hostile or offensive school environment
- ❖ Sexual harassment is prohibited by school policy and is unlawful

What is sexual violence?

- ❖ Sexual violence includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent)
- ❖ A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion
- ❖ Sexual violence can be carried out by school employees, other students, or third parties
- ❖ All such acts of sexual violence are forms of sex discrimination prohibited by Title IX

What has changed?

- ❖ Title IX has always prohibited discrimination, including sexual harassment.
- ❖ Following VAWA, schools have to do more to detect and prevent discrimination, including sexual violence, in addition to responding to allegations of such nature.

Schools' obligations have been expanded and the August 2020 final rule includes

a prescribed grievance process with an investigative process. These rules also outline a live hearing process allowing for cross-examination by designated advisors for each party.

- ❖ An appeal process, available to both parties, must be established.

Sex vs. Gender

- ❖ Note that the language in the statute refers to “sex” not gender.

- ❖ This has been interpreted to cover “gender stereotypes”— i.e., the roles that men and women traditionally play.

- ❖ Students and employees are protected from discrimination/harassment/sexual violence on the basis of their sex.

- ❖ Extends to the LGBTQ community.

Who Is Protected?

- ❖ Title IX’s sexual harassment and discrimination provisions (including sexual violence) extend to both employees and students.
- ❖ This means that for employees, in addition to guaranteeing their rights under other state and federal laws, the school has additional obligations under Title IX.

Where Does Title IX Apply?

Extends to all school-related activities — on and off campus, over which the school exercised substantial control, and the act was against a person in the United States.

Compliance Checklist:

Schools must establish the following:

- ❖ Notice of Nondiscrimination
- ❖ Title IX Coordinator(s)
- ❖ Grievance Procedure
- ❖ Means to conduct investigations and hearings
- ❖ Appeal procedures

Notice of Nondiscrimination:

- ❖ Puts students and employees on notice of their rights under Title IX

- ❖ Provides information for contacting the school's Title IX coordinator and OCR

- ❖ It's okay to update via catalog addendum or other notice; must also include in a public facing website

Notice of Nondiscrimination Checklist:

Must include the following:

1. The school does not discriminate on the basis of sex in its education programs and activities

1. The school is required by Title IX not to discriminate in this way
2. Questions regarding Title IX may be referred to the Title IX Coordinator or the OCR

3. Name, office address, phone, and email address of the Title IX Coordinator(s)

Title IX Coordinator(s)

- ❖ Schools must designate and authorize at least one employee to coordinate its efforts to comply with Title IX responsibilities

- ❖ Responsible for investigating complaints and enforcing school policy

- ❖ Can be one or more individuals

Title IX Coordinator Duties/Core responsibilities:

Oversee the school's response to Title IX reports and complaints; Identify and address any patterns or systemic problems

Must be:

- ❖ Knowledgeable of the requirements of Title IX, the school's policy and procedures, and all complaints raising Title IX issues
- ❖ Informed of all reports raising Title IX issues
- ❖ Given the training, authority, and visibility to fulfill these duties

Grievance Procedure

Schools must:

1. Adopt and publish grievance procedures
2. Respond promptly in a manner that is not "*deliberately indifferent*" – meaning in a way that is not clearly unreasonable in light of known circumstances
3. Can be included in ordinary grievance process, but must meet all the requirements of Title IX

Grievance Procedure Checklist

- ❖ Give **notice** to students and employees of Grievance procedures
- ❖ Application of the **grievance procedure** to complaints filed by students (or on their behalf) alleging sexual violence carried out by employees, other

students, or third parties

- ❖ Provisions for adequate, reliable, and impartial **investigation** of complaints, including the opportunity for both the complainant and the alleged perpetrator to present witnesses and evidence
- ❖ Provision of a **live hearing** with cross examination by each party's advisor
- ❖ Provision of an **appeal** process for certain items impacting outcome

Include the following:

1. A statement of the **school's jurisdiction** over Title IX complaints
2. Adequate **definitions** of sexual harassment (which includes sexual violence) and an explanation as to when such behavior creates a hostile environment
3. Explanation of **how to report** complaints, including provisions for confidential reporting
4. Identification of the employee responsible for evaluating requests for **confidentiality** (Title IX Coordinator)

Definitions:

Complainant – an individual who is alleged to be the victim of conduct that could constitute sexual harassment

Respondent – an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment

Formal Complaint – a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the school investigate the allegation of sexual harassment

Reporting Violations:

School Response Requirements

- ❖ Prompt response, explaining **process to file formal complaint**

- ❖ Provision of **supportive measures**

- ❖ Statement that Title IX **prohibits retaliation**

- ❖ Explanation of a student's **right to file a criminal complaint** and a Title IX complaint simultaneously

- ❖ Explanation of available **interim measures** that may be taken to protect the student in the educational setting

- ❖ A list of **evidentiary standards** that will be used (preponderance of the evidence or the clear and convincing evidence standard) in resolving a complaint

- ❖ A list of **potential remedies** for students, potential sanctions against perpetrators, and sources of counseling, advocacy, and support

Training:

In addition to the Title IX Coordinator(s), training materials must be made available on the school's website

Training for employees and students should include:

1. Contact info for the Title IX coordinator
2. School's obligations under Title IX
3. Recognizing & reporting harassment, discrimination, and sexual violence
4. School's policies & procedures
5. Prevention
6. No specified number of hours or frequency — must be done “regularly”

Investigations:

Tips for a Successful Investigation:

1. Treat all complaints seriously
2. Begin immediately
3. Select investigator carefully (need not be the Title IX Coordinator)
4. Prepare before interviews review complaint, school policies, student and/or employee files
5. Conduct a thorough investigation when, where, what, who and cover the same questions with all interviewees
6. Document, document, document

Investigations and Hearings:

“Investigation” refers to the **process the school uses**

to resolve Title IX complaints

Includes the **fact-finding** investigation and any **hearing** and **decision-making** process the school uses to determine:

Whether or not the conduct occurred; and,

1. If the conduct occurred, what actions the school will take to end the conduct, eliminate the hostile environment, and prevent its recurrence
2. Prevention may include imposing sanctions on the perpetrator and providing remedies for the complainant and broader student population
3. Must be **adequate, reliable, impartial, and prompt**
4. Must include the **equal opportunity** for both parties to present witnesses and other evidence
5. May include a **hearing** to determine whether the conduct occurred, including cross examination with party advisors
6. May offer and facilitate **informal resolution** options if both parties consent to attempt such (except allegations that an employee sexually harassed a student)

7. School **may** choose the standard of evidence - "preponderance of the evidence" or "clear and convincing evidence"
8. Both parties must be notified, in writing, of the **outcome** of both the complaint and any appeal
9. The school must provide a right of **appeal** to both parties

What if the claim lacks merit or the investigation is inconclusive?

- ❖ Document in the same fashion
- ❖ State that the school was either unable to corroborate the claims or is unable to conclude that the incident more likely than not occurred as reported by complainant
- ❖ No corrective actions will be issued
- ❖ Complainant may choose to change classes if he or she has not already done so

Preventing Discrimination:

- ❖ The school is always under an obligation to prevent discrimination, including a hostile environment and sexual violence
- ❖ This includes preventing retaliation against those who make good faith complaints of Title IX violations
- ❖ It also includes taking steps while

an investigation is pending to prevent ongoing harassment and retaliation

Other Concerns:

- ❖ FERPA=Family Educational Rights and Privacy Act,
- ❖ Title IX exceeds FERPA per Office of Civil Rights (OCR)
- ❖ Conflict can come up in investigations
- ❖ Clery Act=A sex crime reported to the school, even off campus may trigger Clery Act & Title IX obligation
- ❖ Parents, media, & others
- ❖ Stick to school policy

Hypotheticals

#1 - Student Bonding

Janice is a new student. A fellow student, Eric, invites her out for drinks after class. Over drinks, Eric asks whether they can have dinner sometime. Janice laughs off the suggestion, and they continue drinking together. At the end of the evening, Eric again asks her to dinner. She says “No.” They end the evening on a friendly note.

The following day, Eric sends an IM to Janice’s smart phone and again asks her out. Janice responds that she has a partner. Over the next few months, Eric and Janice email one another with jokes and videos, some of which are sexual in nature.

A couple months later Janice files a claim of sexual harassment claiming that Eric makes her uncomfortable and it began as soon as she started school.

Investigation

- ❖ Is an investigation merited?

- ❖ Where do you start?

- ❖ What questions would you ask?

- ❖ Examples:
 - ❖ Tell me what happened (avoid “yes” and “no” answers; narratives are helpful)

 - ❖ Did you let him know you were uncomfortable with his behavior?

 - ❖ What triggered the report?

#2 - Inappropriate Behavior in Class

Lauren and Gail often joke around in class and make sexually charged comments or innuendoes. The instructor has overheard the comments many times and does not know if anyone is uncomfortable with the comments.

Should she report the behavior to the Title IX Coordinator?

#3 - Trouble with a Partner

Yvette confides in her instructor that she and her boyfriend, also a student, have been having issues in their relationship. As a result, Yvette has lost focus at school and is struggling in classes. The instructor did not ask specifically what the “issues” were.

Should the instructor give the Title IX Coordinator a call?

#4 - Easygoing Instructor

Sam is a relaxed, easygoing instructor. She is not offended by student jokes or inappropriate comments. The school instructs her that she needs to tighten the reins in her classroom.

She begins to tighten the reins and reprimands Shelly, a chronic offender.

Shelly complains that whenever males in her class have said similar things in the past, they have not been disciplined and complains that Sam is singling her out based on her gender.

What are the obligations of the school to investigate the claim?

Mock Training for Employees and Students:

Title IX-Sexual Harassment, Violence, and
Discrimination Prevention for Students [IDI]

Introduction:

Title IX Coordinator: Renee Robles

Office location: Financial Aid Office

Telephone number: 949-675-4451

Email address: renee@idi.edu

I am responsible for ensuring the school is in compliance with its Title IX obligations.

Why Are We Providing This Training?

- ❖ School policy prohibits discrimination on the basis of gender, including sexual harassment and sexual violence

- ❖ The school wants to ensure that you know about this policy, how it is enforced, and how to report violations
- ❖ Retaliation against anyone reporting violations of this policy is prohibited

What Is Sexual Harassment?

- ❖ Unwelcome conduct of a sexual nature
- ❖ Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that tends to create a hostile or offensive school environment

Sexual Harassment Myths:

- ❖ Only women can be sexually harassed
- ❖ There is no such thing as same-sex harassment
- ❖ A person has to be the direct object of the harassment to be a victim
- ❖ Instructors can't be harassed by students
- ❖ The harasser must have a sexual interest in the victim

Who Is Protected By Title IX?

- ❖ Title IX applies to employees and students of the schools in the United States
- ❖ It protects both men and women; it applies regardless of sexual orientation
- ❖ Sexual harassment between people of the same gender is prohibited, just as harassment between individuals of opposite gender is prohibited

Where Does Title IX Apply?

- ❖ On and Off-Campus Conduct
- ❖ Title IX prohibits sexual harassment both on and off campus
- ❖ Title IX applies to school activities that occur off

campus where the school exercises substantial control

- ❖ Title IX may also apply to non-school related off-campus activity if it creates a hostile environment at school

Third Party Harassment:

- ❖ Students/staff are protected from harassment by persons who are neither students nor employees of the school, if such conduct occurs at the school or at a school related activity

How to Report Violations?

- ❖ The school's policy provides how you should report violations of the school's policy against gender discrimination
- ❖ Violations should be reported to the Title IX coordinator
- ❖ Reports may be made by the complainant personally, by a representative, or a combination of the two

Investigation of Complaints:

- ❖ When the school receives a complaint, the Title IX Coordinator will initiate an investigation
- ❖ A determination will be made whether the complaint is valid or not
- ❖ Retaliation is prohibited at all times, including while the investigation is pending

Questions?

Please direct them to the Title IX Coordinator, Renee Robles at the email and phone number listed above.