

# **Title IX, The Clery Act, and VAWA for Faculty and Staff**

## **Objectives**

Welcome to your course, Title IX, the Clery Act, and VAWA for faculty and staff at colleges and universities. After completing this course, you'll be able to...

- Comply with Title IX, the Clery Act, and VAWA laws to protect you and your students from sexual violence and discrimination.
- Recognize incidences of sexual violence and discrimination.
- Respond appropriately when a student or colleague tells you about sexual violence or discrimination.

## **A Student's Story**

You're holding office hours, and waiting to meet with a student who stopped going to class. When she walks in you can see that something is wrong. You ask her how you can help her with the course, and discuss the results of her last test. But the conversation takes an unexpected turn and she begins to tell you about her absence. A few weeks back, she says, she was sexually abused by someone she trusted on campus.

As a campus leader, you know you have a responsibility to steer this conversation in a helpful direction. But what's the best approach? What do you do if you see, experience, or hear about sex-based violence or discrimination on campus?

## **Title IX and the Clery Act**

Title IX and the Clery Act are laws that protect everyone on campus, including transgendered individuals and same-sex partnerships, from gender-based discrimination and violence. More recently, Congress updated the Clery Act to provide additional protection to anyone on campus who experienced sexual assault, domestic violence, dating violence, and stalking.

If you see or experience sex discrimination or violence in any form, you must report it to your Title IX Coordinator or Mandated Reporter.

## **Title IX Experts**

There are individuals on your campus tasked with ensuring a fair and safe academic experience according to Title IX. Make sure you know who the following people are on your campus and how to get in contact with them.

Your Title IX Coordinator is there to help you throughout your academic career with Title IX-related decisions that affect your students or colleagues. A mandated reporter is someone designated by campus leadership to collect and report crime statistics to the Department of Education.

## **What the Law States**

Title IX states, “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 This Mean?**

So what does this law look like? Let's take a look at why Title IX was first passed into law. Before Title IX, there were few opportunities for women to participate in sports. For instance, when Congress passed Title IX in 1972, less than 1/5 of professional college athletes were women. Title IX changed this by ensuring women and men's athletic programs receive equal funding.

Today, Title IX is a comprehensive law that prohibits gender-based discrimination, harassment, and violence in every university program and process, including recruitment, admissions, financial aid, athletics, discipline, and employment.

## **Gender Discrimination**

But what is gender discrimination? And how will you know it if you see it?

According to Title IX, gender discrimination is treating someone different because of their sexual orientation or gender identity. This can occur while you are at school, at work, or in a public place, such as a mall or subway station. You can be discriminated against by friends, co-workers, supervisors or teachers.

Discrimination at school involves making academic or work decisions that negatively impact people of different genders or sexual orientation.

A seemingly neutral decision can have a discriminatory effect if it creates an imbalance during the admissions, financial aid, or educational process.

## **Gender Bias**

As a campus leader, you can stop discrimination from affecting your students and colleagues by recognizing your biases before they influence your decisions.

Gender bias is the tendency to prefer one gender over the other. It's a form of implicit bias, which means you automatically assign certain attitudes or stereotypes to someone based on their gender.

For example, a recent study found that professors were more likely to recommend male students as “excellent” candidates over female students.

## **Protected Processes**

Title IX protects you and the students you serve throughout their post-secondary career, including:

**Recruitment and admissions:** Title IX prohibits gender discrimination throughout the recruitment and admissions process.

**Financial Aid:** Sex and gender must not influence your decisions about a student's financial aid eligibility, or the final awarded amount.

**Athletics:** Your school must provide gender-equal opportunities for students to participate in interscholastic, intercollegiate, club, or intramural athletics.

**Discipline:** It is against the law to use gender to determine discipline if students or employees are in violation of school policies.

**Employment:** Gender must not factor into decisions about employment, recruitment, hiring, promotion, compensation, grants of leave, and benefits. This protection extends to an applicant or employee's pregnancy and marital status.

## **Title IX Coordinator**

If you're struggling to make a decision about any process that affects your students, the campus Title IX coordinator is there to give you a hand. For instance, if your department admits an unequal amount of male and female candidates, the Title IX coordinator can help you redesign your recruitment and admissions process to be more inclusive.

Each school is required to have an onsite Title IX coordinator who is an expert on all things related to Title IX including your school's gender violence and discrimination policies.

The Title IX Coordinator investigates any complaints of gender-based violence or discrimination and enforces disciplinary measures.

Their name, email address, and phone number should be easy for you to access through your school's directory.

## **The Clery Act**

Now that you have a better understanding of Title IX, what is the Clery Act?

The Clery Act protects your students and their families, as consumers, by requiring colleges and universities to keep records of crimes on or near campus.

The law designates campus mandated reporters to collect crime statistics and annually report them to the Department of Education.

The information the federal government collects helps parents and students everywhere pick the safest school. Campus leadership also uses this information to make your campus a safer place through educational prevention programs.

## **VAWA and SaVE**

Like Title IX, Clery has evolved into a comprehensive anti-discrimination and violence law thanks to the addition of the Violence Against Women Act (VAWA) and the Campus Sexual Violence Elimination Act (SaVE).

These amendments expand the legal definition of sex to include transgendered individuals, and the definition of domestic and dating to include same-sex partnerships.

Under these amendments, schools have to report all sexual assaults, domestic violence, dating violence, and stalking crimes that take place on or near campus.

Beyond reporting, schools must also create programs to prevent crimes from occurring and offer survivors support and protective temporary measures.

## **Sexual Harassment**

Although sexual harassment and violence may affect anyone, transgendered people and college-aged women are disproportionately affected. Sexual harassment can have a major and lasting impact on a student's education, as well as your career.

**Sexual harassment** is unwelcome conduct of a sexual nature. One notable characteristic of sexual harassment is that one party usually has more power than the other, which makes it harder for the victim to refuse or say no to the other person's behavior. For example, a supervisor keeps a work-study student after the end of his shift to talk about his sexual experiences. The student is uncomfortable but is afraid of what will happen if she says the conversation feels inappropriate.

Sexual advances and requests for sexual favors are also examples of sexual harassment.

**Hostile environment** is a type of sexual harassment that causes an intimidating, hostile, or offensive classroom or workplace. Talking about someone's body shape or size, for example, can create a hostile environment.

**Quid pro quo** is also a kind of sexual harassment where you might say or imply that a sexual favor is a condition of career or academic advancement. An example is implying that a student's acceptance to a graduate program depends on a date with you.

## **Sexual Violence**

Sexual violence is a form of sexual harassment that is forceful such as rape, sexual assault, sexual battery, sexual abuse and sexual coercion. A person can be forced against their will into a sexual act, or they can be coerced, manipulated, intimidated, or otherwise threatened.

Consent happens if a person has the free will and the capacity to say 'yes' to a sexual act. A student cannot give consent to a sexual act if he or she has lost consciousness from drug or alcohol use.

Domestic and Dating Violence: It doesn't matter if sexual violence happens between faculty who have been married for 20 years, staff who share custody of a child, or students who date on and off. Sexual violence between domestic partners and people who date casually is against the law.

## **Stalking**

You may not recognize stalking right away because it comes in many different forms.

To help you better identify stalking, you should know that there are two distinct characteristics. The behavior would cause a "reasonable person" to fear for their safety or the safety of others. Causes stress or fear in the victim due to the aggressor's unsafe behavior.

Stalking could look like following, surveilling, threatening, or interfering with a person's property. If you're not sure if it's stalking, but it feels uncomfortable, report the behavior. It's safer for everyone that way.

## Questions About Compliance

Now that you know about the laws covered in this course:

Who has to follow them?

You!

The Clery Act applies to all universities and colleges that accept federal financial aid.

Who is affected?

The only schools and programs that are exempt from Title IX are:

- private undergraduate colleges.
- military service academies.
- fraternities or sororities.
- voluntary youth service organizations.

Who do these laws protect?

Also, you!

Title IX and the Clery Act protect:

- Students,
- Employees; and
- Pregnant and parenting students.

## Responsible Reporter

Let's go back to the student who confessed to her professor that she'd recently been sexually abused. What should you do if a student discloses an experience like that to you?

Correct	Choice
	Report it, but only if you are a Title IX Coordinator, campus security, or police.
	Keep it to yourself. It's never a good idea to attract attention to the victim.
X	Report it immediately to your Title IX Coordinator or Mandated Reporter.
	Convince the student to talk to the appropriate people who can provide the help she needs.

## **Responsible Reporter Feedback**

For the laws to work, Title IX and the Clery Act need you to report any of the previously described prohibited behaviors that you see or hear about to your Title IX coordinator or mandated reporter.

Title IX and Clery have different approaches to reporting responsibilities. Your school has their own interpretation of who can serve as a responsible or mandated reporter. You should investigate and learn their policy.

In general, Title IX and the Clery Act require all responsible employees to report cases of sex discrimination and sexual violence to either your Title IX Coordinator, campus security, or police. Once you've reported, your responsibility is complete. The Title IX coordinator will reach out to each party, and help them take the next best steps.

## **Reporting Parties**

Students, staff, or faculty have the right to file a complaint of sexual misconduct to the Title IX Coordinator. However, you are not legally obliged to report directly to the university. You may, for example, choose to report to your local police.

## **Interim Actions**

If you or a student files a complaint with your school, you and the student have the right to protective interim actions. Interim actions are measures your school can take to protect you from further harm. Some examples of interim actions that could protect you are:

- No contact orders
- Disciplinary holds on registration or making requests
- Mandatory behavior agreements
- Restricting presence in residence halls and university property
- Psychological assessments
- Immediate suspension

## **Rights of the Accused**

The Clery Act also guarantees rights for the accused. If someone is accused of a Title IX or Clery crime, they have the right to receive written information about your school's sexual misconduct policy and process.

The Title IX coordinator must also provide them with information about any services that would be helpful, such as legal counsel or psychological support.

## **Review & Investigation**

If a student does feel safe telling you about their experience of gender-based discrimination or violence, they're going to want to know what happens when you report it.

Once the Title IX Coordinator gets a report of misconduct, then what happens?

The university reviews and investigates the accusation. By law, this investigation has to be confidential, impartial, and fair.

Both the accused and the victim must have the opportunity to review any evidence the university collected.

## **Notify Both Parties**

The university has to notify both parties of their final ruling as soon as possible.

## **Final Outcome**

Your students will also want to know what happens to the person they've accused.

If the final outcome is a case of sexual misconduct, the university will warn the accused of potential sanctions or remediations.

## **Retaliation is Prohibited**

Be assured and assure your students: Retaliation is prohibited.

Retaliation is an adverse reaction to a perceived threat, such as filing a Title IX complaint.

The person who reports cannot be retaliated against.

Also, you may not retaliate against any individual, including the Title IX coordinator, involved in a legally protected activity, such as filing a complaint of taking part in an investigation.

## **Summary**

Let's take a moment to review the information we have covered in this course.

Title IX, the Clery Act, and VAWA laws protect you and your students from gender-based violence and discrimination throughout your academic careers.

As a responsible reporter, you must report any incidences of on campus sexual discrimination or violence to your Title IX Coordinator.

Once the Title IX Coordinator receives your complaint, the university will conduct a confidential investigation of the complaint and make a final ruling.