Best Practices

Title IX and Related Issues

By Lee E. Bird, Ph.D.

1. Title IX applies to all colleges and universities receiving federal financial aid. Title IX prohibits discrimination based on sex and sexual harassment to include acts of sexual violence—which is a form of sex discrimination under Title IX. Title IX applies whether the incident took place on or off campus.

2. Each campus must identify a Title IX coordinator and may identify deputy coordinators if needed. Coordinators must be properly trained to investigate and resolve cases.

3. Campuses may not be deliberately indifferent to the plight of someone reporting an incident.

4. Campus obligations include:
   a. Taking immediate action to eliminate the harassment (ex: moving the accused)
   b. Preventing its recurrence
   c. Addressing its effects
   d. Preventing retaliation

5. A campus or community police investigation does not eliminate campus responsibility to fully investigate and take appropriate actions (see #4 a-d).

6. Mediation may not be used as a tool to resolve cases of sexual harassment or sexual violence.

7. Campuses must use the preponderance of evidence standard in deciding these cases by federal law.

8. Campuses should be familiar with the Dear Colleague Letter of 2011, SaVE Act, and Montana “blueprint”—all of which are relatively new and identify guidance which must be followed to include such things as:
   a. Timelines for hearings
   b. Training of faculty, staff and students

9. Services such as counseling need to be offered and provided regardless of whether the alleged victim wishes to file or formalize a complaint.

10. There are new standards for timely, fair and equitable investigations. The Clery Act has been modified in its rules for responsiveness to both parties.

11. Policy must be widely publicized.
Best Practices for Title IX and Related Regulations Training

Compiled by Mackenzie Wilfong

Title IX, Violence Against Women Act (VAWA)
Department of Justice and Office of Civil Rights (OCR)

Training Requirements

A significant challenge in the endeavor is how to mandate, deliver and track the training required by federal law and guidance including Clery Act, Title IX, VAWA, and Montana Letter to all faculty, staff and student. The following Q & A may explain part of the challenge/

1. Who needs to be trained?
   a. All faculty, staff and students are required under the Title IX to receive training
2. What must be covered in the training according to Title IX guidance, VAWA, and the recent Letter to Montana from DOJ and OCR?
   a. Statement of offenses prohibited
   b. Definitions of offenses by university
   c. What constitutes sexual harassment and sexual violence including examples
   d. Definition of consent
   e. Statement of retaliation is prohibited
   f. University’s policies and disciplinary procedures including possible outcomes
   g. Information aimed at encouraging student to report incidents of sexual violence to the University and police including how to report
   h. Convey the University’s primary concern is student’s safety and not any other policy violations
   i. Explanation of different processes that flow from a criminal vs. internal reporting process (Title IX)
   j. Procedures a victim should follow
   k. Bystander Intervention
   l. Risk reduction information
   m. Campus and community resources
   n. Name and contact information of the Title IX Coordinator
   o. Explanation of the role of OCR in enforcing Title IX
3. When should this be completed?
   a. As soon as possible
4. Why is this training required?
   a. As a recipient of federal funds, DOE places requirements to comply with many regulations including Title IX and VAWA. The Letter to Montana simply provides a guide and insight into how DOJ and OCR want to see Title IX implemented.