



Title IX, VAWA & Clery Act

May 2017



What we will cover

- Brief History
- What are the Consequences of not being in compliance?
- Where are the areas of Vulnerability on Campuses?
- Differences and overlap of Title IX + VAWA + Clery Act
- Requirements Emphasized
- Institutional Response to the Regulations
- Impact on Records, Admissions & EM
- What can we expect going forward?

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Some History

- Title IX passed in 1972
- Clery Act in 1990 Reporting of crimes & Safety
- **Dear Colleague Letter – April 2011**
- *Investigations and Resolution Agreements Between OCR and Schools* - 2010-2013
- Violence Against Women Act and Campus Sexual Violence Act (SaVE Act) – 2013
- Presidential Task Force, OCR Focus – Jan/Feb 2014
- Training Requirements – March 2014
- Dear Colleague Letter – Clarification: Compliance date July 1, 2015
- Clery Act Dear Colleague Letter – 2016
- Gender Identity Dear Colleague Letter – 2016
- Court Stay and Trump Administration Repeal of Gender Identity – 2017
- Potential Fed. Administration and/or Supreme Court actions - ???

Issues in Complying With Title IX

What are the potential penalties?

- Title IV funding is the carrot of compliance.
- Fines
- Costly Investigations
- Litigation
- PR nightmare - reputation and \$'s

Where are the areas of Vulnerability ?

- Residence facilities
- 'Greek' facilities and activities
- Sport Programs
- Activity Programs – Travel to competitions, contest & other events
- Domestic issues from off campus coming on campus

Myth: The person who commits these acts is the masked person in the dark, hidden in the bushes.

Title IX + VAWA + Clery Act = ?

- Title IX – Expanded forms of Sexual Harassment that Higher Ed. needs to address.
Focus on WHO is involved.
- VAWA – Policies, Procedures, Programming, Training and Prevention
Focus on Subjects involved and Institution response.
- Clery Act – Reporting of Crimes & Campus Safety
Focus on WHERE the incident occurred & is it a reportable crime

NOTE: Victim centered, plus Law Enforcement & Institution cooperation

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Requirements Emphasized

- Reporting – Example: domestic violence, dating violence, & **stalking**
NOTE: We are seeing cases referencing, hostile environment.
Progression of behavior, usually a Hostile Environment OR Grooming
- Adopt certain student discipline procedures – Example: Immediate no contact
- Adopt policies to address and prevent campus sexual violence – Example: Training and programming for Students & Institutional personnel.
- Gender Based Status – Limbo ?, Either refer to State Laws first and/or then Institutional position. Recommend lead with Safety & Decency.

Institutional Response to the Regulations

'Did you know or should you have known'

- Create a Safe and Secure Campus environment, free of Sexual Misconduct.
- Training and Programming for Students and **Staff**
Designated Campus Security Authorities(CSA's)
All employees responsible to report sexual misconduct
- Prevention Strategies – Bystander Training
- Crises &/or Educational Centers – Promote Healthy relationships & respond to victims
- Climate Surveys – Required
- MOU's with community organizations
- Multi-prong approach has best results - Video, posters, education programs, student involvement strategies

Impact on Records, Admissions & EM

- Recruitment
- Records – Gender and Identity
- Retention
- Should record of discipline be placed on transcript?
- Did we admit a perpetrator?
- Report incidents and create safe environment.
- Point students in the right direction for help.

What can we expect going forward ?

- More 'Dear Colleague Letters' – interpretations of current laws and regulations.
- Holding Pattern and/or repeal of some Regulatory
- Litigations
- Move from Title IX coordinators to Attorney on Attorney
- Minimal Cost to Large Cost
- Potential collision of simultaneous Title IX cases, Gender and Potential Sexual misconduct
- Movement from a **Preponderance** to a higher standard of **Clear and Convincing evidence**



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