Title IX
Rights and Responsibilities

HR Liaison meeting

June 25, 2014
“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 educational program or activity receiving federal financial assistance.”

Title IX of the Education Amendments of 1972
“No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by a recipient, and no recipient shall provide any such athletics separately on such basis”

34 C.F.R. Part 106 § 106.41
Relevant Statistics

- 20% of college women will be victims of attempted or actual sexual assault
- 6% of undergraduate college men will be victims of attempted or actual sexual assault
- 13% of college women report being stalked each year
- 4 in 10 violent crimes against college students are committed by offenders perceived by the victim to be using drugs or alcohol
- Fewer than 5% of student victims report to authorities or law enforcement

Campus Sexual Assault Study Final Report (Christopher Krebs, et.al.)
National Criminal Justice Service 2007
Title IX Protections

• All students and employees are entitled to:
  – An education and/or workplace free from discrimination based on sex
  – Equal access to all programs and activities
    • Admission, recruitment, employment, financial aid, research, housing, athletics
    • Equal treatment
  – A work and educational environment that does not tolerate sexual harassment and sexual violence and takes prompt action to stop, remedy, and prevent such acts
  – A non-hostile environment
    • Environment in which people feel safe
What is a Hostile Environment

• Environment where one or more persons engage in unwelcome conduct that is severe, persistent or pervasive, such as:
  – Telling sexual jokes/stories after asked to stop
  – Sending sexually explicit messages
  – Repeatedly requesting a date when no interest
  – Displaying sexually suggestive pictures or photos
  – Unwanted touching, e.g., hugging, kissing, patting
Victims/Accused

- Victims of sexual harassment or sexual violence might be faculty, staff, students or third parties
- Similarly, the accused may be from any of those groups
- Harassment can take place between two individuals of the same or opposite sex
Title IX Reporting

• Reporting of Title IX incidents is the first step and critical for compliance with Title IX
  – When/What to report
  – Who must report
  – Where to report
  – Why report
Title IX
When/what to report

• Report as soon as possible!
  – Stop and address incident and assist victim
  – UPD issue a timely warning if there is an on-going threat to the safety of students and employees

• As many details as you were given by the victim

• Incident can occur on campus and also off campus
  – University sponsored off campus event
  – Incident in which off campus incident is brought on campus through interaction and create a hostile environment
Title IX Prohibited Acts
What to Report

- Discrimination based on sex
- Sexual Harassment
- Sexual violence (sexual assault)
- Retaliation

Other reportable acts include (under Violence Against Women Act):
- Stalking
- Dating violence
- Domestic violence
What to Report
Sexual Discrimination

• Discrimination based on sex for access to programs and activities. Examples include:
  – Admissions – enrollment or employment
  – Financial support
  – Employment – pay, promotion and advancement
  – Leadership positions and committee participation
  – Athletic opportunities (participation, financial support, facilities, etc.)
  – Pregnancy or parental status
What to Report
Sexual Harassment

– Unwelcomed conduct of a sexual nature that are severe, persistent or pervasive that interferes or creates a hostile work or educational environment:
  • sexual advances,
  • requests for sexual favors, and
  • other nonverbal or physical conduct of sexual nature
What to Report
Sexual violence (sexual assault)

- Sexual violence (sexual assault)
  - Is a form of sexual harassment. Refers to sexual acts perpetrated against the victim’s will or where the victim is incapable of giving consent due to use of drugs or alcohol or due to an intellectual or other disability. Examples include rape, sexual assault, sexual battery, and sexual coercion.
  - Is undesired sexual activity. The perpetrator may use threats or other methods of coercion to “convince” a victim to engage in the activity, or may take sexual advantage of someone who is under the influence of alcohol or drugs.
  - Can also include no-contact offenses such as exposing one’s genitals in front of another person or secretly recording someone in a state of undress.
What to Report
Retaliation

• Retaliation
  – Threats, intimidation, reprisals, and/or adverse actions related to employment or education
  – Retaliatory action so any kind is prohibited when taken against a complainant, witness or other person participating in an investigation, complaint, hearing, or suit
  – Allegations of retaliation should be directed to the Title IX Coordinator or designated official immediately
What to Report
Dating Violence

• Dating violence – violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim
  – The existence of such a relationship shall be determined by the victim with consideration of length of relationship, type of relationship, and frequency of interaction between persons involved in the relationship
• Includes sexual or physical abuse or threat of abuse
• Does not include acts covered under the definition of domestic violence.
What to Report
Domestic Violence

• Domestic violence (Felony or misdemeanor crime of violence)
  – Current or former spouse or intimate partner,
  – Person with who the victims shares a child in common
  – Person who is or has cohabitated with victim as spouse of intimate partners
  – Person similarly situated to a spouse of victim under the domestic or family violence laws of jurisdiction in which violence occurred
  – By any other person against an adult or youth victim who is protected from the person’s acts under domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
What to Report
Stalking

• Stalking - a course of conduct directed at a specific person that would cause a reasonable person to
  – Fear for her, his, or the safety or others or
  – Suffers substantial emotional distress

  – Course of conduct means two or more acts, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about a person or interferes with a person’s property
Title IX
Who Must Report

• All employees
  – When alleged or suspected discrimination, sexual harassment or retaliation is experienced or observed by or made known to an employee, the employee is responsible for reporting that information (SR 08.01.01)
  – Even if a employee does not have the authority to address the discrimination and take corrective action, he or she has the obligation to report it

• Others, third party vendors, and on campus visitors may report complaints or have a complaint made against them
# Title IX

## Where to Report

Students, faculty, staff, and third parties, and applicants for employment or admission should contact the appropriate Designated Official below:

<table>
<thead>
<tr>
<th>If the Alleged Offender is a</th>
<th>Designated Official is</th>
<th>For reporting incidents or making inquiries persons may contact the Title IX Coordinator</th>
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</table>
| • Student (graduate, undergraduate, professional)  
• Student employee | Dean of Student Life | Charley Clark- (979) 862-7737 or TitleIX.Coordinator@tamu.edu |
| • Faculty employee  
• Graduate or postdoctoral student working in academic affairs | Dean of Faculties | |
| • Non-faculty employee, graduate student or postdoctoral student working in other areas  
• Unrelated third party | Human Resources | |
Title IX
Why Report

- Inform, assist, protect victim
  - Rights, available resources, e.g., counseling, academic issues, housing, assistance in filing a complaint, no contact orders, etc.
  - Complaint options and process (including confidentiality)
  - Retaliation is not an option
  - How to report subsequent problems
  - Complaints will be investigated and handled equitably for the victim and accused
  - Provide additional option to report sexual assault/violence or stalking or dating violence to law enforcement
Complaints address hostile environment

• Title IX complaints are reviewed by Dean of Student Life, Dean of Faculties or Policy & Practice review.
• Immediate remedial action is provided as needed
• An Investigating authority investigates facts to determine findings
• A final report is forwarded to P&EVP or appropriate VP for final approval
• Resolutions result (unfounded, or founded + disciplinary action up to termination or expulsion)
Title IX Confidentiality

- Confidentiality can only be guaranteed by a licensed or certified “professional” as defined by the state when acting at the University within the scope of their license or certification.

- Faculty, staff, students can not guarantee confidentiality to anyone reporting a complaint.
  - Report to the Title IX coordinator, Deputy Coordinator or designated official who will, to the extent possible, respect the request. The request will be evaluated based on the safety of the campus community.
  - Factors include severity of incident, threat to the community, repeat offenses, access to vulnerable populations, etc.
TAMU governance, notices and websites

Institutional Governance

- System Policy 08.01 and Regulation 08.01.01 (Civil Rights Compliance)
- University Rule 08.01.01.M1 (Civil Rights Compliance)
  - 08.01.01.M1.01 (Investigation and Resolution of Complaints against Non-Faculty)
  - 08.01.01.M1.02 (Resolution and Resolution of Complaints against Faculty)
- Student Rule 47 (Student Grievance Procedures Sexual Harassment)

Notices

- Notice of Non-discrimination

Website

- Title IX web site
  https://urc.tamu.edu/compliance/SitePages/Title%20IX.aspx
- University rules/SAPs/linked Student rules
  http://rules-saps.tamu.edu
Title IX
Wrap-up

- Know WHO to contact for reporting Title IX issues and to obtain assistance to help the victim feel safe whether or not a complaint is filed
- Explain that you can not guarantee confidentiality
- TAMU’s Obligation - Your Obligation
  - If alleged conduct is sufficiently serious to limit or deny a student’s ability to participate in or benefit from education programs, and the school, upon notice, fails to take prompt and effective steps to end sexual violence, eliminate the hostile environment, prevent its recurrence, and (as appropriate) remedy effects, TAMU violates Title IX
- Your report or Your assistance in helping a victim report is the first step in maintaining a safe and welcoming campus environment
Comments/Questions?

- **Contacts:**
  - Charley Clark
    - TitleIX.Coordinator.tamu.edu
    - 979-845-0977
  - Julie Kuder
    - jkuder@tamu.edu
    - 979-845-8116
  - Annette Wallis
    - awallis@tamu.edu
    - 979-845-0977
- Title IX website: [http://titleix.tamu.edu](http://titleix.tamu.edu)