Title IX

What you need to know at UNM
Office of Equal Opportunity

- Investigate civil rights concerns
- Neutral
- Available to staff, students, and faculty
- Internal administrative office
9. Schools cannot discourage your continuing your education.

8. In cases of sexual violence, schools are prohibited from encouraging or allowing mediation (rather than a formal hearing) of the complaint.

7. Schools can issue a no contact directive under Title IX to prevent the accused student from approaching or interacting with you.

6. Schools may not retaliate against someone filing a complaint and must keep a complainant-victim safe from other retaliatory harassment or behavior.

5. Schools must take immediate action to ensure a complainant-victim can continue his or her education free of ongoing sex discrimination, sexual harassment or sexual violence.

4. School must have an established procedure for handling complaints of sex discrimination, sexual harassment or sexual violence.

1. Title IX a landmark federal civil right that prohibits sex discrimination in education.

2. Title IX does not apply to female students only.

3. Schools must be proactive in ensuring that your campus is free of sex discrimination.
Title IX Law

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.

Signed into law by President Richard M. Nixon

1972
Key Areas Affected by Title IX

- Athletics
- Gender-based violence
- Pregnancy and parenting rights
- Sex segregation in education
- Sex stereotyping in education
Dear Colleague:

Education has long been recognized as the great equalizer in America. The U.S. Department of Education and its Office for Civil Rights (OCR) believe that providing all students with an educational environment free from discrimination is extremely important. The sexual harassment of students, including sexual violence, interferes with students’ right to receive an education free from discrimination and, in the case of sexual violence, is a crime.

Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681 et seq., and its...
Sexual and/or gendered violence

Sexual harassment, stalking

Domestic/dating violence, sexual exploitation

Sexual Harassment/Sexual Misconduct
Title IX Violations

• Gendered Violence
  – Violence that would not occur if not for the person’s gender

• Sexual Harassment
  – unwelcome verbal, visual, or physical conduct of a sexual nature that is severe and/or pervasive and affects working or learning conditions or creates a hostile environment

• Stalking
Title IX Violations

• Sexual Exploitation
  – Taking non-consensual advantage of another for the advantage or benefit of anyone other than the person being exploited
  – “Revenge Porn”
Dear Colleague Letter (DCL)  
April 2011

• Every school must have a Title IX Coordinator
• If a school knows or reasonably should have known of sexual misconduct, then MUST act
• Investigatory Component
• Preponderance of the Evidence standard
Title IX & Consent

• Consent: an affirmative informed decision to willingly engage in mutually acceptable sexual activity

• Incapacitation
  • Drugs or Alcohol
  • Asleep or Unconscious
  • Lacking physical/mental ability

• Consent not arise from
  • Coercion, force, intimidation, or threat
Title IX Application

• Policies 2720, 2730, 2740, 2200

• Gender discrimination regarding students includes:
  • Sexual Assault
  • Domestic Violence
  • Dating/Relationship Violence
  • Stalking
  • Sexual Exploitation
OEO Terms

Complainant
- Person filing complaint

Respondent
- Person responding to allegations
Types of Claims

- Discrimination
- Sexual Harassment
- Inequity on the basis of sex or gender in programs or activities
  - Housing, athletics, scholarships, organizations
- Retaliation
# Administrative vs. Criminal Investigations

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*Both possible*
Your Responsibility

• All university faculty and staff must report all disclosures of sex discrimination, sexual harassment, and any kind of gendered violence against students.

• Must report to OEO.
So, how do you know if it’s sexual misconduct?

• Is it sexual in nature?
• Is it related to genitals?
• Does it involve someone’s body parts? Or someone’s attractiveness?
• Is it gendered?
So, how do you know if it’s sexual misconduct?

• Example:
  – You hear from a student that another student was raped last weekend...
    • At the SRC.
  – Is this sexual misconduct?
  – What is your next step?
So, how do you know if it’s sexual misconduct?

• Example:
  – You hear students talking about another student that was groped at a party...
  – Is this sexual misconduct?
  – What is your next step?
Talking Points

Confidentiality vs. Anonymity

Stop! I have an obligation!

Remember your role and listen

Tell them will report to OEO

Resources
Confidential Reporting

- SHAC, CARS
- Women’s Resource Center
- LGBTQ Resource Center
- LoboRESPECT Advocacy Center
- Rape Crisis Center of NM
Next Steps

• Students are NOT required:
  • to share additional information
  • to go to the police
  • to participate in a process or the investigation

• UNM can issue no-contact orders and even ban people from campus

• Call 911 from any campus phone for UNMPD
Scenarios

• I want my money back!
  – A student resident comes to you in October very angry and says she wants to move out and demands a full refund. When you tell her that she will not be eligible to receive a full refund, she becomes very agitated and tearful and says she cannot live in the same hall with someone who attacked her.
Scenarios

• Advisement
  – Step 1: When she becomes agitated – STOP! I have an obligation! If she continues...
  – Step 2: listen and believe (no personal opinion)
  – Step 3: offer resources (refer and connect)
  – Step 4: tell her who you will tell, what you will say and what the next steps are
  – Step 5: re-assure her that UNM takes these matters very seriously and she is protected from retaliation
  – Step 5: call or email OEO with the report and be available for any follow up questions.
Scenarios

• Student Employee
  – A student employee has been late consistently over the past several weeks. When you speak with him about this issue, he tells you that he’s been trying to avoid his ex, who will not leave him alone.
Scenarios

- **Student Employee**
  - Step 1: At this point it is too late to “STOP! I have an obligation”, advise him that you will have to disclose the potential stalking/sexual harassment.
  - Step 2: offer resources (refer and connect)
  - Step 3: tell him who you will tell, what you will say and what the next steps are
  - Step 4: re-assure him that UNM takes these matters very seriously and he is protected from retaliation
  - Step 5: call or email OEO with the report and be available for any follow up questions.
Retaliation

• Retaliation

  – It is contrary to federal and state civil rights laws, and to University policy, to retaliate against any person for asserting their civil rights, which includes raising concerns related to civil rights, reporting to any University office charged with addressing such complaints, filing a claim of discrimination or harassment, or participating as a witness in an investigation related to an allegation of discrimination or harassment.
Retaliation

- Complainants
- Witnesses
- Reporters
- In person
- Electronic/Social Media
- Differential Treatment
Re-Victimization

- Large number of complaints against schools under Title IX are retaliation and re-victimization
- Can’t investigate without asking questions and reliving experience
- Avoid re-victimization
Title IX and Clery Act

- Title IX
  - Sexual Violence
  - Other Title IX violations
- Clery
  - Other Clery reportable crimes
The Federal Campus Sexual Assault Victims Bill of Rights


Survivors shall be notified of their options to notify law enforcement.

Survivors shall be notified of counseling services.

Accuser and accused must have the same opportunity to have others present.

Both parties shall be informed of the outcome of any disciplinary proceeding.

Schools found to violate this law can be fined up to $35,000 or lose eligibility to participate in federal student aid programs.

The "Campus Sexual Assault Victims' Bill of Rights" exists as part of the campus security reporting requirements, commonly known as the Jeanne Clery Act.
• UNM’s program to coordinate, direct, and respond to Sexual Misconduct
  – Advocacy Center (opening Fall 2015)
  – 24/7 hotline
  – Marketing and streamlining
  – Eliminate confusion
  – Students may still access any of the available resources
  – loborespect.unm.edu
Things to consider

• Drug/Alcohol Amnesty
• FERPA
• HIPAA
• Gender irrelevant to Title IX
Questions?

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