Title IX and VAWA, what we need to know

Blanca Lupiani
Interim Dean of Faculties and Associate Provost
“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

- Title IX of the Education Amendments of 1972 is a federal law intended to end sex discrimination in **all areas of education**
- Requires equal access by all sexes to federally funded education programs
- Prior to April 2011 (Dear Colleague Letter or DCL) it focused on access of women to athletics; post April 2011 it focuses on sexual harassment/sexual assault
Title IX Definitions

• *Sex Discrimination*: situations in which an individual or group of individuals is treated differently based on their gender, whether male or female

• *Sexual harassment*: a form of sex discrimination, is an unwelcome sexual advances, requests for sexual favors and other verbal, nonverbal or physical conduct of a sexual nature constitute sexual harassment when this conduct is so severe, persistent or pervasive that it explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work or educational performance, or creates an intimidating or hostile work or educational environment
  – It includes non-consensual sexual contact, nonconsensual sexual intercourse and sexual exploitation

• *Sexual exploitation* occurs when an individual takes non-consensual or abusive sexual advantage of another for his or her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited. For example, sexual exploitation could include such actions as secretly videotaping sexual activity, voyeurism, sexually-based stalking and invasion of sexual privacy
Title IX Definitions

• *Sexual violence*: physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent (due to individuals’ age, intellectual or other disabilities or use of drugs and alcohol). Examples: rape, sexual assault, sexual battery, sexual abuse and sexual coercion

• *Hostile environment*: to determine whether a hostile environment due to sexual harassment exists, the conduct must be sufficiently severe or pervasive to deny or limit a student’s ability to participate or benefit from the school’s program
Who does Title IX Cover?

- Students, faculty, staff, and third parties
- Text of Title IX: “No person in the United States”
Where does Title IX Apply?

• Title IX: “Any educational program or activity receiving federal financial assistance”

• 2001 Guidance - “The ‘education program or activity’ of a school includes all of the school’s operations”
  – On campus
  – Study abroad programs
  – Faculty exchange programs
  – Field trips
  – Research sites
  – Fraternity, sorority houses
  – Off campus parties
  – Sporting events
  – School-sponsored internships
Title IX: Pregnant and Parenting Students

- Prohibits discrimination against a student based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions
- Prohibits a school from applying any rule related to a student’s parental, family, or marital status that treats students differently based on their sex
- It is illegal for schools to exclude a pregnant student from participating in any part of an educational program
- A school must excuse a student’s absences because of pregnancy or childbirth for as long as the student’s doctor deems the absences medically necessary
- When a student returns to school, she must be allowed to return to the same academic and extracurricular status as before her medical leave began
Dear Colleague Letter, 2011

• The University is put on notice when:
  – Reported formally
  – Reported to Campus Security Authority (CSA)
  – Reported to a person the complainant reasonably believes has authority
  – Employee observes behavior

• The University must respond when “knew or should have known”
  – So pervasive it is obvious
## Applicable Policies

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<tr>
<th>Student Rules</th>
<th>Faculty Rules</th>
<th>Staff Rules</th>
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<tr>
<td>Student Rule 47, Sexual Harassment and Related Retaliation</td>
<td>University SAP 08.01.01.M1.02, Investigation and Resolution of Complaints</td>
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<tr>
<td><a href="http://student-rules.tamu.edu/rule47">http://student-rules.tamu.edu/rule47</a></td>
<td>Against Faculty Members for Illegal Discrimination, Sexual Harassment, or</td>
<td>Against Non-Faculty Employees and Unrelated Third Parties for Illegal</td>
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<td>Related Retaliation Charges</td>
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<td>Student Rule 7.1.10, Absences Related to Pregnancy</td>
<td>University Rule 08.01.01.M1, Civil Rights Compliance</td>
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<td>Student Rule 10.6, Grading Related to Pregnancy</td>
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<td><a href="http://student-rule.tamu.edu/rule10">http://student-rule.tamu.edu/rule10</a></td>
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2. RESPONSIBILITIES OF ALL EMPLOYEES

2.1 All employees are responsible for ensuring their work and educational environments are free from illegal discrimination, sexual harassment and related retaliation. 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 as outlined in Sections 4.1, 4.2 and 4.3.
Dear Colleague Letter

- Investigate
- 60 Days
  - Extensions Limited
- Stop Behavior
- Remedy Effects
- Prevent Re-Occurrence
- Equitable treatment of both parties
- Individuals can file a complaint directly with the Office of Civil Rights (OCR) and Department of Education (DoD)
Violence Against Women Act (VAWA) (2013)

- **Dating violence** – an act, other than a defensive measure to protect oneself, by an individual against a victim with whom there is or was a romantic or intimate relationship or marriage, and that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably results in a fear of such harm. (Texas Family Code 71.0021)

- **Domestic or family violence** – an act against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault, or the threat of which reasonably causes fear of such harm. (Texas Family Code Section 71.004)

- **Stalking** – knowingly engaging in conduct, including following a person, that one reasonably believes is threatening the bodily injury or death of themselves, a member of their family or household, or their property. (Texas Penal Code 42.072)
## Who to Contact?

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<th>Complaints against faculty, contact:</th>
<th>Complaints against students, contact:</th>
<th>Complaints against staff or third party, contact:</th>
<th>Any complaints can be reported to the Title IX Coordinator:</th>
</tr>
</thead>
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<tr>
<td><strong>Dr. Blanca Lupiani</strong>&lt;br&gt;Interim Dean of Faculties&lt;br&gt;108 YMCA Building&lt;br&gt;College Station, TX&lt;br&gt;77843-1126&lt;br&gt;Mail Stop 1126&lt;br&gt;<a href="mailto:dof@tamu.edu">dof@tamu.edu</a>&lt;br&gt;979-845-4274</td>
<td><strong>Dr. Anne Reber</strong>&lt;br&gt;Dean of Student Life&lt;br&gt;Cain Hall B 117&lt;br&gt;College Station, TX&lt;br&gt;77843-1257&lt;br&gt;Mail Stop 1257&lt;br&gt;<a href="mailto:studentlife@tamu.edu">studentlife@tamu.edu</a>&lt;br&gt;979-845-3111</td>
<td><strong>Janelle Ramirez</strong>&lt;br&gt;Interim Assoc. VP for Human Resources&lt;br&gt;750 Agronomy Rd., Suite 1201&lt;br&gt;College Station, TX&lt;br&gt;77843-1255&lt;br&gt;Mail Stop 1255&lt;br&gt;<a href="mailto:hrpolicy@tamu.edu">hrpolicy@tamu.edu</a>&lt;br&gt;979-862-3331</td>
<td><strong>Margaret (Peggy) B. Zapalac</strong>&lt;br&gt;Interim Associate VP for Risk and Compliance and Title IX Coordinator&lt;br&gt;<a href="mailto:TitleIX.Coordinator@tamu.edu">TitleIX.Coordinator@tamu.edu</a>&lt;br&gt;979-845-8115 or 979-845-0977</td>
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Complaints against faculty, contact: 
**Dr. Blanca Lupiani**
Interim Dean of Faculties
108 YMCA Building
College Station, TX
77843-1126
Mail Stop 1126
dof@tamu.edu
979-845-4274

Complaints against students, contact: 
**Dr. Anne Reber**
Dean of Student Life
Cain Hall B 117
College Station, TX
77843-1257
Mail Stop 1257
studentlife@tamu.edu
979-845-3111

Complaints against staff or third party, contact: 
**Janelle Ramirez**
Interim Assoc. VP for Human Resources
750 Agronomy Rd., Suite 1201
College Station, TX
77843-1255
Mail Stop 1255
hrpolicy@tamu.edu
979-862-3331

Any complaints can be reported to the Title IX Coordinator: 
**Margaret (Peggy) B. Zapalac**
Interim Associate VP for Risk and Compliance and Title IX Coordinator
TitleIX.Coordinator@tamu.edu
979-845-8115 or 979-845-0977
TAMU Resources

- Student Assistance Services
- Student Counseling Service
- Student Health Services
- Women’s Resource Center
- GLBT Resource Center
- Sexual Assault Resource Center
- TAMU Title IX: [http://urc.tamu.edu/title-ix/](http://urc.tamu.edu/title-ix/)
- Dean of Student Life: [http://studentlife.tamu.edu/sas.svp](http://studentlife.tamu.edu/sas.svp)
Other Resources

- Title IX Dear Colleague Letter 2011: http://www2.ed.gov/about/offices/list/ocr/letters/collleague-201104.pdf
- Title IX Q&A: http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf
- Supporting the Academic Success of Pregnant and Parenting Students: http://www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf
Questions?