



# Title IX in the Online Learning Environment DEAC ~2018

Jennifer Kalfsbeek-Goetz ~  
[jenniferkg.phd@gmail.com](mailto:jenniferkg.phd@gmail.com)

Dean of Student Learning & Title IX  
Coordinator, Moorpark College (CA)



# Title IX and Today's Students

- Key Topics and Questions:
  - What is **Title IX** or **Sexual Misconduct**?
  - What is the **Clery Act**?
  - What is **Consent**?
  - What about in **online education** settings?
  - **What does all of this mean for your school?**

# Title IX ~ Sexual Misconduct

- 1972
- Law enforced by the United States Department of Education and the Office of Civil Rights (OCR)
- **GOAL: Prevent all forms of sex/gender-based discrimination-sexual misconduct, *including* ...**
  - **Discrimination** based on sex, gender or sexual orientation (includes girls/women in sports ... and much more)
  - **Sexual Harassment**
  - **Sexual Violence**

# Sexual Harassment

- Unwelcomed sexual advances
- Offensive sexually-driven or gender-motivated comments
  - Verbal, Written, text, Snapchat, Facebook, Instagram...
- Stalking
- Harassment on social media

If a person *perceives* actions to be harassing, the incident must be *investigated* and *care* provided

# Sexual Violence

- Rape
- Sexual Assault
  - Groping & advancing sexual acts without consent
- Dating / Domestic violence
- Hate Crimes
  - Harassing behaviors including verbally harassing remarks and intimidation based on sex/gender/sexual orientation.

If a person *reports being sexual violence (present or past)*, the incident must be *investigated* and *care* provided.

# What is the Clery Act? (1990)

- Law named after Jeanne Clery, a 19-year-old Lehigh U. student raped and murdered in her dorm (1986). Her murder triggered a response towards unreported crime on campuses.
- Requires all publicly funded colleges and universities to share information about specific types of crimes on campus, and their efforts to improve campus safety. **ANNUAL SECURITY REPORTS (ASR)**
- Can you find your ASR?
- Schools must provide support to survivors of sexual misconduct:
  - Changes to academic and living situations
  - Changes to campus-based working situations
  - Schools must also assist survivors in notifying local law enforcement and obtain counseling and crisis support.

# What is VAWA and Campus SaVE?

- **Violence Against Women Act** reaffirms the Clery Act (1994, 2000, 2004, 2013)
  - **Amends the Clery Act**
    - **Expands the rights of survivors** of sexual assault, domestic / dating violence and stalking.
    - Colleges **must include policy statements** that **outline the procedures** an institution will follow after an incident of misconduct occurs – including rights and options for survivors.
    - Adds sex/gender-based **Hate Crimes** to the list of TIX offenses.
    - Requires the **inclusion of prevention programs** that aim to stop violent crimes before they occur, including primary prevention trainings and **bystander** intervention. (2013)
  - **Campus SaVE Act (2013)**
    - **Amends Clery and VAWA**
      - Bolster the response to and prevention of sexual violence in higher education.

# Consent

- Affirmative Consent – does your state have it as law?
- Consent in California: **"Yes means Yes" law** - January 2016.
  - <http://affirmativeconsent.com/affirmative-consent-laws-state-by-state/>
  - Consent cannot be given if someone is asleep or incapacitated by drugs or alcohol.
    - If alcohol was consumed, and an assault is reported, schools must investigate and sanctions may be enforced.
  - **"Lack of protest or resistance does not mean consent,"** the law states, **"nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time."**



# Institutional Roles & Responsibilities

- WHY do we apply TIX to our Institution's Practices?
  - **Student Success!**
- Responsible Employees, Campus Security Authorities, Licensed Mental Health Professionals / Clergy Members.
- EPIC + Act
  - Educate
  - Prevent
  - Investigate
  - Care & Comfort
  - Act

# Educate

- **Educate Employees about TIX and Sexual Misconduct responsibilities on campus.**
  - Process for reporting an incident of sexual misconduct.
  - Mandated reporting and Confidentiality
  - Responsible Employees & Campus Security Authorities
  - Annual Security Report (ASR)
  - **Always focus on Student Success - Compliance is just the end result.**

# Prevent

- **Prevent incidents of sexual misconduct from occurring or growing...**
  - Educate students about the process for reporting.
  - Educate students and employees about what will happen – and what will not happen - after a report is made.
  - Inform about student code of conduct and possible sanctions. Do you have these and are they available to students + the public?
  - Inform students and prospective students about Clery and ASR
  - Integrate bystander awareness programs!

# Investigate

- **Engage in Investigations when an incident is reported**
  - HR – accused Employees; Student Services – accused Students
  - Impartiality
  - Trauma informed
  - Explain school policies and procedures to all parties
  - Inform about code of conduct and possible outcomes & sanctions
  - Preponderance of the Evidence *or* Clear and Convincing
  - Work with law enforcement as much as possible

# Care & Comfort

- **Care for ALL parties involved ...**
  - **Provide access to resources for all parties**
    - School counseling services or clergy
    - Local rape crisis hotlines or other mental health or medical health services
    - Assist parties in reporting crimes to law enforcement
  - **Put preventative measures in place during the investigation if the accused is a member of the campus community.**
    - Provide letters to all parties explaining that an investigation will happen and warning against retaliation and non-disparagement.
    - Consider mutual no-contact orders.
    - Move students from participation in the same class or groups
    - Remember all parties are affected by the process -the goal is student success for all.

# Act

- **Determine the Outcomes of a Case**
  - **What if the Accused is not a member of the campus community?**
    - Provide Care and Comfort.
    - Determine if the complainant / victim needs special support to remain in school.
      - Medical withdrawal, Academic Renewal, Course Repeat, Incomplete, counseling services.
  - **Formal determinations and rulings.**
    - Apply Sanctions as they relate to your Code of Conduct and Policies.
    - Apply protections and rules of engagement going forward if relevant.
    - Document **internally** AND based on **Clery Act** requirements (ASR) if needed.

# Scenarios

- What would you do if ...?
- What *should* you do if ...?
- Does your institution have the processes and know-how to handle ...?

# Thank you ...

- Thank you for your time!
- Contact Information:
  - Jennifer Kalfsbeek-Goetz, [jenniferkg.phd@gmail.com](mailto:jenniferkg.phd@gmail.com)