Title IX and Clery Compliance Advisor Training

Ronette Sutton Gerber
Director, Title IX and Clery Compliance
Title IX Coordinator
Clery Compliance Officer
2020 Title IX Regulations

Sexual Harassment

Conduct on the basis of sex that satisfies one or more of the following:

❖ A UNCP employee conditioning the provision of an aid, benefit, or service of the university on an individual’s participation in unwelcome sexual conduct (quid pro quo);

❖ Unwelcome conduct determined by a reasonable person to be so severe, pervasive AND objectionably offensive that it effectively denies a person equal access to a UNCP education program or activity; or

❖ Dating violence, domestic violence, and stalking, and sexual assault as defined by the Clery Act (VAWA).
Title IX & VAWA Investigatory Issues

Sexual Harassment

Sexual Assault & Other Forms of Sexual Violence
“it is a recipient’s own misconduct – not the sexually harassing behavior of employees, students, or other third parties – that subjects the recipient to liability in a private lawsuit under Title IX, and the recipient cannot commit its own misconduct unless the recipient first knows of the sexual harassment that needs to be addressed.” RF, pg. 47

Notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any UNCP official who has authority to institute corrective measures on behalf of UNCP is notice that will trigger the university to take action in compliance with the Office for Civil Rights.
Jurisdiction

❖ The locations, events, or circumstances of UNCP’s education programs and activities, which UNCP exercises substantial control over both the respondent and the context in which the sexual harassment occurs.

❖ Includes any building owned or controlled by a student organization that is officially recognized by UNCP.
Other forms of Sexual Harassment
Sex-Based but not Title IX

- Bullying
- Coercion
- Discrimination
- Harassment ~ Sexual
- Harassment ~ Hostile Environment
- Harassment ~ Quid Pro Quo
- Harassment ~ Retaliation
- Hazing
- Intimidation
- Sexual Exploitation
Complaint Resolution Process
For faculty, staff, and student cases

❖ Title IX Cases: Formal Grievance Process

❖ All other sex based harassment and discrimination Cases: Inclusive Complaint Process
Major Gatekeeping Guideposts

NOTICE
Initial Assessment
Notice of Investigation & Allegation
Comprehensive Investigation
Hearing and Determination
Sanction(s)
Appeal(s)
Hearing

Cross-Examination of Parties by Advisors

Hearing Panel Chair: decides all relevancy issues in real time

Advisor
Attorney/Non-Attorney Advocate Support Person
Standard of Proof
Preponderance of the Evidence
and
Clear and Convincing

Evidence which shows that the fact to be proven is more probable than not (50.1%)

Evidence presented must be highly and substantially more probable to be true than not
Important Definitions...
2020 Title IX Regulations

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VAWA Crimes

1. Dating Violence
2. Domestic Violence
3. Stalking
4. Sexual Assault

These are considered reportable crimes, even if the victim does not consider themselves to be a victim.
Sexual Assault

sexual contact on the body of another person without his or her consent

penetration without that person's consent

threatened, coerced, or forced to engage

against his or her will

while temporarily or permanently incapacitated

stranger or by a person known by the victim

married or in a dating relationship
Consent

demonstrated by clear actions, words, or writings

Freely and voluntarily given

Offered and accepted by all parties

mutually understood by all parties involved

mentally or physically incapacitated or impaired

not understand the fact, nature, or extent of the sexual situation

Silence does not constitute consent

Consent is active, not passive

past consent does not imply future consent

Consent to some form of sexual activity is not consent to any other form of sexual activity

Consent can be withdrawn at any time
Domestic Violence (to include Dating Violence)

A felony or misdemeanor crime of violence committed by:

❖ A current or former spouse or intimate partner of the victim,
❖ By a person with whom the victim shares a child in common,
❖ By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner,
❖ By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred,
❖ By a person who is or has been in a dating relationship of a romantic nature with the victim
❖ By any other person against an adult or youth victim who is protected from that person’s act under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
❖ Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
Stalking

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to

1. Fear for the person’s safety or the safety of others; or
2. Suffer substantial emotional distress

For Clery purposes:

A “course of conduct” means two or more acts, including, but not limited to, acts 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.
Stalking…

❖ Does not have to be sex/gender related

❖ Most people, especially students, do not recognize stalking behaviors and may not realize they are within a “course of conduct.”
Title IX Coordinator & Clery Compliance Officer, Staff, and Deputy Title IX Coordinators

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Director of Compliance & Senior Woman
Administrator (SWA)
910.775.4246
Title IX and Clery Reporting

In case of emergency, call X-6235 or 911

UNCP Contact numbers:

Title IX Coordinator
Clery Compliance Officer
The Education Building, Room 334
Office: 910.521.6281
Cell: 910.674.0080

Campus Law Enforcement
910.521.6235

Office of Title IX and Clery Compliance
www.uncp.edu/titleixclery
titleixcoordinator@uncp.edu
Questions?
Thank You