

# Title IX Coordinator and Responsible Employee Training

A Self-Study to Understanding Your Role and  
Responsibilities Under the Law

# Why Do I Need This Training?

- This self-study was created to help associates at all levels of the organization understand the provisions of Title IX of the Education Amendments of 1972 (“Title IX”), and the Clery Act as it was amended in the Violence Against Women Reauthorization Act of 2013 (“VAWA”).
- All individuals within an educational institution must understand and comply with the laws in terms of what is prohibited behavior regarding sexual harassment and sexual violence and the steps to follow when any prohibited conduct occurs.
- This training provides participants with relevant information regarding these laws and appropriate procedures to follow to ensure that the rights of all individuals covered under these laws are protected.
- It also provides additional resources to ensure that as an educational institution, we continue to build and strengthen our Title IX and VAWA policies and procedures throughout the current year and beyond.



# Overview of Self-Study Content

- Overview of Title IX and VAWA laws
- Reporting and Response
- Investigations and Disciplinary Procedures
- Education and Prevention



# What is Title IX?

- Title IX prohibits discrimination based on sex in education programs and activities in federally-funded schools at all levels.
- The law protects students, employees and other persons from all forms of sex discrimination, including discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity.
- The intent of Title IX is to help ensure that an institution does not exclude, separate, deny benefits to, or otherwise treat differently any individual on the basis of sex, unless expressly authorized to do so under Title IX or other U.S. Department of Education regulations.
- Institutions must also designate at least one employee to coordinate efforts to comply with its responsibilities under Title IX and ensure that all employees and students know who this person is and how to contact him or her. This employee is designated as the Title IX Coordinator for the institution.



# Does Title IX Apply to Me?

- As stated in the previous section, Title IX protects students, employees, applicants for admission and employment, and other persons from all forms of sex discrimination, including discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity.
- All students and employees at postsecondary educational institutions are protected under Title IX in all aspects of an institution's educational programs and activities, regardless of their sex, sexual orientation, gender identity, part- or full-time status, disability, race or national origin.
- Every federally-funded educational institution, whether public or private, must have policies and procedures in place to investigate and remedy conduct, where necessary, to ensure that all students and employees are protected from sexual discrimination.



# Title IX Covers What Geographical Areas?

Title IX covers instances which occur:

- On campus and on other school property used for educational purposes including residential housing;
- At off-campus events sponsored by the educational institution;
- Off campus if the potential exists for impacting one or more students or employees on campus.



# What About Sexual Harassment?

- Various forms of sexual harassment are also prohibited under Title IX, and institutions are required to have policies and procedures in place to help prevent and promptly address instances of sexual harassment.
- Title IX prohibits sex-based harassment by peers, employees or third parties which may deny or limit an individual's ability to participate in and/or benefit from educational programs and/or an individual's employment responsibilities and performance.
- An institution is required to take immediate and appropriate measures to investigate if it has or should have knowledge of possible sex-based harassment occurring.
- If the investigation determines that the harassment created a hostile environment, the institution must take timely and effective steps in an attempt to eliminate the hostile environment, stop the harassment, and prevent the harassment from occurring again.



# Categories of Sexual Harassment

The following forms of sex-based harassment are prohibited by Title IX:

1. **Sexual Harassment:** Unwelcome conduct of a sexual nature, such as requests for sexual favors, unwelcome sexual advances, and other verbal, non-verbal or physical conduct of a sexual nature.
2. **Sexual Violence:** Physical sexual acts committed against an individual's will or where an individual is unable to give consent (e.g., due to intoxication, disability, etc.). Rape, sexual battery and assault, sexual abuse, and sexual coercion all fall within the category of "sexual violence".
3. **Gender-based Harassment:** Unwelcome conduct based on an individual's actual or perceived sex, including gender identity or nonconformity with sex stereotypes, and not necessarily involving conduct of a sexual nature.

**Note:** The sex of the alleged perpetrator or complainant is irrelevant, including when both the alleged perpetrator and complainant are members of the same sex.



# Examples of Sexual Harassment

Examples of actions which can be sexually harassing include but are not limited to the following:

- Sending suggestive or obscene letters, notes, invitations; making derogatory comments, slurs, jokes, epithets, assaults; touching, impeding or blocking movement; leering, gesturing, displaying sexually suggestive objects, pictures or cartoons;
- Continuing to express sexual interest after being informed that the interest is unwelcome;
- Implying or withholding support for an appointment, promotion, or change of assignment; suggesting a poor performance report will be prepared; or suggesting probation will be failed; within the educational environment, implying or actually withholding grades earned or deserved; suggesting a poor performance evaluation will be prepared; or suggesting a recommendation or college application will be denied;
- Engaging in coercive sexual behavior to control, influence, or affect the career, salary, and/or work environment of another employee; within the educational environment, engaging in coercive sexual behavior to control, influence, or affect the educational opportunities, grades and/or learning environment of a student;
- Engaging in offering favors of educational or employment benefits, such as grades or promotions, favorable performance evaluations, favorable assignments, favorable duties or shifts, recommendations, reclassification etc., in exchange for sexual favors.



# School's Responsibilities Under Title IX

Key responsibilities for a school include but are not limited to:

- Designating at least one Title IX Coordinator and other “responsible employees”
- Maintaining and distributing a Title IX Notice of Nondiscrimination
  - Should be widely distributed to all applicants for admission and employment, students and employees
  - Should be posted on the school’s website and at various locations around campus
  - Must be included in recruitment materials (catalog, enrollment documents, etc.)
- Adopting and publishing Grievance Procedures describing prompt and fair resolution of sexual discrimination complaints
- Prohibiting retaliation against complainants
- Creating a campus culture which allows for valid and credible complaints
- Responding to a potential act of sex discrimination by initiating an investigation once the school is on “notice” of the conduct (when a “responsible employee” of the school has actual or constructive notice of the conduct).



# Who are Responsible Employees Under Title IX?

- Responsible employees are the Title IX Coordinator and any other employee who has been granted the authority by the institution to address acts of sexual discrimination (including harassment and violence).
- Responsible employees have been assigned the duty by the institution to report any incidents of potential sexual discrimination to the Title IX Coordinator.
- An institution must make clear to employees and students which staff members have been designated by the school as “Responsible Employees” so that these employees understand that they must report incidents to the Title IX Coordinator and so that students know which individuals have an obligation to report incidents to the Title IX Coordinator.
- Unitek’s current Title IX Coordinator and a list of “Responsible Employees” by campus are included in the School Catalog on page 112.



# What is VAWA?

- The Violence Against Women Reauthorization Act (VAWA) was signed into law by President Obama in 2013 and amended the Clery Act, which is the law that requires postsecondary institutions to collect and report to the U.S. Department of Education and the public the number of certain crimes that occur on campus property.
- New obligations for institutions under VAWA include:
  - Reporting any instance of dating violence, domestic violence, sexual assault, and stalking along with the other crime categories reported under the Clery Act;
  - Adopting expanded disciplinary procedures that include requirements for notifying victims of their rights; and
  - Adopting enhanced institutional policies to prevent and address campus sexual violence, such as training all students and employees about being aware of and preventing crimes of sexual violence.



# How Did VAWA Change the Clery Act?

- The Clery Act requires federally-funding institutions to report annual statistics on crime occurring each calendar year on or near campus and to distribute that information in an Annual Security Report no later than October 1 of each year.
- VAWA added additional crimes for Clery Act reporting purposes: Dating violence, domestic violence, stalking and sexual assault.
- VAWA requires that institutions' Annual Security Reports include specific "Statements of Policy" regarding programs to prevent sexual misconduct and the procedures institutions will follow when VAWA crimes occur.
- VAWA added gender identity and national origin as new categories of potential bias for hate crime reporting under the Clery Act. This means that if a reportable crime happens on campus, a school must determine if there is evidence that the victim was selected because of the perpetrator's bias based on gender identity or national origin or race, gender, sexual orientation, religion, and/or disability.



# What Does the Title IX Coordinator Do?

- Assists in any training the school provides to the school community, including employees, as to what constitutes sexual and gender-based harassment and how to respond appropriately if it occurs
- Helps the school create a method tailored to their institution to evaluate the campus climate, evaluate whether any discriminatory attitudes exist within the school's culture, and identify whether any harassment or other problematic behaviors are occurring, where they happen, which students are responsible, which students are targeted, and how those conditions may best be remedied
- Evaluates requests for confidentiality by victims of sexual harassment and weighs those requests against the obligation to provide a safe, nondiscriminatory environment for all students
- Coordinates recordkeeping, such as a confidential log, monitors incidents to help identify students or employees who have multiple complaints filed against them or who have repeated targets, and address any patterns or systemic problems that arise



# What Does the Title IX Coordinator Do, cont'd?

- Recommends that safety measures be increased at locations or activities where harassment has occurred, such as monitoring, supervision or security
- Reviews the effectiveness of the school's efforts to ensure that the school is free from sexual and gender-based harassment and use that information to recommend future proactive steps



# Reporting Requirements Under Title IX and VAWA

The following policies and procedures are included in Unitek's Annual Security Report and are required under Title IX and VAWA:

- Procedures for students and others to report crimes of sexual violence occurring on campus
- Policies for issuing timely warning reports to members of the campus community for crimes of sexual violence and other emergencies
- Policies and procedures for victims or witnesses to report crimes of sexual violence on a voluntary and confidential basis solely for inclusion in the annual disclosure of Clery Act crimes
- A statement which encourages timely and accurate reporting of all crimes to the appropriate law enforcement agencies when the victim of a crime elects not to, or is unable to, make such a report.

Additionally, the institution's reporting structure must ensure that the Title IX Coordinator receives information about all reports of sexual violence.



# What Should Be Reported and To Whom?

- All students and employees have a right to report sexual discrimination in any form to the Title IX Coordinator, to have the school investigate the occurrence, and to have the complaint resolved timely and fairly.
- Any incident that may be sex or gender-based discrimination, including sexual violence, should be reported.
- Any retaliation experienced by students and/or employees for reporting an incident or participating in a disciplinary proceeding should be reported to the Title IX Coordinator.
- Students and employees who are victims of sexual violence may choose to report the crime to local law enforcement; however, a criminal complaint filed by a victim does not relieve the school of their duties under Title IX.
- Students and employees who believe they may be a victim or who may have witnessed sexual violence involving another student or employee should report that information immediately to the Title IX Coordinator and/or designated “Responsible Employees”.



# Confidential Reporting

- Title IX requires an institution to provide clear information regarding where students and employees can go to speak confidentially and/or to obtain victim advocacy, counseling or other support services.
- Additionally, in cases of sexual violence, the VAWA requires Title IX Coordinators to provide VAWA crime information to Clery Act Campus Security Authorities in a manner that protects the victim's identity.
- Title IX Coordinators and Responsible Employees must weigh individual requests for confidential treatment of Title IX incidents against the Title IX Coordinator's obligation to protect the campus community as a whole.
- Responsible employees must make every effort to ensure that a victim of sexual violence understands:
  - The Responsible Employee's obligation to report the names of the alleged perpetrators and student involved in the incident and any relevant facts to the Title IX Coordinator
  - The student's option to request that the school maintain his/her confidentiality which the school will consider and maintain to the best of its ability
  - The student's ability to share the information confidentially with counseling, mental health, and/or other sexual-assault-related services.



# Unitek's Policy on Confidentiality

- Unitek College is committed to protecting the confidentiality of the victim in either the presence or absence of a victim's request for confidentiality.
- Personally identifying information will not be included in any publicly available records, including Clery Act reporting, the college's Annual Security Report, or in any Timely Warning Notices that could be issued.
  - Personally identifying information is defined as individually identifying information for or about an individual, including information likely to disclose the location of a victim, regardless of whether the information is encoded, encrypted, hashed or otherwise protected, including: a first and last name; a home or other physical address; contact information (including a postal or email address, or telephone or fax number); a social security number, driver's license number, passport number or student identification number; and any other information, including date of birth, racial or ethnic background, or religious affiliation that would serve to identify any individual."
- If Unitek determines that it can respect a victim's request not to disclose his/her identity to the alleged perpetrator, it will take all reasonable steps to respond to the complaint consistent with the request (e.g., with increased monitoring or security, additional training for students and staff, etc.)



# The Role of a Title IX Responsible Employee

- Responsible Employees, designated by an institution, are required to report instances of sexual harassment, misconduct and/or violence to the Title IX Coordinator.
- Responsible Employees have the authority to take action in responding to sexual harassment, misconduct and/or violence.
- Responsible Employees are those employees whom students and other employees could reasonably believe have such authority.
- An institution on the whole is “on notice” when a Responsible Employee knows or reasonably should know of an incident of sexual harassment, misconduct and/or violence.
- An institution which is “on notice” must take immediate steps to investigate the allegation, regardless of whether a formal complaint was filed.



# The Role of a Title IX Responsible Employee, cont'd

## Specifically, a Responsible Employee:

- Should report the name of the alleged perpetrator and victim involved in the incident, as well as any relevant facts such as the date, time and location;
  - An attempt should be made to comply with any requests for confidentiality
- Must never discourage or direct a victim not to report the incident to the Title IX Coordinator or law enforcement authorities;
- Should make every effort to ensure the victim understands the employee's obligation to report the incident to the Title IX Coordinator and the victim's option to request that the school maintain confidentiality to the extent that is possible;
- Should help ensure that alleged victims reporting discrimination, harassment, misconduct, violence and/or other crimes or participating in Title IX investigations or hearings are not retaliated against.



# What Happens After an Institution is “On Notice”?

- If a Title IX investigation concludes that the incident created a hostile environment, the institution is required to take immediate steps to end the conduct, eliminate the hostile environment and prevent any reoccurrence.
- When a sexual violence incident is reported, VAWA requires the institution to protect the complainant immediately even before an investigation is initiated or concluded, such as taking interim steps like transportation arrangements and class schedule changes.
- Notice received by an institution can take many forms including: 1) Verbal or written notice; 2) filing a formal grievance; 3) report by another student, parent, friend, colleague or other third party; 4) notice received through the media or social networking site.
- An institution’s failure to take immediate corrective action after obtaining notice of an incident violates Title IX, even if the alleged victim did not report the incident to the institution.



# Unitek's Policy on Voluntary Reporting

- Unitek encourages any victim of sexual assault, domestic violence, dating violence or stalking to notify law enforcement immediately; however, the ultimate decision to do so and/or when to do so must reside with the victim.
- All victims have the right to deny assistance from or involvement with law enforcement.
- If a victim does decide to report the crime to law enforcement, the following one of two things can happen:
  - The victim can file a complaint but request not to have charges filed against the accused perpetrator(s). The decision to file charges can be made at a later time, but depending on the amount of time that passes, evidence may be lost or unusable.
  - The victim can file a complaint and press charges immediately.
- In addition to reporting the crime to law enforcement, victims should report these crimes to Unitek's Title IX Coordinator, Responsible Employees, and/or the Human Resources Department. The College will assist the victim by providing options for outside resources, pursuing an investigation, and conducting applicable disciplinary proceedings/actions.



# Policy and Process for Disciplinary Proceedings

- Unitek College will conduct any and all disciplinary proceedings in a prompt, fair and impartial manner.
- Both the accuser and accused have the right to be treated fairly and equitably by the College throughout all disciplinary proceedings, and these proceedings will be conducted in accordance with the College's policies and procedures and will be transparent to the accuser and the accused.
- The College strives to complete all disciplinary proceedings, including the investigation, formal and informal meetings, hearing, and sanctions, within sixty (60) calendar days of receiving a report. However, there is an allowance for extensions of timeframes for good cause, as necessary, and in that instance, written notice will be provided to the accuser and the accused announcing the delay and the reason for it.
- During all proceedings, Unitek will ensure the following:
  - Provide the accuser and accused with timely notice for meetings at which the accuser or accused may be present;
  - Provide timely and equal access to the accuser, the accused and appropriate officials to any information that will be used during informal and formal meetings and hearings;
  - Proceedings conducted by college officials who do not have a conflict of interest or bias for or against the accuser or the accused;



# Policy and Process for Disciplinary Proceedings, cont'd

- Proceedings conducted by college officials who receive annual training on topics such as: relevant evidence and how it should be used in a disciplinary proceeding; proper techniques for questioning those involved; basic procedures for conducting a proceeding; and avoiding actual and perceived conflicts of interest;
- Provide the accuser and the accused with the same opportunities to have others present during any institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice;
- The choice of advisor and presence for either the accuser or the accused in any meeting or institutional disciplinary proceedings will not be limited by the College; however, the role of the advisor will be limited to consulting and advising the accuser/accused only, and the advisor is not allowed to speak on behalf of the accuser/accused at any meeting or hearing;
- Provide both the accused and accuser with simultaneous written notification for the following: The result of any institutional disciplinary proceeding that arises from an allegation of dating violence, domestic violence, sexual assault and stalking; the College's procedures for the accused and the victim to appeal the result of the institutional disciplinary proceeding; any change to the result; and when results become final;
- Provide both the accused and the accuser with written documentation of his/her right to appeal the decision and/or the sanction imposed. The appeal must be based on either a process error or based on new information/evidence which is introduced. Appeals must be made within five (5) days of the original decision and should be directed to the Title IX Coordinator.



# Types of Proceedings

- An alleged victim of domestic violence, dating violence, sexual assault and/or stalking has the choice to have both Unitek College and law enforcement or either of the two entities pursue the investigation.
- College representatives will be available to guide the alleged victim on available options and support the alleged victim through his/her decision.
- The College will execute disciplinary proceedings regardless of where the alleged case of domestic violence, dating violence, sexual assault or stalking occurred.
- Investigations will typically involve interviews of all involved parties (the accused, the accuser, and any witnesses) and the collection of evidence and/or documentation regarding the allegation.
- Upon conclusion of the investigation, the investigator(s) will meet with the Title IX Coordinator to confirm that the investigation is complete.
- The investigator(s) will meet with the accuser and accused separately and advise them of the facts in determining whether or not it appears that the accused violated the College's policy.
- Both parties will be offered an opportunity to correct any of the facts presented to them and/or offer additional facts.



# Types of Proceedings, cont'd

- If additional facts are presented which warrant additional investigation, it will be completed by the investigator(s). If there are no additional facts, the investigator(s) will present the recommendation to the Title IX Coordinator as to whether it was more likely than not that the accused violated the College's policies.
  - If the accused is a student, the Title IX Coordinator will discuss the result with the Campus Director and decide on an appropriate sanction. The Campus Director will then provide the conclusion, the reason for the conclusion, and the sanction(s) imposed in writing to the accuser and the accused simultaneously.
  - If the accused is an employee, the Title IX Coordinator will discuss the result with the Campus Director (if applicable) and/or the Human Resources Department and decide on an appropriate sanction. The Human Resources Department will provide the conclusion, the reason for the conclusion, and the sanctions imposed in writing to the accuser and the accused simultaneously.
- Sanctions imposed will typically depend on the severity of the offense (i.e., stalking may result in training, probation, and/or transfer to another location/department whereas sexual assault will result in termination from the College).
- In all investigations, the College uses the “preponderance of evidence” standard of evidence to determine whether the accused has violated the College's policies.



# What If An Incident Happens Off Campus?

- An institution must process all complaints of sexual violence regardless of where the conduct occurred.
- If an institution determines that the alleged off-campus sexual violence occurred in the context of an educational program or activity of the school, it must treat the complaint in the same manner that it treats complaints regarding on-campus conduct.
- Even if the incident did not occur in the context of an education program or activity, the institution must weigh the effects of the off-campus incident when determining whether there is a hostile environment on campus.
- An institution is also required to take measures to protect an alleged victim of off-campus sexual violence from further harassment by the alleged perpetrator or his/her acquaintances.
- Even if there are no continuing effects of the off-campus sexual violence incident, the institution is still required to address these incidents as it would handle other off-campus incidents of misconduct or violence and consistent with any other applicable laws.



# What Remedial Measures Can Be Taken?

- The primary goals of remedial measures are to:
  - Support the alleged victim in his/her ability to continue his/her education by providing support services and eliminating a hostile environment; and
  - Improve the campus environment by taking action targeted toward the community to prevent reoccurrence.
- Remedial measures may include but are not limited to:
  - Providing an effective escort
  - Ensuring the accused and accuser do not share classroom space
  - Moving the accused or accuser to another location/campus
  - Providing access to resources such as medical, counseling and academic support services (e.g., tutoring, etc.)
  - Arranging for the alleged victim to have extra time to complete or re-take a class or withdraw from a class without an academic or financial penalty
  - Training or retraining school employees on the institution's responsibilities to address allegations of sexual violence and how to conduct Title IX investigations
  - Reissuing policy statements regarding the school's zero tolerance on sexual violence



# Unitek's Policy on Retaliation

- Unitek believes strongly that students and employees have the right to be free from retaliation and intimidation in any form as a result of filing a complaint, participating in an investigation or disciplinary hearing, opposing an unlawful act or discriminatory practice, or for any other related action.
- In that regard, the College maintains a zero tolerance policy for acts of retaliation and intimidation.
- Students and employees must feel free to report any acts of retaliation to Campus Security Authorities, Title IX Responsible Employees, Human Resources and/or any other campus or corporate staff.
- Any Unitek employee who is made aware of retaliatory acts against students and/or employees has the responsibility to address the situation immediately and/or report the act(s) to the appropriate staff or management for immediate action and resolution.
- Title IX requires a school to protect any complainant from retaliation and ensure his/her safety, as necessary.



# Engaged Bystander Intervention

- The U.S. Department of Education requires that all prevention training on sexual violence cover strategies and skills for bystanders to intervene to prevent possible sexual violence before it occurs.
- Bystanders are:
  - Individuals who observe violence or witness the conditions that perpetuate violence
  - Not directly involved but have the choice to intervene, speak up and/or do something about it
- Engaged bystander intervention is the act of feeling empowered and equipped with the knowledge and skills to effectively assist in the prevention of sexual violence.
- Unitek College is an advocate for bystander intervention when it is conducted in a positive and safe manner and when it is executed to prevent harm in the event of potential domestic violence, dating violence, stalking or sexual assault on a person other than the bystander.
- For effective bystander intervention strategies, please refer to the section on “Engaged Bystander Intervention” in the most current Unitek College Annual Security Report.



# The Dynamics of Sexual Assault

The U.S. Department of Education, Office for Civil Rights, requires that all Title IX Coordinators and Responsible Employees have a basic understanding of the unique aspects of sexual assault dynamics within the postsecondary school environment, as follows:

- The majority of sexual assaults include the use of alcohol or drugs by one or both parties.
- The overwhelming majority of sexual assaults involve acquaintances or individuals who know each other.
- Disputes over the consensual or non-consensual nature of the act are common.
- Evaluation of whether sexual violence occurred often involves he said/she said dynamics with little witness corroboration or physical evidence, making it difficult to determine credibility of each party.
- Victims of sexual violence often behave differently than victims of other crimes.



# The Dynamics of Sexual Assault, cont'd

Title IX Coordinators and other responsible employees involved in responding to sexual violence need to understand that sexual trauma has neurobiological changes which can impact a victim's behavior. Victims of sexual violence often act counter-intuitively in ways that can negatively impact a school's assessment of the victim's credibility including:

- Significant delays in reporting an incident
- Anxiety and fear
- Wavering levels of cooperation
- Re-experiencing of the trauma
- Avoidance
- Guilt, shame and/or depression
- Negative beliefs about self, others, and the world
- Relationship difficulties

A complainant's behavior may be unusual not because she/he is lying or unsure about what occurred, but due to the trauma experienced. This should be taken into consideration when evaluating a complainant's credibility.



# Definition of Affirmative Consent

The Violence Against Women Act requires that all students and employees know the definition of “consent.” This is defined in the state of California as “affirmative consent,” as follows:

“Affirmative consent must be determined among involved parties when engaging in sexual activity. ‘Affirmative consent’ means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be rescinded at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent. Sexual assault results when affirmative consent is not given by one or more parties before or during sexual activity, regardless of the parties’ existing or past relationship or non-relationship.”



# Now on to the Quiz!

## Congratulations!!

You have now completed the training portion.  
Please proceed to take the awareness quiz!

