

# Title IX & Sexual Violence: Faculty & Staff Obligations to Report



The College at  
**BROCKPORT**  
STATE UNIVERSITY OF NEW YORK

Adrienne Collier, HR, Title IX Coordinator

Bob Kehoe, Chief of University Police

Karen Logsdon, PhD, Title IX Deputy Coordinator for Students

# Overview

Title IX  
40<sup>th</sup> Anniversary  
June 23, 2012

- ▶ Background of Title IX
- ▶ Title IX & Reporting Obligations
  - Case Study– Yale University
- ▶ Title IX and the Law
- ▶ Title IX: Student–on–Student
  - Sexual Assault
  - Title IX Compliance review
  - Code of Sexual Misconduct
- ▶ Summary and Questions



**Adrienne Collier**  
Title IX Coordinator  
Human Resources

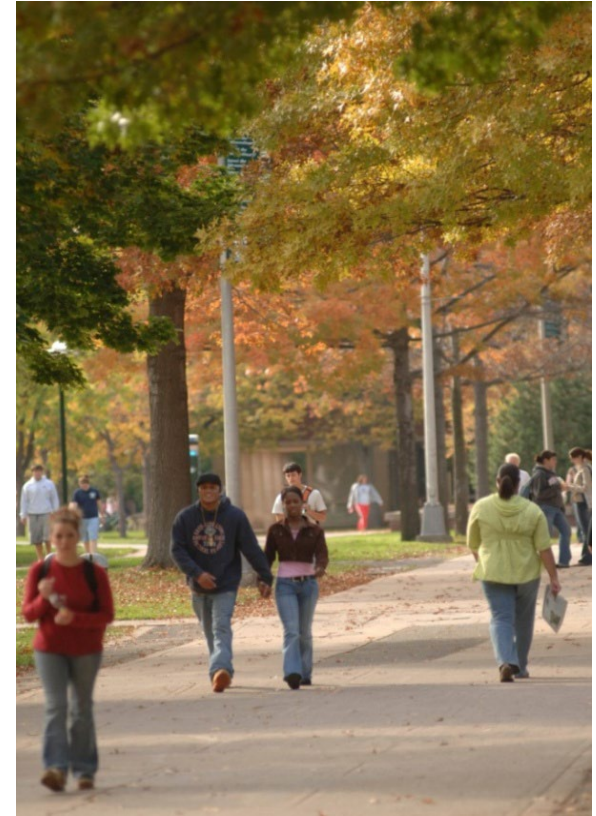
**Karen Logsdon**  
Title IX Deputy  
Coordinator for Students

EM & SA

**Susan Hoffman**  
Title IX Deputy  
Coordinator for Athletics  
Intercollegiate Athletics

# Title IX states:

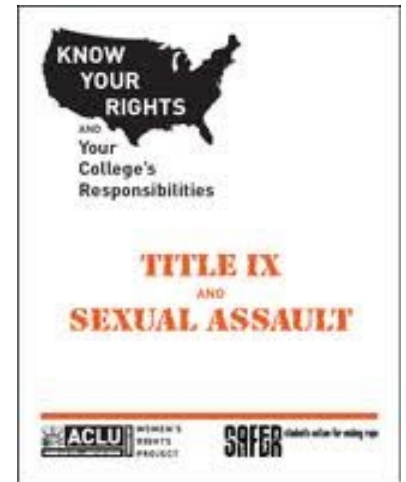
“No person in the United States shall, on the basis of **sex**, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any **education program or activity** receiving Federal financial assistance.”



Title IX of the Education Amendments of 1972  
Implementing Regulations at:  
**20 U.S.C. § 1681 & 34 C.F.R. Part 106**

# Title IX Background

- ▶ Dear Colleague Letter (4/4/11)
  - Title IX Compliance
    - Policy, infrastructure, prevention/education/response
- ▶ Vice President Biden call to action
- ▶ Sexual Violence Elimination Act (SaVE Act)
- ▶ Office of Civil Rights Compliance Review –
  - Four SUNY campuses (U Albany, Buffalo State, Morrisville, SUNY New Paltz)



# Title IX Principles:

<b>INVESTIGATION =</b>	<b>Thorough</b>	<b>Reliable</b>	<b>Impartial</b>
<b>PROCESS =</b>	<b>Prompt</b>	<b>Effective</b>	<b>Equitable</b>
<b>REMEDIES =</b>	<b>End Discrimination</b>	<b>Prevent Recurrence</b>	<b>Remedy effects upon victim &amp; community</b>

# Title IX: Types of Harassment

- ▶ Sexual harassment and sexual violence are forms of sex discrimination and therefore are violations of Title IX.
- ▶ Types of Harassment under Title IX
  - Quid Pro Quo
  - Hostile Environment
  - Retaliatory Harassment

# Quid Pro Quo

- ▶ Unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature,
  - when submission to or rejection of such conduct is a basis for decisions affecting the student's education or participation in a school related activity.

Example: Submission to sexual conduct in exchange for a particular grade, favorable graduate school or job recommendations, or selection as a captain of a varsity sports team.



# Hostile Environment

- ▶ Unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature which is sufficiently **severe or pervasive** so as to alter the conditions of a student's education by interfering with the student's ability to benefit from the educational program.
  - The perpetrator may be an employee, fellow student or a visitor.

# Retaliation

- ▶ Under both Title VII (employee sexual harassment) and Title IX (student sexual harassment) it is unlawful to retaliate against an individual who has:
  - made a complaint of sexual harassment;
  - participated in the investigation of such a complaint (i.e., witnesses); or
  - opposed conduct that is reasonably believed to violate Title VII or Title IX

# Liability for Sexual Harassment Claim Under Title IX

- ▶ Under US Supreme Court decisions, a school district or college can be held **liable** for sexual harassment of a student by either an employee or a fellow student if:
  - a school administrator who has authority to stop the harassment has **actual knowledge** of the harassment and is **deliberately indifferent** to the harassment.

# What does OCR Say?

- ▶ The US Department of Education, Office of Civil Rights, (“OCR”) is responsible for enforcing Title IX.
  - OCR takes a broader view of an institution’s responsibility to respond to sexual harassment against students and to **remedy gender discrimination**, sexual harassment and sexual assault.
- ▶ OCR guidelines state:
  - The college is responsible if it **knew or reasonably should have known of the harassment**, and failed to **promptly take reasonable steps** to end the harassment and prevent recurrence.

# Title IX Reporting

- ▶ Faculty and staff who receive complaints of sexual harassment or sexual violence are **obligated** to report complaints to their department head or the Title IX Coordinator as follows:
  - If the accused individual is a student, the complaint should be reported to **Karen Logsdon, Title IX Deputy Coordinator for Students**, 395-5042, [klogsdon@brockport.edu](mailto:klogsdon@brockport.edu).
  - If the accused individual is an employee or a visitor, the complaint should be reported to **Adrienne Collier, Title IX Coordinator**, 395-5119, [affirm@brockport.edu](mailto:affirm@brockport.edu).
- ▶ Purpose is to prevent sex discrimination on campus, promptly address reported issues, and limit the effects of harassment on the educational environment.

# Case Study: OCR Title IX Complaint

Complaint filed in 2011 by 16 students alleged Yale's failure to address incidents of sexual harassment and sexual assault has resulted in "hostile environment."

- 2005, fraternity members stole t-shirts with testimonies of sexual assault survivors from Clothesline Project
- 2008, Zeta Psi pledges were photographed holding a sign "**We Love Yale Sluts**" outside of the Women's Center.
  - Center threatened to sue on the grounds of sexual harassment, the case ultimately never materialized.

# OCR and Yale University

- ▶ Complaint continued:
  - 2009 *Preseason Scouting Report* email ranking 53 female freshmen by name, hometown, college residence—and "how many beers it would take to have sex with them"
  - 2010 Delta Kappa Epsilon pledge group chanted "F---ing sluts," "No means yes, yes means anal" and "My name is Jack, I'm a necrophiliac, I f--- dead women." outside the women's center

# Yale Student Testimonies

- ▶ “After an attempted assault my freshman year, I left school and was hospitalized for two days because I was ill from stress.
  - When I came back I got a D on an exam—up until that point I had been a straight-A student.
  - I stopped taking courses I thought he would be interested in, stopped hanging out with groups of mutual friends and refrained from participating in organizations he was a part of. I suffered panic attacks when I ran into him.”
  - *(One of the five testimonies in the Title IX Complaint)*



# Outcome: Voluntary Agreement

- ▶ Title IX coordinator oversee compliance
- ▶ University–Wide Committee
- ▶ **Training/education** police, fac/staff, students
- ▶ **Creating a Sexual Harassment and Assault Response & Education Center** where victims can turn on a 24/7 basis for help.
- ▶ **Assessing campus climate**, annually, with regard to sexual misconduct, discrimination, and Title IX.

# Reporting and the Law

- ▶ Bob Kehoe, Chief of University Police



# Clery Act Mandates:

- Institutions must publish an **annual report** disclosing campus security policies and 3 years of selected crime statistics for current students, new students and prospective students/families
- Institutions must make **timely warnings** to the campus community about crimes that pose an **ongoing threat** to students and employees.
- Institutions with a police or security department must have a public crime log.
- The U.S. Department of Education centrally collects and disseminates these crime statistics.
- Campus community sexual assault victims are assured of certain basic rights. (Victim's Bill of Rights– [www.brockport.edu/policies](http://www.brockport.edu/policies))
- Institutions that fail to comply may **be fined or lose eligibility to participate in federal student aid programs.**

# Clery Act and Reporting Obligations

- ▶ **Campus Security Authorities:**
  - Officials who have significant **responsibility** for student and campus activities.
  - Including coaches, RA, RD, student affairs administrators, coordinator of internships, mentors, student organization advisor, etc.

No personal identifiable info needs to be shared by reporter to satisfy Clery reporting requirements.

Implications from Penn State Case, Freeh report

- [http://www.cbsnews.com/8301-201\\_162-57470964/penn-state-probe-condemns-callous-disregard](http://www.cbsnews.com/8301-201_162-57470964/penn-state-probe-condemns-callous-disregard)

# Clery & Reportable Crimes

- ▶ Murder/Non-negligent Manslaughter
- ▶ Negligent Manslaughter
- ▶ Forcible Sex Offenses
- ▶ Non-forcible Sex Offenses
- ▶ Robbery
- ▶ Aggravated Assault
- ▶ Burglary
- ▶ Arson
- ▶ Motor Vehicle Theft.
  - Campus Safety Report
  - [http://www.brockport.edu/policies/docs/campus\\_safety\\_report\\_clery\\_act\\_and\\_campus\\_crime\\_statistics.pdf#page=18](http://www.brockport.edu/policies/docs/campus_safety_report_clery_act_and_campus_crime_statistics.pdf#page=18)

# Reporting and the Law

- ▶ If the sexual offense occurred **on campus**, regardless of the victim's age, **MUST** be reported to **University Police** for Clery Act.
- ▶ If victim requests **confidentiality**, the basic information (date, general location, nature of offense) **must** be reported but victim's identity need not be revealed.
- ▶ If the alleged offense **occurred off campus**, there is no legal requirement to file a police report. Encourage victim to report to local law enforcement.
- ▶ If the events involve Brockport students, the incident **must** be reported to the Title IX Deputy Coordinator for Students or the Student Conduct Coordinators.
- ▶ If an alleged sexual offense involving a child under age of 17 comes to attention of counselor, child care worker, children's camp official, police officer or other "**mandated reporter**" as described in Section 413 of the Social Services Law, then a **report must be filed with the NYS Office of Children and Family Services**.

# Title IX

Student on Student

# Title IX: Student-on-Student

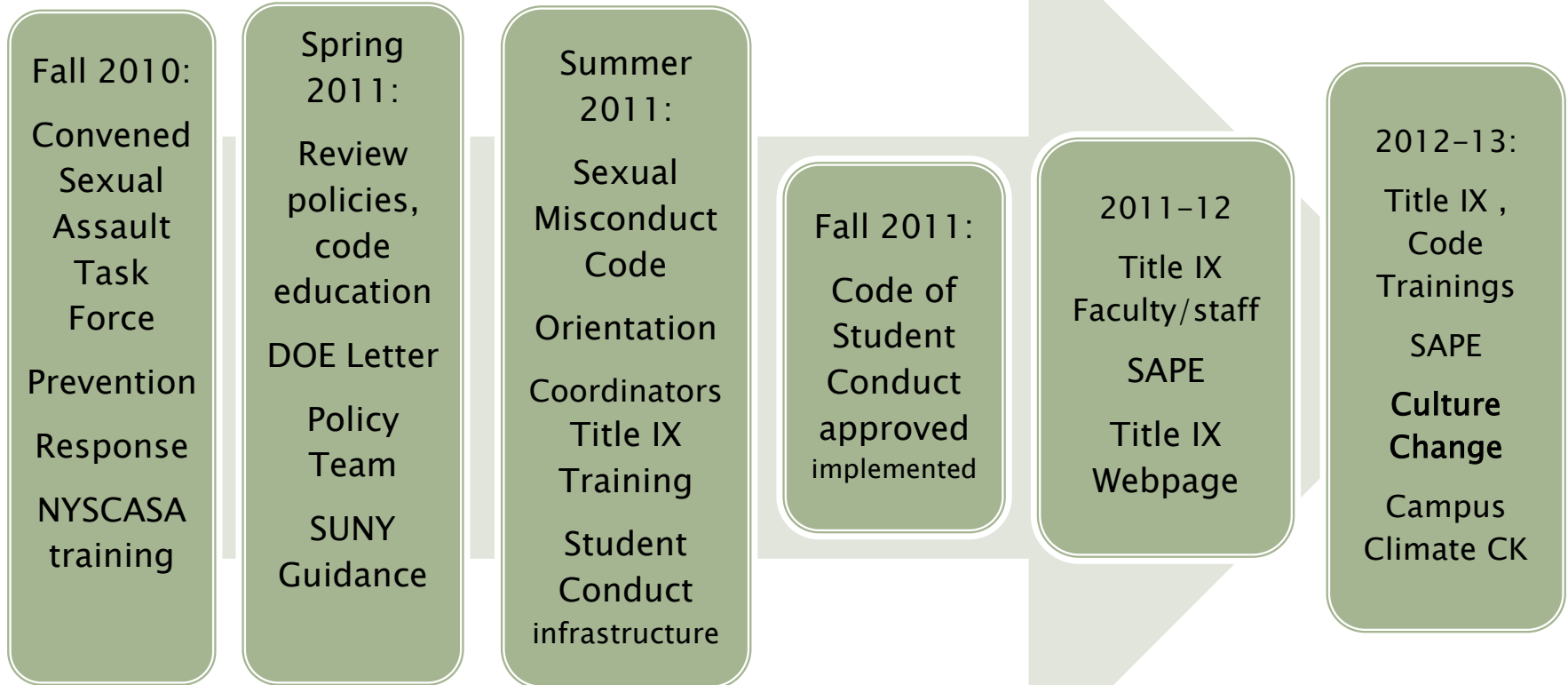


## ▶ College Sexual Assault:

- 1 in 4 college women victim of rape (Fisher, 2000)
- Less than 5% of sexual assaults are reported (Fisher, 2000)
- 80–90% of victims know the accused student (Fisher, 2000)
- Approximately 50% of rape victims develop PTSD
- 74% of perpetrators & 55% of rape victims were intoxicated (Abbey, 2002)



# Brockport & Title IX Compliance



# Sexual Assault Prevention and Education Task Force SAPE TEAMS

## Prevention and Education

*Select Respect* theme (alcohol & s.a. link, social norms, target pop)  
Orientation- *College Life Live*, *EagleCHECK & Sound Off*, Sex Signals cumulative assessment  
POS & Residence Life/LC curriculum  
•Ongoing programs WC TBN, clothesline, student orgs,  
•PartySmart programs

## Response

- Response Flow Chart
- Videos of services/ support
- Fact sheets - Resources
- Faculty/ staff trained as advisors/ board members, trained on response
- Rape Crisis Training
- RC Counselor in WC
- Students-Supporting-Students program

## Marketing & Communications

- Webpage Development
- Brochure –prevention program.
- New technologies to reach students: Got Consent , Help a Friend, Victim resource videos, Circle of 6 app, Campaign *Start by Believing/* Supporting campaign
- Table tents

# Code of Sexual Misconduct

- ▶ Confidential vs Non-confidential reporting
- ▶ Complaint Resolutions:
  - Informal resolution
  - Formal resolution
  - Requests Confidentiality
  - Criminal charges
- ▶ Formal Resolution
  - Full investigation (based on findings)
  - Sexual Misconduct Board Hearing (decision)
  - Sanction/Disciplinary action
  - Appeals process



# SMART

## ▶ Safety

- Determine if the victim is safe. Ask them if they would like you to contact University Police at (585) 395-2222.
- Interim Measures: support services ranging academic schedules, living arrangements, “no contact” orders, and alternatives reasonably available.

## ▶ Medical attention

- SAFE Center (Sexual Assault Forensic Exam Center) at Strong Memorial Hospital [United Memorial Medical Center in Batavia].

## ▶ Ask – what you can do to help

## ▶ Report – talk to student about options

## ▶ Talk – Health Center, Counseling Center, Rape Crisis Services at 800-527-1757.

# Summary

- ▶ “Students cannot learn if they don’t feel safe, and sexual harassment and sexual violence interfere with a **student’s right to receive an education free of discrimination,**” Assistant Secretary for Civil Rights Russlynn Ali
  - Between 2008 and 2011, the OCR has seen a **78% increase** in sexual harassment complaints
    - (Source: <http://www.csmonitor.com/USA/Justice/2012/0615/Yale-settles-Title-IX-complaint-launches-new-sexual-misconduct-policies>)

Students can file Title IX complaints directly with Department of Education:

<http://www2.ed.gov/about/offices/list/ocr/docs/howto.html>

# Resources



- ▶ Title IX Webpage:

- [www.brockport.edu/titleIX](http://www.brockport.edu/titleIX)

- ▶ DOE (OCR) Dear Colleague Letter

- <http://www.oesh.ucsb.edu/Policies/2011.04.DearColleague.pdf>

- ▶ Campus Safety Report:

- [http://www.brockport.edu/policies/docs/campus\\_safety\\_report\\_clery\\_act\\_and\\_campus\\_crime\\_statistics.pdf](http://www.brockport.edu/policies/docs/campus_safety_report_clery_act_and_campus_crime_statistics.pdf)