

CAMPUS SAVE ACT AND TITLE IX TRAINING



DEPARTMENT OF EDUCATION MANDATED POLICIES

- ▶ Clery Act

- ▶ The landmark federal law, originally known as the Campus Security Act, that requires colleges and universities across the United States to disclose information about crime on and around their campuses. The law is tied to an institution's participation in federal student financial aid programs and it applies to most institutions of higher education both public and private. The Act is enforced by the United States Department of Education.

- ▶ Campus Save Act - 2013

- ▶ Amendment to the Clery Act and requires Higher Education Institutions must educate students, faculty and staff on domestic violence, dating violence, sexual assault and stalking.

- ▶ Title IX Compliance

- ▶ Title IX of the Education Amendments of 1972 is a federal civil rights law that prohibits discrimination on the basis of sex in any education program or activity that receives federal funding. Title IX is a powerful tool for students who want to combat sexual violence at school and on college campuses. Under Title IX, discrimination on the basis of sex can include sexual harassment, rape, and sexual assault.

CONSEQUENCES OF NON-COMPLIANCE

- ▶ Non Compliance with Department of Education Policies (Title IX, Clery, Campus Save Act) will result in Fairleigh Dickinson University's loss of Financial Aid including:
 - ▶ Pell Grants
 - ▶ Federal Perkins
 - ▶ Federal Supplemental Educational Opportunity Grants
 - ▶ Direct Loan Programs
 - ▶ Federal Work Study Programs
 - ▶ Leveraging Educational Assistantship Partnership (LEAP)

CAMPUS SAVE ACT

- ▶ New Requirements Imposed by the Violence Against Women Reauthorization Act
 - ▶ The Violence Against Women Reauthorization Act (“VAWA”), which President Obama signed into law on March 7, 2013, imposes new obligations on colleges and universities under its Campus Sexual Violence Act (“SaVE Act”) provision, Section 304.
- ▶ Under the Campus SAVE Act, colleges and universities are required to:
 - ▶ Report cases of domestic violence, dating violence, and stalking in the Clery Annual Report;
 - ▶ Adopt certain student discipline procedures, such as notifying purported victims of their rights; and
 - ▶ Educate students, faculty and staff on domestic violence, dating violence, sexual assault and stalking
 - ▶ Identify resources where employees can seek assistance if they are a victim of domestic violence, dating violence, sexual assault and stalking

▶ **Stalking engages in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress.**

- ▶ This includes in-person;
- ▶ Telephone;
- ▶ Email;
- ▶ Text message;
- ▶ Other forms of electronic and social media
- ▶ Via third parties.

Dating Violence is a violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on the length and type of relationship and the frequency of interaction between the individuals involved.

Sexual Assault is any intentional intimate touching of another without the consent of the other person or in circumstances in which the person is unable, due to age, disability, or alcohol/chemical impairment, to give consent.

It is the responsibility of the person initiating sexual activity to make sure the other person is capable of consenting to that activity.

Consent is given by an affirmative verbal response or acts that are unmistakable in their meaning.

Consent to one form of sexual activity does not mean consent is given to another type of activity.

Sexual acts or attempts to engage in any sexual act with another person without the consent of the other person or in circumstances in which the person is unable, due to age, disability, or alcohol/chemical or other impairment is unlawful.

Domestic Violence

- ▶ It is a crime of violence committed by a current or former spouse or roommate of the victim;
- ▶ By a person with whom the victim shares a child in common;
- ▶ By a person who is cohabitating with the victim as a spouse or roommate;
- ▶ By a person, similarly situated to a spouse of the victim under the domestic or family violence laws of New Jersey.

REPORTING

- ▶ Campus Security Authorities are required to report any cases of Dating Violence, Domestic Violence, Sexual Assault and Stalking immediately to the Office of Public Safety.
- ▶ The Director of Public Safety will conduct an investigation and take all necessary steps to ensure a safe environment.
- ▶ The Director of Public Safety will communicate accordingly with the Deans of Students and the University Title IX Coordinator who will provide resources to the individual impacted.
- ▶ Employees that are victims of domestic violence should inform the Director of Public Safety of any restraining orders that may be in place by the appropriate authorities.

RESOURCES

- ▶ <http://www.domesticviolencebc.ca/>
 - ▶ 24 hours a day/7 days a week
 - ▶ 1 (800) 563-0808

- ▶ <http://www.rapereliefshelter.bc.ca/>
 - ▶ 24 hour crisis line
 - ▶ (604) 872-8212

TITLE IX

- ▶ Title IX of the Education Amendments of 1972 is a federal civil rights law that prohibits discrimination on the basis of sex, race, creed, color, religion, handicap/disability, gender, age, marital status, sexual orientation, veteran status, pregnancy status, ancestry or national origin in any educational program or activity that receives federal funding.
- ▶ Under Title IX, discrimination on the basis of sex can include sexual harassment, rape, and sexual assault.

MEMBERS PROTECTED UNDER TITLE IX

- ▶ Students
- ▶ Staff
- ▶ Faculty
- ▶ Visitors
- ▶ Independent Contractors
- ▶ Volunteers
- ▶ Patrons regardless of gender
- ▶ Protects students in a school's educational programs and activities and other programs of the school whether programs take place in a school's facility or sponsored by a school at an off-site location

SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION THAT CAN OCCUR WHEN:

- ▶ Unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal or physical conduct of a sexual nature, when:
- ▶ Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment or status in a course, program or activity;
- ▶ Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual; or
- ▶ Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile or offensive working and/or learning environment; or of interfering with or limiting one's ability to participate in or benefit from an educational program or activity.

EXAMPLES OF SEXUAL HARASSMENT

- ▶ Examples of sexual harassment may include, but are not limited to, the following:
- ▶ Physical assault, and/or physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the use of drugs or alcohol, or due to an intellectual or other disability. This includes rape, sexual assault, sexual battery and sexual coercion.
- ▶ Direct or implied threats that submission to sexual advances will be a condition of employment, work status, compensation, promotion, grades, or letters of recommendation.
- ▶ Sexual advances, physical or implied, or direct propositions of a sexual nature. This activity may include inappropriate/unnecessary touching or rubbing against another, sexually suggestive or degrading jokes or comments, remarks of a sexual nature about one's clothing and/or body, preferential treatment in exchange for sexual activity, and the inappropriate display of sexual explicit pictures, text, printed materials, or objects that do not serve an academic purpose.
- ▶ A pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or that humiliates another.
- ▶ Remarks speculating about a person's sexual activities, sexual orientation or sexual history, or remarks about one's own sexual activities, sexual orientation or sexual history that do not serve a medical or academic purpose.

- ▶ Sexual harassment can occur regardless of the relationship, position or respective sex of the parties.
- ▶ Same-sex harassment violates this policy, as does harassment between student vs. student, student vs. faculty or employee, or subordinate employee vs. his/her supervisor.

How can I protect myself?

- ▶ Take personal responsibility – recognizing that the prevention of sexual discrimination in the workplace is ultimately a matter of personal responsibility is a crucial first step.
 - ▶ It is the employer's responsibility to provide non-discriminatory and non-violent workplace.
 - ▶ It is the employees' responsibility to assume an active role in the prevention of sexual harassment.

How can I protect myself?

▶ Suggested methods:

- ▶ Don't display or encourage inappropriate language, humor or physical contact either by initiating or by "playing along." If these actions make you feel uncomfortable, speak up.
- ▶ Report an incident as soon as possible after an occurrence.
- ▶ Understand that it is the University's responsibility to act once an incident is reported, but it is your responsibility to report it.
- ▶ No employee should assume Fairleigh Dickinson University officials know about a situation or incident.

DISCRIMINATORY HARASSMENT

- ▶ Unwelcome verbal or physical conduct based on race, creed, color, religion, handicap/disability, gender, age, marital status, sexual orientation, veteran status, pregnancy status, ancestry or national origin, when:
- ▶ Such conduct has the purpose or effect of unreasonably interfering with the individual's work or educational performance;
- ▶ Such conduct creates or has the intention of creating an intimidating, hostile, or offensive working and/or learning environment; or
- ▶ Such conduct unreasonably interferes with or limits one's ability to participate in or benefit from an educational program or activity.

Responsibility To Report:

- ▶ If you suspect or witness sexual or discriminatory harassment you have an obligation to report promptly to any of the following:
 - ▶ Harassment Intake Officers throughout each campus (Listed as Appendix at the rear of the Non Discrimination and Anti Harassment Policy)
<http://fdu.edu/hr/nondiscriminationandantiharassmentpolicy.pdf>
 - ▶ To your supervisor or any other person with supervisory authority at the University.
 - ▶ University Title IX Coordinator – Associate V.P. of Human Resources
 - ▶ Deputy Title IX Coordinator, Campus Provost –Vancouver
 - ▶ **All staff and faculty are required to report with the *exception* of pastoral counselors and licensed professional mental health counselors.**

CAMPUS INTAKE OFFICERS

- ▶ A complete contact list of Intake Officers is located as an Appendix in the policy:
 - ▶ <http://fdu.edu/hr/nondiscriminationandantiharassmentpolicy.pdf>
- ▶ Vancouver Campus
 - ▶ David O'Reilly, Director of Learning Resources & Support Programs
FDU – Vancouver
Mail Code: V-CS1-01
(604) 682-4463

ELEMENTS OF A GRIEVANCE PROCEDURE

- ▶ Adequate, reliable and impartial investigations of complaints including the opportunity for both parties to present witnesses and other evidence;
- ▶ Designated and reasonable prompt time frames for the major stages of the complaint process – 60 days;
- ▶ Notice to parties of the outcome of the complaint;
- ▶ Reassurance that the school will take steps to prevent recurrence of any harassment and to correct its' discriminatory effects on complainant and others, if appropriate.

INVESTIGATING PROCEDURES

- ▶ Investigating Officers:
 - ▶ Public Safety –
 - ▶ Criminal Investigations (i.e. assaults and harassment cases that threaten the safety of any member of the University community)
 - ▶ Director of Employee Benefits and Training –
 - ▶ Harassment or discrimination cases involving employees, visitors, patrons, independent contractors
 - ▶ Associate Director of Student Services
 - ▶ Student vs. Student harassment or discrimination complaints

INVESTIGATING PROCEDURES

- ▶ Informal – The Investigating Officer may suggest voluntary mediation of the complaint in the form of discussions with the complainant, respondent and other parties with the aim of reaching an agreement acceptable to all parties.
- ▶ Formal – The Investigating Officer will interview all parties and engage in other fact finding, e.g., interview potential witnesses who may have knowledge of the allegations in the complaint.

CONFIDENTIALITY

- ▶ The University will take reasonable steps to cooperate with the request of a complainant, a respondent or any other person providing information to treat that information confidentially.
- ▶ The University will try to honor the request to the extent permitted by law and to the extent that continued protection does not impede the University's ability to investigate and to take corrective action.
- ▶ The University cannot guarantee that information requested to be kept confidential will remain so.

DETERMINATIONS AND REPORT

- ▶ The Investigating Officer is responsible for reaching a determination on formal complaints based upon the result of the investigation and issue a report to include recommendations for sanctions within reasonable promptness (recommended within 60 days) to:
 - ▶ The University Title IX Officer – Employees, Visitors, Volunteers, Patrons, Independent Contractors, etc.
 - ▶ Deputy Title IX Coordinator – University Students

APPEAL PROCESS

- ▶ The University's Student Handbook provide an appeal process for cases involving students vs. students.
- ▶ The University's Anti Harassment and Non Discrimination policy provides an appeal process for cases involving employees.

TRAINING

- ▶ OCR's Emphasis on Training
- ▶ Training the Title IX Coordinator and any other employees who are involved in processing, investigating, or resolving complaints of sexual harassment or sexual violence.
- ▶ Training all school law enforcement unit personnel on the school's Title IX responsibilities and handling of sexual harassment or violence complaints.
- ▶ Training all employees who interact with students regularly on recognizing and appropriately addressing allegations of sexual harassment or violence under Title IX.

TITLE IX AND MINORS ON CAMPUS

- ▶ Title IX also protects third parties from sexual harassment or violence in a school's educational programs and activities;
- ▶ Institutions of Higher Education have an obligation to impose safety measures for all programs involving minors (i.e. camps) to include:
 - ▶ Conducting annual background checks on all camp employee
 - ▶ Training camp employees on Title IX and Clery responsibilities as well as notification required by Child Protective Services
 - ▶ Providing increased security during camps