

# **Title IX Essentials**

## Center for Faculty Excellence

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Bob Mabry, Title IX Coordinator/Administrator

## **TWU community commitment to...**

Maintaining a learning and working environment free of discrimination, coercion, intimidation, and harassment ...expressed and reinforced in a wide variety of ways including our TWU nondiscrimination statement on all TWU webpages, in policies, in handbooks, in job descriptions, and in our daily conduct toward each other.

## The Original Law

“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 educational program or activity receiving federal financial assistance.”

*Title IX of the Education Amendments of 1972*

## Legal Authority and Enforcement

U. S. Department of Education through its Office of Civil Rights (OCR) with participation by the U.S. Department of Justice when requested or required

## Methods of Enforcement

- Notice of Complaint & Investigation requiring a response from the institution
- Investigation with Letter of Findings (OCR/DOJ)
- Resolution Agreement (“voluntary”)
- Federal lawsuit
- Withdrawal of Federal funding

## Brief History

- Higher education emphasis in early years on equity in women's athletic programs
- “Wake up!” in 2009 with sharper focus by the new Administration
- Converging effects ...Clery Act of 1990, Violence Against Women Act of 1994
- Periodic “guidance” from OCR

## Going Forward

- Traction
- Transparency
- Emphasis
- Expansion
- Evolution

## Scope of Title IX

“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 (as well as other persons) at recipient institutions are protected by Title IX – regardless of their sex, sexual orientation, gender identity, part- or full-time status, disability, race, or national origin – in all aspects of a recipient’s educational programs and activities.” *Title IX Resource Guide, April 2015*



## **Our NCHERM/ATIXA Partner**

- Nationally recognized, resource rich consultancy on Title IX and related laws
- Trained and certified TWU Title IX Coordinators, Deputies, Advanced Investigators and others
- Contract relationship through October 2017
- Primary Partner liaison is Sandra Schuster, Esq.

## Your Role

A “Responsible Employee” who:

- Has the *authority* to take action to redress discrimination based on sex, especially including sexual misconduct
- Has the *duty* to report that discrimination
- Is someone a student could *reasonably* believe has this authority or responsibility

## Initial Report and Notice

- You *witness* discrimination based on sex
- You *receive* an actual complaint of discrimination based on sex
- You receive a *third party* report of discrimination based on sex
- The pervasiveness of the discrimination is such that “*you should have known*”

## Your Response

- You report having received notice of discrimination based on sex, especially sexual misconduct, to the appropriate TWU administrators
- You are discouraged from *delaying* to report, or *conducting* an inquiry, or *discussing* the notice with faculty colleagues, staff employees, and students.

## TWU Administrators

Bob Mabry, Asst. Dir. Employee Relations

*Title IX Coordinator/Administrator*

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Monica Mendez-Grant, VP Student Life

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*Clery Act Administrator*

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## The Investigation

Our *legal obligations*: investigate, stop, remedy, prevent

- Investigate: thorough, reliable, impartial
- Process: prompt (60 days), effective, equitable
- Remedies: end discrimination, prevent recurrence, remedy the effects on the person

## Concluding the Case

- Report of investigative findings
- Notice of Finding of responsibility to both parties
- Sanctions, if a party is found responsible
- Appeal opportunity for either party
- Caution about *retaliation* to both parties

# Timing of Complaint

## Title VII

By TWU policy, complaint must be submitted within 60 days of the alleged offense

## Title IX

By Federal law, there is no time limit for submitting a complaint



# Reporting Party

## Title VII

The person who was the target of alleged discrimination with few exceptions

## Title IX

The person who was the target of alleged discrimination, roommate, classmate, family member, other TWU community member...

# Timing of Investigation

## **Title VII**

Within a reasonable  
timeframe

## **Title IX**

Within 60 days without  
regard to the Academic  
Calendar

## Outcomes

### Title VII

If the Respondent is found responsible for the violation, the Complainant is informed about the finding but not necessarily about the sanctions imposed

### Title IX

If the Respondent is found responsible for the violation, the Complainant is informed about the finding AND the sanctions imposed, e.g. Respondent resignation or retirement does NOT stop the process

## Other Title IX Issues

- Institution must investigate
- Concurrent criminal and civil investigations
- Preponderance of evidence standard
- OCR defines “sexual assault” and “consent”
- No mediation allowed for sexual assault
- Powerful Federal agency enforcement
- Current/intense Executive Branch concern