



Title IX Assessment

From the Office of the Internal Auditor

SP.FY16-02

Internal Audit has completed an assessment of the College's Title IX compliance (specifically for responding to sexual harassment and violence). The purpose of this assessment was to evaluate the College's level of compliance with Title IX and provide recommendations for improvement. The assessment results will be reviewed with the Title IX Coordinator and the appropriate stakeholders.

BACKGROUND

Title IX of the Education Amendments of 1972 states that: *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 applies to any institution that receives federal financial assistance from the Department of Education.

The College is responsible for complying with Title IX. Title IX is enforced by the Department of Education's Office for Civil Rights (OCR) which "*evaluates, investigates and resolves complaints alleging sex discrimination*". Failure to comply with Title IX can have major financial and reputational penalties. The major components of Title IX Compliance (*specifically for responding to sexual harassment/violence*) can be summarized as:

- Obligation to respond
- Take steps to prevent sexual harassment/violence and correct its effects on the complainant and/or others
- Remedies and enforcement

SCOPE & PROCEDURES

The resources used to evaluate the College's compliance with Title IX are as follows:

- OCR Dear Colleague Letter April 4, 2011
- Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties
- Association of Title IX Administrators (ATIXA) Title IX Compliance Best Practices Checklist Related to Sexual Harassment/Violence
- PCC resources including:
 - the Student Code of Conduct, New Student Orientation Packet,
 - Employee Common Policy Section I-General Information,
 - BP 1.15 Workplace Violence Prevention,
 - BP 3.05 Equal Education Opportunity,
 - BP 3.10 Admissions and Registration,
 - BP 5.10 Equal Employment Opportunity, ADA, Non-discrimination and Anti-Harassment (including sexual harassment),
 - RG 1501/A Equal Opportunity, ADA, Non-Discrimination and Anti-Harassment,
 - RG 1505/A Sexual Violence,
 - SPG 1501/AA Procedure for Complaints of Discrimination, Harassment and Retaliation, and
 - SPG 1505/AA Sexual Violence.

ASSESSMENT SUMMARY

The multitude of resources that have to be accessed to find Title IX processes that meet compliance is overwhelming. The College would be better served to provide a singular Title IX compliant information source that applies to both students and employees.

Throughout the College's various policies and procedures, differing definitions of sexual harassment are used. The College should adopt a single definition of sexual harassment to be used uniformly throughout its written policies and procedures.

The College would benefit from a more detailed description of what processes are followed to respond to sexual harassment/violence. This would include detailed information about the investigation and resolution of Title IX Complaints. The process described for employees is far more comprehensive than those described for students. The College should provide clear guidance about what protections are afforded to both complainant and respondent, steps that will be taken to ensure objective independent investigations are conducted, and a detailed account of what that investigation entails.

The College does not clearly articulate the difference between a criminal investigation and administrative investigation of a Title IX violation. This information should be provided to students and employees as well as their rights to each process.

The College states in its College Regulations that they will provide information, resources, and education to inform the College community about sexual harassment and violence but there is very little evidence of resources, information, and education is available or taking place.

DETAILED RESULTS & RECOMMENDATIONS

The ATIXA Title IX Best Practices Checklist Related to Sexual Harassment/Violence was utilized to measure the College's compliance with Title IX best practices. The tables below summarize the College's current response to the various elements of the three major components of Title IX compliance. Where the College response does not meet best practices, we recommend the College's Title IX Coordinator work with the appropriate staff and/or management to implement processes, procedures, or policies to achieve compliance.

ATIXA Title IX Best Practices Checklist Related to Sexual Harassment/Violence

Obligation to Respond to Sexual Harassment/Violence	
Procedural Requirements	PCC Response/Recommendation
<i>Publish and disseminate a notice of nondiscrimination that addresses the following:</i>	
Include Title IX Coordinator contact information	<i>Title IX Coordinator contact information is in SPG 1501/AA, RG 1501/A, and the College course catalog. The Title IX Coordinator is not referenced in the Code of Conduct, the Student Complaints Process, or in the definition of Sexual Harassment provided to the students.</i>
Nondiscrimination policy includes sexual harassment and sexual violence	<i>The Code of Conduct defines sexual harassment and sexual violence as violations of the Code. SPG 1501/AA also provides a definition of sexual harassment. RG 1505/A defines sexual violence.</i>
Designates a Title IX Coordinator as compliance officer to coordinate efforts and comply with and carry out responsibilities under Title IX	<i>RG1501/A specifies the Title IX Coordinator maintains overall compliance responsibilities. There is no reference to specific coordination responsibilities.</i> <i>The Title IX Coordinator is named as a person to be consulted by VPSD's if a complaint is made against a student.</i>
Adopts and publishes grievance procedures providing for prompt and equitable resolution of student and employee sex discrimination complaints	<i>The Code of Conduct and SPG 1501/AA provides the process for a complaint against a student. Both policies require the report to be investigated by the VPSD.</i> <i>SPG 1501/AA does not provide any detailed information about how the complaint will be resolved in the case of a student other than naming the VPDS as the responsible party for investigation.</i> <i>The Code of Conduct provides details of the "Review Process" for the complaint. The promptness of the resolution is not in line with Title IX compliance as it only provides 15 days for resolution. Title IX provides up to 60 days for compliance.</i> <i>SPG 1501/AA provides detailed information about the process for employees, which is in line with Title IX compliance.</i>

Obligation to Respond to Sexual Harassment/Violence	
Procedural Requirements	PCC Response/Recommendation
Procedures may include informal mechanisms and administrative hearings as described in the Dear Colleague Letter.	<i>There is nothing written to address this</i>
Provides employee training on reporting of/responding to harassment/violence to appropriate university/college officials.	<i>Sexual Harassment Awareness training is offered to all employees but is not mandatory. This training would satisfy this requirement. SPG 1501/AA specifies that there is a duty for Administrators, supervisors, and instructors to report possible discrimination, harassment or sexual violence.</i> <i>RG 1505/A has information about reporting responsibilities and rights as it relates to sexual violence.</i>
Student conduct process includes off campus conduct when reported.	<i>This is addressed in the Code of Conduct which states jurisdiction of the College governs student conduct on or off campus that adversely affects the operation of the College. However, this is an overly broad guidance. The College should look at clearly defining what off campus behavior will be considered under the code of conduct. (This should not apply to just Title IX but student conduct as a whole.)</i>
University implements initial remedies for victims of on and off campus sexual misconduct to protect from further sexual harassment or retaliation from the alleged perpetrator or his/her associates.	<i>There is nothing written to address this issue for students. SPG 1501/AA states that interim measure can be put in place to protect all parties during the process for employees. This would be sufficient if clearly stated to apply to students as well.</i>
Reports about harassment/violence are promptly, thoroughly and impartially investigated and action steps determined.	<i>This is addressed in the Code of Conduct Section IV Due Process Procedures.</i> <i>For employees this is addressed in the Common Policy Statement and SPG 1501/AA</i>
University/college informs and obtains consent from the complainant (or the complainant parents if the complainant is under 18) before beginning an investigation. If the complainant requests confidentiality or asks that the complaint not be pursued, the university/college takes reasonable steps to investigate and respond (but ability to respond may be limited).	<i>This is not addressed in writing.</i>

Obligation to Respond to Sexual Harassment/Violence	
Procedural Requirements	PCC Response/Recommendation
If the complainant continues to ask that his/her name or other identifiable information not be revealed, the university/college evaluates the request in the context of its responsibility to provide a safe and nondiscriminatory environment for all students. The university/college informs complainant if it cannot ensure confidentiality.	<i>This is not addressed as it relates to students. In SPG 1501/AA this is addressed in employee related complaints and is consistent with Title IX guidance.</i>
Provide adequate, reliable and impartial investigation of all complaints including the following requirements:	
The complainant will be notified of the right to file a criminal complaint.	<i>RG 1505/A encourages victims to report acts of sexual violence to police. There is no further written guidance regarding a complainant's right to file a criminal complaint.</i>
University/college investigates independently of city police.	<i>This is not addressed in writing.</i>
University/college takes immediate steps to protect the victim and assure his/her well-being.	<i>This is not addressed in writing.</i>
In the investigation and resolution, the standard of proof to assess complaints is a preponderance of the evidence standard	<i>The Code of Conduct addresses this in Section VII.G which states the standard applied is preponderance of the evidence.</i>
Throughout the investigation and conduct process all parties have an equitable opportunity to participate and to present relevant witnesses and other evidence including having similar and timely access to any relevant information.	<i>This is no written detail in the Code of Conduct about equitable participation or access to relevant information. The Code of Conduct indicates there will be opportunity for the respondent to provide to discuss and provide information regarding the allegations. SPG 1501/AA also does not provide details regarding participation in the investigation and access to information.</i>
In conduct proceedings, parties will be offered a separate room or other accommodations to avoid in-person confrontation and may be prevented from direct questioning of each other during the hearing, at the discretion of the Chair.	<i>There is nothing written to address this.</i>

Obligation to Respond to Sexual Harassment/Violence	
Procedural Requirements	PCC Response/Recommendation
An appeals process is provided for both the complainant, or alleged victim, and the respondent.	<i>The Code of Conduct provides an appeals process but does not specify that it is both for the complainant and respondent. It also delineates certain conditions in which an appeal can be filed that would not be compliant with Title IX.</i> <i>SPG 1501/AA specifies an appeal process for both the complainant and respondent when involving employees.</i>
Documentation of all proceedings is made, which may include written findings of fact, transcripts, or audio recordings.	<i>The Code of Conduct specifies the documentation to be provided to the respondent at the conclusion of the review. There is nothing else indicated in writing about transcripts, audio recordings, proceedings.</i>
All persons involved in investigating and adjudicating grievance procedures will be comprehensively trained on sexual harassment and sexual violence cases.	<i>There is nothing written to address this.</i>
All investigation and hearing processes are impartial and devoid of conflicts of interest that would compromise the objectivity of the process.	<i>There is nothing written to address this.</i>
Due (or fair) process is provided to alleged perpetrators and alleged victims.	<i>The Code of Conduct and SPG 1501/AA addresses due process of the complaint. The Code of Conduct does not have an adequate appeal process. SPG 1501/AA specifies a sufficient appeals process for employees.</i>
Provide designated and reasonably prompt time frames including:	
Grievance procedures specify time frames for 1) investigation of complaints (immediately, but full resolution of process within 60 calendar days unless a 10-14 day delay occurs to allow police to gather evidence, or other delay is agreed by all parties), 2) time when both parties will receive the report of the investigation and/or outcome, and 3) time frame for filing an appeal, if applicable.	<i>The Code of Conduct provides detailed and designated time frames for investigation, receipt of outcome, and time frame for appeal. The time period designated for investigation and outcome is extremely restrictive at only 15 days. Title IX guidance is 60 days.</i> <i>SPG 1501/AA delineates appropriate timeline of investigation, receipt of outcome, and appeal as it relates to employees.</i>
Parties are updated on the status of the investigation and process by the Coordinator or designee at regular intervals and/or upon request.	<i>There is nothing written to address this</i>

Obligation to Respond to Sexual Harassment/Violence	
Procedural Requirements	PCC Response/Recommendations
<i>Provide written notice of outcomes. Specifically:</i>	
All parties are notified concurrently in writing about the outcome.	<i>There is nothing written to address the concurrent notification of the outcome. The Code of Conduct specifies what documentation the respondent will receive at the conclusion of the process.</i>
University/college may publicly disclose results of disciplinary proceedings if the student is found to commit a crime of violence or a non-forcible sex offense	<i>There is nothing written to address this.</i>
University/college complies with all Clery Act regulations	<i>SPG1505/AA states that The Department of Public Safety is responsible for the dissemination of sexual assault statistics to the college community. Sexual assault statistics shall be published annually and provided to the student population in accordance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistic Act.</i>

Steps to Prevent Sexual Harassment/ Violence and Correct its Discriminatory Effects on Complainant or Others	
Procedural Requirements (Education and Prevention)	PCC Response/Recommendation
University/college includes sexual harassment/violence education in 1) orientation programs for new students, faculty, staff, and employees; 2) training for resident assistants; 3) training for student athletes and coaches; 4) campus-wide awareness programs.	<i>RG 1505/A and SPG 1505/AA state that this type of education is supposed to take place. A review of the information provided to incoming students during New Student Orientation shows that this information is included and discussed under Student Rights and Responsibilities.</i>
Information is included in curriculum; to be implemented in general education courses for all undergraduate students.	<i>No documentation found to support this is being done</i>
In encouraging students to report incidents of sexual misconduct, university/college will not bring charges against complainants if they were involved with collateral alcohol and/or other non-violent violations of campus policy.	<i>There is nothing written to address this.</i>

Steps to Prevent Sexual Harassment/ Violence and Correct its Discriminatory Effects on Complainant or Others	
Procedural Requirements (Education and Prevention)	PCC Response/Recommendation
<p>University/college has specific sexual violence materials for policies, rules, and resources, including employee and student handbooks, protocols, website and brochures.</p>	<p><i>RG 1505/A specifically addresses sexual violence but does not provide specific resources. The College Employee Policy statement provides information about discrimination and sexual harassment but does not address sexual violence specifically.</i></p> <p><i>The Code of Conduct addresses sexual violence and is supported by RG 1505/A and SPG 1505/AA</i></p> <p><i>No website material could be found and no brochures are known to exist.</i></p>
<p>Materials and implementation of policies and procedures will include information on what constitutes sexual harassment/violence, what to do and how to report, information for resources, how to contact Title IX coordinator, and measures the school will take.</p>	<p><i>This information is provided in various places such as the Code of Conduct, 2015-2016 Course Catalog selected policies, governance and faculty section, SPG 1501/AA and SPG 1505/AA. This information is disjointed and incomplete in some instances.</i></p> <p><i>The information targeting students does not consistently define what is sexual harassment/violence with a direct link of what to do or how to report violations. There are very few information resources available to students or employees regarding sexual harassment/violence.</i></p> <p><i>The College does not clearly define for students the measures that will be taken to protect them or for receiving equitable treatment. Information is provided about how to contact the Title IX Coordinator.</i></p>

Remedies and Enforcement

The following list contains the Remedies and Enforcement section of the *ATIXA Title IX Best Practices Checklist Related to Sexual Harassment/Violence*. Aside from what's described in College policy, these elements can only be evaluated after action has been taken. As such, there is no accounting of PCC's response to these requirements. However care should be taken to follow the steps detailed below in the event of a sexual harassment or sexual violence related complaint.

- University/college will take immediate action to eliminate hostile environments, prevent reoccurrence and address any effects on the victim and community.
- University/college will take immediate steps to protect complainants even before the final outcome of investigations, including prohibiting the alleged perpetrator from having any contact with the complainant. Steps should minimize the burden on the complainant while respecting (due process) rights of the accused individual unless there is a direct conflict, in which case Title IX protections control.
- Remedies for the complainant might include but are not limited to campus escort, ensuring complainant and alleged perpetrator do not attend the same classes if possible, moving either or both parties to a different residence hall, counseling services, advocacy, medical services, academic support services, course withdrawal without penalty, review of disciplinary actions.
- Remedies for campus student populations might include counseling services, on-call victim assistance, policy review, educational, awareness and prevention programs, Title IX coordinator training, school law enforcement Title IX training, and other employee Title IX training.
- University/college will have policies and procedures to protect against retaliatory harassment including how to report any subsequent problems.
- Provide notification and assistance in reporting to local law enforcement.
- Title IX coordinator reviews all evidence and sexual harassment/violence cases to ensure prompt and equitable remedies.
- University/college will create a committee to identify and implement education strategies.
- Issue and review policy statement and all faculty/staff/student grievance procedures to ensure equitable processes and compliance with Title IX.
- Investigations and reports are aligned with Title IX guidelines.
- Respond immediately to all grievances and allegations