

## Questions and Answers on Title IX & Sexual Violence<sup>1</sup>

United States Department of Education  
Office for Civil Rights

**Title IX of the Education Amendments of 1972** is a *federal civil rights law* that *prohibits discrimination on the basis of sex* in federally funded education programs and activities. All public/private colleges and universities receiving federal funding must comply with Title IX. On April 4, 2011, the Office for Civil Rights (OCR) in the U.S. Department of Education issued a Dear Colleague Letter (DCL) on student-on-student sexual harassment and sexual violence. The DCL explains a school's responsibility to respond promptly and effectively to sexual violence against students in accordance with the requirements of Title IX. Specifically, the DCL provides guidance on the unique concerns that arise in sexual violence cases, such as a school's independent responsibility under Title IX to investigate (apart from any separate criminal investigation by local police) and address sexual violence.

**Q. What is sexual violence?** Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Sexual violence can be carried out by school employees, other students, or third parties. All such acts of sexual violence are forms of sex discrimination prohibited by Title IX.

**Q. How does Title IX apply to student-on-student sexual violence?** Under Title IX, federally funded schools must ensure that students are not denied or limited in their ability to participate in or benefit from the school's educational programs or activities on the basis of sex. A school violates a student's rights under Title IX regarding student-on-student sexual violence when the following conditions are met: (1) the alleged conduct is sufficiently serious to limit or deny a student's ability to participate in or benefit from the school's educational program, i.e. creates a hostile environment; and (2) the school, upon notice, fails to take prompt and effective steps reasonably calculated to end the sexual violence, eliminate the hostile environment, prevent its recurrence, and, as appropriate, remedy its effects.

**Q. When does OCR consider a school to have notice of student-on-student sexual violence?** OCR deems a school to have notice of student-on-student sexual violence if a 'responsible employee' knew, or in the exercise of reasonable care should have known, about the sexual violence. A school can receive notice of sexual violence in many different ways. Examples of notice include: a student may have filed a grievance with or otherwise informed the school's Title IX coordinator; a student, parent, friend, or other individual may have reported an incident to a professor, campus law enforcement, staff in an office, or other responsible employee; or an employee may have witnessed the sexual violence. The school may also receive notice about sexual violence in an indirect manner, from sources such as a member of the local community, social networking sites, or the media. In some situations, if the school knows of incidents of sexual violence, the exercise of reasonable care should trigger an investigation that would lead to the discovery of additional incidents. A school's failure to take prompt and effective corrective action violates Title IX even if the student did not use the school's grievance procedures or otherwise inform the school of the sexual violence.

**Q. Does Title IX cover employee-on-student sexual violence, such as sexual abuse of minors?** Yes. Although the DCL focuses on student-on-student sexual violence, Title IX also protects students from other forms of sexual harassment (including sexual violence and sexual abuse). Sexual harassment by school employees can include unwelcome sexual advances; requests for sexual favors; and other verbal, nonverbal, or physical conduct of a sexual nature, including but not limited to sexual activity.

**Q. How does a school handle sexual violence complaints in which the complainant and the alleged perpetrator are members of the same sex?** A school's obligation to respond appropriately to sexual violence complaints is the same irrespective of the sex or sexes of the parties involved. Title IX protects all students from sexual violence, regardless of the sex of the alleged perpetrator or complainant, including when they are members of the same sex.

**Q. Which school employees are obligated to report incidents of possible sexual violence to school officials?** Under Title IX, whether an individual is obligated to report incidents of alleged sexual violence generally depends on whether the individual is a 'responsible employee' of the school. A responsible employee must report incidents of sexual violence to the Title IX coordinator, subject to the exemption for health/counseling employees.

**Q. Who is a "responsible employee"?** According to OCR's 2001 Guidance, a 'responsible employee' includes any employee: who has the authority to take action to redress sexual violence; who has been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX coordinator; or whom a student could reasonably believe has this authority or duty. A school must make clear to all of its employees and students which staff members are responsible employees so that students can make informed decisions about whether to disclose information to those employees. **A school must also inform all employees of their own reporting responsibilities and the importance of informing complainants of: the reporting obligations of responsible employees; complainants' option to request confidentiality and available confidential advocacy, counseling, or other support services; and complainants' right to file a Title IX complaint with the school and to report a crime to campus or local law enforcement.**

**Q. What should a responsible employee tell a student who discloses an incident of sexual violence?** Before a student reveals information that he or she may wish to keep confidential, a responsible employee should make every effort to ensure that the student understands: (i) the employee's obligation to report the names of the alleged perpetrator and student involved in the alleged sexual violence, as well as relevant facts regarding the alleged incident (including the date, time, and location), to the Title IX coordinator, (ii) the student's option to request that the school maintain his or her confidentiality, which the school (e.g., Title IX coordinator) will consider, and (iii) the student's ability to share the information confidentially with counseling, advocacy, health, mental health, or sexual-assault-related services (e.g., sexual assault resource centers, campus health centers, pastoral counselors, and campus mental health centers). If the student requests confidentiality, the Title IX coordinator or other appropriate school designee responsible for evaluating requests for confidentiality should make every effort to respect this request. (What must be considered is the overall safety and non-discriminatory environment for all students).

**Q. Is a school required to process complaints of alleged sexual violence that occurred off campus?** Yes. Under Title IX, a school must process all complaints of sexual violence. If a school determines that the alleged misconduct took place in the context of an education program or activity of the school, the fact that the alleged misconduct took place off campus does not relieve the school of its obligation to investigate the complaint as it would investigate a complaint of sexual violence that occurred on campus.

**For further information:**

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<sup>1</sup> The Department has determined that this document is a “significant guidance document” under the Office of Management and Budget’s Final Bulletin for Agency Good Guidance Practices, 72 Fed. Reg. 3432 (Jan. 25, 2007), available at [www.whitehouse.gov/sites/default/files/omb/fedreg/2007/012507\\_good\\_guidance.pdf](http://www.whitehouse.gov/sites/default/files/omb/fedreg/2007/012507_good_guidance.pdf). The Office for Civil Rights (OCR) issues this and other policy guidance to provide recipients with information to assist them in meeting their obligations, and to provide members of the public with information about their rights, under the civil rights laws and implementing regulations that we enforce. OCR’s legal authority is based on those laws and regulations. This guidance does not add requirements to applicable law, but provides information and examples to inform recipients about how OCR evaluates whether covered entities are complying with their legal obligations. These are only a few excerpts from the document. The entire document may be accessed at: <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>.

<sup>2</sup> The University of Central Arkansas also prohibits acts of dating violence, domestic violence, and stalking. Although these offenses fall under the Violence Against Women’s Reauthorization Act of 2013 (“VAWA”), we investigate these offenses via the same process as sexually violated offenses. For further information, please see the University’s Sexual Misconduct Grievance Procedures.

<sup>3</sup> At the University of Central Arkansas, “responsible employee” is the same as “mandatory reporter” for Title IX purposes. For further information, please see UCA Board Policy 511. <http://uca.edu/board/files/2010/11/511.pdf>