

# Title IX Training

Spring Arbor University

© 2022 | Title IX Coordinator Dan Vander Hill, with Diane Y. Bower, Esq.

Sexual Assault and Harassment  
Prevention, Title IX, VAWA, and SaVE  
**Training Program**

# Why is Training Important?

## Exceeding Expectations

- Date rape, sexual assault, domestic violence, and sexual harassment are real societal problems. Some research indicates that 25% of college women and up to 10% of college men are subjected to unwanted sexual contact during college.
- SAU wants to prevent the behavior that causes these problems through proactive education, as well as respond appropriately if it occurs. Training regarding these issues is also required by the federal government.
- SAU fully supports the need for this training, and we take our responsibilities to our students and employees seriously, striving to exceed base expectations and maintain a Christ-centered, compassionate community.

# Title IX

## It's not simply a "Sports Equity" Law

- Title IX of the Education Amendments of 1972 is a federal sex discrimination law:
  - Title IX prohibits discrimination on the basis of sex in *any educational programs or activities* of public and private schools, school districts, colleges, or universities that receive federal funding.
  - "Federal funding" refers to any form of financial assistance, including federally guaranteed loans, grants, and tuition assistance (Title IV funds).
  - Title IX applies to both students and employees.

# Title IX

## Training Requirements

- Title IX requires training for all “responsible employees” on their duty to report incidents of sexual harassment or violence.
- Under Title IX, SAU’s Title IX Coordinator is tasked with responding to all reports of sexual harassment or violence of which he or she is made aware.

# Title IX

## Responsible Employees

- A “responsible employee” is an employee who:
  1. Has the authority to respond to and deal with incidence of sexual harassment or violence,
  2. Is charged with the duty to report misconduct, including sexual harassment or violence, to appropriate SAU authorities (Title IX Coordinator or Campus Safety), or
  3. Is someone a student or employee would reasonably believe has the authority or responsibility to redress or report incidents of sexual harassment or violence.

# Title IX

## Responsible Employee Exceptions

- A “responsible employee” is NOT an employee who:
  1. Is a pastor operating in his or her role as a pastor (Campus Pastor)
  2. Is a professional counselor functioning in that role (Campus Counselor)
- These individuals are not required to report misconduct to the Title IX Coordinator (or may choose to report general information or annual statistics without personally identifying information).

# Designation of Responsible Employees

- Title IX Coordinator
- Title IX Hearing Officers
- Title IX Investigators
- Campus Safety Director
- Campus Safety Officers
- Faculty (including part-time, adjunct, or contingent)
- Resident Directors
- Resident Assistants
- Peer Advisors
- Athletic Coaches and Trainers
- Members of Administration



# What is VAWA?

## The Violence Against Women Act

- The Violence Against Women Reauthorization Act of 2013 requires colleges and universities accepting federal funding to compile and publish their statistics on dating violence, domestic violence, sexual assault, and stalking. This information is placed in the institution's Annual Security Report.
- It requires the adoption of certain policies, procedures, and programs *for students and employees* pertaining to dating violence, domestic violence, sexual assault, and stalking.
  - Example 1: SAU's Interpersonal Harm Policy
  - Example 2: SAU's Sexual Assault Victim's Bill of Rights

# What is SaVE?

## The Campus Sexual Violence Elimination Act

- Contains requirements that implement VAWA
- It requires campus authorities to assist complainants by:
  - Aiding a complainant in reporting a crime to law enforcement
  - Obtaining or enforcing a no-contact directive or restraining order
  - Having clear descriptions of their institution's disciplinary process including the range of possible sanctions
  - Providing complainants with information about existing counseling, physical and mental health services, complainant advocacy, legal assistance, and other services available both on-campus and in the community

# Duties of Responsible Employees

## Responsible Employees:

- Must be alert for possible sexual violence, dating violence, domestic violence, stalking, and harassing situations
- Must report open and obvious incidents
- Must report incidents relayed by students and/or employees of the above

# Duties of Responsible Employees

(continued)

Responsible Employees:

- **Watch for signs a student or employee may be a victim:**
  - Change in mood or attitude
  - Unexplained drop in grade or quality of work
  - Uncharacteristic tardiness and/or absences
  - Changes in physical appearance and/or hygiene

# Duties of Responsible Employees

(continued)

Responsible Employees:

- **Consider safe and positive options for bystander intervention:**
  - Calling 911 and reporting the incident immediately
  - Calling Campus Safety (517-750-6911) and reporting the incident immediately
  - Calling attention to the inappropriate behavior

**Report issues regarding dating violence, domestic violence, harassment, or stalking to the Title IX Coordinator or Campus Safety Director at once.**

**Dan Vander Hill**

dan.vanderhill@arbor.edu

517-750-6367

**Scott Krebill**

scott.krebill@arbor.edu

517-750-6911

# Confidentiality Concerns

What if a complainant does not want what the incident reported?

- A “responsible employee” (RE) should inform the student or employee that the RE must report the incident but will relay the request for confidentiality to the Title IX Coordinator.
- The Title IX Coordinator will make the decision regarding maintaining confidentiality based on upon balancing the need to respect the request while maintaining safety for the complainant and the community.
- In all cases, information regarding reported incidents will be kept private and would only be shared with those who need to know such information.
- Complainants will be informed of the need to share information and with whom the information will be shared.

# Examples of Sexual Harassment or Assault

- Non-consensual sexual contact
- Hostile environment
- Pervasive sexual advances
- Requests for sexual favors (*or quid pro quo*)
- Sexually aggressive touching, gestures, sounds, or comments
- Displays of sexually suggestive objects and/or pictures
- Rape
- Comments about an individual's body, sexual activity, or sexual attractiveness
- Relationship violence
- Coercion
- Intimidation
- Sexual threat
- Bullying
- Sexual activity with someone unable to consent (too young, incapacitated)
- Stalking
- Force



# Definition of Terms

- **Consent** is a clear and unambiguous agreement, expressed in mutually understandable words or actions, to engage in a particular activity. Consent can be withdrawn by either party at any point. A person that is incapacitated in any way cannot reasonably offer consent.
- **Sexual assault** is non-consensual physical contact of a sexual nature using a part of the body or an object.
- **Dating violence** is physical or emotional abuse where the abuser seeks to maintain power or control in the relationship.

# Definition of Terms

- **Domestic violence** is abusive behavior between those living together. It includes (but is not limited to) physical, sexual, emotional, or economic abuse.
- **Stalking** is when someone focuses their attention on a person in a way that makes them fear for the safety or causes emotional distress.
- **Coercion** is a form of sexual assault. It is putting pressure and manipulation in place to obtain something desirable, including sexual activity.
- **Sexual harassment** includes unwelcome, sexually-based behavior such as touching, pressure for dates, sexual comments or jokes, and the open display of sexually-oriented materials; must be "severe, pervasive, and objectively offensive."

# Title IX Investigation and Hearing

## Requirements

- Title IX requires that an investigation into a report be
  - Prompt
  - Impartial
  - Adequate
  - Reliable

# Title IX Investigation and Hearing

## Requirements

- A hearing following an investigation is not required; however, if a hearing does take place:
  - The complainant and respondent must be afforded the same due process rights. As a private university, SAU is allowed to adopt its own procedures as to what constitutes “due process” for Title IX and VAWA matters.
  - The complainant and respondent may have an advisor of their choice present during any proceeding or meeting related to the proceeding. The advisor may be an attorney, and they may cross-examine on behalf of the individual they are supporting.
  - SAU may proscribe the conduct of advisors and any other participant involved in meetings or hearings

# Title IX Investigation and Hearing

## Requirements

- Following a hearing, the complainant and the respondent must:
  - Be notified of the outcome of the hearing simultaneously and of any appeal rights
  - Be notified if any part of the decision is appealed or changes
  - Be informed that any notification under this provision is not a FERPA violation

# SAU Investigation and Hearing Process

We have adopted these procedures for Title IX/VAWA Matters

- SAU's disciplinary proceedings, including special guidelines for cases involving sexual misconduct, domestic violence, dating violence, and stalking are in the *Student Handbook* and the *Employee Handbook*.
- The procedure for students is referred to as an accountability proceeding.
- The procedure for an employee is an administrative proceeding and only applies to cases involving sexual misconduct, domestic violence, dating violence, and stalking.
- Investigation and proceedings for employees does not change the "at-will" nature of the employment relationship.

# SAU Investigation and Hearing Process

We have adopted these procedures for Title IX/VAWA Matters

- Investigations and hearings will be conducted by one or more University officials who receive annual training on issues related to domestic violence, dating violence, stalking, and sexual assault, and on how to conduct an investigation and hearing process that protects the safety of complainants and promotes accountability.
- The standard of evidence to be used for both student and employee issues will be the “preponderance of the evidence” standard.
- The hearings and administrative processes differ from a criminal process; no criminal penalties apply to administrative processes, and the standard of proof is lower.

# Protecting the Complainant

Throughout the process, steps must be taken to protect the complainant of sexual violence, assault, dating violence, domestic violence, and stalking.

Such steps could include:

1. Academic accommodations: allowing an extension on coursework after an assault or expunging poor grades due to linger effects of assault
2. Housing accommodations: moving the respondent out of the complainant's housing aerator requiring the respondent to live off-campus during the proceeding
3. Employment accommodations: modifying the complainant's work schedule to avoid contact with the respondent
4. Campus restraining orders: no contact directives or banning respondent from campus



# Protecting the Complainant

Throughout the process, steps must be taken to protect the complainant of sexual violence, assault, dating violence, domestic violence, and stalking.

Such steps could include:

5. Offering counseling and other support services
6. Complainants must be protected from retaliation during and after the investigation and hearing process
7. Complainants will be provided with the Sexual Assault Victim's Bill of Rights and a copy of SAU's policy on sexual assault, dating violence, domestic violence, and stalking

# QUESTIONS?

Questions regarding this presentation or any of the information contained in it can be directed to Dan Vander Hill, Title IX Coordinator for SAU

**[dan.vanderhill@arbor.edu](mailto:dan.vanderhill@arbor.edu)**