TITLE IX

POLICY AND PRACTICE

A Presentation to
Calumet College of Saint Joseph

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August 8 and 9, 2023

Our Starting Point

Follow the instructions below to participate in some anonymous thought-sharing exercises.

- Pull out your cell phone.
- Send a text to 22333.
- The text should say JODIEFERISE228.
- You should get a message accepting you to the polling group.
- You'll only need to do this once.
- If you have trouble, I'm happy to help!

When poll is active, respond at **pollev.com/jodieferise228**
Text **JODIEFERISE228** to **22333** once to join

Let's see who is in the room! Please select your primary designation from those below:

A. Faculty

B. Administration

C. Athletics Staff

D. Staff (Non-Athletic)

E. Something Else

Start the presentation to see live content. For screen share software, share the entire screen. Get help at **pollev.com/app**

When you think about Title IX, what's the first word or phrase that comes to your mind?

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How would you rate your present familiarity with the requirements of Title IX?

1 - I am virtually a blank slate

2 - I know more than nothing, but not by much

3 - I know just enough to be dangerous

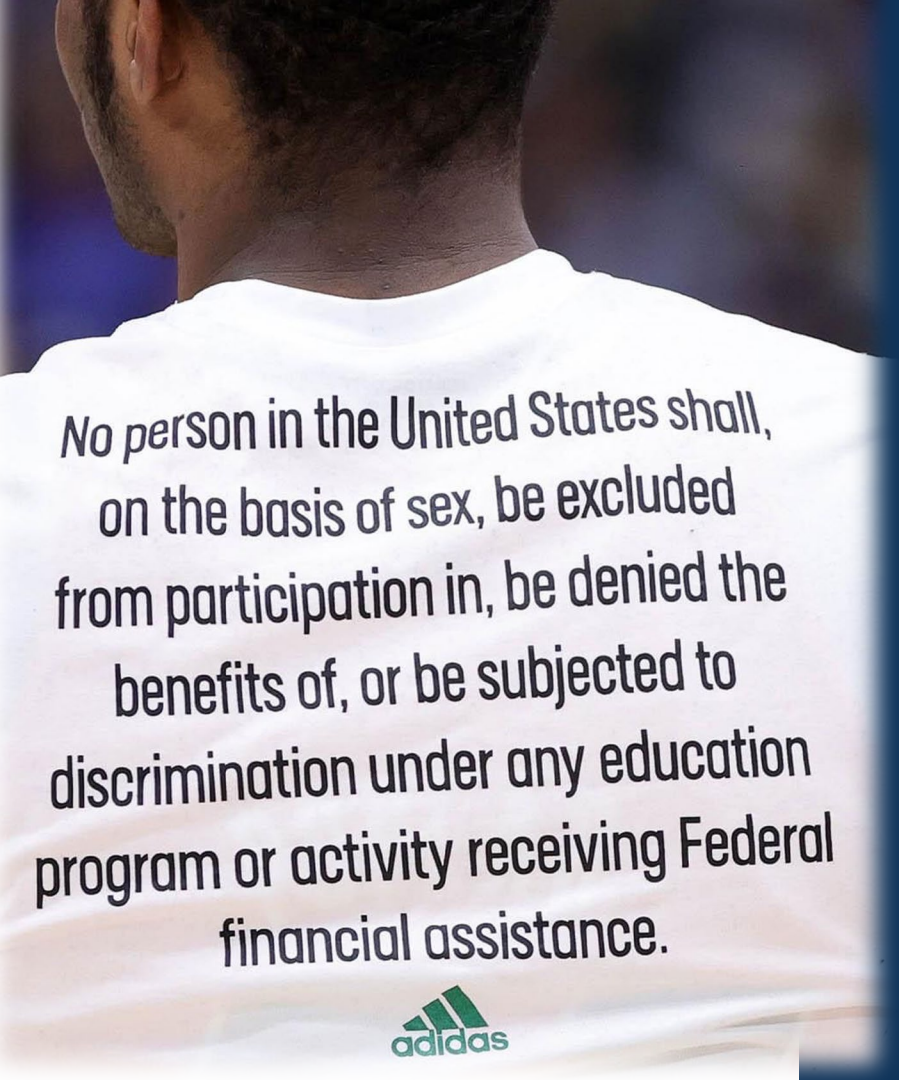
4 - I'm no expert, but I'm getting there

5 - I could be teaching this session (but I don't wanna)

Framing

The Issue at CCSJ

Members of the University Community have the right to be free from all forms of Sexual Harassment which impede the realization of the University's mission of Calumet College of St. Joseph. All members of the University Community are expected to conduct themselves in a manner that maintains an environment free from Sexual Harassment. As such, Calumet College of St. Joseph does not discriminate on the basis of sex and is committed to providing an educational environment free from sex discrimination.



Tiny statute, Enormous impact

This is Title IX

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The original intent of Title IX was to bring greater equality to women's sports.

True

False

Start the presentation to see live content. For screen share software, share the entire screen. Get help at **pollev.com/app**

1972 – Higher Education Amendments

1975 – Title IX Athletics Regulations

1976 – NCAA lawsuit

1982 – NCAA takes control of women's athletics

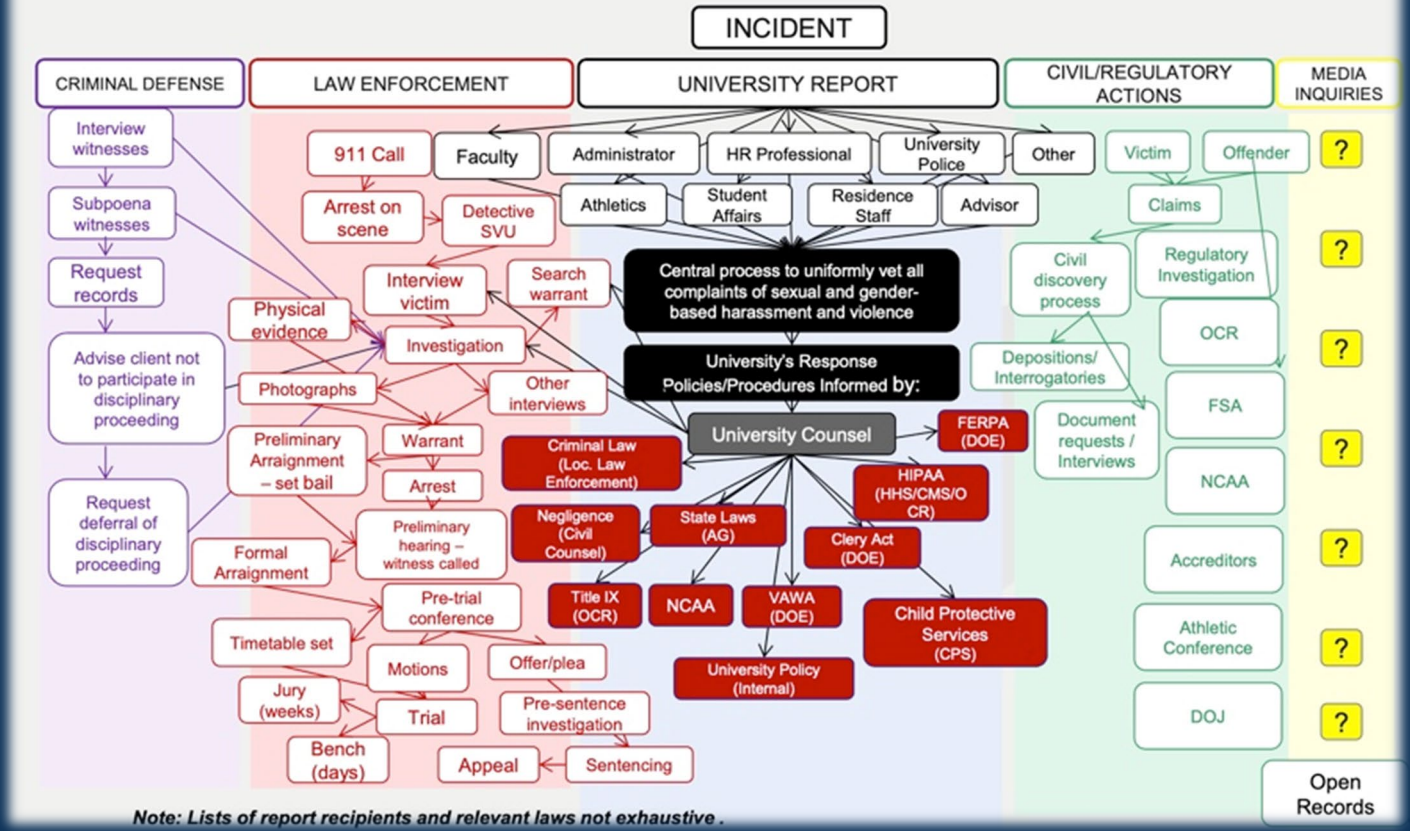
2016 – Transgender guidance, later rescinded

2020 – New Title IX Regulations issued

2022 – New Title IX Regulations issued (again)

“When it comes to sexual abuse, it’s quite simple: No means no,” Biden said in his speech. “No means no if you’re drunk or you’re sober. No means no if you’re on a bed or in a dorm or on the street. No means no even if you said yes at first and you changed your mind. No means no.”

The Challenge of the Context



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A bit of context…

Title IX

- Federal regulations updated 2020 (and…2023)
- Prohibits sex discrimination in schools receiving federal funds

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- Includes requirement of policies and procedures regarding sexual assault

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VAWA

- Expands Clery Act
- Includes dating violence, domestic violence, stalking

Calculating what's at stake

Student safety

Campus culture

Risk exposure/ litigation

Institutional reputation

Title IV federal funds

Title IX prohibits sex discrimination but…
what exactly does that include?

- Sexual harassment
- Sexual assault
- Dating violence
- Domestic violence
- Stalking
- Pregnancy and childbirth discrimination
- Retaliation

Retaliation

An institution's **response** to a complainant or respondent in response to a Title IX complaint may, itself, constitute discrimination on the basis of sex in violation of Title IX.

What is expected of our institution?

Identification of Title IX Coordinator

Training requirements
Policy and compliance
Contact with parties
Supportive measures
Authority and access

What is expected of our institution?

Adoption of grievance procedures

Live hearing
Equitable treatment
Unbiased evaluation of evidence
Presumption of non-responsibility
Advisors
Opportunity for "cross-examination"
Ability to appeal

What is expected of us individually?

All University employees, except those exempted by legal privilege of confidentiality or expressly identified as a confidential reporter, have an obligation to report incidents of **Sexual Assault**. Any employee who receives a disclosure of Sexual Assault or becomes aware of information that would lead a reasonable person to believe that a Sexual Assault may have occurred involving anyone covered under this policy, must report all known information **immediately**.

What is expected of us individually?

In addition to the requirement of reporting incidents of Sexual Assault, **the following members** of the University Community have an additional obligation to report all other incidents of **Sexual Harassment**, when they receive a disclosure of Sexual Harassment or become aware of information that would lead a reasonable person to believe that Sexual Harassment may have occurred involving anyone covered under this policy. These individuals must report the incident **within five workdays** of becoming aware of such information:

- Executive officers (Vice Presidents);
- Directors, department heads/chairs;
- Staff and faculty;
- Faculty and staff who serve as advisors to or coaches of University-recognized Student groups;
- **All individuals, including Student-employees**;
- Campus Security Authorities under Clery Act;
- Individuals serving in any of the positions described above on an acting or interim basis.

What is expected of us individually?

Employees are not required to report disclosures of information regarding Sexual Harassment pursuant to this policy in the following circumstances, unless an individual covered under this policy is implicated or the individual is explicitly seeking assistance from the University:

- **At public survivor support events** including, but not limited to: "Take Back the Night," candlelight vigils, protests, and survivor speak-outs;
- To **Student-employees** when they are operating **outside of their official work** capacity; or
- During an individuals' participation as a subject in an Institutional Review Board (IRB)-approved human subjects research protocol.

What is expected of us individually?

Incidents personally **observed**

Incidents **reported to you**

Incidents of which you otherwise **become aware**

What if the incident involves a minor?

What is expected of the parties?

Truthfulness

Good faith

But participation is **not** required

Title IX principles and limitations

- Requires the school has actual knowledge of the discrimination
- Requires the school has substantial control over the Respondent, the context, and the building
- Requires the incident occurred within the USA

Title IX principles and limitations

Does Title IX cover off-campus incidents?

- Part of campus operations
- Substantial control over Respondent and context
- Off-campus building is owned or controlled by official student organization

Confidentiality vs. Privacy

Most employees **are not** confidential reporters. Those who are include:

~Professional counselors
~Pastoral counselors
~Licensed medical personnel

Standard of Proof:
Clear and Convincing Evidence

The Decision Maker(s) bases all conclusions by examining all evidence from the investigation and the hearing. Their conclusion is based on the clear and convincing standard: If clear and convincing, it is **highly and substantially more likely to be true than untrue** that Respondent committed the alleged acts(s), then the Respondent will be found responsible for violating this policy.

Emergency Removal

Individualized safety and risk assessment

Immediate threat to **physical** health or safety

Notice and opportunity to **challenge**

Informal Resolution

Available as alternative

Both parties must agree

Writing new history

LGBTQ+

- No categorical bans of transgender students from participating on teams consistent with their gender identity.
- Flexibility to develop team eligibility criteria that serve important educational objectives, such as **ensuring fairness in competition or preventing sports-related injury.**
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Writing new history

- LGBTQ+
- Grievance procedures
- Prevention
- VAWA climate studies

Questions? Please feel free to reach out!

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