

SAIC Annual Title IX Training 2022

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Agenda and schedule

(warning)

Thursday, September 29

- 12-12:15 pm; Welcome/Hello
- 12:15-12:50 pm: Title IX office and current policies
- 12:50-1 pm: Break
- 1-1:50 pm: Definitions
- 1:50-2:10 pm: Break
- 2:10-3 pm: Scenarios
- 3-3:10 pm: Break
- 3:10-3:45 pm: Case study
- 3:45-4 pm: Wrap up

Title IX office



- Receive/respond to reports
 - Outreach
 - Big “I” and little “i” investigatory steps
 - Interim measures
- Compliance
- Policy review
- Acute response
- Training
- Collaborations and connections
- DHR complaints
- Pregnancy accommodations (students)
- Random requests

Current SAIC policies...



- History and context of Title IX
 - Original passage, 1972
 - Athletics
 - Sexual harassment; 2001, 2011, 2020
- Policy at SAIC -Title IX and Policy prohibiting sexual assault, domestic violence, dating violence, stalking or “VAWA policy”
 - 2020 regs
 - Title IX policy (activity)
 - VAWA policy
 - Preponderance of evidence
 - SAIC as complainant (pptvwm)

Current SAIC policies...



- For Title IX to apply:
 - Must be in the united states
 - In campus property or in situations where SAIC has substantial control over context and respondent
 - Respondent must be an affiliate
 - Complainant must be participating or attempting to participate in education, program, or activities at the time of filing

Current SAIC roles...



- Investigator
- Hearing officer
- Advisor
- Appellate officer

Informal resolutions...



- For both...
 - Voluntary
 - Can involve mediation; 3rd party communication
 - Can be withdrawn
- For Title IX...
 - Can be initiated by either party
 - Must be completed within 21 days or formal complaint takes over
 - Title IX coordinator must approve of any resolution/agreement
 - Once all parties agreed, no further investigation/remediation unless explicitly stated
 - Not appropriate when respondent is employee and complainant is a student with allegation of sexual assault
 - Can take place during formal investigation up to appeal
- For VAWA...
 - Not appropriate when allegations of sexual assault exist
 - Complainant initiated

What is sexual harassment according to Title IX?



Conduct on the basis of sex that is:

- Sexual assault/contact
- Domestic violence
- Dating violence
- Stalking
- Sexual harassment
 - Quid pro quo
 - Hostile environment (activity)
 - Severe *and*
 - Pervasive *and*
 - Objectively offensive
 - Effectively denies participant

What is SPOO?



Severe:

- Physical conduct > non-physical
- Accompanied by threats of violence
- Consider circumstances - can complainant readily remove themselves from harassment

Pervasive

- Widespread
- Openly practiced
- Well-known among students or employees - reputation of a department, person, etc.
- Occurring in public spaces
- Frequency/Intensity/Duration of the conduct
- Unreasonable interference with school or job

What is SPOO? (cont.)



Objectively offensive:

- Reasonable person standard; in context
- “I know it when I see it”
- Age and relationships of complainant and respondent
- Number of persons involved
- Frequency
- Severity
- Physically threatening
- Humiliating
- Intimidating
- Ridiculing
- Abusive

Affirmative Consent: 4 Cornerstones

CONSENT IS:

CLEAR **COHERENT**
WILLING **ONGOING** →

CLEAR

Consent is active.

It's expressed through words or actions that create mutually understandable permission.

Consent is never implied, and the absence of a no is not a yes.

Silence is NOT consent.

"I'm not sure," "I don't know," "Maybe" and similar phrases are NOT consent.

COHERENT

People incapacitated by drugs or alcohol cannot consent.

Someone who cannot make rational, reasonable decisions because she or he lacks the capacity to understand the "who, what, when, where, why or how" of the situation cannot consent.

People who are asleep or in another vulnerable position cannot consent.

WILLING

Consent is never given under pressure.

Consent is not obtained through psychological or emotional manipulation.

Consent cannot be obtained through physical violence or threat.

Someone in an unbalanced power situation (i.e. someone under your authority) cannot consent.

ONGOING

Consent must be granted every time.

Consent must be obtained at each step of physical intimacy. If someone consents to one sexual activity, she or he may or may not be willing to go further.

How do we define consent?



How do we understand this in the context of an alleged violation?

- Clear
- Coherent
- Willing
- Ongoing

Affirmative Consent: Clear

It is essential to be clear when discussing sexual activity.

- Mutual understanding
- Never implied
- Absence of no does not mean yes
- Different levels of experience and expectation
- Possible guideline: if discussing sexual activity is too difficult, it may not be the right time to participate
- May be best to talk about it *not* in the heat of the moment



Affirmative Consent: Coherent

Someone who is **Incapacitated** cannot give consent. Someone is Incapacitated if they are:

- Asleep
- Unconscious
- Intermittently consciousness
- Any other state where the individual is unaware that sexual contact is occurring
- Alcohol and drug use are often one of the primary causes of incapacitation
- In addition to incapacitation, someone must be able to understand the nature of the act (age, developmental ability, etc.)

Affirmative Consent: Willing

- Consent cannot be obtained by coercion or force, fear, intimidation, pressure, threat, intimidation
- Your partner must be willingly engaged in each activity and must be able to cease sexual activity at any time



Affirmative Consent: Ongoing

- Consent is not to be inferred from a current or previous dating or sexual relationship.
- Consent to one form of sexual contact does not constitute consent to any other form of sexual contact.
- Consent can be withdrawn at any time and sexual activity must cease immediately



Some final notes about consent...



- Verbal vs non-verbal
- Consumed vs incapacitated (though not a binary)
- Blackouts

Scenarios and Discussion

A dark blue, solid-colored shape that starts as a thin line at the bottom left and expands diagonally upwards to the right, filling the bottom half of the slide.

Scenario 1...SPOO



While in Complainant's residence hall room, Respondent allegedly engaged in unwelcome touching, kissing, and taking pictures of Complainant's feet all while Complainant was incapacitated by alcohol. Respondent allegedly promised to provide alcohol to the Complainant to gain access to the Complainant's room. Respondent then over-served Complainant alcohol until they passed out. The Respondent has also been the subject of complaints about several incidents of touching others' feet in public without consent.

Scenario 2...SPOO



A student was walking in their residence hall when they heard sounds coming from a room. Approaching the room, they realized the sound was coming from an open door to an apartment, and that the sounds coming from the room were sex sounds. They looked in and saw one of their good friends having sex with a student. They took out their iPhone and began video recording them. As they were recording, an RA walked by and stopped them. When questioned, the student denied sharing the recording with anyone else and agreed to delete it on the spot at the RA's behest. Both students who were recorded declined to file a complaint, saying they thought it was funny.

Scenario 3...SPOO



An instructor of religion is teaching a class on the Old Testament. A trans student taking the class has frequent friction with the instructor over the instructor's narrow interpretations of scripture and conservative beliefs about the value of religion as a tool of social control. In class, the instructor has twice failed to use the student's chosen name and has defended themselves, saying that they use the name on the class registration roster for all students. The student finds out from classmates that the instructor misgenders the student in conversations with these classmates. The student approaches the instructor to address the misgendering and is told by the instructor that there are only two genders and that the instructor only refers to students by their birth-assigned sex.

Scenario 4...SPOO

Sunny Day waited for the elevator on the third floor of the library. As the elevator reached the third floor, the doors opened, revealing a student flashing their genitals. The doors closed and Sunny decided to take the stairs down. Sunny has complained that this exposure was sexual harassment.



Scenario 5...SPOO



During class, a Professor assigned homework that required students to watch a show on Netflix that depicts numerous sexual acts (including same-sex acts, which the complaining student mentioned as one of their objections to the assignment), nudity, drug use, suicide, marital infidelity, etc. The student found the content to be disturbing. The student is a devout Catholic and was so appalled they went to confession and reported the matter to the Title IX Coordinator. The department chair informed the Title IX Coordinator that the Netflix show did not meet any learning objectives and the professor could have chosen a variety of content through university resources.

Scenario 6...SPOO

At the end of a student's paper, a professor writes, "This is a very interesting point you made. Let's get together over coffee and discuss."



Scenario 7...SPOO

Gronvik is showing a Applaro a photo album of their recent vacation. In the middle of the vacation pictures are some sexually explicit photos of Gronvik and their partner. Gronvik apologizes profusely, and swears it's an accident.



Scenario 8...SPOO



Posted on a residence hall door is a large sign that reads: “No fat chicks.”

Scenario 9...SPOO



- Harlanda and Ektorp are in a performance art piece where Ektorp is to be grabbed on the buttocks by Harlanda. A student sees this and is offended, claiming this is a hostile environment.

Scenario 10...SPOO

Enhet is working in a non-private office area with Poang. While speaking on the phone, they are heard saying into the receiver, “B***h, please.” Poang reports the behavior.



Investigation report

- What questions would you ask?
- What are the facts in question?
What are the facts not in question?
- What information do you want to know?

