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PART 4: AIC POLICY AND PROCEDURES

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AIC SEXUAL MISCONDUCT POLICY

APPLIES TO

• Students
• Employees (faculty and staff)
• Third parties (guests, vendors, contractors, etc.)
AIC SEXUAL MISCONDUCT POLICY (CONT’D)

ONE GRIEVANCE PROCESS FOR ALL SEXUAL MISCONDUCT

• Title IX sexual misconduct
• Off-campus conduct that meets definitions in policy
• On-campus conduct that meets definitions in policy
KEY DEFINITIONS
CONSENT

• Freely and affirmatively communicated willingness to participate in sexual activity
  • Expressed by words or unambiguous actions
  • Person who initiates sexual activity must get consent
  • Consent is required for all sexual activities
INCAPACITY

A PERSON WHO IS INCAPACITATED IS UNABLE TO GIVE CONSENT BECAUSE THEY LACK THE ABILITY TO MAKE INFORMED, RATIONAL JUDGMENT

- Result of mental or physical helplessness, sleep, unconsciousness, or lack of awareness that sexual activity is taking place
- Incapacitation can result from drug and alcohol consumption
  - An extreme form of intoxication

CANNOT BE OBTAINED BY FORCE

- Includes threats, intimidation, coercion

DISCUSS: WHAT IS COERCION?

- Continued pressure after a clear decision
TITLE IX SEXUAL HARASSMENT

• Occurs within Title IX Jurisdiction
• 5 Categories:
  1. Quid pro quo
  2. Sexual Harassment (severe, pervasive AND objectively offensive)
  3. Sexual Assault
  4. Dating/Domestic Violence
  5. Stalking
TITLE IX SEXUAL HARASSMENT - JURISDICTION

• Occurs in the U.S.
• Occurs within the College’s educational program or activity
  • Location, events, or circumstances over which College exercises substantial control
    • Control over Respondent and context
  • Building owned by College or student organization
• Complainant must be participating or attempting to participate in education program or activity at the College.
TITLE IX SEXUAL HARASSMENT – QUID PRO QUO

• An employee of the College conditioning the provision of an aid, benefit or service of the College on an individual’s participation in unwelcome sexual conduct
  • Does not involve student vs. student relationships
  • Can involve employee vs. employee
TITLE IX SEXUAL HARASSMENT –
SEXUAL HARASSMENT

• Unwelcome sexual conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies an individual equal access to the College’s education program or activity.
  • If does not meet severe, pervasive, and objectively offensive, it may be another type of sexual misconduct
TITLE IX SEXUAL HARASSMENT – SEXUAL ASSAULT

• Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. Includes:
  • Rape
  • Sodomy
  • Sexual Assault with an Object
  • Fondling
  • Incest

What about attempts?
TITLE IX SEXUAL HARASSMENT – DOMESTIC/DATING VIOLENCE

A CRIME OF VIOLENCE COMMITTED BY A:

- Current or former spouse or intimate partner
  - Intimate partner – relationship with romantic or physical intimacy, or emotional dependence
  - Anywhere from “hook-up relationship” to marriage

- Individual with child in common
- Person who is cohabiting with or has cohabited with
- Social relationship of romantic/intimate nature
  - Determined based on reporting individual’s statement about length/type of relationship and frequency of interaction
TITLE IX SEXUAL HARASSMENT – STALKING

• Engaging in a course of conduct directed at a specific individual that would cause a reasonable person to
  • Fear for their safety or the safety of other’s
  • Suffer substantial emotional distress
• Course of conduct = 2 or more acts, including indirect acts through third parties
JURISDICTION – NON-TITLE IX

- Includes conduct outside of the U.S.
- Includes off-campus conduct which has the effect of interfering with a Community Member’s equal access to the College’s employment or educational programs and activities.
NON-TITLE IX SEXUAL HARASSMENT

ANY UNWELCOME CONDUCT OF A SEXUAL NATURE WHEN:

• Submission to or rejection of such conduct is an explicit or implicit term or condition of employment or academic standing (quid pro quo)

• Creates a hostile environment
  • Must be sufficiently severe OR pervasive
SEXUAL EXPLOITATION

TAking non-consensual or abusive sexual advantage of another
- Voyeurism, exhibitionism
- Sharing nude or sexually explicit photographs
- Graffiti
- Prostitution offenses
- Knowingly exposing another to STIs
OTHER SEXUAL MISCONDUCT

- Inducing incapacitation
  - For the purpose of prohibited conduct
- Aiding or facilitating misconduct
- Attempt
RETAIATION IS PROHIBITED

Seeking retribution against an individual for exercising their rights under the policy, making a report or complaint, testifying, participating, or refusing to participate in investigation
REPORTING

34 C.F.R. 106.45(B)(10)
REPORTS

• Can be made to designated employees
  • Student Affairs
  • HR
  • Athletics
  • Police

• Can be made anonymously
  • Formal complaint cannot be made anonymously
  • TIXC may file formal complaint
APPEALS

• Can be made from dismissal, or Chief Hearing Officer’s determination

• Bases:
  • Procedural irregularity that affected outcome
  • New evidence that was not reasonably available at time of determination which could affect outcome
  • Conflict of interest/bias
  • Sanction inconsistent with gravity of offense
APPEALS (CONT’D)

IF APPEAL IS GRANTED

• May refer back to Chief Hearing Officer for procedural irregularity or new information
• Bias/inappropriate sanctions may be addressed directly by Appellate Officer