Working with Law Enforcement

Strategies for Navigating MOUs, Reporting, and Concurrent Investigations

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Joint Conference
Effective Title IX compliance involves partnerships with municipal and campus law enforcement

- This session will discuss strategies for:
  - communicating with law enforcement professionals about Title IX,
  - writing MOUs and campus protocols,
  - how to work in partnership with police to obtain timely reports, and
  - different methods for handling concurrent investigations.
Title IX: Communications

Effective Communication with Law Enforcement
Campus Agencies

Communicating with your campus agency will be influenced by many factors including:

• University Policy
• Campus Police Policy
  • Accredited? (IACLEA, CALEA, State Chief’s Association)
• Department of Education / Department of Justice
• Clery Implications: Who does the ASR? Who syncs numbers?
• Know the Players: Chief AND down the chain of command… Who does the work? Who is the chief’s boss?
“Best Practices” Example
IACLEA Title IX Standard

• 18.1.1 Title IX Reporting
A written directive describes the agency’s procedures for responding to and reporting sexual harassment complaints.

• 18.1.2 Title IX Training
Title IX training is conducted with all agency personnel biennially, as well as with newly hired personnel. Training should consist of the following:
  a. How to identify sexual harassment
  b. The institution’s Title IX reporting and grievance procedures
  c. Any other procedures used by the institution to investigate reports of sexual violence.

• 18.1.3 Title IX Investigations
A written directive addresses situations in which a Title IX investigation and a criminal investigation occur concurrently, to include:
  • a. A requirement that the campus public safety agency will not cause a Title IX investigation to be delayed pending the outcome of a criminal investigation, except for the collection of evidence.
  b. A requirement that the Title IX coordinator have access to agency investigation notes and findings as necessary for the Title IX investigation, as long as it does not compromise the criminal investigation.
• 18.1.4 Investigator Training

If agency personnel are responsible for investigating Title IX complaints, they receive training in:

• conducting a civil rights investigation of sexual violence complaints, to include:
  • a. Applicable confidentiality requirements;
  • a. How to investigate non-stranger sexual assault; and
  • b. The use of “preponderance of the evidence” as the evidentiary standard.
Barriers to Effective Communication with the Campus Agency

• Legacy Events (Conduct Cases, Personality Conflicts, Background Experience)
• Funding (Unfunded Mandate Argument)
• Bias (Operating Philosophy of Agency, Personal)
• Change
• Media
• External Relationships (District Attorney)
• Clear Direction from Campus Administration?
Local Agencies

Communicating with your local agency will be influenced by many factors including:

- Town and Gown Relationship
- Relationship between Campus PD / Security and Local Law Enforcement
- State Law (Jurisdictions, Campus Sworn vs. Non-Sworn status)
- Knowledge (or lack there of…)
- Existing MOUs
Barriers to Effective Communication with the Local Agency

- Legacy Events (Personality Conflicts, Background Experience)
- Preponderance of Evidence vs. Beyond a Reasonable Doubt
- Bias (Operating Philosophy of Agency, Personal)
- Media
- Philosophy of Prosecutor’s Office
- Knowledge
- Previous Preparation Time
Memorandums of Understanding

So you need to write an MOU…

BE IT THEREFORE AGREED AS FOLLOWS: That the University of Texas-Pan American Police Department (UTPA PD) and the City of Edinburg Police Department (EPD) primary and concurrent jurisdictions shall be:
Authoring

- Sample Guidance
- Existing MOU Modification to include Title IX
- Who writes? Approvals?
- Barriers?
MOU Example Language

*From Chief Roger Stearns –
Kennesaw State University Police

• VIII. Federal Title IX Compliance
  
  • A. The institution is required to administratively investigate sexual misconduct incidents which occur on and off campus between students, faculty, and staff; and non-affiliated persons participating in a variety of sponsored programs or events. There is no geographic limitation to this federal requirement. Administrative investigations and resolutions must be concluded within 60 days in a prompt, equitable, and effective manner.

  • B. Cobb County criminal investigators may be asked to meet with designated university Title IX investigators regarding active criminal investigations of sexual assault; and may include domestic violence, stalking, and harassment when based on gender.

  • C. The institution’s federally mandated responsibilities are to investigate the behavior, stop the behavior, remedy its effects through support to the victim and community, and prevent its recurrence.
Delores Stafford and Associates
Non-Sworn and Sworn Agency Templates

Partnering with the Police

Police and Civil Partnerships Cultivation
Developing Protocols
May be separate from MOU or included in one

- Internal Partner vs. External Partner Considerations
- Initial Notifications – Activating the MOU
- Concurrent Coordination (interviews, evidence, schedule)
- Release of Information Forms – Multiple person intersection issue
- Campus PD and Local Agency communication issues (Transparent and ease of access)
- Clery Reporting
Information Flow

- Information Sharing (FERPA - Records Issues; Subpoena process; Previous Incidents – Background, Criminal History, Student Conduct; Case Progress Updates)
- Outcome notifications – Findings release to PD (yes or no)
- “Need to Know” – Privacy concerns internal and external
- Clery Timely Warnings
The SART
Working with a Sexual Assault Response Team

- SART is not a first responder.
  - Title IX Coordinator makes everything happen. Hence the term *coordinator*.
  - Not practical for group to drop everything to meet every time a case comes in.
- FOCUS: 50,000 foot view of institutional responses
  - Ensure Title IX Coordinator has the “fast lane” for making accommodations.
  - Resources for victims identified.
  - Review ASR for accuracy in policy and resource availability.
- Case Review – Regular intervals (Quarterly)
Concurrent Investigations

Shall We Dance?
FERPA

- One way vs. Two way communication
- Redactions
- Release forms
- Info from active police investigations introduced into student file – Implications to consider
Concurrent Models

- **Independent**
  - Each investigator works on their own. Information is only shared through formal process as investigations reach certain stages.

- **Joint**
  - Investigators communicate frequently through informal and formal methods with status updates

- **Simultaneous**
  - Investigators work together by coordinating efforts.
Roles

• Police Investigator
  • Trying to establish probable cause for arrest
  • Uses a wide lens
  • Employs a variety of tactics
  • Works for society in the interest of justice

• Administrative Investigator
  • Concerned with equity – civil right issue
  • Looks at only the reported case
  • Generally straight forward approach
  • Works for campus to ensure policy compliance
Questions and Discussion

Amazing Breakthroughs?

Thanks from LUPD for being here!