Judicial Affairs/Disciplinary Board & Policy
Campus Program Web Conference Series

October 25, 2011
Agenda

I. Campus Technical Assistance Team
II. How to use Technology
III. Announcements
IV. Communication with Trainees to Enhance Training Impact
V. Q&A
VI. Acknowledgements
Campus TA Team

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Chatting on iLinc

How has the Dear Colleague Letter impacted your campus response to violence?

Use chat to answer
Announcements

• Webinar materials on CALCASA.org/campus
• Campus Institutes – week of January 23, 2012
• Campus Webinar on Feb 1 @ 11.00 a.m. PST

*Mandatory Project Directors Meeting*
Once the Policy Is Written:

How to Effectively Implement Your Disciplinary Policy

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October 25, 2011

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WHO IS THE VRLC?

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LEARNING OBJECTIVES

- How the April 2011 Dear Colleague Letter is Affecting Campus Disciplinary Proceedings
- Awareness of the Top 10 Implementation Problems the VRLC Sees
- What Action Items You Can Take Back to Your Campus
HIGHLIGHTS OF THE APRIL 2011 “DEAR COLLEAGUE LETTER”

- A single incident of rape is sufficient to create a hostile environment
- Students engaged in off campus educational activities protected.
- Consider whether events that occurred off campus create a hostile environment on campus.
- Schools must respond separately from law enforcement with a prompt, thorough and impartial investigation whether told by student, parent or third party.
DCL: GRIEVANCE PROCEDURES

- Preponderance of the evidence standard (it is more likely than not . . .)
- Mediation cannot be used to resolve a sexual assault complaint.
- Include complaints against school employees, other students and third parties.
- “Adequate, reliable and impartial investigation of complaints.”
- Alert student of administration requirement to respond to any retaliation.
DCL: LAW ENFORCEMENT PARTICIPATION

- Should be trained on grievance procedure
- LE investigation not determinative of whether a violation of Title IX has occurred and does not relieve a school of its duty.
- There could be sexual harassment even if insufficient evidence of a criminal violation.
- Schools should not wait for LE investigation to conclude before beginning their investigation.
- Schools should not discourage a criminal complaint.
DCL: AVOIDING A HOSTILE ENVIRONMENT

- Options to avoid contact with perp and to change living and academic situations
- Minimize burden on complainant (remove accused from class not victim)
- Victims services/counseling services/medical services available
- Escort between classes
- Allow complainant to retake a course or withdraw without penalty
- Review disciplinary actions against complainant which may pertain to the complaint.
- Follow up with complainants about any retaliation.
Top 10 Implementation Problems
Something About A Party Makes the Complaint “Complicated” or “Special”
Everything In Writing
Victim Doesn’t Want to Make Complaint – Must School Investigate?
MUST A SCHOOL INVESTIGATE?

- Determine what victim remedies are available
  - Safety measures – class schedule, residence hall, etc
  - Disciplinary Action – suspension or expulsion
- Reporting to law enforcement
  - Campus Alerts
  - Multiple reports on same accused
  - Severity of violence and safety risk to campus
  - Recent OCR compliance reports
#4 IMPLEMENTATION PROBLEM

Both of the Parties Claim They Were Intoxicated
Interim Measures Must be Fair and Mindful of Hostile Environment
#6 IMPLEMENTATION PROBLEM

Decision Makers Must be Trained
#7 IMPLEMENTATION PROBLEM

What You Do For One Party Must Be Done for the Other Party
#8 IMPLEMENTATION PROBLEM

One Assault = Hostile Environment
Uncharted Territory: Appeals Process
#10 IMPLEMENTATION PROBLEM

Remember:

- Accused should not directly question the Accuser
- Title IX Coordinator should not be on judicial board or other position of conflict
- Do not wait for the outcome of a criminal case
- Keep a transcript or record of all hearings or fact-finding interviews
- Adherence to written outcomes
ACTIONS STEPS

- Consider a “Climate Check” survey immediately to assess hostile environment on campus
- Liability analysis with General Counsel
  - Determine protocol for non-complaint
- Assess your Decision Maker training program
- Review Appeals process for fairness and inclusion
RESOURCES

- OCR Web Page:
  - http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.html
- Know Your Rights:
  - http://www2.ed.gov/about/offices/list/ocr/docs/title-ix-rights-201104.pdf
- Dear Colleague:
  - http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf
- Background, Summary and Fast Facts:
  - http://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201104.pdf
- Campus SA Policies – www.safercampus.org
- National Center for Higher Education Risk Management – www.ncherm.org
THANK YOU!
Contact Us!

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Use the text chat to ask Lindy Aldrich or the Campus TA providers a question
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Webinar participants

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East Central Oklahoma University

Kentucky Domestic Violence Association

Mississippi Coalition Against Sexual Assault