

Spring Arbor University

Sexual Assault and Harassment Prevention

TITLE IX

VAWA

SaVE

TRAINING PROGRAM

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Why is Training Important?

- Date rape, sexual assault, domestic violence, and sexual harassment are real societal problems. Some research indicates that 25% of college women and up to 10% of college men are subjected to unwanted sexual contact during college.
- SAU wants to prevent the behavior that causes these problems through proactive education.
- Training regarding these issues is required by the federal government.

SAU fully supports the need for this training. SAU takes its responsibilities to its students and employees seriously and strives to maintain a Christ-like community.

TITLE IX: It's Not Just a "Sports Equity Law"

Title IX of the Education Amendments of 1972 is a federal sex discrimination law:

- Title IX prohibits discrimination on the basis of sex in *any educational programs or activities* of public and private schools, school districts, colleges, or universities, receiving federal funding.
- "Federal Funding" refers to any form of federal financial assistance including federally guaranteed loans, grants, tuition assistance.
- Title IX applies to students and employees

TITLE IX TRAINING REQUIREMENTS

- Title IX requires training for all “Responsible Employees” on their duty to respond to and report incidents of sexual harassment/violence
- Under Title IX, SAU is charged with knowledge of all incidents of sexual harassment/violence that a Responsible Employee knew about or should have known about.
- A Responsible Employee is an employee who:
 - 1) Has the authority to redress and deal with incidents of sexual violence or harassment; or
 - 2) Is charged with the duty to report misconduct, including sexual violence or harassment, to appropriate SAU authorities; or
 - 3) Is someone a student or employee would reasonably believe has the authority or responsibility to redress or report incidents of sexual violence or harassment
- A Responsible Employee is not a school pastoral or professional counseling employee with confidentiality requirements

DESIGNATION OF RESPONSIBLE EMPLOYEES

SAU considers the following to be Responsible Employees:

- Title IX Coordinator
- Title IX Grievance Administrator
- Title IX Hearing Officers
- Title IX Investigators
- Campus Safety Director
- Campus Safety Officers
- Faculty Members
- Resident Assistants
- Resident Directors
- Members of Administration
- Athletic Coaches

WHAT IS VAWA?

VAWA: the Violence Against Women Reauthorization Act of 2013

- Requires colleges and universities accepting federal funding to compile and publish their statistics on dating violence, domestic violence, sexual assault and stalking in the institution's Annual Security Report.
- Requires the adoption of certain policies, procedures and programs pertaining to dating violence, domestic violence, sexual assault, and stalking.
 - 1) Example – SAU's sexual assault policy
 - 2) Example – SAU's Sexual Assault Victim's Bill of Rights
- VAWA policies, procedures, and programs are applicable to students *and* employees.

WHAT IS SaVE?

SaVE: The Campus Sexual Violence Elimination Act

- Contains requirements that implement VAWA
- SaVE requires campus authorities to assist complainants of sexual assault, dating violence, domestic violence, or stalking, by:
 - Aiding a complainant in reporting a crime to law enforcement
 - Obtaining or enforcing a no-contact directive or restraining order
 - Having clear descriptions of their institution's disciplinary process including the range of possible sanctions
 - Providing complainants with information about existing counseling, health, mental health, complainant advocacy, legal assistance, and other services available both on-campus and in the community

Duties of Responsible Employees

RESPONSIBLE EMPLOYEES:

- Must be alert for possible sexual violence, dating violence, domestic violence and harassing situations
- Must report open and obvious incidents
- Must report incidents relayed by students and/or employees of the above
- Watch for signs a student or employee may be a victim:
 - 1) Change in mood or attitude
 - 2) Unexplained drop in grades
 - 3) Unexplained absences
 - 4) Changes in physical appearance
- Should consider safe and positive options for bystander intervention
 - 1) Calling 911 and reporting the incident immediately
 - 2) Calling Campus Safety and reporting the incident immediately
 - 3) Calling attention to the inappropriate behavior

REPORT ISSUES REGARDING SEXUAL VIOLENCE, DATING VIOLENCE, DOMESTIC VIOLENCE, OR HARASSING BEHAVIOR TO THE TITLE IX COORDINATOR OR CAMPUS SAFETY DIRECTOR AT ONCE.

CONFIDENTIALITY ISSUES

What if a student or employee requests confidentiality or does not want the incident reported?

- A Responsible Employee should inform the student or employee that the Responsible Employee must report the incident but will relay the request for confidentiality to the Title IX Coordinator.
- The Title IX Coordinator will make the decision regarding maintaining confidentiality based upon a balancing of the need to respect the request for confidentiality while maintaining safety.
- In all cases, information regarding reported incidents should only be shared with those who need to know such information.
- Students and employees who are complainants of reported incidents should be informed by the Title IX Coordinator of the need to share information, and with whom the information will be shared.

Examples of Sexual Harassment & Assault

- Non-consensual sexual contact
- Hostile environment
- Sexual advances
- Requests for sexual favors
- Comments about an individual's body, sexual activity, or sexual attractiveness
- Sexually suggestive touching, gestures, sounds, comments
- Displays of sexually suggestive objects and/or pictures
- Rape
- Relationship violence
- Coercion
- Force
- Intimidation
- Sexual threat
- Bullying
- When someone is incapable of giving explicit consent – drunk/drugged, too young
- Domestic violence
- Dating violence
- Stalking

Definition of terms

- **Consent** is a clear and unambiguous agreement, expressed in mutually understandable words or actions, to engage in a particular activity. Consent can be withdrawn by either party at any point. A person that is incapacitated in any way cannot reasonably offer consent.
- **Sexual assault** is nonconsensual physical contact of a sexual nature using a part of the body or an object.
- **Dating violence** is physical or emotional abuse where the abuser seeks to maintain power or control in the relationship.
- **Domestic violence** is abusive behavior between those living together. It can be physical, sexual, emotional, or economic

Definition of terms

- **Stalking** is when someone focuses attention on a person in a way that makes them fear for their safety or causes emotional distress
- **Coercion** is a form of sexual assault. It is putting pressure and manipulation in place to obtain sexual activity.
- **Sexual harassment** is unwelcome, sexually based behavior such as touching, pressure for dates, sexual comments or jokes, and the open display of sexually oriented materials.

TITLE IX INVESTIGATION AND HEARING REQUIREMENTS

Title IX requires that an investigation into a report be:

- Prompt
- Impartial
- Adequate
- Reliable

A hearing following an investigation is not required, but if a hearing does take place:

- The complainant and respondent must be accorded the same due process rights. As a private post-secondary educational institution, SAU is allowed to adopt its own procedures as to what constitutes “due process” for Title IX and VAWA matters.
- The complainant and respondent may have an advisor of their choice present during any proceeding or meeting regarding the proceeding
- SAU may proscribe the conduct of advisors and any other participant involved in meetings and hearings

Following the hearing the complainant and the respondent must:

- Be notified of the outcome of the hearing simultaneously and of any appeal rights
- Be notified if any part of the decision changes
- Be informed that the notification under this provision is not a FERPA violation

SAU INVESTIGATION AND HEARING PROCESS

SAU has adopted procedures for investigations and hearings of Title IX and VAWA matters:

- SAU's disciplinary proceedings, including special guidelines for cases involving sexual misconduct, domestic violence, dating violence, and stalking, are in the *Student Handbook* and in the *Employee Handbook*.
- The procedure for students is referred to as an accountability proceeding.
- The procedure for employees is an administrative proceeding, and only applies to cases involving sexual misconduct, domestic violence, dating violence, and stalking.
- Investigation and proceedings for employees does not change the 'at-will' nature of the employment relationship.
- Investigations and hearings will be conducted by one or more University officials who receive annual training on issues related to domestic violence, dating violence, stalking, and sexual assault, and on how to conduct an investigation and hearing process that protects the safety of complainants and promotes accountability.
- The standard of evidence to be used will be the "preponderance of the evidence standard".
- Administrative process differs from criminal process; no criminal penalties apply to administrative process and standard of proof is lower.

PROTECTING THE COMPLAINANT

Throughout the process, steps must be taken to protect the complainant of sexual violence, assault, dating violence, domestic violence and stalking.

Such steps could include:

- Academic accommodations – e.g. allowing an extension on coursework after an assault, or expunging poor grades due to lingering effects of assault
- Housing Accommodations – e.g. moving the respondent out of the complainant's housing area or requiring the respondent to live off-campus during the proceeding
- Employment Accommodations – e.g. modifying the complainant's work schedule to avoid contact with the respondent
- Campus restraining orders – e.g. “no-contact directives” or banning the respondent from campus
- Offering counseling and other support services
- Complainants must be protected from retaliation during and after the investigation and hearing process.
- Complainants will be provided with the sexual assault Victim's Bill of Rights and a copy of SAU's policy on Sexual Assault, Dating Violence, Domestic Violence, and Stalking

Questions?

- Questions regarding this presentation or any of the information contained in it can be directed to Dan Vander Hill, Title IX Coordinator for Spring Arbor University at danv@arbor.edu