



TITLE IX POLICY UPDATE: Final Rule Information Session

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TITLE IX COORDINATOR

Goals of this Session

Today we will discuss:

- ▶ Significant changes in the new regulations around harassment and sexual violence
- ▶ Changes to the Title IX grievance process
- ▶ How to report sexual violence and harassment
- ▶ Resources for support, including confidential resources

Title IX

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied benefit of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

20 U.S.C.A section 1681(a)

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Title IX Sexual Misconduct Policy

- ▶ The College is committed to complying with all requirements as set forth by Title IX of the Education Amendments of 1972 (“Title IX”). As such, discrimination on the basis of sex or gender will not be tolerated in any of College’s education programs or activities. Such discrimination includes, but is not limited to, the following: *sexual harassment; sexual violence; stalking; relationship violence; and failure to provide equal opportunity in admissions, activities, or employment*. Student workers will be covered by this policy, and may also fall under the jurisdiction of Human Resources and Development, which will jointly resolve all complaints with the Dean of Student Affairs.

Sexual Harassment (Update)

The Final Rule defines Sexual Harassment as:

1. any instance of quid pro quo harassment by a school's employee
2. unwelcome conduct that a reasonable person would find severe, pervasive **and** objectionably offensive
3. any instance of sexual assault (Clery), dating violence, domestic violence, or stalking (VAWA)

Sexual Harassment Is...

- ▶ Unwanted sexual actions that deny a person equal educational access.

Quid pro Quo

- ▶ “This for That”
- ▶ Unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature where submission to, or rejection of, such conduct results in educational action.



Relationships Between Faculty/Staff and Students

- ▶ Otis College of Art and Design prohibits all faculty and staff members, including graduate teaching assistants, and others involved in teaching activities, from engaging in or pursuing dating, sexual, or intimate relationships with students, including consensual relationships.

Severe, Pervasive and Objectionably Offensive (Update)

- ▶ Factors that bear on the “severe, pervasive, and objectively offensive” assessment include the frequency of the offensive conduct; the nature of the unwelcome sexual acts or words, such as whether the harassment was physical, verbal or both; whether the harassment was merely an offensive utterance; and the relationship between the parties.

Sexual Assault

The Clery Act has four defined sex offenses. They are:

1. Rape
2. Fondling
3. Incest
4. Statutory Rape

Clery Act

- **The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act took effect in 1991, and requires all colleges and universities participating in federal student aid programs to:**
 - Maintain a public daily crime log
 - Publish and distribute to students and employees, as well as prospective students and employees, an annual crime report by October 1, which includes 3 years of crime statistics; and
 - Provide both emergency and timely warnings to the campus community about crimes and other emergencies posing an immediate or ongoing threat.

To learn about Otis College's commitment to campus safety and security as well as compliance with the Clery Act, you can find more information in *The Hoot*

How Otis College Collects Data for the Clery Report

▶ **Incident Reports:**

- ▶ Student Conduct Reports
- ▶ Title IX Incident Reports
- ▶ General Incident Reports through Otis Website

Sexual Assault

Occurs when the act is intentional and is committed either by:

- ▶ physical force, violence, threat, or intimidation
- ▶ ignoring the objections of another person
- ▶ causing another's intoxication or impairment through the use of drugs or alcohol
- ▶ taking advantage of another person's incapacitation, state of intimidation, helplessness, or other inability to **consent**.

Dating Violence

Dating violence refers to “violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.”

The relationship between the offender and victim is determined based on the following factors: (1) the length of the relationship, (2) the type of relationship, and (3) the frequency of interaction between the persons involved in the relationship.

Domestic Violence

- ▶ Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Stalking

- ▶ Stalking is “a course of conduct directed at a specific person that would cause a reasonable person to feel fear.”
- ▶ Some examples of behavior that might fall under stalking include:
 - ▶ Making/Sending unwanted and unsolicited phone calls, emails, DMs, and/or texts.
 - ▶ Showing up at places without a legitimate reason.
 - ▶ Leaving unwanted presents, notes, items.
 - ▶ Posting information, or spreading rumors about the victim on the internet, in a public place, or by word of mouth.

Jurisdiction/Location of Incident (Update)

- ▶ The incident(s) occurred on the institution's campus, within the United States;
- ▶ The incident(s) occurred in a building under the institution's control, such as a residence hall or affiliated residential locations off campus, and within the United States;
- ▶ The incident(s) were part of one of the institution's programs or activities, such as part of a field trip or travel study, and within the United States.

Complainant and Respondent

- ▶ The institution has control over the Respondent (accused party), meaning the Respondent is a student (whether applicant, admitted, or currently enrolled) or employee (applicant, hired, but not yet working, or employed).
- ▶ Complainant (reporting party) is a student (whether applicant, admitted, or currently enrolled) or employee (applicant, hired but not yet working, or employed).

Code of Student Conduct

- ▶ Behavior that does not rise to the level of severe and pervasive conduct as defined in this Title IX Sexual Misconduct Policy is covered under the College's Sexual Harassment and Discrimination Policy or the Employee Handbook.

How to Report (Update)

- ▶ Formal reports of violations of this policy must be made to the Title IX Coordinator.
- ▶ You may file a formal complaint at any time by using the online Sexual Misconduct Report
- ▶ You may also email the complaint, call the Title IX Coordinator, or make an in-person report with the Title IX Coordinator.

Complaints

- ▶ The Title IX Coordinator can be reached at 310-846-2554, or cbranch@otis.edu.
- ▶ Upon receipt of a formal complaint, the Title IX Coordinator will reach out to the Complainant to conduct an intake interview.
- ▶ Complaints made to other individuals in the Otis community will need to be routed to the Title IX Coordinator.

Title IX Report Form



Title IX Incident Report-Sexual Harassment, Misconduct, and Sex/Gender Discrimination

DEFINITIONS:

Discrimination: is adverse treatment based on membership in a legally protected category. Legally protected categories are listed in Otis College's equal opportunity policies for students and employees.

Harassment: Prohibited harassment is defined as any conduct, on or off campus, directed toward an individual based on race, color, religion, national origin, ethnic origin, ancestry, citizenship, sex (including pregnancy, childbirth, breastfeeding or related medical conditions), sexual orientation, gender (including gender identity and expression), marital status, age, physical or mental disability, medical condition, genetic characteristics, veteran status, or any other characteristic protected by applicable law (or based on a perception that an individual has such characteristics or associates with others who have, or are perceived to have, such characteristics) that is sufficiently severe or pervasive to alter or interfere with an individual's work or academic performance, or that creates an intimidating, hostile or offensive, educational, work or living environment.

Sexual Harassment: Severe and pervasive sexual harassment pertains to only the following three categories of conduct:

1. A College employee conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct (quid pro quo);
2. Unwelcome conduct by a College employee on the basis of sex determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education programs or activities; or
3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).


Location:

Mandated Reporter

- ▶ In accordance with the Employee Handbook, all Otis College of Art and Design employees are mandated reporters. The only exception to this are the counselors in Counseling Services.


Mandated Reporter Responsibilities

- ▶ Clearly and compassionately inform the victim that information about an incident (name, time, date, location, nature of incident) must be shared and why (to ensure the student receives information that the college is required to provide them, including resources, reporting options, etc.).
- ▶ Explain confidential services available to the victim (Counseling Services and local resources such as Santa Monica Rape Treatment Center).

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- ▶ If possible, stay with the student reporting sexual assault until the TIXC arrives providing appropriate support to student.
 - ▶ Document and report via the incident report – Title IX form. This form will be automatically sent to the Title IX Coord. for follow up. Be sure to note what services/support the student requested and declined based on your initial interactions (i.e. police report, contact with Counseling Services, hospital treatment, etc.).

Complaint Process Overview

- ▶ After the College receives a formal complaint from the student directly involved in the incident, the appropriate department, along with the Title IX Coordinator has to complete the investigation within a reasonable amount of time.
- ▶ An intake interview is conducted by the Title IX Coordinator/or designee
 - ▶ During the intake interview, the Title IX Coordinator will assess the potential Title IX complaint for all of the jurisdictional elements required to proceed under this policy. In the event the allegation involves a sexual assault, dating or domestic violence, or stalking, within Clery geography, the Title IX Coordinator will document and report data to the Chief of Campus Safety and Security for statistical purposes. This data will, generally, not personally identify the parties involved in the incident(s).
 - ▶ The Title IX Coordinator will also explain to the Complainant the process for filing a formal complaint.
 - ▶ The Title IX Coordinator will also offer the Complainant Supportive Measures designed to restore or preserve equal access to the College's education programs or activities, and will consider the Complainant's wishes with respect to these measures. These measures are available with, or without, the filing of a formal complaint.

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- ▶ Supportive measures can include
 - ▶ Counseling
 - ▶ Extensions of deadlines or other course-related adjustments
 - ▶ Modifications of work or class schedules
 - ▶ Mutual no-contact directives
 - ▶ Changes in work or housing locations
 - ▶ An outside investigator will conduct all interviews after the initial intake. (Update)

Notice of Complaint (Update)

► Notice is given to the respondent


- The specific allegation and the specific conduct that is alleged to have occurred
- The identity of the Complainant
- The date and location (if known) of the conduct that is alleged to have occurred
- A copy of this policy, which contains the process that will be followed, including an explanation that each party shall have the right to inspect and review all reports and any submitted evidence prior to the completion of the investigation
- A statement indicating that the decision to accept a complaint does not presume that the conduct at issue has occurred, and that the Respondent is presumed not responsible, unless and until, at the conclusion of the process, there is a determination of responsibility
- The name and contact information for the assigned investigator
- An explanation that each party may be accompanied by an advisor of their choice, who may be a parent, friend, attorney, or any other individual they choose

Emergency Removal (Update)

- ▶ If the College determines that the conduct, as alleged, poses a safety risk to one or more students, or to the College's educational environment, the College may instruct that the Respondent be suspended, on an interim basis, from the College, from residence halls, or from specific programs or activities.
- ▶ Any such assessment will be made on a case-by-case basis, based on an individualized safety and risk analysis.
- ▶ If the College determines that an immediate physical threat to the health or safety of students, or others justifies removal, then a Respondent may be suspended on an interim basis.

Advisor (Update)

- ▶ All persons who are a Complainant or a Respondent are permitted to bring an Advisor of their own choosing. The advisor may be any person, including a family member or an attorney. The Advisor may accompany the Complainant or Respondent to any and all portions of the grievance process.
- ▶ Other than asking questions of the other party, or of witnesses, at the hearing, the Advisor may not participate directly in, or interfere with, the proceedings.

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- ▶ Although reasonable attempts will be made to schedule proceedings consistent with an Advisor's availability, the process will not be delayed to schedule the proceedings or hearing at the convenience of the Advisor.
 - ▶ The Hearing Officer has the discretion to remove the Advisor from the proceedings if the Advisor interferes with the proceedings.
 - ▶ For any Complainant or Respondent who does not have an Advisor at the hearing, one shall be provided, at no charge, for purposes of cross-examination of the other party or witnesses.

Alternative Resolution (Update)

- ▶ Participation in an Alternative Resolution is voluntary, and both parties must agree, in writing.
- ▶ Once the final terms of an Alternative Resolution have been agreed upon by both parties, in writing, the matter shall be considered closed, and will not then proceed to a Formal Complaint process. Any resolution reached through an Alternative Resolution process will be confirmed in writing and provided to the parties within five (5) business days of reaching a resolution.
- ▶ Records of any Alternative Resolution will be maintained and can be shared with other offices as appropriate.
- ▶ Allegations of quid pro quo harassment of a student by an employee shall not be handled through the Alternative Resolution process, and instead only through the formal complaint process.

Documents for Review

- ▶ Interview notes
- ▶ Evidence review
- ▶ Investigation report

Recorded Hearings (Update)

- ▶ Hearings may be by in person or via videoconferencing. Each hearing shall be recorded, on video with an audio transcript. No other individual is permitted to record while the hearing is taking place. The recording is the property of Otis College, but shall be available for listening by contacting the Title IX Coordinator.

Appeals

- ▶ Appeals may be filed on the following grounds:
- ▶ **Procedural Error:** A procedural error occurred that significantly impacted the outcome of the investigation or hearing.
- ▶ **New Evidence:** New evidence or information has arisen that was not available or known to the party during the investigation or hearing, and that could significantly impact the findings. Information that was known to the Appellant during the investigation or hearing but which they chose not to present is not new information.
- ▶ **Disproportionate Sanction:** The sanction(s) imposed were unfair or disproportionate to the investigation findings.
- ▶ **Conflict of Interest or Bias:** An actual conflict of interest or bias impacted the handling or results of the resolution procedures.

Resources

▶ **Carol D. Branch, Ph.D.**

- ▶ Assistant Dean of Student Affairs and Title IX Coordinator
- ▶ (310) 846-2554, cbranch@otis.edu

▶ **Nicholas Negrete, Ed.D.**

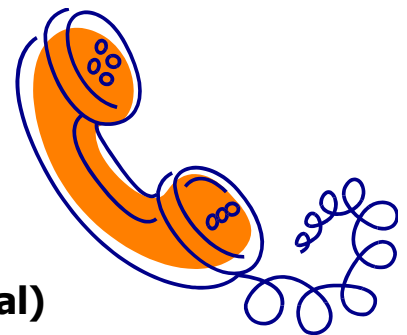
- ▶ Dean of Student Affairs
- ▶ nnegrete@otis.edu

▶ **Steve McQueen**

- ▶ Captain, Safety and Security
- ▶ 310-665-6965

▶ **Student Health and Wellness Center (Counseling is confidential)**

- ▶ 310-846-5738



Resources - Continued

- ▶ **Santa Monica Rape Treatment Center**

- ▶ 1250 Sixteenth Street
Santa Monica, California 90404
(310) 319-4000

- ▶ **Local Police**

- ▶ 911 (emergencies)
- ▶ 310-482-6334 (non-emergencies)

- ▶ **Human Resources**

- ▶ Email: humanresources@otis.edu
- ▶ Web: <https://my.otis.edu/facultyandstaff/hr/Pages/default.aspx>

What to Do When You Hear Rumors

- ▶ Ask for the source of information
- ▶ Direct individual to speak with the Title IX Coordinator, Dr. Carol Branch
- ▶ Inform the individual about the process
- ▶ Know your resources
- ▶ Let the Title IX Coordinator know about the rumor
- ▶ Gently encourage individual to discontinue spreading potentially false and harmful information
- ▶ **You should absolutely never spread rumors or private information!**