

AGENDA

UNT System Title IX Investigator Retreat



	Training Session/Description	SME/Presenter	Session Duration
	DAY ONE: October 20, 2020		
	Welcome & Introductions	Angela Brown	9:00 am
	Opening Remarks and Retreat Objectives	Alisha Carter Harris	9:15 am
1	Overview of Title IX 2020: 1. Definition of Sexual Harassment 2. Scope of Institution's Educational Program & Activities 3. Overview of Grievance Process (to include hearings, appeal, informal investigations)	Jarrold Jenkins Leslie Crosdale Adalyn Burger Angela Brown	9:20 am
	<i>BREAK</i>		10:50 am
2	Best Practices for Title IX Administrators	Alisha Carter Harris Eve Shatteen Bell	11:05 am
3	Closing/ Q&A	All	11:50 am

	DAY TWO: November 10, 2020	SME/Presenter	Session Duration
	Day Two Kickoff	Angela Brown	9:00 am
4	How to Conduct an Investigation: 1. Mock investigation 2. Impartiality, Avoiding Prejudgment & Conflicts of Interest	Alisha Carter Harris Anjela Guijosa Alvin Roberts	9:10 am
	<i>BREAK</i>		10:45 am
5	Ask a Title IX Coordinator Moderated Session	Eve Shatteen Bell Alisha Carter Harris	11:00 am
6	Open discussion/Additional Questions	All	11:30 am

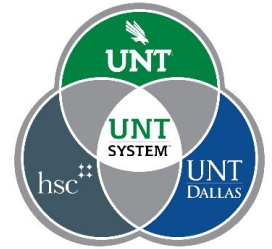
	DAY THREE: November 17, 2020	SME/Presenter	Session Duration
	Day Three Kickoff	Angela Brown	9:00 am
7	Report Writing	Eve Shatteen Bell Jarrod Jenkins	9:05 am
8	How to be a Good Hearing Witness	Eve Shatteen Bell Kory Levingston Angela Brown	10:05 am
	<i>BREAK</i>		10:30 am
8	How to be a Good Hearing Witness (Cont'd) Mock Hearing Exercise	Eve Shatteen Bell Kory Levingston Angela Brown	10:45 am
9	Legal Considerations	Dolly Garcia	11:15 am



Investigator Retreat: Overview of Title IX and UNT Policies

October 20, 2020

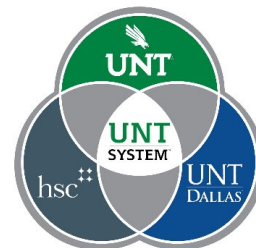
Jarrod Jenkins (he, him his)
Assistant Director, Equal Opportunity
UNT Denton



Agenda

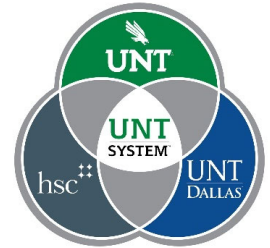
1. Title IX 2020 Regulations
2. UNT's Title IX Sexual Harassment Policies
 - a. Grievance Process
 - b. Terms Defined
3. Tips





Title IX 2020 Regulations

Title IX

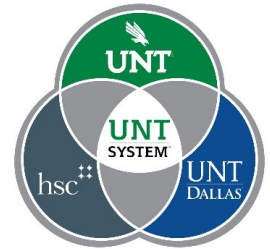


“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”



[20 U.S.C. § 1681](#)

University Requirements

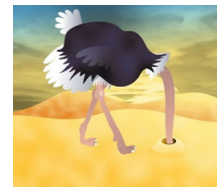


Prompt

- Train community about sexual misconduct and how to respond, including where and how to report
 - Online: report.unt.edu
 - Email: oeo@unt.edu; titleix@unt.edu
- Take effective steps to prevent, end, and remedy sexual misconduct
 - No “deliberate indifference”
- Follow reasonably prompt time frame for grievance process

Equitable

- Designate Title IX Coordinator
- Notify respondents of allegations and provide an opportunity to meaningfully respond
- Provide impartial investigations, access to evidence, and live hearings of complaints of Sexual Harassment





Title IX Regulations

- Effective August 14, 2020
- Ensures access to evidence
- Defines “Sexual Harassment” and other terms
- Live hearings required when allegations meet definition
- Advisors for both parties
- Both parties may appeal
- Due process emphasized



[34 CFR §§ 106.1-.82](#)

“Due Process” in Title IX



Mentioned 686 times in preamble, gives parties right to:

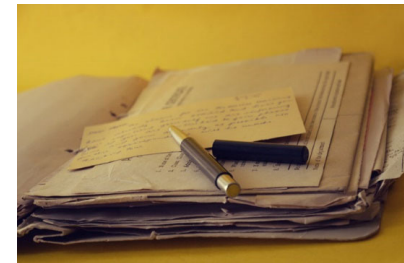
- Written notice of allegations and sufficient information to prepare for interviews.
- Be accompanied by advisor of their choice, who may or may not be an attorney.
- Discuss allegations under investigation without restriction.
- Gather and present relevant evidence without restriction.
- Present fact and expert witnesses.
- Know and review in/exculpatory evidence.
- Review preliminary investigative report before finalized.
- Argue for inclusion of “relevant” evidence at hearing.
- Ask relevant questions of other party and witnesses, through advisor, at hearing.



Due Process in UNT Policy



- Read 2,000+ pages of preamble, regulations before every investigation?
 - No; applying UNT Policy will fulfill due process requirements
- Investigator responsible for:
 - Reviewing complaint
 - Sending notice of complaint/investigation
 - Sending notice of interviews
 - Collecting evidence
 - Writing investigative report
 - Letting parties review evidence and investigative report
 - Testifying at live hearing



Role of the Investigator



- Unbiased collector and reporter of evidence
 - Recuse yourself if necessary
- Suspend judgment
 - Interrupt confirmation bias
- “With great power comes great responsibility.”
 - **Apply policy**
 - Maintain confidentiality
 - Investigate thoroughly (ask questions you need to ask)
- Knowing and applying the policy will:
 - Minimize bias and unfairness
 - Provide due process to all parties
 - Give best chance of finding truth





UNT's Title IX Sexual Harassment Policies

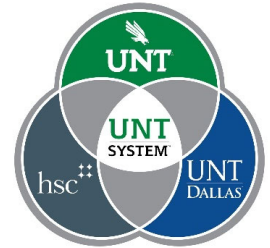
Knowing the Policy



- Read the policy applicable to your case (*i.e.*, Denton, HSC, Frisco)
 - Policies for campuses should overlap, but don't assume
- Reread parts that apply to your case
- It is your manual, road map, recipe for success
- It will tell you what you must do
- It will define terms
- **Use checklist and templates!**



Grievance Process Overview



1. Start

- Notice given to Title IX Coordinator, formal complaint filed

2. Initial Assessment

- Jurisdiction – time, place, people involved?
- Is UNT Title IX Sexual Harassment policy implicated?
- Administrative, informal, or formal resolution?

3.a. Formal Investigation & Investigative Report

- Interview Complainant, confirm allegations
- Send Notice of Complaint/Investigation to Respondent
- Identify and interview witnesses
- Collect evidence – statements, documents, other info
- Write preliminary Investigative Report, share it and evidence with parties
- Incorporate parties' comments into final Investigative Report
- No findings of fact or analysis sections

(3.b. Administrative or Informal Resolution

- Resolved through non-Title IX UNT Sexual Misconduct policy
- Resolved informally)

4. Hearing

- Investigative Report reviewed by parties, advisors, HO, HP
- **Investigator**, parties, and witnesses questioned by HO, HP, and advisors
- HO and HP write decision determining responsibility on all allegations
- If policy violation found, HO and HP determine sanctions and remedies

5. Appeal

- Both parties may appeal



UNT Policy 16.007, VII.

Start

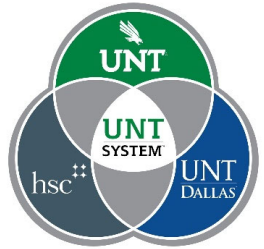


Title IX Coordinator (or Investigator?) reviews allegations of sexual misconduct, consults with Complainant, and informs them:

1. Complainant may file criminal complaint with law enforcement at any time;
2. UNT has obligation to remediate sexual misconduct, and an investigation may be conducted whether or not a criminal complaint is filed;
3. UNT can take measures to protect against continued sexual misconduct and retaliation (*i.e.*, provide supportive measures);
4. Voluntary withdrawal of an allegation will not necessarily result in termination of an investigation; and
5. Complainant should contact Title IX Coordinator if retaliation is suspected.

UNT Policy 16.007, VII.A.

Start



To begin Grievance Process, Complainant must sign and submit a Formal Complaint with written statement providing known details of alleged sexual harassment, including:

1. Complainant's name and contact information;
2. Respondent's name, if known;
3. Description of the alleged occurrence(s);
4. Date(s) and location(s) of the alleged occurrence(s);
5. Names of any witnesses to the alleged occurrence(s); and
6. Resolution sought.



Initial Assessment



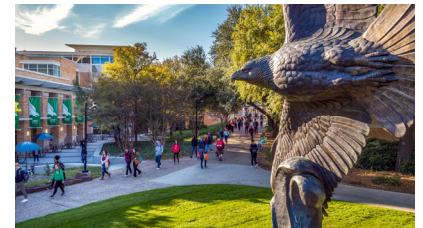
- Title IX Coordinator (with Investigator?) reviews formal complaints
- **Must** dismiss under Title IX and notify parties if alleged conduct:
 - a. Does not meet “sexual harassment” definition
 - b. Did not occur in a UNT “education program or activity,” or
 - c. Did not occur in the United States
- May dismiss and notify parties if:
 - a. Complainant asks to dismiss
 - b. Respondent no longer UNT employee at time of formal complaint
 - c. Specific circumstances prevent gathering of evidence



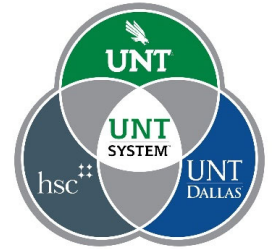
“Education Program or Activity”



- Not defined in UNT Policy
- Defined by regs as “all the operations of . . . A college, university, or other postsecondary institution, or a public system of higher education”
- Includes:
 - Interactions on campus (classrooms, UNT housing, UNT buildings)
 - Online class meetings, class field trips within U.S.
 - Off-campus interactions if:
 - a. Part of UNT’s “operations,”
 - b. UNT exercised “substantial control” over Respondent and context, or
 - c. off-campus building owned/controlled by student organization officially recognized by UNT
- Not always clear
 - Social media, text messages, informal and optional gatherings?



[34 CFR §§ 106.1-.82](#)



Scope of Programs and Services

Scope



The overall scope of the UNTHSC includes the following:

- Five Professional Schools,
- Four Research Institutes,
- Twelve Clinical Practice Groups, and
- Twelve areas of Institutional Services

Professional Schools



The Health Science Center contains five professional schools

- Texas College of Osteopathic Medicine
- Graduate School of Biomedical Sciences
- School of Public Health
- School of Health Professions
- UNT System College of Pharmacy

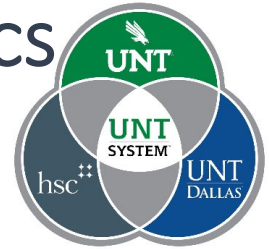
Research Institutes



The UNT Health Science Center (UNTHSC) established Research Centers and Institutes to speed research discoveries from the bench to the bedside and to create a healthier and more productive Texas.

- North Texas Eye Research Institute
- Institute for Translation Research
- Center for Human Identification
- Texas Center for Health Disparities

Clinical Practice Group has 12 unique clinics including:



- pediatrics,
- allergy,
- family medicine,
- cardiology,
- gastroenterology,
- student health,
- employee priority care
- geriatric primary care,
- geriatric psychology,
- geriatric neurology,
- osteopathic manipulative medicine, and
- dermatology

Clinical Practice Group cont...



The UNTHSC Clinical Practice Group also includes an off-site primary care location in an underserved community of Fort Worth, as well as HSC Obstetrics and Gynecology, which provides a full range of obstetric and gynecological services in the heart of the Fort Worth Medical District.

Institutional Services



- Center for Innovative Learning
- Gibson D. Lewis Health Science Library
- Helpdesk and Client Services
- Information Technology Services
- Infrastructure and Security
- INCEDO
- Interprofessional Practice Education
- Records and Information Management
- Research Office
- SaferCare Texas
- Services Related to Online Education
- Simulation Center

Contact Information



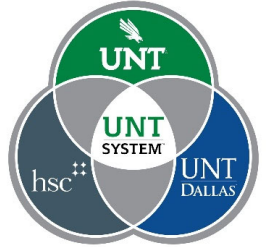
Kory Levingston

Title IX Coordinator

Kory.Levingston@unthsc.edu

817-735-2594

Student Service Center, 153



Scope of Programs and Services



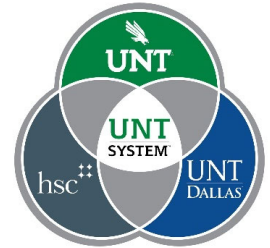
The overall scope of the University of North Texas at Dallas includes the following:

- One Professional School
 - College of Law
- Four Academic Programs
 - School of Business
 - School of education
 - School of Human Services
 - School of Liberal Arts
- Graduate School
- Over 40 Student Organizations
- Athletics



Institutional Services include:

- Student Solution Center
- Counseling and Wellness Center
- WellConnect
- C.A.R.E. Team
- Disability Services
- Veteran Success
- Career Services
- Experiential Learning
- Learning Commons
- Human Resources
- Finance and Administration
- University PD



UNT Dallas Title IX Resources

- **UNT Dallas Title IX Coordinator:** 972-338-1814
- **UNT Dallas Deputy Title IX Coordinator**
Jamaica.Chapple@untdallas.edu 972-338-1775
- **UNT Dallas Counseling and Wellness**
Email: counseling.wellness@untdallas.edu
972-338-1779
- **UNT Dallas CARE Team:**
Jamaica.chapple@untdallas.edu 972-338-1775
- **UNT Dallas Police Department:**
chief@untdallas.edu 972-780-3009
- **UNT Dallas Student Health Clinic:** 972-338-1793

External Resources- Medical

- **Parkland Hospital**
5201 Harry Hines Blvd. Dallas, TX 75235
214-590-8000
- **Baylor Hospital (Dallas)**
3500 Gaston Ave. Dallas, TX 75246
214-820-0111
- **Charlton Methodist Hospital**
3500 W. Wheatland Dallas, TX 75237
214-947-7777
- **Genesis Women's Center**
4411 Lemmon Ave. #201 Dallas, TX 75219
214-940-2998 24-Hour Hotline: 214-946-HELP
- **Rape Crisis Center**
214-590-0430 972-641-7273 (Dallas Area)

Initial Assessment



1. Administrative resolution

- UNT Policy 16.005, 07.012, or other non-Title IX policy for your campus
- Investigators' role may include findings of fact, analysis, and determination

2. Informal resolution

- UNT Policy 16.007
- Optional; mediation, discussions with parties, reminders of policies and best practices; not recorded; statements not used in formal complaint process
- Disallowed if formal complaint alleges sexual assault or sexual harassment by an employee against a student

3. Formal investigation

- UNT Policy 16.007 or other applicable policy for your campus

UNT Policy 16.007, VII.

Formal Investigation



Start with interviews of Referent and Complaint (and advisor)

- “I’m typing notes, and information you give will go into a report seen by people with a need to know. EO is a neutral party that enforces university policies related to sexual misconduct and retaliation. EO does not discipline. Discipline comes at the end of the process if there is a finding that policy was violated. Anti-retaliation provision; let us know if you feel you are being retaliated against. Ask everyone for confidentiality. We will be in contact to confirm what we talked about today, and next steps. You can contact us at any time with any questions. Any questions now?”
- Use prepared questions with focus on elements of prohibited conduct
- Begin broadly: Who, what, when, where, why, how?
- Funnel to details
- Quantify and specify as much as possible: What time, how many minutes, how many people were there, how many times, what exactly was said?
- Always ask: “Any witnesses you want us to talk to?”; “Any questions you want us to ask witnesses or other party?”; “Any documents related to this?”; “Anything Else?”
- Type answers.
 - Record? I don’t.
- Follow up email to confirm allegations, provide info and resources



UNT Policy 16.007, VII.A.-C., -H.

Formal Investigation



- Send Notice of Complaint/Investigation to Respondent
- Interview Respondent (and advisor)
 - Go through allegation(s) and give chance to respond to each
 - Always ask: “Any witnesses you want us to talk to?”; “Any questions you want us to ask witnesses or other party?”; “Any documents related to this?”; “Anything Else?”
 - Follow up email with info, resources, and chance to respond in writing
- Identify and interview witnesses
- Collect evidence – statements, documents, other info

UNT Policy 16.007, VII.F., -H.

Write Investigative Report



- Write preliminary Investigative Report
 - Initiation
 - C's statement
 - R's statement
 - W's statements
 - Other evidence reviewed
 - Appendices or Exhibits
- Allow parties at least 10 days to review preliminary Investigative Report and evidence
- Incorporate parties' comments into final Investigative Report
- No findings of fact or analysis sections
- Send parties, their advisors, and Title IX Coordinator final Investigative Report



UNT Policy 16.007, VII.H.

Hearing and Appeals



- Hearing Officer and Hearing Panelists assigned to case
- HO arranges hearing date
- **Investigator testifies** at live hearing about investigation and Report
- Parties and witnesses testify at live hearing
- HO and HP determine whether policy was violated, sanctions
- Parties can appeal if:
 - **Procedural irregularity** affected outcome
 - New evidence that could affect determination to dismiss or determination regarding outcome was not available when determinations made
 - **Investigator**, TIXC, HO, or HP had conflict of interest



UNT Policy 16.007, VII.H.-M.

UNT System Title IX Coordinators



UNT Main Campus

Eve Shatteen Bell

Assistant VP EO/Director of Title IX

<https://ied.unt.edu/title-ix>

UNT Health Science Center

Kory Levingston

Title IX Compliance Manager

<https://www.unthsc.edu/title-ix/>

UNT Dallas

Adalyn Burger (Interim)

Asst Director, Community Standards

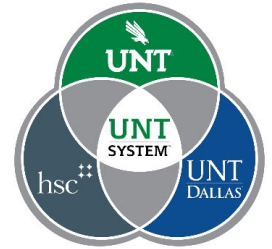
<https://sa.untdallas.edu/title-ix-0>

UNT System Administration

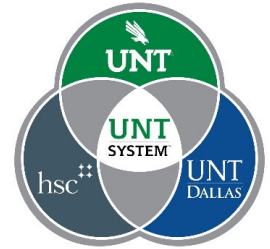
Angela Brown

Sr. Director, System Admin HR & EO

<https://hr.untsystem.edu/equity-diversity-and-inclusion>



Terms Defined



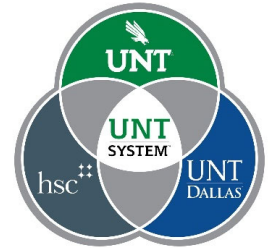
What is “Consent”?

Words or actions that show an active, knowing, and voluntary agreement to engage in each instance of sexual activity

- Can be revoked at any time
- Absent when activity exceeds scope of previously given consent
- **Cannot** be gained by force, coercion, manipulation, threat, or administration of substances that impair ability to consent
- **Cannot** be given while incapacitated or unconscious (*e.g.*, passed out from drugs or alcohol)



16.007 – Title IX Sexual Harassment



Conduct on the basis of sex that is one or more of:

- a. Quid pro quo – (1) an employee (2) conditioning an aid, benefit, or service of the University on an individual’s participation in (3) unwelcome (4) sexual conduct;
- b. (1) Unwelcome conduct (2) determined by a reasonable person to be (3) so severe, pervasive, **and** objectively offensive that it (4) effectively denies a person equal access to education program or activity;
- c. Sexual assault, dating violence, domestic violence, or stalking

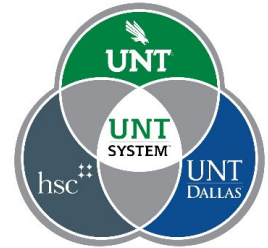
Sexual Assault



- **Rape** - penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim
- **Fondling** - touching private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or temporary or permanent mental incapacity
- **Incest** - sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law
- **Statutory Rape** - sexual intercourse with a person who is under the statutory age of consent (17 in Texas)

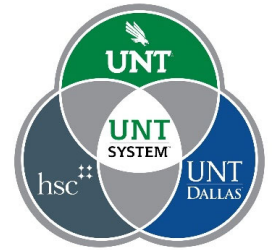


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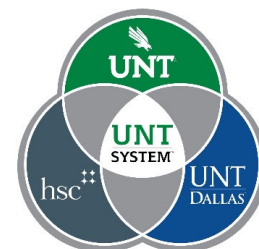
- **Dating violence** – violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. Existence of the relationship is determined by length of relationship, type of relationship, frequency of interaction. Includes sexual or physical abuse or the threat of such abuse.
- **Domestic violence** – felony or misdemeanor crime of violence committed against a current or former spouse or intimate partner, person with whom Respondent has a child, or anyone else protected by domestic or family violence laws . . .
- **Stalking** – engaging in a course of conduct directed at a specific person that would cause a reasonable person to (1) fear for his or her safety or the safety of others, or (2) suffer substantial emotional distress

UNT Policy 16.007



Takeaways

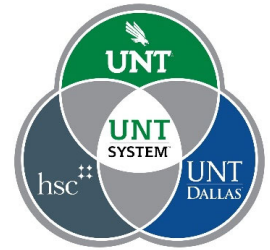
Takeaways



1. Read, know, apply policy
 - Title IX Coordinator, OGC, and regs can be a resource
2. Use checklist and templates
 - Notice of Complaint
 - Emails asking for meetings
 - Interview questions
 - Chance to review documents
 - Investigative Report
3. Formulate questions and focus attention on elements of allegations
 - Basis of sex, unwelcome, consent, severe, pervasive, objectively offensive, penetration, private body parts, course of conduct, etc.
 - Clarify uncertainties—quantify when possible
4. Err on side of asking question or interviewing witness
 - Better to collect irrelevant information than omit or miss crucial facts



Questions?





The Effect of Title IX Enforcement on Underrepresented Populations

Eve Shatteen Bell, J.D.

Pronouns: She/Her

University of North Texas, Denton
Assistant Vice President, Equity & Diversity
Title IX Coordinator

Alisha Carter Harris, M.S.

Pronouns: She/Her

University of North Texas, Denton
Associate Director, Equal Opportunity
Deputy Title IX Coordinator

Title IX Enforcement & Underrepresented Populations

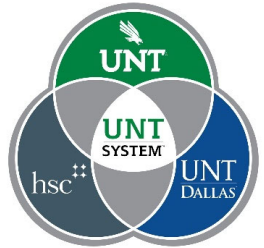


- Sexual Orientation & Gender Identity
- Race & National Origin
- Disability
- Best Practices

Gender Identity & Sexual Orientation

The CDC's National Intimate Partner and Sexual Violence Survey found for LGB people:

- **44** percent of lesbians and **61** percent of bisexual women experience rape, physical violence, or stalking by an intimate partner, compared to **35** percent of heterosexual women
- **26** percent of gay men and **37** percent of bisexual men experience rape, physical violence, or stalking by an intimate partner, compared to **29** percent of heterosexual men
- **46** percent of bisexual women have been raped, compared to **17** percent of heterosexual women and **13** percent of lesbians
- **22** percent of bisexual women have been raped by an intimate partner, compared to **9** percent of heterosexual women
- **40** percent of gay men and **47** percent of bisexual men have experienced sexual violence other than rape, compared to **21** percent of heterosexual men





Gender Identity & Sexual Orientation

- Within the LGBTQ community, transgender people and bisexual women face the most alarming rates of sexual violence. Among both of these populations, sexual violence begins early, often during childhood.
- The [2015 U.S. Transgender Survey](#) found that 47% of transgender people are sexually assaulted at some point in their lifetime.
- Among people of color, American Indian (65%), multiracial (59%), Middle Eastern (58%), and Black (53%) respondents of the 2015 U.S. Transgender Survey were most likely to have been sexually assaulted in their lifetime.
- Nearly half (**48%**) of bisexual women who are rape survivors experienced their first rape between ages 11 and 17.



Transgender population risks



Increased Risks Transgender Individuals Face

AN ESTIMATED 0.5% OF THE U.S. POPULATION IS **TRANSGENDER**, THOUGH THIS NUMBER IS LIKELY HIGHER BECAUSE MANY PEOPLE MAY NOT REPORT THEIR TRANS IDENTITY.

TRANS WOMEN ARE **1.8X** MORE LIKELY TO EXPERIENCE SEXUAL VIOLENCE THAN ANY OTHER GROUP OF PEOPLE.

IN 2013, **67%** OF HOMICIDE VICTIMS IN VIOLENT HATE CRIMES WERE TRANS WOMEN OF COLOR (72% WERE TRANS WOMEN).

HALF OF ALL TRANS INDIVIDUALS WILL EXPERIENCE SEXUAL ASSAULT AT SOME POINT IN THEIR LIVES.

NEARLY 50% OF TRANS YOUTH HAVE **CONSIDERED SUICIDE** WITH SERIOUS INTENT.

AND 25% REPORT AT LEAST ONE SUICIDE ATTEMPT.

SOURCES: TRANS SUICIDE, AN A.S. SURVIVAL GUIDE

Gender Identity & Sexual Orientation: *Creating an inclusive space*

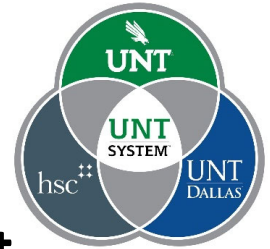


- **Grow your knowledge** in working with those who identify as LGBTQ *or* who were assaulted by a member of the same sex/gender.
- **Check your biases.** Be aware of heteronormative or even homophobic unconscious bias.
- **Remember the higher risk.**
- **Keep in mind the layers of barriers to reporting that may exist for LGBTQ individuals.**
- **Use gender inclusive language.**
- **Consider whether sex and gender data is, in fact, necessary to collect in every instance.** It can be helpful for listed options to be diverse and to focus on gender as opposed to sex (*e.g.*, man, woman, trans, and intersex). Forms should offer respectful, open-ended options (*e.g.*, prefer not to disclose, or fill in the blank), as compared to “othering” by listing “other” as a response choice.
- **Remember intersectionality**
- **Show up & demonstrate**



Race & National Origin

- Civil Rights Data Collection: PreK-12 Black students were being suspended at three times the rate of white students for the same first offenses.
- Since there are no national statistics on how many young men of any given race are the subject of campus-sexual-assault complaints, we are left with anecdotes about men of color being disproportionately accused and punished. There are many such anecdotes that indicate this practice has continued in higher ed through Title IX enforcement.
- Biases, coupled with the lack of resources common among minority students on campus, might systematically disadvantage men of color in adjudication, whether or not the encounter was interracial.



Race/National Origin & Title IX enforcement

- **Colgate University OCR Complaint alleging racial bias in Title IX**
- In the 2013–14 academic year, **4.2 percent** of Colgate’s students were black. According to the university’s records, in that year black male students were accused of **50 percent** of the sexual violations reported to the university, and they made up **40 percent** of the students formally adjudicated.

Race/National Origin & Title IX Enforcement



- Concerns that in some cases fear of assault on campus was clouding people’s judgment and creating a reflex to presume guilt.
- Men of color—and especially men of color from **Africa** and **Asia**—may be uniquely defenseless when charged with sexual assault, typically lacking financial resources, a network of support, and an understanding of their rights.
- ***Emily Yoffe***, who has written extensively on the issue, shares that while Black men make up only about 6% of college undergraduates, they are vastly overrepresented in the cases she has tracked.
- Self-described feminist and Harvard Law Professor ***Jeannie Suk Gersen*** wrote in *The New Yorker* in 2015 that the administrators and faculty members she’d spoken with who “routinely work on sexual-misconduct cases” said that “most of the complaints they see are against minorities.”
- And ***Janet Halley***, also a self-described feminist and professor at Harvard Law School said in testimony before Congress that in her experience, “the rate of complaints and sanctions against male (including transitioning to male) students of color is unreasonably high.”

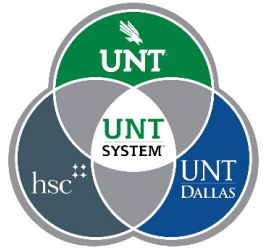
HOW THE DESIGN AND OPERATION OF UNIVERSITY TITLE IX ENFORCEMENT ENHANCES RISKS OF DISPARATE IMPACT ON THE BASIS OF RACE



- Universities collect minimal data concerning the racial impact of their discipline systems, and they keep what they collect confidential;
- Implicit bias infects the perceptions of victims, other witnesses, investigators, and hearing examiners and other factfinders;
- Definitions of offenses can be broad and vague;
- The disciplinary and investigative process is conducted “in secret”;
- Counsel for students have limited roles, and access to counsel is cost prohibitive;
- Faculty and administrators who might normally speak up for racial justice are afraid to undermine Title IX enforcement; and
- Investigations of alleged sexual misconduct are affected by collective American attitudes toward race and interracial sex.

Race &
National
Origin:
*Creating
an inclusive
space*

- **Grow your knowledge** in the history of punitive discrimination against racial minorities, particularly black men and immigrants.
- **Check your biases.** Be aware of anti-POC or anti-immigrant bias.
- Keep in mind the effects of “**spotlighting**” and “**dimming.**”
- **Remember the higher risk.**
- **Keep in mind the layers of barriers to reporting that may exist for racial & ethnic minorities.**
- **Show up & demonstrate.**



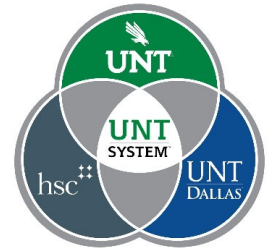


Disability

- Each of us may experience a disability in our lifetime.
- Individuals living with disabilities are one of the largest populations of historically marginalized people in the United States.
 - According to the CDC, 26% or **1 in 4** adults in the US have some type of disability. Similarly, 25.6% of adults in Texas have some type of disability.
 - In Texas, the second largest category of disability (11.7%) is cognitive disability which the CDC defines as, “serious difficulty concentrating, remembering or **making decisions.**”

Autism Spectrum Disorder

- As of 2014, the CDC estimates that 1 in 59 children has some form of ASD.
- As Autism rates continue to climb, institutions need to provide a **holistic approach** to working with students with ASD.
- Students with ASD are significantly more likely to inadvertently violate Title IX policies due to difficulty reading social cues and deficits in social communication.
- Described as “stalkerish” or “creepy” by individuals who lack an understanding of ASD.
- Students with ASD may repeatedly ask someone out or show up to places where the object of their affection is.



Disability & Title IX Enforcement



Sexual assault and abuse of people with disabilities often goes unreported.

Consent plays an even bigger, and potentially more complicated role when someone has a disability. Some disabilities may make it difficult to communicate consent to participate in sexual activity, and perpetrators may take advantage of this.

HB 1735: schools "shall, to the greatest extent practicable, ensure equal access for students enrolled at or employees of the institution who are persons with disabilities."

Individuals with disabilities are at a higher risk of being victims of sexual violence

Challenges of providing due process to respondents on the autism spectrum

Providing accommodations to students in investigations

Disability and Due Process: Best Practices



Ensuring due process for individuals with disabilities in practice.

- Check with your Office of Disability Services to determine if student is registered.
- Provide the same reasonable accommodations in investigations students receive for class, if they need them, including frequent breaks, writing assistance, extended time, etc.
- Explain the process and ask questions in a manner that is easy to understand.
- Ensure students understand any implemented supportive measures and assist them with adhering to them.
- Ensure students understand why conduct violates policy and provide resources to help them remediate and become successful members of the community.
- Ensure your process is accessible (different formats of information, locations that are easily accessible, advocates who understand their disability, etc.).

Best Practices for Working with Students with ASD



How do you ensure due process for individuals with ASD in practice?

- Are there sensory issues or does the student need frequent breaks?
- Do students need accommodations to defend themselves, compile a witness list or exculpatory evidence, or draft an appeal letter?
- Are you misinterpreting symptoms of their disability as deceptive behavior (failure to make eye contact, delay in providing answers, lack of emotion, defensiveness, or anger.)
- Where are you holding investigative interviews and hearings, do you need to change locations to accommodate students with ASD?

Be Inclusive!

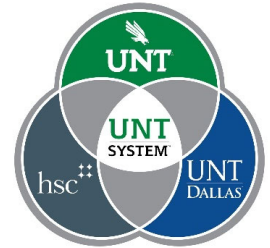


The CDC defines **Disability Inclusion** as understanding the relationship between the way people function and how they participate in society (and on our campuses) and making sure everybody has the same opportunities to participate in every aspect of life (and campus life!) to the best of their abilities and desires.

Other colleges/universities are:

- Creating transition programs for students with ASD
- Creating affinity programs that focus on academic success, social/personal growth and residential support
- Creating peer mentorship programs that pair students with ASD with neurotypical students to help them develop social skills
- Creating advocacy programs that offer job assistance, self-advocacy training, and individualized academic support

Due Process Best Practices for Other Historically Marginalized Groups



How do you ensure due process is provided equitably in your investigative process?

- Do you need to employ a language interpreter to ensure the complainant or respondent has a complete understanding of the investigative process?
- What about written documentation - do you translate information into their native language using technology such as Google Translate? Do you accept written documentation from them in their native language?
- For populations that do not use the typical method of communication that you utilize for your process, how do you ensure they receive access to communications in a timely manner in language they clearly understand?
- Are there cultural barriers or stereotypes that you need to apprise yourself of when interacting with different populations?

Other Best Practices

- Establish ongoing relationships with your Office of Disability Services, LGBT Center, Women's Center, etc. on campus.
- Use climate survey data to identify areas that need attention.
- Maintain a list of external resources like a language interpreting service so when you need them, you have a trusted service available.
- Have a Respondent Advisor program.
- Check the biases of your colleagues—if due process is violated or not upheld in any part of the process, it taints the entire process.
- Ensure you have advocates and resources available to students that reflect your student population (*e.g.*, LGBT advocates, advocates that match the national origin or race of the student, etc.)



Questions?

