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TITLE IX AND
PROTECTING THE
RIGHTS OF THE
LGBTQ+ COMMUNITY
ON YOUR CAMPUS

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LEARNING OUTCOME

After participating...

...you will be able to identify areas for improvement in your institutional processes regarding Title IX and your campus LGBTQ+ community.

AGENDA

- The Link Between Title IX and the LGBTQ+ Community Rights On Campus
- The Current National Landscape
- Gender vs. Orientation Based Discrimination
- 5P Framework for Title IX Compliance
- Raising Awareness & Creating A More Inclusive Campus



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THE LINK BETWEEN TITLE IX AND THE LGBTQ+ COMMUNITY RIGHTS ON CAMPUS



■ **LINK: TITLE IX &
LGBTQ+ RIGHTS
ON CAMPUS**

- Title IX of the Education Amendment Acts of 1972
- Prohibits sex and gender based discrimination in federally funded schools (K-12 and IHE's)
- Previously only associated with "equity in athletics"
- 2011 Dear Colleague Letter



■ **LINK: TITLE IX &
LGBTQ+ RIGHTS
ON CAMPUS**

- Applies to all employees, students and third parties
- May be applicable to behavior that occurs off campus, if on campus environment becomes affected because of the behavior
- Applies to all programs, events, admission, athletics, employment, etc..



■ **LINK: TITLE IX &
LGBTQ+ RIGHTS
ON CAMPUS**

- Sex/gender based harassment and sexual violence are forms of discrimination.
- Allows for Private right of action IF “notice” + “deliberate indifference” occurs
- May 2016 DCL- Letter on Transgender Students

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THE CURRENT NATIONAL LANDSCAPE

NATIONAL LANDSCAPE

- Social Security benefits
- First Amendment religious rights of private business owners vs civil rights laws protecting the LGBTQ+ Community
- Transgender prisoners
- FDA and ban on blood donations from men who've had sex with other men in the previous year
- WHO considering changing its transgender identity classification

NATIONAL LANDSCAPE (cont.)



- Bisexual women are 1.7 times more likely to have a teen pregnancy than heterosexual women.
- History was made at the recent Democratic National Convention in Philadelphia

EDUCATION LANDSCAPE

- Since 2011, the focus in higher ed (as it pertained to Title IX) seemed to be heterosexual sexual assault
- Many institutions never made the connection between Title IX its application to the LGBTQ+ population
- According to Campus Pride 2010 Campus Climate Survey, 23% LGBQ people more likely to experience harassment than heterosexuals; 39% of transgender people reported experiencing harassment.



GLSEN 2013 CLIMATE SURVEY (Gr 6-12)

- 55.5% of LGBT students feel unsafe at school because of sexual orientation; 38.7% because of gender expression.
- 35% of LGBT students avoid bathrooms and locker rooms because they feel unsafe.
- 27.2% of LGBT students experienced verbal harassment frequently or often because of sexual orientation; 20% for gender expression.
- 9.9% of LGBT students experienced physical harassment (pushing, shoving) often or frequently because of sexual orientation; 7.1% because of gender expression



■ EDUCATION LANDSCAPE (cont.)

- Many IHE's remain in the dark regarding the LGBTQ+ community and their needs while on campus
- *Grimm v. Gloucester School Board* (4th Circuit)
- *Videckis v. Pepperdine* (District Court in California)
- *Stiles v. Grainger County* (6th Cir.)

■ EDUCATION LANDSCAPE (cont.)

- NCAA
- Wyandotte/2016 DCL (DOJ/DOE)
- Over 20 states have filed lawsuits against Obama administration over this guidance

FREEDOM OF SPEECH & EXPRESSIONS



Speech should not be used to demean, exclude or offend.

However, people should feel free to express and define themselves in whatever manner they feel most comfortable.

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GENDER VS ORIENTATION BASED DISCRIMINATION

WHAT IS LGBTQIA+?



- Lesbian
 - Gay
 - Bisexual
 - Transgender
 - Queer/Questioning
 - Intersex
 - Ally
- + Includes everyone else!

“SEX”

vs.

“GENDER”

Sex Assigned at Birth



Gender Expression/Presentation



Biology:

- Anatomical: External/Internal genitalia
- Physiological: Hormones
- Genetic: Chromosomes
- Identified at birth

Female/Intersex/Male

Social & Legal Construct:

- Roles
- Activities
- Behaviors
- Attributes ascribed by culture

Masculine/Feminine/
Androgynous

EXAMPLES OF POTENTIAL DISCRIMINATION

SEX DISCRIMINATION

- Not being offered a job because HR found out the person has “both male and female body parts”
- Paying a male executive more because he’s a male and paying a female counterpart with the same qualifications less because she is a female

GENDER DISCRIMINATION

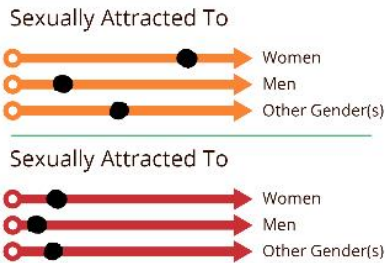
- Women want families; we want a “go-getter”
- Men aren’t that compassionate; women make better nurses.
- Women are more emotional, we don’t want a “crier” on our team

“GENDER IDENTITY”



- A person’s internal sense of his/her own gender
 - Man/Male/Woman/Female
 - Transgender/Cisgender
 - Non-binary
 - Genderqueer
- Genitalia ≠ Gender Identity
- Early childhood
- How we identify ourselves

“SEXUAL ORIENTATION”



- Enduring emotional, physical, romantic, & sexual attraction
 - Heterosexual
 - LGBTQ (Lesbian, Gay, Bisexual, Queer)
 - Asexual
 - Pansexual
- Puberty
- Who we prefer to date romantically

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“5P” FRAMEWORK FOR UNDERSTANDING TITLE IX COMPLIANCE

POLICY

- Non-discrimination Policy
- Policy and Procedure on Sex Discrimination and Gender- Based Harassment
- Discrimination Complaint Procedure
- Student Conduct Code

PROCESS

- Step-by-step of what needs to be done in cases of alleged sex or gender based discrimination
- Provides for “interim measures” (i.e. safeguards to protect students while case is proceeding)
- Standard of Review = Preponderance of the evidence (“more likely than not”)
- Appeals- how does a person who disagrees with the decision have it reviewed by a higher authority?

■ PEOPLE

- Title IX Coordinator(s)/Deputies
- Investigators
- Confidential Resources
- Responsible employees/Mandatory Reporters

■ PROFESSIONAL DEVELOPMENT

- Refers to training of “people” associated with the Title IX process on campus
- They must have specialized knowledge
- They must be well versed in the law and the federal regs
- They must understand their role on behalf of the campus’ process (equitable)

PROGRAMMING

- Refers to general training of the entire campus (like this presentation!)
- Per OCR: Bystander intervention, definitions, campus' processes, confidential resources, responsible employees
- Training for campus should be regular and ongoing



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**RAISING AWARENESS & PREVENTING
DISCRIMINATION BY CREATING A MORE
INCLUSIVE CAMPUS**



■ PERSONAL GENDER PRONOUNS (PGPs)

- Asking for and using someone's PGPs (personal gender pronouns) is a great way to show respect and support.
- Ignoring someone's PGPs misgenders them, and is disrespectful and hurtful and you risk alienating them entirely.
- If you slip up, apologize, and move on - DO NOT dwell or make a big deal about it.
- Some people don't use pronouns.



■ SUPPORT FOR TRANSITIONING/ TRANSGENDER INDIVIDUALS

- **BE VISIBLE** - Make yourself known as an LGBTQ ally. Use safe space stickers or posters. Use inclusive language. Respond to anti-LGBT behavior.
- **SUPPORT STUDENTS WHO COME OUT TO YOU** - When a student tells you their LGBTQ status. Appreciate their courage. Offer support. Listen and be patient. Be a role model of acceptance. Assure and respect confidentiality.



■ PREFERRED NAME

- Birth/legal/preferred
- Legal implications
- Allies should not share information about a transgender person that may undermine their gender identity, such as their birth name or old photos that do not align with their current gender identity.

■ SAFE SPACES

- A Safe Space is a welcoming, supportive and safe environment for lesbian, gay, bisexual and transgender (LGBT) students.
- For many students, simply knowing that allies exist can be a source of support. Research shows that LGBT students with many supportive educators feel safer at school, skip fewer classes, and earn higher grades than students without supportive educators.

BATHROOMS



- A toilet is just another seat!
- Transgender is not equal to predator
- Use of public restrooms by transgender people is more of a safety issue for them than you
- You can't tell what someone's genitalia is just by looking at them.
- Unisex/Gender-Neutral facilities are a great way to be inclusive.



BUILDING AWARENESS & ACCEPTANCE ON CAMPUS

Other best-practices to consider:

- LGBTQ-focused ally training for faculty and staff.
- Allow students to change gender marker on records without letters of support or legal change.
- Gender-inclusive restrooms in at least half of buildings on campus.
- Include gender identity in non-discrimination policy.
- Hold regular health clinics to provide transgender-specific health care services.





QUESTIONS



EVALUATION

Thank you!

Please remember to complete the event evaluation.
Your comments will help us continually improve the
quality of our programs.

