

Supporting Pregnant and Parenting Students

Session #6 Main Conference

October 18, 2024

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How Did We Get Here?

1991

OCR pamphlet on teenage pregnancy

2013

- OCR <u>DCL/Guidance on Supporting the Academic Success of Pregnant and Parenting Students</u>
- OCR <u>Know Your Rights: Pregnant or Parenting? Title</u> IX Protects You

2022

• OCR <u>Discrimination Based on Pregnancy Resource</u> for Students and Schools

2024

• Title IX Final Rule

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Title IX Definition of Sex Discrimination

- Sex stereotypes
- Sex characteristics
- Pregnancy or related conditions
- Sexual orientation
- Gender identity

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What's New?

- TIXCO and designees have new responsibilities to pregnant students
- Training requirements for all employees related to pregnancy – 106.8(d)

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"Pregnancy or Related Conditions" 106.2

Definition:

- Pregnancy, childbirth, termination of pregnancy, or lactation;
- Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
- Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

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Specific Actions 106.40(b)(3)(i)-(vi)

- **1. NOTIFICATION:** Inform the student of the school's obligations under 106.40(b)(1)-(5) and 106.44(j) and the school's notice of nondiscrimination
- **2. MODIFICATIONS:** The school "must make reasonable modifications" to policies, practices, or procedures

106.40(b)(3): "The Title IX Coordinator must coordinate these actions." See 2024 Final Rule.

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Notification 106.40(b)(2)

Responsibility to provide Title IX Coordinator contact and other information. A recipient must ensure that when a student, or a person who has a legal right to act on behalf of the student, informs any employee of the student's pregnancy or related conditions, unless the employee reasonably believes that the Title IX Coordinator has been notified, the employee promptly provides that person with the Title IX Coordinator's contact information and informs that person that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to the recipient's education program or activity.

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Notification considerations

1. Do

- Provide reasonable modifications
- Provide private lactation space
- Provide voluntary access to separate & comparable
- Provide voluntary leave of absence
- Treat pregnancy like any temporary medical condition

2. Don't

- Require supporting documentation unless <u>necessary</u> to determine reasonable modification
- Require certification (some exceptions)
- Disclose personally identifiable information obtained in the course of complying with notification

3. Training Opportunity

- What to do upon disclosure; avoid assumptions; don't ask
- Enforcing modifications

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OCR September 12, 2024 Resource

Nondiscrimination Based on Pregnancy or Related Conditions & Parental, Family, or Marital Status

- A. Overview
- B. Applicants for admission
- C. Students
- D. Employees and applicants for employment
- E. Other topics



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"Parental Status"

106.2, 106.21(c)(2)(i), 106.40(a), 106.57(a)(1)

Definition: The status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is:

- A biological parent;
- An adoptive parent;
- · A foster parent;
- A stepparent;
- A legal custodian or guardian;
- *In loco parentis* with respect to such a person; or
- Actively seeking legal custody, guardianship, visitation, or adoption of such a person.

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Discrimination Based on Parental Status

- Treating a student, employee, or applicant differently related to their parental status
 - Example: treating mothers differently than fathers
- Includes parental status "in connection with a minor or a person who cannot care for themselves because of a physical or mental disability if the student/employee/applicant has parental status

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Some considerations on parental status

- 1. Extends to current, potential, or past parental status.
- 2. Schools do not have to provide students with childcare.
- 3. Schools do not have to provide remote class/work options for childcare.
- 4. Schools cannot treat student parents differently based on their parental status this includes fathers.
- 5. Schools must not adopt ppp concerning the current, potential, or past parental, family or marital status of a student or applicant that treats persons differently on the basis of sex.
- 6. Schools may not make a pre-admission inquiry about the applicant marital status ("Ms." or "Mrs.")

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Parenting Considerations

- Support parenting students staying in school
- Campus-wide committees to address (child)care
- Family Friendly Campus Toolkit
- Information hub
- Lactation map
- Partner with campus and community organizations

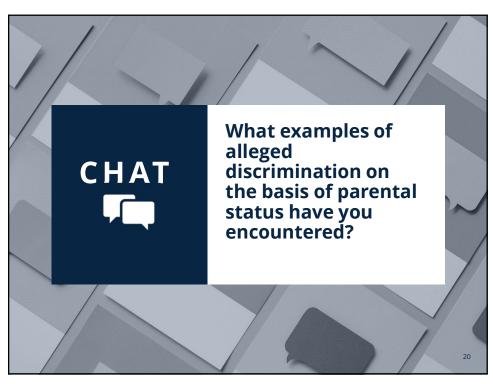
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RESOURCE 🖹

- 9/12/2024 OCR Nondiscrimination Based on Pregnancy or Related Conditions & Parental, Family, or Marital Status
- OCR Recent Resolution Search
- 2013 OCR <u>Guidance on Supporting the Academic Success</u> of Pregnant and Parenting Students and <u>Pregnant or</u> <u>Parenting? Title IX Protects You from Discrimination At</u> <u>School</u>
- 2022 OCR <u>Discrimination Based on Pregnancy and Related</u> Conditions
- Endicott College Family Friendly Campus Toolkit
- * Child Care Access Means Parents in School (CCAMPIS)

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Menstruation & Menopause

Discrimination based on menstruation, perimenopause, menopause, or their related conditions is sex discrimination under Title IX.

Such discrimination may overlap or fall within the scope of discrimination based on pregnancy or related conditions, or within other bases of sex discrimination, such as sex stereotypes.

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What About Abortion?

OCR October 2022 Pregnancy Resource

- General
 - Nothing in Title IX requires or prohibits any person/entity from providing or paying for any service related to an abortion
 - Nothing in Title IX permits a penalty to be imposed on any person because they are seeking or have received any benefit or service related to a legal abortion
- Students
 - Prohibition on discrimination based on termination of pregnancy has been in place since 1975
- Employees
 - Schools must treat termination of pregnancy as a justification for leave of absence without pay for a reasonable time period

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Reasonable Modifications 106.40(b)(3)(ii)

- Schools must make reasonable modifications to policies, practices, or procedures as necessary to prevent sex discrimination and ensure equal access
 - Based on student's individualized needs
 - Requires consultation with student
 - Must not fundamentally alter the nature of the educational program
- Student has discretion to accept or decline each modification
 - If student accepts, school must implement
- Reasonable modifications may include...

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Determining "Reasonableness"

9/12/2024 OCR Resource: <u>Nondiscrimination Based on Pregnancy or Related Conditions & Parental, Family, or Marital Status</u>

- Based on each student's individualized needs
- Must include student's "input"
- Student may accept or decline
- If more than one reasonable modification would address student's specific need, then school may choose to offer just one or multiple reasonable modifications
 - If student declines the one offered, the school is not required to offer the other one
- Not reasonable: Would fundamentally alter the nature of the school's program/activity

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Modification Examples 106.40(b)(3)(ii)(C)

- 1. Breaks for lactation, breastfeeding, health needs
- 2. Intermittent absences for medical appointments
- 3. Access to remote education
- 4. Changes in schedule or sequence
- 5. Time extensions
- 6. Rescheduling of tests/exams
- 7. Allowing sit or stand
- 8. Carry or keep water nearby
- 9. Counseling
- 10. Changes in physical space or supplies
- 11. Elevator access
- 12. Or other changes to policies, practices, or procedures

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"Other changes to p/p/p"

- Providing a larger uniform if one is needed for the program or activity
- General restroom breaks
- For student workers, changes in work schedules
- Parking and transportation access
- For co-op/placements/internships: may require adjustment in placement, schedule, or duties
- An in-person option where computer use exacerbates a pregnancy-related condition
- A paper option where a computer exacerbates a condition

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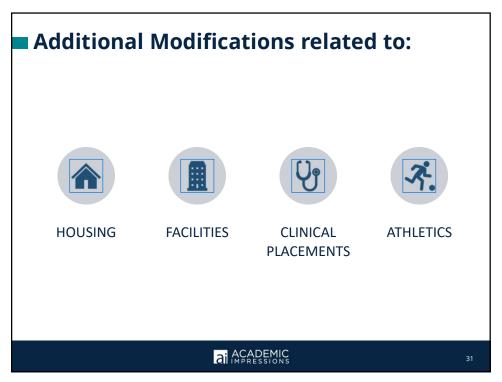
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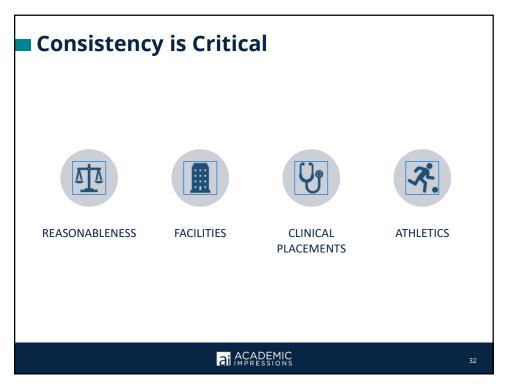
Modifications vs. Accommodations

Same: Interactive process

- Schools must work with pregnant and parenting students individually and produce an academic plan tailored to each student's needs and academic success
- Advise pregnant and parenting students of the availability of programs and services to help them stay in school and maintain their educational progress
- Schools must treat conditions related to pregnancy in the same way as any other temporary impairment of physical condition

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Pregnancy Discrimination in Employment

Covered:

- Pregnancy (past, current, potential)
- Childbirth
- Breastfeeding
- Abortion
- Miscarriage
- Birth control
- Other medical conditions related to pregnancy

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Examples of Discriminatory Actions in Employment

- Refusing to hire a job applicant due to pregnancy
- Firing or demoting a pregnant employee
- Denying the same or a similar job to an employee after they return from a pregnancy-related leave
- Harassment
- Denying reasonable modifications

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Modifications for Employees

- Breaks for lactation, breastfeeding, health needs
- More frequent breaks and trips to restroom
- Time off for medical appointments
- Allowing sit or stand
- Carry or keep water nearby
- Changes in physical space or supplies
- Elevator access
- Flexibility in work assignments
- Limits on lifting
- Light duty
- Ergonomic furniture
- Parking and transportation assistance
- · Medical leave of absence

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Federal Laws - Pregnancy Protections

- Title VII
- Pregnancy Discrimination Act
- Pregnant Workers Fairness Act
- PUMP Act
- Family Medical Leave Act
- Americans with Disabilities Act

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Title VII of 1968

- Institutions "shall not discriminate against or exclude from employment any employee or applicant for employment on the basis of pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom." 34 C.F.R. § 106.57
- See also 29 C.F.R. § 1604.10: Employment Policies Relating to Pregnancy and Childbirth

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Pregnancy Discrimination Act of 1978

- Amends Title VII.
- Defined 'because of sex' or 'on the basis of sex' to include on the basis of pregnancy, childbirth, or related medical conditions
- Required that women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work

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The Pregnant Workers Fairness Act

- Became law on June 27, 2023
- Final regulation went into effect on June 18, 2024
- Requires employers to provide reasonable accommodations to a worker's known limitations related to pregnancy, childbirth, or related medical conditions

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PUMP Act

- Became law on December 29, 2022
- Right to break time
- Right to a private space to pump during the workday
- Covers employers of all sizes

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Americans with Disabilities Act

- Prohibits disability discrimination
- Pregnancy and related medical conditions may qualify an employee as temporarily disabled under the ADA

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Family Medical Leave Act

- Guarantees certain employees the right to 12 weeks of unpaid leave per year for medical conditions affecting themselves or their family members
- This includes leave for pregnancy, childbirth, and caring for a new child

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State Law?

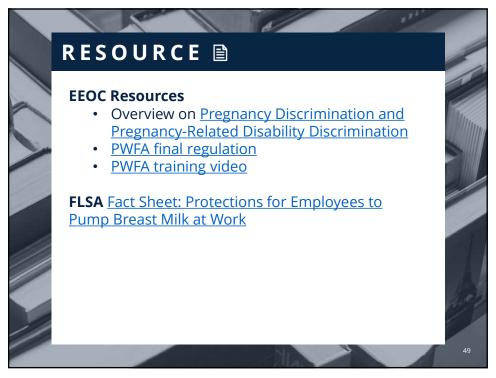
• The <u>EEOC has a website</u> that maps out different states' employment protections for workers who are pregnant or nursing.

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Building Title IX Awareness for your Campus Community

Session #7
Main Conference

October 18, 2024

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A Comprehensive Approach

There are many parts to creating a safe and respectful culture on campus. It takes a concerted effort by all.

 Awareness – activities that explain what sexual violence/harassment is and that inform about the resources available.



- Risk-Reduction helps individuals identify warning signs and provides safety tips.
- Response goes beyond what the regs require. Equips those receiving a disclosure with the skills to lessen the impact of the trauma experienced as much as possible.
- **Prevention** the "how-tos" of stopping sexual violence.

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Awareness efforts

Programming delivered using multiple forms of delivery.

- In-person and online training from Title IX or sexual violence prevention staff for students, faculty, and staff.
- Social media.
- Peer-to-peer engagement/workshops.
- On-campus activities such as "Take Back the Night" and "Denim Day."
- Partner with key constituents to spread the word (i.e., police/campus safety, athletics, Greek life, etc.)

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Response

How an institution responds to sexual violence and harassment, especially those impacted, is critical.

- Inform your faculty and staff on how to respond appropriately to a disclosure.
- Establish a disclosure protocol. Make sure all understand what happens next.
- Explain the fundamental goals of responding to a disclosure:
 - ➤ Validate experience
 - ➤ Establish safety
 - ➤ Return as much control as possible back to the impacted person.

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RESOURCE 🖹 **Disclosure Protocol** STEP 1: Care for the individual – be nonjudgmental. What to say: "Thank you for sharing this with me. I'm here to support you; I'm very sorry for your experience." "Because I want to make sure you are safe and have access to help and resources....' (if a mandatory reporter) "...I need to contact the Title IX Coordinator. I will let you know the next steps. Your privacy will be respected." (if a non-mandatory reporter) "...I am going to provide you with the contact information for the Title IX Coordinator and the resources, including the supportive measures available." [provide VAWA brochure] STEP 2: Is there a safety risk to the individual or others? If so or are unsure, contact appropriate officials immediately. STEP 3: Contact the Title IX Coordinator (mandatory reporters)/provide contact info of Title IX Coordinator and available resources (non-mandatory reporters).

Prevention

Utilize a broad range of sexual violence and harassment prevention programming throughout the school year (i.e., in-person and online).

- · Before matriculation
- During orientation
- Throughout each semester







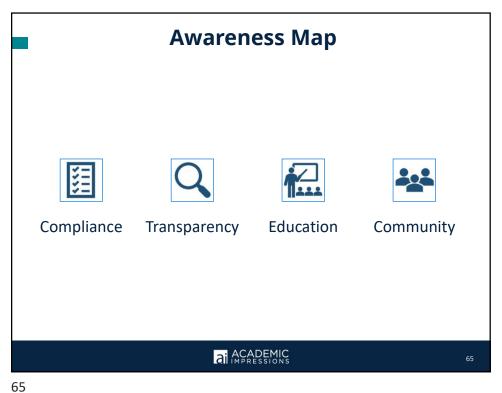
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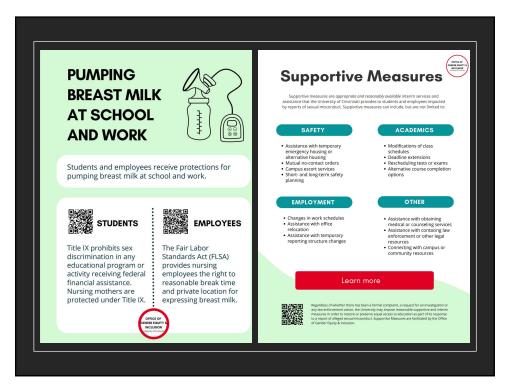












Transparency

- Website Report Tracker
- Data call-outs to key campus partners
- Annual Report
- Assessments
- Climate and culture surveys

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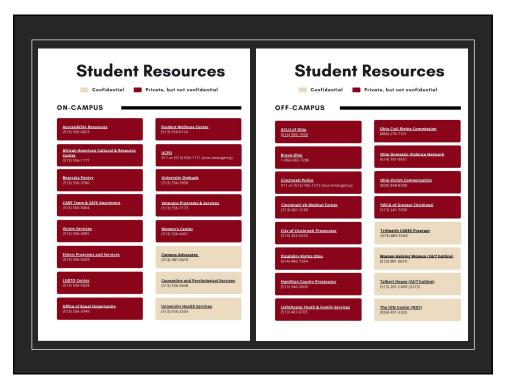
Education

- Mandatory education
- Green Dot
- Online learning modules
- Annual Symposium
- Host conferences
- Newsletter
- Lunch & Learns
- Online videos
- Flyers, posters, business cards, e-signatures
- Social media

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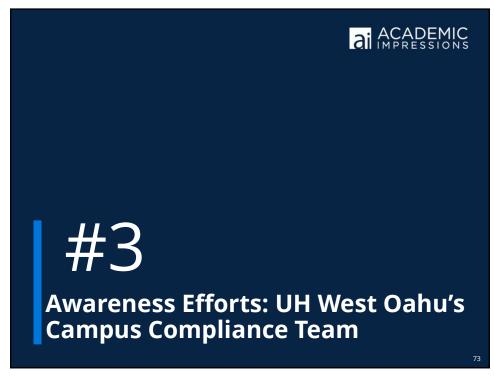


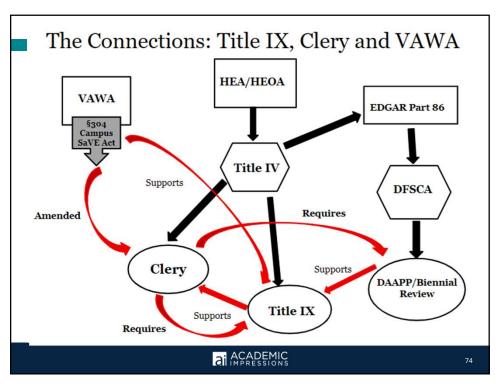
Community

- Meet & Greets
- Deputies
- Support Services Team
- Hearing Pool
- Ambassadors
- Undergraduate and graduate student liaisons

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UH West Oahu's Campus Compliance Team

- Team uses the collaborative approach for providing campus awareness including (regulatory compliance)
- AY Calendar is set by the team in the summer
- Recognizes various required programming during national awareness months (October – DV; January – Stalking, etc.)
- Tries to schedule programming to benefit the campus community awareness efforts and ensures
- Several regulatory requirements intersect; awareness is done efficiently when done under one office
- Campus uses "event ring" approach

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Constitution Day!

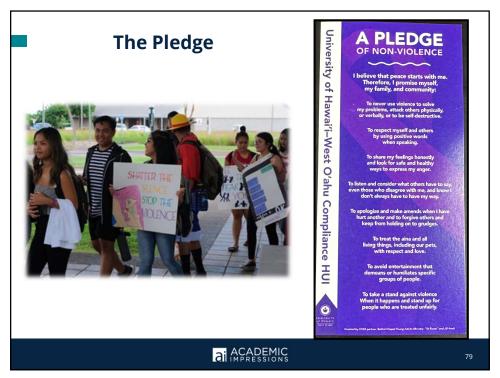


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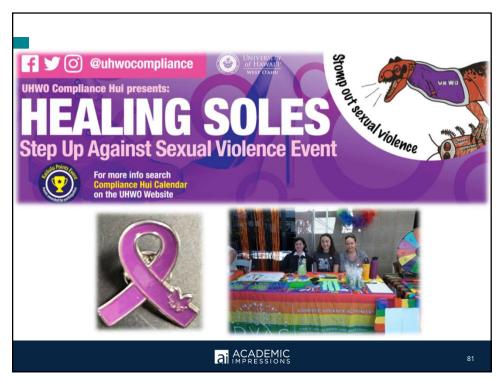
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■ Public Awareness Events 34 CFR 106.44(e)

- Info disclosed that may be considered sex-based harassment during a public awareness event does not require a response (unless imminent and serious threat indicated)
- However, campus MUST use the information to inform its efforts to prevent sex-based harassment

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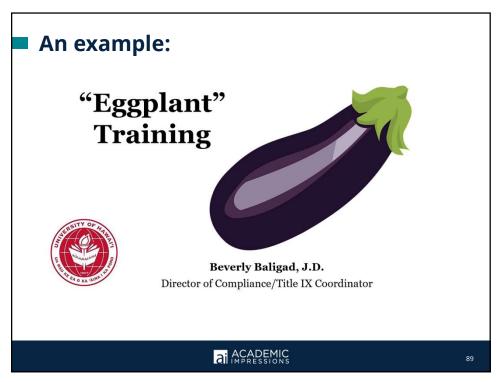
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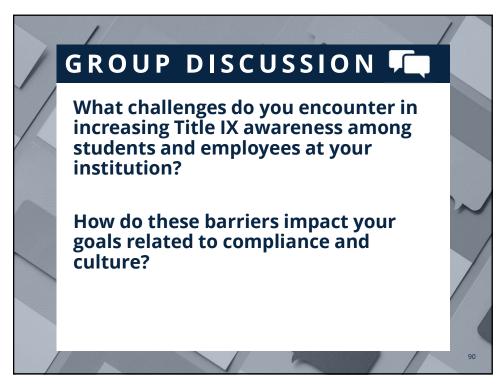
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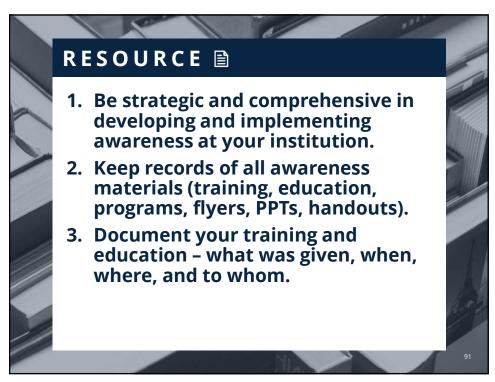
Public Awareness Events 34 CFR 106.44(e)

- May include providing tailored training to address the alleged sex-based harassment in a particular program, activity or at a specific location
- When info shared may indicate multiple incidents of sex-based harassment
- Have you ever had to create a training because of sexbased harassment that was disclosed to you in passing?

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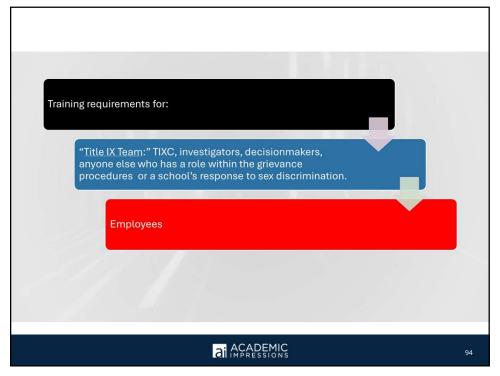












2020 Regs Training Requirements (§106.8(1)(iii))

Scope of conduct that constitutes sexual harassment in 106.30.

Scope of the school's education program or activity.

The grievance processes/procedures.

Impartiality

Relevance, including rape shield protections.

Annual

Technology

•Must make trainings publicly available

2024 Regs Training Requirements (§106.8(1)(iii))

School's obligation to address sex discrimination.

Scope of conduct that constitutes sex discrimination, including pregnancy and sex-based harassment.

Applicable notification and information requirements.

The grievance processes/procedures.

Impartiality

Relevance, including rape shield protections.

Recordkeeping

•Must ensure completion.

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Marquette University Training

Title IX Team

 In-person or online training by various sources such as Academic Impressions, ATIXA, Grand River Solutions, NACUA, Dan Schorr, LLC, Pregnancy Scholar, etc.

Employees

- Required Preventing Harassment & Title IX (Vector)
- Notification to all "Officials with Authority" via email regarding their reporting obligations and how to respond to a disclosure. Training through Academic Impressions.

Students

- Vector's sexual violence online training (before matriculation)
- · Red Watch Band
- Brining in the Bystander

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UC Training

Title IX Team

- Mandatory annual TIX overview by vendor
- Mandatory annual role-specific by vendor
- Deputies and Hearing Pool mandatory monthly by Dr. Lyles

OEO Staff

 Mandatory training led by Dr. Lyles at least monthly, supported by internal guidance documents

Employees

 Encouraged to complete Preventing Harassment & Title IX (Vector) and Clery Training

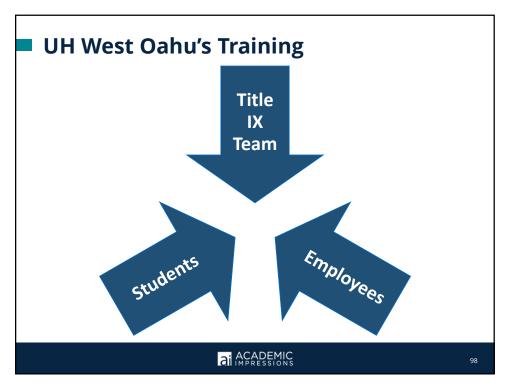
Students

 "Invited" to complete AlcoholEdu, Sexual Assault Prevention, Mental Well-Being, Hazing Prevention (Vector)



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Thank you!

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

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