



# Title IX and Clery Training Fall 2020

# Location



Hannah Hale, J.D.  
Title IX Coordinator  
ASB Room 537  
Hannah.hale@kysu.edu  
502-597-6138

# About Title IX

- ▶ Title IX states, *“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.”*
- ▶ Some issue areas in which recipients have Title IX obligations are: recruitment, admissions, and counseling; employment; financial assistance; athletics; single-sex education; treatment of pregnant and parenting students; discipline; and sex-based harassment.

# Key Topics

- ▶ KSU's Interim Policy and Procedures on Sexual Harassment as Defined Under Title IX and Other Sexual Misconduct
- ▶ Sexual Harassment, Sexual Assault, and other Sexual Misconduct Defined
- ▶ Consent
- ▶ Reporting a Title IX Violation and Duties of a "Responsible Person"
- ▶ Clery Act

# Sexual Harassment

- ▶ KSU's Policy and Procedures on Sexual Harassment defined under Title IX and Other Sexual Misconduct prohibits sexual harassment and sexual misconduct, which includes:
  - ▶ Sexual Harassment means conduct on the basis of sex that occurs in the University's education program or education activity and satisfies one or more of the following:
    - ▶ An employee of the University conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct. This type of sexual harassment is also referred to as Quid Pro Quo.;
    - ▶ Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity. This type of sexual harassment is also referred to as Hostile Environment.; or
    - ▶ "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).
- ▶ Prohibits Retaliation

# Sexual Misconduct and Violence

- ▶ Sexual misconduct, under KSU policy, includes sexual assault, dating violence, domestic violence, stalking, and sexual exploitation when that behavior does not meet the jurisdictional requirements to constitute Sexual Harassment under Title IX.
  - ▶ Example Sexual Exploitation:
    - ▶ Photos, videos, prostitution, peeping-toms

# Consent

- ▶ What is consent?
  - ▶ An informed-decision, freely given, made through mutually understandable words or actions that indicates a willingness to participate in mutually agreed upon sexual activity.
- ▶ I.e., informed and freely given permission to engage in a specific sexual act.

# Reporting a Title IX Violation

- ▶ What do I do?
- ▶ How do I do it?
- ▶ When do I do it?
- ▶ What happens next?

# Reporting – What do I do if I receive a complaint?

- ▶ You must report it to the Chief or directly to the Title IX Coordinator.
- ▶ You are a “Responsible Employee”
  - ▶ A KSU employee who has the authority to redress sexual misconduct and gender based violence, who has the duty to report incidents of sexual misconduct and gender based violence, or who a student could reasonably believe has this authority or duty. Examples include, but are not limited to, faculty, staff, administrators, and para-professionals.
  - ▶ This is any KSU employee except:
    - ▶ Nurse Samantha Todd – Old Rosenwald
    - ▶ Counselor William Mynk – Old Rosenwald
    - ▶ Baptist Campus Ministry and Wesley Foundation
  - ▶ Responsible Employees must inform the Title IX Coordinator of any reports made by students or employees, including:
    - ▶ All relevant details about the alleged sexual violence shared by the complainant, including the names of the complainant and alleged respondent(s), any witnesses, and any other relevant facts, including the date, time, and specific location of the alleged incident.

# Reporting – How do I report, and when?

- ▶ How?

- ▶ Email, in person, or call, or snail mail (USPS):

- ▶ Hannah Satram-Hale – [Hannah.hale@kysu.edu](mailto:Hannah.hale@kysu.edu) – 502-597-6138 – ASB Room 537

- ▶ When?

- ▶ As soon as possible, but no less than 72 hours after incident or becoming aware of possible violation. Failure to report can result in adverse employment actions.

# Reporting – What happens next?

- ▶ KSU PD will continue with their investigation, as necessary.
- ▶ The Office of Title IX will coordinate with KSU PD investigations before getting involved. This is because:
  - ▶ Potential criminal investigations outweigh potential civil investigations, and
  - ▶ The Office of Title IX utilizes the evidence and statements gathered by KSU PD.

# Campus Resources

- ▶ Confidential Resources:
  - ▶ Center for Emotional Wellness Counselors– Student Center
  - ▶ Medical Assistance – Nurse Samantha Todd – Old Rosenwald
  - ▶ Religious – Baptist Campus Ministries or Wesley Foundation
- ▶ Non-Confidential Resources:
  - ▶ Title IX Office
  - ▶ KSU Police
  - ▶ RDs and RAs
  - ▶ Responsible Employees

# Off Campus Resources

- ▶ Frankfort Regional Hospital – 2 Sexual Assault Nurse Examiners (“SANE”)
- ▶ Legal Aid of the Bluegrass
- ▶ & “Ampersand” Sexual Violence Resource Center of the Bluegrass (formerly Bluegrass Rape Crisis Center)

# Clery Act

- ▶ Background
- ▶ What does the Clery Act Require?
- ▶ Other Topics

# Clery Act - Background

- ▶ In 1986, Jeanne Clery, a freshman at Lehigh University, was raped and murdered in her dorm room. The killer was another student.
- ▶ Her school did not inform students about 38 violent crimes that had taken place on campus in the three years prior to her murder.
- ▶ In 1990, on the belief that Clery would have been more cautious on campus had she known about the history of violent crimes on campus, Congress created a law requiring all institutions of higher education to report crime statistics to current and prospective employees.

# Clery Act - Background

- ▶ Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act
  - ▶ Section 485(f) of the Higher Education Act (20 U.S.C. § 1092(f); 34 C.F.R. § 668.46).
- ▶ All postsecondary institutions that participate in Title IV programs must comply.
- ▶ Federal Student Aid (FSA) enforces the Clery Act (the FBI's Criminal Justice Information Service ("CJIS") Audit Unit often assists on program reviews).
- ▶ Possible consequences of review findings:
  - ▶ Fines - up to \$55,000 per offense (i.e., KSU could be fined \$55k for each incident not reported)
  - ▶ Adverse effects of Title IV eligibility; denial of recertification or revocation of Program Participation Agreement

# Clery Act - Requirements

- ▶ The Clery Act requires postsecondary institutions to:
  - ▶ Collect crime data, classify crimes, and report crime statistics to the Department.
  - ▶ Publish and distribute an annual Campus Security report by October 1st of each year, inclusive of policy statements and crime statistics for the current year as well as the 3 previous years.
  - ▶ Inform prospective students and employees about the Campus Security Report on an annual basis.
  - ▶ Issue timely warnings and emergency notifications to the campus of crimes that threaten safety.

# Clery Act - Requirements

- ▶ The Clery Act also requires:
  - ▶ Institutions with campus police or security departments to:
    - ▶ Support and keep an up-to-date daily log of all reported crimes that is available for public inspection.
  - ▶ Institutions with on-campus student housing facilities to:
    - ▶ Disclose missing student notification procedures that pertain to students residing in those facilities.
    - ▶ Comply with fire safety requirements.

# Clery Act - Crimes

- ▶ The Clery Act requires reporting of nine crimes:
  1. Criminal homicide;
  2. Sex offenses (forcible and non-forcible)
  3. Robbery
  4. Aggravated Assault
  5. Burglary
  6. Motor vehicle theft
  7. Arson
  8. Arrests & disciplinary referrals for violations of drug, liquor, and weapons laws
  9. Hate crimes
- ▶ The Clery Act also requires reporting:
  - ▶ Domestic and Dating Violence
  - ▶ Stalking

# Clery Act – Crime Reporting Tips

- ▶ The Clery Act does not differentiate between attempted and completed crimes. The only time that is differentiated is for attempted murder, which is classified as an aggravated assault rather than murder.
- ▶ Hierarchy Rule:
  - ▶ When there are multiple offenses, you will generally only count the most serious offense.
  - ▶ Exceptions:
    - ▶ Always count arson regardless of any other offenses committed during the same incident (i.e.: Murder/Non-negligent manslaughter and arson)
    - ▶ Count all offenses committed in a multiple offense incident that are bias-motivated (i.e., hate crimes)
    - ▶ Always count sexual assault if it occurs with murder.
    - ▶ Only use the fondling designation if it is the sole sexual assault offense reported.

# Clery Act – Campus Security Authority

- ▶ Similar to being a “responsible employee” for Title IX, KSU PD officers are “Campus Security Authorities” (CSAs).
- ▶ CSAs must report good faith allegations of Clery Act crimes to the Chief and the Title IX Coordinator.
  - ▶ This includes reports received from persons not associated with KSU.

# Clery Act – Warnings & Notifications

- ▶ KSU must provide “timely warnings” for incidents considered to represent a serious or continuing threat to students and employees.
  - ▶ “Timely” means: issued as soon as the pertinent information is available.
  - ▶ KSU accomplishes this through its text and email notifications.
  - ▶ Must issue follow-up information as appropriate.

# Questions?

- ▶ Hannah Satram-Hale
  - ▶ [Hannah.hale@kysu.edu](mailto:Hannah.hale@kysu.edu)
  - ▶ 502-597-6138