

**Faculty Senate Meeting**  
Minutes of  
**September 18, 2014**

Reid Oetjen, chair, called the meeting to order at 4:08pm. The roll was circulated for signatures.

**MINUTES**

Motion to approve the minutes of August 21, 2014 was made and seconded. The minutes were approved as recorded.

**RECOGNITION OF GUESTS**

Maria Beckman, Director of Equal Opportunity Program and Title IX Coordinator  
Lucretia Cooney, Academic Affairs  
Lyman Brodie, Academic Affairs

**ANNOUNCEMENTS**

Parent weekend is this weekend. The State of the University is next week.

**REPORT OF THE PROVOST**

None.

**OLD BUSINESS**

There is no old business.

**NEW BUSINESS**

Title IX Requirements for University Faculty—Maria Beckman

There is a new website, [shield.ucf.edu](http://shield.ucf.edu). It is a one-stop website for students and employees, along with resources for making UCF a safer place. One area that might be most relevant for faculty is the feature dealing with sexual harassment, including definition of sexual assault, how to preserve evidence, and how to report it.

Title IX is a federal law, enforced by the Office of Civil Rights within the U.S. Department of Education. The office can pull federal funding if the university does not comply with 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.”

“Title IX requires universities to address every allegation of sexual harassment on a student victim that is known or should know about.” This includes all faculty who should know about allegations of harassment, as someone “a student could reasonably believe has this duty or authority.”

This means a faculty member is required to report sexual harassment to the Title IX coordinator, even if a student does not want the faculty member to do so. The Title IX coordinator will balance student requests for confidentiality with regulations imposed by the Office of Civil Rights.

What is sexual harassment? (1) Quid pro quo. "Offering or requiring an exchange or sexual favors for an advantage, or to prevent a disadvantage." (2) Hostile environment. "Verbal or physical conduct which, due to severity and pervasiveness of the conduct:" [has effects of creating negative environments, interrupting an individual's ability to maintain student or employment status].

Ms. Beckman reviewed definitions for sexual assault, dating violence, domestic violence, retaliation and stalking, reviewed levels of confidentiality, provided tips for discussing with students who are victims, and reviewed suggestions for preventing sexual harassment.

Questions: What about faculty with medical licensing? It depends on your role at the time. If a patient, then confidential. If faculty, you are required to report. The bottom line, HIPPA trumps Title IX.

Chair offered to make the full presentation available on the Faculty Senate website.

#### Resolution 2014-2015-1: Amend the Definition in the Bylaws of the Faculty Constitution

A friendly amendment was presented to clarify the same academic titles in Section II.A. of the Bylaws of the Faculty Constitution. Motion to accept friendly amendment. Seconded. All in favor.

The revised resolution will be sent to all senators for review and dissemination. The revised resolution will be considered at the October meeting.

#### **OTHER BUSINESS**

Committee reports:

Graduate Council: two new members appointed.

Parking committee: recommendation for review of new hangtag policy.

No other reports.

#### **ADJOURNMENT**

Motion to adjourn made and seconded. The committee adjourned at 5:04pm.



# Title IX Training

Maria Beckman

Director of EO/AA Programs and Title IX Coordinator

Faculty Senate

September 18, 2014



# Overview – Title IX

- Title IX of the Educational Amendments Act of 1972 (amending the Higher Education Act of 1965)
- Applicable to institutions that receive federal funds
- Enforced by the Office of Civil Rights (OCR) within the Department of Education



# 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”



# Overview – Title IX

- Prohibits
  - Sex discrimination (different treatment based on biological sex)
  - Sexual harassment
- Requires institutions to:
  - Have grievance procedures
  - Issue notices of nondiscrimination
  - Name a Title IX Coordinator
- Dear Colleague Letter



# 2011 Dear Colleague Letter

- Reminder that Title IX covers sexual violence
- Requires immediate investigation
- “Must take prompt and effective steps to end sexual violence, prevent its recurrence, and address its effects”
- Preponderance of the evidence standard
- Grievance procedure with equal opportunity
- Must notify both parties of the outcome simultaneously



# Assisting a student who experienced sexual harassment

***Title IX requires universities to address every allegation of sexual harassment on a student victim that it knows or should know about. The Department of Education has stated that university's know or should know all information possessed by "responsible employees" which it defines as: any employee who has the authority to take action to redress sexual harassment; who has been given the duty of reporting incidents of sexual harassment or other student misconduct to the administration or whom a student could reasonably believe has this duty or authority.***



# Recognizing Sexual Harassment

*There are two types of harassment based on sexual misconduct.*

1. ***“Quid pro quo”***: Translation from Latin: “this for that.” Offering or requiring an exchange of sexual favors for an advantage, or to prevent a disadvantage.

## 2. ***Hostile Environment***

verbal or physical conduct which, due to severity and pervasiveness of the conduct:

- (i) has the purpose or effect of creating an objectively intimidating, hostile or offensive work, educational or business environment; and
- (ii) has the purpose or effect of unreasonably interfering with an individual’s employment, schooling, or business with the University.



# Quid Pro Quo

- University policy prohibits sexual relationships (even if consensual) between employee and student and between supervisor and employee when that relationship constitutes a conflict of interest because the lines of power and authority that exist between the parties may undermine freedom of choice.
- A Faculty Senate Resolution states: “No faculty member shall have an amorous relationship (consensual or otherwise) with a student who is enrolled in a course being taught by the faculty member or when academic work is being supervised by the faculty member or when that faculty member has or *is likely to have* academic responsibility over that student at any time during that student’s tenure at UCF. No person in a supervisory position shall have romantic or sexual relationships with anyone that he or she evaluates.”
- No faculty member or other employee should begin or seek a sexual relationship with any student.



## 2. Hostile Environment Sexual Harassment

- Verbal conduct of a sexual nature (including persistent, unwelcome requests for dates)
- Physical conduct of a sexual nature- sexual violence is an extreme form of sexual harassment.
- Males and females can be victims or harassers. Both same-sex and opposite-sex sexual harassment is prohibited.

### **Keys to establishing unlawful sexual harassment:**

- the behavior is severe or pervasive
- the behavior interferes with employment, or enrollment, or participation in work or educational programs
- UCF looks at the impact on the victim's participation in University programs, not where the action took place (even off campus) or when (even before the victim became affiliated with UCF).



# Sexual Assault

- F.S. 794.011
- “...oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration by another with any other object.” The crime also includes circumstances when the victim is mentally incapable of giving consent such as being in a coma or passed out from drug or alcohol use.”
- “Consent” means intelligent, knowing, and voluntary consent and does not include coerced submission. *“Consent” shall not be deemed or construed to mean the failure by the alleged victim to offer physical resistance to the offender.*



# Dating Violence

F.S. 784.046(1)(d): “Dating violence” means violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on the consideration of the following factors:

1. A dating relationship must have existed within the past 6 months;
2. The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and
3. The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship.

The term does not include violence in a casual acquaintanceship or violence between individuals who only have engaged in ordinary fraternization in a business or social context.

# Domestic Violence

F.S. 741.28(2): “Domestic violence” means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.



# Stalking

## F.S. 784.048(1): Stalking

- (a) "Harass" means to engage in a course of conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose.
- (b) "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, which evidences a continuity of purpose. The term does not include constitutionally protected activity such as picketing or other organized protests.
- (c) "Credible threat" means a verbal or nonverbal threat, or a combination of the two, including threats delivered by electronic communication or implied by a pattern of conduct, which places the person who is the target of the threat in reasonable fear for his or her safety or the safety of his or her family members or individuals closely associated with the person, and which is made with the apparent ability to carry out the threat to cause such harm. It is not necessary to prove that the person making the threat had the intent to actually carry out the threat. The present incarceration of the person making the threat is not a bar to prosecution under this section.
- (d) "Cyberstalk" means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose.



# Stalking continued...

F.S. 784.048 Stalking

(2) Any person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of stalking...

(3) Any person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person, and makes a credible threat with the intent to place that person in reasonable fear of death or bodily injury of the person, or the person's child, sibling, spouse, parent, or dependent, commits the offense of aggravated stalking...





# UCF PROHIBITS ALL FORMS OF SEXUAL MISCONDUCT AGAINST STUDENTS, EMPLOYEES OR CAMPUS VISITORS

***Any employee or student who is found to have engaged in sexual misconduct is subject to disciplinary action up to and including expulsion or termination.***

- An employee or student who has committed a sexual crime may also be prosecuted by appropriate law enforcement officials. Except for the crime of statutory rape, a lack of consent is required for a finding of criminal liability.
- In Florida, “Consent” to a sexual act means intelligent, knowing, and voluntary consent and does not include coerced submission. “Consent” shall not be deemed or construed to mean the failure by the alleged victim to offer physical resistance to the offender.

# Assisting a student who experienced sexual harassment

**LEVEL THREE CONFIDENTIALITY: No details**

- Licensed University Counselors
- Health Care Providers
- Pastoral Counselors

**LEVEL TWO CONFIDENTIALITY: Some details, not victim identity**

- Victim Services

**LEVEL ONE CONFIDENTIALITY: Balancing Test**

- Title IX Coordinator
- Deputy Title IX Coordinator (SDES)
- YOU-MUST REPORT TO TITLE IX COORDINATOR OR DEPUTY**



# Assisting a student who experienced sexual harassment

- ***Use non-judgmental, supportive language.*** Victims of sexual harassment, especially sexual violence, can experience memory loss due to the trauma, fear, unfounded shame or guilt, or disassociation. You should not try to determine whether sexual harassment actually occurred. University officials with special training will investigate and make this determination.
- ***Consider taking immediate action to prevent further harm*** by offering to contact the UCF police for an escort or other protection. Consider other actions that are within your authority such as allowing the alleged victim to reschedule an exam or meeting, to attend a class remotely while university officials are investigating, to extend a due date. These actions may be taken *before* any finding of misconduct.
- ***Refer the student to support services*** such as UCF Victim Services (24/7 Hotline 407-823-1200), UCF Health Services, and UCF Counseling Services.



# PREVENTING SEXUAL HARASSMENT

***ALL UCF EMPLOYEES should engage in practices that tend to disrupt or prevent sexual harassment of students, employees and visitors such as:***

- Call the UCF Police Department immediately when you believe you are witnessing sexual harassment 407-823-5555.
- From a position of safety, call out to the harasser to stop.
- Casually introduce yourself to the harasser and allow the victim time to escape, if you can do so safely. If possible, ask others to approach the scene with you so that you outnumber the harasser.
- Note the exact location and appearance of the harasser.
- Take photos if you can.
- Be Aware.
- As soon as you can, make detailed notes of what you saw and provide them to the police or Title IX Coordinator.
- **DO NOT STAND BY AND DO NOTHING- DO SOMETHING!**



# Title IX Penalties

- Withdraw of federal funding
- May also be required by a court or the OCR to make changes in their programs and to pay damages to the students for their lost opportunities



# RETALIATION

- Retaliation includes **adverse treatment** because the individual filed a complaint of discrimination, opposed unlawful discrimination in another way, or served as a witness in a discrimination investigation.
- **Adverse treatment** includes any action that would deter a reasonable person from filing a complaint, otherwise opposing discrimination, or participating as a witness.



# RETALIATION CONT.

- Retaliation can exist *even if the original charge of discrimination turns out to be unfounded*
- The original claim may be dismissed, substantiated, or remain under investigation, when the retaliation charge is substantiated
- *Even if the original complaint was not about you.*
- Timing may support the claim (example: adverse actions taken right after a complaint is filed)
- Penalty up to and including termination



# Reporting Responsibility

- **Report, Report, Report!**
- Reporting Sexual Harassment
  - Employee Related - Maria Beckman, Title IX Coordinator
  - Student Related – Patricia MacKown, Deputy Title IX Coordinator
  - Report Sexual Assault, Dating or Domestic Violence or Stalking on CSA form or police department if you are a Campus Security Authority





# Thank You!

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407-823-2347

<http://eeo.ucf.edu/>

<https://shield.ucf.edu/>