TITLE IX REPORTING TRAINING for FGCU Resident Hall Assistants
Training Objectives

• Brief review of Title IX
• RA Reporting
• Consent
• Practical Concerns/ Q and A
• Getting Housing Students Involved
WHAT IS TITLE IX

• Title IX is a federal civil rights law that prohibits discrimination on the basis of sex with respect to schools that receive financial assistance from the U.S. Department of Education (US-DOE).

• Title IX applies to FGCU, as well as any other school that accepts federal financial assistance.

• Title IX protects against sexual harassment in the educational environment, gender based harassment, inequitable funding in Athletics based on sex, sexual harassment in the workplace, sexual assault, dating/domestic violence, stalking, or any other discrimination or harassment based on sex.

• Title IX is enforced by the US-DOE’s Office for Civil Rights (OCR).

• Each University covered by Title IX is required to have a Title IX Coordinator to ensure its compliance with Title IX.

• **Please note: Title IX prohibits sexual violence as a form of sexual harassment**
Title IX Coordinator Responsibilities

- Overseeing the University’s response to Title IX reports and complaints.
- Identifying and addressing any patterns or systemic problems revealed by such reports and complaints.
- Investigating, when appropriate, complaints of sex discrimination, sexual harassment and sexual violence.
- Ensuring a prompt, thorough, and equitable investigative process for everyone involved.
- Training the campus community of the prohibitions of Title IX, protections of Title IX, and reporting requirements.
What Should be Reported?

- You should absolutely report anything that remotely resembles sexual violence.

- It is the responsibility of the proper University Officials (Title IX Coordinator, Dean of Students, UPD) to determine if a particular set of facts equate to sexual violence.

- Examples of comments in which a report should be made:
  
  - A student says “I had sex on Saturday night that I wasn’t “100 percent comfortable with.”
  - I blacked out at a party and woke up naked next to someone I have never met before. I am not sure what happened or how I got there.
  - A person kept pressuring me to have sex last night and I eventually did although I didn’t want to do so.

**NOTE:** It is important to remember that in some instances a student may not say I was raped or sexually assaulted; rather, he or she may describe a situation that they were uncomfortable with. As an RA just be mindful that students may not necessarily always use the “buzz words”.

Who Should I Report the Information to?

• If a student reports an incident of sexual violence to you, a report should be made to your RD as quickly as possible.

• You should provide any relevant details that you have (i.e. name of student(s) involved, location of incident, if physical violence was allegedly used, etc.)

• Once this information has been communicated, you have fulfilled your responsibility to report incidents of sexual violence

• Once the Title IX Coordinator receives the report, the appropriate University officials will be involved to examine the report (e.g. Dean of Students, UPD, Human Resources, etc.)

• The University only expects you to report what you have been told; you do not need to independently investigate, or otherwise attempt to resolve the complaint.
When Should the Report be Made?

- RAs should adhere to the specific reporting timeframe as given by RDs.
- The Report should be made as soon as possible.
- The sooner the information is communicated, the swifter the action is that can be taken.
- Lapses in report times can cause evidence to be lost/destroyed, memories to fade, and stall interim measures that may be put in place.
Why Do I have to Report?

- It is the right thing to do
- Required to by Title IX
- Required to by University Policy
- Required to as a part of job duties
What Happens if I Don’t Report?

• You could be subjecting a student to an unsafe learning environment.

• Your non-reporting could put FGCU in noncompliance with Title IX (which could ultimately cost FGCU its federal funding from the US-DOE).

• You could subject FGCU to major legal liability.

• You could face possible employment sanctions.

-note: If a University employee does not report information of a possible sexual assault, or any other type of sexual misconduct, and the student is under the age of 18, the University WILL face a fine of ONE MILLION DOLLARS PER OCCURANCE OF NON-REPORTING.
Practical Concerns- First Contact

- How do I speak to someone at 1am Saturday morning who may have been assaulted?

- Don’t be judgmental!
- Listen closely and attentively. (Avoid “Why” questions)
- Acknowledge how the individual is feeling and ask if there is anything that you can do for them in the immediacy.
- Explain you will need to inform a University official so that the Student can be protected.
- Inform the Student of the University's resources.
Practical Concerns

- The Student does not want the information reported, what do I do?
- I’m not sure the Student is alleging sexual violence, what do I do?
- Can I tell the Student that the information is confidential?
What Happens After the Report is Received by the Title IX Coordinator?

- The Title IX Coordinator will contact the Student and inform them of their rights, assist the Student in receiving help from the appropriate University resources (CAPS, Dean of Students, Case Manager etc.)

- If the Respondent is a Student then the Title IX Report will be forwarded to the Dean of Students Office to determine if a Student Code of Conduct Violation exists.

- If needed, the Title IX Coordinator will work in conjunction with the appropriate office (housing, academic affairs, etc.) to take interim measures if necessary. Such measures include but are not limited to: changing of housing arrangements, changing course schedules, no contact order, interim suspension, changes in exam times, etc.
What Happens After the Report is Received by the Title IX Coordinator… Cont’d

- A Title IX Investigation is commenced *(extent of Investigation is determined by Complainant’s level of participation)*. Investigation includes: witness interviews, review of police reports (if applicable), review of text messages, review of emails, video surveillance (if applicable), etc.

- Investigation determines by the “preponderance of the evidence” whether there is or is not sufficient evidence of sexual violence. The Title IX investigation will be used as a part of the evidence in the event there is a Student Code of Conduct Charge.

- Possible sanction if sufficient evidence of sexual violence (Sanction Determined through the Student Code of Conduct if the alleged perpetrator is a student and through other applicable polices if the alleged perpetrator is a faculty or staff member).
CONSENT
WHAT IS CONSENT?

- The University defines Consent as: the mutual assent by words or actions to engage in a particular sexual activity that must be made voluntarily and competently by all parties.

  1. In order for consent to be given voluntarily, it must be free from threat, force, intimidation, extortion, and undue influence.

  2. In order for consent to be given competently, all parties must have the capacity to consent. If one or more of the parties is incapacitated due to, among other things, drug or alcohol use, then that person(s) lacks the necessary capacity, and thus the competency required to consent.
WHAT IS CONSENT?

- https://www.youtube.com/watch?v=laMtr-rUEmY&feature=youtu.be
IF STUDENTS ASK WHAT TYPE OF ACTIONS REQUIRE CONSENT?

- Sexual Intercourse
- Oral Sex
- Kissing
- Fondling/Sexual Touching
- Recording of Sexual Acts
- Taking Explicit Photos
- Sharing Explicit Photos and/or Video/Audio Recordings

- REMEMBER CONSENT CAN BE REVOKED AT ANYTIME
Scenario 1
Paul and Samantha

- Paul and Samantha met for the first time during student orientation when they were placed in the same group. Paul was deeply in love with Samantha, but he does not believe in premarital sex. Samantha felt the same way about Paul, but she was ready to take their relationship to the next level. During multiple telephone conversations she tried to convince Paul to have sex with her once they moved on campus in the fall. One evening after classes started, they were both in Samantha’s dorm room. They began making out and Samantha felt as though this was her chance. When she went to unbutton Paul’s pants, he stopped her. She asked him why he stopped. Paul said “you know why”. Samantha told Paul that he must not really love her since he doesn’t want to have sex with her. She also told him that she would tell Paul’s Professor that he cheated on the midterm if he refused to have sex with her. Paul made a decision to sleep with Samantha to keep her quiet since he did in fact cheat on the midterm. CONSENT OR NO CONSENT?
Scenario 1 Discussion
Paul and Samantha

- NO CONSENT!!!!!

- Paul did not consent to Samantha voluntarily. Samantha threatened Paul to make him consent. Thus, the consent is invalid because it was forced and obtained by way of extortion/coercion. Paul consented not because he wanted to have sex with Samantha but because he feared that she may disclose the fact that he cheated on the midterm.
Scenario 2
Ashley and Alex

- Ashley and Alex are both sophomores and have been dating since their freshman year. They enjoy having sex with each other and are always looking for ways to be more adventurous. One afternoon after class, they decided to go down to the beach and have sex. The next night Alex has a party at his apartment. Ashley did not attend the party because she was home studying; however, some of Ashley’s friends attended the party. The next day before class, Ashley was confronted by her friends who informed her that they viewed a videotape of her and Alex having sex on the beach. Ashley is shocked and extremely upset because she knew nothing about the tape. Could Alex be in trouble? CONSENT OR NO CONSENT?
Scenario 2 Discussion
Ashley and Alex

While Ashley consented to having sex with Alex, she did not consent to being taped or allowing others to view the two of them having sex. While this may not be considered sexual assault, the University will likely consider it sexual exploitation or some other form of sexual harassment. Alex could face the same (or similar) penalties from the University as a case of sexual assault.
Consequences for Engaging in a Sexual Act with Someone without their Consent?

- A student could be arrested, charged with a crime, and possibly serve jail time.

- A student could have to register as a sex offender which severely limits future educational and career opportunities.

- A student could be suspended or expelled from FGCU.

- You could bring great shame to those who care for you.
QUESTION/ANSWER

QUESTION: I do not believe what the student is saying and thus I do not want to “get anyone in trouble”. In fact, I think the allegation is ridiculous. Do I still have to report?

ANSWER: ABSOLUTELY! Regardless of what you think about the merits of an allegation you MUST report it to the Title IX Coordinator. It is the responsibility of appropriate University officials (i.e. TIX Coordinator, Dean of Students, UPD, etc.) to determine the merits of allegations of sexual violence. Report the matter to the Title IX Coordinator and let the appropriate officials do their job. A subsequent investigation can assist in determining the merits of an allegation and whether a sanction is required.
QUESTION/ANSWER

QUESTION: Sexual Assault is a crime. Shouldn’t I report it to local police or UPD instead of the University?

ANSWER: The report should be made to the Title IX Coordinator. The Title IX Coordinator will inform the student of their right to file a criminal complaint. It is important to note that the University is required to respond when it receives information about a possible sexual assault, while students have the option to file a police report and sometimes elect not to do so.

Title IX has a different evidentiary standard than criminal cases. In order for there to be sufficient evidence of sexual violence under Title IX, the “preponderance of the evidence standard” has to be met. The criminal evidentiary standard for sexual battery (assault) is “reasonable doubt”. Sometimes there is insufficient evidence of criminal sexual battery (assault), but enough evidence under Title IX to meet the preponderance of the evidence standard.
QUESTION/ANSWER

- **QUESTION**: I know this student pretty well. Can I help them resolve the matter instead of reporting it.

- **ANSWER**: ABSOLUTELY NOT! If you have a good relationship with the Student and truly want to help, then report the matter to the Title IX Coordinator. Often times good intentions can quickly go awry when individuals attempt to handle such matters without proper training or experience. Also, the University would never want you to put yourself in a situation that could bring you (or the Student harm). The best thing you can do is to forward the information to the Title IX Coordinator.
QUESTIONS About Reporting or Consent
HOW DO WE GET RESIDENTS INVOLVED?

- Student Survey on Sexual Violence Awareness and Prevention through Campus Labs *(Target Release date September 21, 2015).*

- Student Empower (Sexual Violence Prevention)-Online Training Module *(Release late August-Early Sept)*

- Weekly Training/Information Sessions in the Cohen Center starting September 17, 2015. Topics include: “What is Consent”/ “Sexual Violence Awareness and Prevention”, “What is Title IX”, etc.

- Monthly Speaker Events (Located in Housing, Cohen Center, and Century Link in Edwards Hall)

- Outside Table Events