

Title IX Compliance and the Role of Faculty and Staff in Study Abroad

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What will be covered

- What are the University's responsibilities under Title IX?
- What is sexual harassment/sexual violence?
- How to respond/file a report
- Impact & Understanding Trauma Response
- Questions & Answers

Clemson University's Goal

- One of Clemson's stated goals is to maintain a healthy and safe environment.
- CU's Anti-Harassment and Non-Discrimination Policy prohibits sexual harassment in any form against any member of the University community.
- Faculty, staff, students and visitors are all protected by this policy.

Title IX of Civil Rights Act of 1964

- Provides that “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...”
- Sexual harassment is a form of “discrimination” under Title IX
- Protects students from sexual harassment by any school employee, another student, or non-employee third party

The Dear Colleague Letter (DCL)

- On April 4, 2011, the Department of Education's Office of Civil Rights (OCR) issued guidance for all colleges and universities that receive federal funds
- DCL uses the same definition of "sexual harassment", as provided by the OCR in 2001, but added that sexual violence is a form of sexual harassment

The Dear Colleague Letter

- OCR recommends that training be provided to any employee likely to witness or receive reports of sexual harassment and violence, including faculty, law enforcement, administrators, counselors, general counsel, health professionals, and resident advisors
- OCR also recommends training for anyone involved in investigating and hearing complaints of sexual harassment and sexual violence

Sexual Harassment

- Sexual harassment is unwelcome conduct of a sexual nature. It includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, including sexual violence and sexual misconduct.
- Sexual harassment can create an intimidating and hostile learning and/or work environment.

Sexual Violence

- Sexual violence is a form of sexual harassment and includes rape, sexual assault, sexual battery, sexual coercion, sexual misconduct, dating/relationship violence, domestic violence and stalking.

Consent

- All sexual contact or behavior on campus or during a CU sponsored event, and/or occurring with a member of the University community must be consensual.
- Consent requires speech or conduct indicating a freely given, un-coerced agreement to engage in sexual contact.
- Consent may not be inferred from silence or passivity alone.
- Consent may be withdrawn at any time prior to a specific sexual act by either person.

Consent

To be valid, the person giving consent must be physically and mentally able to:

- Understand the circumstances and implication of the sexual act;
- Make a reasoned decision concerning the sexual act; and
- Communicate that decision in an unambiguous manner.

Consent

- There are a number of factors which may limit or negate a person's ability to consent to a sexual act, such as age, impairment due to the influence of alcohol or drugs (illegal or prescription), an intellectual or other disability, a person's temporary or permanent mental or physical impairment, unconsciousness, fear and/or coercion.
- In order to find no consent under one of these circumstances, there must be a finding that the complainant was unable to consent and a finding that the respondent knew or had reason to know the complainant was unable to consent.

Title IX and Study Abroad

- If a study abroad is faculty led and institutionally sponsored, American legal protections apply under Title IX.
- As the on-site Director, you will most likely have to initially manage any sexual harassment complaints that happen on site, unless the complaint is against you directly.
- It is your responsibility to ensure that appropriate steps are taken to procure the immediate safety of the student and take corrective action for the student's safety. This may require interim measures such as the termination of vendors or the suspension of on-site faculty and/or students from participation in any or all program activities.

Title IX and Study Abroad

- Professors and program staff themselves should be careful to avoid any behavior which could be misinterpreted as inappropriate between professor and student.
- All Clemson students and program employees are required to adhere to the Clemson University policies on sexual harassment (to include sexual misconduct and violence).
- All sexual harassment complaints should be reported as soon as possible to the Title IX Coordinator(s) in accordance with university policy.
- Faculty/staff members taking students abroad are considered mandatory reporters for sexual harassment/Title IX complaints.

Problems Can Occur When Faculty and Staff

- Spend time with an individual student in his/her residence.
- Hold office hours alone in a hotel room or local residence.
- Drink alcohol with students.
- Don't take a sexual harassment claim seriously, or have an ineffective or vague reporting mechanism.
- Permit colleagues, other students, hosts or others in your control to behave in an inappropriate manner.

Possible Risk Factors for Students Abroad

- Lack of familiarity with local culture
- Access to alcohol/increased drinking
- Targeting by perpetrators who see visiting students as vulnerable/less likely to go to local authorities

Pre-Departure Planning

- Prior to trip departure and immediately upon arrival, find options where medical attention can be obtained and how to report occurrences locally

Upon Receipt of a Report while Abroad

- Attend to physical safety needs
- Preserve evidence and document incident
- If medical attention is desired, coordinate based on pre-departure planning
- If reporting to local police/law enforcement authorities is desired, coordinate and support survivor in making a report

Upon Receipt of a Report while Abroad

- Adhere to requirements from Study Abroad Office AND the University for reporting. Contact CUPD at 864-656-2222 for assistance and/or to connect with Dean on Call (Dean of Students Office staff) or CAPS Counselor on Call (Confidential Resource) for support
- Report to Clemson University any type of sexual harassment, including sexual violence, ASAP (within one business day) to Jerry Knighton, Title IX Coordinator, at 864-656-3181 or knightl@clemson.edu

Upon Receipt of a Report while Abroad

- **Understand that faculty and staff are not a confidential resource** but should try to maintain the privacy of the survivor recognizing the need to balance their privacy with safety considerations and their **duty to report**.
- **Encourage the survivor to talk about the incident** –Talking with supportive people may help survivors regain a feeling of control and help them feel less alone.

Title IX Incident Reporting

When reporting an incident, prepare:

- Names of students/persons involved
- Details of the situation
- Telephone number where the professor/staff member can be reached
- What assistance is needed
- Confirm the safety of the individual(s) involved

When Supporting the Survivor

- Provide the student with support and comfort but always ask permission before touching or hugging.
- Always believe the survivor. Tell him/her: "I'm glad you told me. I believe you and I'm sorry this happened."
- When the survivor is speaking, listen non-judgmentally and validate his/her distress. Do not ask the survivor to tell you more than s/he wants.

When Supporting the Survivor

- Remember that silence is acceptable – the survivor may not want to talk but may simply not want to be alone.
- Allow the survivor the freedom to choose when, where, and how to talk about the assault. Avoid blaming questions or statements, such as "Why did you go there?", "Why didn't you tell me sooner?", "That wasn't a good idea."
- Remind the survivor of the options available regarding medical care, counseling, and reporting. Remember, you can encourage (but not force) the survivor to report the incident to local authorities and/or the program site or seek medical care.

When Supporting the Survivor

- Resist escalating violence. The survivor has come to you for help. Satisfying your desire for revenge isn't going to help him/her.
- Get help for yourself - If you're feeling angry, helpless, confused or hurt, get help for yourself. Deer Oaks EAP services can be obtained by calling 866-327-2400 or by going to www.deeroaks.com and logging into Member Services with “clemson” as both the username and password.

How to Help a Survivor

- Listen without judging;
- Let them know the assault(s) was not their fault;
- Reassure the survivor that he or she is cared for and loved;
- Encourage the sexual assault victim to seek medical attention;
- Encourage the survivor to talk about the assault(s) with an advocate, mental health professional or someone they trust; and
- Let them know they do not have to manage this crisis alone.

Student Complaint Process

- If the perpetrator is a Clemson University student, a complaint may be filed with the Office of Community and Ethical Standards (OCES) which is responsible for resolving student conduct issues. OCES will conduct an independent investigation that could result in sanctions against the perpetrator.
- This process can be conducted in conjunction to the criminal process.

Confidentiality

- The University recognizes that a complainant may desire confidentiality and may request that the University not investigate or pursue resolution of an allegation of harassment/discrimination.
- In such cases, the University will maintain confidentiality to the extent permitted by law, while considering the safety and welfare of others.
- However, the University may determine that it must investigate and pursue resolution of a report, and take whatever measures it deems necessary in response to an allegation of harassment/discrimination in order to protect the rights, interests and personal safety of the Clemson community.

Victim's Rights

- The victim has the right to be informed of the discipline process prior to any disciplinary action involving his/her incident
- In cases of sexual misconduct, the matter will be referred to the Office of Access and Equity, if the victim decides to discontinue the process.
- Has the right to attend the hearing involving the referred student and provide testimony and character witnesses

Common Reactions to Sexual Victimization

Physical Reactions

- Injuries
- Soreness
- Bruising
- Fatigue
- Gastrointestinal Problems
- Sleep Disturbance
- Appetite Disturbance

Emotional/Psychological Reactions

- Anxiety
- Depression
- Shock
- Fear
- Humiliation
- Anger
- Self-blame
- Low self-confidence
- Doubt
- Embarrassment

Understanding Trauma Response

- Avoidance and numbing are common responses to traumatic or potentially traumatic situations
- Additional problems relate to intrusive recall, chronic stress, dissociation, depression, and anxiety
- Fear is not objectively determined by the physical incident
- Social networks may be negatively impacted
- Academics may be negatively impacted

A. Y. Shalev (2002)

Retaliation

- Retaliation is conduct causing any interference, coercion, restraint or reprisal against a person complaining of harassment or against a person assisting in any way in the investigation and resolution of a complaint
- Retaliation is a violation of university policy and will not be tolerated

Compliance, Education and Prevention

- The Title IX Coordinator is responsible for ensuring that there is an appropriate institutional response to any complaint of sexual harassment, sexual violence or student sexual misconduct.
- If you have any questions or concerns regarding the processes or resources described above please contact Jerry Knighton, Title IX Coordinator at knightl@clemson.edu or call 864-656-3181.

Let's Look at Some Cases