GENDER EQUITY IN HIGHER EDUCATION:
THE NEW FEDERAL LANDSCAPE OF COMPLIANCE & RISK MANAGEMENT
NATIONAL CONTEXT AND FEDERAL REGULATORY SCHEME

- **June 23, 1972**: Title IX of the Education Amendments Act

- **1972-present**: Extensive litigation in federal courts on sexual violence & sexual harassment under Title IX

- **1990 Clery Act**

- **January 2001**: Office for Civil Rights publishes Revised Sexual Harassment Guidance of Students

- **April 4, 2011**: Office for Civil Rights issued Dear Colleague Letter providing federal guidance on addressing sexual violence in universities

- **March 7, 2013**: President Obama signs VAWA 2013 into law, which includes significant amendments to the CLERY ACT.
“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.”

20 U.S.C. § 1681(a)
THE “MUSTS” OF TITLE IX COMPLIANCE

Acc. to the Office for Civil Rights, every campus must:

- **Designate an employee to serve as the Title IX Coordinator**
  - Oversee compliance under Title IX (reports, interim measures, investigations, athletics, etc.)
  - Cannot have other job responsibilities that have a conflict of interest, e.g., general counsel, members on disciplinary board or appeals board
  - Be adequately trained on sexual harassment & sexual violence
  - Available to meet with students and employees & explain grievance procedures

- **Develop grievance procedures**
  - Prompt & equitable
  - Apply to students filing complaints against employees, students, and third parties
  - Use preponderance of evidence standard
  - Trained investigators
  - Provide interim measures / informal resolutions
  - Notice of outcome to both complainant and accused

- **Notify campus community of Title IX, Title IX Coordinator & grievance procedures**
How Does the Title IX Coordinator Help Victims?

- Provides information about available remedies: filing a formal complaint on campus as well as filing a police report.

- Notifies & helps the victim access on- and off-campus resources, like university health services, counseling, academic support, housing, Sex Abuse Treatment Center, and the Gender Equity Office.

- Offers reasonable interim measures, which may include a change in housing, work schedule, academic schedule, and a no-contact order between the victim and the accused.

- Receives formal complaints & ensures that the investigation is prompt and equitable.

- Notifies complainant of the outcome of a formal complaint.
Institute fair and impartial policies and procedures.

Conduct prompt & equitable investigations.

Take immediate steps to end the proscribed conduct & prevent its reoccurrence.

Provide immediate relief to the victim, regardless of whether or not a formal complaint is filed.

Notify both the complainant and accused student of the complaint and any findings and/or sanctions.
IMMEDIATE RELIEF

- Campuses must assist victims with changing academic, living, transportation, and working situations, if requested & reasonable, regardless of whether the victim chooses file a formal complaint or to report to police.

- Campuses must assist victims with accessing on and off-campus resources, like counseling, legal, healthcare, etc.

- Campuses must help the victim with safety measures, including issuing no contact orders & campus security escorts, or referring to help off campus to obtain temporary restraining orders, orders for protection, or similar lawful orders.
All responsible employees **MUST** REPORT sexual harassment & sexual violence involving students to the Title IX Coordinator.
In 2013 Congress reauthorized the Violence Against Women Act, which SIGNIFICANTLY amended the Clery Act.

Since 1990 Clery required campuses to report crime statistics, including sexual assault, & issue campus-wide warnings, like the messages we receive from UHM about sexual assaults and burglaries on campus.
VAWA 2013 significantly expands the scope of the Clery Act in three important ways:

1) Universities **must** report domestic violence, dating violence, and stalking incidents in addition to other crime categories already included in annual security reports;

2) Universities **must** adopt policies and procedures addressing domestic violence, dating violence, sexual assault, and stalking; and

3) Universities **must** create primary prevention and awareness programs for all incoming students and new employees.
Title IX

Deadline to be in compliance: NOW

VAWA

Deadline to be in compliance: October 2014*

*Clery report issued; interim guidance from USDOE states all institutions must make good faith effort to comply pending regulations
# TITLE IX AND VAWA COMPLIANCE

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<tr>
<th>Title IX</th>
<th>VAWA</th>
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<tr>
<td>UH System campuses MUST have <strong>a single</strong> Title IX Coordinator</td>
<td>UH System campuses MUST report domestic violence, dating violence, and stalking, in addition to sexual assault, in Annual Security Reports and in Emergency Alerts</td>
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**TITLE IX & VAWA: POLICIES**

**Title IX**
- **REVISE** policies and procedures that comply with Revised SH Guidance (2001) and Dear Colleague Letter (2011)*

**VAWA**
- **CREATE** policies and procedures addressing sexual assault, dating violence, domestic violence, and stalking

*emphasis is on ending harassment, preventing recurrence, and remedy any effects of harassment
Title IX

- Universities MUST provide **interim measures** to complainants, regardless if they file a formal complaint and/or press criminal charges

VAWA

- Universities MUST provide **interim measures** to complainants, regardless if they file a formal complaint and/or press criminal charges

*Codifies DCL*
**Title IX**

- Universities **MUST** provide periodic training for personnel
- Categories of personnel **MUST** receive special training
- Universities **SHOULD** mandate training for employees

**VAWA**

- Universities **MUST** mandate training on domestic violence, dating violence, sexual assault, and stalking for all incoming students and new employees
- Universities **MUST** provide ongoing prevention and awareness programs to students and faculty throughout the year
Institutions need to comply with Title IX DCL and VAWA (while awaiting regulations):

1) Policies must be updated to address all required elements, including grievance procedures

2) Specific roles and responsibilities must be staffed

3) Procedures and protocols must be compliant and clear on incident handling and reporting

4) Training training training and more training - for key positions including administrators, faculty, coaches, staff and students
CRITICAL ROLE OF LEADERSHIP

- DEVELOP BOR POLICIES THAT SEND A MESSAGE TO PERSONNEL, STUDENTS, COMMUNITY, etc. that sexual violence and other forms of gender violence will not be tolerated
  - Shoring up compliance and risk management infrastructure

- CENTRALIZING compliance protocols and practices

- Developing best practices for early intervention, risk reduction of sexual violence, domestic violence and stalking

- Providing resources for proper and consistent training of personnel, especially those who handle complaints and who conduct investigations
LEADERSHIP: KEY CONCEPTS FOR MESSAGING

- Engage the community
- Embrace the tension
- Create fertile ground through education and conversation
  - Plant the seeds to cultivate change
  - HAVE A CONSISTENT MESSAGE

- Message must come from top down
  - Involve the highest level of administration
  - Open and transparent engagement

- Prioritize use of resources
  - Invest in technology, marketing, & communications

- Message must resonate at the grass roots level
  - Students need to be engaged