

# **Title IX Training for Athletic Coaches**

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**Athletic Coaches**  
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# **Title IX of the Education Amendments Act of 1972**

*“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 educational program or activity receiving federal financial assistance.”*

Title IX of the Education Amendments of 1972 Implementing Regulations at:

20 U.S.C. §1681 & 34 C.F.R Part 106

# **Title IX of the Education Amendments Act of 1972**

- Enacted in 1972.
- Prohibits sex discrimination in educational institutions, public and private, that receive federal funds.
- Administered by the U.S. Office for Civil Rights (“OCR”).

# Title IX Overview

OCR issues guidance:

- April 4, 2011 - *Dear Colleague Letter*-Sexual Misconduct (rescinded by Trump administration in 2017)
- June 25, 2013 - *Dear Colleague Letter*-Pregnant and Parenting Students
- April 24, 2013 - *Dear Colleague Letter* – Retaliation
- July 12, 2022 – Proposed Regulations on Title IX finally released (expected to be finalized in October 2023)



## Who Is Protected?

- Male and Female
- Students, Faculty, and Staff
- Applicants for Admission
- Straight/LGBTQ
- Sex-Stereotyping
- Pregnant and Parenting Students
- Denying or Limiting Ability to Participate in or Benefit from Educational Program



# **Title IX and Athletics**

- A. Participation (equal opportunities to participate)
- B. Athletic Financial Assistance (i.e., Scholarships allocated in proportion to number of male/female students participating)
- C. Other Program Areas  
(Treatment of Athletes)



# **Prohibited Sexual Misconduct**

## **Sexual Harassment**

- Unwelcome Conduct of a Sexual Nature
- Quid Pro Quo
- Hostile Environment

## **Sexual Violence**

- Sexual Assault and Rape
- Sexual Coercion
- Domestic/Dating Violence

# Prohibited Sexual Misconduct

## **Gender-Based Harassment**

- Unwelcome Conduct of a Nonsexual Nature Based on Actual/Perceived Sex
- Based on Gender Identity, Expression, Nonconformity with Gender Stereotypes

## **Stalking**

- Engaging in a course of conduct on the basis of sex directed at a specific person that would cause a reasonable person to:
  - Fear for their safety or the safety of others; or
  - Suffer substantial emotional distress.

## **Sexual Exploitation**

- Nonconsensual Photos/Videos/Audio/Electronic Broadcasting
- Voyeurism
- Exposure
- Date Rape Drugs (GHB)

# Prohibited Retaliation

- Retaliation is prohibited against any employee who complained about unlawful harassment or discrimination or assisted in an investigation of a complaint.
- Retaliatory actions include, without limitation, threats, adverse employment actions, punishments, whispering about someone, making threatening gestures, ostracizing someone, and physical or verbal attacks.

# Sexual Assault By the Numbers

## How common?

- A 2000 study found that **20-25%** of college women are survivors of a completed or attempted rape during the course of their college careers.

## Reporting of Assaults:

- **Less than 5%** of completed or attempted rapes of college students are reported to either campus authorities or law enforcement.

## When do most assaults occur?

- Most incidents occur after 6:00 p.m., with 52% occurring after 12:00 a.m.
- Majority occur from August – October.
- Vast majority of these incidents took place in living quarters.



# Sexual Assault By the Numbers

## Demographics of accused (since 2011 DCL):

- 99% male, 15% athletes, 10% fraternity members

## Nature of Allegations:

- **33% incapacitation**, 29% physical force, 18% failed consent, 13% sexual coercion, 7% drug-facilitated (United Educators Report)

# Essential Compliance Elements

- Once a ***Responsible Employee*** has either actual or constructive notice of sexual harassment or sexual misconduct, Lourdes must take action.
- Who is considered a ***Responsible Employee***?

# Responsible Employees

- A ***responsible employee*** includes any employee who:
  - Has the authority to take action to redress the harassment,
  - Has the duty to report harassment or other types of misconduct to appropriate officials, OR
  - Is someone a student could reasonably believe has this authority or responsibility.
- Under Lourdes' policy ***all employees of the University***, except for those identified as confidential resources in this Policy, are responsible employees who are required to report allegations of Prohibited Conduct to the Title IX Coordinator.

# Confidential Sources

- Counselors at the Sophia Center are confidential resources who are not permitted to report incidents of sexual misconduct.
- The nurse, or any nurse practitioner or other college health office staff member are confidential resources.
- Sr. Barb Vano, Vice President for Mission & Ministry and Campus Minister, Jason Salisbury, Director of Campus Ministry are both confidential sources. Nickolas Dietrich, Campus Minister and Residence Life Coordinator, is a responsible employee who must report all instances of sexual misconduct reported to him.



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# **Reporting Sexual Misconduct**

**Title IX Coordinator –**

Nina Wright

419-517-8413

[nwright@lourdes.edu](mailto:nwright@lourdes.edu)

# **Reporting Sexual Misconduct**

## **Interim Title IX Coordinator –**

Ashley Benson

419-824-3759

[abenson@lourdes.edu](mailto:abenson@lourdes.edu)

## Other Ways to Report to Lourdes:

- Lourdes' online form:  
<https://www.lourdes.edu/campus-life/public-safety/incident-report/>
- Request a printable form by sending an email to [titleix@lourdes.edu](mailto:titleix@lourdes.edu).
- For students: Notify any member of faculty or staff (including coaches), each of whom is a mandatory reporter, except for those designated as confidential sources.



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# **Reporting Sexual Misconduct**

## **Lourdes' Legal Counsel—**

Mechelle Zarou

419-356-9959

[mzarou@sistersosf.org](mailto:mzarou@sistersosf.org)

# Reporting to Police

- Anyone may report a sexual misconduct incident to the Sylvania Police Department.
- Can report to the University, to the police, or both.
- Lourdes staff can assist in filing a police report.
- Sylvania Police Department - **419-885-8902**



# **Emergency Numbers**

- **Call 911 - EMERGENCIIES**
- **Campus Security: 419-574-3861 – IMMEDIATE CONCERNS**
- **R.A. Duty Phone: 419-517-7497**
- **R.D. Duty Phone: 419-517-7498**
- **Sylvania Police: Non-emergency 419-885-8902**
- **Sylvania Fire: Non-emergency 419-882-0022**
- **Sophia Center: 419-349-7563**
- **YWCA Rape Crisis Center Hotline: 419-241-7273**

# Lourdes' Policy

<https://www.lourdes.edu/campus-life/public-safety/title-ix-sexual-misconduct-policy/>

- Reporting and Response Procedures
- Medical Resources, Counseling Resources, Pastoral Resources
- Key Definitions
- Reporting to University
- Reporting to Law Enforcement
- Administrative Investigation
- Administrative Hearing



# Understanding Consent

## **Lourdes' policy defines consent as follows:**

An affirmative decision to engage in mutually acceptable sexual activity given by clear, knowing, and voluntary actions or words. Consent is active, not passive. Silence, alone, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (and the conditions of) sexual activity. Consent cannot be communicated in an individual's manner of dress. Consent can be withdrawn or modified at any time. Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity. Prior consent cannot imply future consent to future sexual acts. Acts of a sexual nature initiated by an individual who a reasonable person knows or should have known to be incapacitated is not Consent. In order to give effective Consent, one must be of legal age (in Ohio & Michigan: 16).



## **Role of Alcohol**

- Each year, 97,000 students are survivors of alcohol-related sexual assault.
- Half of college sexual assaults involve alcohol consumption by the complainant, the accused or both.
- Intoxication is not an excuse for failing to obtain consent.

# Understanding Incapacitation

## Lourdes' policy specifically addresses incapacitation as follows:

State in which an individual is unable to consent to sexual contact. States of incapacitation include, but are not limited to: sleep, unconsciousness, intermittent consciousness, or any other state when a person is ***incapable of making an intentional decision to participate in a sexual act or unaware that sexual contact is occurring***; a disability may also limit one's ability to Consent to sexual contact. Incapacitation is determined on a case-by-case basis and includes an analysis of whether the accused party knew, or should have known, that the alleged victim was incapacitated, or if the accused party played a role in creating the Incapacitation. Though consumption of alcohol or drugs commonly cause Incapacitation, their consumption alone is not sufficient to demonstrate Incapacitation.

# **Role of Title IX Coordinator**

## **Oversight of Title IX Compliance**

- Investigation of complaints alleging sexual harassment and violence, review findings and proposed remedies, eliminate hostile environment and take appropriate steps to prevent recurrence
- Expert knowledge of University's Title IX grievance procedures
- Prompt, fair, and impartial resolution of complaints
- Coordinate collection and analysis of information from climate surveys

## **Independence (avoid conflicts of interest)**

## **Visibility (identify in notice of nondiscrimination)**

## **Cross-Campus and Community Collaboration**

## **Increase Campus Awareness**

## **University-Wide Training and Updating Policies**

# Investigation Process

- Options for complainant:
  - Criminal –students always have the option to file a police report
  - Institutional
  - Civil
- Title IX Coordinator will provide complainant with supportive measures and will put together an investigation team.
- Deputy General Counsel acts as a resource to the Title IX Coordinator.

# How to Respond:

- Provide comfort and support.
- Do **NOT** go into investigation mode at this point. That is not your job and not helpful/necessary. Take the student at his or her word.
- Direct the student to Sophia Center for counseling or YWCA for crisis counseling.
- Encourage parental involvement for support, or another trusted adult.
- Write down everything the student told you after the student departs. Emails and text messages are great to document date/time.
- Direct the student to Lourdes' Title IX policy.
- **Notify Nina Wright, Title IX Coordinator immediately!!!!**

## Don'ts

- Don't investigate the concern that was brought to you.
- Don't involve others – write down the names provided to you so the Title IX Coordinator and her team can go from there
- Don't retaliate
- Don't make any guarantees
- Don't assume anything



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**Questions?**