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Task Force on Sexual and Gender-Based Violence

CHARGE:

1. Review and update the white paper produced by the Sexual and Gender-Based Violence Teaching Circle titled, *A Current State of Affairs Regarding Sexual Violence Initiatives at Stockton University*.
2. Review the recent Student Campus Climate Survey report, which will be posted in the Stockton Go Portal.
3. Conduct additional research on the reporting and investigation of incidents of sexual assault and sexual violence at Stockton, both qualitative and quantitative data.
4. Research practices of similar institutions in size and demography.
5. Research the logistics of developing a centralized hotline at Stockton to address student safety concerns.
6. Develop recommendations for best practices in handling incidents of sexual assault and sexual violence on campus.

According to the Constitution of the Faculty Senate:

The term “task force” means a Committee charged by the Senate or Executive Committee to carry out a specific task that will typically take at least a year. Either the Senate or the Executive Committee may create new task forces. Task forces shall be automatically dissolved at the end of the academic year in which they were created, unless specifically continued by the Senate or the Executive Committee. Task forces shall report in writing to the Senate at the end of their work or by a date established by the Senate.

Betsy Erbaugh – co-chair SOBL

Elisa Forgey – co-chair GENS

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U.S.-specific guidance and nomenclature (e.g. "Title IX coordi nator/officer ") may not specifically apply to their institution.

Although the survey asks about areas that intersect with U.S. federal and state law, this instrument

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Issue **The Title IX Final Rule: Addressing Sexual Harassment in Schools**

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Summary of Major Provisions of the Department of Education's Title IX Final Rule

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The Title IX statute applies to persons in the United States with respect to education programs or activities that receive Federal financial assistance. Under the Final Rule, schools must respond whenever sexual harassment occurs in the school's education program or activity, against a person in the United States.

The Title IX statute and existing regulations contain broad definitions of a school's "education program or activity" and the Department will continue to look to these definitions for the scope of a school's education program or activity. Education program or activity includes locations, events, or circumstances over which the school exercised substantial control over both the respondent and the context in which the sexual harassment occurred, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution (such as a fraternity or sorority house).

- Title IX applies to all of a school's education programs or activities, whether such programs or activities occur on campus or off campus. A school may address sexual harassment affecting its students or employees that falls outside Title IX's jurisdictionary parameters the school chooses, including providing supportive measures or pursuing discipline.

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The Final Rule expands a school's obligation to ensure its educational community knows how to report to the Title IX Coordinator.

- The employee designated by a school as its Title IX Coordinator must be trained to ensure that the school's educational community knows how to report to the Title IX Coordinator.

Summary of Major Provisions of the Department of Education's Title IX Final Rule

- The Title IX Coordinator must promptly contact the complainant confidentially to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint
- Schools must follow a grievance process that complies with the Final Rule before the imposition of any disciplinary sanctions or other actions that are not supportive measures, against a respondent
- Schools must not restrict rights protected under the U.S. Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment, when complying with Title IX
- The Final Rule requires a school to investigate sexual harassment allegations in any formal complaint, which can be filed by a complainant, or signed by a Title IX Coordinator
- The Final Rule affirms that a complainant's wishes with respect to whether the school investigates should be respected unless the Title IX Coordinator determines that signing a formal complaint to initiate an investigation over the wishes of the complainant is not clearly unreasonable in light of the known circumstances
- If the allegations in a formal complaint do not meet the definition of sexual harassment in the Final Rule, or did not occur in the school's education program or activity against a person in the United States, the Final Rule clarifies that the school must dismiss such allegations. IRU SXUSRVH but may still address the allegations in any manner the school deems appropriate under the school's own code of conduct

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Summary of Major Provisions of the Department of Education's Title IX Final Rule

The Final Rule defines “formal complaint” as a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the school investigate the allegation of sexual harassment and states:

- At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the school with which the formal complaint is filed
- A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator under the Final Rule, and by any additional method designated by the school.
- The phrase “document filed by a complainant” means a document or electronic submission (such as by e-mail or through an online portal provided for this purpose by the school) that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.
- When the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or a party during a grievance process, and must comply with requirements for Title IX personnel to be free from conflicts and bias.

The Final Rule defines “supportive measures” as individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment:

- The Final Rule evaluates a school’s selection of supportive measures and remedies based on what is not clearly unreasonable in light of the known circumstances, and does not second-guess a school’s disciplinary decisions, but requires the school to offer supportive measures, and provide remedies to a complainant whenever a respondent is found responsible.

* ULHYDQFH 3 The Final Rule prescribes a consistent, transparent grievance process for resolving formal complaints of sexual harassment. At school hearings (see Issue #0 below), the grievance process prescribed by the Final Rule applies to all schools equally including K-12 schools and postsecondary institutions.

Summary of Major Provisions of the Department of Education's Title IX Final Rule

- **Require Title IX personnel (Title IX Coordinators, investigators, decisionmakers, people who facilitate any informal resolution process) to be free from conflicts of interest or bias for or against complainants or respondents**
- **Training of Title IX personnel must include training on the definition of sexual harassment in the Final Rule, the scope of the school's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias**
- **A school must ensure that decisionmakers receive training on any technology to be used at a live hearing**
- **A school's decisionmakers and investigators must receive training on issues of relevance, including how to apply the rape shield protections provided only for complainants**
- **Include a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process**
- **Recipients must post materials used to train Title IX personnel on their websites, if any, or make materials available for members of the public to inspect**
- **Include reasonably prompt time frames for conclusion of the grievance process, including appeals and informal resolutions, with allowance for short-term, good cause delays or extensions of the time frames**
- **Describe the range, or list, the possible remedies a school may provide a complainant and disciplinary sanctions a school might impose on a respondent, following determinations of responsibility.**
- **State whether the school has chosen to use the preponderance of the evidence standard or the clear and convincing evidence standard for all formal complaints of sexual harassment (including where employees and faculty are respondents).**
- **Describe the school's appeal procedures, and the range of supportive measures available to complainants and respondents**
- **A school's grievance process must not use, rely on, or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege**
- **Any provisions, rules, or practices other than those required by the Final Rule that a school adopts as part of its grievance process for handling formal complaints of sexual harassment, must apply equally to both parties**

Summary of Major Provisions of the Department of Education's Title IX Final Rule

Summary of Major Provisions of the Department of Education's Title IX Final Rule

<p>6 WDQG DUG (YLGHQFH :U 'HWHUPLQDWL</p>	<p>The Final Rule requires the school's grievance process to state whether the standard of evidence to determine responsibility is the preponderance of the evidence standard or the clear and convincing evidence standard. The Final Rule makes each school's grievance process consistent by requiring each school to apply the same standard of evidence for all formal complaints of sexual harassment whether the respondent is a student or an employee (including faculty member).</p> <ul style="list-style-type: none"> - The decision maker (who cannot be the same person as the Title IX Coordinator or the investigator) must issue a written determination regarding responsibility with findings of fact, conclusions about whether the alleged conduct occurred, rationale for the result as to each allegation, any disciplinary sanctions imposed on the respondent, and whether remedies will be provided to the complainant. - The written determination must be sent simultaneously to the parties along with information about how to file an appeal.
<p>\$SSHDOV</p>	<p>The Final Rule states that a school must offer both parties an appeal from a determination regarding responsibility, and from a school's dismissal of a formal complaint or any allegations therein, on the following bases: procedural irregularity that affected the outcome of the matter; newly discovered evidence that could affect the outcome of the matter; and/or Title IX personnel had a conflict of interest or bias that affected the outcome of the matter.</p> <ul style="list-style-type: none"> - A school may offer an appeal equally to both parties on additional bases.
<p>,QIRUPDO 5H</p>	<p>The Final Rule asks a school, in its discretion, to choose to offer and facilitate informal resolution options, such as mediation or restorative justice, so long as both parties give voluntary, informed, written consent to attempt informal resolution. Any person who facilitates an informal resolution must be well trained. The Final Rule adds</p>

Summary of Major Provisions of the Department of Education's Title IX Final Rule