

**BAYLOR UNIVERSITY  
REPORT OF EXTERNAL AND INDEPENDENT REVIEW**

**RECOMMENDATIONS**

**I. Broad Recommendations**

- I.1. Establish Title IX obligations as an institutional priority.
- I.2. Take swift and certain action consistent with these recommendations.
- I.3. Offer institutional and personal apologies and appropriate remedies.
- I.4. Consider necessary personnel action for accountability and effective implementation of Title IX.
- I.5. Engage in measures that will instill a consistent institutional understanding of Title IX obligations.
- I.6. Take measures to ensure that the level of engagement by board members supports effective oversight of Title IX.
- I.7. Structure senior leadership to ensure appropriate and informed administrative oversight and effective implementation of Title IX and related compliance requirements.
- I.8. Commit sufficient infrastructure and resources for effective Title IX implementation.
- I.9. Create a culture within the football program that ensures that the reporting, investigation, and disciplinary actions involving student-athletes and athletics department staff are managed in the same manner as all other students and staff on campus, and that student-athletes are held accountable to the same standards as all Baylor students.
- I.10. Identify leadership for the Athletics Department and football program to set a strong and consistent tone regarding Title IX and conduct issues and set expectations for required actions in response to all forms of student misconduct, harassment and discrimination.
- I.11. Make appropriate external reports to enforcement authorities.
- I.12. Consider the importance of forthright communication to the effective implementation of Title IX.

## **II. Restorative Remedies**

- II.1. Develop protocols to address the restorative and ongoing needs of victims of reported sexual assault between 2011 and 2015.
- II.2. Contact known victims in the specific cases identified in this review to determine if there are appropriate remedies consistent with the goals of Title IX.
- II.3. Conduct review of past cases from 2011 to 2015 to consider pattern, trends, climate.
- II.4. Identify victims who are still at Baylor who made reports that did not move forward to determine if the following exist:
  - any current conduct of concern
  - any current need for support
  - any appropriate restorative actions
  - any need for additional investigative steps
- II.5. Identify victims who made reports, but later withdrew from Baylor, to understand if the withdrawal was connected to Title IX concerns.

## **III. Governance, Leadership, and Compliance**

- III.1. Resolve current governance issues at the Executive Council and board levels.
- III.2. Empower board committees to take active role in education, oversight, and enforcement of governance issues and fiduciary responsibilities:
  - Provide Association of Governing Boards training for Board of Regents
  - Evaluate and make recommendations regarding board size and composition
  - Review considerations and standards for new board membership, including actual or perceived conflicts of interest, and implement due diligence standards in the selection of board members
  - Educate and train board members to remain within appropriate reporting protocols and lines of communication when addressing members of the administration and the Athletics Department (consistent with employment contracts)
- III.3. Expand representation of departments on the Executive Council in order to integrate Title IX across university functions (e.g., human resources).
- III.4. Restructure reporting lines for the Title IX and Clery (VAWA) Coordinators to ensure that each position has the power and authority necessary to implement responsibilities.
- III.5. Hire a full-time, dedicated, and qualified Chief Compliance Officer responsible for identifying risk, the likelihood of occurrence, the effectiveness of existing controls, the action needed to address gaps in compliance, and the consequences of failure to comply.

- III.6. Develop oversight system of checks and balances to recognize non-compliance and hold administrators accountable for failures to comply.
- III.7. Properly resource general counsel's office and the chief compliance officer to track key legal developments in Title IX law and guidance, proactively identify risks associated with Title IX and related compliance requirements, and provide appropriate legal advice.
- III.8. Train senior leadership to understand current federal law and guidance to support the University's Title IX function and set an informed tone at the top that reinforces Baylor's commitment to Title IX.
- III.9. Identify a special oversight committee of the board to work in conjunction with leadership to ensure that these recommendations are properly resourced, completed in a timely manner, and effectively implemented.
- III.10. Provide detailed periodic reports to the Board regarding the implementation of these recommendations.
- III.11. Provide detailed continuing quarterly reports to the Board on Student Conduct issues, Title IX compliance, and athletics compliance.

**IV. Title IX Infrastructure, Resources and Internal Protocols**

- IV.1. Properly resource (personnel and funding) Title IX office to implement policies, procedures, and practices:
  - Add Deputy Title IX coordinators for intake, support, and case management
  - Add prevention and education coordinator
  - Evaluate current investigative functioning to ensure thorough, adequate, reliable investigations
  - Assess the need for additional trained and experienced investigators (internal or external)
  - Provide trained and effective administrative support
  - Identify personnel for all positions based on level of training and experience to ensure effective implementation and removal of conflict in roles and reporting structure
- IV.2. Restructure the Title IX office to improve the implementation of policy, procedure and practices:
  - Develop specific intake protocol
  - Use case management approach to track and monitor interim measures and student success
  - Separate investigations from the provision of resources and support
  - Develop investigative templates and protocols for consistent documentation and evaluation



- Review internal operating protocols to assure compliance, consistency, and follow up on all reports
- IV.3. Develop structured protocols and systems for the coordination of information between and among implementers, including internal case management and documentation that tracks timelines, regular and ongoing internal and external communications, and documents investigative steps, interim measures and steps taken to eliminate sexual harassment or violence, prevent its recurrence and address its effects.
- IV.4. Develop consistent protocols for application to critical decisions that identify decision-making authority, outline the applicable law and guidance, establish a template list of key considerations, and maintain appropriate documentation of the factual foundation for each decision.
- IV.5. Review and standardize existing template communications for regular stages of the process to assure consistency, the use of trauma-informed language, adherence to policy requirements and compliance with federal law regarding required written communications.
- IV.6. Conduct an initial assessment in every case and ensure contemporaneous documentation of steps taken and information considered. The initial review should proceed to the point where a reasonable assessment of the safety of the individual and of the campus community can be made, and the Title IX Coordinator and/or Title IX Management Team has sufficient information to determine the best course of action, which may include an investigation or steps to otherwise determine what occurred.
- IV.7. As part of the initial assessment of a report, develop a standardized process for evaluating a complainant's request for anonymity, determining the appropriate course of action when balancing individual autonomy with broader campus safety obligations, and documenting the facts and circumstances that inform the University's determination. This process, which must be supportive of a complainant's needs and iterative in nature, can involve the Title IX Coordinator, the Title IX Management Team, or a separate entity specially designated to assist or evaluate a request for anonymity. The Title IX Coordinator should document the information gathered, the factors considered, the determination reached, and any additional steps taken to eliminate, prevent, and address the effects of the misconduct. Initial assessment protocols should vet whether a potential pattern of sexual violence is present.
- IV.8. Ensure that all forms of informal resolution are clearly documented to demonstrate the actions that are taken to meet the University's Title IX obligation to take action to eliminate a hostile environment, prevent its recurrence and address its effects on the complainant and the community.
- IV.9. Maintain appropriate documentation and records of all reports and steps taken to eliminate, prevent and address the effects of the prohibited conduct.

- IV.10. Review and revise protocols to incorporate patterns, trends and climate assessment for consistent broad remedy analysis and investigation of potential serial offenders.
- IV.11. Evaluate appropriateness and availability of facilities to effectively implement Title IX responsibilities.
- IV.12. Explore the use of available technology for reporting, responding, and tracking cases.

**V. Title IX Policy**

- V.1. Revise Title IX policy, procedure, and practices consistent with law, guidance, and most effective models from around the country. Incorporate the following considerations:
  - The findings of this review
  - Lessons learned from implementation during the 2015-2016 year
  - Compliance-related required updates
  - Effective and promising practices/solutions
  - Baylor's institutional values and mission
- V.2. Revise Baylor's Title IX policy to include a clear amnesty provision for violation of the Sexual Conduct Policy.
- V.3. Revise the Title IX policy appeals process.
- V.4. Revise the Title IX policy to ensure that both parties may be present for, or otherwise participate in, the other party's presentation to adjudicator.
- V.5. Revise policies, procedures, and practices to ensure consistent access to interim remedial measures and consistent use, as appropriate, of interim protective measures.
- V.6. Review policy regarding informal resolution process.
- V.7. Commit to conducting an annual review and assessment of Title IX policies, procedures, and practices to incorporate changes in the law and lessons learned from the current year (through student and administrator input).

**VI. Centralized Reporting and Resolution of Reports**

- VI.1. Ensure that relevant policies, procedures, and protocols clearly outline all Title IX, Clery, and any other reporting responsibility (e.g., mandatory child abuse reporting).
- VI.2. Provide training and annual updates for clear implementation of reporting responsibilities and centralized reporting expectations.
- VI.3. Ensure accountability for all failures to report by University employees. Amend "for cause" language in all prospective contracts to specifically include the failure to report

misconduct as required by policy or law. Make clear in existing policies that violation of reporting obligations could be cause for discharge.

- VI.4. Ensure that all reports of sexual or gender-based harassment or violence or other forms of interpersonal violence are reported to the Title IX office.
- VI.5. Ensure that all reports of sexual or gender-based harassment or violence or other forms of interpersonal violence are evaluated under the Title IX policy.
- VI.6. Develop a centralized system for all reporting and a database and protocols for consistent record-keeping.

## **VII. Resources and Support**

- VII.1. Expand resources and support functions to augment the steps taken by the Board of Regents in February 2016.
- VII.2. Review whether additional resources are needed within student life, Title IX, counseling, or health service to provide an optimal level of care for victims. Add resources as soon as practicable if there are remaining gaps.
- VII.3. Confirm availability of after-hours crisis hotline.
- VII.4. Ensure counseling resources currently provided to students adequately address their needs.
- VII.5. Ensure that what is communicated to students in need who present to the counseling center is caring and helpful.
- VII.6. Ensure there is adequate space for the counseling center.
- VII.7. Ensure that information about the range of interim measures is widely disseminated and accessible to all community members.
- VII.8. Train all implementers to effectively communicate availability of resources, interim measures, and all process options. Develop and provide a written resource guide and process chart.
- VII.9. Provide dedicated victim-advocacy services on campus through full-time confidential advocate or contracted services with community agencies.

## **VIII. Training, Education, and Communication of Efforts**

- VIII.1. Designate one individual with oversight responsibility for coordination and review of all University training and educational programming related to and required by Title IX, Clery and VAWA.



VIII.2. Consider integrated multi-disciplinary programming to address issues of sexual and gender-based harassment and violence, gender equity, tolerance, diversity, inclusion, intersectionality, alcohol and substance abuse, consent, social media, bullying and hazing, classism, racism, and other issues that impact campus culture and the development and education of students.

VIII.3. Until further study demonstrates otherwise, continue to prioritize annual education and training consistent with federal law and guidance for *all* community members and implementers, including:

- Students – undergraduate and graduate
  - All student groups
  - Fraternities and sororities
  - Athletes
- Administration and Staff
  - All athletics personnel including coaches
  - Baylor Police
  - Faculty
  - Student Affairs/Student Conduct
  - Title IX Staff
  - Counseling
  - General Counsel
  - Executive Leadership
- Board
- Alumni

VIII.4. Ensure that all implementers, investigators and adjudicators have trauma-informed training.

VIII.5. Ensure that all training is informed by effective practices and experienced practitioners and is consistent with Baylor University's mission and values.

VIII.6. Communicate all efforts (training, education, policies, procedures, reporting options, resources, and programs) through a user-friendly centralized website and other ongoing and effective means.

## **IX. Culture and Climate**

IX.1. Conduct appropriate climate surveys or assessments to evaluate the effectiveness of campus procedures, identify challenges in the current campus climate that affect the educational or employment environment or create barriers to reporting, and test for prevalence.

IX.2. Use the results of the climate survey to inform institutional priorities and educational programming.

- IX.3. Evaluate the role of alcohol or other drugs on campus and the efficacy of existing alcohol or other drug policies.
- IX.4. Design and conduct a campus campaign to provide a visible platform for candid discussion about consent, alcohol or other drug use, common victim-blaming myths, and barriers to reporting (including the University's amnesty policy).
- IX.5. Develop and implement a sustained campaign to keep institutional and community focus on Baylor's commitment to the prevention of sexual and gender-based harassment and violence.
- IX.6. Collaborate with the University's Marketing and Communications personnel to develop an intentional and strategic plan to implement the campaign, identify branding, design visual content, and consider the effectiveness of forms of delivery, including web content, written materials, posters, and other formats.
- IX.7. Prioritize student engagement. Seek mechanisms to incorporate student input through student leaders, open forums and individual engagement from current and former students.

**X. Athletics Department**

- X.1. Create and maintain culture of high moral standards, enforcement, and discipline. Review, revise, and reinforce the expectation of a culture of high moral standards and discipline from coaches and staff to players.
- X.2. Communicate findings to senior leadership and relevant athletic administrators regarding response failures in Athletics Department
- X.3. Identify leadership to set a tone from the top regarding Title IX compliance, attention to student welfare, and reporting obligations.
- X.4. Consider appropriate disciplinary response for employee misconduct or employee failure to respond to several reported allegations of misconduct by football players.
- X.5. Charge the Board audit committee with ensuring and monitoring appropriate oversight of Athletics Department and Athletic Director by the President or other senior administration.



- X.6. Through an appropriate board committee, ensure that the President and the Athletics Director have appropriate authority over department personnel.
- X.7. Consistent with employment coaches, train and educate coaches about the need to remain with appropriate reporting protocols and lines of communication when addressing members of Board of Regents.
- X.8. Ensure that all athletics personnel receive specific, extended, targeted, ongoing, and annual training regarding Title IX obligations and responsibilities, including an understanding of the risks attendant to Title IX issues.
- X.9. Educate athletics personnel about individual student safety risks as well as risks to the program and the university community.
- X.10. Build opportunities for athletics personnel to integrate and develop relationships with non-athletics personnel.
- X.11. Develop and implement a new drug testing policy. This policy should follow the standard of informed practices among peer institutions.
- X.12. Educate athletics personnel on reporting policies/protocols to ensure immediate sharing of information with the Title IX coordinator and student conduct as required by policy.
- X.13. Establish clear policies and protocols for all Athletic Department staff when students are accused of misconduct in violation of University policy.
  - Clear documentation protocols for athlete misconduct
  - Clear reporting protocol
    - To Head Coach and Athletic Director
    - To Title IX Coordinator
    - To Judicial Affairs
- X.14. Establish clear disciplinary consequences for personnel who fail to follow reporting and documentation protocols.
- X.15. Expand athletics compliance function to capture and monitor athlete misconduct. Consider independent athletics compliance oversight (i.e. Chief Compliance Officer) with dual reporting lines to the President and an appropriate board committee.
- X.16. Review and revise transfer policies and protocols to ensure due diligence is exercised in the screening of transfer candidates. Consider Big 12 and national best practices when implementing a protocol that will consider, at a minimum, criminal history, college disciplinary history, and character references.
- X.17. Establish policy and practice for consistent evaluation of any recruit with some level of past legal or disciplinary conduct issue, including the review of the known information by

compliance professionals outside of the Athletics Department, and as appropriate, external to the University.

- X.18. Formalize team and departmental policies regarding team suspension or dismissal with respect to arrest and or student conduct investigation.
- X.19. Consider a software solution for reporting, documenting, and sharing of information.
- X.20. Annually review all cases of athletes accused of misconduct to ensure that responses are consistent with applicable policies and procedures for all Baylor student misconduct.

**XI. Baylor University Police Department**

- XI.1. Develop policies, procedures, and protocols to integrate federal, state, and local laws with trauma-informed responses to all forms of sexual and gender-based harassment, violence, interpersonal violence, and stalking.
- XI.2. Identify informed training programs to support BUPD in the effective implementation of Title IX, Clery, and all other federal, state and local laws.
- XI.3. Annually review training, personnel, and policy needs.
- XI.4. Develop systems to consistently coordinate information sharing with Title IX and Student Conduct personnel. Consider use of available technology.

**XII. Community Partnerships**

- XII.1. Meet with local law enforcement and prosecuting authorities to review and update the memorandum of understanding that outlines the coordination of responsibilities between internal and external law enforcement agencies consistent with the proper implementation of Title IX, Clery and VAWA.
- XII.2. Revisit protocol for sharing of information between Waco Police Department and Baylor University Police Department.
- XII.3. Identify and develop partnerships with external advocacy organizations.
- XII.4. Identify appropriate campus and community supports for respondents.
- XII.5. Work with local governmental entities and area non-profits in an effort to develop a Waco-area Sexual Assault Response Team (SART).

**XIII. Clery**

- XIII.1. Update Clery analysis and assess reporting obligations based on Pepper Hamilton findings.