

# I'M HERE FOR YOU

## About

This semesterly newsletter is intended for I'm Here For You sticker holders, Community Coalition on Gender-Based Violence members, and advocates. Each semester this newsletter will highlight happenings on campus related to gender-based violence, updated information regarding applicable laws, and links to articles of related interest.

## CHANGE'S HALLOWEEN CONSENT PARTY



This October, CHANGE hosted a Halloween consent party with the tagline, "Halloween is scary, but consent doesn't have to be." The focus was on creating conversations about consent, how it

functions, and how to recognize it.

The event featured a "kissing booth," where students could ask for a piece of candy and follow the consent-based directions of the students behind the booth.

Another table featured some "spooky content," where students had to identify popular movies based on their descriptions, which highlighted issues with



consent and the lack thereof.

Students could also stop by tables featuring partnering groups, One Love, which focuses on dating violence, and the Loyola Women's Studies and Gender Studies program. At the One Love table, students could participate in a campaign asking what it means to "love better."

Students who visited the Halloween consent party left with more information about consent, as well as some tasty treats.

## Upcoming Calendar

- **February 11th:**  
**CHANGE Holiday Pop-Up "Shop"**  
6-8 PM  
Damen Den

Contact Robin Berman at [rberman1@luc.edu](mailto:rberman1@luc.edu) for more details



## TITLE IX NOTICE AND COMMENT WORKSHOP

With the publication of new proposed Title IX regulations from the Department of Education (more information on page 3), Notice and Comment is an extremely important part of the regulatory process. This is a process by which the public can provide comments on the proposed legislation, and the Department of Education is required to respond to substantive comments.

On December 4th, CHANGE hosted a Notice and Comment workshop with the goal of engaging students in the process of writing a comment. Education around the proposed regulations, how to best write and structure a comment, and how to submit one were all provided to attendees. 22 people attended, with some students staying the entire 2.5 hours to write.

Below are some resources for those interested in participating in Notice and Comment:

- [Summary of proposed regulations from the Department of Education](#)
- [National Women's Law Center Comment Guide](#)
- [National Women's Law Center Sample Comment](#)
- [Action Network Notice and Comment Data Guide](#)
- [Link to submit comment to Department of Education](#)

The Notice and Comment period ends on January 29th, so all comments need to be in before that deadline.

If you want to learn more, or are interested in hosting your own Notice and Comment workshop, please email Robin Berman at [rberman1@luc.edu](mailto:rberman1@luc.edu).



## ADVOCACY VOLUNTEERS

This semester, Loyola's Advocacy Volunteers have been particularly active. 10 brand new advocates received their 40 hours of training in August, and they have been responsible for staffing the Sexual Assault Advocacy Line on weekends.

Besides responding to calls on weekends, these volunteers have staffed 7 Safe Haven events on campus. At these events, any disclosure of gender-based violence is not reported to the university, and there is always an

advocate on-hand to provide support and resources.

The events at which advocacy volunteers have

served at range from One Love events on dating violence, to two film screenings about sexual harassment and domestic violence respectively, to an event put on by the Loyola Catholic Studies department about sexual abuse in the Catholic Church.



Volunteers have found the experience of serving as advocates for these Safe Haven events to be meaningful and informative, and they have appreciated the opportunity to support students and provide them with information about resources, both at Loyola and in the greater Chicago community.



## PROCESSING THE CONFIRMATION OF BRETT KAVANAUGH

The confirmation hearings and eventual confirmation of Brett Kavanaugh as a Supreme Court Justice this fall had profound impact on the nation as a whole, bringing up a national dialogue about sexual assault and survivorship.

The impact of Dr. Christine Blasey Ford's testimony and Kavanaugh's subsequent confirmation was felt strongly by Loyola students, especially survivors of gender-based violence and those who support them. In response, the Wellness Center and the Office of Student Conduct & Conflict Resolution partnered to host a community circle for students to process these events. Using restorative justice techniques,

the community circle gave participants the chance to voice their feelings and navigate them together.

Students said that they appreciated the opportunity to have their voices heard and feel like Loyola was listening and supporting them.



# DEPARTMENT OF EDUCATION PUBLISHES NEW TITLE IX REGULATIONS

On November 16, 2018, the Office for Civil Rights of the Department of Education (DOE) announced new proposed regulations that would dictate how educational institutions that receive federal funding (including Loyola University Chicago) must respond to reports and official complaints of sexual harassment occurring within the institutions' programs and services.

The announcement, which foretold of draft regulations that were officially published in the Federal Register on November 29, 2018, were not a surprise to most higher education institutions, after a similar draft had been leaked and reported on extensively months before. However, the regulations that actually came to be published differed in some significant ways from the leaked version, and arguably will have even more of a profound impact on higher education institutions than originally speculated.

The following are some of the most significant elements of the proposed regulations, and how they could affect Loyola University Chicago. It is important to note at the outset, however, that these are proposed regulations only at this point. The rules are subject to further revision based on comments from the public, which may be submitted until January 29, 2019.

## **A Change in Approach to Enforcing Title IX**

Perhaps most significantly, the proposed regulations embody a change in how the Office for Civil Rights will change the standard of care expected of institutions by the federal government. Under previous guidance, schools had to take reasonable measures to stop, prevent, and remedy incidents of gender-based misconduct whenever they knew of or reasonably should

have known of such incidents. In contrast, the new regulations only require schools to respond when a formal report has been filed, and then their response need only be "not deliberately indifferent." This more relaxed standard for institutions is, according to the DOE, a more accurate application of the original text and purpose of Title IX, which focused on prohibiting schools from discriminating rather than on the conduct of their students.

## **A Narrower Scope of Responsibility for Institutions**

The proposed regulations also restrict the types of incidents that require a University to act, to three sub-categories of a narrow definition of sexual harassment: (a) quid pro quo harassment (where an individual is promised something in return for sexual favors), (b) hostile environment (defined as "unwelcome conduct on the basis of sex that is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity"), and (c) sexual assault. Not only must the conduct fall under one of these three specific categories, but it must also occur within the institution's "education program or activity." Not only does a University have no obligation to respond to incidents outside these parameters, but it must dismiss such complaints as falling outside of Title IX. The proposed regulations do note that nothing prohibits an institution from taking on such matters under other parts of the student code of conduct, but it appears they cannot be handled as Title IX matters. This may effectively compel the University to create two parallel processes – one for sexual misconduct that occurs off-campus, and a separate one for those matters that can be narrowly defined as following within Title IX.

## **Specific Due Process Protections, Including the Right to Cross-Examine During a Live Hearing**

Whereas the proposed regulations reduce the overall burden of Universities as to the types of cases they must address under Title IX, they significantly increase the legalistic and administrative requirements for how Universities must protect the rights of accused students (called "respondents" in Loyola's current processes). Universities are no longer permitted to – as is Loyola's practice – maintain a "single investigator model" where one designated professional conducts the investigation and makes a preliminary finding. Instead, there must be a separation between the investigator(s) and a neutral decision-maker. Students must also have a right to a hearing, a practice that Loyola used to maintain, but changed in 2017 based on student feedback and to reduce challenges associated with scheduling two (minimum) students, their advisors, a hearing board, witnesses, and investigators all at the same time. Additionally, at this hearing, any party whose testimony is to be considered by the hearing board must submit to cross-examination by the advisor for the opposing party (which may be an attorney, parent, advocate, friend, or other person of the party's choosing). This means that students wishing to pursue a formal complaint against another student must submit to being questioned by the respondent's attorney or parent, or else their own testimony must be excluded.

It is unclear what the final regulations will look like after the DOE responds to comments raised by the public during the notice and comment period, but it is clear that these proposed regulations, if they were to go forward in their current form, would drastically change the way University's approach sexual harassment and sexual assault.

At Loyola, our exact processes and procedures may need to change depending on the final regulations, but our commitment to providing a fair, just, accessible, and person-centered process that ensures the safety of our community while balancing the rights of all parties will continue.

*Tim Love*  
Associate Dean of Students