

An aerial photograph of the Hampden-Sydney College campus during autumn. The image shows several large, multi-story brick buildings with blue roofs, surrounded by a dense forest of trees with vibrant yellow and orange leaves. A winding road and a parking lot are visible on the left side. The overall scene is bright and colorful, capturing the beauty of the college grounds in fall.

(Gentle) Man up...

...AGAINST HARASSMENT AND DISCRIMINATION!!!

Hampden-Sydney College

TITLE IX

20 U.S.C. § 1681 & 34 C.F.R. PART 106 (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.”



APPLICATION OF TITLE IX TO HSC

- HSC is subject to Title IX in all aspects of education – except Admissions.
- HSC does have a small number of female students – daughters of employees, local high school students, and Longwood students.
- HSC does have female faculty and staff.
- HSC has non-students who do attempt to participate in the school's education programs & activities:
 - Example: women from local colleges who study in the HSC library, participate in co-curricular or extra-curricular activities at HSC (e.g., joint concert with Men's Chorus).

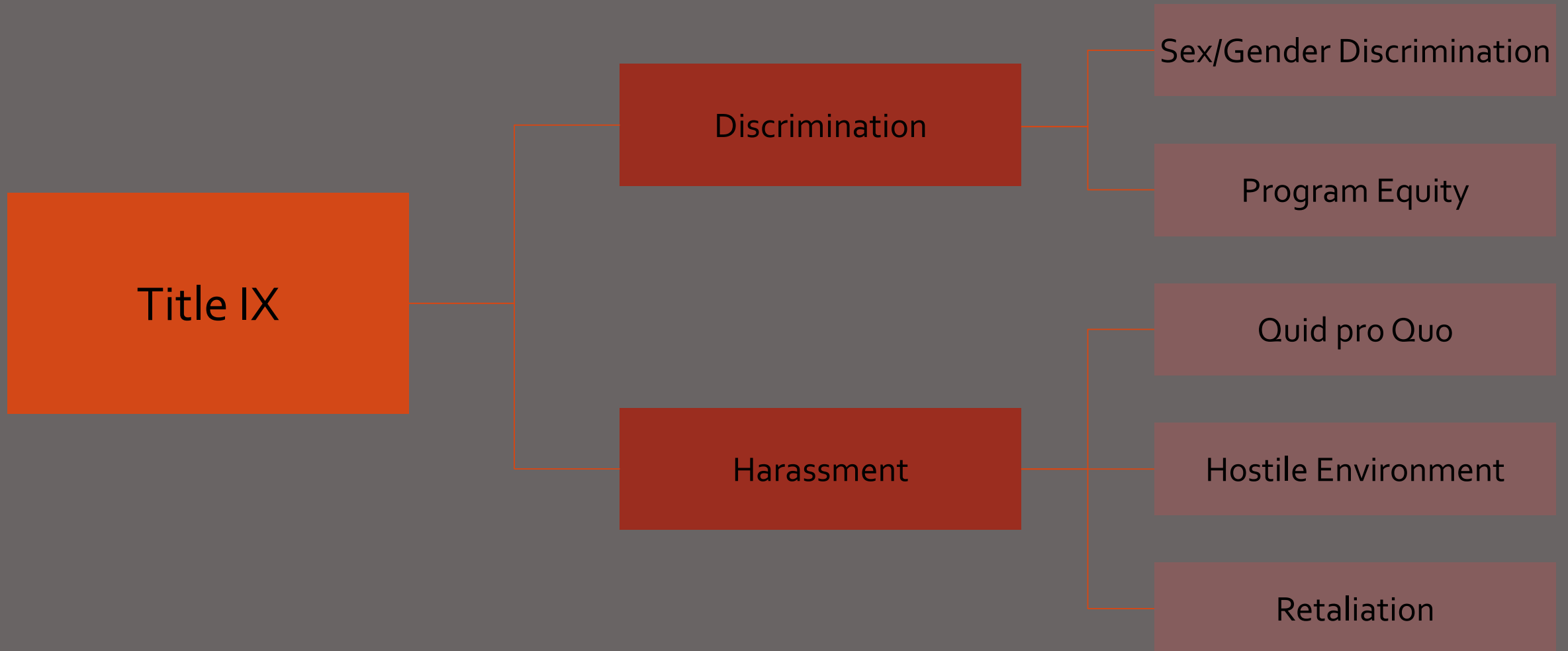
TITLE VII OF THE 1964 CIVIL RIGHTS ACT

- It shall be an unlawful employment practice for an employer -
 - (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of the individual's race, color, religion, sex, or national origin; or sex.
 - (2) segregate, or classify employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities because of such individual's race, color, religion, sex, or national origin.

IT'S NOT JUST ABOUT SPORTS

- In 1969 Bernice Sandler was finishing her doctorate in education at the University of Maryland, teaching part-time at the university, and trying to secure a full-time position. Despite her excellent credentials, it became clear she wasn't even being considered. But why? she wondered.
- "Let's face it," a male colleague said, "you come on too strong for a woman."
- Sandler soon discovered that none of the obvious laws prohibiting discrimination covered sex discrimination in education.
- Sandler's work led to the passage of Title IX—making it illegal, for a federally funded educational institution to discriminate against someone based on their sex.

TITLE IX/HARASSMENT & DISCRIMINATION



DISCRIMINATION

- Inequitable treatment that occurs:
 - due to an individual's actual or perceived membership in one or more of the protected categories listed in the College's non-discrimination statement;
 - race, color, sex (including pregnancy, sexual orientation, gender identity and gender expression), religion, age, national or ethnic origin, family medical or genetic information, disability, familial, or veteran status, or any other category protected by state or local law
 - which has the effect of excluding an individual from participation in, denying an individual the benefits of, or otherwise adversely affecting a term or condition of an individual's employment, education, living environment, or participation in a College educational program or activity.

EVOLUTION OF LAW ON DISCRIMINATION B/C OF SEX

- Prior to 1963 discrimination based on sex in employment and education was the norm and was legal.
- Civil Rights Act of 1964 interpreted to only prevent discrimination because of biological sex – and only discrimination against employees, not students.
- Title IX of Education Amendments Act of 1972 prohibits discrimination based on sex in educational institutions that receive federal funds.
- **Meritor Savings Bank v. Vinson, (1986)**. Sexual harassment in employment (Quid Pro Quo or Hostile Environment) is discrimination because of sex. Ultimately, this definition of sex discrimination was applied to Title IX.
- **Bostock v. Clayton County (2020)**. Discrimination on the basis of homosexuality or transgender status requires an employer to intentionally treat individual employees differently because of their sex, an employer who intentionally penalizes an employee for being homosexual or transgender also violates Title VII. Doesn't apply to discrimination b/c of sex under Title IX – but does under HSC policy.

SCOPE AND JURISDICTION

- **H-SC's Harassment, Discrimination, and Sexual Misconduct Policy (HDSM) applies :**
- **Who**
 - Students, Faculty, Staff, others affiliated with H-SC
- **What**
 - Any sexual misconduct/sex discrimination (sexual harassment, sexual assault, domestic/intimate partner and dating violence, and stalking)
 - Others forms of harassment and/or discrimination based on any protected category
- **Where**
 - On and off campus, and online
- **Why**
 - Protects equal access to educational and employment opportunities

H-SC'S RESPONSIBILITIES UNDER HDISM

- Investigate promptly
- Eliminate harassment/sexual misconduct
- Provide supportive measures
- Prevent the recurrence
- Remedy the effects

WHAT IS SEXUAL HARASSMENT?

- Sexual harassment encompasses
 - Sexual Harassment – Hostile Environment
 - Sexual Harassment – Quid Pro Quo
 - Sexual Assault
 - Dating and Intimate Partner Violence
 - Stalking

HOSTILE ENVIRONMENT SEXUAL HARASSMENT

- Harassment is unwelcome conduct that is based on race, color, religion, sex (including sexual orientation, gender identity, or pregnancy), national origin, older age (beginning at age 40), disability, or genetic information (including family medical history).
- Harassment becomes unlawful where 1) enduring the offensive conduct becomes a condition of continued employment or education, or 2) the conduct is **severe** or **pervasive** enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.
- Anti-discrimination laws also prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit under these laws; or opposing employment practices that they reasonably believe discriminate against individuals, in violation of these laws.

SEXUAL HARASSMENT: QUID PRO QUO

- Quid pro quo (this for that) harassment occurs when someone in a position of authority over another (i.e., a manager or supervisor, or professor) directly or indirectly demands sexual favors in exchange for some benefit (a promotion, pay increase, etc.) or to avoid some detriment (termination, demotion, etc.) in the workplace or in education.

DATING AND INTIMATE PARTNER VIOLENCE

- Dating violence is a pattern of controlling, abusive and aggressive behavior in a romantic relationship.
- It can happen in any intimate relationship.
- It can include verbal, emotional, physical or sexual abuse, or a combination.
- It can happen in heterosexual or homosexual relationships.

STALKING

- Stalking means engaging in a course of conduct 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.
- Course of conduct means two or more acts, including but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

SEXUAL ASSAULT

- Sexual violence refers to **physical sexual acts** perpetrated against a person's will or where a person is incapable of giving consent or is coerced.

CONSENT

- Sexual assault occurs when at least one party does not consent to the sexual activity. Consent is an understandable exchange of words or actions, which indicate a willingness to participate in mutually agreed upon sexual activity. Consent is an agreement to do the same thing at the same time in the same way.
- Consent can be withdrawn or modified at any time, as long as it is clearly communicated. Consent cannot be assumed based on silence, the absence of “no” or “stop,” or the existence of a prior or current relationship or prior sexual activity.
- There is no consent in the presence of coercion, incapacitation, force, or where the sexual activity violates state law relating to age of consent.

CONSENT IS:

- Informed, knowing, and voluntary (freely given),
- Active (not passive),
- Affirmative action through clear words or actions, that create mutually understandable permission regarding the conditions of sexual activity.
- Cannot be assumed through silence.
- Cannot be obtained by use of:
 - Physical force, compelling threats, intimidating behavior, or coercion.
- Cannot be given by someone known to be — or who should be known to be — mentally or physically incapacitated.

CONSENT – RULES TO REMEMBER

- No means no, but nothing also means no. Silence and passivity do not equal consent.
- To be valid, consent must be clear, and must be given immediately prior to or contemporaneously with the sexual or intimate activity.
- Consent can be withdrawn at any time, as long as that withdrawal is clearly communicated – verbally or non-verbally – by the person withdrawing it.

FORCE

- Coercion may consist of intimidation, threats, or other severe conduct that causes a reasonable person to fear significant consequences if they refuse to engage in sexual contact.
- Force includes the use of physical force or threats of force that eliminate a person's ability to exercise their own free will to choose whether or not to have sexual contact.

INCAPACITATION

- Incapacitation is a state in which individuals cannot make rational, reasonable decisions because they lack the capacity to give knowing consent.
- Assessing incapacitation is fact-dependent.
- Blackouts are frequent issues.
 - Blackout = no working (form of short-term) memory for a consistent period, thus unable to understand who, what, when, where, why, or how.
 - Blacking out is different from passing out

SUBSTANCE USE AND HDSM

- Most sexual assaults on a college campus involve social drinking.
- Alcohol use **INCREASES** the likelihood of sexual assault occurring among acquaintances during social interactions.
- Alcohol is the most common date rape drug.
- Anyone engaging in sexual activities with a person incapacitated by alcohol or drugs is committing sexual assault.