



It's January in a New Clery Year... What Should I be Doing?

1st Annual Mid-Year Conference

Dolores Stafford

Executive Director

NACCOP

President and CEO

D. Stafford & Associates

Michael DeBowes, Ph.D.

Director of Research & Strategic Initiatives

NACCOP

*Vice President, Regulatory Compliance and
Strategic Initiatives*

D. Stafford & Associates



Clery Calendar vs Clery Season

- Strategically manage your Clery program throughout the year
 - Develop a Clery calendar of tasks and objectives
- Establish a Clery committee to assist with compliance efforts
 - Utilize subgroups or working groups comprised of key offices and individuals
- Maintain a records management system that supports compliance efforts
- Develop a system of internal controls to ensure administrative capability

668.16

Standards of administrative capability.

The Secretary considers an institution to have that administrative capability if the institution—

- “establishes and maintains records required under this part and the individual Title IV, HEA program regulations” -- 34 C.F.R. 668.16(d)(1)
- “has written procedures for or written information indicating the responsibilities for the various offices with respect to...the preparation and submission of reports to the Secretary [of Education]” -- 34 C.F.R. 668.16(b)(4)

Don't Take Our Word For It...

- According to ED (2019), an adequate Clery compliance program will include:
 - Detailed procedures for preparing an accurate and complete ASR and distributing the report
 - Substantive processes for identifying and classifying the institution's "Clery Geography"
 - Comprehensive procedures for identifying CSAs and notifying them of their responsibilities
 - Reliable processes for requesting and collecting information about Clery-reportable crimes from institutional CSAs and local law enforcement agencies
 - Consistent procedures for properly responding to ED's annual crime statistics survey



Clery Statistics – Collecting, Classifying, and Counting

- Conduct an internal review of reported crimes
 - Review reports and audit trail
 - Reconcile statistics with preferred receivers of reports
 - Student conduct, Title IX, Human Resources, etc.
- Send letters to LLE and request crime statistics
 - All local law enforcement and State agencies
 - Request statistics from LLE agencies with jurisdiction related to short stay-away trips and repeated use locations
- Engage CSAs with a request for crime reports - (January/February and again before Commencement)
 - Send a written request to CSAs and follow-up as needed

Prevention, Education, & Awareness (First Quarter)

- Collect and reconcile all VAWA education program activities/initiatives
 - primary prevention and awareness programming
 - ongoing prevention and awareness campaigns
- Develop a list of all institutional crime prevention and security awareness programming
- Engage campus partners in programming documentation
 - Cast a wide net and collect institutional data beyond the usual suspects
 - Include campus police/public safety, residence life, student affairs, health and counseling, student groups/organizations, athletics, human resources, Title IX, violence prevention office, etc.

Clery Geography



- Finalize Clery Geography list –update and reconcile as needed
- Finalize tracking list for all short stay-away trips and repeated use locations
- Prepare list and map for current calendar year
 - Engage real estate contact, student activities/organization office, residence life, registrar/provost, study abroad
 - Obtain and review all written agreements related to the control of space
 - Initiate a walking/driving tour of campus to review and update map as necessary
 - Use map and list to update records management system as necessary - ensure location drop down menu matches identified Clery Geography
 - Campus police/public safety, student conduct, Title IX, Human Resources records management systems (as applicable)

Campus Security Authorities



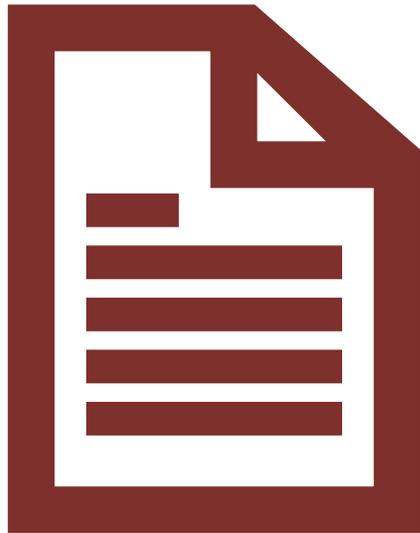
- Review CSA list and update accordingly
 - Human resources, athletics, study abroad (off-campus trip leaders), student activities/organizations, student conduct and Title IX, etc.
- Notify and train CSAs as appropriate
- Solicit support of department heads/division leaders in collection of CSA reports
- Review CSA training programs and platforms and tracking systems - update as appropriate
 - General CSA training vs Super CSA training

Policies, Procedures & Practices



- Review and update Clery-related departmental/institutional policies
 - Coordinate efforts with key departments/offices
 - Campus police/public safety, residence life, human resources, student life, student conduct, Title IX, compliance office, General counsel, etc.
- Develop broader policies and procedures that support current ASR/AFSR policy statements
- Assess local/State jurisdictional laws and ordinances for any changes
 - Liquor, Weapons and Drug Law Violations
 - Incest/Statutory Rape
 - VAWA processes related to protection from abuse orders and any impact to Domestic Violence laws
 - Confirm with LLE, DA and courts
- Review and update any MOUs with LLE or contracts with external agencies for service - (security, victim support services, health and counseling, etc.)

Annual Security Report Development & Distribution



- Review existing ASR/AFSR and verify all policy statements and required components are included
 - Update policy statements and statistics as appropriate
 - Coordinate with key offices/departments
 - Make sure all VAWA required policy statements are addressed for all relevant processes
 - Not (likely) just a cut and paste of sexual misconduct policy
- Develop an editing team before final completion - ensure statements reflect actual policies, procedures, and practices
- Make sure distribution methods will ensure campus-wide notice of availability
- Coordinate notice of availability with Human Resources and Admissions
- Distribute report by October 1st
- Report statistics to ED via the Campus Safety and Security Survey

Key Institutional Policies of Focus



TW/EN

VAWA

Emergency
Response/
Evacuation

ASR
Development/
Distribution

Crime Stats
Collection/
Disclosure

CSA
Management

Clergy
Geography
Management

DCL
Management

Emergency Response & Operations



- Emergency response and evacuation protocol review
- Begin planning for Clery-compliant test
 - Establish a test that includes both a drill and exercise
 - Ensure campus-wide evacuation is addressed as part of the test
 - Invite key personnel from across the institution
 - Invite emergency response personnel from local jurisdiction
- Develop follow through activities to assess and evaluate plans and capabilities
- Complete an after-action report for documentation purposes (best practice)
- Campus-wide distribution of emergency response and evacuation procedures (summary) in conjunction with at least one annual test

Fire Safety Disclosures

- Review and update OCSHF master list - names and addresses
- Review and update OCSHF fire alarm systems - detection, suppression, reporting
- Review and documentation of future plans for improvement
- Assessment of building evacuation protocols
- Documentation of all fire drills and fire safety programming

Fire Statistics



- Reconcile OCSHF fire statistics
 - All reported residential facility fires and their cause
 - Assess fire damage - insurance/risk management assessments
 - Account for fire injuries and deaths
 - Determine if anyone injured has died within one year of the incident
- Reconcile in partnership with campus police/public safety, fire marshal's office, EHS, facilities management, student conduct, residence life, human resources
- Triangulate Fire Statistics, Fire Log, Crime Statistics, and Crime Log (Arson)

Annual Fire Safety Report



Review existing AFSR and verify all policy statements and required components are included



Make sure distribution methods will ensure campus-wide notice of availability



Distribute report by October 1st



Report fire statistics to ED via the CSSDACT

DFSCA Compliance

- DAAPP distribution
 - All students and employees, in writing
 - Provisions for subsequent enrollees or hires
- DAAPP Assessment
 - Review and document all substance abuse education programming
 - Review standards of conduct and disciplinary sanctions administered
 - Review counseling, treatment and rehabilitation resources
 - Determine if local, state, or Federal sanctions have changed
- Is it a Biennial Review year?
 - Evaluate and assess DAAPP's effectiveness
 - Programming, disciplinary sanctions, consistent enforcement of sanctions, violations and fatalities

Records Retention and Destruction



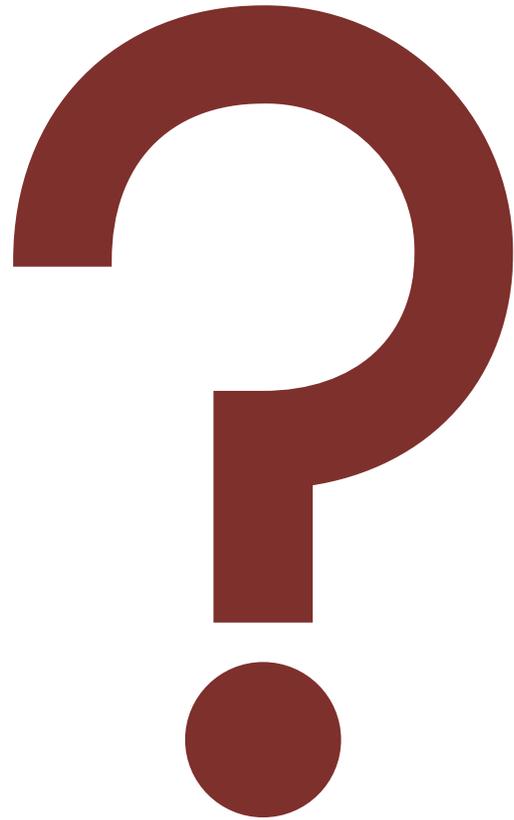
- Conduct an internal self-audit of all Clery files/records
 - Ensure files include documentation to support Clery compliance efforts
- Review records destruction protocols
 - Canvas other offices and ensure timely and accurate destruction
 - Maintain a formal process for cycling records through retention protocols (7 calendar year retention)
- Maintain copies of the institution's DAAPP and Biennial Review
 - Three calendar year retention requirement
 - Maintain the two most current Biennial Reviews at all times



Records Retention

Records to be kept, but not limited to:

- Copies of crime reports
- Daily Crime Logs
- Records for arrests and referrals
- Timely warning and emergency notification reports
- Letters requesting LLE statistics
- Letters to and from CSAs
- Correspondence with ED
- Copies of notices of availability of the ASR and AFSR
- Institutional/departmental policies and procedures supporting Clery compliance efforts
- Clery maps/property lists



QUESTIONS?

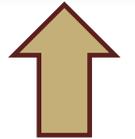
Session Evaluation

1. Select the “Click Here to Evaluate” button in “My Schedule”



We appreciate your feedback. Please take some time to evaluate the sessions.

Click Here to Evaluate



2. Or, visit <https://www.surveymonkey.com/r/Y2RCL52> to evaluate this session.



The Use of Race and Sex/Gender in Timely Warning Notices

1st Annual Mid-Year Conference

Jillian Paciello

Clergy Compliance Coordinator

University of Tennessee, Knoxville

Tabitha Smith

Associate VC for Diversity, Equity & Inclusion

University of Virginia's College at Wise

AGENDA



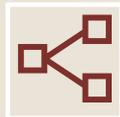
Pros & Cons



Using Race and Gender Identifiers



Suggested Language and Practices



Discussion & Q&A

What Do You See?



University of State Police Report of a Rape

On the morning of January 6, 2022, University Police received a report from a female lacrosse player that she was sexually assaulted by two brown males in Common Hall. The victim reported that she was sleeping in her residence room when she was awoken by two individuals entering her room on the 7th floor which she left unlocked. When the female student got up one male slammed her against the wall and then onto the bed where he ripped her clothes off and raped her while the second individual held her down.

The student has requested to not proceed with an investigation at this time and University Police are respecting their decision and are not investigating this incident.

“Consent” means an active agreement to participate in a sexual act. An active agreement is words and/or conduct that communicate a person’s willingness to participate in a sexual act. It is important to communicate during sexual encounters as consent can be withdrawn at any time.

Consider Your Community



Every Institution is DIFFERENT

- What works for one school may not work for another
- There is no “one size fits all”
- Recruit your campus partners
- Create messaging that supports a unified community

Using Race and Gender Identifiers



PROS

Could help identify a suspect or assist police to locate perpetrator(s)

Clarity of what was reported

Ongoing threat

CONS

Potentially singling out an already marginalized group

Creating a culture of “fear” or misidentifying/profiling

Reinforces potential harmful racial and gender stereotypes

Using Race and Gender Identifiers



- Research suggests the use of race used in media can reinforce stereotyping (Lind, 2017).
- 80 percent of Blacks and 60 percent of Whites felt racial profiling was widespread in the United States (Higgins et al, 2010).
- Community racial tension had significant contextual effects on residents' perceived racial profiling by the police which in turn affected their trust and attitudes towards legitimacy, discouraging cooperation with police investigations and other practices. Additionally, negative attitudes held by citizens can cause police officers to become cynical toward the public (McNeeley & Grothoff, 2015).
- John Hopkins University Research articulated how the combination of both race and gender-based discrimination can undermine institutional trust in police and compromise health and safety (Decker et al, 2019).
- As race relations improve in the community, so will relations with public safety officials and profiling will feel less widespread (Higgins et al, 2010).
- A report by NAACP found that a quarter of LGBTQ+ people and people living with HIV who reported in-person contact with law enforcement said they experienced harassment or misconduct—including profiling, verbal or physical assault, sexual harassment, or assault and false arrest (HRC, 2021).



CASE STUDY

Taking Race Out of Crime Alerts?

University of Nebraska at Lincoln is under fire by students who thought police should not have mentioned in a campuswide bulletin that two men accused of sexual assault were black, believing that it reinforced harmful stereotypes.

By [Jeremy Bauer-Wolf](#) // January 17, 2019



Description of Suspect(s): Suspect (1): black male, short hair, wearing white pants, white jacket, black shoes, and black stocking hat, approximately 5'8"-5'11"



After a [University of Nebraska at Lincoln](#) student was sexually assaulted in her dormitory last month, some on the campus have condemned the email bulletin that warned about her assailants because police noted that the two suspects were black.

So vehement was the criticism among students that university officials are now re-evaluating when and how racial identifiers should be included in such warnings.

The debate on whether race is relevant in campus crime alerts crops up repeatedly nationwide.

Opinions on the matter differ.

Some Nebraska students and certain advocates believe that broadcasting a suspect's race -- which may seem innocuous and quite typical for an alert -- instead breeds fear because the notices can be

“Some Nebraska students and certain advocates believe that broadcasting a suspect’s race -- which may seem innocuous and quite typical for an alert -- instead breeds fear because the notices can be vague and reinforce harmful stereotypes that black people commit crimes frequently.

Campus police officers, however, have said that federal law forces them to publicize information they have on violent crimes in a timely way, especially if suspects have not been detained and may pose a threat. They have said that descriptors, including racial ones, are important to warn the public and help police locate a perpetrator -- in the case of the sexual assault at Nebraska, the survivor didn’t know the suspects well, and so they were still a threat to campus, university officials said.”

Taking Race Out of Crime Alerts?

University of Nebraska at Lincoln is under fire by students who thought police should not have mentioned in a campuswide bulletin that two men accused of sexual assault were black, believing that it reinforced harmful stereotypes.

By [Jeremy Bauer-Wolf](#) // January 17, 2019



Description of Suspect(s): Suspect (1): black male, short hair, wearing white pants, white jacket, black shoes, and black stocking hat, approximately 5'8"-5'11"



After a [University of Nebraska at Lincoln](#) student was sexually assaulted in her dormitory last month, some on the campus have condemned the email bulletin that warned about her assailants because police noted that the two suspects were black.

So vehement was the criticism among students that university officials are now re-evaluating when and how racial identifiers should be included in such warnings.

The debate on whether race is relevant in campus crime alerts crops up repeatedly nationwide.

Opinions on the matter differ.

Some Nebraska students and certain advocates believe that broadcasting a suspect's race -- which may seem innocuous and quite typical for an alert -- instead breeds fear because the notices can be

One student, Temi Onayemi, questioned in a tweet that was retweeted more than 300 times and liked 3,100 times (as of Wednesday) why the university had publicized the assault.

Out of all the sexual assault's that happen at UNL, why is it that the first one ever blasted to every student's email deals with two black men. Before anyone tries to make any "not a race thing statements", walk down Greek row, think about it, and get back to me. I'll listen.

— temi. (@TemiOnayemi) December 4, 2018

Sue Riseling, former Executive Director of the International Association of Campus Law Enforcement Administrators:

“Riseling said she supports campus police forces sharing a suspect’s race because that informs the public and helps with an investigation. Only when a racial descriptor is all police have -- “a black man committed X, for example” -- should race be omitted, Riseling said.

“That doesn’t help anyone,” Riseling said. “And I understand the sensitivity -- we don’t want to reinforce that black men are raping women. But I want to ask the students, I understand you’re upset -- but how else would that have gone better? What could have been stated better?”

Taking Race Out of Crime Alerts?

University of Nebraska at Lincoln is under fire by students who thought police should not have mentioned in a campuswide bulletin that two men accused of sexual assault were black, believing that it reinforced harmful stereotypes.

By [Jeremy Bauer-Wolf](#) // January 17, 2019



Description of Suspect(s):

Suspect (1): black male, short hair, wearing white pants, white jacket, black shoes, and black stocking hat, approximately 5'8"-5'11"

After a [University of Nebraska at Lincoln](#) student was sexually assaulted in her dormitory last month, some on the campus have condemned the email bulletin that warned about her assailants because police noted that the two suspects were black.

So vehement was the criticism among students that university officials are now re-evaluating when and how racial identifiers should be included in such warnings.

The debate on whether race is relevant in campus crime alerts crops up repeatedly nationwide.

Opinions on the matter differ.

Some Nebraska students and certain advocates believe that broadcasting a suspect's race -- which may seem innocuous and quite typical for an alert -- instead breeds fear because the notices can be

“Researchers from Harvard University conducted an experiment in 2008 in which participants read two notices about a violent crime -- they were identical, except one listed the suspect as black, the other white. The psychologists reported that those who read the crime alert blaming a black person were more likely to associate African Americans with hostility and criminality.

Their findings showed “how a single word, indicating the racial identity of an alleged crime suspect, can shift implicit and explicit stereotypes toward entire racial groups,” the researchers wrote.”

Taking Race Out of Crime Alerts?

University of Nebraska at Lincoln is under fire by students who thought police should not have mentioned in a campuswide bulletin that two men accused of sexual assault were black, believing that it reinforced harmful stereotypes.

By [Jeremy Bauer-Wolf](#) // January 17, 2019

Description of Suspect(s): Suspect (1): black male, short hair, wearing white pants, white jacket, black shoes, and black stocking hat, approximately 5'8"-5'11"

After a [University of Nebraska at Lincoln](#) student was sexually assaulted in her dormitory last month, some on the campus have condemned the email bulletin that warned about her assailants because police noted that the two suspects were black.

So vehement was the criticism among students that university officials are now re-evaluating when and how racial identifiers should be included in such warnings.

The debate on whether race is relevant in campus crime alerts crops up repeatedly nationwide.

Opinions on the matter differ.

Some Nebraska students and certain advocates believe that broadcasting a suspect's race -- which may seem innocuous and quite typical for an alert -- instead breeds fear because the notices can be

- Notably, at the University of Minnesota in 2015, following student complaints, the institution said it would limit references to race in its crime warnings to only “when there is sufficient detail that would help identify a specific individual or group.”
- Brown University has also excluded race from its crime alerts since 2015.
- Faculty at Cornell University approved a resolution that would remove a suspect's race from crime alerts. 2021



Defining Race and Gender



- The Oxford English Dictionary currently defines **race** as:
“A group of people connected by common descent or origin” or “any of the (putative) major groupings of mankind, usually defined in terms of distinct physical features or shared ethnicity” and ethnicity as “membership of a group regarded as ultimately of common descent, or having a common national or cultural tradition.
- The Oxford English Dictionary defines **gender**:
Through the psychology and sociology lens as the state of being male or female as expressed by social or cultural distinctions and differences, rather than biological ones; the collective attributes or traits associated with a particular sex, or determined as a result of one's sex. Also: a (male or female) group characterized in this way.

Deciding to Use Race or Gender Identifiers



Remember: Language matters

- ✓ Timely warnings are a communication tool used by the institution to their community - despite what department they come from, will likely perceive the message of the timely warning reflects the attitude and opinions of the institution as a whole.
- ✓ Your messaging will paint a narrative to the reader how the institution perceives its culture and community.

Deciding to Use Race or Gender Identifiers



- Will using race or gender identification be helpful in warning others of a criminal incident to enable them to protect themselves and prevent similar crimes from happening?
- What other identifiers do you also have?
- Is the gender or race known and how was it identified in the report?
- Is the Complainant certain they identified the race/gender correctly?
- Can you use other institutional departments for review and support of language? (Title IX, Equity and Diversity, campus cultural centers)

Suggestions for More Inclusive Language for Public Disclosures



- Terminology, usage, and word choice are critically important, especially when describing people and when discussing race and ethnicity. Inclusive language supports diversity and conveys respect. Language that imparts bias toward or against persons or groups based on characteristics or demographics must be avoided.
- Language and terminology should be clear and reflect fairness, equity, and consistency in use and reporting of race and ethnicity.
- The reporting of race and ethnicity should not be considered in isolation but should be accompanied by reporting of other sociodemographic factors and social determinants.
- Many people may identify with more than 1 race and ethnicity; therefore, categories should not be considered absolute or viewed in isolation.

(Flanagin & Christiansen, 2021).

Suggestions for More Inclusive Prevention Language for Public Disclosures



- Consider public perception.
- What is the state of your current campus culture and climate?
- Is there a current unrest about race, sex/gender?
- Will your language fuel chaos or bring understanding and education? (Multiple sexual assault timely warnings, identifying a racial group without any other identifiers)
- Don't just check a box - know what you are saying.
- Plan ahead - don't wait till crime or crisis to occur to come up with language. Have conversations/committees to create templates, plans, and policies to go to and pull from in times of need.
- “An individual perceived to be...”

Suggestions for More Inclusive Prevention Language for Public Disclosures



IDENTITY

Capitalization

The names of races, ethnicities, and tribes should be capitalized, such as African American, Alaska Native, American Indian, Asian, Black, Cherokee Nation, Hispanic, Kamba, Kikuyu, Latino, and White. There may be sociopolitical instances in which context may merit exception to this guidance, for example, in an opinion piece for which capitalization could be perceived as inflammatory or inappropriate (eg, “white supremacy”).

Adjectival Usage

Racial and ethnic terms should not be used in noun form (eg, avoid Asians, Blacks, Hispanics, or Whites); the adjectival form is preferred (eg, Asian women, Black patients, Hispanic children, or White participants). The adjectival form may be used as a predicate adjective to modify the subject of a phrase (eg, “the patients self-identified as Asian, Black, Hispanic, or White”).

Most combinations of proper adjectives derived from geographic entities are not hyphenated when used as racial or ethnic descriptors. Therefore, do not hyphenate terms such as Asian American, African American, Mexican American, and similar combinations, and in compound modifiers (eg, African American patient).

Suggestions for More Inclusive Prevention Language for Public Disclosures



GENDER

Eliminate Pronouns

The use of Complainant and Respondent (or terms used in Policy) and defer from any pronouns unless needed for purposes already processed. Language continues to evolve, and it's important to stay up to date with these changes. That way, you can ensure you are promoting LGBTQ inclusive language throughout your organization at all times.

Trauma Informed and Reducing Stereotypes

Timely Warning Bulletins should use gender and culturally inclusive language and avoid victim-blaming.

Campuses need to acknowledge historical trauma and experiences, cultural stereotypes, biases, and myths associated with sexual and relationship violence as part of a trauma-informed approach of prevention, response, and advocacy services—for example, debunking the concept that men are not victims of sexual and relationship violence while building systems that are inclusive of addressing all types of victimization. (SAMHSA, 2018)

What Do You See?



Timely Warning per Report to University Police

Content warning: this warning addresses a report of sexual assault. Supportive resources are available on and off campus. ([← Hyperlink to resources](#))

In an effort to provide timely and accurate information to our students, staff, and faculty members, the following information is being provided to you so that you can make informed decisions about your safety.

At approximately 2:30 am on January 6, 2021, University Police received a report of a sexual assault occurring on campus in a residential hall. The student reported two unknown individuals entered the room while they were asleep and was raped. The complainant was unable to provide a full detailed description of the suspects at this time.

The student has requested to not proceed with an investigation at this time. The university is providing supportive measures to student.

Please note that any race, ethnicity, gender, or religious affiliation are based on the perceived judgment of the complainant and provided to aid in suspect identification. These identifiers are not used as a basis for suspicion or guilt.

A sexual assault is never the fault of the complainant.

Roundtable Discussion



Questions & Answers





References

Bauer-Wolf, J. (2019, January 17). *Taking race out of crime alerts?* Inside Higher ED. <https://www.insidehighered.com/news/2019/01/17/u-nebraska-lincoln-under-fire-including-race-campus-crime-alert>

Decker, Holliday, C. N., Hameeduddin, Z., Shah, R., Miller, J., Dantzler, J., & Goodmark, L. (2019). “You Do Not Think of Me as a Human Being”: Race and Gender Inequities Intersect to Discourage Police Reporting of Violence against Women. *Journal of Urban Health*, 96(5), 772-783. <https://doi.org/10.1007/s11524-019-00359-z>

Flanagin, Frey, T., & Christiansen, S. L. (2021). Updated Guidance on the Reporting of Race and Ethnicity in Medical and Science Journals. *JAMA : the Journal of the American Medical Association*, 326(7), 621-627. <https://doi.org/10.1001/jama.2021.13304>

Higgins, Gabbidon, S., & Vito, G. (2010). Exploring the Influence of Race Relations and Public Safety Concerns on Public Support for Racial Profiling during Traffic Stops. *International Journal of Police Science & Management*, 12(1), 12-22. <https://doi.org/10.1350/ijps.2010.12.1.155>

Lind. (2017). *Race and gender in electronic media : content, context, culture* . Routledge.

McNeeley, & Grothoff, G. (2015). A Multilevel Examination of the Relationship Between Racial Tension and Attitudes Toward the Police. *American Journal of Criminal Justice*, 41(3), 383-401. <https://doi.org/10.1007/s12103-015-9318-2>

Session Evaluation

1. Select the “Click Here to Evaluate” button in “My Schedule”



We appreciate your feedback. Please take some time to evaluate the sessions.

Click Here to Evaluate



2. Or, visit <https://www.surveymonkey.com/r/Y2RCL52> to evaluate this session.



The Title IX and Clergy Act Implications of a Gender-Based Hate Crime

1st Annual Mid-Year Conference

Bill Lafferty

Director of Federal Relations

NACCOP

Director, Regulatory Compliance and Public Safety Services

D. Stafford & Associates

Ann Todd

Consultant, Equity Compliance and

Civil Rights Investigations,

D. Stafford & Associates

Session Agenda



- Backdrop - Bias and Hate Crime incidents increasing;
- Understand Hate Crime reporting trends and how they have impacted College and University campuses;
- Hate Crimes through the lens of the Clery Act;
- Hate Crimes and Title IX;
- Articulate the Clery Act and Title IX Implications of a Gender-Based Hate Crime; and
- Understand how to better respond to, assess, investigate and classify incidents of bias.

Backdrop—K-12

2021 GAO Study
(2014-2019 data)

1 in 5 students bullied

1 in 4 bullied related to race, national origin, religion, disability, gender, or sexual orientation

Over time, bullying due to national origin and race and doubled

1 in 4 students saw hate words or symbols written in school

Increased reports of sexual assaults

Government Accountability Office. (2021). Students' Experiences with Bullying, Hate Speech, Hate Crimes, and Victimization in Schools (GAO Publication No. 22-104341).

Backdrop –
Higher ED

National Center
for Education
Statistics (NCES)

Hate Crime Incidents at Postsecondary Institutions

(Last Updated: May 2021)

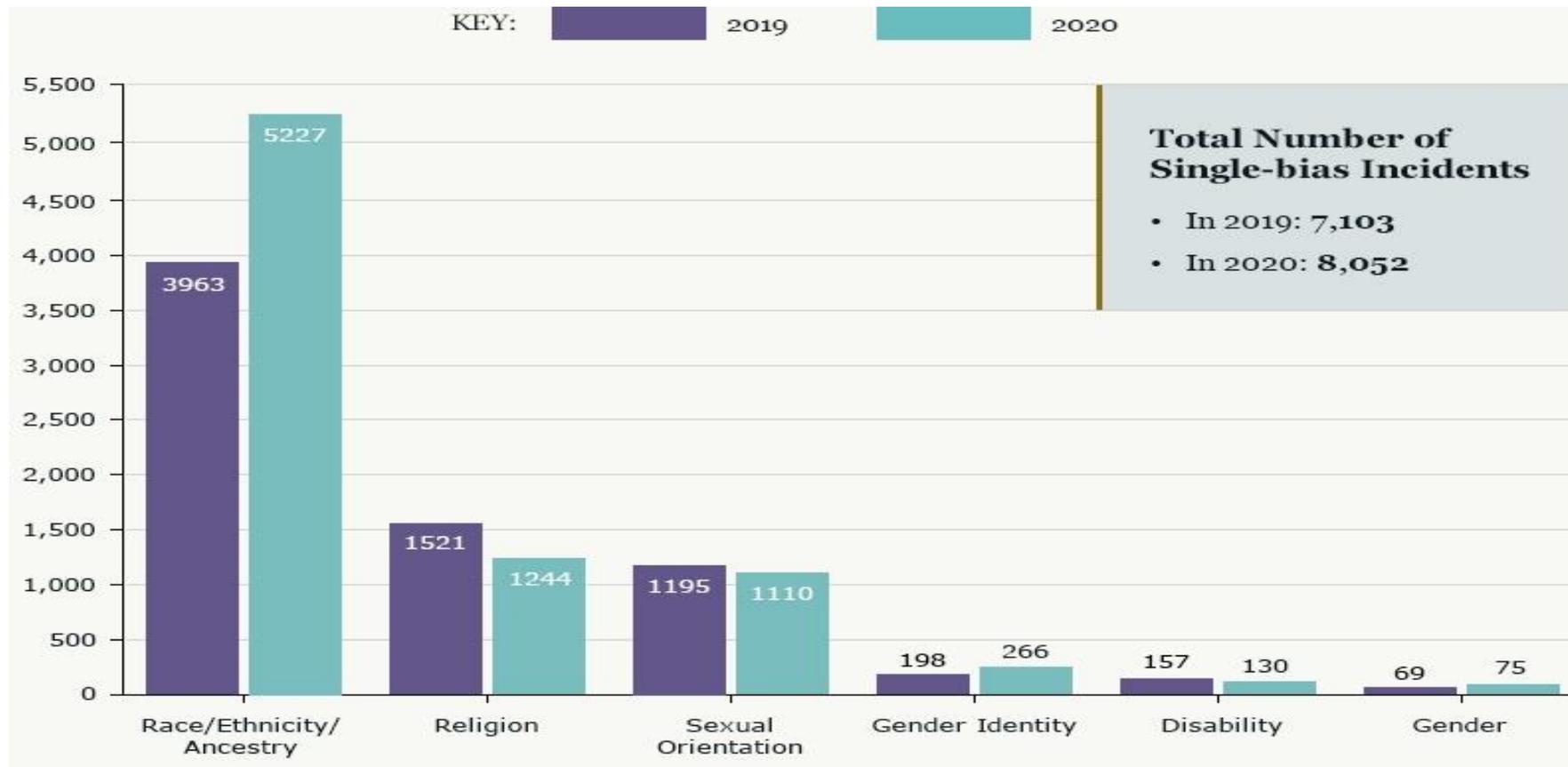
This indicator also appears under *School Crime and Safety*.

Download PDF

Approximately 80 percent of the total reported on-campus hate crimes in 2018 were motivated by race, sexual orientation, or religion. Race was the motivating bias in 43 percent of reported hate crimes (347 incidents); sexual orientation was the motivating bias in 22 percent of reported hate crimes (176 incidents); and religion was the motivating bias in 16 percent of reported hate crimes (128 incidents).

National Center for Education Statistics (NCES), “Hate Crime Incidents at Postsecondary Institutions”, May 2021,
<https://nces.ed.gov/programs/coe/indicator/a22>

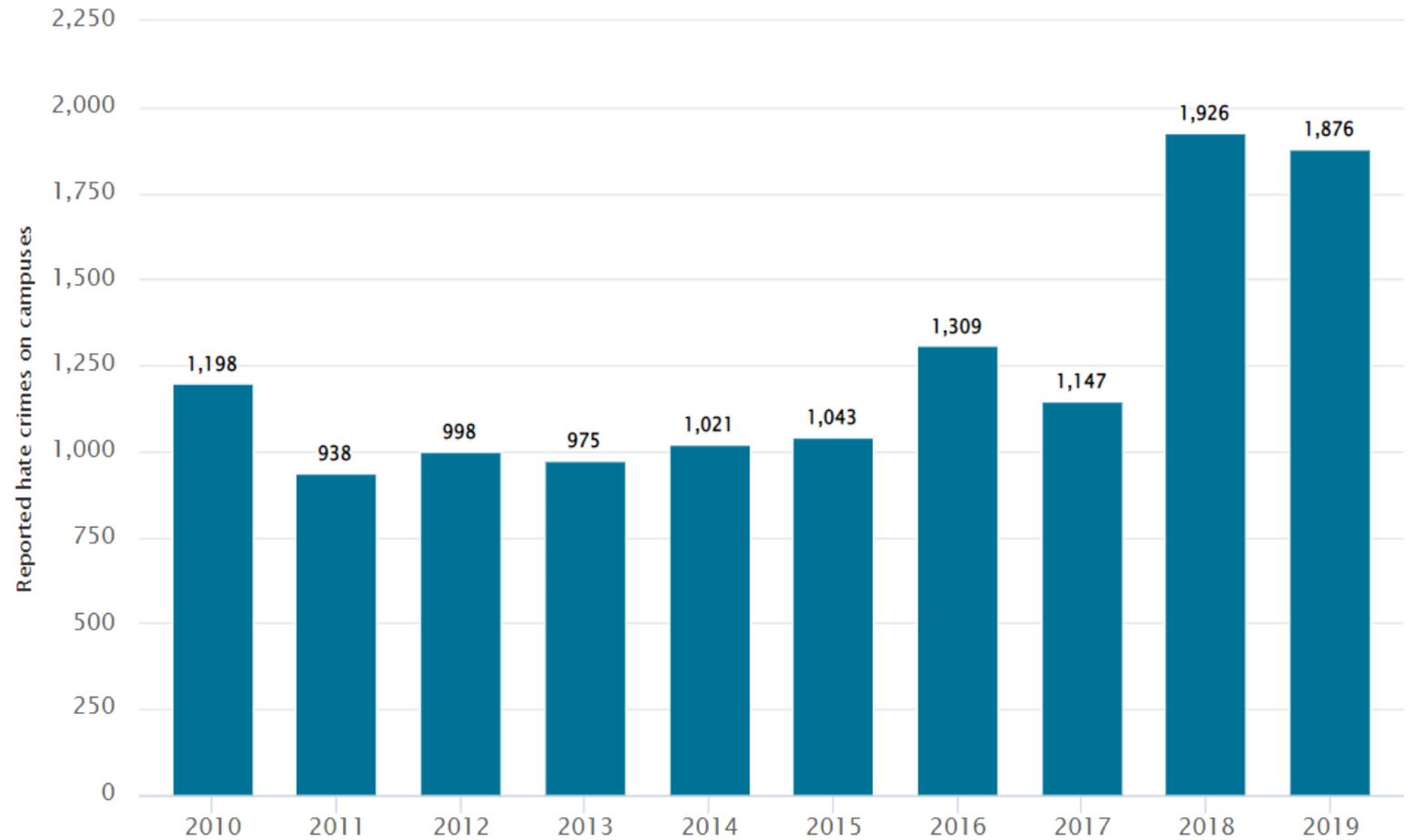
Bias Motivation Categories in 2020



US Department of Justice, <https://www.justice.gov/hatecrimes/hate-crime-statistics>

HATE CRIMES REPORTED TO THE DEPARTMENT OF EDUCATION

Reported Hate Crimes on College Campuses, 2010-19



Source: U.S. Department of Education, Office of Postsecondary Education, Campus Safety and Security (CSS) survey

HATE CRIMES AND THE CLERY ACT

General Crime Categories

Criminal Offenses (Primary Crimes)

Hate Crimes

Arrests and Referrals for
Disciplinary Action

VAWA Offenses

Hate Crimes



- A **hate crime** is “a criminal offense that manifests evidence that the victim was intentionally selected because of the perpetrator’s bias against the victim” (2016 Handbook, 3-25).
- **Bias** is “a preformed negative opinion or attitude toward a group of persons based on their race, religion, disability, sexual orientation, ethnicity, [national origin], gender, or gender identity” (FBI, 2015, p. 31).

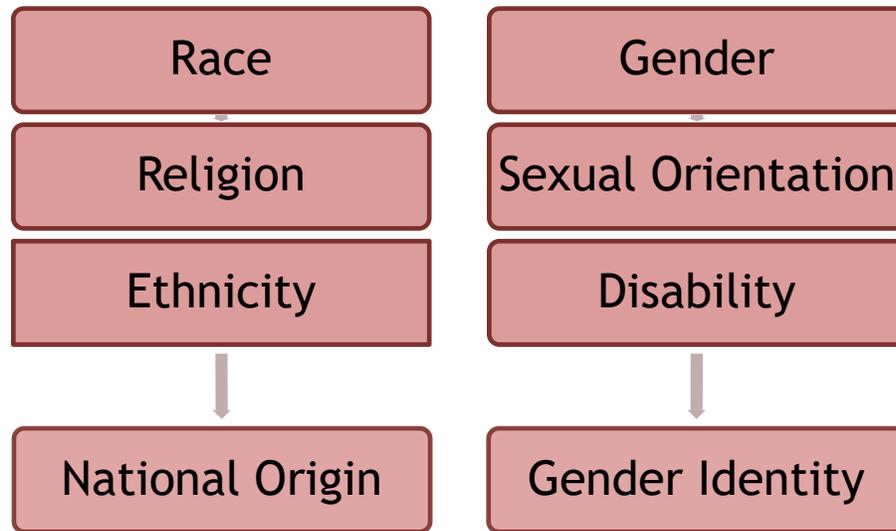
Source for this section: FBI Hate Crime Data Collection Guidelines and Training Manual (2015)

Bias vs Hate



Bias

- Preformed negative opinion toward a group of persons based on:



Hate Crimes

- Must first meet the elements of a Clery Act Primary Crime:

- Murder and Non-negligent Manslaughter
- Sexual Assault
- Robbery
- Aggravated Assault
- Burglary
- Motor Vehicle Theft
- Arson

And any incidents of Larceny-Theft, Simple Assault, Intimidation, or Destruction/ Damage/ Vandalism of Property

Caveats



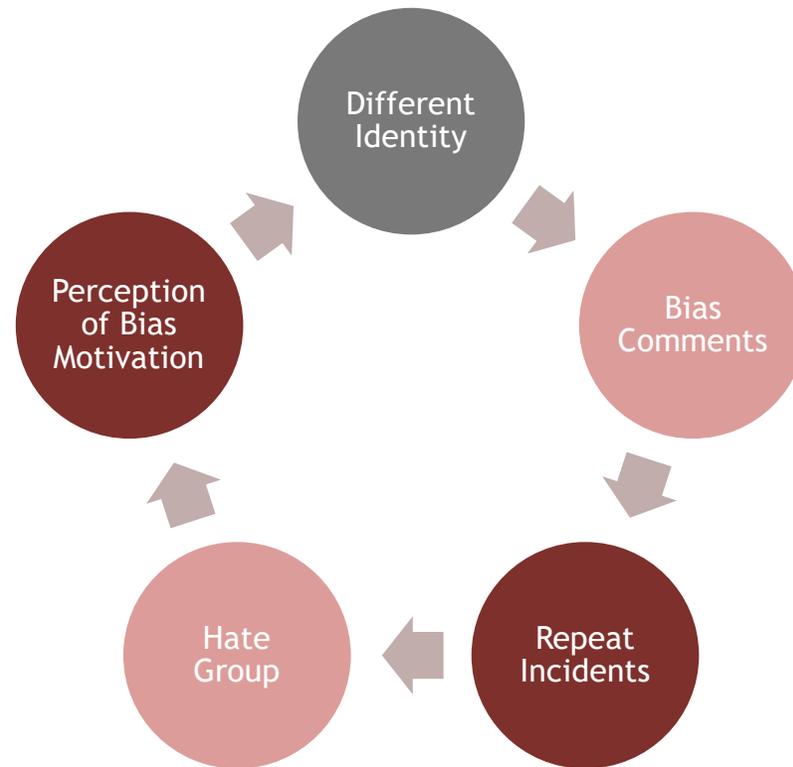
Assess
Separately

Misleading
and Feigned
Facts

Victim's
Perception

Offender's
Motivation

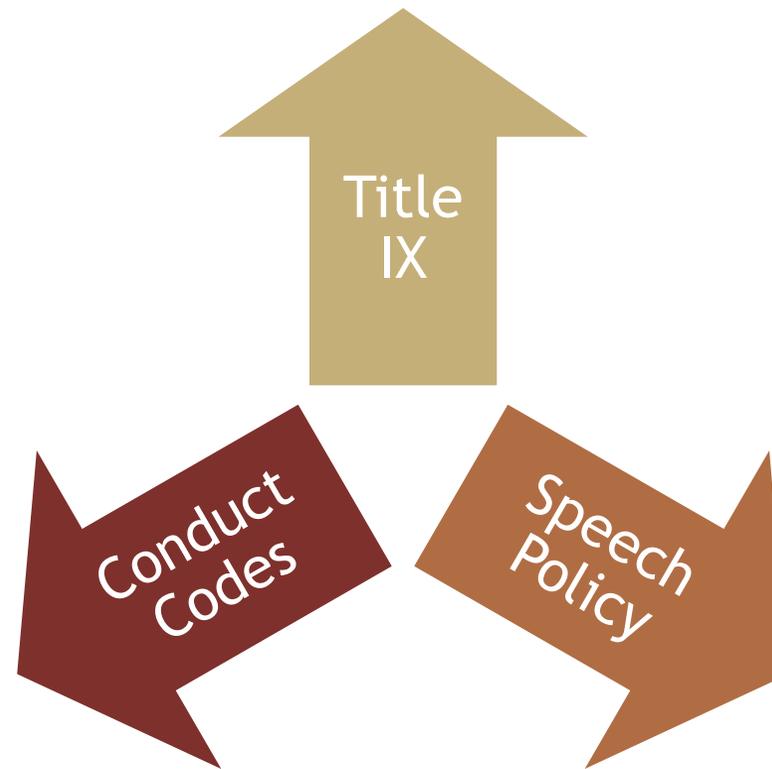
FBI Hate Crime Data Collection – Examples of Possible Bias Motivation



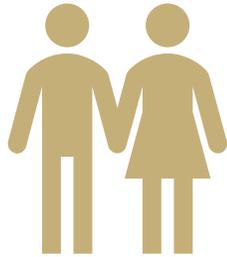


Title IX

Addressing via Campus Processes



Possible Sexual Misconduct Policies



Title IX Sexual
Harassment



Non-Title IX Sexual
Harassment



Sex-based
Discrimination

Definition under Title IX



Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- 1. An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;*
- 2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity;*
- 3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).*

Hate Crime Categories and Title IX



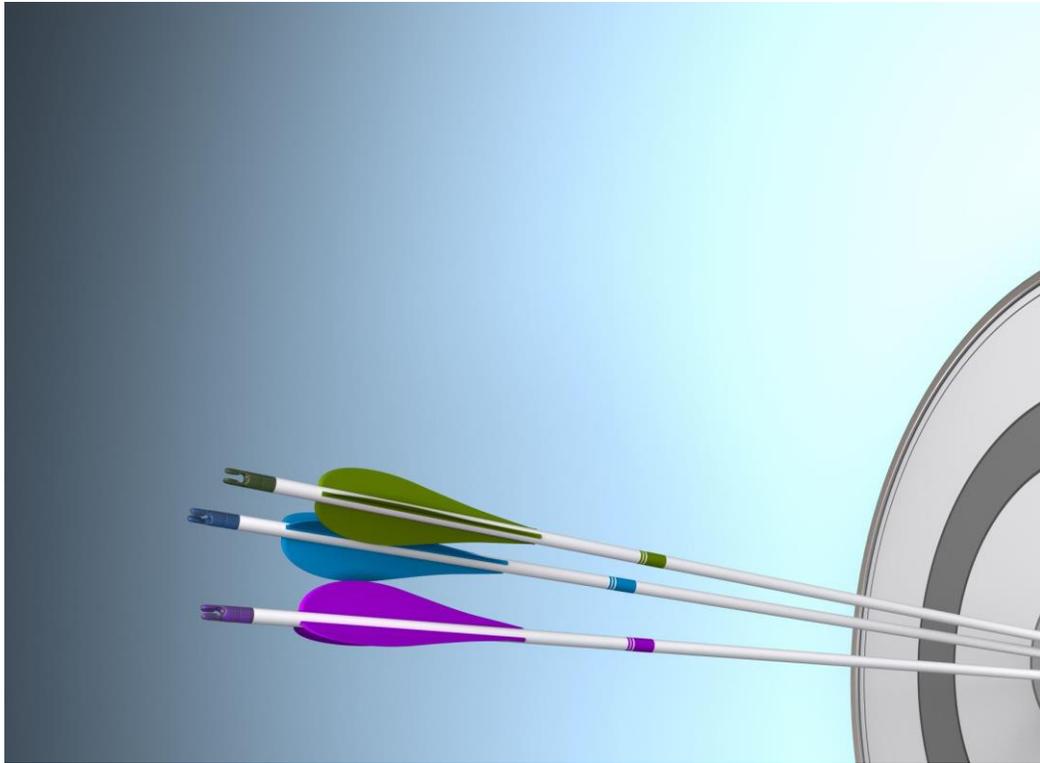
U.S. Department of Education Confirms Title IX
Protects Students from Discrimination Based on
Sexual Orientation and Gender Identity
JUNE 16, 2021

RECOGNIZING INTERSEX AWARENESS DAY AND
ANNOUNCING A NEW RESOURCE TO SUPPORT
INTERSEX STUDENTS
October 26, 2021

On the Basis of Sex includes

- Sexual Orientation
- Gender Identity

Jurisdiction under Title IX



Jurisdiction of Behavior

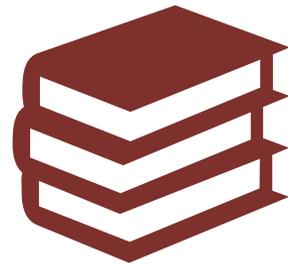


Jurisdiction of Person



Jurisdiction of
Location/Educational
Activity

Report vs. Complaint



Actual Knowledge (Report)

Outreach by Title IX Coordinator
Information about options/process
Supportive Measures



Formal Complaint

Formal Resolution Process
Informal Resolution Process



Case Study

A student reports to the institution's Title IX Coordinator being initially “bullied” by other students because of their gender identity, which they state escalated into an incident at an on-campus party where they were physically assaulted.

Clery Act and Title IX Implications



A student reports to the institution's Title IX Coordinator being initially “bullied” by other students because of their gender identity, which they state escalated into an incident at an on-campus party where they were physically assaulted.

Clery Act

- What do we know?
- What would we like to know?
- Based on the original report, what are we thinking from a Clery perspective?
- Other responsibilities/actions?

Title IX

- What do we know?
- What would we like to know?
- What are the potential policy violations?
- What responsibilities/actions are triggered?

How Does this Change your Assessment?



- Cyber-bullied via social media by students from Greek system during fall semester
- Bullying involved name calling, direct threats to their personal safety and consistent harassment directed toward their identity
- They expressed fear for their personal safety
- During a social event at XYZ fraternity house (owned by the college), they were pushed, shoved and punched resulting in the loss of two teeth

Clery Act and Title IX Implications



A student reports to the institution's Title IX Coordinator being initially “bullied” by other students because of their gender identity, which they state escalated into an incident at an on-campus party where they were physically assaulted.

Clery

- Three Part Test
 - Timeliness of Report
- First and Second Tier Review of Incident
 - What was Offender's Motivation?
- Determination Based on Objective Facts
- Ongoing Disclosure/Transparency
 - TW, EN, DCL

Title IX

- VAWA implications
- Do we have Actual Knowledge?
- Do we have Title IX “Jurisdiction?”
- Do we have a Formal Complaint?

Responding to Hate Crimes



Health & Safety (victims and witnesses)

Crime Scene considerations

Future implications to community

Common Hate Crime Issues



VICTIM:
Injury and
Ongoing fear

FRIENDS/FAMILY:
Powerless &
Frustrated

**ASSOCIATED
IDENTITIES:**
Victimized and
Vulnerable

CAMPUS:
Escalation and
Retaliation

COMMUNITY:
Unrest and
Anger

Challenges in Response



Issues with
Reports

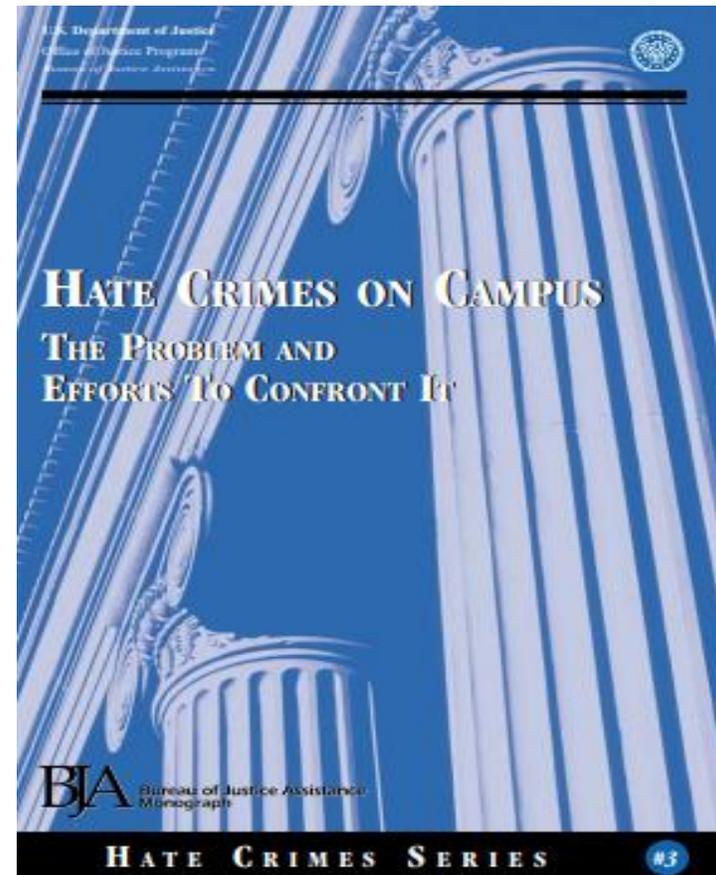
Pressure to
Responding

School Response
and
Communications

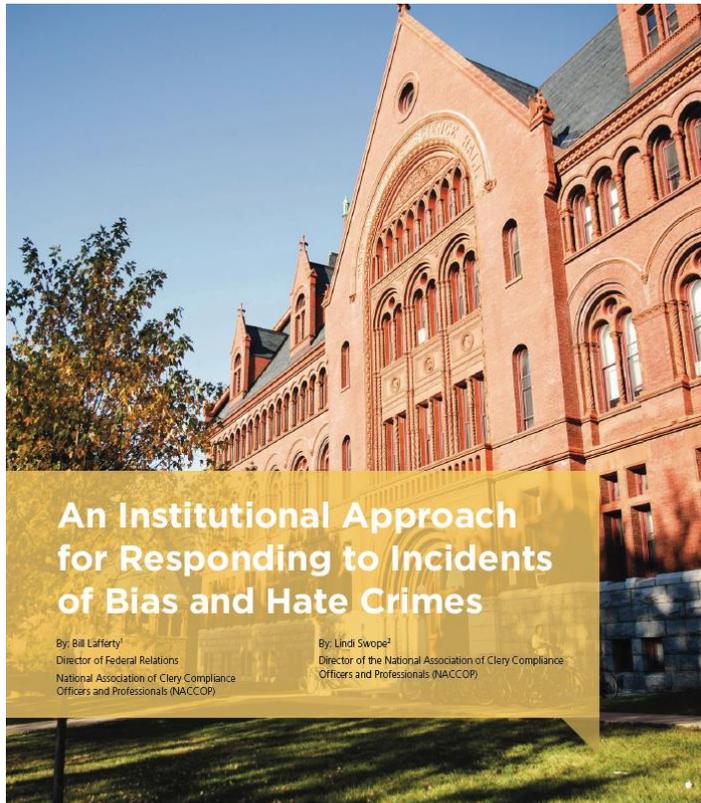
Hate Crimes on Campus - Monograph



- Hate Crimes and Bias Incidents on Campus
- Response to Campus Hate Crimes and Bias Incidents
- Promising Efforts: Responding to and Preventing Hate Crimes



NACCOP White Paper



- “An Institutional Approach for Responding to Incidents of Bias and Hate Crimes”
- To access, visit:
www.stanleysecurity.com/hatecrimescleryact

Presented by:



Session Evaluation

1. Select the “Click Here to Evaluate” button in “My Schedule”



We appreciate your feedback. Please take some time to evaluate the sessions.

Click Here to Evaluate



2. Or, visit <https://www.surveymonkey.com/r/Y2RCL52> to evaluate this session.

Scenario #1 Crime Statistics Chart

Complete the following statistics chart to depict which Clery Act crime(s) should be disclosed in which applicable location category or categories in the Annual Security Report (leave cells blank if "0" is the correct statistic). If there are any Hate Crimes or Unfounded statistics to report, disclose these statistics in narrative format below the table.

Crime Category	On Campus	On Campus Student Housing Facility	Noncampus	Public Property
Murder/Non-Negligent Manslaughter				
Manslaughter by Negligence				
Rape				
Fondling				
Incest				
Statutory Rape				
Robbery				
Aggravated Assault				
Burglary				
Motor Vehicle Theft				
Arson				
Dating Violence				
Domestic Violence				
Stalking				
Liquor Law Violation: Arrests				
Liquor Law Violation: Referrals for Disciplinary Action				
Drug Law Violation: Arrests				
Drug Law Violation: Referrals for Disciplinary Action				
Weapon Law Violation: Arrests				
Weapon Law Violation: Referrals for Disciplinary Action				

Hate Crimes:

Unfounded Crimes:

DAILY CRIME LOG

Nature (Classification)	Date Reported	Date/Time Occurred	General Location	Disposition



Minors on Campus: Title IX and Clergy Act Compliance

1st Annual Mid-Year Conference

Adrienne Meador Murray

Director, Training & Compliance Activities

NACCOP

Vice President, Equity Compliance and Civil Rights Services

DSA

Session Topics

- Overall-Minors on Campus
- Mandated Reporting
- CSA Reporting Related to Minors
- Title IX Reporting Related to Minors
- K-12 vs. Higher Education
- Scenarios
- Discussions/Q&A

2022 NACCOP 1ST ANNUAL MID-YEAR CONFERENCE



MINORS ON CAMPUS

2022 NACCOP 1ST ANNUAL MID-YEAR CONFERENCE



Who is a “Minor”?

- A person under the age of 18
 - 21 years of age in Mississippi, Pennsylvania and Puerto Rico
 - 19 in Alabama and Nebraska
- Special provisions related to:
 - Parent of a child of their own?
 - Living in an institutionally owned facility?
- Check laws of the jurisdiction in which the minor would be present to determine
- Pay special attention to institutions that have campuses in more than one state as your policies and procedures may need to differ.

Facts



“Child sexual abuse is a crime that happens across race, religion and class and has lifetime effects. It includes any interaction between a child and an adult (or another child) in which the child is used for the sexual stimulation of the perpetrator or an observer. Child sexual abuse is often predicated on silencing the victim, and as a result, reporting and disclosure is low. Even without knowing the full scope of child sexual abuse instances, most experts will agree that 500,000 children will be impacted by child sexual abuse per year”.

The Children’s Assessment Center, Houston, Texas

Facts

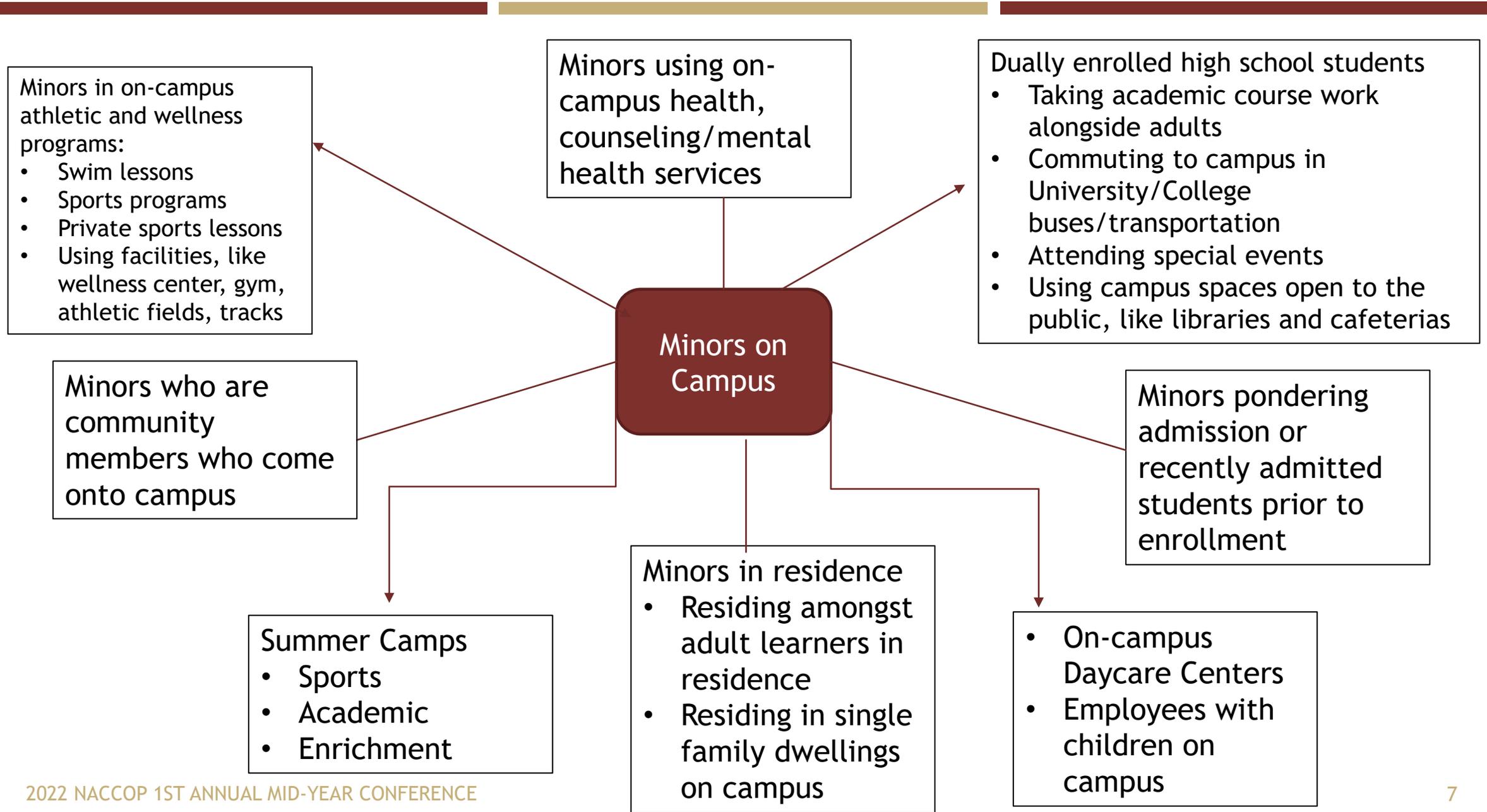


Children are at heightened risk for sexual violence. Nearly 70 percent of all reported sexual assaults occur to children ages 17 and under.

National Crime Victimization Survey

One in four girls and one in six boys will be sexually abused before they turn 18 years old.

Townsend, C., & Rheingold, A.A





Mandated Reporter



Laws requiring mandatory reporting vary by state- know your state's mandated reporting regulations. Most laws look something like:

For the protection of minors in a situation of suspected child abuse, all State System administrators, faculty, coaches, staff, student workers, contractors, and volunteers are considered mandated reporters for purposes of reporting the suspected or known abuse of persons under the age of 19 who are at an institution of higher education and whom the reporter sees or is told of such abuse...

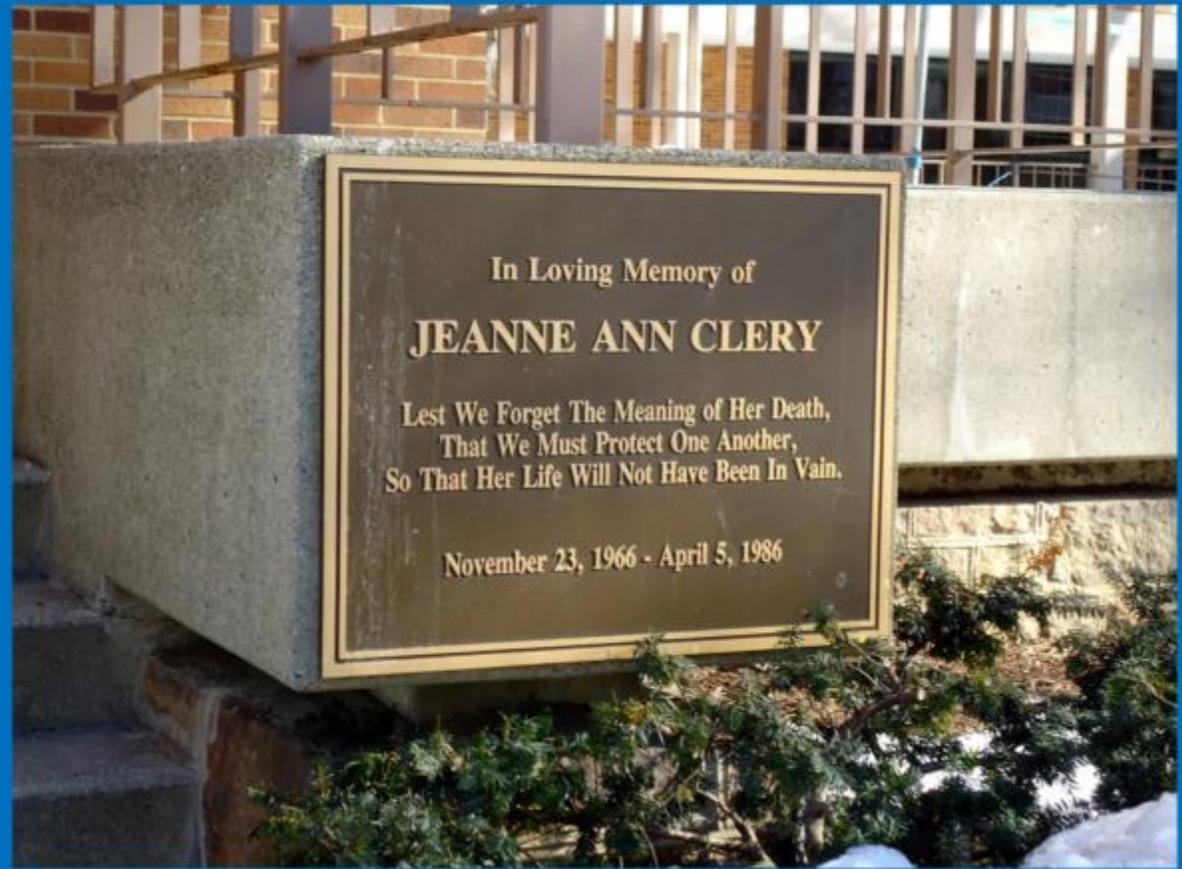
Mandated Reported



Anyone can report suspected child abuse or neglect, but if you are identified as a mandated reporter or you have received training in recognizing and reporting suspected child abuse and neglect - then you are a mandated reporter.

As a mandated reporter, you are required, by law, to immediately report your suspicions to the local department of social services or to the Child Abuse and Neglect Hotline. The purpose of mandated reporting is to identify suspected abused and neglected children as soon as possible so that they can be protected from further harm.

THE CLERY ACT



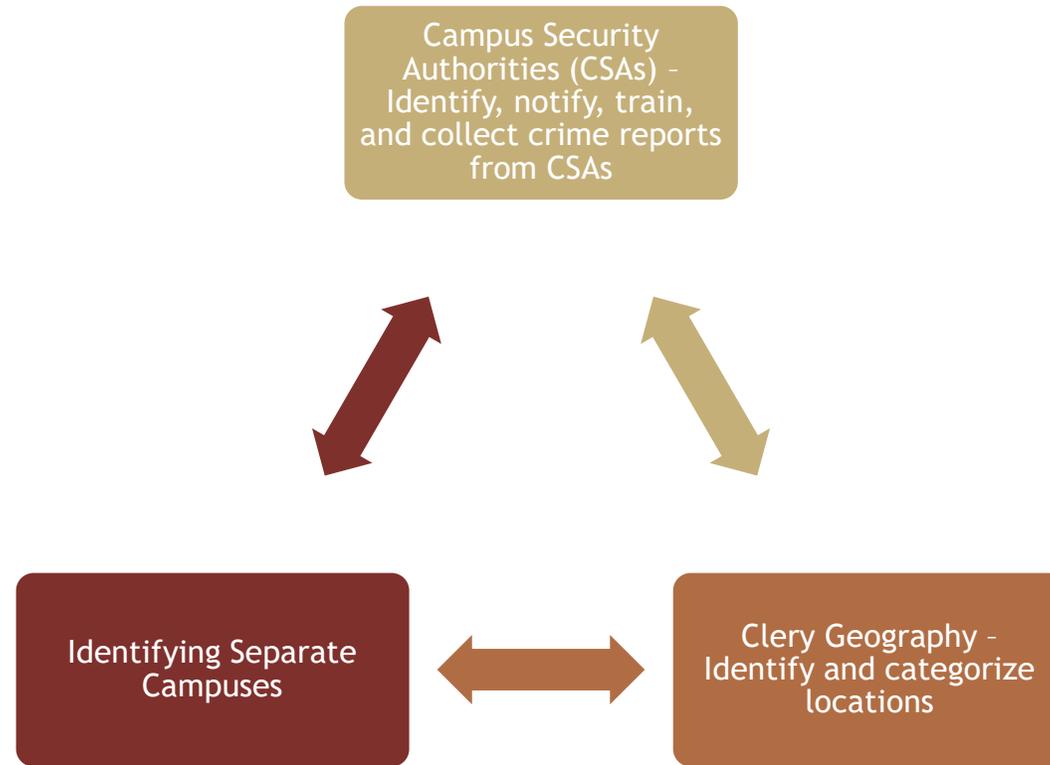
[This Photo](#) by Unknown Author is licensed under [CC BY](#)

Clery Compliance is an Institutional Responsibility

Clery Act compliance should not be relegated only to campus police/public safety.

- *...the Clery Act is a campus security and crime prevention law with a consumer information and protection focus. Effective implementation requires the participation and cooperation of officials across the enterprise. Stated simply, the Clery Act is not merely a campus policing law. At most institutions, other offices ranging from residence life to student affairs will play an essential role in the overall campus safety program and are indispensable to compliance with the Clery Act. The student and employee conduct function plays a major role on both counts. (Penn State FPRD, 2016, p. 10)*

COLLECTING, CLASSIFYING & COUNTING CRIME REPORTS PERFORMANCE OBJECTIVES



COLLECTING, CLASSIFYING & COUNTING CRIME REPORTS PERFORMANCE OBJECTIVES

Understanding what crime categories to include and how to count them.

Arrests and referrals—how to accurately report both.

Understanding the difference between referrals for violations of state laws and local ordinances versus violations of institutional policies regarding liquor, drug, and weapons violations.

Applying the Hierarchy Rule to counting crimes.

1. Was the crime reported to a Campus Security Authority or local law enforcement agency?



2. Is the crime a Clery Act crime?



3. Did the crime occur on or within the institution's reportable Clery Geography?

THREE PART
TEST FOR
REPORTING
AND
DISCLOSING
OFFENSES



CAMPUS SECURITY AUTHORITIES

CLERY ACT



Campus Security Authorities: 34 CFR 668.46(a) -

While not defined in statute, regulations provide that CSAs include: campus police or security department personnel; individuals or organizations identified in institutional security policies; and individuals with security-related responsibilities. The definition at § 668.46(a)(iv) states that a CSA also includes an official “who has significant responsibility for student and campus activities.”

A CSA'S PRIMARY
RESPONSIBILITY
IS...

*to report allegations of Clery Act
crimes they receive to the
reporting structure established by
the institution.*

Reported Crimes

-
- Under the *Clery Act*, a crime is “reported” when it is brought to the attention of a campus security authority, the institution’s police department or campus safety office, or local law enforcement personnel by a victim, witness, other third party or even the offender.
 - If a Campus Security Authority receives a report, he or she must include it as a crime report using whatever procedure has been specified by your institution.

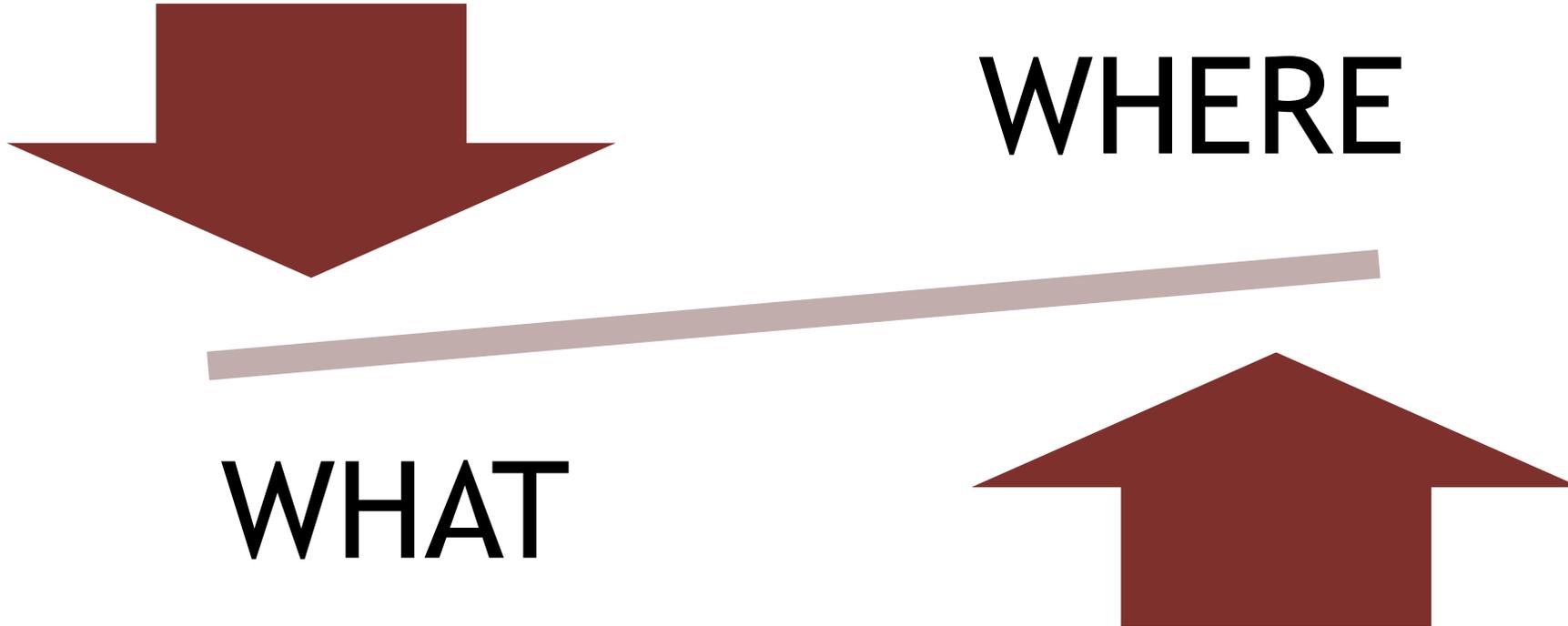
Reported Crimes

What you must include, therefore, are statistics based on reports of alleged criminal incidents.

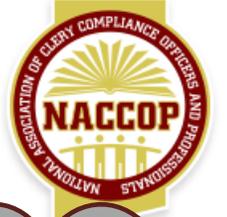
It is not necessary for

- the crime to have been investigated by the police or a campus security authority,
- nor must a finding of guilt or responsibility be made
 - to include the reported crime in your institution's crime statistics.

The Clery Act is concerned with the...



The Clery Act is **NOT** concerned with the **WHO**...



The victim of a reported crime can be anyone. Including:

- A student
- A staff member
- A faculty member
- A community member
- A third party, like a vendor or contractor
- **ANYONE**



What's important is **WHAT** is reported, to **WHOM** (a CSA), and **WHERE** the crime reportedly occurred....

CSA EXAMPLE INVOLVING MINORS ON CAMPUS

Ms. Jones, Director of Student Housing at your school, gets a call from the director of a counseling center in town. The caller wants to let the director know that four dually enrolled high school minors who were attending the College sought assistance at the center and told the center's counselors that they had been sexually assaulted on campus and were seeking emotional support. They also contacted the police as mandatory reporters in their state. These are third party reports and Ms. Jones, having no reason to believe that they were not made in good faith, should document all of the information she was given and forward the reports to the person or office responsible for collecting *Clery Act* crime reports at her institution.

CSA Example Involving Minors on Campus

- A camp counselor, who is not an employee of the institution, is making rounds on the 3rd floor of Smith Hall, the basketball camper residence hall this month. He hears someone crying in the stairwell. He approaches the person and identifies them as a camper, 13-year-old Mikayla Kirkland. Kirkland tells the camp counselor that another camper (also 13 years old) touched her breasts without her permission as he came into the bathroom after she finished showering. She is frightened and wants to go home.
- The counselor calls his boss, who calls the parents. The parents come and pick up their daughter, who does not return.
- The parents call the local police the next day and report the incident.
- The media call the President's Office and tell the President's Chief of Staff what happened and ask for a statement.

TITLE IX

2022 NACCOP 1ST ANNUAL MID-YEAR CONFERENCE

Title IX



“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 education program or activity receiving Federal financial assistance.”

Regardless of age

If someone discloses that they were discriminated against/harmed (potentially) based on sex/assaulted to a Responsible Employee, this information still needs to be reported to the Title IX Coordinator.

Title IX



In elementary and secondary school settings, a school must respond whenever any school employee has notice of sexual harassment. This includes notice to a teacher, teacher's aide, bus driver, cafeteria worker, counselor, school resource officer, maintenance staff worker, coach, athletic trainer, or any other school employee.

In postsecondary school settings, notice may be more limited in scope. The institution must respond when notice is received by the Title IX Coordinator or another official who has authority to institute corrective measures on the institution's behalf. The Department is unable to provide examples of types of individuals who have this authority because the determination of whether a person is an official who has authority to institute corrective measures on behalf of the institution depends on facts specific to that institution.

(Q&A 10-11)

§106.30 Definitions – Actual Knowledge



“Actual knowledge means notice of sexual harassment or allegations of sexual harassment to a recipient’s Title IX Coordinator or any official of the recipient who has authority to institute corrective measures on behalf of the recipient.”

§106.30 Definitions – Actual Knowledge



Title IX
Coordinator



Official
with
authority



Different
K-12
standard



Designation



Not same as
CSAs

K-12 VS HIGHER EDUCATION

2022 NACCOP 1ST ANNUAL MID-YEAR CONFERENCE

Definition of “Student”

Triggers:

- Notice of Availability of ASR/ASF SR
- Educational Programming as Required by VAWA Amendments
- Considerations in Title IX Policy and Procedures

Question: How does your institution’s Title IX policy and procedure (and Code of Conduct) apply to dually enrolled high school/college students? How does your institution share information with and receive information from the K-12 when a crime is reported on campus where a dually enrolled student is the victim?

K-12 vs Higher Education



Title IX -

New regulations requires that postsecondary institutions (but not elementary and secondary schools) hold live disciplinary hearings in sexual misconduct cases and allow cross-examination of witnesses.

The grievance procedures established by K-12 schools “may, but need not” include live hearings and cross-examination.” For the most part the regulations “require only that schools provide an equal opportunity to the parties,” leaving schools with the flexibility “to make the grievance process less formal or intimidating for students.” (1683)

K-12 vs Higher Education



Title IX -

K-12 must provide to each party—and their parents—a description of the allegation and a copy of the investigative report on the incident. They also “must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party.” (1685)

K-12 vs Higher Education



Title IX-

The other major difference is that the regulations do not specify who must be deemed a “mandatory reporter” in colleges and universities, but they require all K-12 teachers and staff to report allegations of misconduct that they have witnessed or heard about.

K-12 schools and their employees “stand in a special relationship regarding their students, captured by the legal doctrine that school districts act in loco parentis with respect to authority over, and responsibility for, their students.” (1676)

Tabitha, who identifies as a female student, is in 11th grade. She is dually enrolled at ABC College, where she is taking an AP Biology course. She is struggling in the course.

She has been assigned to a group project with two other classmates who are also dually enrolled and who attend the course with her at ABC College.

The classmates do not want Tabitha in their group and begin to isolate her due to her poor grades and “popularity.” Tabitha told them that she would be willing to help in any way because she “needed a very good grade in this course.” The classmates, Sam and Rory, said that if she sent them nudes of her that they would do all the work for her so that she would get a high grade.

Tabitha stated to the men that she would not send the pictures, but that she would “flash them” if they would meet her in a classroom.

Case Study

Tabitha then met the two men in a science lab room in the on-campus academic building and “lifted her shirt.” The classmates then asked her to “show your whole boob with nipple”. Tabitha then pulled her bra up and showed the men her breasts. The classmates then told Tabitha that if she would let them perform oral sex on her that they would complete all of the assignment and “brag” to their teacher about how she carried the group with her “smarts” and leadership.

Tabitha did not want to do this but also did not know what to do. Sam approached her and penetrated her vagina with his tongue numerous times. Rory stood in front of the door to “watch” for people.

Tabitha’s grades continued to decrease significantly after this event leading her to a “conversation” where she disclosed the event that took place to her faculty member. Her faculty member wasn’t sure what to do.

Case Study



- What is being disclosed/reported?
- Is the faculty member a CSA?
- Is the faculty member a person at your institution who has an obligation to report sexual harassment to your institution's Title IX Coordinator?
- In your state, is the faculty member a mandated reporter for child abuse? If so, who are they supposed to notify?

KNOW ALL LAWS/POLICIES

- *State or Institutional polices:*
 - Background Clearances, Mandated Reporting of Child Abuse, Maintenance of a Registry of Programs Involving Minors, Providing Safety and Security in programs, including Related to Housing of Minors Human Resources or Conduct, etc.
- *Federal Regulations:*
 - Title IX
 - The Clery Act
 - Others



If you don't have one...



■ ...construct a campus-wide protection of minor's policy!

- Ensure that the policy not only informs your community regarding what to do in the event of an incident but also creates expectations for supervision of children on campus.
- Ensure any group coming to campus where minors are present has to follow registration procedures and that HR is looped in to create background check processes.
- Clearly spell out the responsibilities of employees on campus.
- Provide training to all employees regarding the protection of minors as well as how, when and where to report.
- Ensure high risk areas for children like changing rooms, shower areas and campus housing have special procedures and rules regarding privacy, staff to child ratios and supervision of minors.



References

Child Sexual Abuse Statistics. (2015). Rape Abuse and Incest National Network (RAINN), <https://www.rainn.org/articles/child-sexual-abuse>

Department of Education. Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance. Final Rule. August 14, 2020.

Department of Educations. Questions and Answers on the Title IX Regulations on Sexual Harassment. July 2021.

National Crime Victimization Survey, Statistic calculated by staff at Crimes against Children Research Center. 2002.

Townsend, C., & Rheingold, A.A., (2013). Estimating a child sexual abuse prevalence rate for practitioners: studies. Charleston, S.C., Darkness to Light. Retrieved from www.D2L.or

Session Evaluation

1. Select the “Click Here to Evaluate” button in “My Schedule”



We appreciate your feedback. Please take some time to evaluate the sessions.

Click Here to Evaluate



2. Or, visit <https://www.surveymonkey.com/r/Y2RCL52> to evaluate this session.



Obtaining Information and Sharing Information: Campus Security Authorities under the Clery Act and Mandated Reporters under Title IX

1st Annual Mid-Year Conference

Michael DeBowes, Ph.D.

*Director of Research & Strategic Initiatives,
NACCOP and Vice President,
Regulatory Compliance and Strategic Initiatives,
D. Stafford & Associates*

Beth Devonshire, J.D.

*Consultant, Equity Compliance and Title
IX/Civil Rights Training
D. Stafford & Associates*

2020 Title IX Regulations - Responsible Employee



- *New Subpart A: Introduction*
 - 106.8(a) *Designation of ~~responsible employee~~ coordinator*. Each recipient shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this part employee must be referred to as the “Title IX Coordinator.”

Questions and Answers on the Title IX Regulations on Sexual Harassment (July 2021)



Question 14: Which school employees must be notified about allegations of sexual harassment for a school to be put on notice that it must respond?

Questions and Answers on the Title IX Regulations on Sexual Harassment (July 2021)



In elementary and secondary school settings, a school must respond whenever any school employee has notice of sexual harassment. This includes notice to a teacher, teacher's aide, bus driver, cafeteria worker, counselor, school resource officer, maintenance staff worker, coach, athletic trainer, or any other school employee.

Questions and Answers on the Title IX Regulations on Sexual Harassment (July 2021)



In postsecondary school settings, notice may be more limited in scope. The institution must respond when notice is received by the Title IX Coordinator or another official who has authority to institute corrective measures on the institution's behalf. The Department is unable to provide examples of types of individuals who have this authority because the determination of whether a person is an official who has authority to institute corrective measures on behalf of the institution depends on facts specific to that institution.

Questions and Answers on the Title IX Regulations on Sexual Harassment (July 2021)



A school “may, at its discretion, expressly designate specific employees as officials with this authority for purposes of Title IX sexual harassment and may inform students of such designations.” The preamble explains that “the Department does not limit the manner in which [a school] may receive notice of sexual harassment.” This means that the employees described above “may receive notice through an oral report of sexual harassment by a complainant or anyone else, a written report, through personal observation, through a newspaper article, through an anonymous report, or through various other means.” The 2020 amendments refer to this notice of sexual harassment as “actual knowledge.”

§106.30 Definitions – Actual Knowledge



“Actual knowledge means notice of sexual harassment or allegations of sexual harassment to a recipient’s Title IX Coordinator or any official of the recipient who has authority to institute corrective measures on behalf of the recipient.”

§106.30 Definitions – Actual Knowledge



Title IX
Coordinator



Official
with
authority



Different
K-12
standard



Designation



Not same as
CSAs

§106.44 Recipient's Response



Deliberately
Indifferent

Educational
Program or
Activity

Equitable

Contact
Complainant

On-line

What is a Campus Security Authority?



- Although every institution wants its campus community to report criminal incidents to law enforcement, we know that this doesn't always happen.
- Even at institutions with a police department on campus, a student who is the victim of a crime may report it to someone other than the campus police.
- For this reason, the Clery Act requires all institutions to collect crime reports from a variety of individuals and organizations that are considered to be “campus security authorities” under the law.

CSAs: Four Essential Tasks



Identify

Identify individuals and organizations designated by the law to be Campus Security Authorities

Notify

Notify CSAs of their status and the responsibilities conferred upon them by law

Train

Train CSAs to ensure they understand how to carry out their responsibilities when a crime is brought to their attention

Engage

Engage CSAs annually to determine whether any crimes have been brought to their attention and not yet forwarded to the reporting structure of the institution

Campus Security Authorities [34 CFR 668.46(a)]



Identifying CSAs



- Consult the 2016 [Handbook for Campus Safety and Security Reporting](#)
- Engage Human Resource professionals at your institution:
 - Position descriptions (reviewing existing PDs)
 - Tracking CSA status in Employee Information System
 - Notifications as employees are hired or leave
- Engage Departments likely to have a large number of CSAs (Student Activities/Organizations, Athletics, Housing/Residence Life, Campus Police/Public Safety, etc.)
- Annual engagement of deans, departments, directors (meetings and/or emails)
- Consider development of a Clery Liaison program (see: <https://police.illinois.edu/crime-reporting/clery-compliance/clery-liaisons/>)

10/9/20 Recission and Replacement of 2016 Handbook



- “...the Department’s new guidance makes clear that it is up to an institution to identify which individuals are CSAs and it is beyond the Department’s authority to disagree with that *reasonable determination*” [emphasis added]
- BE CAREFUL WITH THIS: “The Department will defer to an institution’s designation of CSAs as authoritative and provide any technical assistance necessary to work with institutions to help ensure proper identification and notification of CSAs consistent with the regulations.”

Importance of Training CSAs (PSU)



“While the Clery Act does not set out training as a separate requirement, identification and training of CSAs and implementing a simple and effective CSA reporting system are necessary conditions precedent for enabling CSAs to fulfill their responsibilities under the Clery Act...

While the Clery Act does not specifically require institutions to provide CSA training, it is virtually impossible to achieve compliance without it.”
(Penn State University Campus Crime Final Program Review Determination, 2016, p. 117-118)

Training CSAs



- “CSAs are to be identified, and then provided processes, policies and procedures that delineate their duties and responsibilities...
- Even though the regulation does not specifically require training of an IHE's CSAs, the institution must be able to provide proof of the processes that it uses to identify and provide instruction to its CSAs in order to ensure that they are able to perform their duties and carry out their responsibilities according to the institution's own processes, policies, and procedures” (Baylor University Final Program Review Determination, 2020, p. 32)

ED Suggested CSA Training Elements



Describe the role of a CSA

Provide reporting materials

- Clery Map, Clery Crimes, & Crime Reporting Form

Discuss the importance of documentation

- Explain that CSA crime reports should include personally identifying information if available. This is important for law enforcement purposes and to avoid double counting crimes. If a victim doesn't want the report to go any further than the CSA, the CSA should explain that he or she is required to submit the report for statistical purposes, but it can be submitted without identifying the victim.

Emphasize the need for timely report submission

- How to submit
- To whom they should submit

What Should a CSA Do?

“For Clery Act purposes, an incident of crime is considered to be reported as soon as relevant information is brought to the attention of a campus police or security entity or a campus security authority.

It is not the responsibility of a crime victim or witness to use any particular words or phrases to describe an incident.

Instead, it is the province of law enforcement or other trained security professionals or CSAs to assist the victim or witness in making an accurate and complete report”

(Penn State Campus Crime Final Program Review Determination, 2016, p. 22).

Importance of CSAs



- “...it is incumbent upon CSAs to obtain as much information as possible when it is made available to them as that report could be [the institution’s] one and only opportunity to obtain all the information concerning a crime or incident the complainant refuses to report it to [the campus police or security department]” (Baylor University Final Program Review Determination, 2020, p. 33).

Questions for Discussion



- What is a “report”?
- What should the receiver of the report do?
- What does the report receiver do if they have responsibilities under both Title IX and the Clery Act?
- What are some models to consider when training responsible officials under Title IX and Clery?
- What are some reporting models/structures to consider for incidents that need to be evaluated for Title IX and Clery Act purposes?
- If guidance/regulations continue to change, particularly with Title IX, what should we do?
- Your Questions?

Session Evaluation

1. Select the “Click Here to Evaluate” button in “My Schedule”



We appreciate your feedback. Please take some time to evaluate the sessions.

Click Here to Evaluate



2. Or, visit <https://www.surveymonkey.com/r/Y2RCL52> to evaluate this session.



SESSION #2: Clergy & Title IX: Partnering to Meet VAWA Disclosure Requirements in the Annual Security Report

1st Annual Mid-Year Conference

Adrienne Meador Murray

Director, Training & Compliance Activities, NACCOP

Vice President, Equity Compliance and Civil Rights Services, DSA



She IS a CSA! Why doesn't she report information to me (and in a timely way?) She is making me crazy!

I have to update the ASR and I need to know ALL policies and procedures we have to resolve the VAWA offenses so I can describe them in the ASR.

I promised confidentiality...I am not providing information about the reports I receive...

I gave you the Title IX policy and procedure. I don't know who else you need to speak with to determine how other departments manage their complaints.





TITLE IX CONSIDERATIONS

Definition of Sexual Harassment under Title IX



Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- 1. An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;*
- 2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity;*
- 3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).*



Title IX Specific Prohibited Conduct

Sexual Harassment

- Quid pro quo
- Hostile Environment

Sexual Assault

- Rape (including sodomy, sexual assault with an object)
- Fondling

Dating Violence

Domestic Violence

Stalking

Mandatory Dismissal



For it to be covered under Title IX, it must meet:

- New Definitions
- Jurisdiction of person
- Jurisdiction of activity



If it does NOT meet these requirements...

- Mandatory dismissal
- Can go to different resolution process

Likely outside of Title IX

Title VII

- Hostile environment harassment below Title IX bar

VAWA Requirements

- Non-Sex-based Stalking
- Domestic violence involving family member

Other Sex-based behaviors

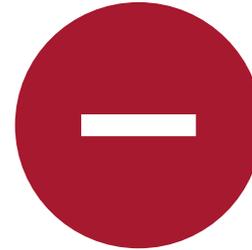
- Gender-based discrimination
- Sexual Exploitation

Limitations on Interim Action



Supportive Measures

Non-punitive



Emergency Removal

Immediate health and safety risk

Advisors



From Intake through conclusion of Investigation
**RIGHT TO ADVISOR OF CHOICE,
BUT NOT REQUIRED**



From Investigative Report through Live Hearing
**MANDATORY; CANNOT PROCEED WITHOUT-
SCHOOL MUST APPOINT; CROSS EXAMINATION**

Adjudication

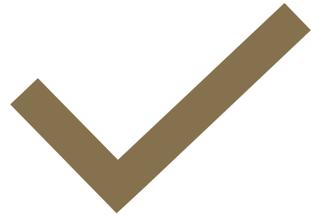


Requires a
Hearing

Cross-
examination by
advisor

Non-
Participation
limits evidence
reliance

Standard of Evidence



Options

Preponderance
Clear and Convincing



Must match other discipline

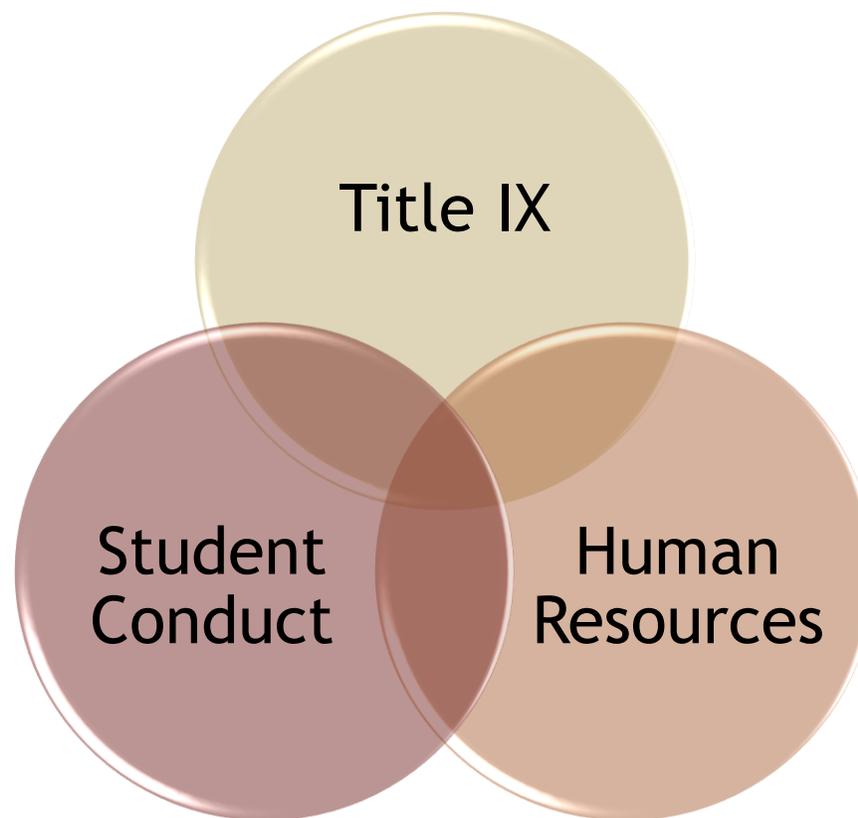
Student codes
Employee/Faculty codes
Collective Bargaining

POLICY CONSIDERATIONS

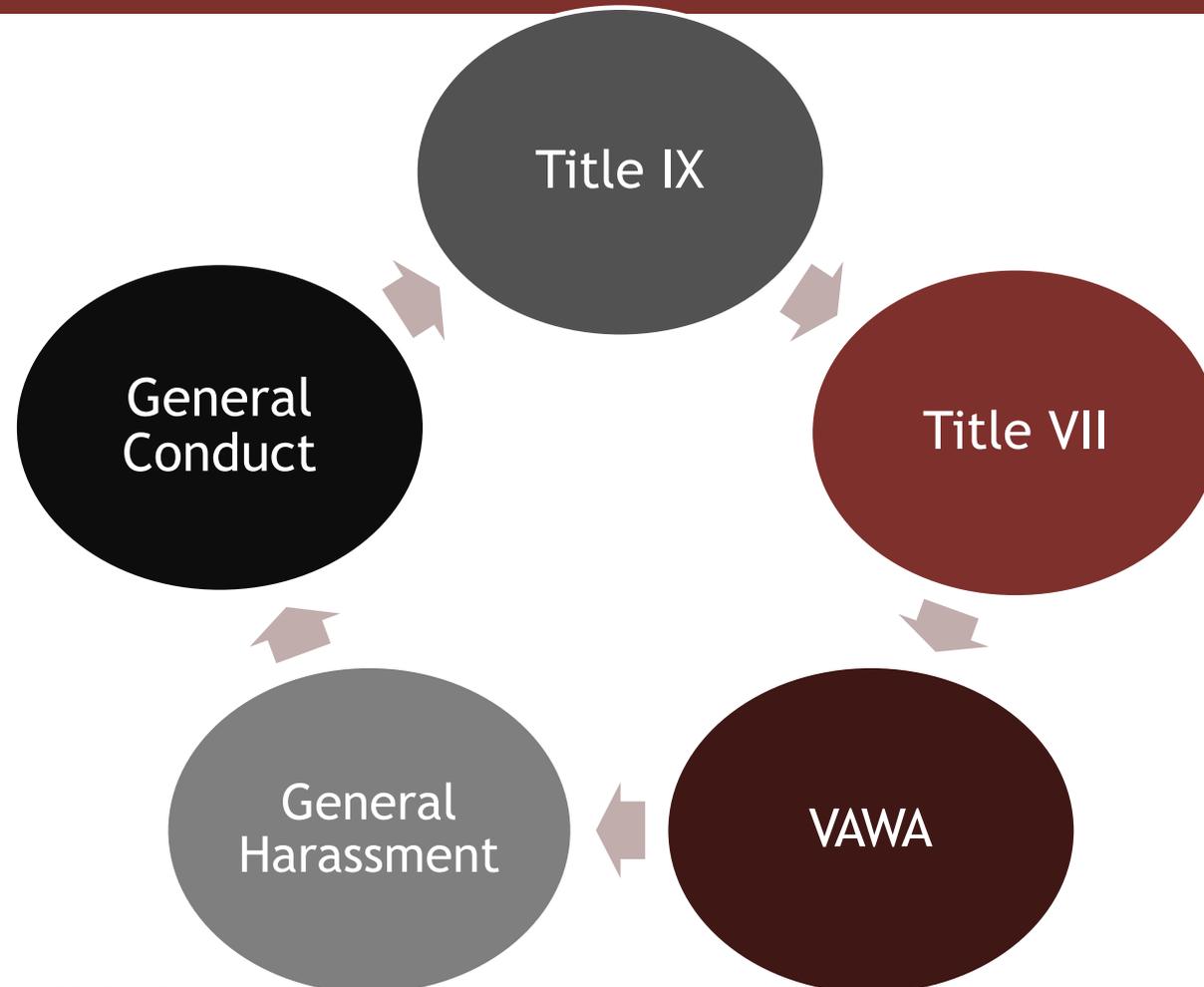
Notes

2022 NACCOP 1ST ANNUAL MID-YEAR CONFERENCE

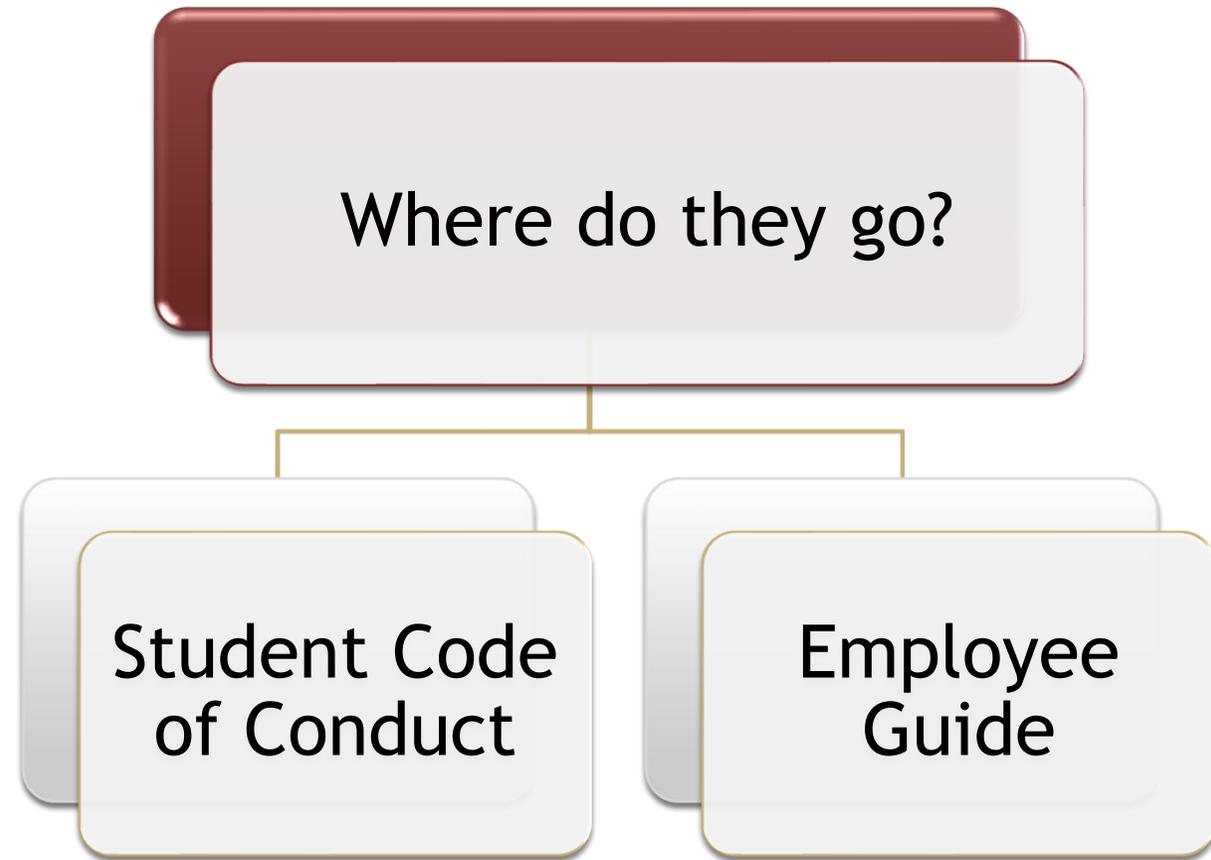
Departmental Intersections



Violation Intersections



Non-Title IX Cases



Models

Title IX Only

Other sexual misconduct is referred to different policies

Sexual Misconduct - Same Resolution Process

Covers all sexual misconduct

Resolution process follows Title IX regulations

Resolution process is same for employees and students

Sexual Misconduct - Multiple Resolution Processes

Covers all sexual misconduct

Diverts at resolution stage based on Title IX criteria and respondent's status

Related Policies



Retaliation
Policy

False
Statements
Policy

Consensual
relationships
policy

Definition of
student

Gender
discrimination



VAWA POLICY STATEMENTS IN THE ASR

2022 NACCOP 1ST ANNUAL MID-YEAR CONFERENCE

VAWA Requirements



- VAWA requires institutions to disclose certain procedures and programs in the ASR
- VAWA also requires institutions to implement those procedures and programs
 - VAWA procedures and programs must contain more proscriptive requirements than many other types of ASR policy statements
- We will begin by reviewing some general VAWA ASR Policy Statements.

Caveat

- While up until this point we have focused significantly on policies and procedures to resolve the VAWA offenses, don't forget that there are a lot of other things the institution must do and must discuss in the ASR.
- These cannot be found in policy and will require you to create processes whereby you can collect accurate information from the correct sources.



VAWA Offenses

2022 NACCOP 1ST ANNUAL MID-YEAR CONFERENCE

-
- VAWA offenses include, for purposes of policies, procedures, and programs, any incidents of:
 - Domestic Violence,
 - Dating Violence,
 - Sexual Assault, or
 - Stalking.
 - Sexual Assaults are reported in the Criminal Offenses category for *Clery Act* statistical reporting purposes only. For all other *Clery Act* purposes, Sexual Assaults are considered VAWA offenses.

VAWA Programs and Procedures

-
- In accordance with 34 CFR§668.46(b)(11), the Annual Security Report must contain:

*A statement of policy regarding the institution's **programs** to prevent dating violence, domestic violence, sexual assault, and stalking, as defined in paragraph (a) of this section, and of **procedures** that the institution will follow when one of these crimes is reported.*

VAWA ASR Policy Statements



- A statement of policy regarding the institution's programs to prevent dating violence, domestic violence, sexual assault, and stalking, as defined in paragraph (a) of this section. The statement must include—
 - A statement that the institution of higher education prohibits the crimes of domestic violence, dating violence, sexual assault, and stalking;

VAWA ASR Policy Statements



- The definition (from VAWA) of dating violence.
 - *Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.*
 - *The existence of such a relationship shall be based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.*
 - *For the purposes of this definition—*
 - *Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.*
 - *Dating violence does not include acts covered under the definition of domestic violence.*

VAWA ASR Policy Statements



- The definition (from VAWA) of domestic violence.
 - *Domestic Violence: A Felony or misdemeanor crime of violence committed—*
 - *By a current or former spouse or intimate partner of the victim;*
 - *By a person with whom the victim shares a child in common;*
 - *By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;*
 - *By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or*
 - *By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.*

VAWA ASR Policy Statements



- The definition (from VAWA) of sexual assault.
 - *Sexual Assault: An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI’s Uniform Crime Reporting (UCR) program. Per the National Incident-Based Reporting System User Manual from the FBI UCR Program, A sex offense is “any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.”*

VAWA ASR Policy Statements



- *Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.*
- *Fondling: The touching of the private parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.*
- *Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.*
- *Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.*

VAWA ASR Policy Statements



- The definition (from VAWA) of stalking.
 - *Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to—*
 - *Fear for the person’s safety or the safety of others; or*
 - *Suffer substantial emotional distress.*

VAWA ASR Policy Statements



- *For the purposes of this definition—*
 - *Course of conduct means two or more acts, including, but not limited to, acts 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.*
 - *Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.*
 - *Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.*

VAWA ASR Policy Statements



- The definition, in the applicable jurisdiction, of the following terms; *(If your local jurisdiction does not define one of these terms, you must state that there is no definition):*
 - dating violence,
 - domestic violence,
 - sexual assault, and
 - stalking.

VAWA ASR Policy Statements



This Photo by Unknown Author is licensed under [CC BY-SA-NC](https://creativecommons.org/licenses/by-sa/4.0/)

- The definition of consent, in reference to sexual activity, **in the applicable jurisdiction;** (If your local jurisdiction does not define consent, you must state that there is no definition)

VAWA ASR Policy Statements



- **The institution's definition of consent (if one exists) AND the purposes for which that definition is used.**

VAWA ASR Policy Statements

-
- A description of safe and positive options for bystander intervention; (*Bystander intervention means safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene*)

VAWA ASR Policy Statements

-
- Information on risk reduction (*Risk reduction means options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence*). (*Information about risk reduction must not be presented in a manner that encourages victim blaming*).

VAWA Programs and Procedures



- **The disclosures required by 34 CFR§668.46(b)(11) must include:**
 - A description of the institution’s educational programs and campaigns;
 - The procedures victims should follow if a VAWA offense occurs;
 - Information regarding how the institution will protect the confidentiality of victims and others;
 - A statement that the institution will provide students and employees written information regarding campus and community victim services;

VAWA Programs and Procedures



- A statement that the institution will provide students and employees written information regarding available accommodations and protective measures;
 - An explanation of the procedures for institutional disciplinary action in cases involving VAWA offenses; and
 - A statement that the institution will provide victims with a written notice of rights and options
-
- **We will review each of these requirements in more detail on the slides that follow.**
 - First, we will review some key definitions of terms related to VAWA education programs

VAWA Programs and Procedures

2022 NACCOP 1ST ANNUAL MID-YEAR CONFERENCE

-
- *Programs to prevent dating violence, domestic violence, sexual assault, and stalking* means
 - i. comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end dating violence, domestic violence, sexual assault, and stalking that—
 - A. Are
 - culturally relevant,
 - inclusive of diverse communities and identities,
 - sustainable,
 - responsive to community needs, and
 - informed by research or assessed for value, effectiveness, or outcome; and

VAWA Programs and Procedures

Consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels.

2022 NACCOP 1ST ANNUAL MID-YEAR CONFERENCE



VAWA Programs and Procedures



- ***Primary prevention programs*** means programming, initiatives, and strategies
 - informed by research or assessed for value, effectiveness, or outcome
 - that are intended to stop dating violence, domestic violence, sexual assault, and stalking before they occur
 - through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions.

VAWA Programs and Procedures

-
- *Awareness programs* means community-wide or audience-specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration.

VAWA Programs and Procedures



- *Ongoing prevention and awareness campaigns* means programming, initiatives, and strategies that are
 - sustained over time, and
 - focus on increasing understanding of topics relevant to and skills for addressing dating violence, domestic violence, sexual assault, and stalking,
 - using a range of strategies
 - with audiences throughout the institution, and
 - including information described in paragraph (j)(l)(i)(A) through (F) of this section (CFR §668.46 Institutional security policies and crime statistics).

Two Categories of Programs to Prevent VAWA Offenses



Primary Prevention & Awareness Programs

- In-person workshops
- Theater performances
- Online interactive trainings
- Webinars

Directed at incoming students & new employees

Ongoing Prevention & Awareness Campaigns

- Social media posts
- Group presentations
- Take Back The Night events
- Safe Walk/Ride Services
- Bulletin Board Notices
- Posters
- Faculty led discussions

Directed at all current students & employees

VAWA Programs and Procedures



- ii. Procedures victims should follow if a crime of dating violence, domestic violence, sexual assault, or stalking has occurred, including written information about -
 - A. The importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or is occurring or may be helpful in obtaining a protection order;
 - B. How and to whom the alleged offense should be reported;
 - This refers to any person or organization that can assist the victim, such as a rape crisis counselor. You must include specific contact information for these resources or other information about how victims can report the alleged offense.

VAWA Programs and Procedures



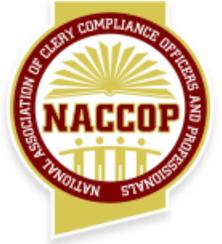
- C. Options about the involvement of law enforcement and campus authorities, including notification of the victim's option to -
- 1) Notify proper law enforcement authorities, including on-campus and local police;
 - 2) Be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and
 - 3) Decline to notify such authorities; and
- You must provide appropriate and specific contact information for the authorities, for example, your campus police or a local law enforcement agency. Your statement must explain what is involved in making a police report.

VAWA Programs and Procedures



- D. Where applicable, the rights of victims and the institution’s responsibilities for orders of protection, “no contact” orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court or by the institution.
- You must let students know what legal options are available to them and under what circumstances.
 - You must tell students how to request information about the available options and provide specific contact information. You must also provide instructions for how to file a request for each of the options.
 - You must also provide clear information about what the victim should do to enforce an order of protection.
 - If your institution does not issue orders of protection, state that the institution does not issue orders of protection.

VAWA Programs and Procedures



iii. Information about how the institution will protect the confidentiality of victims and other necessary parties, including how the institution will—

- A. Complete publicly available recordkeeping, including Clery Act reporting and disclosures, without the inclusion of personally identifying information about the victim, as defined in section 40002(a)(20) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)(20)); and
 - Disclose your procedures for ensuring that the victim’s personally identifying information will not be included in any publicly available recordkeeping, including Clery Act reporting and disclosures such as the annual security report and the daily crime log.

VAWA Programs and Procedures



- ***Personally identifiable information*** means individually identifying information for or about an individual including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, regardless of whether the information is encoded, encrypted, hashed, or otherwise protected, including:
 - A. a first and last name;
 - B. a home or other physical address;
 - C. contact information (including a postal, e-mail, or Internet protocol address, or telephone or facsimile number);
 - D. a social security number, driver license number, passport number, or student identification number; and
 - E. any other information, including date of birth, racial or ethnic background, or religious affiliation, that would serve to identify any individual.

VAWA Programs and Procedures



- B. Maintain as confidential any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures;
- Your policy should state who is responsible for determining what information about a victim should be disclosed and to whom this information will be disclosed.
 - Your policy should also state how this decision will be made.
 - Institutions may disclose only information that is necessary to provide the accommodations or protective measures in a timely manner.

VAWA Programs and Procedures



- A statement that the institution will provide written notification to students and employees about existing resources available for victims within the institution:
 - counseling,
 - health,
 - mental health,
 - victim advocacy,
 - legal assistance,
 - visa & immigration assistance,
 - student financial aid, and
 - other services available for victims

VAWA Programs and Procedures



- A statement that the institution will provide written notification to students and employees about existing resources available for victims within the larger community:
 - counseling,
 - health,
 - mental health,
 - victim advocacy,
 - legal assistance,
 - visa & immigration assistance,
 - student financial aid, and
 - other services available for victims

VAWA Programs and Procedures



- v. A statement that the institution will provide written notification to victims about options for, available assistance in, and how to request changes to
 - academic,
 - living,
 - transportation, and
 - working situations
 - or protective measures.

The institution must make such accommodations or provide such protective measures if the victim requests them and if they are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement.

VAWA Programs and Procedures



vii. A statement that, when a student or employee reports to the institution that the student or employee has been a victim of dating violence, domestic violence, sexual assault, or stalking, whether the offense occurred on or off campus, the institution will provide the student or employee a written explanation of the student's or employee's rights and options, as described in paragraphs (b)(11)(ii) through (vi) of this section.

- Procedures victims should follow
- Information regarding confidentiality of victims & others
- Campus and community victim services
- Information regarding accommodations & protective measures
- Procedures for institutional disciplinary action

VAWA Programs and Procedures



- vi. An explanation of the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking, as required by paragraph (k) of this section; and

*We will address the specific requirements of paragraph (k)
on the slides that follow*

**VAWA
PROCEDURES FOR
INSTITUTIONAL DISCIPLINARY
ACTION**

VAWA Disciplinary Procedures

- In accordance with 34 CFR§668.46(k), the Annual Security Report must contain:

A clear statement of policy that addresses the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking, as defined in paragraph (a) of this section, and that—

VAWA Disciplinary Procedures

2022 NACCOP 1ST ANNUAL MID-YEAR CONFERENCE

-
- i. Describes each type of disciplinary proceeding used by the institution;
 - the steps, anticipated timelines, and decision-making process for each type of disciplinary proceeding;
 - how to file a disciplinary complaint; and
 - how the institution determines which type of proceeding to use based on the circumstances of an allegation of dating violence, domestic violence, sexual assault, or stalking;

 - ii. Describes the standard of evidence that will be used during any institutional disciplinary proceeding arising from an allegation of dating violence, domestic violence, sexual assault, or stalking;

Examples of Types of Disciplinary Proceedings

- Non-Title IX student or employee codes of conduct
 - Does not fall within Title IX jurisdiction or sexual harassment definition.
- Title IX student or employee
- Title VII Policies for Employees
- Other Institution policies or procedures



This Photo by Unknown Author is licensed under [CC BY-SA](#)

VAWA Disciplinary Procedures



- iii. Lists all of the possible sanctions that the institution may impose following the results of any institutional disciplinary proceeding for an allegation of dating violence, domestic violence, sexual assault, or stalking; and
 - An institution may have different potential sanctions for different crimes. For example, the possible sanctions for an allegation of stalking may be very different from the possible sanctions for an allegation of sexual assault.
 - Be specific. For example, if suspension is a possible sanction, describe the type and length of the suspension, and any requirements that must be met for reinstatement.

VAWA Disciplinary Procedures



- iv. Describes the range of protective measures that the institution may offer to the victim following an allegation of dating violence, domestic violence, sexual assault, or stalking;
 - These may include, but are not limited to
 - orders of protection, including no-contact orders, restraining orders, or similar lawful orders issued by a criminal, civil or tribal court, or by the institution;
 - transportation assistance or security escorts;
 - modifications to academic requirements or class schedules; and/or
 - changes in living or working situations.

VAWA Disciplinary Procedures

- In accordance with 34 CFR§668.46(k), the Annual Security Report must contain:

A clear statement of policy that addresses the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking, as defined in paragraph (a) of this section, and that...(2) provides that the proceedings will

VAWA Disciplinary Procedures

Include a prompt, fair, and impartial process from the initial investigation to the final result;

Be conducted by officials who, at a minimum, receive annual training on the issues related to dating violence, domestic violence, sexual assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability; *(The statement must describe this training)*

Provide the accuser and the accused with the same opportunities to have others present during any institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice;

VAWA Disciplinary Procedures



- ***Proceeding*** means all activities related to a non-criminal resolution of an institutional disciplinary complaint, including, but not limited to, fact finding investigations, formal or informal meetings, and hearings.
 - Proceeding does not include communications and meetings between officials and victims concerning accommodations or protective measures to be provided to a victim.

VAWA Disciplinary Procedures

- iv. Not limit the choice of advisor or presence for either the accuser or the accused in any meeting or institutional disciplinary proceeding; however, the institution may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties; and
- *Advisor* means any individual who provides the accuser or accused support, guidance, or advice.

VAWA Disciplinary Procedures

- iv. Require simultaneous notification, in writing, to both the accuser and the accused, of—
 - A. The result of any institutional disciplinary proceeding that arises from an allegation of dating violence, domestic violence, sexual assault, or stalking;
 - B. The institution's procedures for the accused and the victim to appeal the result of the institutional disciplinary proceeding, if such procedures are available;
 - C. Any change to the result; and
 - D. When such results become final.

VAWA Disciplinary Procedures



- **Result** means any initial, interim, and final decision by any official or entity authorized to resolve disciplinary matters within the institution.
- The result must include any sanctions imposed by the institution. Notwithstanding section 444 of the General Education Provisions Act (20 U.S.C.1232g), commonly referred to as the Family Educational Rights and Privacy Act (FERPA).
- The result must also include the rationale for the result and the sanctions.

VAWA Disciplinary Procedures



- *A prompt, fair, and impartial proceeding* includes a proceeding that is—
 - A. Completed within reasonably prompt timeframes designated by an institution’s policy, including a process that allows for the extension of timeframes for good cause with written notice to the accuser and the accused of the delay and the reason for the delay;

VAWA Disciplinary Procedures

Conducted in a manner that—

- Is consistent with the institution's policies and transparent to the accuser and accused;
- Includes timely notice of meetings at which the accuser or accused, or both, may be present; and
- Provides timely and equal access to the accuser, the accused, and appropriate officials to any information that will be used during informal and formal disciplinary meetings and hearings; and

Conducted by officials who do not have a conflict of interest or bias for or against the accuser or the accused.



VAWA Disclosure Requirements

- VAWA requires institutions to disclose statements of policy in the ASR regarding:
 - *educational programs* the institution provides to students and employees to prevent VAWA offenses;
 - *procedures victims should follow* if a VAWA offense has occurred;
 - the *procedures the institution will follow* when a VAWA offense has been reported; and
 - *disciplinary procedures* that will be followed when a student or employee is accused of a VAWA offense.

2022 NACCOP 1ST ANNUAL MID-YEAR CONFERENCE



VAWA Implementation Requirements

- VAWA also requires institutions to implement:
 - *educational programs and campaigns* that meet certain requirements;
 - *institutional procedures and practices* in response to a report of a VAWA offense, including those related to:
 - confidentiality,
 - supportive services,
 - accommodations, and
 - protective measures;

2022 NACCOP 1ST ANNUAL MID-YEAR CONFERENCE



VAWA Implementation Requirements

- *A written notice of rights and options*, which must be provided to students or employees reporting a VAWA offense, and
- *disciplinary procedures* that must be followed when a student or employee is accused of a VAWA offense.

2022 NACCOP 1ST ANNUAL MID-YEAR CONFERENCE



Session Evaluation

1. Select the “Click Here to Evaluate” button in “My Schedule”



We appreciate your feedback. Please take some time to evaluate the sessions.

Click Here to Evaluate



2. Or, visit <https://www.surveymonkey.com/r/Y2RCL52> to evaluate this session.