

Campus Sexual Violence

Boards of Visitors Orientation

October 21, 2015



VAWA/Campus SaVE Act/Clery
Title IX

Clery Act

- Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (enacted in 1990 as The Student Right to Know and Campus Security Act)
- Requires annual reporting in an **Annual Security Report** of crimes that occur **on campus**, areas directly adjacent to campus, and in off-campus buildings or property owned or controlled by the institution (“**Clery geography**”)
- **Timely warnings**

Violence Against Women Act (VAWA)
Campus Sexual Violence Elimination Act
(Campus SaVE Act) (2013)

- Final regulations issued on Oct 20, 2014, effective July 1, 2015
- Amends the Clery Act
- New reporting of statistics on domestic violence, dating violence, and stalking, in addition to prior categories
- New requirements for policies and procedures

Title IX (1972)

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal assistance.”

Why does Title IX extend to sexual violence?

- Title IX initial focus on admissions, then athletics
- Title IX prohibition on gender discrimination extends to sexual harassment
- Sexual violence, including sexual assault, is a form of sexual harassment

Title IX

Implementing Guidance

- Title IX Regulations (1975)
- April 2011 Dear Colleague Letter: Sexual Violence
Sexual violence against students on campus is prohibited sexual harassment.
- April 2014 OCR Questions and Answers on Title IX and Sexual Violence
- April 2015 Dear Colleague Letter: Title IX Coordinators

Responsibilities of institutions of higher education under Title IX

- Promptly investigate incidents of which the college or university knows or reasonably should have known;
- Take appropriate and responsive disciplinary action against those who commit violations, with required due process protections; and
- End any hostile environment for involved students or employees, prevent its recurrence, and remedy its effects.

New Virginia law

Effective July 1, 2015

Reporting and review committee (Va. Code § 23-9.2:15)

- “Responsible employees” must report allegations of sexual violence to Title IX Coordinator if (i) against a student anywhere; or (ii) against anyone in **Clery geography**
- Review committee comprised of, at a minimum, the Title IX Coordinator, student affairs, and campus police must convene within 72 hours
- Review committee must make a determination if reporting to law enforcement is necessary to protect the health and safety of campus community, regardless of the wishes of the victim

New Virginia law

Effective July 1, 2015

Reporting and review committee (Va. Code § 23-9.2:15)

- If allegations are of felony sexual assault, the campus police representative on review committee must inform local prosecutor within 24 hours
- Reporting to law enforcement and prosecutor not required if law-enforcement agency responsible for investigating incident is outside the United States

New Virginia law

Effective July 1, 2015

Victim rights advisory (Va. Code § 23-9.2:15)

- Institutions must ensure victim is informed of specified rights and options, including options through law enforcement and Title IX for investigation and resolution

Coordination with advocacy center (Va. Code § 23-9.2:16)

- Required MOU with local victim advocacy organization and a procedure to inform victims of these support resources

Policy certification (Va. Code § 23-9.2:17)

- Report to SCHEV annually by October 31 on sexual violence policy review and update

New Virginia law

Effective July 1, 2015

Mutual Aid Agreement (Va. Code § 23-234)

Existing mutual aid agreement(s) between institution and local law enforcement OR Virginia State Police must include provision to report an investigation of felony sexual assault in the Clery geography of the institution within 48 hours of initiation

New Virginia law

Effective July 1, 2015

Transcript notation (Va. Code § 23-9.2:18)

- Must include a “prominent notation” on the transcript of any student who is dismissed, suspended, or withdraws while under investigation for a sexual violence offense under the institution’s student conduct code or other policy
- The format of the notation is specified in the statute
- Institution shall remove the notation if (i) student is found not responsible for offense; or (ii) student serves period of suspension and returns in “good standing”

Governor's Task Force on Combating Campus Sexual Violence

Subcommittees

- Prevention
 - Prevention strategies and approaches
- Law Enforcement
 - Coordination of criminal and Title IX investigations
- Response
 - Trauma-informed response for survivor, fair and equitable process for the accused

Task Force Timeline

- August 2014 Created by Governor McAuliffe
- October 2014 First full meeting
- October 2014 - Subcommittee and full task force
May 2015 meetings
- May 28, 2015 Final task force meeting
- May 28, 2015 Report to Governor

Task Force Recommendations

Engaging our campuses and communities in comprehensive prevention

- Develop a comprehensive prevention plan for each institution
- Include law enforcement in prevention efforts
- Create a statewide grants program to fund research on prevention efforts and practices
- Encourage the Virginia Department of Education to develop healthy relationship programs in K-12 schools

Task Force Recommendations

Minimizing barriers to reporting

- Improve reporting options using emerging technologies, infographics, and on-line portals
- Issue a Clery timely warning for every report of felony sexual assault made within a specified time of the incident
- Pilot the “You Have Options” program
- Adopt the “Start By Believing” campaign

Task Force Recommendations

- Cultivating a coordinated and trauma-informed response
- Amend Va. Code § 23-9.2:10 to require institutions to establish Sexual Assault Response Teams (SART)
 - Amend Va. Code § 9.1-102 to require the Department of Criminal Justice Services to provide training in trauma-informed investigation
 - Follow Sexual Assault Nurse Examiners (SANE) guidelines in SANE training programs
 - Formalize MOUs between institutions and advocacy centers

Task Force Recommendations

Cultivating a coordinated and trauma-informed response
(continued)

- Amend Va. Code § 23-234 to require MOUs between institutions and local law enforcement or Virginia State Police to address prevention and response broadly
- Amend Virginia law to require the collection and storage of Physical Evidence Recovery Kits (PERK)
- Study the appropriate ratio between students and campus police and counseling staff

Task Force Recommendations

Sustaining and improving campus policies and ensuring compliance

- Develop statewide guidelines to assist institutions with compliance with state and federal law
- Ensure fair and equitable proceedings for all parties, adequate support and due process for the accused, and sanctions proportionate to the severity of the offense
- Conduct a statewide climate survey

Task Force Recommendations

Institutionalizing the work of the task force and fostering ongoing collaborations

- Establish a SCHEV advisory committee to coordinate best practices and technical assistance
- Convene a board or other entity on School and Campus Safety within the Governor's office
- Create a network for students, employees, and community members engaged in prevention efforts

Questions?

