



2013 VAWA Amendments to Clery: What You Need to Know

Clery Act Updates and Common Challenges to Compliance

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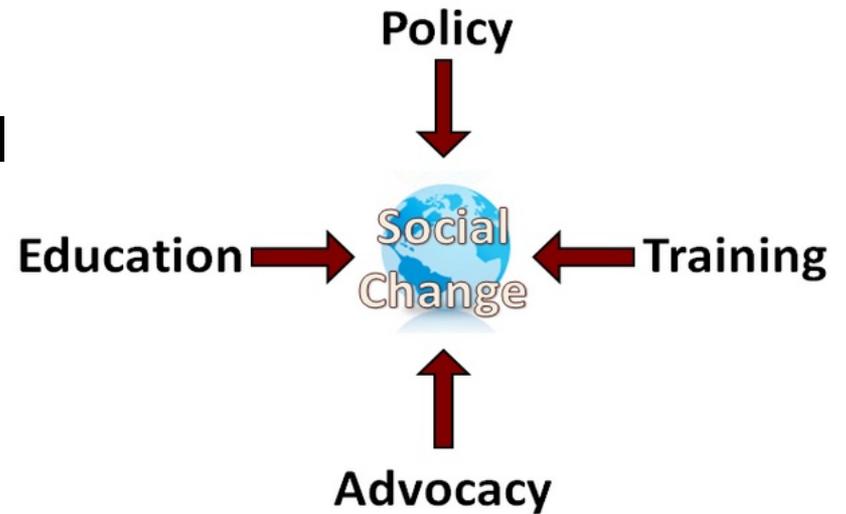
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About the Clery Center

- Advocacy
- Training & Technical Assistance
- Peer Education
- Clery Act Training
- Title IX Training





Presentation Agenda

- Clery Act Updates – VAWA, March 7, 2013
- Common Mistakes in Clery Act Implementation
- Collaboration for Compliance



Jeanne Clery Act Requirements

Annual Security Report

- Statements of policy
- Campus crime statistics
- Campus Sexual Assault Victim Bill of Rights

Ongoing Disclosures

- Emergency notification
- Timely warning
- Public crime log

U.S. Department of Education Enforces

- \$35,000 fines



Jeanne Clery Act: More on the Law

Originally passed in 1990 as part of the Student Right-to-Know and Campus Security Act.

Amended in 1992, 1998 and 2008 by the Higher Education Amendments.

Codified at 20 USC 1092f

Regulations appear at 34 CFR 668.46

The most recent Final Rules were published in **Oct. 29, 2009 *Federal Register* (pp. 55902-55969)**, Oct. 31, 2002 *Federal Register* (pp. 66519-66521), and Nov. 1, 1999 *Federal Register* (pp. 59060-59073).



Sex Offense Policy & Campus Sexual Assault Victims' Bill of Rights

- 1 • **® Educational Programs to Prevent Sex Offenses**
- 2 • **® Procedures to follow When a Sex Offense Occurs**
- 3 • **® Option to Notify Law Enforcement**
- 4 • **® Notification of On/Off Campus Services**
- 5 • **® Change of Academic and Living Situation**
- 6 • **® Campus Disciplinary Procedures**
- 7 • **® Sanctions Following a Final Determination**



Clery Act Updates

- Campus SaVE Act History, now VAWA amendments to Clery
- Preliminary Department of Education Guidance
- Elements of the Law



Campus SaVE (Sect. 304 of VAWA)



- Signed into law on March 7, 2013
- Covers students and staff of institution
- Most dramatic expansion to sexual violence reporting and policy since 1992 (amends section 485 (f) of Higher Education Act of 1965 – Clery Act)



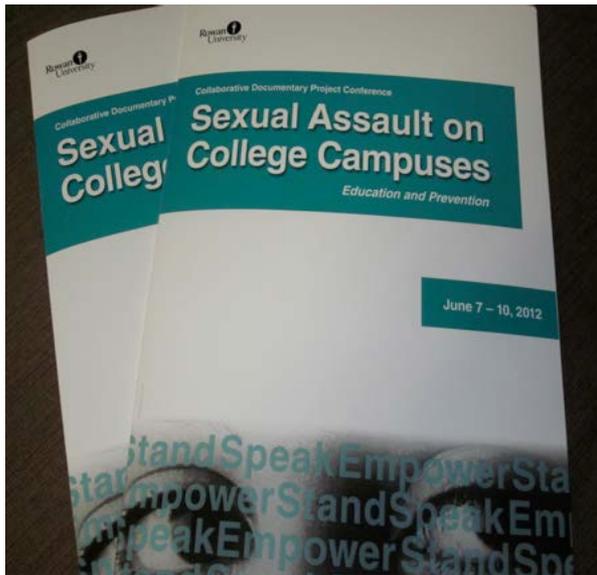
U.S. Department of Education Preliminary Guidance



- Negotiated rulemaking process for VAWA amendments to the Clery Act (Campus SaVE)
- Final regulations after the rulemaking process
- ASR – October 2014 – Make “good faith” effort to include statistics for three preceding calendar years



Campus SaVE: Violence Against Women Act (Sect. 304) – Crime Statistics



- SaVE adds the following offenses to the list of criminal offenses for which statistics must be reported:
 - Domestic Violence,
 - Dating Violence, and
 - Stalking



Definitions

- **Domestic violence (from 42 USC § 13925)**

The term “domestic violence” includes felony or misdemeanor crimes 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, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, 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.



Definitions

- **Dating violence (from 42 USC § 13925)**

The term “dating violence” means violence committed by a person—

(A) who is or has been in a social relationship of a romantic or intimate nature with the victim;

and

(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship.

(ii) The type of relationship.

(iii) The frequency of interaction between the persons involved in the relationship.



Stalking

- **Stalking (from 42 USC § 13925)**
The term “stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—
 - (A) fear for his or her safety or the safety of others; or
 - (B) suffer substantial emotional distress.



ASR Policy Statements

New Policy Statements in the Annual Security Report:

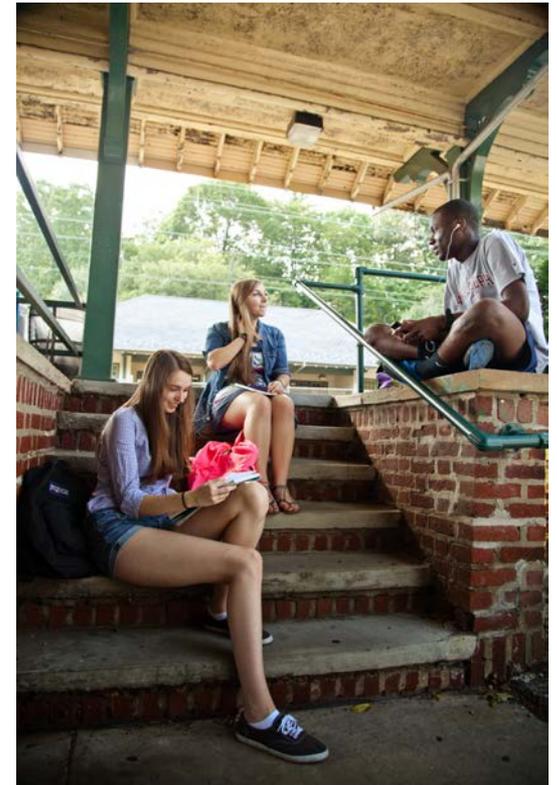
- Description of “programs to prevent domestic violence, dating violence, sexual assault, and stalking;” and
- Institutional procedures followed “once an incident of domestic violence, dating violence, sexual assault, or stalking has been reported.”



ASR Policy Statements

Requirement for primary prevention and awareness programs for all incoming students and new employees addressing:

- Institutional prohibition against domestic violence, dating violence, sexual assault, and stalking;
- Definitions under state law
- Definition of consent
- Options for bystander intervention
- Information on risk reduction





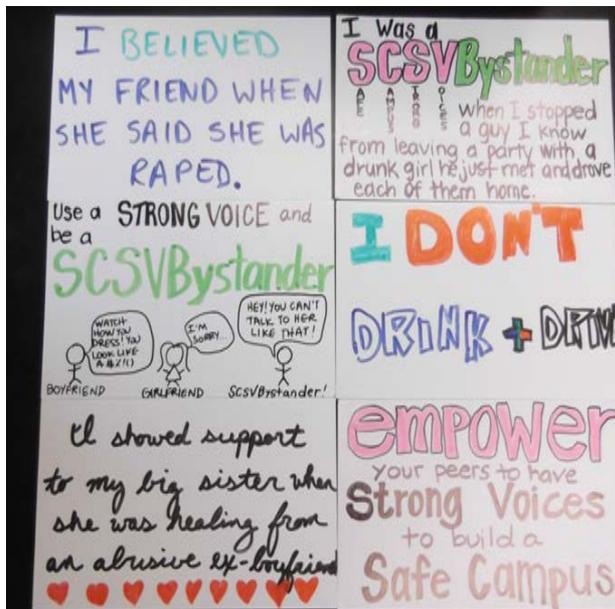
Primary Prevention

“From a primary prevention perspective, college–age men and women are at a developmental stage where lifelong behaviors are shaped.”

From *Sexual Violence Prevention* by David S. Lee, MPH, Lydia Guy, BA, and Brad Perry, MA (Shifting the Paradigm: Primary Prevention of Sexual Violence)



ASR Policy Statements



Institutions are also required to offer ongoing prevention and awareness campaigns for students and faculty which address these issues as well.

WHAT DOES PREVENTION EDUCATION LOOK LIKE ON YOUR CAMPUS?

Chats With The Chief University 100 Don't Cancel Class Greek Programs Theater/Art Production Campus Posters Resident Assistant Training Rape Aggression Defense Program Campus Men of Strength Club Safe Spring Break No Zebras Campus Security Authority Training Department of Justice Office On Violence Against Women Tool-kit Rape Crisis Center Programs Identity Theft Shredding Events Toilet Talk Night Shuttle/Escort Vehicle Assistance Feedback Form Patrol Alerts Green Dot Program New Student Orientation Radio/TV PSAs Parent Programs Peer Education Walk a Mile in Her Shoes Guest Speakers National Campus Safety Awareness Month



ASR Policy Statements

Annual Security Report must also describe the rights of victims and institution's responsibilities regarding:

- orders of protection,
- no contact orders,
- restraining orders, or
- similar lawful orders issued by a criminal, civil, or tribal court.



Disciplinary Proceedings

SaVE also mandates specific elements of the student conduct process (as well as the employee conduct process) in cases involving alleged domestic violence, dating violence, sexual assault, or stalking including:

- prompt and equitable investigation and resolution;
- conducted by officials who receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability
- accuser and accused entitled to same opportunities to have others present



Disciplinary Proceedings

- Both the accuser and the accused shall be simultaneously informed, in writing, of
 - The outcome of any disciplinary proceeding that “arises from an allegation of domestic violence, dating violence, sexual assault, or stalking.”
 - The institution’s procedures for “the accused and the victim to appeal the results of the institutional disciplinary proceeding.”
 - Any change in the results before they become final.
 - When the results become final.



Written Information

SaVE requires that any student or employee who reports to the institution that the student or employee has been a victim of domestic violence, dating violence, sexual assault, or stalking must be provided a written explanation of the rights and options for victims.



Clery Act & Title IX Intersection

- Disclose policies and procedures
- Prompt corrective action – change of academic or living situation
- Accused/accuser notified of outcome at the same time and same manner
 - Title IX specifies both parties be notified in writing
- Disclose sanctions imposed
 - Title IX requires interim protective measures while investigation is taking place



Clery Act & Title IX Foster Collaboration

Institutions should foster and promote collaborative approach with police/security departments and Title IX coordinator

Police/security department should be able to identify Title IX coordinator

Together police/security department set the stage for comprehensive response



Common Mistakes in Clery Act Implementation

- Failure to Report Crimes Based on Proper Geography
- Lack of or Inadequate Policy Statements
- Failure to Publish and Distribute an ASR
- Inadequate Methods in Collecting Crime Statistics



Reporting Geography

- Problem areas:
 - Non-campus: often fail to report crimes in these additional locations
 - Public property: over or under reporting
 - Separate campuses: often fail to report for separate or branch campuses



Lack of or Inadequate Policy Statements

- Problem areas:
 - Timely warnings v. Emergency Notification
 - Reporting Crimes
 - Sexual Assault Policies
 - Crime Prevention and Awareness Programs
 - Relationship with Local Law Enforcement



Failure to Publish and Distribute the ASR as a Comprehensive Document

- ASR should be a comprehensive document
- Some institutions neglect to publish the statistics and policies in one piece
- Annual Fire Safety may be included or separate but should say how to access it
- October 1 Deadline
- If on-line, notice by October 1



Inadequate Systems for Collecting Statistics

- Reasonable, good faith effort to collect from local police
 - Proof of request, in all locations, not held responsible if they do not supply
- Identifying and training Campus Security Authorities (CSAs)
- Incident reports; writers need training on Clery Act



CSA Training at the University of Pennsylvania

WHO IS A...

CAMPUS SECURITY AUTHORITY?

Officials with significant responsibility for student and campus activities

A campus police or a campus security department



Individuals or offices designated to receive crime reports

Individuals who have responsibility for campus security

Examples of CSAs

- Professional staff in a dean of students office (including leaders in student affairs/housing)
- Staff in student center building
- Student Activities Staff
- Faculty or staff advisors to student organizations
- Resident Assistants
- Coaches



Institutional Responsibility



- Leadership and Coordination from the Top
- Collaboration:
 - Campus Police or Security
 - Student Affairs
 - Facilities/Housing Management
 - Human Resources
 - Academic Departments



Compliance Challenges

- Inconsistent/Non-existent Underlying Policies/Practices
- Failure to Survey All Campus Security Authorities/Local Police
- Lack of Training
- Failure to Coordinate
- Poor Record Keeping (7 Years)
- Lack of Institutional Support



Clery: Past, Present, and Future

- *“I think (the Clery Act’s) most positive legacy has been that it’s advanced the debate from whether to address campus violence to how to address it.”*
- **“Colleges and universities now are more focused on solving problems than on admitting one exists.”**



*-US Attorney Zane Memeger,
October 19, 2011*



Where do we go from here?

- Evaluate compliance
- Build a team
- Coordinate efforts
- Learn from colleagues
- Put steps in place before rulemaking



Thank You

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