

TRANSFORMING OHIO CAMPUSES

A Toolkit for Implementing the Changing Campus Culture Initiative

OHIO ALLIANCE TO
END SEXUAL
VIOLENCE

Ohio | Department of
Higher Education





“Sexual assault is an affront to our basic decency and humanity...college should be a place where our young people feel secure and confident, so they can go as far as their talents will take them...

Perhaps most important, we need to keep saying to anyone out there who has ever been assaulted: you are not alone. We have your back. I’ve got your back.”

Remarks of President Barack Obama
Weekly Address The White House
January 25, 2014

Foreword & Acknowledgments

A single act of sexual violence on an Ohio college campus is one too many. Through its Changing Campus Culture initiative, The Ohio Department of Higher Education's (ODHE) is working with partners across the state to strengthen the ability of all two- and four-year institutions to better respond to an ultimately prevent sexual assault on Ohio campuses.

A safer campus environment for all of Ohio's students is a priority of Governor John R. Kasich who charged ODHE with developing model best practices for preventing and responding to sexual violence on Ohio campuses. While Changing Campus Culture incorporates both prevention and response components, this toolkit is dedicated solely to development and implementation of response protocols. It was developed as a companion piece to two prior reports: ODHE's Changing Campus Culture: Preventing and Responding to Sexual Violence (October 2015) and A Safer Campus: A Guidebook on Prevention and Response to Sexual & Intimate Partner Violence & Stalking for Ohio Campuses (March 2016).

Committed individuals and well-designed campus protocols can make a difference in people's lives. This toolkit is a starting point for campuses to help foster positive outcomes for survivors of sexual violence. This is not an easy undertaking; it takes commitments, capital, competency and collaboration. It requires campuses to establish a wide range of comprehensive responses and services that satisfy federal and state regulations yet reflect individual campus communities.

The toolkit is designed for use by Title IX coordinators, campus leadership and other key responders to sexual violence. It can assist these stakeholders in reviewing their current protocols against the knowledge gained from emerging best practices.

Sincere gratitude goes to the campus stakeholders who work tirelessly to prevent and respond to sexual violence on their campuses and remain open to continually examining and improving their protocols. This toolkit also is dedicated to survivors of sexual violence who, on a daily basis, manage complex decisions to assist in their safety and continue to reach for their educational aspirations.

This important resource would not be possible without the Ohio Alliance to End Sexual Violence (OAESV) and the team of experts assembled for this project:

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I especially want to thank Kerry Soller from ODHE for her dedication and hard work in helping to implement this initiative.

Finally, ODHE is appreciative to Ohio's higher learning community for its willingness to join the agency on this difficult but rewarding journey toward developing and implementing protocols that balance compliance and humanity and, in the end, create safer communities on Ohio's campuses.

John Carey

Chancellor, Ohio Department of Higher Education

UNDERSTANDING THE LANDSCAPE

Background

Gender-based violence is a public health and human rights epidemic affecting campuses across the United States. The statistics are staggering with one in 5 women and one in 16 men reporting that they were sexually assaulted while pursuing a post-secondary education.¹ A significant proportion of these survivors indicate ongoing trauma that impacted their overall well-being and their ability to reach their educational goals.²

Increasing media coverage scrutinizing campus responses to gender-based violence demonstrates the struggle campuses face when (1) identifying federal and state mandates; (2) balancing legal obligations with culturally-relevant, confidential, and trauma-informed responses for complainants; (3) ensuring fair and equitable processes for respondents; and (4) achieving the above in a manner appropriate for the campus' unique demographics, location, and resources.

With a goal of ending this atrocity and assisting Ohio campuses, the Ohio Department of Higher Education (ODHE) created the Changing Campus Culture Initiative.³ Through the Initiative's five key strategies, Ohio campuses can begin to reduce the incidence of gender-based violence, encourage survivors to report its occurrence, and ensure survivors receive the needed safety and supports when they do. The strategies, listed in the sidebar, are discussed more thoroughly in ODHE's 2015 report, *Changing Campus Culture: Preventing and Responding to Sexual Violence*.⁴

ODHE is committed to assisting Ohio campuses in implementing the Changing Campus Culture Initiative. This Toolkit is designed to serve as a comprehensive source of national and localized guidance for the development and implementation of campus protocols surrounding gender-based violence against students.⁵ The goal is to balance compliance and humanity throughout one coordinated and cohesive institutional response.

Legal Backdrop⁶

Campuses must address gender-based violence because it is a civil rights, human rights, and human resources⁷ issue. The federal government has taken affirmative actions to ensure campuses are taking measures to construct violence-free communities. These actions are in the form of passing federal legislation commonly known as Title IX,⁸ the Clery Act,⁹ and amendments to Clery Act through Campus SaVE Act provisions.¹⁰ These individual laws regulate campus responses to varying forms of gender-based violence¹¹ and thus form an integrated system of mandates applicable to campuses that receive federal assistance.

KEY STRATEGIES: Changing Campus Culture Initiative

- Use data to guide action.
- Empower staff, faculty, campus law enforcement and students to prevent and respond to sexual violence through evidence-based training.
- Communicate a culture of shared respect and responsibility.
- Develop a comprehensive response policy.
- Adopt a survivor-centered response.

1 See, Berzofsky, Marcus, et al., Campus Climate Survey Validation Study Final Technical Report, BJS (January 20, 2016) and National Sexual Violence Resource Center, Statistics About Sexual Violence, Info & Stats for Journalists (2015) (also important to note that it is estimated that incidents of gender-based violence are highly underreported).

2 Id.

3 Ohio Department of Higher Education, Changing Campus Culture Initiative: Background at <https://www.ohiohighered.org/ccc> (for information about the initiative, including the report, resources, and FAQs).

4 A link to this report and many others can be found in the Online Resource section of the Toolkit.

5 It is understood that anyone in the campus community can be a survivor of gender-based violence. This Toolkit is focused on a when a student is the survivor, regardless of the location of the incident or who perpetrated the violence, as campuses are being asked increasingly to guarantee responses and ensure due process in these situations.

6 For a more comprehensive understanding of the legal mandates, refer to Unpacking Essential C's Confidentiality: A Campus Guide and the sources included in the Online Resource Guide. The Online Resource Guide contains links to the actual legislation, guidance on interoperating the legislation, and overviews compiled in reports such as the second edition of *A Safer Campus: A Guidebook on Prevention and Response to Sexual & Intimate Partner Violence & Stalking for Ohio Campuses*.

7 Effective and comprehensive gender-based violence response systems are directly related to student persistence, success, and retention.

8 Title IX of the Education Amendments of 1972 20 U.S.C. § 1681 et seq.

9 The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. § 1092(f) (1990).

10 The Campus Sexual Violence Elimination (SaVE) Act is codified through Section 304 of the reauthorized Violence Against Women Act (March 19, 2013).

11 Title IX addresses gender-based discrimination and harassment that create hostile environments. Title IX prohibits sex discrimination (including sexual harassment and sexual violence) in educational institutions and requires campuses to take immediate action to eliminate the harassment, prevent its recurrence, and remedy its effects. It requires many things of a campus including: a non-discrimination statement; appoint a Title IX Coordinator; adopt and publish grievance procedures that are prompt and equitable and allow for adequate, reliable, and impartial investigation of complaints; use and enforce appropriate remedies; provide education and prevention programs; provide general training for all campus community members about the campus' policies and procedures; and specific training for responders. The Clery Act covers incidents of sexual violence, domestic violence, dating violence, stalking, and hate crimes to protect every student from a range of gender-based violence. Clery's overall goal is to provide students, their families, and campus employees with accurate, complete, and timely information about campus safety to better inform future decisions. The Clery Act requires among other things that campuses: complete and publish annual security reports and maintain crime logs about certain crimes occurring on or near their campus, issue timely warnings, guarantee complainants enhance rights, set standards for disciplinary proceedings and develop prevention and response trainings.

Campuses must review and understand how these laws operate both in tandem and in isolation. Guidance for campuses has been provided by the U.S. Department of Education’s Office for Civil Rights through *Dear Colleague Letters*, resource guides and voluntary resolutions. Additionally, resources developed by the White House Task Force to Protect Students from Sexual Assault, numerous national and local technical assistance providers, and membership organizations help campuses sort through the labyrinth.¹² However, to further complicate the legal landscape, there are federal and state statutes that pertain to privacy and confidentiality, state criminal statutes,¹³ state reporting statutes, and a host of other legal authority pertaining to such things as state sex offender registries and use of criminal records.

In developing this Toolkit, a scan of mandates, model protocols, checklists, other guidance was conducted. The following statements are the consistent and overarching beliefs and purposes that emanated from that scan. The statements helped shape this Toolkit and can be used by Ohio campuses to support their efforts as they persevere in their development and implementation of response protocols pursuant to the Changing Campus Culture Initiative.

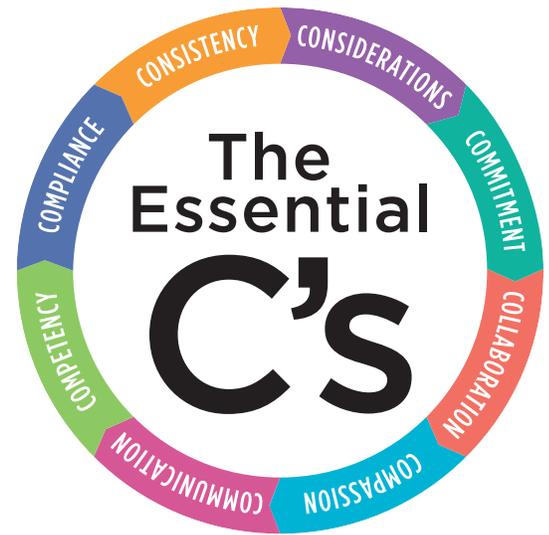
- 1 Gender-based violence is a threat to the health and safety of all communities, including Ohio campuses.
- 2 It is no longer acceptable for any institution, including institutions of higher education, to minimize gender-based violence and not prioritize its elimination.
- 3 It is time to end the silence around gender-based violence and foster a campus culture where reporting and trauma-informed responses are encouraged, survivors supported, and future acts are prevented.
- 4 To change campus culture, a commitment to end gender-based violence must emanate from the highest level of administration and be supported through ongoing communication, resource allocation, and collaboration.
- 5 Campuses must have written protocols addressing gender-based violence.
- 6 Protocols help maintain an educational setting that is free of gender-based violence and uphold a safe and respectful environment for all who attend and work there.
- 7 Thus, protocols must be accessible and understandable to the larger campus community, and accurately reflect the campus’ response
- 8 The goal is to provide notice of expectations of conduct by the entire campus community and to be transparent about processes that will occur if the campus is on notice that these expectations are not upheld.
- 9 Campuses must be guided by the expertise and lessons learned from those most familiar with responding to gender-based violence in order to develop survivor-centric responses that do not further compromise safety and well-being.
- 10 Campuses must allocate sufficient capital to ensure that those tasked with upholding the protocols have the capacity - in expertise, time, authority and resources – to do so.

12 Supra note 4. There are links in the Online Resource Guide to all of these documents.

13 The set of crimes that campuses are required to respond to are clearly identified in legal mandates. State laws differ as to the specific definitions of these crimes in a criminal justice arena. Campuses should not be beholden to the criminal definitions and instead develop definitions based on best practices and common understanding in the sexual and intimate partner fields.

THE ESSENTIAL C'S OF THE CHANGING CAMPUS CULTURE INITIATIVE

The Essential C's are tangible elements that contribute to building effective responses to gender-based violence and should be central to all Changing Campus Culture Initiative efforts. Many of the Essential C's are intertwined and do not work in isolation. Ohio campuses are encouraged to use these concepts as they review their current protocols and enhance their responses to gender-based violence.



COMMITMENT

A real, sustainable change in campus culture requires commitment by the entire campus, beginning and ending with its leadership. Campus leadership drives cultural change. Campus leadership includes not only individuals holding higher upper administrative posts, but also those with social influence and community leaders.

Leadership can demonstrate its commitment through consistent and constant messaging, the allocation of adequate resources, personal involvement in the development and implementation of response protocols, and actively seeking solutions to barriers that prevent culture change. All of the campus departments and members of the diverse campus population should be actively engaged in changing the culture on campus and share responsibility and accountability for doing so.

Commitment is also the understanding that changing the campus culture cannot be done in isolation of prevention and addressing conditions on Ohio campuses, and in the general community, that permits gender-based violence to exist.

COLLABORATION

Collaboration¹⁴ has become a mantra for addressing social woes. Collaboration helps campuses create a shared vision for responding to and preventing gender-based violence. It fosters cooperation and coordination among campus stakeholders and between campus and off-campus stakeholders. Collaboration provides an opportunity to hear from diverse perspectives about what is working and what needs improvement and helps leverage and coordinate resources. Collaboration takes time and dedication but ultimately furthers the interest and health of the entire campus.

Implementing the Changing Campus Culture Initiative takes the commitment and cooperation of the entire campus community. No one entity can successfully change campus culture alone, as no individual stakeholder is an expert on all components of a comprehensive response. Through collaboration, campus responders can build relationships, garner trust, and further their own understanding of gender-based violence. Collaborations can range in formality, assigning a fit that best serves the needs of campus responders in fulfilling their role and resulting in survivor-centric responses and fair and equitable processes.

Campuses must collaborate with the larger community. These partnerships help address off-campus incidents of gender-based violence that involve a member of the campus community and they bolster responses to on-campus incidents. The larger community may have expertise and resources that can contribute to the development and implementation of response protocols, including the establishment of personalized interim measures.

Ultimately, collaboration is a vehicle for developing and implementing comprehensive responses, as comprehensive efforts promote campus safety and compliance.

14 Collaboration is defined as a mutually beneficial and well-defined relationship entered into by two or more organizations to achieve common goals. The relationship includes a commitment to mutual relationships and goals; a jointly developed structure and shared responsibility; mutual authority and accountability for success; and sharing of resources and rewards. Such relationships require comprehensive planning and well-defined communication. See National Network for Collaboration, *Collaboration Framework: Addressing Community Capacity* (1996).

COMPASSION

Before campus culture can truly change, compassion must permeate the entire campus community. Compassion encompasses both believing that gender-based violence exists AND understanding that all members of the campus community have a role and responsibility in ameliorating and responding to that violence.

Compassion does not mean that a campus or an individual is bias. No one should be neutral about gender-based violence. With compassion a campus can be open to viewpoints and understanding and still be intolerant of gender-based violence. When interacting directly with complainants, compassion is one way in which to be trauma-informed. Compassion is similar to empathy but adds the element of having the desire to help and to reduce or remove the suffering of another. Thus, having compassion is an active state of being.

Compassion also recognizes that working on gender-based violence related issues can be traumatizing for responding individuals. The dedication of these responders is what fulfills the intent and mission of the protocols. It is important that time be taken to ensure the well-being of those involved in responses.

COMMUNICATION

Communication is an essential factor in achieving both compliance and humanity. The entire campus community must understand how, when, and why the campus will respond to gender-based violence. This transparency provides the basis for due process, and helps support a culture that encourages reporting and creates a safe learning environment.

A campus has the power to set a positive respectful tone and foster an environment where it is safe to have conversations about gender-based violence. The way a campus communicates its duties, responses, and available resources is as important as the language used to do so. Communication should be proactive and consistent. Campuses should consider what type and mode of communication will be most effective for its intended audience. Campuses must also decide what terminology to use to educate the campus community and their community stakeholders.

Campuses should strive to avoid fragmented communications among administrative officials and responders. Fragmentation can hinder prompt and equitable investigations and adjudications, and can leave complainants without necessary safety and educational supports and respondents feeling as if there is not due process. For example, it can cause a campus to miss its mandated opportunity to respond, including notification of an emergency or timely warning, leaving it open to scrutiny.

COMPETENCY

A protocol cannot be effective if its designers and implementers lack the requisite skills and expertise. Similarly, individual gender-based violence responders must possess the necessary skills and knowledge to fulfill their obligations under the protocol. This competency pertains to the assurance of fair and equitable responses and the provision of supportive services for both complainants and respondents.

A competent approach requires that responders know their role in changing the campus culture and receive the necessary resources and ongoing training to fulfill that role. Individual responders and stakeholders should assess their own strengths, challenges, and biases in identifying issues that may compromise competency or call for increased training and oversight. Campuses should check-in with the larger campus community to learn of varying perspectives about the effectiveness and trust in the campus' response protocol and choice of responders.

COMPLIANCE

Compliance is likely the area in which campuses invest the most time. However, compliance is not just about following legal mandates. Compliance requires taking the philosophy and vision behind those mandates and best practices, and integrating them into the campus' cultural fabric.

Campuses often seek model protocols and practices they can adopt to guarantee "compliance." Though the desire for guidance is understandable, a copy and paste approach is not an effective method for comprehensively eradicating sexual violence within individual campus communities. Each campus is unique in size and available resources, institutional values and culture, administrative structure, and campus geographic and student-body composition. Campuses must consider each of these factors when developing and implementing compliant response protocols, and determine what will be most effective given their own resources and culture.

CONSISTENCY

Consistency builds trust. The entire campus community should know (1) the campus' culture as it pertains to gender-based violence, and (2) how the campus intends to foster and preserve that culture. This response guarantee includes written protocols that reflect current practices, assurances that response protocols do not conflict with other campus policies, use of harmonious definitions and language across campus policies, and evidence that the campus consistently follows its written policies.

Consistency does not require identical response to all gender-based violence. A survivor-centric and compliant response takes the circumstances of individual complainants into consideration. This flexible approach ensures that the campus response is culturally-relevant, trauma-informed, and facilitates safety and well-being. Therefore, the underlying process involved (stages of the response protocol) may be consistent but actions taken within the stages and the outcomes (consequence and remedies) may vary from incident to incident based upon the relationship of the respondent to the institution, the gravity of the offense, and other factors impacting the safety of the complainant and the larger campus community.

It is also important to note that campuses and community stakeholders regularly experience turnover. Thus to maintain consistency, there should be regular training and updates on the protocols for all responders.

CONSIDERATIONS

A one-size all approach is never best practice. Ohio campuses must analyze the following considerations (minor C's) as they pertain to their overall response protocol and for each reported incident of gender-based violence.

Culture	Confidentiality	Capital	Crimes
<p>This term has many applications in the campus arena. There is the culture of the particular campus that has historically shaped the campus' attitudes and responses to all issues, including gender-based violence. There is also the culture of the individuals that are part of the campus community. Campuses must be attentive and responsive to the diversity and culture of their community. These diversities can pertain to race, ethnicity, language, ability, socioeconomic status, nationality, sexual orientation, religion, age, and gender identity.</p> <p>It is imperative for campuses to assess both applications of culture to determine: (1) how the overarching campus culture is aiding or impeding responses to gender-based violence; and (2) if information, supports and services are being delivered in a culturally-relevant manner to meet the needs of the diverse population.</p>	<p>In addition to the stigma associated with gender-based violence victimization, exposure to such violence can place a complainant at risk for further harm from the respondent and predisposition to academic, employment, and other types of problems. For some of these reasons, confidentiality is the cornerstone of the domestic violence and sexual violence movements. Ohio campuses should have a precise understanding about what information is classified as confidential when an incident of gender-based violence is disclosed and clearly communicate the campus confidentiality standards and obligations to complainants and respondents. Campuses should develop relationships with individuals who can serve as confidential sources to complainants and facilitate access to those resources.</p>	<p>Capital refers to the resources that a campus dedicates to changing its culture. The term "resource" includes time, staffing levels and expertise (human capital), money, and goods (i.e. supplies, space, technology). Every Ohio campus has varying levels and sources of capital. This can directly impact response protocol implementation. Those that are resource-rich should ensure that campus leadership and alumni are aware of the amount of capital required and create mechanisms to access that capital. Other Ohio campuses are encouraged to conduct a scan of existing campus and community resources. Through collaboration and commitment, campuses can discover and often leverage additional capital.</p>	<p>Dynamics between a complainant and respondent vary depending on the type of gender-based violence committed. It is imperative to understand the ways in which varying dynamics and potential traumas shape an entire response, including the types of protections that can impact lethality, the types of tactics a respondent may use to exert ongoing control or perpetrate violence (even post-campus involvement), and actions the campus responders should and should not take in facilitating safety as prescribed by mandates and best practices.</p>

IMPORTANT INFORMATION ABOUT THE TOOLKIT

Terminology

There are a variety of terms that are applied to this work. Some of these terms come directly from legislation; others from the rape crisis and intimate partner violence fields; and others are terms of art used by institutions of higher learning. For the purposes of this Toolkit, several words were selected as umbrella terms based on philosophy and ways to simplify writing.

The selection of terms for this Toolkit does not signal a recommendation or requirement for Ohio campuses to use these same terms.¹⁵ Readers will also find a full glossary contained in the Toolkit.

Term	Definition
Campus	Umbrella term for any post-secondary school, including “college”, “institution of higher education”, or “university”, that interchangeably refers to public and private two-year and four-year institutions of higher education.
Gender-Based Violence	Umbrella term that encompasses all forms of violence and harassment committed against an individual because of and/or based on their biological sex, gender identity and/or sexual orientation. This term includes sexual assault, rape, sexual harassment, all forms of intimate partner abuse, and stalking.
Complainant	Umbrella term applied to a student survivor or victim of gender-based violence, especially when the campus is notified about an alleged incident and takes steps to ameliorate and address the harm that the complainant experienced.
Respondent	Umbrella term that describes an individual (whether a student or other member of the campus community) that is the subject of a complaint, investigation or adjudicatory hearing alleging that they committed an act of gender-based violence.
Protocol	Umbrella term that describes a written document outlining the expected conduct and behaviors of the larger campus community, and the steps and measures the campus will take when those expectations are not met.

The information included in this Toolkit is not intended to serve as or replace training on Title IX, the Clery Act, the Campus SaVE Act, or Ohio law. Instead, it is a reference tool for understanding how each of these pieces impact campuses. This Toolkit is designed to assist Ohio campuses in their efforts to build and strengthen their responses to gender-based violence. While comprehensive, it does not cover every scenario, and following its guidance does not guarantee compliance with federal and state regulations. The information in this Toolkit is intended for educational purposes only. Do not rely on it as legal advice and always consult with your General Counsel for campus-specific decisions.

Finally, the landscape is ever-changing as new federal guidance is released, laws are amended or enacted, and best practices come to light. Campuses should proactively seek new information that can inform protocols and responses to gender-based violence.

15 When a campus does select terminology, it is important to ensure that all stakeholders have the same interpretation and definition of those terms, and that there are no unintentional or culturally-offensive connotations with the words selected.

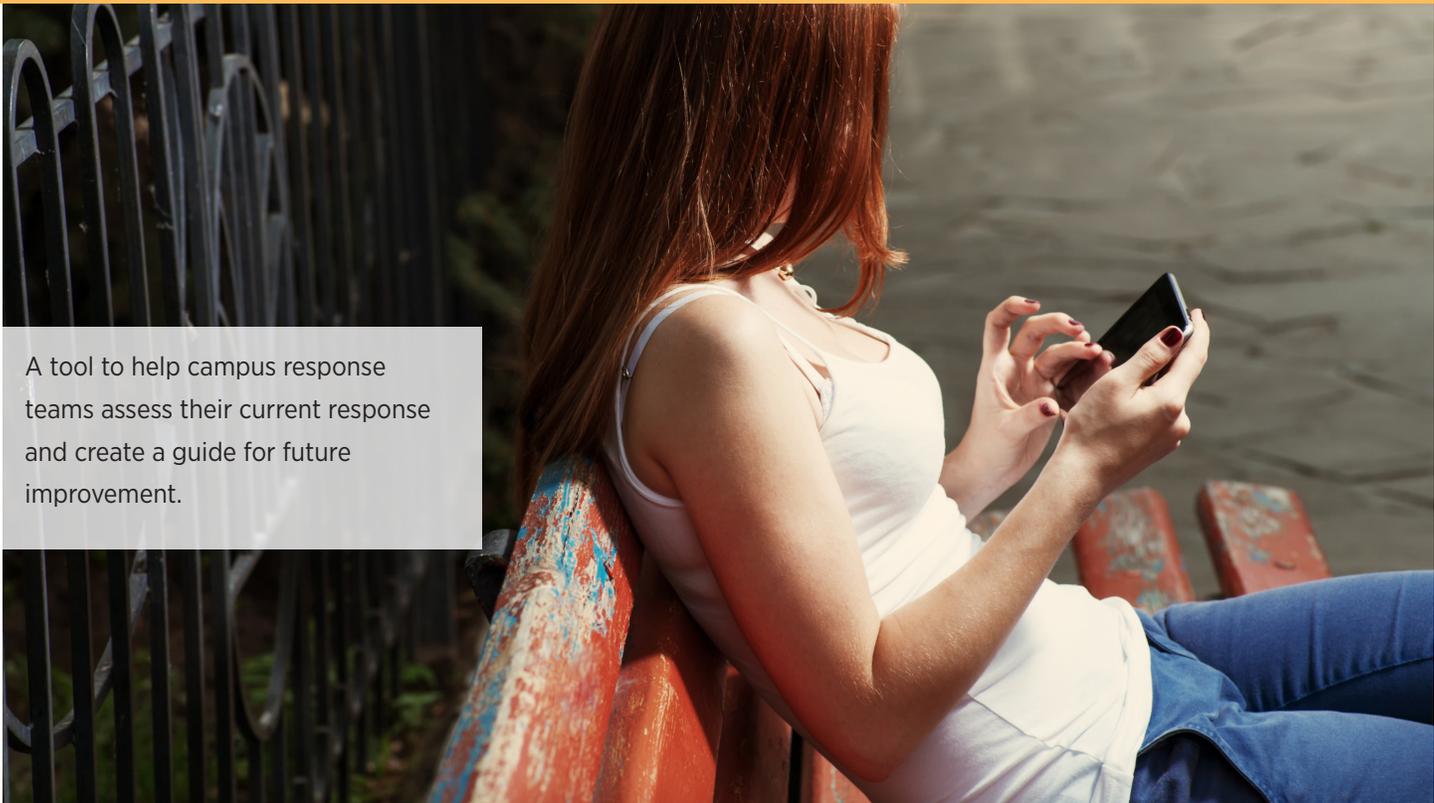
Components

This Toolkit includes several pieces that can be used jointly or discretely. There is no recommended order through which to work through the Toolkit, however the Self-Assessment Tool is a good place for teams to start examining their current protocol. While it is anticipated that the Toolkit will be used most frequently by Title IX Coordinators, it was developed with a multi-disciplinary audience in mind that has a range of understandings about this work. The hope is that the Toolkit serves as a resource for campuses as they work both internally and externally with community partners, in protocol development and implementation. The components of the Toolkit are:

2:1 - 2:16	WHERE ARE WE NOW? A Self-Assessment Tool
	A tool to help campus response teams assess their current response and create a guide for future improvement.
3:1 - 3:44	GUIDE TO CAMPUS PROTOCOL DEVELOPMENT: Components, Considerations and Checklists
	A tool that provides an overview of necessary elements of a campus response protocol and breaks down some of the elements into guidance and considerations.
4:1 - 4:22	CASE SCENARIOS
	A multitude of case scenarios with corresponding questions are available to be used with small or large groups to help analyze current protocols, unpack differing philosophical viewpoints, and broach issues that could otherwise be difficult to raise.
5:1 - 5:34	UNPACKING ESSENTIAL C'S CONFIDENTIALITY: A Campus Guide
	Delves into the varying legal mandates of federal and state law and what campuses responsibilities are in sharing information and helping preserve complainant confidentiality.
6:1 - 6:6	UNPACKING ESSENTIAL C'S COMPETENCY: A Guide to Trauma-Informed Approaches
	Outlines the importance of being trauma-informed and the ways in which various responders can do so.
7:1 - 7:4	UNPACKING ESSENTIAL C'S COLLABORATION: A Guide to Stakeholder Engagement
	Discusses the importance of collaborating and highlights strategies to engage various stakeholders that are part of the response to gender-based violence.
8:1 - 8:15	GLOSSARY
	This is a comprehensive document of terms. Many definitions also include learning points.
9:1 - 9:9	ONLINE RESOURCE GUIDE
	Only available electronically, the list contains numerous national and state resources, model protocols and checklists, and federal guidance – all of which are available online by clicking https://www.ohiohighered.org/ccs/resources .

WHERE ARE WE NOW?

A Self-Assessment Tool for Changing Campus Culture



A tool to help campus response teams assess their current response and create a guide for future improvement.

Thank you for being a part of Ohio's Changing Campus Culture Initiative!

We recommend that campus responders and partners use this tool as an opportunity to work together to create a common vision for the ongoing development of your campus response to gender-based violence.

Reflecting on the questions together is a process that can generate clarity about the strengths of your current campus response, as well as help you prioritize areas in need of additional development.

This tool is designed for campuses to use as an internal self-assessment. The results need not be shared with the Ohio Alliance to End Sexual Violence (OAESV) or the Ohio Department of Higher Education (ODHE).

When choosing who will be involved in the Where Are We Now? self-assessment process, consider including:

- Title IX Coordinator,
- A representative from campus safety,
- A rape crisis or intimate partner violence advocate,
- An administrator involved in the student conduct process and
- General counsel.

You do not need to assure representation of the entire campus population. Rather, you should maximize the team's collective expertise on how your campus responds to gender-based violence.

The procedures for using the tool are intentionally flexible. The end goal is to have one set of responses that reflects all participants' input – and can be used to move your campus forward in developing and implementing more comprehensive protocols to gender-based violence. Depending on your campus' unique qualities and conditions, you can decide whether to have all participants complete the tool individually and then come together to discuss and aggregate responses, to work as a group to fill out a single tool, or some other process that works for you.

The OAESV technical assistance team is available to help your campus implement the Changing Campus Culture initiative. If you have questions about completing this assessment or using your results to make improvements in your response protocols, please contact us at campus@oaesv.org.



The Essential C's¹

Compliance • Competence • Commitment • Collaboration

The purpose of the Ohio Changing Campus Culture Initiative's *Where Are We Now?* tool is to provide a way for Ohio campuses to objectively describe their current response protocols and look ahead to where they improve and grow. The tool is designed to assess four aspects of campus response to gender-based violence. For each of the "Essential Cs" listed below, there are overarching questions that shape the specific items that are included in each section:

- COMPLIANCE** How sufficient are the resources that have been allocated to carry out the campus's duties in responding to gender-based violence? To what extent do campus protocols ensure an appropriate and consistent response to every incident of gender-based violence?
- COMPETENCY** How sufficient are the collective knowledge and skills in enabling campus responders to act appropriately and consistently to a wide variety of situations involving gender-based violence? To what extent has the campus institutionalized strategies for the ongoing education of campus responders regarding gender-based violence?
- COMMITMENT** To what extent do the most prominent leaders on campus take personal responsibility for addressing gender-based violence? To what extent does the entire campus population hold each other accountable for changing campus culture? How strong is the campus's willingness to give time and energy to efforts related to responding to violence on campus?
- COLLABORATION** In what ways do stakeholders work together to improve the campus response to gender-based violence? How do partners build the capacity of one another to achieve collective solutions to gender-based violence on campus that no one responder could achieve independently?

These are a few guiding questions that can help your campus team begin to think about what it means to move beyond a compliance mindset to a changing campus culture mentality.

¹ The Toolkit is organized around the eight Essential C's that guide the work of campuses as they develop and implement response protocols to gender-based violence. Four of the Essential C's included in this tool lend themselves most to self-assessment.

The Changing Campus Culture Initiative’s self-assessment process starts with compliance, which is a critical component of effective survivor-centered responses. However, compliance alone is not sufficient to create a comprehensive response to gender-based violence. Competence, commitment, and collaboration are additional components that can support deeper changes on Ohio’s campuses.

Compliance Focuses on Five Key Duties

This section is designed to assess whether the campus has the preconditions necessary to carry out the duties that ensure a consistent and appropriate response to gender-based violence. This section starts with a brief summary of the responsibilities of a campus in protecting students from gender-based violence.

There are five main duties to be carried out by the Title IX Coordinator to respond when gender-based violence is reported. For each duty, at least one best practice standard is identified and displayed in Table 1. The intention of supporting compliance on campuses is to increase the chance that every time gender-based violence occurs, the actions that are taken are appropriate and consistent (see bottom line in Table 1).

Key duties of campuses in responding to cases of gender-based violence.		
	DUTY OF OFFICE	BEST PRACTICE STANDARDS
1	Put into writing the actions that the campus will take when they receive information about a possible case of gender-based violence. This documentation of campus “response” protocols	Content is: <ul style="list-style-type: none"> • Comprehensive • Clear • Continually updated • Accessible
2	Deliver training to parties responsible for executing the actions specified in the protocols	Training programs are: <ul style="list-style-type: none"> • Culturally relevant • Trauma-informed • Effective — individuals who receive training can demonstrate requisite knowledge and skills. In other words, those individuals exhibit COMPETENCE**
3	Investigate cases of gender-based violence	Protocols outline processes that are: <ul style="list-style-type: none"> • Prompt • Fair • Equitable
4	Execute disciplinary adjudication process	
5	Publish security reports	Products are: <ul style="list-style-type: none"> • Annual • Accessible
BOTTOM LINE: To respond to every incident of gender based violence in a manner that is appropriate and consistent.		

**The extent to which training is delivered effectively generates the COMPETENCE of the campus response, which is examined in a section separate from compliance.

The protocols can be thought of “living documents,” which require ongoing review and updating. Not only do they codify the values and commitments of the campus in terms of handling allegations of gender-based violence, the content can be used as the source material to develop trainings and/or to inform the development of Memorandum of Agreements (MOUs) with response partners on campus and in the community and off-campus. These written protocols should be kept current with recent developments in law and practice. Additional resources to help assist with updating protocols can be found in the Online Resource Guide section of this toolkit under Model Policies, Checklists & Toolkits for Developing Response Protocols.

To what extent are sufficient resources allocated to carry out the campus’s duties in responding to gender-based violence? To what extent do the protocols ensure an appropriate and consistent response to every case of gender-based violence?

Sufficiency of staffing		No	Partially	Yes
1	Is the Title IX Coordinator (Coordinator) position filled at all times?	0	1	2
2	Is the Coordinator dedicated solely to this role?	0	1	2
3	Is the person free of conflicts of interest that would create real or perceived barriers to access?	0	1	2
4	Is the Coordinator adequately trained to respond to gender-based violence?	0	1	2
5	Does the Coordinator work on drafting & modifying protocols (defined in Table 1)?	0	1	2
6	Is the Coordinator’s name, title, and contact information widely disseminated on campus to students, employees, and contractors?	0	1	2
7	Does the Coordinator document every report or request for assistance in resolving a case involving gender-based violence?	0	1	2
8	Does the Coordinator have access to information to complete investigations (e.g., campus law enforcement reports)?	0	1	2
9	Does the Coordinator review campus police records/daily crime logs for violations of Title IX?	0	1	2
10	Is there a team and or additional staff that work on issues of gender-based violence to support the Title IX Coordinator?	0	1	2
Comprehensiveness and clarity of protocol content		Absent	Vague	Clear
1	Operational definitions of gender-based violence such as sexual assault, rape, sexual harassment, stalking, intimate partner violence, etc.	0	1	2
2	Definition of consent	0	1	2
3	Definition of incapacitation	0	1	2
4	Definition of coercion	0	1	2
5	An official statement prohibiting retaliation against individuals who report incidents under Title IX	0	1	2
6	Procedures for what happens if a complainant experiences retaliation	0	1	2
7	Statement that specifies either college or student can initiate a complaint	0	1	2
8	Statement that there are no time limitations for when a student can come forward with a complaint	0	1	2
9	Standard practice of consulting with complainant prior to initiating an investigation	0	1	2
10	Definition and identification of “responsible employees”	0	1	2
11	Definition and identification of CSA’s (Campus Security Authority)	0	1	2
12	Definition and identification of individuals on campus who serve as confidential resources	0	1	2
13	Provisions when the complainant is a minor	0	1	2

Comprehensiveness and clarity of protocol content		Absent	Vague	Clear
14	Provision of names, titles and contact information for making a report	0	1	2
15	Outline of the responsibilities of the “Title IX Coordinator”	0	1	2
16	Outline of the responsibilities of “responsible employees”	0	1	2
17	Outline of the responsibilities of “campus security authorities”	0	1	2
18	Description of campus versus criminal justice responses	0	1	2
19	List of the range of campus disciplinary sanctions	0	1	2
20	Description of when campus will refer a matter to law enforcement	0	1	2
21	Description of how the campus works with law enforcement	0	1	2
22	Outline of the timeframes for investigation, disciplinary actions, and any appeals	0	1	2
23	Statement about what is confidential and what is not	0	1	2
24	Procedures for protecting a complainant’s prior sexual history	0	1	2
25	Statement that mediation will not be used in incidents involving sexual violence	0	1	2
26	Description of potential interim measures to ensure:			
	a.) protection of the complainant	0	1	2
	b.) protection of larger campus	0	1	2
	c.) fairness to the respondent and complainant	0	1	2
27	Description of purpose of emergency notifications and timely warnings.	0	1	2
28	Description of procedures for keeping, maintaining, and destroying records	0	1	2
29	Description of data collection procedures	0	1	2
30	Statement describing what will be reported in the ASR	0	1	2
Fairness of Investigation and Disciplinary Adjudication Process If the campus has not developed a process for investigating and adjudicating cases of gender-based violence, skip the questions in this section.		Rarely	Sometimes	Almost Always
1	Both investigations and adjudications:			
	a.) use the preponderance of evidence as the standard of proof	0	1	2
	b.) permit both parties to have an advisor of choice	0	1	2
	c.) apply participation of attorneys, if allowable, equally to both parties	0	1	2
	d.) are completed in a timely manner (60 days), except for good cause	0	1	2
	e.) have documentation throughout the entire process	0	1	2
	f.) assess for and implement interim measures when needed or requested	0	1	2

Fairness of Investigation and Disciplinary Adjudication Process If the campus has not developed a process for investigating and adjudicating cases of gender-based violence, skip the questions in this section.		Rarely	Sometimes	Almost Always
2	When any report of a potential incident of gender-based violence occurs, the investigation that is undertaken:			
	a.) is conducted independently by either a campus designee (e.g., Title IX investigators) or by an outside trained contracted investigator	0	1	2
	b.) is conducted for fact-finding purposes only	0	1	2
	c.) is conducted by individuals free of bias	0	1	2
	d.) is unrelated and not influenced by a law enforcement response, if there was one	0	1	2
	e.) is completed without waiting for the conclusion of a criminal justice response, if there was one	0	1	2
3	During the investigation, complainants are:			
	a.) informed about what information can, and cannot, be kept confidential	0	1	2
	b.) advised on evidence collection and preservation	0	1	2
	c.) asked their wishes as to whether to pursue a formal campus disciplinary action	0	1	2
	d.) assisted in exercising their right to file a formal criminal complaint, if they so desire	0	1	2
4	Throughout the investigation, both parties — complainant and respondent:			
	a.) are informed about their rights, options, and available services	0	1	2
	b.) have an equal opportunity to present relevant witnesses and other evidence	0	1	2
	c.) are provided ongoing information about the status of the investigation.	0	1	2
5	Throughout the adjudication process, both parties — complainant and respondent — are:			
	a.) permitted to challenge the impartiality of an adjudicator	0	1	2
	b.) permitted to review all applicable documents prior to the review by the adjudicator	0	1	2
	c.) free to decline participation in the disciplinary procedure	0	1	2
	d.) provided updated information on the progress and outcome of the adjudication	0	1	2
	e.) notified simultaneous, in writing, of the case resolution – including any right to appeal.	0	1	2
6	If issued as part of the case resolution, sanctions are monitored for compliance	0	1	2
Accessibility of Campus Security Report if the campus does not publish an Annual Security Report, (ASR) check here and skip remaining questions in this section.		No	Partially	Yes
1	All the Clery geography locations are pre-identified.	0	1	2
2	The report is published annually.	0	1	2
3	Only aggregate, non-identifying information is included.	0	1	2
4	Campus police daily crime logs are maintained.	0	1	2

How sufficient are the collective knowledge and skills in enabling campus representatives to act appropriately and consistently to a wide variety of situations involving gender-based violence on campus? To what extent has the campus institutionalized strategies for the ongoing education of campus members regarding gender-based violence?

General Competencies if the campus has not developed ongoing campus-wide education practices for representatives, skip the questions in this section.		Not feasible or relevant	Planning for next AY	In progress this AY	Done this AY
1	There is an educational program that includes annual activities to promote the following competencies and abilities among all administrators, professors, instructors, coaches, and other staff who interact with students on a regular basis:				
	a.) increased awareness of gender-based violence	0	1	2	3
	b.) general knowledge about how to identify gender-based violence and respond to disclosures	0	1	2	3
	c.) specific responses mandated under Title IX e.g., how to inform complainants of their rights, how to report to Title IX Coordinator, roles and responsibilities of responsible employees	0	1	2	3
2	There is an ongoing educational program that includes annual activities to promote the following competencies and abilities among resident assistants, peer advisors, orientation leaders, tutors, mentors, captains of athletic teams and other student leaders:	0	1	2	3
	a.) increased awareness of gender-based violence	0	1	2	3
	b.) general knowledge about how to identify gender-based violence and respond to disclosures	0	1	2	3
Please reflect upon how your campus has developed training for the general campus community in ways that emphasize best practice standards of “effective” and “culturally appropriate.” How do you engage adult learners and make education on gender-based violence relevant to different groups on campus, including on-line and commuter students, if applicable?					

Employee Specific Competencies

if the campus does not have ongoing education for campus responders to gender-based violence, skip questions in this section.

		Not feasible or relevant	Planning for next AY	In progress this AY	Done this AY
3	Training is delivered annually to campus employees that are involved in response to cases of gender-based violence, such as the Title IX team, decision-makers, responsible employees, first responders, and investigators. Training activities aim to:				
	a.) incorporate new responses and resources as they are developed	0	1	2	3
	b.) increase personal accountability for protecting students who experience gender-based violence	0	1	2	3
	c.) build skills on how to investigate and conduct hearings on gender-based violence	0	1	2	3
	d.) clarify roles and responsibilities	0	1	2	3
	e.) teach trauma-informed responses	0	1	2	3
	f.) improve protocols related to collection and preservation of evidence	0	1	2	3
	g.) incorporate state and federal reporting requirements including access to confidential resources	0	1	2	3
Please explain how your campus has developed training for the campus employees in ways that emphasize best practice standards of “effective” and “culturally appropriate.” How do you engage responders in ways that in-creases their accountability for protecting students who experience gender-based violence?					

Policing Competencies if the campus does not have ongoing education practices developed specifically for security, police, and law enforcement, skip the questions in this section.		Not feasible or relevant	Planning for next AY	In progress this AY	Done this AY
4	Training activities coordinate campus police/security and local law enforcement responses to gender-based violence and include the following learning objectives:				
	a.) MOU's between local law enforcement and campus police/forming cross-jurisdictional partnerships	0	1	2	3
	b.) increase the ability of local law enforcement to understand campus protocols to gender-based violence	0	1	2	3
	c.) ensure students receive proper notification of their rights to file a Title IX complaint from campus security/police officers	0	1	2	3
	d.) ensure students receive proper notification of their rights to file a Title IX complaint from local law enforcement officers	0	1	2	3
	e.) ensure campus No Contact Order and Civil Protection Orders are enforced when violations are reported	0	1	2	3
	f.) increase likelihood that campus security/police officer(s) will report incidents to the Title IX Coordinator on campus	0	1	2	3
	g.) increase likelihood that local law enforcement officer(s) will report incidents to the Title IX Coordinator on campus	0	1	2	3
	h.) increase trauma-informed response competencies among responders	0	1	2	3
Please explain how your trained law enforcement partners meet objectives stated above — or why not feasible at your campus.					

Policing Competencies

if the campus does not have ongoing education practices developed specifically for security, police, and law enforcement, skip the questions in this section.

		Not feasible or relevant	Planning for next AY	In progress this AY	Done this AY
5	Practitioners with issue-specific competencies are available to students who experience gender-based violence:				
	a.) specialized advocates	0	1	2	3
	b.) forensic nurses	0	1	2	3
	c.) international Student Centers / immigration assistance	0	1	2	3
	d.) LGBTQI+ center	0	1	2	3
	e.) multicultural affairs and other culturally-specific offices	0	1	2	3
	f.) disability resource centers	0	1	2	3
	g.) financial aid services	0	1	2	3
Please explain how your campus makes responders with expertise in gender-based violence available to your students – or why not feasible at your campus.					

To what extent do the most prominent leaders on campus take personal responsibility for addressing gender-based violence? To what extent does the entire campus population hold each other accountable for changing campus culture? How strong is the campus's willingness to give time and energy to efforts related to responding to violence on campus?

		Not feasible or relevant	Planning for next AY	In progress this AY	Done this AY
1	Provide a statement that the campus' goal is to be free of gender-based violence and uphold a safe and respectful environment for all who attend and work there.	0	1	2	3
	Please explain how your campus statement emphasizes best practice standard of "unequivocal." What makes the statement strong? What makes it clear?				
2	Posts Notice of Nondiscrimination and Grievance Procedures.	0	1	2	3
	Please explain how your campus posts in ways that emphasize best practice standard of "accessibility." How easily available are your notices on an ongoing basis?				
3	Designate a single official or office to oversee a consistent campus response to gender-based violence.	0	1	2	3
	Please explain how your campus has vested authority in ways that emphasize best practice standard of "coordination" across individuals, departments, and organizations. How successful is your campus in coordinating activities to facilitate a seamless experience for reporting, investigating, and adjudicating gender-based violence cases?				

		Not really	Partially	Mostly	Completely
4	Responsibility for gender-based violence on campus is shared by all members of the campus community, including:				
	a.) faculty	0	1	2	3
	b.) administrators	0	1	2	3
	c.) staff	0	1	2	3
	d.) students	0	1	2	3
	e.) board of trustees	0	1	2	3
	f.) alumni	0	1	2	3
	Please reflect on how your campus has shared responsibility that emphasize best practice standard of “collective ownership.” How do you ensure that everyone is empowered to play a role in creating a gender-based violence free learning environment?				
5	When prioritizing campus issues, leadership assigns sufficient importance to gender-based violence.	0	1	2	3
	Please reflect on the extent to which buy-in by your campus leaders extends beyond fear of being found non-compliant by federal regulatory agencies.				
6	The campus has developed a culture of respect.	0	1	2	3
	Please explain how your campus has supported positive cultural messages and environmental cues to hold the campus population accountability for civil conduct.				
7	The campus has fostered a climate that encourages reporting of gender-based violence.	0	1	2	3
	Please reflect upon the extent to which your campus has reducing “chilling effects” for reporting gender-based violence? What changes has your campus implemented to overcome barriers to reporting?				

COLLABORATION Overarching Questions

In what ways do stakeholders work together to improve the campus response to gender-based violence? How do partners build the capacity of one another to achieve collective, solutions to sexual violence on campus that no one responder could achieve independently?

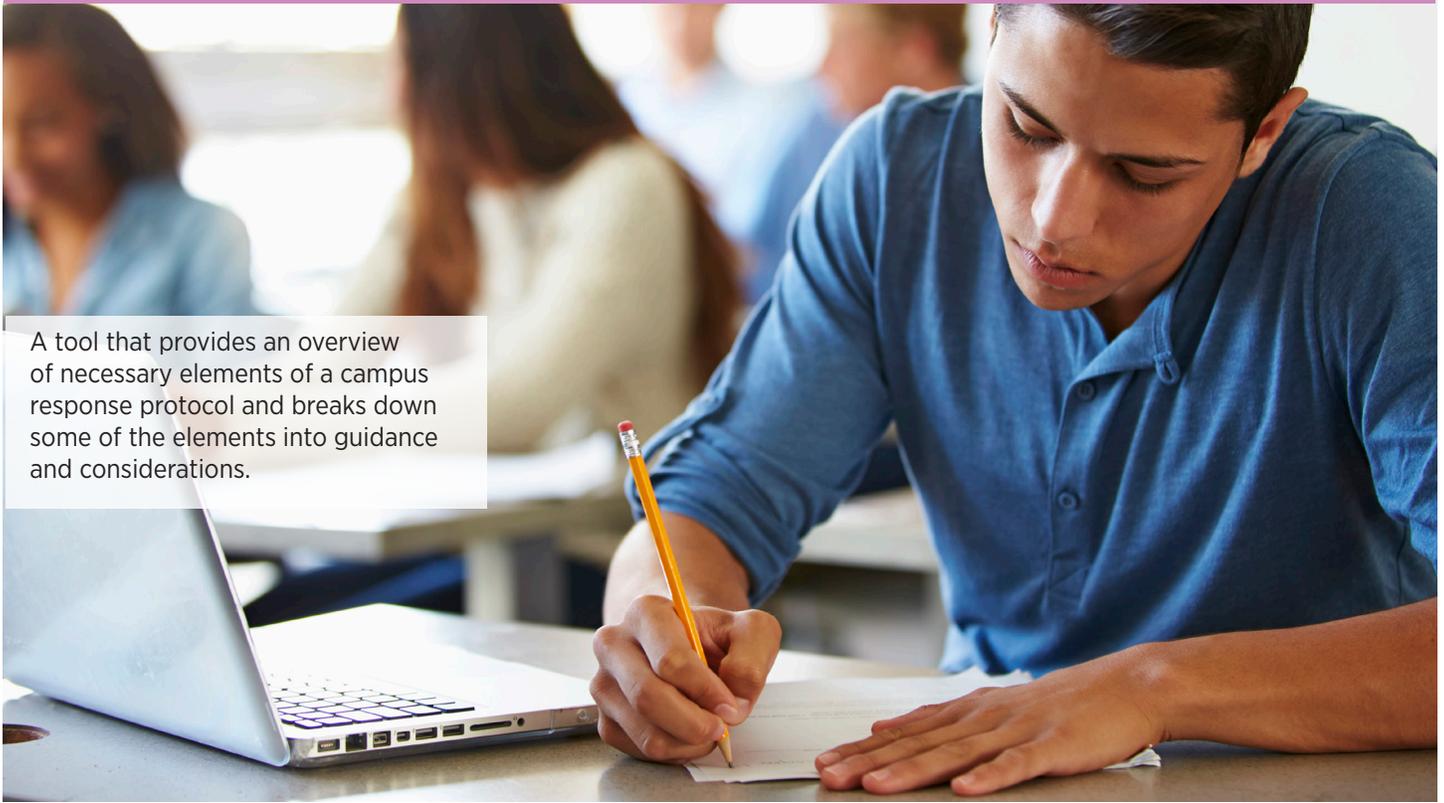
		Not really	Partially	Mostly	Completely
1	Identify a group of key campus and community stakeholders that meet on a regular basis to discuss campus responses to gender-based violence, with membership that includes:				
	a.) Title IX Coordinator	0	1	2	3
	b.) Title IX Deputies and investigators	0	1	2	3
	c.) Student Conduct	0	1	2	3
	d.) Campus Safety/Police	0	1	2	3
	e.) Human Resources	0	1	2	3
	f.) Dean of Students	0	1	2	3
	g.) Diversity Office	0	1	2	3
	h.) Community-based rape crisis and/or intimate partner violence programs	0	1	2	3
	Please explain how you ensure adequate membership and engagement in your gender-based violence response team on campus.				
2	The campus engages meaningful contributions from the following groups to improve the campus response to gender-based violence.				
	a.) health centers	0	1	2	3
	b.) culturally-specific centers	0	1	2	3
	c.) clergy and other faith-based leaders	0	1	2	3
	d.) student groups	0	1	2	3
Please explain how your campus ensures meaningful participation and engagement of groups that can improve the campus response to gender-based violence.					

		Not really	Partially	Mostly	Completely
3	The campus fosters connections to resources in the broader community in order to improve gender-based violence response:				
	a.) by participating in a community task force on gender-based violence	0	1	2	3
	b.) by maintaining a comprehensive list of community service providers who can support complainants and respondents in a culturally-relevant manner	0	1	2	3
	c.) by establishing a formal relationship with a community-based rape crisis center	0	1	2	3
	d.) by establishing a formal relationship with a community-based intimate partner violence program	0	1	2	3
	e.) by establishing a formal relationship with local law enforcement	0	1	2	3
	f.) by communicating with parents, alumni and surrounding community	0	1	2	3
	Please explain how your campus works to maintain positive relationships with organizations in the broader community that can improve the campus response to gender-based violence.				
4	There are protocols to facilitate aggregate data information sharing, including:				
	a.) among key responders	0	1	2	3
	b.) for maintaining communication with campus leaders	0	1	2	3
	c.) for maintaining communication with stakeholders	0	1	2	3
	d.) for maintaining communication with complainant	0	1	2	3
	e.) for maintaining communication with respondent	0	1	2	3
	f.) for documentation and record-keeping	0	1	2	3
	g.) for maintaining privacy and confidentiality	0	1	2	3
Please explain the extent to which your campus official protocol documents that specify procedures related to information sharing for the benefit of all parties.					

		Not really	Partially	Mostly	Completely
5	Specific communication practices are established to:				
	a.) remove identifying information about the complainant from communications whenever possible	0	1	2	3
	b.) use VAWA compliant releases when a survivor wants to share information	0	1	2	3
	c.) make interpretation available to students who are Limited English Proficient or Deaf	0	1	2	3
	d.) notify stakeholders when interim measures, such as a no contact order, are in place — to ensure they are up-held	0	1	2	3
Please explain how your campus established communication practices to achieve the goals stated above.					
6	Responders coordinate their activities to ensure that:				
	a.) all roles and responsibilities are delineated	0	1	2	3
	b.) all stakeholders understand the roles and responsibilities of the other stakeholders	0	1	2	3
	c.) cross-training among stakeholders occurs	0	1	2	3
	d.) there are campus services and supports available to meet the diversity of the student body	0	1	2	3
	e.) confidential resources and also those who hold privilege are identified for complainants	0	1	2	3
Please explain how your response stakeholders design activities to achieve the goals stated above.					

		Not really	Partially	Mostly	Completely
7	The campus has established a formal MOU:				
	a.) to facilitate cooperation between the campus and community rape crisis center and/or intimate partner violence center (IPV)	0	1	2	3
	b.) with crisis and IPV programs — that specifies how and when advocates will be engaged	0	1	2	3
	c.) with crisis center and IPV programs— that specifies how and when additional services will be provided	0	1	2	3
	d.) to facilitate cooperation between the campus and local law enforcement	0	1	2	3
	e.) with law enforcement — that includes clear guidance on when a campus should refer a matter to local law enforcement	0	1	2	3
	f.) with law enforcement — that includes clear guidance on when law enforcement should reach out to a campus (e.g., when an incident of gender-based violence with a student occurs off-campus)	0	1	2	3
	g.) with law enforcement — that includes procedures for information sharing	0	1	2	3
	h.) with law enforcement — that includes procedures for confidentiality	0	1	2	3
	i.) with law enforcement — that clearly states the campus will not stop their investigation of lieu of a criminal justice proceeding	0	1	2	3
	j.) with law enforcement — that clearly states that any temporary stay in the Title IX investigation to account for a law enforcement fact finding process will immediately resume upon notification that the investigation is complete	0	1	2	3
	Please explain the ways that establishing MOUs have served as either barriers or facilitators in improving your campus response to gender-based violence.				

GUIDE TO CAMPUS PROTOCOL DEVELOPMENT: Components, Considerations and Checklists



A tool that provides an overview of necessary elements of a campus response protocol and breaks down some of the elements into guidance and considerations.

1 INTRODUCTION

This section of the Toolkit provides guidance to Ohio campuses in building and strengthening their response protocols to gender-based violence impacting students.¹ There are various systems, structures, and strategies by which a campus can effectively respond to gender-based violence, all of which can be compliant and integrate best practices. One protocol does not fit all - in fact, great protocol development and implementation must be tailored for a campus community by the campus community in communication with and feedback from key campus and community constituents.

There are several existing protocols, checklists, and templates from national and state sources that have been identified by the U.S. Department of Education Office of Civil Rights (OCR) and the Ohio Department of Higher Education (ODHE) as reflecting best practices in campus gender-based violence response. We have included those resources in Section 4.

The purpose of this Guide is to:

- Identify resources that Ohio campuses should use to build their protocols and engender an approach to the work that creates a “Changing Campus Culture” mentality among campus and community responders;
- Provide Ohio-specific guidance on best practices from campus and community practitioners;
- Recommend adaptations for various institutional sizes and types; and
- Address how state law impacts response.

1 This Guide addresses gender-based violence in which a student is the recipient of the unwanted conduct regardless of who the accused individual may be. It does not address when an employee is the recipient.

This resource is grounded in ODHE’s Changing Campus Culture recommendations and is intended to serve as a comprehensive source of national and localized guidance for a range of professionals, from those new to the field and to those with extensive experience. We encourage you to use this guide as you build and strengthen your own protocol, and assess where you are, where you want to go, and how you will get there as a campus and in collaboration with campus and community partners.

This guide incorporates all the Essential C’s² but especially focuses on s Commitment, Collaboration, Competence and Compliance in congruence with the Where Are We Now? A Self-Assessment Tool. In the sections of the Guide discussing the components of a protocol, there are “Key Points” which are main considerations or facts for that relevant topic. There are also checklists campuses can use as they examine their current protocol.

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2 The Essential C’s are Commitment, Collaboration, Compassion, Communication, Competency, Compliance, Consistency and Considerations (Culture, Confidentiality, Capital, and Crimes).

2 GUIDING PRINCIPLES

Developing and implementing a best practice gender-based violence response system requires the highest levels of expertise, collaboration, and care. Campuses face unprecedented scrutiny from all directions on how to address these issues. This can be a good thing. A stressful and complex thing, to be sure, but a good thing in that it offers Ohio campuses the opportunity to deliver on our respective missions and our commitment to students and the educational process.

This is not easy or comfortable work. It requires balancing factors and concepts challenging to weigh, such as safety and fairness, and making difficult, nuanced decisions every day that have significant and oftentimes long term impacts on students' lives. It requires campuses to work effectively with individuals who may have seemingly competing or contradictory perspectives and responsibilities regarding some of the most misunderstood, fraught, controversial, politicized issues in our culture, let alone on our campuses. Responding to gender-based violence utilizing the best practices described in this Guide is complex, effortful work. We strongly believe that while the work is challenging and requires a high level of expertise and commitment, we are capable of doing it, together in partnership with our campus and external communities.

This Guide was designed to move beyond compliance to change campus culture; to move the needle on the actual issue of campus gender-based violence- that is, decrease perpetration and increase students accessing whatever type of support, advocacy, and/or reporting resource they identify is right for them. While we are confident that utilizing the Guide will certainly do so, the aim of this resource is not for campuses to be able to “check the boxes” of Title IX or Clery Act requirements; rather, this Guide is built on the premise that our response to gender-based violence must be grounded in our knowledge and understanding of its unique cultural position. This Guide is directly informed by our understanding of the prevalence and dynamics of gender-based violence, and in particular, the pervasive victim blaming and social stigma that crosses all “systems” a student may engage with, including the criminal justice, Title IX, medical, mental health, family, and social systems. “Doing” best practice gender-based violence response is not a checklist- it’s a mentality.

This Guide strives to be both survivor-centered and respect the rights of the respondent. It is rooted in understanding that developing and implementing gender-based violence protocol in response to one source of perceived liability (e.g., an OCR complaint, a civil lawsuit by one party) raises the likelihood that a campus is in fact not complying with Title IX’s requirement that we provide an equitable (for both the complainant and respondent) complaint resolution process for sex discrimination and that our response may be biased. This Guide demonstrates our commitment to the premise that what campuses have to stand on is the integrity of their process. We know that in most cases one party will be unhappy with the outcome of whatever process is in play- the question is, was that party treated with dignity and respect, and were their rights protected and enforced? Our hope is that this Guide will provide a roadmap to get a yes to that question.

3 NATIONAL MODEL PROTOCOLS

We have identified the following model protocols (and relevant supplemental materials) as reflecting best practices:

- The Association of Title IX Administrators (ATIXA):³
 - Sex/Gender Based Harassment, Discrimination and Sexual Misconduct Model Policy
 - Sex/Gender Based Harassment, Discrimination and Sexual Misconduct Model Procedures
 - Guidelines for Implementation of Essential Elements for a Comprehensive Sexual Misconduct Policy & Protocol
 - Policy Guidance and Model Language
 - Tips, Guidance, & General Reference Information
 - Sexual Misconduct Guiding Principles
 - Best Practice Recommendations
 - Title IX Audit

3 The majority of these materials were provided by ATIXA for attendees to the ODHE February 2016 Sexual Violence Prevention & Response Summit Title IX Track.

- [A Safer Campus: a Guidebook on Prevention and Response to Sexual & Intimate Partner & Stalking for Ohio Campus 2nd Edition](#)
- Ohio Attorney General's Office 2015 [Recommendations for Crafting a Memorandum of Understanding Between Critical Partners Responding to Reports of Campus Sexual Assault](#).
- University of Virginia's [Policy on Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence](#)
- University of Oregon [Protocol for Responding to Incidents of Sexual Harassment and Sexual Assault Involving Students](#)
- Association of Student Conduct Administration (ASCA) 2014 [Student Conduct Administration & Title IX: Gold Standard Practices for Resolution of Allegations of Sexual Misconduct on College Campuses](#)
- White House [Guide to Drafting a Sexual Assault Policy](#)
 - Checklist for Campus Sexual Misconduct Policies
 - Definitions of Prohibited Conduct
 - Key Components of Sexual Assault Crisis Intervention/Victim Service Resources
 - Building Partnerships with Local Rape Crisis Centers: Developing a Memorandum of Understanding
 - Sample Reporting and Confidentiality Policy
 - Interim and Supportive Measures for Victims

Protocols Overview



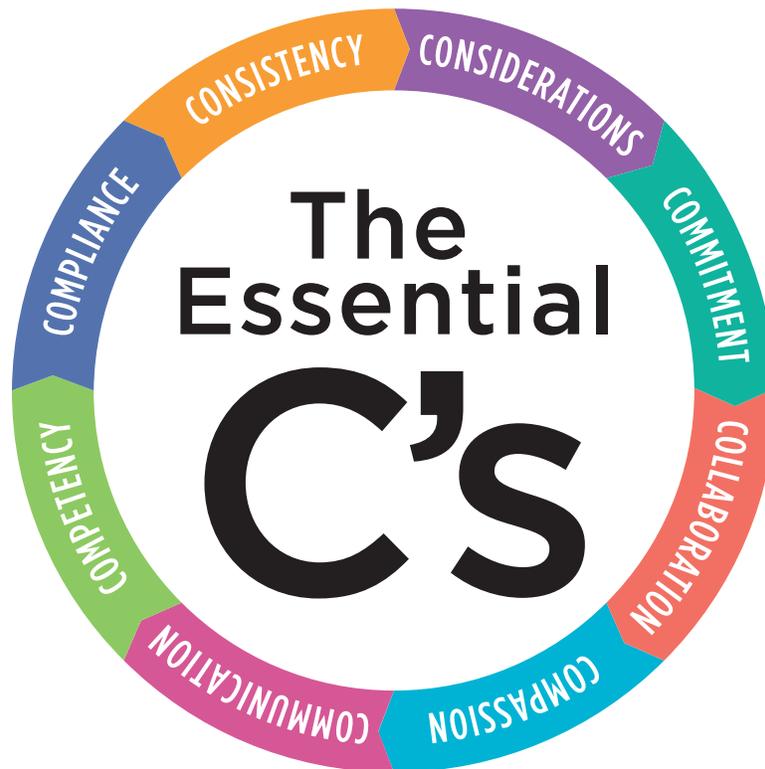
RESPONSE PROTOCOLS

- Every campus must develop written protocols about how it will affirmatively respond to incidents of gender-based violence whether committed by a student, campus employee, faculty, or third parties.
- A campus must have a public affirmative statement explaining its responsibility to provide a safe and nondiscriminatory environment for all students and its intolerance of anything that would compromise that responsibility.
- A single comprehensive policy to address all forms of Sex Discrimination, including gender-based violence, is ideal to minimize confusion and perceived or actual different standards for different parties, which may create additional barriers to reporting. *Your policy should:*
 - Address jurisdiction, including when students and employees are considered students and employees respectively, and when they are not;
 - Cover incidents of gender-based violence that involve campus students and faculty whether or not the crime is committed on or off campus;
 - Explain how the policy intersects with others (i.e. if you have separate policies when a student is respondent and if an employee is respondent), including policies related to tenured faculty.
- Campuses must develop a prompt, fair, and equitable investigation and disciplinary adjudication process.
- The protocols should be specific and outline definitions of prescribed conduct, the process involved in both the investigation and disciplinary action phases after a complaint has been received, duties of the campus to protect complainants, potential sanctions for respondents, and other relevant information to ensure a fair and equitable process.
- Protocols should include operational definitions of gender-based violence such as sexual assault, rape, sexual harassment, stalking, intimate partner violence, and other forms of sexual violence. Consent, coercion, and incapacitation should also be defined.
- Clear guidance to the entire campus community must be provided about how to identify gender-based violence and how to report it to the Title IX Coordinator.
- Protocols should convey a culture where reporting of gender-based violence is encouraged and there is transparency about what happens after a report is received.

- The campus must have an official statement prohibiting retaliation against individuals who report incidents under Title IX.
- The campus should inform survivors that they have the right and how to make complaints to the local law enforcement if a criminal justice action is desired.
- The protocols should include how the complainant and respondent will be treated with respect, dignity, and sensitivity throughout the process and how they will be provided information about the status and outcomes.
- The protocol must be quite detailed yet be understandable. For example, it must include the timeframes for major stages of the complaint process, information about confidentiality, how the campus will respond when either the complainant or respondent is a minor, and roles and responsibilities of all responders involved in gender-based violence. It also must be accessible and understandable by a diverse campus population.

The Process of Development

Consistent terminology should be used throughout all protocols and accompanying materials. Protocols should be developed and reviewed by a team comprised of experts who respond to gender-based violence. It is also helpful to have protocols reviewed by individuals who were not directly involved in their development, but as interested outsiders to ensure that there is consistent understanding of the protocols across a diverse campus population. For example, this could include culturally-specific organizations, student groups, faculty, and staff.





3 COMMITMENT

A teal square containing a white key icon, positioned above a purple square containing the text 'KEY POINTS' in white capital letters.

- **COMMITMENT⁴**
- Fostering climate change takes a coordinated and supported effort.
- A unified and clear message of commitment to end and respond to gender-based violence should permeate the campus.
- There must be direct, open, and transparent communication at every level of the campus about the commitment and the processes in place to manifest that commitment.
- The campus should foster a climate that encourages reporting of gender-based violence.
- Leadership from the highest level of campus administration must be engaged and share responsibility along with the entire campus community to change campus culture.
- A campus should dedicate critical resources in order to have a safe, comprehensive, and compliant response to gender-based violence.
- Strategic leaders in faculty, staff, and administration should be identified to work on campus and with off-campus partners.

4 This toolkit includes a set of key points on many of components of a model response protocol. Some of these sections also have accompanying checklists. These segments take into account guidance provided to campuses from a variety of sources about compliance with the Clery Act and Title IX. These key points and checklists are not all-encompassing and campuses should not limit their responses to what is contained in this section. Additionally, following these checklists does not guarantee that a campus will be in compliance with federal and state regulation.

There have been tremendous previous efforts to help simplify the myriad of regulations and steer campuses across this country. There was significant reliance on those existing resources in the development of this section such as the guidance offered by the U.S. Department of Education Office for Civil Rights through its Dear Colleague Letters, the Title IX Coordinators Resource Guide, and its resolution agreements with campuses across the country. Additionally, materials from The White House Task Force to Protect Students from Sexual Assault and model protocols and checklists from membership organizations such as the Association of Title IX Administrators, the Association for Student Conduct Administration and the National Association of College and University Attorneys (NACUA). Finally, the presentation created by JuHwon Lee and several others, for the 2013 NACUA Annual Conference, entitled, *Sexual Misconduct and Compliance with Title IX: Managing Risk with Integrated and Coordinated Sexual Misconduct Policies and Procedures* helped inspire a roadmap and content.



Our campus has:

- A unified message about responding to gender-based violence.
- Engagement and leadership from key individuals in the administration.
- Sufficient resources dedicated to developing and implementing response protocols.
- Mechanisms to inform the larger campus about the commitment and how it will respond to gender-based violence.

PROTOCOL: BUILDING RESOURCES

Title IX Team Best Practices & Recommendations

1 Adequately resource the work.

Work toward establishing a dedicated, full-time Title IX position to lead a team of individuals addressing gender-based violence at your campus regardless of campus size. This supports Title IX leadership having the opportunity to drive cultural change rather than merely meeting compliance requirements. It also acknowledges the reality that while gender-based violence is a critical component of Title IX work, the scope of the work includes much more.⁵ Additionally, the campus should strive to establish, a Title IX position that oversees the full Title IX program, but does not conduct investigations themselves; rather, this person should oversee an investigator(s) depending on the size of your campus.⁶

For smaller institutions and/or those working to build capacity, consider creative ways to assign Title IX responsibilities to more than one already-established position so that two or more positions may collaborate to effectively meet the needs of the campus and support one another in the work. Doing so may help minimize overwhelmed, under-resourced staff, maximize campus collaboration and staff support, and increase Title IX visibility and leadership opportunities.

2 Properly position the work.

Depending upon where this position is housed can create real and perceived issues surrounding authority, effectiveness, and bias. It can also affect the ability to coordinate efforts and conflict of interest. Campuses should give great care in deciding where this position will sit in its administration and who in the senior leadership it will report to. Specifically the coordinator:

- Should not have any other duties that would raise questions about a potential conflict of interest. Therefore, designating a board member, general counsel, dean of students, superintendent, principal, or athletics director as the Title IX coordinator may pose a conflict of interest.
- Must have access to senior campus leadership/administration to be able to fully inform them of any Title IX issues that arise. Additionally, the Title IX coordinator must have the appropriate authority, both formal and informal, to effectively coordinate the recipient’s compliance with Title IX.
- Must be provided with sufficient resources to carry out position responsibilities and ensure compliance with Title IX.
- Should be provided access to campus law enforcement unit investigation notes and findings as necessary.

The reporting structure for top Title IX leadership should communicate to the community the campus-wide scope and authority (over students and employees) of the position Placing Title IX personnel addressing student issues in Human Resources creates an additional barrier for students to access services as most students think of Human Resources as for employees only.

5 Office for Civil Rights April 24, 2015 *Dear Colleague Letter* on Title IX Coordinators.
 6 *Id.*, at 3.

COMMITMENT

3 Properly staff the work.

Consider critically the required and desired skillset staff must have to provide effective, trauma-informed investigation of gender-based violence. An individual with extensive human resources compliance skills and experience, but with little to no training or experience working with an individual who has experienced gender-based violence trauma would not be an appropriate fit for this position. The Coordinator must have adequate training on what constitutes gender-based violence, including sexual harassment, sexual violence, intimate partner violence, and stalking. This person must also understand the campus's grievance procedures and the intricacies involved in both fact finding and decision-making.

In their role, the Coordinator should be:

- Available to meet with students as needed;
- Involved in the drafting and revision of such campus response protocols to help ensure that they comply with the requirements of Title IX; and
- Available to provide assistance to campus law enforcement unit employees regarding how to respond appropriately to reports of gender-based violence.

Critical skillsets for Title IX staff include at minimum:

- Ability to establish rapport quickly and in difficult circumstances.
- Ability to translate complex concepts to individuals whose capacity to comprehend the information is significantly compromised.
- Demonstrated commitment to assessing and addressing personal bias.
- Demonstrated skills effectively weighing and balancing complex, nuanced factors.
- Strong knowledge of prevalence, effects, dynamics, and impact of gender-based violence.

4 Plan ahead.

The more effective we are in this work, the more barriers will come down and the more reports we will have. As we continue to witness the positive trend of increased reports on our campuses we should utilize this data to inform budget and personnel planning and decisions.



TITLE IX COORDINATOR'S ROLE

Every campus must designate at least one employee responsible for coordinating and carrying out the campus's Title IX efforts. If a campus has more than one person in this role or as part of a team, one person should be selected to have overall oversight and responsibility with a corresponding title that clearly indicates this leadership and accountability.

This position should not be left vacant and campuses must have someone designated as the Title IX Coordinator at all times.

The coordinator must be granted the authority and independence to carry out position responsibilities to ensure compliance with Title IX.

Contact information for the coordinator, including name and title, should be readily available to the entire campus community.

The Coordinator should regularly review campus police records for violations of Title IX and respond accordingly.

Title IX Coordinator should document EVERY report or request for assistance in resolving an incident involving allegations of gender-based violence.

In addition to addressing individual incidents of gender-based violence, the Title IX Coordinator is in a key position to identify and address any patterns or systemic problems.

- Priority is student welfare.
- Develop a culture of accountability and respect for others.
- Students look to campus for guidance and direction to set clear expectations for behavior.
- Student behavior guided by swift, fair, and certain campus response.



Our Title IX Coordinator position:

- Is filled at all times.
- Holds no other responsibilities than serving as the Title IX Coordinator (preferable).
- Is provided the authority and independence to carry out its responsibilities.
- Is provided sufficient resources to carry out its responsibilities.
- Does not have any conflicts of interest that would create real or perceived barriers to access and compliance.
- Has adequate training to properly undertake responsibilities to respond to gender-based violence.
- Reports directly to senior campus administration and leadership.
- Meets directly with students
- Assists in drafting and modifying campus protocols.
- Has access to campus law enforcement reports and information to complete Title IX investigations.
- Regularly reviews campus police records for violations of Title IX and responds accordingly.
- Documents all reports or requests for assistance in addressing gender-based violence.
- Contact information, including name and title, are widely disseminated across campus to students and campus employees and contractors.

COMMITMENT

CREATING A “CHANGING CAMPUS CULTURE” MENTALITY

The following concepts and guidance support efforts to encourage responders to approach their respective work with the beyond compliance mentality:

Share Information Transparently

As campuses work to increase campus constituents’ knowledge and understanding on gender-based violence, students’ rights under Title IX and campus policies, and campus and community resources available, reports will increase. This means that efforts to decrease barriers to accessing advocacy, support, and/or reporting resources are working and that we are beginning to move the needle in our communities. Campuses should establish regular spaces and places to share these successes and framing. Potential avenues may include: annual letter from Title IX team to the community; town hall meetings; proactive media pieces; and social media campaigns.

Title IX staff can leverage relationships and collaboration with student leaders to share and promote the information and establish avenues for Q&A with Title IX staff on the data and trends. Title IX teams should proactively utilize regular opportunities to share successes and continuing challenges on all strata of the campus, including admission tour guides, parents, alumni, and the Board of Trustees.

Leverage Mission

Your gender-based violence protocol should start with a statement of intent and purpose that is directly tied to the campus’ mission. Doing so encourages campuses to do the “pre-work” of developing a shared vision of the work, which should then directly inform the actual protocol development and implementation.

Clearly Define Roles and Scope of Processes

Title IX staff should inform parties early and often about what the internal Title IX complaint resolution process is, and is not, addressing. A Title IX Coordinator may want to explain the following:

- The Title IX process asks and answers this question: is there sufficient evidence to conclude that it is more likely than not (preponderance of the evidence) that the respondent violated a campus policy?
- Compare and contrast with the criminal justice response and option.
- Acknowledge that the Title IX process is difficult. Higher education has put so much emphasis on getting students to report that we can lose sight of the fact that the process itself can be grueling, challenging, and can result in a not responsible outcome.
- If there is a finding of not responsible, that does not mean something traumatic and/or difficult did not happen. Emphasize that campus resources are still there to address student needs around academics, housing, safety, and well-being regardless of the outcome.

These concepts should be revisited throughout the Title IX’s interaction with the complainant and respondent as they are difficult concepts to comprehend even in the best of circumstances.

Prioritize clarifying the roles and confidentiality of all “entry points” a student might access.

It is essential that complainants and respondents understand who they are interacting with, the roles of these individuals, and how the information they provided to these individuals may be used in the future. Some of these professionals are: Title IX staff, campus police, local police, prosecutors, student conduct staff, community advocates, campus advocates, campus mental health counselors, private counselors, clergy, and confidential advisors.

It is best practice for a campus to proactively share this information with the campus community as a whole to help inform the campus community in advance in case of an incident of gender-based violence. Strategies to do so include using student leaders as disseminators of the information, integrating the information into spaces where students already are (e.g., classrooms, orientations to student clubs) and integrating the topics into related issues about which students may already be engaged or concerned. This information must also be shared during an initial meeting between the Title IX Coordinator and a student, although at that time the student may be in crisis and not absorbing the information.

Law enforcement or campus security personnel should not conduct Title IX investigations.

This structure further exacerbates the problematic conflation of the criminal and Title IX processes and increases the likelihood of a chilling effect on reporting if students think reporting to the Title IX person is reporting to law enforcement and they do not want to take that step. In addition, because the two systems have entirely different foundations, standards, orientations, processes, and outcomes, utilizing an individual with a law enforcement background and skillset in the Title IX role may increase the likelihood that a campus is not effectively meeting a range of its obligations under Title IX.

Be intentionally inclusive

To move beyond compliance into cultural change, we must commit to identifying and implementing intentional ways in which our campus processes and response are accessible and inclusive for all students regardless of their sex, gender, gender identity, gender expression, race, ethnicity, ability, disability, pregnancy, social economic status, color, national origin, religion, citizenship, familial status, age, or veteran status.⁷ Culturally competent services and responses integrate culturally-specific knowledge about marginalized or underserved communities into services and messaging. Understanding and identifying barriers for underserved communities, and taking active steps to minimize these barriers to increase the accessibility of programs and support for students must be part of our core vision and approach. Providing culturally competent responses is an ongoing process, and campuses are encouraged to continually evaluate and assess their responses. *Strategies to promote intentional inclusivity in campus protocol development and implementation should include:*

- Anti-discrimination protocols should include protections for sexual orientation, gender identity, and gender expression.
- Definitions for language in protocols defining consent, sexual violence, sexual harassment, sexual assault, intimate partner violence, stalking should use gender neutral language (i.e., they, them, theirs, student, partner) to reflect that anyone can experience these forms of violence.
- Resources should include culturally-specific options (i.e., counselors) that are both trauma-informed and have expertise in working with specific communities.
- Resources, protocols, and information should be accessible to students for whom English is not a first language and for those with varying levels of physical and/or cognitive abilities.
- Promotion and dissemination should use inclusive language, images, and modalities.
- Proactively build relationships with culturally-specific resources on campus and off campus.

Build rapport and create choices

Title IX staff and campus partners are likely familiar with the phrase “reluctant victim” referring to a student who wants to share information about their experience (or the information has come to us from a third party), but has requested that to remain confidential and/or that we do not proceed with further investigation. Most campuses are aware of their obligations to evaluate these types of requests and what factors they must consider during evaluation. If we are to be truly trauma-informed and utilize our knowledge about the realities of gender-based violence in our culture, we must be willing to take all reasonable steps to allow students the time and space to make the decisions that are best for them around sharing the respondent’s name and if/how that they will participate in our complaint resolution process. In our rush to be compliant and/or to get someone to report, we minimize our opportunity and ability to build the rapport and trust with the complainant. Providing a complainant time to take-in the information, speak to family and friends, consider options, and acquire necessary sleep and nourishment, may in fact result in a complainant deciding to participate in a grievance process.

Equitable Advocacy

- **Identify mechanisms and staff (not Title IX staff) to provide assistance to the respondent with academics, housing, and mental health issues while the complaint resolution is pending.** A campus could accomplish this (and promote equitable advocacy more broadly) by developing a Respondent Advisor program to support accused individuals. The responsibilities of a Respondent Advisor role could include: accompanying respondents in meetings/hearings, helping them understand their rights and options, assisting with meeting/

7 This list includes and is not limited to protected classes under Federal law.

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hearing preparation, addressing academic, housing, employment, and mental needs and providing emotional support while navigating concerns throughout the complaint process. Respondent Advisors should be trained on the campus' gender-based violence complaint resolution process and all resources available to the respondent. Campuses should establish a selection, vetting, and training program for these individuals, including education on the complaint resolution process and clear parameters on their role. To maximize participation in this type of program and minimize concern that a person participating may somehow be defending the respondent, Title IX and other leadership should proactively share information about its parameters, rationale, and value with the campus community.

- **Encourage identification of the advocate and/or advisor of choice for both parties as early as possible.** This will promote the most comprehensive, expert support for both parties and will support staying as close to the 60 day recommendation as possible. Many students engage legal counsel late in the process, which can cause delays via scheduling and potential delay tactics by either or both attorneys.
- **Request that complainant and respondent advocate/advisor resources be on “on stand-by”** (not physically present but available to come immediately) in case a party wants to have them in the initial meeting to increase utilization. Advocates for both parties can give information, support, and assistance in a way that the Title IX investigator cannot and this is a critical component of protecting parties' rights from the start.
- **Campuses should consider allowing both parties to have a lawyer AND an advocate** given the unique and critical roles of both through the process.

Create a culture that does not tolerate gender-based violence

Change can feel insurmountable; however, it truly happens one person at a time. We also must regularly acknowledge, and draw energy and hope from, the extraordinary strides we have made in bringing light to and affecting change around the issue of gender-based violence on our campuses over just the last five years. By working to promote a culture where students, faculty, and staff intervene before, during, and after gender-based violence occurs, campuses are creating substantial cultural change. As we look ahead in this movement, our next step is to move beyond awareness-raising to building up skills- such as effectively engaging as a bystander, supporting a survivor in a trauma-informed manner, and successfully advocating for organizational policy changes- and opportunities to put those skills into action.

Reduce perpetration/end gender-based violence

Individuals who perpetrate gender-based violence count on the community around them- their classmates, professors, co-workers, friends, and family members- to help them. They count on us to be silent- to look the other way; to not believe the survivor; to look to the survivor for the cause of the violence. In fact it may be that the greatest tool for individuals who engage in gender-based violence have is us. Conversely, the more we become a community that refuses to look the other way, the more individuals who perpetrate violence have something to fear. We want our campus communities to be places where those who commit gender-based violence are uncomfortable; do not fit in; where they know and learn that they social norm is for someone to speak up rather than stay silent. The more individuals on our campuses and in our communities that are educated on the realities of gender-based violence that intentionally reject victim blame and social stigma, and have the skills and courage to interrupt gender-based violence the more we are able to reduce perpetration of gender-based violence.

Promote healthy sexuality, stable relationships and productive workforces

Much of society's reticence toward addressing gender-based violence comes from the historical, deeply entrenched, and damaging misinformation most of us learn about the prevalence, dynamics, and impact of gender-based violence as well as discomfort with the topic of sex and sexuality (despite the fact that gender-based violence is primarily about power and control, not sex). We now know that working to promote healthy relationships, including sexual consent, is a critical component to addressing gender-based violence on campus. Beyond that, when campus community members are educated through the lens of what we want them to do and be, rather than what we do not, they feel more connected to the overall efforts to create change. Moreover, if we create campus communities of healthy individuals and relationships, student and campus personnel productivity increases, leading to a generally stronger sense of community and purpose, and promoting our mission to educate students holistically.



5 COLLABORATION

Campus & Community Partnerships

One individual or entity cannot change culture. Developing, fostering, and sustaining campus and community partnerships are critical to move beyond check box compliance. Larger campuses should consider having both a campus response team and a multi-disciplinary campus-community team, with built in mechanisms for overlap and collaboration between the two. Smaller institutions can enhance their response team capacity by leveraging campus and community resources into one team. Team-building recommendations include:

<p>Be Student & Survivor-Centric</p>	<ul style="list-style-type: none"> • Prioritize student and survivor membership in these teams to maximize relevance and accountability and to optimize effectiveness and impact. • Put what we know- that students with access to confidential advocacy and support are more likely to seek additional sources of support (e.g., counseling, medical) and to report to law enforcement and Title IX- into action. Prioritize more choices around and sources of confidential support and advocacy- community-based, on-campus staff, and on-campus peer) for students.
<p>Build Relationships</p>	<ul style="list-style-type: none"> • Proactively build a relationship with your community gender-based advocacy organization if one exists in your community. This may be particularly critical to small campuses who may not have the on-campus resources. Establish a MOU that articulates ongoing partnership and collaboration opportunities. If your community does not have a rape crisis center or IPV advocacy organization, commit to developing on-campus expertise around advocacy and support, ideally via staff and peer advocates, and utilize the state and national resources available to them in those efforts.
<p>Establish Common Ground</p>	<ul style="list-style-type: none"> • Develop a common gender-based violence knowledge base through reciprocal trainings. • Utilize shared knowledge and understanding to develop a shared vision and approach to the work. • Continually ground the work of the team to that shared vision and approach. For example, your team may determine that, in response to a common understanding that the severe underreporting of campus gender-based violence is due to lack of understanding of survivor choices and various systems, you may work as a group to prioritize confidential advocacy and support resources as the initial entry point for student survivors in your community. From there, you can determine strategies to meet that goal leveraging the tools available to each member to support the shared goal.
<p>Increase Access</p>	<ul style="list-style-type: none"> • Create a campus and community centralized web portal with videos of members describing their role, addressing their confidentiality parameters, and proactively dispelling myths to encourage student survivors accessing resources.

COLLABORATION

Partnering with Law Enforcement and Prosecutor

- When engaging with these partners, acknowledge and allow for education and dialogue around the differences between the criminal and Title IX systems, including, but not limited to:
 - Purpose
 - Legal foundation
 - Type of conduct addressed
 - Language
 - Standard of proof
 - Rules of evidence
 - Potential outcomes
 - Actual outcomes
 - Requirements while pending (e.g. Interim measures)
 - Parties rights

Build Relationships

- Historically and for many still now (including those we may be striving to partner with), the criminal justice system is seen as the only and/or the only appropriate system under which we should address gender-based violence- in particular acquaintance sexual violence. Knowing this, we have to be realistic, intentional, and patient as we develop the trust, rapport, and partnership required to determine how the two systems, and the individuals within those systems, will (and as importantly will not) work together. We can do this relationship-building while still firmly committed to and strong on our mission to change campus culture around gender-based violence.

Successful strategies to foster collaboration with law enforcement and prosecutor may include:

- **Draw parallels with other systems** required by law to address conduct that may be criminal in nature as well and result in some non-criminal sanction (e.g. termination, dismissal) under their internal systems, such as employers or the military. If the criminal justice response does not move forward for any reason (which frequently is the case for most acquaintance gender-based violence), these non-criminal entities must still have a response. It may be helpful to share and facilitate an open dialogue with law enforcement partners regarding the fact that campuses have been adjudicating student and employee conduct that may be criminal in nature (e.g. physical fights, drug possession) that may result in suspension or expulsion for years, and there has been no backlash or concerns from the public or law enforcement about campuses doing so- until the issue of campuses doing so in student on student sexual assault cases came up. A discussion about why this is, while challenging and likely developed over time, may lead to productive perspective development and ultimately stronger collaboration that will support cultural change.
- **Identify an ally within law enforcement** who shares your desire for collaboration, understands the interplay of the two systems, and may be able to co-facilitate conversations and trainings with you for their colleagues.
- **Articulate to law enforcement partners** that understanding, utilizing, and partnering with campus Title IX staff, advocates and community advocates can significantly increase the ability of a student victim in a criminal case to serve as a strong witness and to sustain their participation in the criminal process.

For example, if a prosecutor is able to refer a student they are working with to the Title IX Coordinator to assist the student to stabilize their academics, address their safety needs (via a No Contact Order), and remove them from the residence hall in which they were raped, that student will be in a much better space to participate successfully in the criminal process. In a similar vein, if and when police and/or the prosecutor's office determine they will not be taking the student's case to prosecution (which again, is the vast majority of the time), they can offer that student a multitude of resources outside of the criminal process that will potentially help address some of their needs.

- **Proactively address potential prosecutor concerns** that the campus Title IX process will negatively impact the success of the criminal case.
 - **Acknowledge Reality.** First, it is important to have an open, respectful conversation about the fact that most campus gender-based violence cases, particularly student on student sexual violence with alcohol involved, are not pursued by the prosecutor's office and those that are rarely result in conviction. This reality has nothing to do with the existence of a concurrent Title IX investigation/process, but rather reveals the many challenges that exist related to the criminal justice system response to gender-based violence as a whole compared to other types of crime.
 - **Have difficult conversations.** Have a proactive conversation (not in the middle of a case) with the prosecutor's office regarding what their specific concerns are around the Title IX process negatively impacting the criminal case so that Title IX officer can be sensitive and responsive to those concerns. Perhaps there is an investigation training that the prosecutor's office might recommend for Title IX staff that would decrease their concerns.
- **Help Each Other.** Raise the idea that investigation and complaint resolution processes conducted by personnel with appropriate training and expertise could potentially benefit a criminal case and help the prosecutor office's strengthen their response and outcomes to these cases.
- **Let data drive the objectives** and work of campus and community partnerships in whatever form they make take. For example, many prosecutor offices across Ohio do not track how many student victims they engage with nor what they do with those cases once received (i.e. whether prosecuted, outcomes of prosecution). If we can begin to understand what systems students access, what is happening when they do, and how those data points might relate, the more we can tailor our campus and community partnerships to directly address those issues. One strategy may be for a community group or Sexual Assault Response Team (SART) to develop a shared data set that they would like to collect. For example, all systems (i.e. law enforcement, SANE, advocacy organizations, prosecutors) integrating a question about student status into their intake processes would likely be a significant shift in most communities. If the reporting party does identify as a student, the responding entity then has the opportunity to identify and explain campus resources to that person and make a referral with a name to that referral resource. For example, if a student identifies to a prosecutor that they are a student on a local campus and are having trouble keeping up in classes because of the assault, that prosecutor can use their campus and community team contact to make a directed referral. Teams may consider developing flowcharts of campus and/or community resources with names attached to utilize in their respective intake and referral processes.
- **Complainant and Respondent Lawyers.** Legal representation for one or both parties is becoming the norm. Title IX personnel should ensure parameters of lawyer participation in the campus's complaint resolution process are clearly described in protocol, but should also build in the opportunity to review these protocols with lawyers to encourage transparency, answer questions, and make clear the consequences for legal representation not abiding by the campus's protocols. Consider ways to engage with lawyers serving in these roles and regularly interfacing with campus personnel in a proactive way outside of individual cases to promote common understanding of each other's roles, the campus's policies and protocols, and to address conflicting or tension points proactively rather than in the middle of a case. For example, the Title IX Coordinator and/or administrator facilitating the conduct process may consider inviting local lawyers to campus for an informal, non-adversarial Q&A on Title IX and the campus' process so that discussion, including typical tension points during cases, may be discussed in a more proactive, less adversarial environment. Title IX Coordinators and local lawyers may consider attending or even potentially co-developing and implementing trainings on the intersection and interplay of Title IX processes and the criminal and civil legal systems to increase individual knowledge and foster a respectful, working relationship. A Title IX Coordinator may consider attending a forum at which Title IX issues are discussed in the civil attorney arena to gain better understanding of the perspectives and concerns that may be raised in those spaces. These strategies can help to minimize one or more conflict areas during the complaint resolution processes, which serves to support both students better in an already very difficult process.

COLLABORATION



COLLABORATION

- Collaboration is imperative to ensure the campus has compliant, comprehensive, and meaningful responses to gender-based violence.
- Every campus should have a group of key stakeholders that meet on a regular basis to discuss campus responses to gender-based violence.
- No one method of engaging stakeholders is effective for all stakeholders. Different approaches should be used based upon the individual, the history of prior relationships, and the desired outcome of engagement.⁸
- The campus should also be connected to any larger community collaborative or task force working on gender-based violence issues.
- In any collaborative, members should have delineated roles and responsibilities, preferably written.
- Working in collaboration helps identify gaps in services and breakdowns in protocol implementation. A collaborative can also leverage resources and power to create resources to fill the gaps and ameliorate the implementation challenges. Stakeholders are in a key position to develop information sharing and documentation protocols and create templates that should be used by campus responders.
- To be effective, collaboration requires trust building, open and honest communication, and the ability to work through conflict. Cross-training can facilitate a better understanding of various stakeholder's roles and responsibilities.
- Campuses can use collaboration to assemble a comprehensive list of services and supports vices (both on and off campus) who can meet the needs of the diverse student body.
- Memorandums of Understanding (MOUs) should be used to develop and cement formal relationships between campuses and off-campus entities that are critical to a holistic and comprehensive response. MOUs should outline the corresponding roles and responsibilities of partners and acknowledge respective duties of partners in responding to gender-based violence.
- Communication protocols should be developed that provide clear guidance on documentation, confidentiality, and information sharing among responders.

8 See the Toolkit section Unpacking Essential C's: Collaboration: A Guide to Stakeholder Engagement for more information.



6 COMPETENCY

For investigators and decision-makers. Campuses can meet their Title IX responsibilities to have a prompt and equitable complaint resolution process, including a fair, reliable, and impartial investigation, for sex discrimination complaints through a variety of systems and structures.

What's Your Model?

Your campus may have determined that a civil rights model with a single investigator conducting the investigation, making a finding, and assigning the sanction is the right fit; or that utilizing a fully external investigator and complaint resolution process is the right fit. Whatever the system, your campus is responsible for ensuring the individuals managing these processes are trained in a way that meets OCR guidance.

Consider the following recommendations as you determine the best approach for your campus:

- ✓ **Establish an application and interview vetting process** for investigators and decision-makers that promotes a trauma-informed, equitable, impartial process.
- ✓ **Address how to balance personnel's responsibility to be trauma-informed and to be unbiased and equitable in training.** If a campus does not specifically address this issue, investigators and decision-makers may improperly draw a case conclusion and act impartially rather than equitably. For example, investigators and decision-makers should understand why there may be inconsistent statements and issues with memory as that can be consistent with experiencing trauma; therefore, an investigator/decision-maker must not automatically discredit a report if those factors are present and/or allow such factors to indicate whether or not an incident of gender-based violence has occurred.
- ✓ **Ensure that investigators are aware they may be or can become a trigger for a complainant** and are capable to show flexibility and responsiveness to the impact their interactions have. This includes demeanor, openness and communication gaps.
- ✓ **Give decision-makers access to initial training materials** if they are selected to serve as a decision-maker on a case so that they can review the information closer in time and be more informed during the hearing⁹ as significant gaps of time may pass before a decision-maker is called to serve on a board and a review of materials would be prudent.

⁹ There are a wide range of training modules for decision-makers available from various resources each with delivery method options (i.e. in person, webinar) and a range of cost. Examples include Paperclip Communications, Academic Impressions, ATIXA, and NACUA. Title IX leadership should vet the quality of the training content and faculty determine the highest quality training to meet the campus' particular needs and budget.

COMPETENCY

✓ **Give decision-makers an adequate amount of time to consider case documentation** to support their ability to review the information and potential policy violation questions at issue. While campuses are certainly correct to have strong safeguards around sharing case documentation with decision-makers, campuses that provide case documents to decision-makers only 1 hour or even 24 hours before the hearing greatly reduce the decision-makers ability to review the materials.

✓ **Address the following competencies in decision-maker training:**

- Gender-based violence prevalence, dynamics, and impact.
- Potential experiences and reactions of an individual accused of gender-based violence (e.g., fear of telling family, memory impaired by alcohol, impact of concurrent criminal process).
- Questioning skills.
- Weighing different types of evidence (e.g. direct, circumstantial, inferential).
- Applying policy to fact.
- Elemental analysis.
- Applying preponderance of evidence standard.
- Assessing credibility, motive, inconsistencies, consent, intoxication, capacity
- Mock hearings.

✓ **Institute mock hearings and monthly in-services** on various relevant, complex topics to increase expertise and experience.

✓ **If you are using an external investigator, consider:**

- How is that person/firm vetted?
- What mechanisms are in place to assess an external investigator's expertise and ability to do the work in a trauma-informed way?
- How have you ensured that person/group has the campus connections to refer both parties to the campus resources they may need?

✓ **Co-training with collaborative partners**

- Utilize your partners. When considering who will train your investigators and decision-makers on the dynamics of gender-based violence, utilize campus (i.e. Diversity & Inclusion, LGBTQI+, Women's Center) and/or community (i.e. local rape crisis center, LGBTQI+ organization) partners to do so.
- Be prepared to respond to respondent and/or respondent attorney concerns that having individuals/entities whose role it is to advocate for individuals reporting gender-based violence do this training creates improper and prohibited bias in investigators and decision-makers. Specifically, a respondent may argue that if a group of conduct board members hear that 1 in 4 women are sexually assaulted, only 1 in 10 report, and campuses have gotten in trouble by the U.S. Department of Education for repeatedly not finding accused students responsible, they will naturally be biased to make a finding of responsible.

To address this concern, campuses may consider:

- **Having an on-campus person** who is not in a decision-making or advocacy role within the complaint resolution process to be trained by these campus/community advocacy organizations and then to deliver the training to investigators and decision-makers.
- Having training come from an expert with a more **neutral position** and/or professional background, such as Dr. Rebecca Campbell’s “Neurobiology of Trauma” presentation.
 - **Articulate** the reason for ensuring decision-makers understand the facts and realities around gender-based violence- that is, that such training is in response to myths, misunderstanding, and historical, entrenched systematic blaming of students reporting and discouraging them from doing so.
 - **Communicate** that your training content strives to create equitability and proactively address impartiality and bias, and how.
- **Ensure that investigators and decision-makers are trained on all forms of gender-based** violence not just student-on-student acquaintance sexual violence. There are important distinctions and unique components of intimate partner violence, stalking, and sexual assault that one should understand to inform their trauma-informed approach. For example, lethality assessment and safety planning look very different between intimate partner violence and acquaintance sexual assault.¹⁰
- **For Responsible Employees**
 - When engaging individuals designated as Responsible Employees on your campus, **lead with the “why” of their reporting responsibilities.**
 - Highlight the protocols grounded in student safety and well-being, success in the classroom, and how experiencing gender-based violence can negatively impact success in the classroom.
 - Focusing on the why of the protocol rather than the “what” (e.g. if a student discloses to you, you must report to Title IX immediately) allows us to tie the training to existing, familiar, and shared education and student development values. It also serves to cultivate rapport, trust, and collaboration with individuals who may come less organically to the work (e.g. faculty in Gender Studies) or even with reluctance and/or opposition to the idea of the Responsible Employee obligations.
 - **Utilize an engaging, accessible training module to reach all Responsible Employees.**¹¹
 - From there, create in-person follow up sessions with small groups of Responsible Employees to share the reason for the policy, answer any questions, and create rapport between the Title IX staff and Responsible Employees.

10 See Toolkit Resource List [Safety Planning with Adult Sexual Assault Survivors: A Guide for Advocates and Attorneys](#), Victim Rights Law Center (2013).

11 For example, the Clery Center for Campus Security’s [Responsible Employee Training](#) video.

COMPETENCY



KEY POINTS

TRAINING

Campuses must have education programs to increase the awareness of gender-based violence.

There should be both mandatory and ongoing training on issues related to protocols pertaining to gender-based violence to all members of the campus community – including students, faculty, administrators and other staff.

At a minimum campus police should be trained on complaint and disciplinary procedures; how to properly inform complainants of their rights under Title IX; and how to report incidents to the Title IX Coordinator.

Cross-training can be used to help stakeholders better understand the role and responsibilities of other responders.

Training for employees should include practical information about how to identify and report gender-based violence.

Title IX training (what to look for, informing complainants of their rights, and how to report) must be provided to all administrators, professors, instructors, resident assistants, coaches, and other staff who interact with students on a regular basis. In addition to above, responsible employees are required to additionally receive training on how to:

- Prevent and identify gender-based violence, including incidents involving same-sex violence and rape-tolerant attitudes.
- Recognize behavior or other warning signs of gender-based violence.
- Respond appropriately to reports of gender-based violence to avoid re-victimization.
- Report gender-based violence to the Title IX Coordinator.
- Respond to a complainant's request for confidentiality.
- Protect complainant's confidentiality to the extent permissible.
- Provide contact information to complainants for: (1) reporting options (Title IX Coordinator, campus police, and local law enforcement), and (2) on- and off-campus victim resources (victim advocacy, housing assistance, academic support, counseling, disability services, health and mental health services, and legal assistance).
- Their requirement to provide complainants with information about: (1) available confidential resources for victim advocacy, counseling, and other support services; (2) their right to file a Title IX complaint; and (3) the option of reporting to campus or local police.

Increased competency and training is required for the Title IX Coordinators, Title IX investigators, law enforcement, victim advocates, campus-based advisors of choice, and responsible employees. Specifics, scope, and depth of the training topics will depend on the particular role of each group on campus, but will include some combination of the following:

- What conduct constitutes gender-based violence.
- The complaint and disciplinary process, including options, timeframes, and potential outcomes.
- Applicable confidentiality requirements and protecting complainant’s confidentiality and privacy whenever possible.
- How to conduct an investigation, including trauma-informed interviewing techniques.
- Holding those who have committed acts of gender-based violence accountable and possible sanctions.
- How to weigh witness credibility.
- Evaluating evidence in an impartial manner.
- The neurobiology of trauma especially from gender-based violence and how that trauma affects decision-making and actions.
- Cultural relevancy and diversity training in relation to responding to gender-based violence.
- Applicable legal standards for investigating and reviewing complaints.
- The obligation to take interim measures where appropriate.
- The need to take steps from preventing ongoing or a reoccurrence of gender-based violence.

Campuses should ensure there is training offered on any new protocols.

Campuses should verify that the training they offer is effective by utilizing a range of assessment and evaluation tools, such as pre- and post-tests, rubrics, and trainee surveys.

Our campus:

- Has education programs to increase awareness of gender-based violence, including how to identify it, the campus’s protocols, and how to report.
- Trains responsible employees on their role and responsibilities.
- Ensures that those entrusted with the implementation of the campus response protocols have expertise either through experience or training to perform their roles.
- Trains law enforcement on campus investigation and disciplinary protocols and the importance of informing students of their right to a Title IX investigation/complaint process.
- Informs the campus community about protocol changes.
- Confirms that trainings are effective.





7 COMPLIANCE

Confidential Resources

- **More confidential spaces supports more cultural change**
 - **Why do so few students report?** Campuses committed to moving the needle on campus gender-based violence must approach the work always grounded in the *why* of underreporting (to anyone including officials like police or Title IX) and *how* we can tackle that fundamental cultural component. Campuses working through this lens know that if we want students to report to campus authorities (so that we can then respond with all of our policies and processes) we have to be willing to intentionally create more confidential spaces rather than less.
 - As we determine and disseminate the non-confidential and confidential resources for students, we must do so with our knowledge that **students who learn of their rights, options, and resources in safe spaces are more likely to seek accountability** through Title IX and/or law enforcement and will be so much better prepared, healthy, and supported as they go down those paths.
 - **Creating more confidential spaces means creating an actual “culture of reporting”** rather than to mean that every Responsible Employee knows they must report everything they know to the Title IX Coordinator. The former means creating a campus culture in which students know how to access information, services, and support; can consider their options in a safe, supportive environment; and are empowered to make informed decisions about their next steps. The former is changing culture, the latter compliance.
 - **It is possible to be both in compliance and to change campus culture**, but it does mean being willing to and intentional around not making every employee a Responsible Employee.
- **Value of on-campus confidential advocacy.** If you are in a position to support a confidential on-campus advocacy program and support staff, this position should be established. An on-campus confidential staff advocate is able to establish visibility, relationships with campus and community partnerships, and develop strong knowledge of campus systems, all of which serve the students with whom that person works.
- **Proactive education on confidential and non-confidential resources.** If we are to be truly trauma-informed and understand the “why” of underreporting, we know that we must answer the question “What happens if I tell this person about what happened?” for students in a clear and proactive manner. Students and survivors serving on campus and/or community partnership teams can be very helpful in this realm, assisting you to develop language and materials to share this information in as accessible and understandable ways as possible.

- **Ohio Revised Code §2921.22 Failure to report a crime or knowledge of a death or burn injury**
 - Campuses around Ohio are currently interpreting their reporting obligations under ORC §2921.11 along a spectrum and are then designing their response systems to align with that interpretation.
 - For example, although OCR has stated¹² that individuals providing assistance to students who experience sexual violence who are not professional or pastoral counselors (e.g. individuals who work or volunteer in on-campus sexual assault centers, victim advocacy offices, women’s centers, health centers) are not required to be Responsible Employees, some campuses have moved these individuals under a program or individual with licensure privilege (i.e. counseling services) so that the advocate will not have reporting responsibilities under ORC §2921.22.
 - The downside to this approach is that many students who have experienced gender-based violence may not seek out counseling services for a variety of reasons (e.g., not understanding the difference between advocacy and counseling, a particular student wanting the former rather than the latter, or stigma related to counseling).
 - Such an approach also does not acknowledge the potential interpretation of the ORC §2921.22(G)(6) to mean that individuals without privilege, but who are specifically designated and trained to provide advocacy and support services to students, may be exempt from this reporting obligation.¹³
 - Finally, such an approach also does not acknowledge that, given the strong language of ORC §2921.22(A)(1)- “Except as provided in division (A)(2) of this section, no person, **knowing that a felony** has been or is being committed, shall knowingly fail to report such information to law enforcement authorities”- there is a reasonable interpretation that no individual outside of those in the criminal justice system, specifically law enforcement, a Prosecutor, and/or a judge or jury, could know that a felony has been committed.
 - Non-privileged advocates are not in the business of (nor do they have the training to) make such a determination- rather their role is to provide information, support, and advocacy to the student.
 - In addition and directly related, some campuses have interpreted ORC §2921.22 in a way that has led them to create a response system in which the campus reports student information to campus law enforcement, local law enforcement, and/or the Prosecutor’s Office and those entities are contacting students *despite clear indication by the student that they do not want such contact*. Given what we know about the “why” of underreporting to law enforcement, campuses should consider the potential detrimental consequences of such a system, including how such a response may contradict Title IX’s strong expectations around confidentiality and trauma-informed approaches as well as the potential detrimental effect on reporting such a practice may have.
 - Both issues above highlight the critical role of community-based advocates for students.

12 Office for Civil Rights April 2014 *Questions and Answers on Title IX and Sexual Violence*.

13 States that an individual does not need to report if “Disclosure would amount to revealing information acquired by the actor in the course of the actor’s duties in connection with a bona fide program for providing counseling services to victims of crimes that are violations of section 2907.02 or 2907.05 of the Revised Code or to victims of felonious sexual penetration in violation of former section 2907.12 of the Revised Code. As used in this division, “counseling services” include services provided in an informal setting by a person who, by education or experience, is competent to provide those services.”



ANNUAL SECURITY REPORTS

Under the Clery Act, campuses must issue an Annual Security Report (ASR) report every year that lists all domestic violence, dating violence, stalking, and sexual assault reports¹⁴ that have occurred in the past three years in certain geographical locations under control or significantly used by the campus.

This report must be automatically disseminated to all current students and employees or any announcement should have a direct link to the report. This report should also be available upon request to any prospective students and employees.

Campuses should delineate Clery geography locations so that there is no confusion about what has to be reported in the ASR.

The ASR must also include a statement as to the campuses' position about gender-based violence and protocols.

The campus should be collecting statistics from both campus/local law enforcement and campus security authorities.

Campuses should be maintaining a daily crime log.

Only aggregate, non-identifying information should be included in the data collection and in the ASR. Campuses may want to develop training for campus security authorities on what information they need to share.

CONSENT AND CONFIDENTIALITY

A campus should inform and obtain consent from the complainant before beginning an investigation.

If a complainant requests confidentiality or asks that the complaint not be pursued, the campus should assess the confidentiality request in the context of its responsibility to provide a safe and nondiscriminatory environment for all students. The campus should take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation.

If confidentiality is requested, the campus should inform the complainant:

- If it cannot guarantee confidentiality. For example, in some cases, such as those where the campus is required to report the incident to local law enforcement or other officials, the campus may not be able to maintain the complainant's confidentiality.
- It will investigate the allegations of gender-based violence and take appropriate action, even if the survivor does not wish to pursue any campus response, but that any campus response may be hindered by the complainant's wishes for anonymity.
- It will take steps to prevent retaliation and will respond accordingly if it occurs.

Even if a campus cannot take disciplinary action against the respondent, the campus should pursue other steps to limit the effects of the gender-based violence and prevent its recurrence.

To protect a complainant's confidentiality and encourage survivors to seek help, the following employees are not required to report incidents of gender-based violence: campus mental health counselors, pastoral counselors, social workers, psychologists, health center employees, or any other person with a professional license requiring confidentiality, and the people they supervise.¹⁵

A complainant and respondent should be told that the information collected during a campus investigation could be subpoenaed in criminal or civil proceedings.

14 Incidents of intimate partner violence, dating violence, sexual assault, or stalking that were reported to campus security authorities or local police and hate crimes offenses that were motivated by the actual or perceived gender identity or national origin of the survivor must be included in the ASR. See Clery Crimes in Glossary for more information.

15 See the Confidential Resources section of the Toolkit for more information.

**Our campus:**

- Informs and obtains consent from the complainant before beginning an investigation.
- Takes all reasonable steps to investigate and respond to a complaint consistent with a request for confidentiality or a request not to pursue an investigation.
- Considers the following when weighing a request for confidentiality:
 - Circumstances that suggest there is an increased risk of the alleged respondent committing additional acts of sexual violence or other violence.
 - Whether there have been other sexual violence complaints about the same alleged respondent.
 - Whether the respondent has a history of arrests or records from a prior school indicating a history of violence
 - Whether the alleged respondent threatened further harm against the student or others, and whether the gender-based violence was committed by multiple individuals.
 - Circumstances that suggest there is an increased risk of future acts of gender-based violence under similar circumstances.
 - Whether the student's report reveals a pattern of perpetration, via illicit use of drugs or alcohol, at a given location, or by a particular group.
 - Whether the gender-based violence was perpetrated with a weapon.
 - Age of the student subjected to the gender-based violence.
 - Whether the school possesses other means to obtain relevant evidence (i.e., security cameras or personnel, physical evidence).
- Informs the complainant that the campus's ability to respond may be limited if a complainant insists that his or her name or other identifiable information not be disclosed to the respondent.
- Tells the complainant that Title IX prohibits retaliation, and that the campus will not only take steps to prevent retaliation but also take strong responsive action if it occurs.
- Evaluates a request for anonymity in the context of its responsibility to provide a safe and nondiscriminatory environment for all students.
- Informs the complainant if the campus cannot ensure confidentiality.
- Pursues other steps to limit the effects of the alleged harassment/violence and prevent recurrence.
- Considers the respondent's rights to receive information about the complainant and to receive information about the allegations if the information is maintained by the campus as an "education record" under FERPA.
- Under FERPA, after a complaint is made, a student may request from the office responsible for FERPA requirements (in some cases this is the Registrar's office) that (1) their name and other identifiable information be redacted from the complaint and all pertinent documents; (2) such information not be provided to the respondent in any manner; and (3) all information regarding the complaint and its relation to accommodations be kept confidential to all persons except those responsible for investigating the claim and coordinating accommodations.¹⁶ OCR recommends that the institution inform the survivor preemptively about what information will be disclosed, to whom, and why.¹⁷ Especially where a responsible employee made the complaint without the survivor's agreement, survivors should feel comfortable asking to only be involved in the investigation and hearing to the extent necessary.¹⁸

¹⁶ See 34 C.F.R. § 99.12(a)

¹⁷ Catherine E. Lhamon, *Questions and Answers on Title IX and Sexual Violence*, U.S. DEPT. OF EDUC. OFF. FOR CIV. RIGHTS (April 29, 2014), available at <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>. pages 18-22.

¹⁸ Id.



KEY POINTS

INVESTIGATION OVERVIEW

To comply with Title IX responses, campuses must promptly investigate a report of gender-based violence. However, there is no time frame in which a survivor must come forward in order for there to be Title IX investigation.

A campus's investigation must be adequate, reliable, and impartial. This includes the opportunity for both the complainant and respondent to: present witnesses and other evidence; have ongoing updates about the status of the investigation; and have an advocate or advisor of choice present.

Whenever a student comes forward with an allegation that they are a survivor of gender-based violence, the campus should provide them with written information about options, resources, and evidence collection and preservation. Best practice is to have this list accessible in both electronic and hard copy formats.

Campuses should designate individuals to investigate Title IX complaints that have specific training and experience investigating allegations of gender-based harassment, including sexual violence, stalking, and intimate partner violence. The investigator may be an employee of the campus or an external investigator engaged to assist the campus in its fact gathering.

The standard of preponderance of evidence should be used during the investigation and fact finding process.

In determining the appropriate course of action to eliminate the conduct at issue, prevent its recurrence and address its effects, upon receipt of a report, the Title IX Coordinator and/or other relevant team members may want to do a quick assessment to consider the nature of the report, the safety of the complainant and the larger campus community, and the complainant's expressed preference for resolution.

A law enforcement investigation does not relieve the campus of its obligation to conduct an independent Title IX investigation. Additionally, a campus should not wait for the conclusion of a criminal investigation or criminal proceeding before they begin or complete their own Title IX investigation. For example, if a campus places its fact-finding on hold in order for a police department to finish its own investigation, the fact-finding should immediately resume and once the police department completes its evidence collection.

It is important to note that not having a local law enforcement investigation or a finding of lack of evidence for criminal prosecution, does not release a campus of its duty to respond promptly and effectively, nor is it determinative of whether a violation of Title IX occurred.

Campus police and Title IX Coordinators must notify a complainant of the right to file a criminal complaint and not discourage a survivor from pursuing criminal action at any time during or following the campus's Title IX investigation. Campus police should inform complainants of their right to file Title IX complaints.

Evidence collection and investigations should include but not be limited to:

- medical evidence/records
- security monitoring records
- visitor logs
- audio-video recordings
- texts and email
- voice mail and phone records
- social media
- photographs of the scene and injuries
- prior civil protection orders
- campus records
- clothing and other tangible objects
- 911 recordings
- physical and forensic evidence*

*Reviewed by a trained forensic examiner

If an investigation goes forward and the complainant continues to ask that his or her name not be revealed, the campus should take all reasonable steps to investigate and respond in a manner consistent with that request unless doing so would compromise the safety of others or prevent the campus from responding effectively to the complaint.

Protocols for campus police should be developed and officers trained on how to collect evidence and investigate in a trauma-informed manner to allegations of gender-based violence. For example, it is best practice to refer for forensic evidence-collection immediately by a specialized SANE.

In order to complete the Title IX investigation, the Title IX Coordinator should have access to campus law enforcement's investigation notes and findings, so long as this information sharing does not compromise a criminal investigation.

There should be sufficient documentation occurring throughout investigation to support the fact finding and any potential subsequent determinations.

The team should assess whether there is a need for a timely warning or emergency notification under federal law. If a timely warning is issued, there should be no identifying information about individuals involved in the incident.

Campuses should respond as seriously to incidents occurring off-campus as those that occur on campus. Protocols on how to respond to off-campus incidents of gender-based violence involving a member of their campus community must be developed.

Title IX staff leading the investigation and/or campus administrators facilitating the conduct process should discuss preferred communication methods with both the complainant and respondent and should provide regular updates on the process to both parties.

Title IX staff leading the investigation and/or campus administrators facilitating the conduct process should inform the complainant at the outset that they should report any new incidents of gender-based violence and/or retaliation immediately so that the campus can respond.

At the conclusion of the investigation, the Title IX staff leading the investigation should notify both parties in writing whether they have determined there is a reasonable cause that a policy violation may have occurred and what the next step in that particular campus' complaint resolution process will be (e.g. process moves to the student conduct office and a hearing will be scheduled to determine if there is sufficient evidence to conclude it is more likely than not that a policy violation has occurred).

COMPLIANCE



Our campus:

- Promptly initiates its own investigation whenever there is any allegation of gender-based violence.
- Takes immediate steps to resolve the situation and whenever possible protect the survivor and assure his/her well-being.
- Notifies the complainant of the right to file a Title IX complaint.
- Notifies the complainant of the right to file a criminal complaint.
- Provides a student with written information about options, resources, and evidence collection and preservation as soon as they disclose that they are a survivor of gender-based violence.
- Designates a specially trained individual(s) to investigate Title IX complaints.
- Considers whether to notify off-campus authorities based on balancing the law and survivor-centric practices.
- Investigates a complaint independently of local law enforcement.
- Uses the preponderance of evidence standard.
- Allows a complainant to come forward regardless of when the incident occurred.
- Conducts adequate, reliable, and impartial investigations of complaints, including the opportunity for both the complainant and respondent to present witnesses and other evidence.
- Conducts investigations by individuals with thorough training on gender-based violence, evidence collection, confidentiality, and culturally-relevant, trauma-informed responses.
- Has a formal relationship with local law enforcement that outlines information sharing.
- Promptly resumes and completes its fact-finding if placed on hold during the off-campus police department's investigation/evidence gathering.
- Trains campus police and security officers on the process of evidence collection and trauma-informed responses.
- Processes complaints of gender-based violence that occurred off-campus in accordance with its established protocols.
- Removes identifying information about students when issuing a timely warning.
- Has access to trained forensic examiners to review any forensic evidence.
- Follows-up with complainants to determine whether any retaliation or new incidents of harassment have occurred.
- Notifies the complainant and respondent about the results of the investigation.



KEY POINTS

INTERIM MEASURES & SURVIVOR SAFETY

Once the campus has notice of gender-based violence, the campus, in partnership with the survivor, should promptly take steps to help protect the survivor. Whenever possible, a campus should also take measures to protect a student who was assaulted off campus from further violence, harassment, or retaliation.

Complainants must be made aware of their Title IX rights and any available resources, such as counseling, health, and mental health services, and their right to file a complaint with local law enforcement. It is mandatory to do this in writing. Best practices encourage that it be communicated in more than one method.

Interim or protective measures may be needed even if the complainant does not pursue any additional action, such as a disciplinary proceeding or criminal investigation. All that is required is that the campus is made aware of the incident, the complainant requests the accommodation, and the accommodation is reasonably available.

Interim measures can be anything that helps an individual complainant feel safe and still upholds the due process rights of the respondent. The campus should also consider the safety of the entire student population. Interim measures can be implemented any time before or during a campus response and can continue beyond the conclusion of an investigation and adjudication. They can be applied to either the complainant or the responding party and should be tailored to what the individual complainant wants and needs.

Some potential measures a campus can consider are to:

- Modify residence such as changing on-campus housing; helping to dissolve a housing contract; assisting with and facilitating the actual move.
- Limit and individual's or organization's access to certain campus facilities or activities.
- Provide academic support services, such as tutoring.

When the campus becomes aware of a potential gender-based incident, it should take immediate steps to support the survivor and ensure he/she/they are safe. A few of these steps are listed below. It is important to note that this cannot and should not happen in one meeting. Trauma of an incident dictates patience and understanding and working with a survivor where they are in the process. It is also recommended that campuses review other components of the Toolkit that discuss trauma and creating a fair, equitable and survivor-centric campus adjudication process.

- Provide a list of campus and off-campus resources that are relevant to gender-based violence.
- Offer assistance obtaining immediate medical care.
- Explain confidentiality and privacy and any limitations to the two.
- Provide information about preservation and collection of evidence.
- Explain the campus's obligation to conduct a Title IX investigation.
- Provide information on complaint and disciplinary protocols and options, including timeframes and commitment to protect from further harm and retaliation.
- Notify of the option to make a report to the local law enforcement and help coordinate that contact if the survivor wants to do so.
- • Ask about any needed interim measures and explain options.
- • Minimize burden on survivor to receive information, access supports, and create a safe learning environment.

- Impose a no contact order on the respondent.
- Offer security assistance such as escorts so complainant can move safely between classes and activities; between increased patrol, accompaniment to interviews, appointments, and other services related complaint.
- Provide or directly connect to medical services.
- Offer transportation assistance.
- Accommodate academic modifications such as rescheduling of exams and assignments; providing alternative course completion options; changing class schedules; allowing complainant to retake course or exam without penalty; or other academic accommodations, without disadvantaging either party.
- Aide access to either on or off campus counseling services.
- Change work schedules or job assignments.
- Allow voluntary leave of absence.
- Impose interim suspension or campus-imposed leave.

Assess interim measures using the standard “fair under the circumstances.” Many small campuses experience challenges assessing and putting in place interim measures around housing, dining, classes and the like because alternate options are limited. Equitable means fair under the circumstances not equal. It may be that a smaller campus will assess that interim measures may have to be put in place to meet Title IX that may impact the respondent more detrimentally than may have been the case on a larger campus with more options; however, the smaller campus and lack of alternatives are part of the circumstances under which campuses must make that fair under the circumstances analysis. If, for example, both the complainant and the respondent are in the same major and the campus only has one class that both are required to take to graduate, Title IX staff will need to consider and weigh the facts (e.g. egregiousness, safety) and OCR language on minimizing burden on complainant around interim measures when making determination of potential solutions to a challenging situation. Leverage relationships and collaboration with faculty and staff in designing solutions to these circumstances and should seek support from University leadership if roadblocks to solutions are presented. Mitigation for a respondent found not responsible (discussed below) may be particularly salient in this situation.

Address equitable mitigation in policy, implementation, and in its initial conversations with student complainants and respondents. If, to meet the needs of a reporting party under Title IX, interim measures are put into place that detrimentally impact a respondent’s academics, participation in campus activities, housing, and/or the like and that respondent is found not responsible, you must work to mitigate harm to that person because of those measures.

The campus should have formal partnerships in place with service providers with expertise in gender-based violence. This should include rape crisis services, domestic violence service providers, specialized trauma informed medical and mental health professionals, and culturally-specific organizations.

The campus should connect complainants with professionals that are able to keep conversations with the complainant private and confidential.

If academic accommodations are requested, the campus should facilitate the request by

seeking agreement from the pertinent faculty members without informing the faculty the specifics of their necessity.

A responding party can be prohibited from having any type of contact with the complainant pending the results of the campus's investigation, throughout the hearing, or as part of a sanction. The campus should minimize the burden on the complainant when taking steps to separate the complainant and the respondent.

A campus no contact order should not be imposed automatically as it can increase lethality for a complainant, especially in intimate partner violence situations. If a campus after consultation with the complainant and with consideration of safety for the larger campus community decides to put into effect a no contact order, then there should be:

- Direct guidance to the respondent about their behavior and what “no contact” means. The campus might need to help the respondent fulfill these expectations by changing class schedules, housing, work, and other schedules that could impede the “no contact” order;
- A clear written statement and understanding that the no contact is on the respondent and not the complainant;
- Proactive checking-in on compliance with the no contact order (i.e. a more trauma-informed response would be for the Title IX staff to let the complainant know at the outset that should the Title IX person learn that they have contacted the respondent after the issuance that the Title IX staff will reach out to the complainant to discuss the situation, revisit the No Contact Notice, and potentially remove it depending on the circumstances that have occurred);
- Clear indication of what consequences are if the respondent violates the no contact order;
- Oversight and enforcement of the no contact order assigned to an individual or entity on campus with the authority to do so; and
- Consequences enforced if a violation occurs.

Campuses should see if there have been any disciplinary actions taken against the complainant and review to see if there is a causal connection between the violence and behavior that may have resulted in the complainant being disciplined.

A campus should support the right of a complainant to seek a civil protection order or pursue a criminal justice action. If a civil protection order is obtained, the campus must honor the CPO and should work with the complainant to figure out what interim measures would best help enforce the CPO.

If a campus has its own police or security officers, the department should be made aware of the CPO and if a violation occurs, work with survivor and off-campus law enforcement to report the violations.



Our campus: Interim Measures

- Ensures that lead Title IX staff has ultimate oversight on interim measures assessment and implementation. The actual execution of this work may be done by other staff on the Title IX team (e.g. Title IX investigator).
- Implements available interim measures even when the respondent is unknown or the complainant does not share the respondent's name or requests no further investigation.
- Allows a complainant to work solely with a confidential community-based and/or campus advocate.
- Honors requests from complainants not to work with Title IX staff.
- Title IX should honor that request. Title IX staff works in partnership with confidential community-based and/or campus advocates to ensure available interim measures are implemented if the complainant does not wish to interact with Title IX staff.
- Facilitates a conversation with the complainant about how certain interim measures will impact the student's confidentiality, understand and follow the student's wishes around confidentiality, and proceed with interim measures implementation in a way that is consistent with that student's wishes.
 - For example, a student may request more time on an exam, but does not want the professor to know the specifics of what has happened. Title IX staff should offer the student the option of just sharing with the professor that the student has experienced a form of Sex Discrimination, is working with the Title IX Office on this issue, and is requesting the specific assistance. Should the faculty member ask for more details it is the responsibility of the Title IX staff to explain the importance of respecting the student's privacy and that, under Title IX and the campus's policies, the campus needs to take steps to ensure the student has equal access to their education and this assistance is part of that.
- Facilitate proactive conversations with campus partners about interim measures to promote a more streamlined, effective process during an actual case. This work is best accomplished in collaboration with relevant campus partners, such as faculty, Residence Life staff, Financial Aid.
- Does not automatically issue No Contact Orders to both parties when a report is received.
 - First, we know that, particularly in intimate partner violence situations, our automatic issuing of even just the No Contact Notice to a respondent may increase safety risks for the complainant.
 - Second, when we automatically issue mutual No Contact Notices, the message the complainant may receive is that they have done something wrong. This practice can lead to a chilling effect on reports, increased barriers to students accessing reporting resources, and can be perceived as (or be) prohibited retaliation under Title IX and internal protocol. Title IX staff should have the skills and expertise necessary to assess a request and need for a No Contact Notice. Many campuses explain this automatic mutual No Contact Notice issuance by citing the fact that some complainants contact the respondent post-issuance and that this complicates matters.
 - We know that contacting the respondent in some way can be a common response of someone who has survived gender-based violence.
- Assesses the feasibility of interim measures using the "fair under the circumstances" standard.
- Addresses equitable mitigation in policy, implementation, and in its initial conversations with student complainants and respondents.

To be fair and equitable during the disciplinary hearing phase, the complainant and respondent should both:

- Be treated with respect, dignity, and sensitivity throughout the process.
- Be fully informed about the adjudication process, including timeframes and possible outcomes.
- Receive referrals to support services on or off campus, as needed.
- Obtain similar and timely access to any information that will be used at the hearing.
- Allow a challenge to the adjudicator if there is a perceived conflict of interest.
- Have an equal opportunity to present relevant witnesses and other evidence.
- Have the ability to decline participation in the adjudication.
- Be provided the same right to have someone support them during the process, such as a trained advisor of choice.
- Receive timely, updated information on the progress and outcome of the adjudication.
- Be notified in writing, about the outcome of both the complaint and appeal (if a campus affords an appeal process).

Due Process Does Not Mean:

- The respondent is allowed to present character witnesses at a hearing.
- The respondent is allowed to review the complainant's statement without also allowing the complainant to review the respondent's statement.
- The parties are allowed to question or cross-examine each other during the hearing.

**KEY POINTS****DISCIPLINARY ACTIONS/ADJUDICATION**

Due process is guided by the same principles of fundamental fairness and respect, which requires notice, an equitable opportunity to be heard, and an equitable opportunity to respond.

A balanced and fair process that provides the opportunities to the complainant and respondent will lead to sound and supportable decisions.

A campus must use the preponderance of the evidence standard in its determinations of whether there was a violation of its code of conduct.

Hearing officers or anyone adjudicating the complaint must be impartial. Any real or perceived conflicts of interest should be disclosed and respondents and complainants should have the right to challenge an adjudicator's impartiality.

Adjudicators should have the expertise to hear and decide the complexities of allegations of gender-based violence. They should be trained on how to protect a complainant's prior sexual history.

Campuses should maintain documentation of all proceedings, which may include written findings of facts, transcripts, or audio recordings.

If an informal process was started as a means of addressing the complaint, the complainants can end that process at any time and initiate a more formal disciplinary response. Mediation should never be used, even on a voluntary basis, in cases involving allegations of sexual or intimate partner violence.

If sanctions are mandated, the campus should monitor for compliance. Complainants should be informed of protocols in case they experience any type of retaliation.

A complainant should never be required to enter into a nondisclosure agreement.

COMPLIANCE

Both the investigation and adjudication should be completed in a timely manner (recommended 60 days except for good cause). There may be variance in this time frame to account for the severity and complexity of the case. In those instances, the campus must remain in contact with the respondent and complainant and provide an estimated completion date.

If a campus permits one party to have a support person in addition to an advisor of choice accompany them to meetings and hearings, the other party must also have that same opportunity. Campuses should develop a list of trained advisors that complainants and respondents can select from. Outside advisors or supports should be required to meet with the Title IX Coordinator to better understand the protocols and the overall goals of investigation and adjudication.

Our campus:

- Ensures timely resolutions to complaints about gender-based violence.
- Forbids mediation when there was sexual violence.
- Provides information to both the respondent and complainant so that they are informed of time frames, potential outcomes, including sanctions, and whether there is a right to appeal.
- Uses trained adjudicators.
- Uses adjudicators that are independent and free of conflict of interest.
- Allows both the complainant and respondent to challenge the impartiality of an adjudicator and review all applicable documents prior to the review by the adjudicator.
- Ensures that complainants and respondents have due process, including receiving updated information about the progress of the adjudication and written final outcomes of the adjudication or any appeal process.
- Monitors any sanctions imposed for noncompliance.

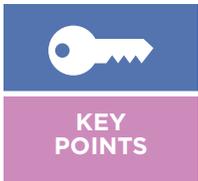


CONSIDERATIONS AND CHALLENGES IN INVESTIGATION & ADJUDICATION PROCESS

- **Establish a selection process** for investigators and decision-makers that will optimize appropriate training opportunities, expertise, and therefore, overall quality of the decision-makers and complaint resolution system. Apply what we know about effective training- multiple dosage, multi-entry points, range of modalities for different learning styles- to investigator and decision-maker training.
- **Develop strategies to identify, train, and support individuals serving as investigators and/or decision-makers.** Some campuses are finding it increasingly difficult to find individuals willing and able to serve as decision-makers for a variety of reasons, including time commitment, stress of participating because of issue area, and fear of personal liability for serving in the role. Addressing this challenge may mean identifying a small group of staff and/or faculty members who you identify as having the appropriate capacity for and interest in serving as a decision-maker with this level of commitment and expertise. It may mean building in this role as part of the staff member's job responsibility.

Consider the potential ramifications if you still have students participating as decision-makers given OCR's strong recommendation to not do so due to confidentiality concerns and potential chilling effect. If you do have students in this role, consider conducting focus groups to get feedback on if and how this may be perceived and may be impacting the climate and community and let that campus community-specific information inform whether and how you might consider revising that component of your process. If you do not have students serving as decision-makers to consider what may be lost- student perspective, "translation" of modern culture and norms to non-student members, power and impact of peer inclusive accountability- and develop strategies on how campuses might ensure that student voice and critical community member presence is retained in the process. It is also recommended to consult with the campus's General Counsel regarding policies to allow or not allow students as decision-makers in these matters.

- **Proactively develop relationships with likely expert witnesses.** When medical records (e.g. medical portion of SANE exam) and mental health records (e.g., documentation of a respondent's cognitive disability) are part of the complaint resolution process, ensure that investigators and decision-makers have access to information and testimony from experts on these issues. Conduct reciprocal trainings with experts on these issues so that they can effectively participate in and benefit the complaint resolution processes.
- **Allow an advisor of choice in all gender-based violence matters.** Consider expanding the Clery Act Advisor of Choice requirement to all forms of Sex Discrimination rather than applying it just to domestic violence, dating violence, stalking, and sexual assault. Splitting it out can create confusion for students.
- **Prior Sexual History and Mental Health Status/History.** We know from OCR that prior sexual history and mental health information of the complainant should not be permitted in the investigation and complaint resolution process, but what if the complainant themselves includes this information on documents that come into the process (e.g. SANE report, police report) and/or raises these issues themselves during the process? For example, a complainant may want to disclose that they had or had not taken to demonstrate that in their state of mind they did not give consent. The role of the Title IX Coordinator here is manifold and requires strong professional judgment.
 - First, the Title IX Coordinator should proactively inform the complainant of the type of information that will or will not be permitted in the process, review the potential and various outcomes of sharing that type of information with the complainant, assess the relevancy of such information if it is shared (either directly with the Title IX Coordinator or via some other document like a police report or SANE record), and ensure that decision-makers do not improperly consider information that a complainant may end up sharing in their assessment and decision-making.
 - Ideally, a confidential advocate and/or attorney will be having this conversation with a complainant as soon as possible in the complaint resolution process.
- **Private investigators.** It is becoming a more and more common for respondents (typically via their lawyers) to hire private investigators during the complainant resolution process. The role of the campus here is to be clear with both parties that they do not have to speak with private investigators (or other party lawyer) and that should they feel they are being harassed in any way by the private investigators they should report that to the Title IX Coordinator immediately for response/investigation. In terms of allowing private investigators to testify, a Title IX Coordinator would need to follow its policy (allowed or not), assess relevance, ensure testimony was appropriate under Title IX and equally apply the same policy to both sides. It is also recommended to consult with the campus's General Counsel regarding policies to allow or not allow private investigators to testify.
- **Polygraph.** It is a best practice to exclude polygraph evidence based on these factors:
 - **Inaccuracy/reliability** due to variety of factors (potential intoxication or one/both parties, medications at time for one or both, no memory due to alcohol or other drug (AOD) or other issues, competency of polygrapher, cases where each party perceives events differently rather than one telling the truth and one outright lying).
 - Typically **not admissible** in criminal court.
 - The key for campuses here is to address why you exclude clearly and explicitly it in your policy and **apply policy equitably to both parties.** It is recommended to that you consult with your General Counsel regarding this issue. If you do allow polygraph evidence, investigator and decision-makers need training on the technology, limitations, and how to interpret results.



SANCTIONS

Sanctions are part of a mechanism to help keep campuses safe learning environments and to maintain confidence in the campus' commitment to prevent and respond to gender-based violence.

Campuses must take immediate action to eliminate gender-based violence, prevent its reoccurrence, remedy hostile environments and address any remaining effects.

A single incident of gender-based violence may create a hostile environment.

All potential sanctions must be explicitly outlined in the campus' response protocols.

The campus should have the resources and capacity to implement and monitor all sanctions imposed.

Sanctions must consider the totality of circumstances and be tailored to fit the complaint and findings.

Sanctions can have corresponding protective measures/remedies¹⁹ that assist the complainant to have a safe and supportive environment and can be restored to an equitable state. Therefore, Title IX remedies can extend beyond conclusion of case.

Some of the more common Title IX sanctions include one or more of the following: suspension or expulsion, alcohol awareness and prevention, educational programs focused on the roots of gender-based violence and respondent accountability for violent behavior, counseling and mentoring.

In determining sanctions, the campus should consider every case on an individual basis. Some factors a campus may want to consider are:

- The degree to which the conduct affected one or more students' education;
- The type, frequency, and duration of the conduct;
- The identity of and relationship between the respondent and the complainant and whether the respondent used a position of power to inflict violence;
- The age and gender of the parties involved;
- The number of individuals involved;
- The damage, injury or harm to the complainant and larger campus;
- Prior violations of the respondent;
- The current behavior of the respondent, including subsequent violations;
- The size of the campus, location of the incidents, and context in which they occurred; and
- Other considerations put forth by the complainant.

Complainant and respondent must be notified simultaneously and in writing of sanctions. Protective measures taken for the complainant's well-being and safety may not need to be shared with the respondent as it could further compromise the complainant's well-being and safety.

Making notations on respondents' transcripts about imposed sanctions is an emerging issue. Notations help educate others viewing the transcript about the behavior of the respondent that should be taken into consideration for future decisions about educational and recreational opportunities. If a campus makes transcript notations, protocols should indicate what notations may be eligible for removal and how a respondent can petition for removal of the transcript notation after a certain period of time. Campuses should discuss with their General Counsel and other key decision makers to determine if the campus will make notations and if so what the notation will include.

19 See checklist section on interim measures and supports for survivors.

Goals of Sanctions^{20 21}

“Sanctions are the outcomes or consequences resulting from a violation in which a student is found responsible for violating the Code of Conduct. The purpose of sanctions is to provide students with an opportunity to learn from their experience, provide restitution (in some cases) and bring greater awareness of the impact of choices on themselves, others, and the campus community. Sanctions can range from a warning, to mandated community service or in worst case scenarios suspension or expulsion.”²² This section provides guiding principles and questions to consider for your campus protocol.

FUNDAMENTALS	
1.	Eliminate hostile environment for the complainant with particular attention to safety issues.
2.	Have options based upon the nature of the violation.
3.	Take into consideration all information about the respondent.
4.	Increase safety of the campus, decrease likelihood of future offending by the respondent.

Guiding Principles for Sanction Determination*

Category	Actions	Warning	Probation	Suspension (less than 2 years)	Suspension (2-4 years)	Suspension (5+ years)	Expulsion
Sexual Harassment	Verbal sexual comments						
	Stalking						
	Relationship Violence						
Non-Consensual Sexual Contact	Touching over clothes						
	Kissing (above shoulders)						
	Light contact with hands under clothes						
	Sexual touching, fondling, and/or groping						
	Kissing below the neck (breasts or genitals)						
Non-Consensual Sexual Intercourse	Oral Sex						
	Digital penetration						
	Penetration						
Sexual Exploitation	Distributing naked photographs						
	Invasion of Sexual Privacy (taking photos, video, voyeurism)						
	Knowingly transmitting sexual infections or disease						
	Child pornography						

*University of Minnesota (<http://oscai.umn.edu/title-ix-sanctions>)

20 Smith, G.M. & Gomez, L.M. (2013). *Effective Implementation of the Institutional Response to Sexual Misconduct Under Title IX and Related Guidance*

21 Ohio Department of Higher Education (October 2015). *Changing Campus Culture: Preventing and Responding to Sexual Violence*.

22 New Jersey City University (<http://web.njcu.edu/its/kbase/index.php?id=166&action=article>)

COMPLIANCE

Below are guiding principles and questions when developing and implementing your campus' sanction protocol:
Consider:

- Was force used?
- Was the reporting party incapacitated due to drugs or alcohol?
- Was consent obtained at every point throughout the interaction?
- Does the respondent accept responsibility for their actions?
- What is the supporting evidence in the case?
- Have witnesses corroborated the evidence?
- Does the respondent have a prior conduct history?

Sanctions should reflect the severity of policy violation, whether the respondent has prior conduct violation history, and should be considered through a needs (of the complainant and broader community) and respondent risk lens. When balancing the interests and rights of complainant and respondent if both are students, consider:

- Need for complainant to feel safe in the campus environment²³ - assess needs/wants of complainant regarding limiting contact with respondent²⁴
- Respondent continuing his/her education (if campus does not view offense as rising to the level of suspension or expulsion). Specific considerations may include:
 - *What if complainant and respondent are in same major?*
 - Re-assignment of respondent to different classes
 - Respondent only in major building for courses---studying occurs in other building/residence hall room, etc.
 - *What if in same ethnic/racial/religious/sexual orientation minority group where clubs/organization offices are places frequented by both?*
 - *Same campus housing?*

Sanction Options

As required by the Clery Act,²⁵ campuses must include in its gender-based violence policies the possible sanctions imposed following the results of disciplinary proceedings in matters of sexual assault, domestic violence, dating violence and stalking.

Sending a respondent to volunteer at a rape crisis center as a sanction is not an appropriate sanction in gender-based violence matters. Research does not support that the intended outcome of such a sanction- that of empathy building- has a strong association with decreasing sexual offense recidivism. In addition it would not be a best practice for rape crisis centers cannot take in individuals found responsible for gender-based violence policy violations to volunteer given the conflict with victims going to centers for a place of safety and support.

Appropriate sanction options may include:

- Verbal/written warning
- University probation
- Loss of campus privileges (suspension from campus organizations, limited access to campus events, scholarships)
- Counseling/education
- Probation/monitoring
- Suspension
- Expulsion

23 Smith, G.M. & Gomez, L.M. (2013). Effective Implementation of the Institutional Response to Sexual Misconduct Under Title IX and Related Guidance

24 <http://www.mediainstitute.edu/sites/default/files/Annual%20Crime%20Disclosure%202015%20-%20All%20Campuses.pdf> (downloaded 6/28/16)

25 The Clery Act requires institutions to disclose possible sanctions imposed following the results of disciplinary proceedings in matters of sexual assault, domestic violence, dating violence and stalking.

Cultural Considerations in Sanctions

- Addressing and eliminating hostile environment for a complainant from minority group
 - Monitor access to campus-sanctioned group activities by respondent.
 - What events and/or hours can respondent attend?
- If a respondent is a member in a national membership organization (e.g., National Pan-Hellenic Council, National Association of Latino Fraternal Organizations), how might sanctions impact that membership? (What will membership entail? Can respondent attend events sponsored by own group but may not be permitted to attend others? Alternate Participation arrangements?)
 - While a campus may not be able to determine membership within a national, voluntary membership organization (rather than a campus-based organization), because each local chapter typically has a campus-based advisor with responsibilities for students within group and related events, campuses should consider if and how sanctions may or may not impact respondent in this context. Campus-based advisors of these types of organizations can run the gamut from not being specifically tied to the national organization to being an active alumni member of the organization with full authority to assist with enforcement of campus conduct outcomes. Some culturally-based organizations may not have a national structure, but instead are built upon local alumni support.
 - Depending on the specific structure and circumstances, campuses should strive to engage both the campus advisor and/or alumni designate regarding organization sponsored events that take place both on and off campus, recognizing that this can vary for city-wide chapters vs. organizations recognized by the campus. Campuses should engage the regional/district authority as appropriate.
 - Campuses must comply with FERPA in all of these types of engagement. To maximize student privacy, campuses should strive to minimize the number of individuals connected to the organization who need to know about the circumstances and the amount of information that needs to be shared to effectively implement the sanction(s).

EXAMPLES OF SANCTIONS

<p>Sexual Harassment, including cyber harassment</p> <p>Review of Campus Title IX policy.</p> <p>Psychoeducation on what constitutes harassment and harm associated with harassment.</p> <p>Implementation of a written plan related to contact with identified victim (in-person as well as social media).</p> <p>Determine legality of monitoring of social media accounts of respondent.</p> <p>Warning Notice: A notice, in writing, that continuation or repetition of conduct found wrongful, within a period of time stated in the warning, may be cause for more severe disciplinary action.</p> <p>Admonition: An oral statement that the Student violated the Policy.</p> <p>Possible Disciplinary Probation: Exclusion from participation in privileged or extracurricular activities for a definite period of time.</p> <p>Restitution to victim for counseling services or other costs directly related to impact and healing from gender-based violence.</p>
<p>Stalking, including cyber-based stalking</p> <p>All listed above.</p> <p>Possible restraining order related to contact with complainant.</p> <p>Review of coursework schedule to minimize participation in same classes as complainant.</p> <p>Changing of campus work assignment if would involve contact with complainant.</p>
<p>Voyeurism</p> <p>Review of Campus Title IX policy and all other items in Sexual Harassment, including cyber harassment section.</p>
<p>Non-consensual sexual intercourse, which is any sexual intercourse by any person upon another without consent</p> <p>Suspension or expulsion.</p>

FACTORS SUPPORTING INCREASED SEVERITY OF SANCTION





MONITORING/TRACKING

It is imperative for campuses to be proactive in their gender-based violence response.

Developing and implementing gender-based violence response protocols is not a static, one-time event.

Campuses should integrate information learned through climate surveys to assess the effectiveness of efforts and needs for future steps.

At a minimum, Title IX Coordinators should review gender-based response protocols to ensure that they comply with federal requirements and reflect any new guidance.

Once placed on notice that there is an incident of gender-based violence, the campus should conduct periodic assessments to ensure that there are no new incidents and that the protocols are being complied with in response to the gender-based violence. This means the campus must be proactive in checking in with the complainant and respondent to determine that the protocols are being upheld, and any interim measures in place are working.

Campuses should undertake efforts to conduct periodic assessments of whether responsible employees are reporting incidents to the Title IX coordinator and in general, faculty and students understand the protocols.

Because a campus must take corrective actions to stop the gender-based violence, prevent its recurrence, and remedy the effects on the complainant, the campus should check-in with the complaint throughout and post investigation and disciplinary/criminal action (if taken) to see if the complainant has felt safe and free of ongoing or new incidents of gender-based violence.

When a campus receives notice that a student has experienced gender-based violence, a larger investigation should occur to determine if any other students also may have been subjected to gender-based violence.

To avoid a gap in response, Title IX Coordinators should review campus police records on a regular basis to determine if there was an incident of gender-based violence that was not reported to the Title IX Coordinator, even if the incident was referred to the local law enforcement. If the Title IX Coordinator finds this to be true, they should attempt to contact the complainant in a manner that does not increase safety issues, to see if that person needs any supports or services or has questions about the campus response. The Title IX Coordinator may want to partner with an advocate who can make that contact on their behalf.

The Title IX Coordinator should be looking for any trends for where the Title IX Coordinator was not notified when an act of gender-based violence was reported to the campus police or where the campus police did not identify the act as gender-based violence.

Similarly, it is recommended that a Title IX Coordinator work with local law enforcement to review their reports involving students that experienced or perpetrated gender-based violence off-campus and where the campus was not informed.

EXAMPLES OF INCREASED SANCTIONS	
Suspension	Exclusion from classes and other privileges or activities or from the campus for a definite period of time..
Campus housing expulsion	Permanent separation of the student from campus housing, specifically if offense occurred in campus housing.
Expulsion	Termination of student status for any indefinite period.
Withholding of diploma or degree	The withholding of diploma or degree otherwise earned for a defined period of time or until the completion of assigned sanctions.



Our campus:

- At least annually reviews its gender-based response protocols to ensure that they comply with federal requirements and reflect any new guidance.
- Integrates information gathered through climate surveys to assess the effectiveness of response efforts and needs for future steps.
- Conducts periodic assessments of student and faculty activities to ensure that the practices and behavior of either do not violate the campus' protocols.
- Proactively reviews campus and community law enforcement police reports to ensure links between the Title IX Coordinator were made in all instances of gender-based violence and that opportunities to assist survivors were not missed.

BALANCING COMPLIANCE AND HUMANITY

Creating a fair, equitable campus adjudication process

When there are allegations of gender-based violence, due process and fairness must permeate the protocol investigation and enforcement process. This means that there must be transparency about the campus protocols and process used to enforce them. It also means that there should be equal opportunity for both a complainant and respondent to share and receive information and to obtain resources and supports. However, within those categories the actions might look different. In fact, to ensure due process, a campus might have to help one party receive equity by providing more and/or different levels of assistance to one than the other.

One essential piece to responding equitably to gender-based violence is ensuring that whenever possible, responses are trauma-informed. Helping a complainant feel safe and respected does not negate due process, but on the contrary, fosters it.

Recommendations:

- 1** Campuses can create safe, supportive and confidential spaces where responders to gender-based violence can meet with complainants or respondents to discuss options, conduct an investigation, or follow-up after a disciplinary hearing.
 - a. Spaces should be easily accessible. This can mean different things depending upon the size, structure, and location of a campus.
 - b. Spaces should be free of association of bias and negative history.
 - c. Spaces should be well lit.
 - d. Spaces should be flexible so that chairs and tables can be moved to create a space that is comfortable to complainants and respondents.
 - e. Spaces should have rooms that are private and where conversation cannot be overheard though the walls.
 - f. Sometimes there is also a stigma association with walking through certain doors. Therefore, where these spaces are located should be assessed for that type of stigma. This includes any historical trauma that might be associated with the space.
 - g. Spaces should be culturally-relevant or located where other support networks could be accessed, such as multi-cultural centers.
- 2** Separate complainant and respondent whenever possible. Ensure meetings and access to information occurs at different times and even different locales. It is helpful to consider developing a schedule for both parties to access and prepare their information and receive updates.

COMPLIANCE

- 3** Offer options so that people can produce a space that feels comfortable. Some examples:
- *Where do you prefer to sit?*
 - *Would you like water/coffee/tea?*
 - *Is this room okay for you?*
 - *My name is _____. My role is _____. Is it okay to talk through some things with me today?*
 - *This is _____. The reason they are here is because of _____. Will it be okay if ____?*
 - *How can I help make sure you have the support you need? Some options are _____.*
 - *Let me know if you need a break for any reason.*
 - *Is there a place on campus that you would rather meet? E.g. a student might indicate they would prefer a meeting in a conference space at the LGBTQIA+/Multi-Cultural/Women's Center conference room.*
 - *Would you like an advocate or support person with you during our conversations?*
- 4** Talking through case-specific safety plans and utilizing rape crisis and/or domestic violence trained staff in this process. Things to think about:
- *Safe place to stay?*
 - *Safe/support person?*
 - *Do you feel safe going to classes? Work? Getting food? Accessing the library and other study resources?*
 - *What happens if the respondent contacts you - by phone? By email? In person?*
 - *What worries you the most? How can we strategize to reduce that fear?*
 - *How might participating in this process be impacting your academic success?*
- 5** Communicate with both the respondent and complainant in a respectful, ongoing manner and share the same information about the status and outcome of the investigation and any disciplinary proceedings. What does that look like?

Respect

- Using all-inclusive gender-neutral language at all times and in all forms of communication directly with the individual and from the campus to the public and the campus community.
- Inquiring what pronoun(s) the individual uses.
- Providing resources and outreach for whom English is not their primary language (Limited English Proficient) and for students who are D/deaf or hard of hearing. Resources should be provided by qualified interpreters and not by friends or family members.
- Offering breaks in communication/meetings if needed
 - *"Would it be best to meet again within the next few days? What works for your schedule...?"*
- When possible, allowing a minimum of 48 hours between contacting either party—particularly immediately after an act of physical or sexual violence has occurred.
- Explaining provisions of no contact orders so that people are fully informed about expectations and possible consequences of not meeting those expectations.
- Allowing both complainant and respondent to bring an advisor, advocate, support person or attorney of their choice as they prepare--this could be during meetings with anyone in the conduct office, police, Title IX, hearing process and/or while they prepare their materials for the conduct hearing.

Information Sharing

- Provide timely updates when new information about the case has been added.
- Check-in with both people to see if there are any questions or concerns about the case to be addressed.
- Let both parties know who may be contacting them and for what purpose.
- Create a plan that minimizes the number of times an individual needs to provide specific details related to their trauma. This could mean arranging a meeting time for campus police, Title IX and any other necessary party to talk with the individual at one time.
- Offering options for each party to communicate and how best to be reached: call, text, email, etc.
- Inquiring how parties can safely receive communication in any way. Some examples:
 - *“Is it okay for me to say who I am and where I’m calling from on a voicemail?”*
 - *“Are you the only one who monitors your email since you said that is the best way to reach you?”*
 - *“Is it safe for me to send a text (if available) to your cell with the updates you’ve requested?”*
 - *“Is it safe for me to mail the documentation you have requested?”*

6 Provide resources on campus gender-based violence response system. These materials should reflect the diversity of the campus population. Resource materials must be current, accessible available both online and in hard copy form. Responders should be familiar with the resources on the list and disseminate applicable resources to complainants and respondents. Depending on the intended recipient of the resource material, the following on- and off-campus resources should be included:

- 24/7 hotlines for local/campus supportive services
- Hospitals with SANE services
- Campus police/security
- Title IX Coordinator
- Description of campus gender-based violence protocols
- Local police
- Description of all reporting options with confidentiality considerations
- Rape crisis services
- Domestic violence assistance/support/agencies
- Community-based and campus LGBTQIA+ supportive resources
- Housing and transportation assistance
- Language assistance
- Immigration assistance
- Student multi-cultural and/or international program centers, women’s center
- Healthcare
- Counseling services and/or support groups
- Civil legal services
- Other campus/individual needs-based resources and information
- Local courts
- Local shelters
- Food pantries
- Faith-based resources
- Confidential resources

Transcript Notation

Best practices on how student policy violations of a campus's gender-based violence protocols should be noted and/or shared is at the forefront of the national conversation on these issues and are still being developed.²⁶ Three ideas for campuses to consider as they develop and/or revise their own protocols in this area:

- Consider how a practice of not sharing a finding of responsible impacts our objective of changing campus culture given what we know about the repeat offender behavior of some individuals who commit gender-based violence. When we are on clear notice that a student has been found responsible for gender-based violence and we pass them on to the next campus with no notification to that campus (because many do not ask us for those records) are we contributing to changing campus culture or are we doing compliance then looking the other way once the student has left our community?
- More work is needed across systems to identify sanctions that work to reduce recidivism. Campuses have an opportunity to provide an educational intervention, ranging from treatment, suspension and expulsion, to address the misconduct and reduce the likelihood to reoffend. Many advocates, survivors of sexual violence and community members have raised questions about an effective approach for addressing gender-based violence on campuses, rather than replicating an existing registration system that often creates a false sense of security not focused on preventing gender-based violence. Evidence-based practices are currently being piloted through efforts of the SMART office, and campus administrators and advocates are carefully weighing the issue of both sanctions and transcript notations²⁷ as two vehicles to reduce recidivism.
- Identifying and implementing best practices around transcript notation as they evolve will require cross-campus collaboration between Title X staff, Admissions, Dean of Students, Deans of Colleges, General Counsel, and others depending on the structure of your campus.

Ohio Public Records Law changes impact on private institutions

- In June 2015 the Ohio Supreme Court²⁸ ruled that a private college or university's police department is a public office and can be compelled to provide public records. The court determined that the private university's police department was established by statute to enforce criminal laws and that function makes the police department a public office under Ohio's Public Records Act. The university argued that the police department is not a public office because the university is private and the police department is a subdivision of the university. However, the court found that because the university campus police department was established by state law for the purpose of exercising a core function of government-the enforcement of criminal laws- it met the definition of a public office and must produce public records upon request.
- House Bill Number 504, which is currently pending in the House Government Oversight Committee, proposes to amend the law governing private institutions of higher educations to protect them from liability for a breach of confidentiality or other claim that arises from the institution's disclosure of public records.
- Private institutions should proactively address the impact of this case law as it relates to its potential impact on students' confidentiality and should revise policies and implementation if necessary to protect student confidentiality to the greatest extent possible. It is recommended that campuses consult with General Counsel regarding this matter.

26 For example, the ASCA addresses this issue: [Student Conduct Administration & Title IX: Gold Standard Practices for Resolution of Allegations of Sexual Misconduct on College Campuses](#) page 13.

27 Sanctions and transcript notations are critical elements that institutions of higher education are weighing in their student conduct process. While recommended sanctions should be based on risk and treatment available within the larger community to reduce recidivism, one ongoing debate involves whether or not transcript notations are a best practice and if they act as a tertiary measure to prevent sexual violence. A survey by the American Association of Collegiate Registrars and Admissions Officers revealed that 84% of institutions make transcript notations when a student is ineligible to re-enroll for academic reasons and 29% note suspensions or dismissals for disciplinary reasons. In contrast, the Association for Student Conduct Administration recommends that when a student is expelled or suspended for a violence offense, that campuses make the notation on a student's transcript. The group cited in a white paper that "transcript notations alone will not be effective at reducing the risk of violence to a campus, but the comprehensive approach to admissions, review of information and appropriate action based on that review may be helpful to institutions as they seek to manage risks on their campuses to the best of their abilities." See: Association for Student Conduct Administration, Student Conduct Administration & Transcript Notation: Issues and Practices, [Best Practices/Transcript Notation - Final Report](#)

28 State ex rel. Schiffbauer v. Banaszak, 142 Ohio St.3d 535, 2015-Ohio-1854

CASE SCENARIOS



A multitude of case scenarios with corresponding questions are available to be used with small or large groups to help analyze current protocols, unpack differing philosophical viewpoints, and broach issues that could otherwise be difficult to raise.

How to Use Case Scenarios

There are numerous scenarios included in this section of the toolkit. To be aligned with the toolkit's focus, all scenarios have a student as the survivor.

The goal was to provide a plethora of examples that can be used to spark conversations about attitudes, responses, and best practices related to gender-based violence on campus. It is not intended for each campus to go through every scenario. Some of the case scenarios are more suited for key stakeholders (on and off campus) working directly on responding to students who have experienced sexual assault, dating violence, domestic violence, and stalking.

The scenarios can be mixed and matched depending upon the audience and the primary issues that the stakeholders want to address. A few potential uses may be for training, for focus groups, and in stakeholders meetings. The scenarios fall into the following categories:

- Brief Case Studies
- Disclosure by Someone Other than Survivor
- Survivor Discloses
- Investigation & Collaboration
- Interim Measures, Student Conduct Hearings & Sanctions

Within each category, there are a few questions to help guide the discussion. Feel free to use the questions, add others, or develop your own. Questions for the first few set of case scenarios are also provided at the end of this document so that they can be copied to be used by facilitators or as a worksheet.

CONTENT WARNING

The prevalence of gender-based violence makes it likely that one or more of the individuals discussing these scenarios have experienced sexual assault, stalking, domestic or dating violence. Therefore, these scenarios may bring up emotions and trauma for those individuals. It is recommended that when introducing the scenarios that this fact is acknowledged and people are given the freedom to excuse themselves from participating in any part of the discussion. For large groups and trainings, it is best practice to have someone who is an advocate and is skilled in trauma-informed counseling be available for people to talk to if needed.

BRIEF CASE STUDIES

The following short scenarios provide a range of situations under the umbrella of gender-based violence. After the scenario is read, ask everyone to share their first reactions and discuss:

1. What would you want to happen in this scenario?
2. What would happen if this occurred on our campus?
3. What other information do we need to know to help guide a safe, culturally-relevant, and holistic response?

The college has a women's center that operates a rape crisis hotline that is staffed by peer advocates. Someone calls the hotline and reports that her friend was raped at a fraternity party. She is not sure what she should tell her friend to do.

Matt and Susie are newly dating. Susie is the star of the college track team. Matt is aware of this and bragging to all of his friends about Susie's skills. He is asked to "prove it," so one night Matt secretly video tapes Susie having sex with him. Susie is completely unaware of the taping. Matt shares the video via snapchat with many of his friends. The video quickly makes its way around campus.

A bisexual student shares with her academic advisor that one of her professors has been making unwanted advances towards her and stares at her in ways that make her feel uncomfortable. For the past month she has noticed him in places she has never seen him before, including the local coffee shop she works at part time on weekends.

Kim goes to the student health center. She has missed her period. She confirms she is pregnant. When receiving the news she breaks down in tears. She tells the nurse that she was raped and does not want the baby.

Clyde and CeCee are married. They have one child together who is a toddler. Clyde is a junior professor and as part of the condition of acceptance of employment, the college agreed to have CeCee transfer as a graduate student and continue her studies for free. The couple relocated for Clyde's job. CeCee has not made friends on campus given her studies and duties as a mom. Clyde goes to all the new faculty events and is out often. He is home less and less. When CeCee confronts him about this he becomes angry and slaps her across the face. CeCee screams, "You promised you would never hit me again." She calls the police and files for a protection order. She brings the protection order to the campus administration.

There is a student conduct hearings scheduled in two days. The student is a football player. He is accused of raping another student at a party. There is no corresponding criminal investigation but the campus investigation found substantial evidence. The survivor is refusing to testify at the hearing and now says nothing happened.

Professor Friendly holds office hours four times a week. He is very accessible and has a great reputation among the student body. One day, Allen comes into his office and tells him that he has been carrying around a lot of guilt for the past year and needs to get the guilt off his chest. Last year, as part of the hazing at his fraternity, they made every pledge find a young woman to bring to the fraternity house and forced the women to perform oral sex on the pledges in front of the rest of the fraternity.

Daniel joined Hillel as soon as he started college. He was active in his temple youth group while in high school and wants to keep that connection to his faith and create a community around him. During his second semester at college he was sexually assaulted by another male student he met on an online dating site. He tells the Rabbi at Hillel about it but does not want the information to go any further.

Latisha is the first person in her family to go to college. She met Zane in her African American studies class and was immediately smitten. They went out a few times. On their third date, Zane told her he expected her to have sex with him. Latisha didn't want to lose Zane and told him she needed more time. He told her if she just relaxed things would be okay. They were kissing and he took off her clothes. She tried to stop the rest and told him "no" but he forced her to have sex with him. He told her he would call in a few days. Latisha is afraid for her parents to find out since they have done so much to help her. Latisha called her sister and told her what happened. Her sister encouraged her to tell someone on campus. Latisha is part of a group that supports first generation college students. She told her advisor from that group.

Pierce, a tenured professor, was accused of sexually harassing students. Lisa is one of his victims. She is also the student who organized and caused an official investigation to be launched against him. She is using social media to raise awareness about sexual harassment on campus. Pierce is popular amongst the other professors. This semester Lisa's grades are much lower than they have been in subsequent semesters. She claims the lower grades are a result of retaliation.

Dana's boyfriend walked into her room to find Dana in bed with Cindy. They were kissing. Dana's boyfriend started screaming at them, calling them whores and lesbians. Then he decided to join them and took off his pants. Dana told him to get out of her room. He held Dana down and raped her anally. Cindy ran out of the room and called 911.

Stephanie needs to participate in work study in order to pay for her tuition, room and board. She barely makes enough money to survive between paying for tuition and paying off loans. However, obtaining her degree is important to her. She was placed in the computer lab through work study for the past two summers. One of the IT staff always tells her how beautiful she is and what he would do to her if he was younger. Last week he called her into his office. When she went in he was masturbating. He told her if she told anyone he would make sure that she lost her work study placement.

BRIEF CASE STUDIES

Courtney was raped. She refuses to say by whom, but she has been depressed and hypervigilant about her security since the rape occurred. The depression and hypervigilance is almost to the point that she is unable to attend classes because she is so busy checking window and door locks, checking reports from campus police, and making sure her path to class is clear of crowds. Courtney was referred to a rape crisis advocate by a friend. The local rape crisis center has advocates that hold office hours on campus a few days a week. She sees an advocate counselor and tells her that she feels like she is having a mental breakdown.

Brittany is freshmen at a faith based institution. She recently began a relationship with a man who is not a student. He stopped by to surprise her with flowers one evening. They were talking and lost track of time before realizing how late it was. He lives far away from campus and her roommate was gone for the weekend. It was decided it would be okay for him to spend the night. He woke her up during the night and was rubbing her breasts and vagina. Brittany told him to stop but he continued to do so and inserted his fingers into her vagina. On Monday she told her close friend who is also an RA what happened. Brittany begged her not say anything because she was concerned about what others would think. It is against school policy to allow men to stay overnight in the campus housing designated for women.

James and Michael met at a party on campus and have been dating for the past four months. James is a student at the college. Michael previously attended the school but dropped out last year. He still hangs out with some of his friends he met while attending the college. James has decided that he wants to end the relationship so he can ensure he fully gets the “college” experience and does not miss out on anything. Michael is not happy about this decision. He texts Michael many times every hour of every day, he shows up at parties and makes a scene, and even tried to force himself on James at one party. Most recently, he showed up at James’ apartment drunk and made a scene to the point that one of the neighbors threatened to call the police.

Dehlia is in her second semester of college. She did very well her first semester. When she returned from winter break she seemed different. She began to miss classes and stopped participating in social activities. Every freshman has an advisor at the college and her advisor asked to meet with her. Dehlia explained to her advisor that she was sexually abused for two years when she was in middle school. The person that abused her has moved back in with her mother. He was there when she went home for winter break and is worried about returning home over the summer.

Sarah and Jonas have been dating for a few weeks. They met on campus. They both have developmental disabilities. Sarah goes to the health clinic to get birth control. The doctor says she first needs a full physical including a gynecological exam. Sarah indicates she has not been sexually active. During the exam, the doctor notices bruises on Sarah’s back and tears and bruising in her vaginal area. Both are consistent with indicators of violence.

Shaun is a part-time graduate student. He is transgender. He works at a coffee shop in the student center. He has been interviewed by the college paper about his experiences on campus and he has been open about the need for campus to expand its education about diversity. One day after work, he is approached by two male students. They said that he is a freak and would show him what a real man is like. One student holds him down while the other inserts his penis into Shaun’s mouth.

The following short scenarios provide a range of situations where the sexual violence is reported or disclosed to the campus or law enforcement by someone other than the survivor. For the subsequent scenarios discuss these questions:

1. What should the person do with the information they have learned?
2. What additional information is needed before a decision can be made as to next steps?
3. How can the survivor's safety and confidentiality be protected if there is a decision on the part of the campus to investigate the allegation?
4. How could a campus' response help support the survivor in lieu of any formal action?
5. Would anything be different about the campus response if it was the survivor who directly disclosed?

Kathy is in the second semester of her freshman year at a small private college. The campus administration and faculty are very familiar with Kathy's parents. Her parents live 3 hours away and come to see her at least once a month. They also call the administration and faculty regularly to address any concerns on Kathy's behalf, although some wonder if Kathy has the concerns or if it is her parents being over protective. One day, the Dean of Students receives a call from Kathy's father. He reports that Kathy has seemed distant lately and when they pressed her on it she broke down in tears. Kathy told them that she went to a party at an off-campus apartment and while there she met a guy. She was drinking. She went back to his place and when she woke up the next morning she realized she was the victim of acquaintance rape. She does not want it reported. Her parents do not care what she wants and demands the campus take immediate action.

Tina is a fulltime student at a state college. One evening she is out at a concert with friends. The venue is not on campus but in the downtown area of the city. While at the concert, she is approached by a young man who recognizes her from a class they apparently take together. During the course of the evening, he gropes her and pushes her into a corner of the concert hall and tries to insert his fingers into her vagina. She fights him off. She then reports the incident to the bouncer who calls the police. Tina fills out a report with the police. She does not know the name of the person who sexually assaulted her. The police contact the college to find out the names of the other students in Tina's classes. Before the contact with from the local police, the campus had not heard about this incident.

Seth and John have been living together since they were freshman. The first year they were roommates in the dorms, second year in the fraternity house, and this year in an apartment. They consider themselves brothers. They tell each everything but have agreed to the "bro code" that includes nothing they say to each other gets shared to others. John is gay. He has not come out because he fears he will be thrown out of the fraternity and be ostracized on campus. Seth has known about John's sexuality since they were freshman and it is a non-issue. Last weekend John was raped by a fraternity brother who graduated last year and was back on campus for homecoming weekend. John is distraught but does not want to tell anyone out of fear he will be outed. Seth goes to see a counselor on campus every other week to help him with his impending parent's divorce. The counselor is a graduate student studying social work. He tells his counselor what happened to John because he wanted advice about how to help his friend.

BRIEF CASE SCENARIOS

The following short scenarios provide a range of situations where the sexual violence is disclosed by the survivor although the intentions of disclosure are not necessarily formal campus or criminal justice response. For the subsequent scenarios discuss these questions:

1. What is your first reaction to the situation?
2. What safety issues, if any, are raised for the survivor? For the larger campus community?
3. What should the person do with the information they have learned?
4. What additional information is needed before a decision can be made as to next steps?
5. What is the current campus response to this situation?
6. How does this response meet the needs of the survivor and balance any legal requirements?

It is homecoming weekend at a large state school. There are parties scheduled all weekend, along with the big football game, and networking events. The college really encourages alumni to meet with current students so that they can provide them with career advice. Samantha an engineering student attends one of the alumni networking events. She meets Steven, a successful alum who graduated with an engineering degree and is well-known in the engineering field. Although Samantha is only 19, Steven buys her several glasses of wine and says it is their little secret. After all, he says, he drank a lot when he was in college. During the event, Steven pinches Samantha's butt. He places his hands all over her. Sometimes he happens to brush over her breasts. He gives her a lot of compliments and lets her know he can help her career. Samantha is extremely uncomfortable and does not know how to handle the situation. She does not want to upset him and hurt her reputation in the engineering field. He asks her for her number and she gives it to him. She feigns a headache and leaves the party. Before she gets back to her dorm, Samantha receives a text from Steven saying he would like her to meet him for one more drink before he leaves town and he also thinks he can set her up with a summer internship. Samantha does not know what to do. Her residence advisor sees that she is shaken up when she returns to the dorm. Samantha tells her what happens without giving her too many specifics to identify the alum.

Eliza is women's studies major. She is usually very engaged in class but lately seems distracted and has been handing in assignments late. Professor Journey asks Eliza to come to her office this week to discuss her recent performance. When asked what is going on Eliza says someone she used to date is bothering her. Dealing with it has been taking up a lot of her time. For example, she receives text messages all hours of the day and night letting her know that she is being watched. Private photos she took when she was with this person are being sent to her friends over snapchat and Instagram. A few days ago her tires were slashed. She has not reported these incidents to anyone because she thinks that if they are ignored they will stop. Also, she feels as a strong woman she should be able to handle it herself. Eliza promises to get her studies back on track.

Rose, a transgender woman, attends a medium sized state school. There has been a lot of education on campus lately about LGBTQI+ issues because of a growing number of hate crimes. In fact, the college has finally designated a few bathrooms as all gender bathrooms. Rose only feels comfortable using the all gender bathrooms and is relieved they exist. She always tried not to use the public bathrooms on campus. One day, Rose was walking out of an all gender bathroom and a campus employee walked by her and said "you tranny trouble maker." Rose does nothing but walks away as quickly as she can. Several days later, after using the same restroom, a few male students are waiting and start shouting, "Are you a man or woman" and "Do you want to fuck men?" Rose is part of a group of students that are trying to establish a student diversity center on campus. At a planning meeting she talks about what happened to her. The faculty advisor to the group is at the meeting and hears these stories.

Amanda is a senior at college. She frequently spends time with the men's college crew team. She used to date a former crew member but he graduated and then they broke up. Many of her friends are still on the crew team so she gets invited to parties. One of the crew members hosted a bash at a hotel downtown. They rented rooms there so no one would have to drink and drive. Amanda and some of her friends attended. During the course of the evening, Amanda went up to one of the bedrooms because she was dizzy from drinking too much. She is not sure what happened next but she woke up and knew something was not right. She was naked. One of Amanda's friends drove her to the hospital. She had a forensic exam. The hospital believes she was given roofies. The police were called to the hospital. Amanda provides information about who was at the party. She believes the person who assaulted her was someone on the crew team and remembers spending time with one person in particular. The detective assigned to the case contacts the college to get the names of all the Crew members and shares the name of the primary suspect and victim. The college had no knowledge of the incident until contacted by the detective. The Title IX Coordinator researches and finds the primary suspect has a prior sexual misconduct case. The Title IX Coordinator reaches out to Amanda. Amanda says she does not want any type of campus action taken but she would like help ensuring that no one from the Crew team has contact with her.

Tania is a survivor of child sexual abuse. She joined a support group on the college campus that helps her deal with feelings that arise as an adult, especially around trust with intimate partners. The support group is run by a community-based agency. Tania has made some friends from the support group. During one of the meetings she discloses that she went on a date. She found herself very attracted to the guy and as a way to calm her nerves drank heavily during the evening. They went back to his dorm room. Things heated up quickly. When they were fully undressed in his bed, she decided she wanted to stop. She told him to stop but he said it was too late. He told her she worked him up and it was not fair to leave him that way. She didn't want to go any further but felt guilty so had sex anyway.

Stacey is a junior and commutes to college where seventy-five percent of the students are commuters. The campus is tiny and the college uses part of many other buildings in the city to hold classes and offer student services. The college has an agreement with a gym to offer reduced rates to students. Stacey uses the gym almost every day. Stacey met Susan at the gym. Susan is an adjunct professor. Susan and Stacey start a friendship that turns into a romantic relationship. They date secretly as this is an ethical violation for Susan's job. After 8 months, Stacey decides she wants to end the relationship as they are in different stages of their lives. Susan is not in agreement. She continues to try to show her affection at the gym. Susan logged into the college's system and knows when Stacey will be going to and coming from class. She finds a way to be outside buildings at those times. Stacey does not want Susan to lose her job but tells her she will report her if this behavior continues. As a way to proactively discredit Stacey, Susan goes to the Dean of Students and reports that she is concerned that a student named Stacey is actively using drugs. The Dean then speaks to Stacey. Stacey reveals everything that has been happening and asks that the college help keep Susan away from her.

INVESTIGATION & COLLABORATION SCENARIOS

The following scenarios address investigation and collaboration. Accompanying each scenario is guidance on issue spotting and potential questions for discussion. Campuses are encouraged to modify scenarios and questions as needed to more accurately reflect their current climate. These scenarios have been designed to be used with multi-disciplinary stakeholders such as law enforcement, campus police, Title IX Coordinators, SANE, on and off-campus advocates, mental health professionals, etc. It is important to provide sufficient time for discussions around any of these scenarios.

ON CAMPUS SEXUAL ASSAULT - Survivor Does Not Want Criminal Justice Response

Meredith found piles of pornography in her boyfriend's dorm room. This led her to snoop on his laptop where she discovered Jeff subscribed to many pornography sites where he could watch women engaging live in all types of fetishes. When she confronted Jeff about her discovery, Jeff turned the conversation around telling her if she would perform the sexual acts he desired he would not have to turn to porn to be satisfied. He showed her photos he had taken of other women he was intimate with. The photos showed the women in various stages of bondage and sexual positions. He became very aroused when he talked about the photos and held Meredith down to show her what he liked. He took a photo of her afterwards as she was crying and trying to get herself dressed. Jeff is on an international student visa. Meredith thinks that maybe this is what men from other countries expect. Her friend urges her to alert the student counseling center who in turn contacts campus safety services. Safety service officers take a report from Meredith. She indicates she does not want any type of criminal action taken. Safety services calls the Title IX Coordinator and the local police department. They tell the local police department about the issue but say the victim is not interested in prosecution and wants confidentiality.

Potential Discussion Questions:

1. What is your first reaction to this situation?
2. What safety concerns do you have for Meredith? For others?
3. In your opinion should the counseling center have contacted campus safety? Why or why not?
4. In your opinion, should campus safety have contacted the Title IX Coordinator? Why or why not?
5. Should campus safety have contacted the local police department against Meredith's wishes? Why or why not?
6. Does Jeff's student visa impact the investigation? If so, how?
7. What is the role of the Title IX Coordinator in this scenario?
8. What services are available on campus or in the community to help improve Meredith's emotional, physical, and well-being?
9. Should the campus and local law enforcement work together to investigate this crime? If so, what would that look like?
10. What interim measures should be in place, if any, while an investigation is pending?

Some issues to consider: responsible employees vs. confidential advisors, obligations of campus security authorities, survivor autonomy, timely warnings, international students, intimate partner violence, role of Title IX Coordinator, and interim measures.

UNNAMED SURVIVOR – Disclosure from Witness

Greg was recruited by the college to be on its baseball team. He is not the star but is a starter and a reliable player. Greg used to be close to his other starter teammates but recently Ken, the assistant coach, has noticed tension among the team and with Greg in particular. Greg has been isolating himself at practices. The other starters have been taking cheap shots at Greg and trying to make him look bad in practice. After a practice, where there was pushing and shoving among teammates, Ken asks Greg to stay after practice so he can talk to him. Ken shares his observations and asks Greg what is going on. Greg refuses to talk. He tells Greg that he is looking at being cut from the starting lineup if he doesn't tell him what is going on. Greg then says that he is having a disagreement with some of his teammates about what happened at a party a few weeks ago. He doesn't want to go into details but they had a difference of opinion about how women should be treated. Ken continues to press Greg and the only other information he learns is that there was alcohol and a party and the teammates had their fun with the same girl.

Potential Discussion Questions:

1. What is your first reaction to this situation?
2. What should Ken do with the information that Greg shared with him? Is this a legal obligation? Moral? Ask people to be specific – e.g. if Ken should report this information, to whom? Should there be follow-up?
3. What is Ken's obligation to Greg?
4. What concerns, if any, do you have for Greg?
5. If there is an investigation, what entities should be involved?
6. How should the campus and law enforcement work together to investigate this crime?
7. What, if anything, is the obligation of the athletic department? Would anything change if the students involved were not athletes?
8. What information, if any, is needed about the survivor?

Some issues to consider: non-reporting and undisclosed survivors, responsible employees, reporting from third party, athletes and athletic department obligations, campus investigations, and collaboration with non-campus entities for investigation and services.

INVESTIGATION & COLLABORATION SCENARIOS

SEXUAL ASSAULT IN CAMPUS HOUSING

The college has had some fiscal hardships. Enrollment is down as is alumni giving. In trying to maintain high academic standards, the college decided to dismantle the public safety department and now rely on the Sheriff's office to respond to crimes on campus. One evening while in bed in her dorm room, Trudy was sexually assaulted. She did not see his face. He felt her breasts and touched her vaginal area. He said he would be back soon for more. Trudy immediately reported this through the campus emergency phone system and to her resident advisor. The call was put through to the Sheriff and the campus administration was notified. The Sheriff's office took three hours to respond. They said there was nothing they could do with the story and told her to make sure she locked her dorm room when she was in it.

Potential Discussion Questions:

1. What is your first reaction to this situation?
2. What safety concerns do you have for Trudy? For others?
3. Are services available on campus or in the community to meet the identified needs? If they are available, how would Trudy get connected to them?
4. What are the resident advisor's obligations in this situation?
5. What could help improve stakeholder responses?
 - a.) What protocols and agreements would be helpful to be in place between campus and non-campus entities to prepare for this type of situation?
 - b.) What trainings should campus stakeholders receive? Who should give these trainings?
6. What other types of actions should be taken to protect students?
7. What would change if anything if the identity of the perpetrator was known and was another student?

Some issues to consider: MOU's with law enforcement, responsible employees, timely warning vs. emergency notifications, training for campus personnel on Title IX, appointment of Title IX coordinator/investigator, and building relationships with community-based rape crisis centers.

SEXUAL ASSAULT DURING STUDY ABROAD PROGRAM

Alexandria spent one semester in Europe through the campus' semester abroad program. It is customary for the College Study Abroad Office to hold a debriefing session when students return. Karen is the person in the office who conducts the debriefing sessions. She wears many hats at the college but is the primary contact for students interested in study abroad and international students attending the college. Alexandria has rescheduled her debriefing session three times. Karen knows something is going on with Alexandria and when Alexandria finally shows up for the meeting, Karen asks her what is wrong. Alexandria says she is dealing with it, but when away she was raped by a member of the family she was placed with. It happened six months ago and she doesn't want to think about that time her life and that's why she has been avoiding the meeting.

Potential Discussion Questions:

1. What is your first reaction to this situation?
2. What are Karen's obligations after hearing this information from Alexandria?
3. What assistance and supports may Alexandria need?
4. Are services available on campus or in the community to meet the identified needs?
If they are available, how would Alexandria become connected to them?
If they are not available, what needs to take place to make them available?
5. What safety concerns do you have for other students in the study abroad program?
How should the campus respond to any concerns?
6. What is the role of a Title IX Coordinator in this situation?
7. How should the campus participate in an investigation?
8. What protocols and agreements would be helpful for the campus to have with foreign entities in case of the occurrence of sexual violence involving students in study abroad programs?
9. Are there accommodations/interim measures the school should consider for Karen?

Some issues to consider: Clery geography, MOU's/agreements with foreign entities, responsible employees, role of Title IX Coordinators, and interim measures.

INVESTIGATION & COLLABORATION SCENARIOS

UNNAMED SURVIVOR(S) – OFF CAMPUS HOUSING

In the past year, the city police department has received two reports of drug facilitated rape and one domestic violence incident from the same building near campus. This is a building many city college students live in as there is limited housing on campus. It is known as a “party” apartment complex. While the college does not own the apartment, it does work with the apartment’s management company to try to reserve a percentage of the apartments each year for its students. The management company has informed the college of the problems it is having. Over the weekend, another sexual assault occurred in the apartment complex involving at least one person enrolled at the college. The college’s general counsel wants the campus to send out a timely warning.

Potential Discussion Questions:

1. What is your first reaction to this situation?
2. Do you agree with the general counsel that a timely warning should be issued? Why or why not?
3. What would currently happen if your campus received this type of information?
4. In your opinion, does the college have other obligations (legal or not) in this situation to help protect the campus community?
5. What other information would be helpful in assessing the situation?
6. What would happen now if this occurred near your campus?
7. What types of agreements, protocols and referral system would you want to have already been in place before receiving this information?

Some issues to consider: Clery geography, timely warnings, responding in a respectful and culturally relevant manner, understanding what facilitated rape means, potential reactions to law enforcement, language barriers, family response to hearing about a sexual assault, immigration, and safety concerns for larger community.

CAMPUS SEXUAL ASSAULT TASK FORCE

A university is holding its third internal (campus-based) task force meeting on gender-based violence. The task force consists of representatives from the counseling center, campus police, the Dean of Student's office, the HR department, the diversity center, the student conduct board, and the health center. The Title IX Coordinator and general counsel also attend. The task force's goal is to examine current responses, gaps in services, and share best practices and lessons learned from other higher education institutions. There has been tension from the beginning with the group. At today's meeting, the campus police indicate they do not understand why not all incidents are simultaneously reported to local law enforcement and asks the general counsel to look into if that should be mandated. Another member of the task force says that he does not agree with the university having a separate response at all. Either it is a criminal case or nothing. It is unfair to have students expelled based solely on a finding from a student conduct board.

Potential Discussion Questions:

1. What is your first reaction to this situation?
2. What are the benefits of having a sexual assault task force? What are the challenges of having a task force like this?
3. Who should be involved in the task force?
 - a.) What organizations/offices?
 - b.) How should representative from the different entities be selected?
 - c.) Who should not be involved in the task force?
4. What meeting structures should assist in keeping the task force effective?
5. What activities could help the task force members have respectful discussions? Explore individual bias?
6. What is the role of the task force in relation to community-based sexual and domestic violence task forces?
7. How should the task force connect with other campus entities including student groups?

Some issues to consider: structure of meetings, development of clear role and purpose of task force and its members, creation of mission statement and other grounding statements to help keep group focused on the same goals, use of a facilitator, cross-training and training on gender-based violence – e.g. occurrence, impact, best practice responses, and legal obligations.

INVESTIGATION & COLLABORATION SCENARIOS

SURVIVOR UNSATISFIED WITH OUTCOME OF INVESTIGATION

A student who filed a complaint after being sexually assaulted is not happy with the outcome. After being raped, she called the campus police and the officer that showed up at her dorm seemed to have an attitude. The officer was more focused on if she had been drinking, what she had been wearing, and how far they went before she believed she withdrew consent. The campus officer gave her a list of resources. The student called him several times to see where the investigation stood and always got the response that he could not tell her anything. The student was not surprised when the school decided not to go forward with a student conduct hearing. The student is now meeting with Kelly, an advocate from the local rape crisis center. She recounts her experiences to Kelly. She says she knew from the very beginning no one would believe her and she should have never contacted the police. For the past few years, Kelly has been working closely with the campus helping develop a sexual violence prevention program and a trauma informed intervention response and know many of the responders with whom the student interacted.

Potential Discussion Questions:

1. What is your first reaction to this situation?
2. What can Kelly do with the information the student shared with her?
What are some considerations/factors that may impact if and how information can be shared?
3. Can Kelly use this information in a way that does not compromise survivor confidentiality?
If so, how and with whom would Kelly connect?
4. Would anything change about your response to this scenario if Kelly worked as a rape crisis advocate at a student health center?
5. What happens on your campus when a survivor is not happy with the outcome of an investigation or feels mistreated?
6. How can stakeholders use survivor experiences of outcomes to improve their responses?
7. What concerns, if any, do you have for the survivor's safety?
8. Are there supports the survivor may need? In your community, how would the survivor become connected to these services?

Some issues to consider: confidentiality and privilege, confidential advisors, VAWA compliant information of release forms, collaboration, cross-training, role of advocates (system and individual), and feedback from survivors.

OFF-CAMPUS SEXUAL ASSAULT – Involvement of Faculty and Student

Marcus is in a close relationship with Peter, the teaching assistant (TA) assigned to his political science class. They both share the same interests in sports, foreign affairs, and movies. Peter is a graduate student and 3 years older than Marcus. When it becomes clear that they are both attracted to one another Peter says they have to keep their relationship a secret as it is not permitted by the college due to his position as a TA. Marcus is very excited about Peter. This is his second relationship. One night, John is at Peter's apartment and Peter says he wants them both to get high as it is better for sex. Marcus consents. They take Molly and smoke cocaine. During this, Peter decides it would be good to introduce rough sex. Marcus is not interested but Peter forces Marcus into a hog-tied position and assaults Marcus. Marcus heads directly to the emergency room after he leaves Peter's apartment. The SANE nurse administers an anonymous rape kit. Marcus requires stitches and has severe contusions all over his body. Marcus does not want the police notified because he is afraid he will get into trouble for illegal drug use.

Potential Discussion Questions:

1. What is your first reaction to this situation?
2. Should the hospital contact law enforcement? Why or why not?
3. If not discussed above, what should be done with the rape kit?
4. If the hospital does contact local law enforcement, how can that contact be made without compromising Marcus' confidentiality and wishes?
5. Should the campus be notified of the incident? Why or why not?
 - a.) If so, by whom?
 - b.) How should the campus proceed if it received this information?
6. What would be the current response in your community to this incident?
 - a.) Would the response be any different if drugs were not used?
 - b.) Would the response be any different if Marcus was female?
7. What safety concerns do you have for Marcus? For others?
8. What assistance and supports may Marcus need?
9. Are services available on campus or in the community to meet the identified needs? If they are available, how would Marcus get connected to them? If they are not available, what needs to take place to make them available?

Some issues to consider: honoring Marcus' wishes and confidentiality, anonymous rape kits and evidence collection, relationship between campus and local law enforcement, responding in a respectful and culturally relevant manner, intimate partner violence, and interim measures to help keep Marcus safe.

SURVIVOR DOES NOT WANT ANY RESPONSE

Chu is a commuter student at the local community college. She has been sponsored by relatives and has lived in the United States for a few years. She lives with her relatives, works part-time in order to pay for tuition, and helps out at with her younger cousins. Chu has never dated. In her culture dating is not allowed until she meets someone she will most likely marry. One evening after class, she was walking to her car parked in a campus parking lot and was sexually assaulted. Someone called out her name, when she turned he pulled her into the bushes. Chu could tell he was masturbating while he was using his other hand to cover her mouth. Another student heard Chu screaming after her assailant fled the scene. The other student called 911. When the police arrive, Chu is still crying but is refusing to talk.

Potential Discussion Questions:

1. What is your first reaction to this situation?
2. What should be the response of law enforcement to this incident?
3. What is the law enforcement's role in notifying the campus about the incident?
4. Does the campus need to be notified about the incident? If yes, how?
What assistance and supports may Chu need?
5. What should the college's obligation be, if any, to investigate this incident?
6. What is the role of the Title IX Coordinator in this scenario?
7. What safety concerns do you have for Chu? For others?
8. Are services available on campus or in the community to meet the identified needs?
If they are available, how would Chu get connected to them?
If they are not available, what needs to take place to make them available?

Some issues to consider: responding in a respectful and culturally relevant manner, potential reactions to law enforcement, language barriers, family response to hearing about a sexual assault, immigration, and safety concerns for larger community.

SURVIVOR DOES NOT WANT A CAMPUS RESPONSE

Danielle attends a small private faith-based college. About half the students are from Ohio and the other half are from around the country or from other countries. Many students find their spouses at this college or others go on to seminary. Danielle is not from Ohio. This is the first time she has lived away from home. She is in the first semester of her freshman year. She meets two upper classman who tell her there is a secret party on campus and only the coolest freshman are invited. Danielle is nervous about it, has not made many friends on campus, and decides to go to the party. At the party, people are using alcohol and other drugs. Danielle has never even tried alcohol before. She is told she has to take shots. Through the course of the evening Danielle becomes intoxicated. The other people at the party undress Danielle and take photos of her in compromising positions. She is sexually assaulted by multiple people. The college does not have a women's center or any confidential advisors except for priests. Danielle is too ashamed to speak to a priest. She feels like she has sinned. She attempts an overdose in her dorm room. Campus security is contacted by another student who finds Danielle. An ambulance is called. When Danielle gets to the hospital and is examined, the doctors believe she was recently sexually assaulted.

Potential Discussion Questions:

1. What is your first reaction to this situation?
2. What would be the current response on your campus to this situation?
3. Would the response be any different if alcohol was not used to facilitate the sexual assault?
4. What safety concerns do you have for Danielle?
5. How may Danielle's faith impact the investigation and response?
6. Are services available on campus or in the community to meet the identified needs?
If they are available, how would Danielle get connected to them?
If they are not available, what needs to take place to make them available?
7. How should the campus and law enforcement work together to investigate this crime?
8. What are responses the campus should take regardless of law enforcement investigation and response?
9. If Danielle did tell a priest about her rape, what would be the priest's obligation if any to report it to Title IX Coordinator? To law enforcement?
10. If Danielle was 17, would anything change about the response?

Some issues to consider: definition of consent, alcohol facilitated sexual assault, confidentiality and privilege, trauma-informed and survivor-centric responses, multiple offenders, confidential advisors, collaboration with non-campus entities for investigation and services, and faith-based institutional response.

INTERIM MEASURES, STUDENT CONDUCT HEARINGS & SANCTIONS SCENARIOS

The following scenarios address interim measures, student conduct hearings and sanctions. Accompanying each scenario are three to five questions to help spark discussion. These scenarios are focused on what happens after a complaint is received or action taken by a survivor, the campus, or law enforcement.

At a small rural college there are only six buildings for classrooms and two dorms. Most students live in rental properties or one of the houses associated with the Greek system. Juan Carlos and Samantha dated for three years; two of which were in high school. They came to college together. Juan Carlos has always been protective and jealous. He liked to be wherever Samantha was. He told her it hurt his heart not to be in eyesight of her. When Samantha wanted to end their relationship things turned violent. Being such a small college, everyone was aware of what was going on and Samantha obtained a protection order from the county court. She provided copies to the college administration. She has asked that the college ensure that Juan Carlos has no contact with her. Currently, they are in the same dorm, have two classes together, and two other classes occur in the same building at the same time.

Potential Discussion Questions:

1. What type of violence is outlined in this scenario?
2. What interim measures may Samantha need to feel safe and supported?
3. Who can the campus partner with to help design and implement these interim measures?
4. What steps should be taken to help enforce the protection order?
5. Is there anything else the campus should do in this scenario? If so, how can it be done in a way that fosters safety and respects survivor autonomy?

The student disciplinary process at a private college allows for either party to have an advisor of choice accompany them into the hearing. Tomorrow a hearing has been scheduled for a situation in which the student respondent is facing allegations of sexual misconduct. The complainant is participating. It is 4 p.m. the day before the hearing and the college gets a request for a continuance from an attorney that the respondent has retained. This would cause an extension beyond 60 days since the student received notice about the complaint. The Title IX Coordinator calls the complainant to let her know what is going on. She asks the Title IX Coordinator to recommend an attorney that can represent her.

Potential Discussion Questions:

1. How should the Title IX Coordinator respond to the complainant's request?
2. What policies should be in place pertaining to advisors of choice for complainants and respondents? Attorneys?
3. What circumstances may justify extending time frames for investigation and hearing student conduct complaints?
4. Is there anything else the campus should do in this scenario to help create a fair and equitable hearing process?

INTERIM MEASURES, STUDENT CONDUCT HEARINGS & SANCTIONS SCENARIOS

The debate team at the community college is a strong contender winning state and national competitions. Professor Talksalot has been the faculty coach to the team for the past 10 years. He is well respected and is able to attract money to the college. Gyrmaine joined the debate team this year and immediately became one of the stars on the team. Gyrmaine is gender non-conforming. Professor Talksalot has provided extra coaching time to Gyrmaine. They have developed a bond so it did not seem odd to Gyrmaine when Professor Talksalot asked Gyrmaine to come to his hotel room when they were at a competition out-of-state. In the room, Professor Talksalot began to stroke Gyrmaine's leg and told Gyrmaine that he has never felt this way about a student before. He said he is very attracted to Gyrmaine and asks for oral sex. When Gyrmaine refuses, Professor Talksalot forces himself on Gyrmaine and puts his penis in Gyrmaine's mouth. When the team returns home, Gyrmaine reports the incident to the Title IX Coordinator and asks for help and protection from Professor Talksalot.

Potential Discussion Questions:

1. How should the Title IX Coordinator respond to Gyrmaine's report?
2. What information should be shared with Gyrmaine about options in response to this sexual assault?
3. What interim measures may Gyrmaine need in order to feel safe and supported?
4. What assistance may Gyrmaine need as a survivor of rape and by whom?
5. What other steps should the campus take to help protect students from Professor Talksalot?

Jamie and Jordyn had a brief romantic relationship. Jordyn ended the relationship after Jamie violated Jordyn's privacy and body. Jordyn made a complaint to the school and the school put a no contact order in place. One evening after a few drinks, Jordyn decides to reach out to Jamie to see if they can resolve their differences amicably. Jamie calls the campus police and tells them that Jordyn is breaking the no contact order.

Potential Discussion Questions:

1. What are the goals of a no contact order?
2. How should the campus police respond to Jamie's call?
3. Is there anything about the dynamics of an intimate partner violence situation that should impact decision making of responders?
4. What supports may Jordyn need? Who is best situated to reach out to her?
5. What other responses may the campus consider in this scenario?

INTERIM MEASURES, STUDENT CONDUCT HEARINGS & SANCTIONS SCENARIOS

Joe has been accused of sexual harassment and stalking by another student. He is a sophomore at the college. This is his first reported violation. He denies the accusations. The campus is moving forward with a conduct hearing. They have already put into place a no contact order with the alleged victim and has changed Joes' class schedule. Joe's parents have hired one of the best criminal defense attorneys they could find. They have also put the college administration on alert that they plan to sue the college. The attorney sends a subpoena to the University's Custodian of Records and to the Title IX Coordinator demanding all records associated with the alleged victim, including her college application, her grades, her health records and any other information that could be pertinent to her character. The attorney additionally wants to conduct a deposition with the alleged victim and with the campus public safety officers that responded to the incident and others on campus that conducted the investigation. The alleged victim shows up in the Title IX Coordinator's office and asks that the college protect her and help her get out of the deposition. She says she is unable to handle all the stress and is ready to leave college.

Potential Discussion Questions:

1. How can the campus help Joe understand the student conduct hearing process and reduce the chance for creating a hostile environment?
2. How should a campus respond to requests for records pertaining to a complainant? Requests for depositions?
3. Would the response to Joe's attorney be different if there was also a criminal justice response happening? If so, how? If no, why not?
4. What should be the role of the Title IX Coordinator in this scenario?
5. What concerns do you have, if any, for the complainant? How can those concerns be alleviated?

Artem is on a student visa from the Ukraine and is studying international political science. He has been reported several times to the campus police over the years for touching and groping women without consent. After the third report, the college decides to take action. It is a protracted investigation and student hearing process. During the interim, Artem's grades have dropped. He has lost a lot of weight and his friends report he is isolating himself and drinking heavily. Artem's friends are concerned about his health and well-being and ask the college to help Artem.

Potential Discussion Questions:

1. What is the college's responsibility, if any, to assist in Artem's health and well-being?
2. What supports may Artem need during the investigation and hearing process?
3. How can an investigation and hearing process be structured to be fair and equitable yet mitigate negative consequences on complainants? On respondents?
4. If Artem is found to have violated the student conduct code, what sanctions should be considered? What about a transcript notation?

INTERIM MEASURES, STUDENT CONDUCT HEARINGS & SANCTIONS SCENARIOS

Two weeks ago, Jenna's friend reported to the Title IX Coordinator that Jenna is being stalked and harassed by her former partner. Jenna ended the relationship after jealousy and control reached new levels. Jenna was not allowed to go where she wanted or dress how she wanted. One day Jenna's partner forced her to have sex and also strangled her during the act. Since Jenna ended the relationship, she is being stalked and harassed. The college put a no contact order in place. Someone is posting vile things about her on yik yak (e.g. she has STDs and is a whore). She knows it is her former partner. One day before the hearing is to take place, Jenna makes an appointment to see the Title IX Coordinator. She tells the coordinator that if the hearing goes forward, she believes she will be killed.

Potential Discussion Questions:

1. How should the Title IX Coordinator respond to Jenna's fears?
2. What other stakeholders may be helpful in assessing lethality and increasing Jenna's safety?
3. What are other campus actions that should be considered? Other non-campus actions?

A college went through a student conduct hearing and Evan the star of the lacrosse team was found responsible for raping another student. The sanction was expulsion. There was no criminal case pursued by the county prosecutor. After being expelled, the student went public with the situation. There was a lot of press coverage, including investigative stories conducted by local and national news outlets. Evan named the complainant publicly. The news stations have been planted on the grounds of the college, have contacted the survivor's family and friends, and are inundating the college with requests for information about the incident.

Potential Discussion Questions:

1. Should the college respond to the media? If so, how? If no, why not?
2. What is the role of the campus in helping protect the survivor?
3. What concerns does this scenario raise for the survivor? For the university?
4. How can the campus partners/stakeholders collaborate to respond collectively to the above listed concerns?
5. How could the media have been more properly prepared to cover stories about sexual violence?

Questions for Brief Case Studies

1. What would you want to happen in this scenario?

2. What would happen if this occurred on our campus?

3. What other information do we need to know to help guide a safe, culturally-relevant, and holistic response?

Questions for Disclosure by Someone Other Than Survivor Scenarios

1. What should the person do with the information they have learned?

2. What additional information is needed before a decision can be made as to next steps?

3. How can the survivor's safety and confidentiality be protected if there is a decision on the part of the campus to investigate the allegation?

4. How could a campus' response help support the survivor in lieu of any formal action?

5. Would anything be different about the campus response if it was the survivor who directly disclosed?

Questions for Survivor Disclosure Scenarios

1. What is your first reaction to the situation?

2. What safety issues, if any, are raised for the survivor? For the larger campus community?

3. What should the person do with the information they have learned?

4. What additional information is needed before a decision can be made as to next steps?

5. What is the current campus response to this situation?

6. How does this response meet the needs of the survivor and balance any legal requirements?

UNPACKING ESSENTIAL C'S CONFIDENTIALITY: A Campus Guide



Delves into the varying legal mandates of federal and state law and what campuses responsibilities are in sharing information and helping preserve complainant confidentiality.

Ohio campuses frequently have questions about the intersection between state and federal law and how to operationalize these laws in their daily work.

The purpose of this Guide is to:

- Clarify the intersections between state and federal law;
- Discuss the differences between confidentiality and privilege;
- Provide additional guidance regarding roles and responsibilities; and
- Assist campuses with developing and operationalizing a confidentiality best practices protocol.

There are three components of this Guide to help campuses achieve the above goals. They are:

- 1 Charts to provide guidance on these intersections**
 - Ohio Reporting Responsibilities by Campus Designation, which provides guidance on reporting responsibilities for Responsible Employees, Confidential Sources and Campus Security Authorities.
 - Ohio Campus Reporting Responsibilities by Role, a worksheet designed for campuses to identify the persons on their campus who are Responsible Employees and Campus Security Authorities.
- 2 Updated Intersection of Title IX and the Clery Act¹ chart with the inclusion of Ohio law.**
- 3 Frequently Asked Questions (FAQs)** to address the most pressing issues faced by campuses in Ohio with regards to confidentiality and the intersection of state and federal law. There are sections on who enforces the laws and responses of Sexual Assault Nurse Examiners, the criminal justice system, advocates, counselors, and case outcomes. At the top of each section, there is a list of pertinent questions that are answered to that corresponding topic.

1 This chart was originally developed by the White House Task Force to Protect Students from Sexual Assault. available at <https://notalone.gov/assets/ferpa-clerychart.pdf>.

As referenced in the introduction of the Toolkit, this is not an exhaustive list of all state and federal laws, but rather a compilation of the most significant issues facing campuses.² This Guide does not replace consultation with general counsel and should not be considered legal advice.

Instead, this document is intended to raise considerations for campuses that can spur further discussion. It is in this realm that definitive answers are scarce. Instead, each situation must be assessed and general best practices must be in place. Therefore, no bright-line guidance can be given across all Ohio campuses.

Title IX Coordinators and Title IX staff should be designated as the lead authorities and viewed as experts on their respective campus when collaborating with general counsel in the interpretation of this area of law. It is critical for Title IX Coordinators and general counsel to build relationships within the campus and in the county as these decisions are being made at each campus in Ohio.

While there are not always easy answers to the ever-changing nature and complexities of gender-based violence, it is through collaboration and building institutional expertise on these issues will result in achieving the ultimate goal: Changing Campus Culture and supporting all students' rights to an education, free from gender-based violence.

REMEMBER

OCR is the Office for Civil Rights and ORC is the Ohio Revised Code.

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2 The laws and guidance cited are current as of the printing of this Toolkit (July 2016).

Ohio Campus Reporting Responsibilities by Campus Designation

	Report Identifiable Info to Title IX Coordinator	Report Aggregate Data to Title IX Coordinator	May Report Aggregate Data to Title IX Coordinator	Report Identifiable Info to Police	Report Aggregate Data to Police per Ohio Revised Code § 2921.22***	May Report Aggregate Data to Police per Ohio Revised Code § 2921.22	Exempt from Reporting to Police per Ohio Revised Code § 2921.22	Report Identifiable Info to Clery Coordinator	Report Aggregate Data to Clery Coordinator	Exempt from Reporting for Title IX & Clery Act
Confidential Sources*		●	●			●				
Pastoral and professional counselors							●			●
Responsible Employees**	●				●					
Campus Security Authorities									●	
Non-Professional Counselors or Advocates									●	

*Note that under Ohio Revised Code § 2921.22 confidential sources who are not exempt from reporting felonies may be required to report aggregate data to law enforcement. For a full listing of exempt persons under Ohio Revised Code § 2921.22 see Chart 2. Additionally, pastoral and professional counselors are exempt from reporting under Title IX, Clery Act and Ohio law. See the second chart to develop a comprehensive campus-specific reporting protocol under Title IX, Clery Act and Ohio Revised Code § 2921.22. Reporting responsibilities vary from campus-to-campus. In order to identify patterns or systemic problems related to sexual violence, a school should collect aggregate data about sexual violence incidents from non-professional counselors or advocates in their on-campus sexual assault centers, women's centers, or order or denomination as someone who provides confidential counseling, and is functioning within the scope of that recognition as a pastoral counselor.... Such individuals should report only general information about incidents of sexual violence such as the nature, date, time, and general location of the incident and should take care to avoid reporting personally identifiable information.

**Responsible Employees reporting aggregate data to the Title IX Coordinator are fulfilling their Ohio felony reporting requirement by reporting to the Title IX Coordinator who then may report aggregate data to police when the campus protocol includes this information.

*** An individual who has reporting responsibility under 2921.22 may meet that obligation by reporting to deputized campus police. The information in this document only pertains to adult reports and is intended for educational purposes only. Do not rely on it as legal advice to address your specific situation. For more information or assistance, contact OAESV at campus@oaesv.org or 216-658-1381. While this chart is not endorsed by the Ohio Department of Higher Education, it is based on federal guidance and campuses should review it with their general counsel and make revisions as each campus feels appropriate before implementing.

Ohio Campus Reporting Responsibilities by Role

This worksheet is designed for campuses to identify the persons on their campus who are Responsible Employees and Campus Security Authorities.

	Report Identifiable Info to Title IX Coordinator	Report Aggregate Data to Title IX Coordinator	May Report Aggregate Data to Title IX Coordinator	Report Identifiable Info to Police	Report Aggregate Data to Police per Ohio Revised Code § 2921.22***	May Report Aggregate Data to Police per Ohio Revised Code § 2921.22	Exempt from Reporting to Police per Ohio Revised Code § 2921.22	Report Identifiable Info to Clergy Coordinator	Report Aggregate Data to Clergy Coordinator	Exempt from Reporting for Title IX & Clergy Act
Title IX Staff										
SANE Nurse										
Rape Crisis Center/bona fide program for providing counseling services to victims of crimes that are violations of section 2907.02 or 2907.05 of the Revised Code or to victims of felonious sexual penetration in violation of former section 2907.12 of the Revised Code. As used in this division, "counseling services" include services provided in an informal setting by a person who, by education or experience, is competent to provide those services										
Bona fide program of treatment or services for drug dependent persons or persons in danger of drug dependence, which program is maintained or conducted by a hospital, clinic, person, agency, or services provider certified pursuant to section 5119.36 of the Revised Code										
Peer Advocates										
Clergy, Rabbi, Minister or Priest										

Ohio Campus Reporting Responsibilities by Role

	Report Identifiable Info to Title IX Coordinator	Report Aggregate Data to Title IX Coordinator	May Report Aggregate Data to Title IX Coordinator	Report Identifiable Info to Police	Report Aggregate Data to Police per Ohio Revised Code § 2921.22***	May Report Aggregate Data to Police per Ohio Revised Code § 2921.22	Exempt from Reporting to Police per Ohio Revised Code § 2921.22	Report Identifiable Info to Clery Coordinator	Report Aggregate Data to Clery Coordinator	Exempt from Reporting for Title IX & Clery Act
Pastoral or Professional Counselors							●			
Licensed psychologist or licensed school psychologist; licensed professional clinical counselor; licensed professional counselor; social worker, independent marriage and family therapist, or marriage and family therapist							●			
Non Law Enforcement Campus Security Personnel					●					
Campus Law Enforcement					●					
Dean of students who oversees student housing, a student center or student extracurricular activities					●					
Director of athletics, all athletic coaches (including part-time employees and graduate assistants)					●					
Faculty advisor to a student group					●					
Student resident advisor or assistant					●					

Ohio Campus Reporting Responsibilities by Role

	Report Identifiable Info to Title IX Coordinator	Report Aggregate Data to Title IX Coordinator	May Report Aggregate Data to Title IX Coordinator	Report Identifiable Info to Police	Report Aggregate Data to Police per Ohio Revised Code § 2921.22***	May Report Aggregate Data to Police per Ohio Revised Code § 2921.22	Exempt from Reporting to Police per Ohio Revised Code § 2921.22	Report Identifiable Info to Clery Coordinator	Report Aggregate Data to Clery Coordinator	Exempt from Reporting for Title IX & Clery Act
Student who monitors access to dormitories or buildings that are owned by recognized student organizations					●					
Coordinator of Greek affairs					●					
Ombudsperson (including student ombudspersons)						●				
Director of a campus health or counseling center						●				
Victim advocates or others who are responsible for providing victims with advocacy services, such as assisting with housing relocation, disciplinary action or court cases, etc.						●				
Members of a sexual assault response team (SART) or other sexual assault advocates						●				
Officers from local law enforcement who are contracted by the institution to provide campus safety-related services					●					
Physicians in a campus health center							●			

Ohio Campus Reporting Responsibilities by Role

	Report Identifiable Info to Title IX Coordinator	Report Aggregate Data to Title IX Coordinator	May Report Aggregate Data to Title IX Coordinator	Report Identifiable Info to Police	Report Aggregate Data to Police per Ohio Revised Code § 2921.22***	May Report Aggregate Data to Police per Ohio Revised Code § 2921.22	Exempt from Reporting to Police per Ohio Revised Code § 2921.22	Report Identifiable Info to Clery Coordinator	Report Aggregate Data to Clery Coordinator	Exempt from Reporting for Title IX & Clery Act
Counselors, including peer counselors (except for professional or pastoral counselors)					●	●				
Health educators, including peer health educators					●					
Faculty (including adjunct) with significant responsibility for student and campus activities					●					
Faculty member who does not have any responsibility for student and campus activity beyond the classroom					●					
Clerical or cafeteria staff					●					
Husband or wife							●			
Communications assistant and those who are a party to a telecommunications relay service call							●			

****Responsible Employees reporting aggregate data to the Title IX Coordinator are fulfilling their Ohio felony reporting requirement by reporting to the Title IX Coordinator who then may report aggregate data to police when the campus protocol includes this information.
 *** An individual who has reporting responsibility under 2921.22 may meet that obligation by reporting to deputed campus police.
 The information in this document only pertains to adult reports and is intended for educational purposes only. Do not rely on it as legal advice to address your specific situation. For more information or assistance, contact OAESV at campus@oaesv.org or 216-658-1381. While this chart is not endorsed by the Ohio Department of Higher Education, it is based on guidance and campuses should review it with their general counsel and make revisions as each campus feels appropriate before implementing.

INTERSECTION OF TITLE IX, THE CLERY ACT, AND OHIO LAW:

The purpose of this chart is to clarify the reporting requirements of Title IX and the Clery Act in cases of sexual violence and to resolve any concerns about apparent conflicts between the two laws. To date, the Department of Education has not identified any specific conflicts between Title IX and the Clery Act. This document adds Ohio Law and was partially modified from the White House Task Force to Protect Students from Sexual Assault document, Intersection of Title IX and the Clery Act, <https://notalone.gov/assets/ferpa-clerychart.pdf>, with permission to modify.

1. WHAT TYPES OF INCIDENTS MUST BE REPORTED TO SCHOOL OFFICIALS?

TITLE IX	THE CLERY ACT	OHIO LAW
<p>Overview: Title IX promotes equal opportunity by providing that no person may be subjected to discrimination on the basis of sex under any educational program or activity receiving federal financial assistance. A school must respond promptly and effectively to sexual harassment, including sexual violence, that creates a hostile environment. When responsible employees know or should know about possible sexual harassment or sexual violence they must report it to the Title IX coordinator or other school designee.</p> <p>Sexual Harassment: Sexual harassment is unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature.</p> <p>Sexual Violence: Sexual violence is a form of sexual harassment. Sexual violence refers to physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent (e.g., due to the student’s age or use of drugs or alcohol or an intellectual or other disability that prevents the student from having the capacity to give consent). Sexual violence includes rape, sexual assault, sexual battery, sexual abuse and sexual coercion.</p>	<p>Overview: The Clery Act promotes campus safety by ensuring that students, employees, parents, and the broader community are well-informed about important public safety and crime prevention matters. Institutions that receive Title IV funds must disclose accurate and complete crime statistics for incidents that are reported to Campus Security Authorities (CSAs) and local law enforcement as having occurred on or near the campus. Schools must also disclose campus safety policies and procedures that specifically address topic such as sexual assault prevention, drug and alcohol abuse prevention, and emergency response and evacuation. The Clery Act also promotes transparency and ongoing communication about campus crimes and other threats to health and safety and empowers members to take a more active role in their own safety and security.</p> <p>Criminal Offenses: Criminal homicide; rape and other sexual assaults; robbery; aggravated assault; burglary; motor vehicle theft; and, arson as well as arrests and disciplinary referrals for violations of drug, liquor, and weapons laws.</p> <p>Hate Crimes: Any of the above-mentioned offenses against persons and property and incidents of larceny-theft, simple assault, intimidation or destruction/damage/vandalism of property, in which an individual or group is intentionally targeted because of their actual or perceived race, gender, religion, national origin, sexual orientation, gender identity, ethnicity, or disability, 20 U.S.C. §1092(f)(1)(F)(ii). Use FBI definitions, and the modifications from the Hate Crime Statistics Act. 20 U.S.C. §1092(f)(7).</p> <p>VAWA: The reauthorization of the Violence Against Women Act of 1994 amended the Clery Act to include disclosure of statistics regarding incidents of dating violence, domestic violence, and stalking as defined in 20 U.S.C. §1092(f)(1)(F)(iii) and 20 U.S.C §1092(f)(7).</p>	<p>Overview: Ohio law does not specifically require employees of an academic institution to report incidents to school officials in a manner similar to Title IX or the Clery Act. Instead, Ohio statutes mandate reporting of the following activities to specified authorities:</p> <p>Felonies against Adults or Children: Ohio Revised Code § 2921.22(A) requires any person aware that a felony has been committed to report that felony to law enforcement. Please note that certain persons are exempt from this reporting requirement, as detailed in the response to question #3 below.</p> <p>O.R.C. § 2921.22(G)(1). Sexual violence felonies include:</p> <ul style="list-style-type: none"> • 2907.02 Rape; 2907.03 Sexual Battery; 2907.04 Unlawful Sexual Conduct with a Minor • 2907.07 Importuning; 2907.08 Voyeurism (certain classifications) • 2907.21 Compelling Prostitution; 2907.22 Promoting Prostitution; 2907.23 Enticement or solicitation to patronize a prostitute; procurement of a prostitute for another (minor victim); 2907.24 Solicitation; 2907.25 Loitering to Engage in Prostitution; 2907.26 Prostitution • 2907.31 Disseminating Material Harmful to Juveniles; 2907.32 Pandering Obscenity; 2907.322 Pandering sexually oriented matter involving a minor; 2907.323 Illegal use of Minor in Nudity-Oriented Material or Performance; 2907.34 Compelling Acceptance of Objectionable Materials • 2905.01 Kidnapping; 2905.02 Abduction; 2905.05 Criminal Child Enticement • 2905.32 Trafficking in Persons <p>Child Abuse or Neglect: Ohio Revised Code § 2151.421 mandates school employees acting in their official or professional capacity who know or have reasonable suspicion (or should have reasonable suspicion) that a minor has suffered or may suffer physical or mental wound, injury, disability, or neglect, must immediately report to the public children services agency or a municipal or county peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred. See the response to question #3 below for a detailed response of persons responsible for reporting.</p>

2. OCCURRING WHERE?

TITLE IX

Recipients must respond to sexual violence that occurs:

In the context of a school's education programs and activities:

This includes academic, educational, extracurricular, athletic, and any other school programs, whether those programs take place in a school's facilities, on a school bus, at a class or training program sponsored by the school at another location, or elsewhere. Additional examples include school-sponsored field trips, school-recognized fraternity or sorority houses, and athletic team travel, and events for school clubs that occur off campus.

Off-campus: Even if the sexual violence did not occur in the context of an educational program or activity, a school must process such complaints and consider the effects of the sexual violence when evaluating whether there is a hostile environment on campus or in an off-campus education program or activity.

THE CLERY ACT

Institutions must disclose crime statistics for Clery-reportable offenses that occur on its so-called "Clery Geography." Clery Geography includes three general categories:

Campus: Any building or property that an institution owns or controls within a reasonably contiguous area that directly supports or relates to the institution's educational purposes. On campus also includes residence halls and properties the institution owns and students use for educational purposes that are controlled by another person (such as a food or retail vendor). The definition of "controlled" includes all such properties that are leased or borrowed and used for educational purposes. 20 U.S.C. §1092(f)(6)(ii).

Non-campus building or property:

Any building or property that is owned or controlled by a recognized student organization. And, any building or property that is owned or controlled by the institution that is used in support of its educational purposes but is not located within a reasonably contiguous area to the campus. 20 U.S.C. §1092(f)(6)(iii).

Public property: All public property within the reasonably contiguous geographic area of the institution that is adjacent to or accessible from a facility the institution owns or controls and that is used for educational purposes. Examples include sidewalks, streets, and parking facilities. 20 U.S.C. §1092(f)(6)(iv).

OHIO LAW

Everywhere:

Under Ohio law's mandatory reporting and felony reporting laws, non-empty persons must report to appropriate authorities regardless of where the crime took place. See generally Ohio Revised Code § 2921.22, Ohio Revised Code § 2921.22(A).

3. WHO MUST REPORT DETAILS OF AN INCIDENT OF SEXUAL VIOLENCE, INCLUDING PERSONALLY IDENTIFIABLE INFORMATION?

TITLE IX	THE CLERGY ACT	OHIO LAW
<p>Responsible employees: A responsible employee is any employee who has the authority to take action to redress sexual violence, who has been given the duty to report to appropriate school officials about incidents of sexual violence or any other misconduct by students, or who a student could reasonably believe has this authority or responsibility.</p> <p>Schools must make clear to all of its employees and students which staff members are responsible employees.</p>	<p>Campus law enforcement officers, non-law enforcement campus safety officers, and local law enforcement officers: These individuals are normally required to fully document all operative facts of an incident that are reported or that are developed throughout the course of a criminal investigation. The information collected during such an investigation will normally include personally-identifiable information (PII).</p> <p>CSAs other than law enforcement/campus safety officers: Most of these CSAs are not typically required to disclose PII as part of their normal reporting obligations. (see CSA definition below)</p>	<p>Ohio statutes mandate reporting of the following activities to specified authorities: Felonies against Adults or Children: Ohio Revised Code § 2921.22(A) requires any person aware that a felony has been committed to report that felony to law enforcement. Please note that the following persons with privilege are exempt from this reporting requirement: attorney; doctor; licensed psychologist or licensed school psychologist; licensed professional clinical counselor; licensed professional counselor, independent social worker, social worker; independent marriage and family therapist, or marriage and family therapist; member of the clergy, rabbi, minister, or priest and any person communicating information confidentially to the member of the clergy, rabbi, minister, or priest for a religious counseling purpose of a professional character; husband and wife; telecommunications assistant and those who are a party to a telecommunications relay service call. Additionally, disclosure of information is not required when any of the following applies:</p> <ul style="list-style-type: none"> • The information would tend to incriminate a member of the actor's immediate family. • Disclosure of the information would amount to revealing a news source, privileged under section 2739.04 or 2739.12 of the Revised Code. • Disclosure of the information would amount to disclosure by a member of the ordained clergy of an organized religious body of a confidential communication made to that member of the clergy in that member's capacity as a member of the clergy by a person seeking the aid or counsel of that member of the clergy. • Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program of treatment or services for drug dependent persons or persons in danger of drug dependence, which program is maintained or conducted by a hospital, clinic, person, agency, or services provider certified pursuant to section 5119.36 of the Revised Code. • Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program for providing counseling services to victims of crimes that are violations of section 2907.02 or 2907.05 of the Revised Code or to victims of felonious sexual penetration in violation of former section 2907.12 of the Revised Code. As used in this division, "counseling services" include services provided in an informal setting by a person who, by education or experience, is competent to provide those services. • Child Abuse or Neglect: Ohio Revised Code § 2151.421 mandates school employees acting in their official or professional capacity who know or have reasonable suspicion (or should have reasonable suspicion) that a minor has suffered or may suffer physical or mental wound, injury, disability, or neglect, must immediately report to the public children services agency or a municipal or county peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred. Anyone employed by a school must report child abuse or neglect, examples therefore include but are not limited to: licensed school psychologists; speech pathologist or audiologist; school teachers; school employees; school authorities; superintendents; board members

4. WHO CAN PROVIDE COMPLETELY CONFIDENTIAL SUPPORT SERVICES TO VICTIMS OF SEXUAL VIOLENCE?

TITLE IX	THE CLERY ACT	OHIO LAW
<p>Professional and pastoral counselors: A professional counselor is a person whose official responsibilities include providing mental health counseling to members of the institution's community and who is functioning within the scope of his or her license or certification. This definition applies even to professional counselors who are not employees of the institution, but are under contract to provide counseling at the institution. This also includes an individual who is not yet licensed or certified as a counselor, but is acting in that role under the supervision of an individual who is licensed or certified. An example is a Ph.D. counselor-trainee acting under the supervision of a professional counselor at the institution.</p> <p>A pastoral counselor is a person who is associated with a religious order or denomination, is recognized by that religious order or denomination as someone who provides confidential counseling, and is functioning within the scope of that recognition. In this context, a pastor or priest who is functioning as an athletic director or as a student advocate would not be exempt from the reporting obligations.</p> <p>Professional and pastoral counselors are not required to report any information regarding an incident of alleged sexual violence. The exemption from reporting obligations for professional and pastoral counselors under Title IX is consistent with the Clery Act.</p>	<p>Professional and pastoral counselors: A professional counselor is a person whose official responsibilities include providing mental health counseling to members of the institution's community and who is functioning within the scope of his or her license or certification. This definition applies even to professional counselors who are not employees of the institution, but are under contract to provide counseling at the institution. This also includes an individual who is not yet licensed or certified as a counselor, but is acting in that role under the supervision of an individual who is licensed or certified. An example is a Ph.D. counselor-trainee acting under the supervision of a professional counselor at the institution.</p> <p>A pastoral counselor is a person who is associated with a religious order or denomination, is recognized by that religious order or denomination as someone who provides confidential counseling, and is functioning within the scope of that recognition. In this context, a pastor or priest who is functioning as an athletic director or as a student advocate would not be exempt from the reporting obligations.</p> <p>Crimes reported to a pastoral or professional counselor are not required to be reported by an institution under the Clery Act; however, institutions are strongly encouraged to establish voluntary, confidential reporting processes so that incidents of crime that are reported exclusively to professional and pastoral counselors will be included in the annual crime statistics. 34 C.F.R. §668.46(b)(2)(iii).</p>	<p>Persons Granted Privilege by Ohio Revised Code § 2317.02 & Certain Bona Fide Program Employees: Under Ohio law, rape crisis center advocates, and similarly situated persons, are not permitted to provide privileged (not completely confidential?) services to victims of sexual violence. As of June 2016, advocates have no statutory privilege. See R.C. § 2317.02. Thus, rape crisis center employees are not clearly exempt from the duty to report felony sex offenses to law enforcement and are not shielded from their obligation to submit to subpoena.</p> <p>Persons granted privilege by R.C. § 2317.02: Persons whose communications are privileged by R.C. § 2317.02 may not be compelled to testify regarding communications made during the provision of services. In addition, Ohio Revised Code § 2921.22 Failure to report a felony or knowledge of a death or burn injury exempts from the duty to report, individuals whose communications are protected by privilege. The following types of service providers may provide completely confidential support to victims: attorney; doctor; licensed psychologist or licensed school psychologist; licensed professional clinical counselor; licensed professional counselor; independent social worker, social worker, independent marriage and family therapist, or marriage and family therapist; member of the clergy, rabbi, minister, or priest and any person communicating information confidentially to the member of the clergy, rabbi, minister, or priest for a religious counseling purpose of a professional character; husband and wife; communications assistant and those who are a party to a telecommunications relay service call.</p> <p>Certain Bona Fide Program Employees: Ohio's felony reporting statute contains an additional exemption if disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program for providing counseling services to victims of crimes that are violations of section 2907.02 [Rape] or 2907.05 [Gross sexual imposition] of the Revised Code or to victims of felonious sexual penetration in violation of former section 2907.12 of the Revised Code. As used in this division, "counseling services" include services provided in an informal setting by a person who, by education or experience, is competent to provide those services. Ohio Revised Code § 2921.22(G)(6). However, proceed with caution when relying on this provision, as the Ohio Revised Code does not define "Bona Fide Program".</p> <ol style="list-style-type: none"> 1 Privilege (also known as a privileged communication) is a legal term describing certain specific types of relationships that enjoy protection from disclosure in legal proceedings. Privilege is granted by law and belongs to the client in the relationship. It can either be absolute or qualified; each affording a different level of protection. Privileged relationships vary by state law. 2 Confidentiality pertains to the treatment of information that an individual has disclosed in a relationship of trust and with the expectation that it will not be divulged to others without the individual's permission in ways that are inconsistent with the understanding of the original disclosure. It is the process of ensuring that information is accessible only to those authorized to have access. During the informed consent process, if applicable, individuals must be informed of the precautions that will be taken to protect the confidentiality of the information and be informed of the parties who will or may have access. This allows individuals to decide whether to release information given the available protections and the possibility of release of private information. Confidentiality is not the same as privilege, under state law.

5. WHO CAN PROVIDE SERVICES AND KEEP PERSONALLY IDENTIFIABLE INFORMATION ABOUT INCIDENTS OF SEXUAL VIOLENCE CONFIDENTIAL?

TITLE IX	THE CLERY ACT	OHIO LAW
<p>Non-professional counselors or advocates:</p> <p>Individuals who are not professional or pastoral counselors, but work or volunteer in on-campus sexual assault centers, victim advocacy offices, women's centers, or health centers, including front desk staff and students, and provide assistance to students who experience sexual violence, should report aggregate data, but are not required to report, without the student's consent, incidents of sexual violence to the school in a way that identifies the student.</p>	<p>Most non-law enforcement/campus safety officers who are CSAs because of they have significant responsibilities for student and campus activities:</p> <p>The definition of campus security authority includes campus police and/or security personnel; any individual who has responsibility for campus security but is not part of a campus police or security department; an individual or organization specified in an institution's statement of campus security policy as one to which students and employees should report criminal offenses; and an official of an institution who has a significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus judicial proceedings.</p> <p>Most of these mandatory reporters are specifically not required by the Clery Act to disclose PII. 34 C.F.R. §668.46(a).</p> <p>Because specific occupational titles, descriptions and statements of duties vary so significantly, each institution must conduct a substantive review of all of its officials, including students with official duties for example, resident assistants, and evaluate whether the Clery Act designates the individual a CSA and thereby confers reporting obligations. CSAs must be identified, notified of their reporting obligations, be properly training, and provided with a mechanism for communicating reported incidents to the appropriate officials. (Handbook, 75).</p>	<p>Though it is best practice to keep identifiable information about incidents of sexual violence confidential, if prompted by the Ohio felony reporting statute, R.C. § 2921.22(A), or the Ohio child abuse and neglect reporting statute, R.C. § 2151.421, non-exempt persons may have to disclose identifiable information known to them. In addition, non-privileged individuals may be compelled to disclose identifiable information if subpoenaed to do so.</p>

6. WHAT SHOULD NON-PROFESSIONAL COUNSELORS, ADVOCATES, AND CSAs REPORT ABOUT INCIDENTS OF SEXUAL VIOLENCE?

TITLE IX	THE CLERY ACT	OHIO LAW
<p>Aggregate Data:</p> <p>In order to identify patterns or systemic problems related to sexual violence, a school should collect aggregate data about sexual violence incidents from non-professional counselors or advocates in their on-campus sexual assault centers, victim advocacy offices, women's centers, or health centers.</p> <p>Such individuals should report only general information about incidents of sexual violence such as the nature, date, time, and general location of the incident and should take care to avoid reporting information that would personally identify a student. Non-professional counselors and advocates should consult with students regarding what information needs to be withheld to protect their identity.</p>	<p>Aggregate Data:</p> <p>Typically, most non-law enforcement/campus safety officer CSAs must only report the nature, date, time, general location, and the current disposition of the incident, if known.</p> <p>Most non-law enforcement/campus safety officer CSAs typically are not required to disclose PII or other information that would have the effect of identifying the victim.</p>	<p>As noted, no Ohio statute requires individuals to report incidents to academic institutions. Instead, Ohio laws require that non-exempt individuals report to law enforcement or the appropriate state agency. When determining what information non-exempt employees must disclose, see the Confidentiality Toolkit for Campuses, and these individuals should refer to the Ohio felony reporting statute, R.C. § 2921.22(A), for adult cases, or the Ohio child abuse and neglect reporting statute, R.C. § 2151.421, for child cases.</p> <p>Felony Reporting Statute: This statute does not specify what, if any specific, information is required under this reporting statute. Sexual Assault Nurse Examiners only report aggregate data, for example, to comply with Ohio's felony reporting statute.</p> <p>Child Abuse or Neglect: To comply with R.C. § 2151.421, individuals must include in their report:</p> <ul style="list-style-type: none"> • The names and addresses of the child and the child's parents or the person or persons having custody of the child, if known; • The child's age and the nature and extent of the child's injuries, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to have occurred or of the threat of injury, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to exist, including any evidence of previous injuries, abuse, or neglect; • Any other information that might be helpful in establishing the cause of the injury, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to have occurred or of the threat of injury, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to exist.

7. WHAT MUST A SCHOOL TELL THE COMPLAINANT ABOUT THE OUTCOME OF A SEXUAL VIOLENCE COMPLAINT AND HOW DOES FERPA APPLY?!

TITLE IX	THE CLERY ACT	OHIO LAW
<p>Notice of the Outcome:</p> <p>Title IX requires a school to tell the complainant whether or not it found that the sexual violence occurred, any individual remedies offered or provided to the complainant or any sanctions imposed on the perpetrator that directly relate to the complainant, and other steps the school has taken to eliminate the hostile environment, and prevent recurrence.</p> <p>Sanctions that directly relate to the complainant include, but are not limited to, requiring that the perpetrator stay away from the complainant until both parties graduate, prohibiting the perpetrator from attending school for a period of time or transferring the perpetrator to another residence hall, other classes, or another school.</p> <p>The Department of Education interprets FERPA as not conflicting with the Title IX requirement that the school notify the complainant of the outcome of its investigation, i.e., whether or not the sexual violence was found to have occurred, because this information directly relates to the victim. FERPA also permits the school to notify a complainant of sanctions imposed upon a student who was found to have engaged in sexual violence when the sanction directly relates to the complainant.</p> <p>The FERPA limits on re-disclosure of information do not apply to information that institutions are required to disclose under the Clery Act, 34 C.F.R. §99.33(c). Institutions may not require a complainant to abide by a nondisclosure agreement, in writing, or otherwise, that would prevent the re-disclosure of this information in any Title IX complaint that involves a Clery Act offense, such as sexual violence.</p>	<p>Results of Institutional Disciplinary Proceedings:</p> <p>The Clery Act specifically mandates that “each institution shall develop and distribute procedures for simultaneously notifying the accuser and accused of the outcome of institutional disciplinary proceedings.” 20 U.S.C. §485f(1)(J)(8)(B)(iv)(III)(aa).</p> <p>FERPA includes a provision that specifically allows schools to disclose to alleged victims of any crime of violence or rape and other sexual assaults, the final results of any disciplinary proceedings conducted by the institution against the alleged perpetrator of the offense. 20 U.S.C. §1232g(b)(6).</p> <p>The “final results” of any proceeding are defined as: the name of the student, the findings of the proceeding board/official, any sanctions imposed by the institution, and the rationale for the findings and sanctions (if any). The presence of names of any other student, such as a victim or witnesses, may be included only with the consent of that student. 20 U.S.C. §1232g(c).</p> <p>The FERPA limits on re-disclosure of information do not apply to information that institutions are required to disclose under the Clery Act, 34 C.F.R. §99.33(c). Institutions may not require a complainant to abide by a nondisclosure agreement, in writing, or otherwise, that would prevent the re-disclosure of this information.</p>	<p>Outcome:</p> <p>Ohio law does not regulate notice procedures for complainants of sexual violence within schools.</p> <p>FERPA Application to Student Records in School Sexual Violence Cases: If, pursuant to Ohio Revised Code § 3319.45, a principal has knowledge that an activity that would amount to R.C. § 2907.02 Rape or § 2907.05 Gross sexual imposition, if the perpetrator were an adult, and the offense was committed on property owned or controlled by the school or at a school activity, the principal must make a report to the superintendent within one day and may make a report to law enforcement (in addition to the felony reporting duty imposed by R.C. § 2921.22). In this instance, the principal is not required to obtain the consent of the perpetrator or the perpetrator’s parent, guardian, or custodian prior to making the report. R.C. § 3319.45(G). Ohio law does not supersede FERPA. As such, persons responsible for complying with O.R.C. Chapter 3319 must ensure any actions also comply with FERPA. See, e.g., R.C. § 3319.45(G); Ohio Rev. Code § 149.43(A)(1)(v).</p>

¹ This chart also addresses how the Family Educational Rights and Privacy Act (FERPA) applies to Title IX and the Clery Act. Once again, the Department of Education has not identified any specific situations where compliance with Title IX or the Clery Act will cause an institution to violate FERPA.

8. HOW DOES FERPA APPLY TO OTHER OBLIGATIONS UNDER TITLE IX AND THE CLERY ACT?

TITLE IX	THE CLERY ACT	OHIO LAW
<p>All Other Title IX Obligations: FERPA continues to apply in the context of Title IX enforcement, but if there is a direct conflict between the requirements of FERPA and the requirements of Title IX, such that enforcement of FERPA would interfere with the primary purpose of Title IX to eliminate sex-based discrimination in schools, the requirements of Title IX override any conflicting FERPA provisions.</p>	<p>Timely Warnings: The Clery Act requires institutions to issue timely warnings to the campus community about crimes that have already occurred but may continue to pose a serious or ongoing threat to students and employees. Timely warnings are only required for Clery-reportable crimes that occur on Clery Geography although institutions are encouraged to issue appropriate warnings regarding other criminal activity that may pose a serious threat as well. 20 U.S.C. §485f(1)(J)(3); Handbook, 118. FERPA does not preclude an institution's compliance with the timely warning provision of the Clery Act. FERPA recognizes that information can, in the case of an emergency, be released without consent when needed to protect the health and safety of others. 34 C.F.R. §99.36(a). Further, if institutions utilize information from the records of campus law enforcement to issue a timely warning, those records are not protected by FERPA. 20 U.S.C. §1232g(a)(4)(B)(ii). However, timely warning reports must withhold the names and other identifying information about victims as confidential. 34 C.F.R. §668.46(e).</p> <p>Emergency Response Procedures: The Clery Act requires institutions to have and disclose emergency response and procedures. As part of these procedures, institutions must immediately notify the campus community about <i>any</i> significant emergency or dangerous condition that may pose an immediate threat to the health or safety of students or employees occurring on the campus. 20 U.S.C. §485f(1)(J)(1)(i). An institution that follows its emergency notification procedures is not required to issue a timely warning based on the same circumstances; however, the institution must provide adequate follow-up information to the community as needed. 34 C.F.R. §668.46(e)(3). FERPA recognizes that information can, in the case of an emergency, be released without consent when needed to protect the health and safety of others. 34 C.F.R. §99.36(a).</p>	<p>Ohio law does not supersede FERPA. As such, persons responsible for complying with O.R.C. Chapter 3319 must ensure any actions also comply with FERPA. See, e.g., R.C. § 3319.45(G); Ohio Rev. Code § 149.43(A)(1)(v).</p>

ENFORCEMENT OF LAWS DIRECTLY IMPACTING CAMPUSES

Questions Pertaining to Oversight

1. Who enforces laws on Ohio Campuses?
2. What is the role of the U.S. Department of Education and their individual offices in enforcement?
3. What is the role of the Education Section of the Ohio Attorney's General Office?



Who enforces laws on Ohio Campuses?



The U. S. Department of Education enforces both the Clery Act and Title IX. The Violence Against Women Act (VAWA) is enforced by the U.S. Department of Justice. State law, codified through the Ohio Revised Code (ORC) or the Ohio Administrative Code, is enforced by local city and county prosecutors. The Ohio Attorney General's Office can step in by providing legal guidance to public universities or taking over a prosecution, when invited or asked in to assist.



What is the role of the U.S. Department of Education and their individual offices in enforcement?



The Office For Civil Rights³

"The mission of the Office for Civil Rights is to ensure equal access to education and to promote educational excellence throughout the nation through vigorous enforcement of civil rights."

OCR serves student populations facing discrimination and the advocates and campuses promoting systemic solutions to civil rights problems. An important responsibility is resolving complaints of discrimination. Agency-initiated cases, typically called compliance reviews, permit OCR to target resources on compliance problems that appear particularly acute. OCR also provides technical assistance to help campuses achieve voluntary compliance with OCR-related civil rights laws. Partnerships are an important part of OCR's technical assistance which is designed to develop creative approaches to preventing and addressing discrimination.

The Office for Federal Student Aid

Additionally, the Federal Student Aid office conducts reviews to evaluate a campus' compliance with the Clery Act requirements. A review may be initiated when a complaint is received, a media event raises certain concerns, the campus' independent audit identifies serious non-compliance, or through a review selection process that may also coincide with state reviews performed by the FBI's Criminal Justice Information Service (CJIS) Audit Unit. Once a review is completed, the U.S. Department of Education issues a Final Program Review Determination. In addition, it conducts general assessment compliance reviews and audits which may also result in fine actions against a campus for violations of the Clery Act.⁴ Clery reviews and accompanying documentation, which may include the complaint, campus response, or final action that resulted from the program review in addition to documents related to fine actions initiated from other compliance reviews, is available online.⁵

The Family Policy Compliance Office

The Family Policy Compliance Office (FPCO) serves to "meet the needs of the Department's primary customers--learners of all ages--by effectively implementing two laws that seek to ensure student and parental rights in education: the Family Educational Rights and Privacy Act (FERPA) and the Protection of Pupil Rights Amendment (PPRA)."⁶

3 About OCR, U.S. DEPT. OF EDUC., OFF. FOR CIV. RIGHTS, <http://www2.ed.gov/about/offices/list/ocr/aboutocr.html>.

4 Clery Act Reports, U.S. DEPT. OF EDUC., OFF. OF FED. FINANCIAL AID, <https://www.nsls.ed.gov/sa/about/data-center/school/clery-act-reports>.

5 Id.; See also National Student Loan Data System - Background Information: Clery Act Reviews, U.S. DEPT. OF EDUC., OFF. OF FED. FINANCIAL AID, <https://www.nsls.ed.gov/sa/es/sites/default/files/fsawg/datacenter/cleryact/CleryDataCenterv3.pdf>.

6 About the Family Policy Compliance Office, U.S. DEPT. OF EDUC., OFF. OF FED. FAMILY COMPLIANCE, <http://www2.ed.gov/policy/gen/guid/fpco/index.html>.



What is the role of the Education Section of the Ohio Attorney's General Office?



Higher Education Representation⁷

“The Education Section (Education) represents Ohio’s 13 universities, one free-standing medical university and 23 two-year state community colleges, community colleges and technical colleges. This representation involves coordination of the work of in-house attorneys who handle the day-to-day work for the colleges and universities. The representation also includes working with and overseeing the special counsel who handle matters that the Attorney General’s Office cannot, due to a lack of expertise or manpower.”

Education Assistant Attorneys General provide advice and training on issues relating to higher education, including employment, state contracts, student privacy and discipline. They also represent the colleges and universities in federal and state courts as well as in administrative matters. These attorneys represent the Ohio Department of Education, the State Board of Career Colleges, the Ohio Appalachian Center for Higher Education and the Ohio Association of Community Colleges.

GENERAL CAMPUS RESPONSE

Questions Pertaining to General Campus Responses

1. What is the difference between confidentiality and privilege?
2. Does Ohio’s felony reporting statute require that identifiable information about the complainant be provided? Does the answer change if the complainant is a minor?
3. Can campuses report under the Clery Act without revealing the names of complainants and respondents?
4. What is a timely warning and what crimes prompt one?
5. Does the entire campus community need to be notified about every incident? What details must be shared?
6. What rights does a complainant have if he/she does not want to report the crime?
7. How do you protect the confidentiality of student complainants and work with faculty to implement interim measures?
8. Are faculty members who have clinical licensure, which affords privilege if providing counseling services, required to report under Clery if their sole role on campus is teaching?



What is the difference between confidentiality and privilege?



The Victim Rights Law Center states that:

While statutory privilege provides the strongest privacy protections, communications with confidential employees still allow some privacy protections. For jurisdictions whose statutory privilege laws do not cover all medical and support services that a victim may need, an institution has the ability to designate employees as “confidential,” which exempts them from Title IX reporting with the exception of providing non-identifying aggregate data to the Title IX Coordinator. The Department of Education strongly encourages designating certain employees as confidential, such as those who work in sexual assault centers, victim advocacy offices, women’s centers, and health centers. This is not an exhaustive list, and an institution can and should choose to designate other employees as relevant. It is particularly important for institutions that do not have any privileged employees to designate confidential employees.⁸

7 Education: Higher Education Representation, OFF. OF OHIO ATTY. GEN. MIKE DEWINE, <http://www.ohioattorneygeneral.gov/About-AG/Organizational-Structure/education.aspx>.
 8 Where to Start: Understanding and Implementing Your Campus Response Protocol to Confidential Reporting, VICTIM RIGHTS LAW CENTER, available at <http://changingourcampus.org/application/files/6714/6340/6313/Where-to-Start-Assessment-Tool-Guide-Employee-Sheet.pdf>.

The Toolkit Glossary defines confidentiality and privilege as:

Confidentiality: pertains to the treatment of information that an individual has disclosed in a relationship of trust and with the expectation that it will not be divulged to others without the individual's permission in ways that are inconsistent with the understanding of the original disclosure. It is the process of ensuring that information is accessible only to those authorized to have access. During the informed consent process, if applicable, individuals must be informed of the precautions in place to protect the confidentiality of the information and be informed of the parties who will or may have access. This allows individuals to decide whether to release information given the available protections and the possibility of release of private information. Confidentiality is not the same as privilege under state law.

Privilege, more commonly labeled “privileged communication,” is a legal protection that shields certain communications, made in the context of specified relationships, from forced disclosure in legal proceedings. Privilege is granted by law and belongs to the client in the relationship. This means that though a client can choose to waive privilege, the service provider must uphold the privilege unless the client waives. Privilege can either be absolute or qualified; each affording a different level of protection. Under Ohio law, privilege is assigned to specific relationships in Ohio Revised Code §2317.02.⁹

Why is the distinction between privilege and confidentiality important?

If someone holds a privilege then they can only be required to disclose communications made to them in that relationship under certain circumstances. Confidentiality is a duty, created by law, licensure, or employer guidelines, that prohibits an individual from talking about specific information outside of the work setting. Examples of breaking confidentiality include discussing cases or survivors in public spaces, sharing information with friends or family, or answering media questions about a case.

As it relates to sexual assault reporting, ORC § 2921.22 (G)(1) provides that **persons that become aware of the sexual assault in a privileged context are exempt from reporting adult-victim sexual assault.** Under Ohio law, privilege is assigned to specific relationships in Ohio Revised Code § 2317.02.¹⁰ They are:

- Attorney/client
- Doctor/patient
- Licensed psychologist or licensed school psychologist/client
- Licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, or marriage and family therapist/client
- Member of the clergy, rabbi, minister, or priest and any person communicating information confidentially to the member of the clergy, rabbi, minister, or priest for a religious counseling purpose of a professional character
- Husband and wife
- A communications assistant and those who are a party to a telecommunications relay service call.

To be protected, communications must be made in furtherance of the legal/counseling/medical/treatment service the professional is licensed or employed to provide.¹¹ It is important to note that as of July 2016, rape crisis center advocates are not protected by privilege in Ohio.¹²

What are some common limits on confidentiality for campuses?

Title IX Compliance: Compliance with Title IX requires campuses to take immediate action once it knows or reasonably should know about gender-based violence against a student.¹³ Many campus employees are considered “responsible” for reporting gender-based violence to the campus immediately upon knowledge and/or information that an incident occurred.¹⁴ Employees are “responsible” when they have the authority to respond, have been assigned the duty to report, or if a student could reasonably believe they have the duty to report.¹⁵

9 OHIO REV. CODE § 2317.02 *Privileged communications*, available at <http://codes.ohio.gov/orc/2317.02>.

10 OHIO REV. CODE § 2317.02 *Privileged communications*, available at <http://codes.ohio.gov/orc/2317.02>.

11 *Id.*

12 *See id.*

13 U.S. DEPT OF EDUCATION, OFF. FOR CIVIL RIGHTS, *Dear Colleague Letter: Sexual Violence Background, Summary, and Fast Facts* (April 4, 2011) at 4, available at <http://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201104.pdf>.

14 Catherine E. Lhamon, *Questions and Answers on Title IX and Sexual Violence*, U.S. DEPT. OF EDUCATION, OFF. FOR CIVIL RIGHTS (April 29, 2014) E-3 at 23, available at <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>.

15 *Id.*, D-2 at 15; *Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties*, U.S. DEPT. OF EDUC., OFF. FOR CIVIL RIGHTS (January 2001) at 33-34 n.74, available at <http://www2.ed.gov/offices/OCR/archives/pdf/shguide.pdf>.

Some employees are exempt from this mandate. OCR does not require the following persons or anyone supervised by such person to report incidents of violence to the school in a way that identifies the student: campus mental health counselors, pastoral counselors, social workers, psychologists, health center employees, or any other person with a professional license requiring confidentiality.¹⁶ Further, OCR acknowledges that non-professional or pastoral counselors sometimes provide survivors of gender-based violence assistance. “They include all individuals who work or volunteer in on-campus sexual assault centers, victim advocacy offices, women’s centers, or health centers (“non-professional counselors or advocates”), including front desk staff and students.”¹⁷ OCR sees these individuals as “valuable sources of support for students,” and thus “interprets Title IX to give campuses the latitude not to require these individuals to report incidents of gender-based violence in a way that identifies the complainant without that person’s consent.”¹⁸

BEST PRACTICE Campuses are strongly encouraged to designate individuals as confidential sources.¹⁹



Does Ohio’s felony reporting statute require that identifiable information about the complainant be provided? Does the answer change if the complainant is a minor?



Ohio Revised Code § 2921.22 states that “no person, knowing that a felony has been or is being committed, shall knowingly fail to report such information to law enforcement authorities.”²⁰

The Ohio felony reporting statute **does not indicate** whether or not the name or identifiable information about an adult victim is required. As acknowledged in the Ohio Protocol For Sexual Assault Forensic and Medical Exams,²¹ “the law, O.R.C. § 2921.22(A) and (B), does not require that the adult patient’s name be given, but states that any person knowing that a felony has been or is being committed shall report it to law enforcement authorities.” **So what does this mean?** Well, for example, Sexual Assault Nurse Examiners (SANEs) are required to report that a crime occurred (date, time, jurisdiction), but if a survivor does not want that information reported to law enforcement, then the SANE cannot be mandated to give that information. Campuses should develop their protocols with this survivor-centered and compliance lens in mind.

The law is different as to minors. According to Ohio law,²² a minor is anyone “under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired child under twenty-one years of age.”

There are certain professionals that are mandated reporters of child abuse and neglect.²³ These individuals must report to the appropriate public children services agency or a municipal or county peace officer, if they know, or have reasonable cause to suspect based on facts that would cause a reasonable person in a similar position to suspect, that a minor has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child shall fail to immediately report that knowledge or reasonable cause to suspect to the entity or persons specified in this division.

O.R.C. § 2151.421 also indicates that:

(C) Any report made pursuant to division (A) or (B) of this section shall be made forthwith either by telephone or in person and shall be followed by a written report, if requested by the receiving agency or officer. The written report shall contain:

(1) The names and addresses of the child and the child’s parents or the person or persons having custody of the child, if known;

16 Catherine E. Lhamon, *Questions and Answers on Title IX and Sexual Violence*, U.S. DEPT. OF EDUC., OFF. FOR CIVIL RIGHTS (April 29, 2014) E-3 at 22, available at <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>.

17 *Id.*

18 *Id.*

19 *Id.* at E-3 at 22-23.

20 Ohio Rev. Code § 2921.22 *Failure to report a crime or knowledge of a death or burn injury*, available at <http://codes.ohio.gov/orc/2921.22>.

21 *Ohio Protocol For Sexual Assault Forensic and Medical Exams*, OHIO DEPT. OF HEALTH (Sept. 23, 2015) <http://www.odh.ohio.gov/~media/ODH/ASSETS/Files/hpr/sexual%20assault/adultprotocol2011.ashx>.

22 OHIO REV. CODE § 2151.421 *Reporting child abuse or neglect*, available at <http://codes.ohio.gov/orc/2151.421>.

23 OHIO REV. CODE § 2151.421(A)(1)(b), available at <http://codes.ohio.gov/orc/2151.421>.

(2) The child’s age and the nature and extent of the child’s injuries, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to have occurred or of the threat of injury, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to exist, including any evidence of previous injuries, abuse, or neglect;

(3) Any other information that might be helpful in establishing the cause of the injury, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to have occurred or of the threat of injury, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to exist.



Can campuses report under the Clery Act without revealing the names of complainants and respondents?



Yes. The Clery Act does not permit a campus to release identifying information about a complainant. The crime reports should only include the date of the report, the date of the crime, and the general location.

As far as reporting to campus law enforcement, individuals who are classified as Campus Security Authorities can report without providing identifiable information about the complainant.

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”), as amended by the Violence Against Women Act Reauthorization of 2013, requires that campuses notify students of the option to report or not report to law enforcement.²⁴

If a campus receives a subpoena for this information, depending upon the outcome of that merits of the subpoena, personal information may be revealed.

TIP A campus should immediately consult their general counsel if a subpoena is received for information about a complainant or respondent. There are many steps an attorney can take to ensure it is a valid subpoena and respond to it in a way that respects the campus’ protocol and fosters best practice.



What is a timely warning and what crimes prompt one?



A timely warning is a tool to provide the campus community with information regarding a potential threat. Under Clery, the campus must make this warning if (1) one of the specified crimes occurs; (2) on Clery geography; (3) a report is made to campus security authorities or local law enforcement; and (4) the campus perceives a continuing threat to students and employees.²⁵

A timely warning must include available relevant information calculated to prevent similar crimes.²⁶ The warning must be sent in a manner reasonably likely to reach every member of the campus community.

The chart below highlights the specific crimes that may require timely warnings if they occur on specified locations. For simplicity, we will call these “Clery Geographies” and “Clery Crimes.”²⁷

24 20 U.S.C. § 1092(f)(3) *Institutional and financial assistance information for students*, available at <https://www.law.cornell.edu/uscode/text/20/1092>; 34 C.F.R. 668.46(e), available at <https://www.law.cornell.edu/cfr/text/34/668.46>.

25 *Id.*

26 *Id.*; *The Clery Act in Detail, KNOW YOUR IX*, available at <http://knowyourix.org/the-clery-act-in-detail/>

27 See generally, Westat, Ward & Mann, *The Handbook for Campus Safety and Security Reporting*, U.S. DEPT. OF EDUC. (February 2011), available at <http://www.orgsites.com/val/asis151/DOEHandbookforCampusSafetyandSecurityReporting.pdf>.

<p>1 Clery Crime</p>	<p>34 C.F.R. § 668.46(c) specifies that “Clery Crimes” include:</p> <ul style="list-style-type: none"> • Criminal Activities: Murder & Manslaughter Offenses, Forcible & Non-forcible Sex Offenses, Robbery & Burglary, Aggravated Assault, Motor Vehicle Theft, and Arson • Hate Crimes: The above-listed offense, along with Larceny & Theft, Simple Assault, Intimidation, Destruction of Property, and Vandalism, if motivated by bias based on gender, race, sexual orientation, religion, national origin, or disability.²⁸
<p>2 Clery Geography</p>	<ul style="list-style-type: none"> • Buildings or property controlled by the institution and considered part of the campus, if used for purposes related to the institution’s objective. Controlled means owned, rented, or used pursuant to written agreement, and can include entire buildings, isolated floors, or single office units. Examples include but are not limited to student unions, classroom buildings, residence halls, athletic facilities, and libraries.²⁹ • Buildings owned but not controlled by the institution, if used frequently by students, and used for purposes related to the institution’s objective. Examples include but are not limited to: privately run book stores, apparel shops, and restaurants that lease space in the institution’s student unions.³⁰ • Public property within an institution’s campus boundaries or immediately adjacent to and accessible from the campus. Examples include but are not limited to sidewalks, thoroughfares, streets, and parking facilities.³¹ • Buildings owned or controlled by an institution-associated foundation, that are used for purposes related to the institution’s objective. Examples include but are not limited to fraternity houses and sorority houses.³²
<p>3 Campus Security Authority (or local law enforcement) receives report</p>	<p>34 C.F.R. § 668.46(a) defines “Campus Security Authority” as follows:</p> <ul style="list-style-type: none"> • (1) A campus police department or a campus security department of an institution. • (2) Any individual outside of campus police or security [with] responsibility for campus security...such as an individual who is responsible for monitoring entrance into institutional property. • (3) Any individual or organization specified in an institution’s statement of campus security policy as [an entity that receives criminal reports from students and employees]. • (4) An official [with] significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus judicial proceedings. [Pastoral or professional counselors are exempt from this classification when acting as a pastoral or professional counselor].
<p>4 Continuing Threat</p>	<ul style="list-style-type: none"> • An immediate or ongoing threat perceived by the institution.

28 *Id.* at 56.

29 34 C.F.R. § 668.46(a), available at <https://www.law.cornell.edu/cfr/text/34/668.46>; see Westat, Ward & Mann *The Handbook for Campus Safety and Security Reporting*, U.S. Dep’t. of Educ. (February 2011) at 12-13, available at <http://www.orgsites.com/va/asis151/DOEHandbookforCampusSafetyandSecurityReporting.pdf>.

30 34 C.F.R. § 668.46(a), available at <https://www.law.cornell.edu/cfr/text/34/668.46>; see Westat, Ward & Mann *The Handbook for Campus Safety and Security Reporting*, U.S. Dep’t. of Educ. (February 2011) at 14, available at <http://www.orgsites.com/va/asis151/DOEHandbookforCampusSafetyandSecurityReporting.pdf>.

31 Westat, Ward & Mann, *The Handbook for Campus Safety and Security Reporting*, U.S. Dep’t. of Educ. (February 2011) at 19, available at <http://www.orgsites.com/va/asis151/DOEHandbookforCampusSafetyandSecurityReporting.pdf>.

32 *Id.* at 13.

Clery Crime + Clery Location + Report to Campus Security Authority

Though the Clery Act only mandates reporting for Clery Crimes, the U.S. Department of Education encourages a more expansive application that includes all crimes, violent or non-violent, that may pose a continuing threat.³³

If the campus determines that there is no continued immediate threat, the campus may decline a timely warning and instead post a report on their daily crime log. This crime log should be easily accessible for all members of the campus community to locate and monitor.

Q

When exactly does an incident have to be reported to everyone on campus? What details must be or should be shared?

A

The Clery Act requires a campus to provide a community-wide “timely warning” after learning of a crime that poses an “ongoing threat to the campus community.”³⁴ Campuses must make independent determinations on a case-by-case basis about which crimes qualify as posing this ongoing threat.

If a campus determines that a timely warning will be issued, it is critical that the Title IX Coordinator or the advocate notify the complainant, so that they are not caught off guard. This also assists with providing safety planning that could arise from issuing a timely warning, particularly on a small campus and/or in an intimate partner violence situation.

If a campus determines that there is no continued immediate threat, the campus may decline a timely warning and instead post a report on their daily crime log.

Q

What rights does a complainant have if he/she does not want to report the crime?

A

Once a survivor has disclosed an act of gender-based violence, the limits of confidentiality depend on the status of the person receiving the disclosure.

Under Title IX, **Title IX Coordinator**: If the Title IX Coordinator has identifying information about the respondent, and the complainant requests confidentiality and/or that the Title IX Coordinator not pursue further investigation, a campus must evaluate such requests in the context of its responsibility to provide a safe and nondiscriminatory environment for all students.

The first thing a Title IX Coordinator should do after receiving a confidentiality request is attempt to understand why the complainant is concerned about having their information revealed to the respondent. Those concerns, which may range from fear of retaliation to concern about the impact the proceeding may have on the complainant’s academic and/or mental health, should be addressed by the Title IX Coordinator with particularity. If, after working to address complainant concerns, the complainant maintains the desire to request confidentiality, the Title IX Coordinator should explain that confidentiality could preclude a meaningful investigation of the perpetrator or adequate sanction implementation, and that a campus must balance these interests and consider a range of factors,³⁵ including:

- Circumstances that suggest an increased risk that the alleged perpetrator will commit additional acts of sexual or other violence
 - Whether there have been other sexual violence complaints about the same alleged perpetrator
 - Whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence

33 *Id.* at 112.

34 34 C.F.R. § 668.46(e), available at <https://www.law.cornell.edu/cfr/text/34/668.46>.

35 Title IX Coordinators should prioritize sharing this information proactively with the student community via comprehensive and regular training and education opportunities, so that students are best positioned to make informed decisions about what they would like to share, when, and with whom.

- Whether the alleged perpetrator threatened further sexual violence or other violence against the student or others, and whether the sexual violence was committed by multiple perpetrators.
- Circumstances that suggest there is an increased risk of future sexual violence under similar circumstances
 - Whether the student’s report reveals a pattern of perpetration, via illicit use of drugs or alcohol, at a given location, or by a particular group
- Whether the sexual violence was perpetrated with a weapon
- Age of the student subjected to the sexual violence
- Whether the school possesses other means to obtain relevant evidence (i.e., security cameras or personnel, physical evidence)
- If a campus determines it cannot honor a complainant’s request, it should take all reasonable steps to mitigate the potential harm to that student through a range of efforts, from interim measures to informing the respondent that the complainant requested no investigation.³⁶

Student complainants essentially have four reporting options:

- Report the gender-based violence off campus to the local police³⁷ and elect to participate in the criminal investigation and potential prosecution of the perpetrator; and/or
- Report the gender-based violence on campus to any responsible employee, which initiates the campus process as outlined in your student handbook;
- Report the gender-based violence on campus to the Title IX Coordinator without providing the respondent’s name, and request interim measures without moving forward with the campus disciplinary process; or
- Not report at all, or decline to report through official channels and just access support and services. (Note that, depending on the staff member’s level of confidentiality, they may be required to report and thus trigger a campus process that the student may not want to participate in. Thus, it is critical that all individuals interacting with students discuss limits of confidentiality for their respective role).

Under O.R.C. §2907.11, victims have a right to confidentiality and anonymity in the criminal justice system. A victim has the right to ask the judge to order that the information included in the police report not be released. *If* such a request is granted by the judge, all names and details will remain confidential until after a preliminary hearing or an arraignment or until the case is dismissed. The agencies involved, as well as the media, have adopted policies that may prevent the release of a victim’s identity³⁸, but Ohio public records law does not currently provide protections from body camera footage or if information is released to the media. Ohio law provides few victim rights and stronger protections exist in federal law.

There may be a campus anonymous reporting line or online system survivors could access to make a report, but anonymity may not be guaranteed by reporting in this way. For example, when a student makes a report on a small campus and identifies the location where the gender-based violence occurred, the university may investigate and through the course of fact-finding they could ascertain the identity of the report. Additionally, an IP (internet protocol) address may be revealed through the course of either a campus or criminal justice system investigation, particularly if the anonymous report is linked to a serial perpetrator who poses an ongoing risk to the community. Campuses should make clear to students any limits to anonymity through an anonymous reporting system.

In order to comply with Title IX and the Clery Act, see the charts referenced earlier in this section designating reporting responsibilities of Responsible Employees and Campus Security Authorities.

Under Title IX, **Responsible Employee:** All relevant details shared.

“Subject to the exemption for school counseling employees...a responsible employee must report to the school’s Title IX coordinator, or other appropriate school designee, all relevant details about the alleged sexual violence that the student or another person has shared and that the school will need to determine

36 Catherine E. Lhamon, *Questions and Answers on Title IX and Sexual Violence*, U.S. DEPT. OF EDUC., OFF. FOR CIVIL RIGHTS (April 29, 2014) E-1 – E-2 at 18-20, available at <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>.

37 Depending on the institution and exact location where the assault occurred, the campus police force may have jurisdiction over the crime. Local law enforcement agencies typically handle felonies, but this will depend on campus-specific agreements signed between the campus and individual law enforcement agency.

38 *Ohio Crime Victim Rights*, OFF. OF OHIO ATTY. GEN. MIKE DEWINE, available at <http://www.ohioattorneygeneral.gov/Files/Publications-Files/Publications-for-Victims/Crime-Victims-Publications/Picking-Up-the-Pieces-A-Guide-to-Helping-Crime-Vic>.

what occurred and to resolve the situation. This includes the names of the alleged perpetrator (if known), the student who experienced the alleged sexual violence, other students involved in the alleged sexual violence, as well as relevant facts, including the date, time, and location. A school must make clear to its responsible employees to whom they should report an incident of alleged sexual violence. To ensure compliance with these reporting obligations, it is important for a school to train its responsible employees on Title IX and the school's sexual violence policies and procedures."³⁹

Under Clery Act, **Campus Security Authority:** All information shared.

*"The function of a campus security authority is to report to the official or office designated by the institution to collect crime report information, such as the campus police or security department, those allegations of Clery Act crimes that he or she concludes were made in good faith...A campus security authority is not responsible for determining authoritatively whether a crime took place—that is the function of law enforcement personnel. A campus security authority should not try to apprehend the alleged perpetrator of the crime. That too is the responsibility of law enforcement. It's also not a CSA's responsibility to try and convince a victim to contact law enforcement if the victim chooses not to do so."*⁴⁰



How do you protect the confidentiality of student complainants and work with faculty to implement interim measures?



Oftentimes a complainant requests to remain confidential or to have limited participation in hearings. Federal regulations require that confidentiality be an option. Under the Clery Act:

These regulations require institutions to explain in their annual security report a victim's options for involving law enforcement and campus authorities after dating violence, domestic violence, sexual assault, or stalking has occurred, including the options to notify proper law enforcement authorities, to be assisted by campus authorities in notifying law enforcement authorities, and to decline to notify law enforcement authorities. This requirement does not conflict with an institution's obligation to comply with mandatory reporting laws because the regulatory requirement relates only to the victim's right not to report, not to the possible legal obligation on the institution to report.⁴¹

Faculty should proactively explain their ability keep information confidential to the students with whom they work and revisit this information when speaking to a student they think may be disclosing or is about to disclose being a survivor of gender-based violence, so that the student can make informed decisions.

"Even when a school has determined that it can respect a complainant's request for confidentiality and therefore may not be able to respond fully to an allegation of sexual violence and initiate formal action against an alleged perpetrator, the school must take immediate action to protect the complainant while keeping the identity of the complainant confidential. These actions may include: providing support services to the complainant; changing living arrangements or course schedules, assignments, or tests; and providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred.

*The specific interim measures implemented and the process for implementing those measures will vary depending on the facts of each case. A school should consider a number of factors in determining what interim measures to take, including, for example, the specific need expressed by the complainant; the age of the students involved; the severity or pervasiveness of the allegations; any continuing effects on the complainant; whether the complainant and alleged perpetrator share the same residence hall, dining hall, class, transportation, or job location; and whether other judicial measures have been taken to protect the complainant (e.g., civil protection orders). In general, when taking interim measures, schools should minimize the burden on the complainant. For example, if the complainant and alleged perpetrator share the same class or residence hall, the school should not, as a matter of course, remove the complainant from the class or housing while allowing the alleged perpetrator to remain without carefully considering the facts of the case."*⁴²

39 Catherine E. Lhamon, *Questions and Answers on Title IX and Sexual Violence*, U.S. DEPT. OF EDUC., OFF. FOR CIVIL RIGHTS (April 29, 2014) D-3 at 16, available at <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>.

40 Westat, Ward & Mann, *The Handbook for Campus Safety and Security Reporting*, U.S. DEPT. OF EDUC. (February 2011) at 76-77, available at <http://www.orgsites.com/val/asis151/DOEHandbookforCampusSafetyandSecurityReporting.pdf>.

41 Violence Against Women Act; Final Rule Fed. Reg. 62761 (Oct. 20, 2014), available at <https://www.gpo.gov/fdsys/pkg/FR-2014-10-20/pdf/2014-24284.pdf>.

42 Catherine E. Lhamon, *Questions and Answers on Title IX and Sexual Violence*, U.S. DEPT. OF EDUC., OFF. FOR CIVIL RIGHTS (April 29, 2014) E-1 - E-2 at 18-20, available at <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>.

At times, a complainant's ability to remain confidential conflicts with a campus' obligations under Title IX. Noting this conflict directly, OCR explains that when a student requests confidentiality after a report is made by a responsible employee or the student, identifying information should only be shared with persons responsible for handling the campus' response.⁴³ Therefore under FERPA, after a complaint is made, a student may request from the office responsible for FERPA requirements (in some cases this is the Registrar's office) that (1) their name and other identifiable information be redacted from the complaint and all pertinent documents; (2) such information not be provided to the respondent in any manner; and (3) all information regarding the complaint and its relation to accommodations be kept confidential to all persons except those responsible for investigating the claim and coordinating accommodations.⁴⁴ OCR recommends that the campus inform the complainant preemptively about what information will be disclosed, to whom, and why.⁴⁵ Especially where a responsible employee made the complaint without the survivor's agreement, complainants should feel comfortable asking to only be involved in the investigation and hearing to the extent necessary.⁴⁶ As noted, confidentiality and compliance can conflict, and a campus must balance the request for confidentiality with the need to prevent further similar crimes against members of the campus community and penalize the respondent.⁴⁷

Note that where minor survivors are an involved⁴⁸, under Title IX, *"State mandatory reporting laws may require disclosure, but can generally be followed without disclosing information to school personnel who are not responsible for handling the school's response to incidents of sexual violence."*⁴⁹



Are faculty members who have clinical licensure, which affords privilege if providing counseling services, required to report under Clery if their sole role on campus is teaching?



Maybe. Privilege applies when a person is acting within their "official responsibilities" per their privilege. In order to determine whether or not an employee's privileged relationship applies, consider what the employee's role was at the time of the disclosure and how the campus community might interpret that role. While some instances will be clear, others will require an institution to decide and clearly articulate whether or not the privileged relationship applies.⁵⁰

Under the **Clery Act**, the term "Campus Security Authority" encompasses four groups of individuals and organizations associated with an institution... [including]:

- An official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline and campus judicial proceedings. An official is defined as any person who has the authority and the duty to take action or respond to particular issues on behalf of the institution.⁵¹

Because official responsibilities and job titles vary significantly on campuses, the regulations do not provide a specific list of titles. To determine specifically which individuals or organizations are campus security authorities for your institution, consider the function of that individual or office. Look for officials (i.e., not support staff) whose functions involve relationships with students. If someone has significant responsibility for student and campus activities, he or she is a campus security authority. Note that whether or not your institution pays an individual is not a factor in determining whether that individual can be a CSA. Be sure to keep your CSA list current so that you do not omit any individual or organization that fits the definition of a CSA. An example of individuals who would not meet the criteria for status as campus security authorities include a faculty member with no responsibility for student and campus activity beyond the classroom.⁵²

43 *Id.*, E-1 at 18-19.

44 *See generally id.*

45 *Id.*, E-1 - E-3 at 18-22.

46 *Id.*

47 *Id.*, E-1 at 20.

48 For more information, see the response to question 2, which addresses the challenges of maintaining confidentiality when working with minors.

49 Catherine E. Lhamon, *Questions and Answers on Title IX and Sexual Violence*, U.S. DEPT. OF EDUC., OFF. FOR CIVIL RIGHTS (April 29, 2014) E-1 at 19, available at <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>.

50 *Where to Start: Understanding and Implementing Your Campus Response Protocol to Confidential Reporting*, VICTIM RIGHTS LAW CENTER, available at <http://changingourcampus.org/application/files/6714/6340/6313/Where-to-Start-Assessment-Tool-Guide-Employee-Sheet.pdf>.

51 U.S. Dep't. of Educ., Off. Of Postsecondary Educ., *Handbook for Campus Safety and Security - 2016 Edition* (2016) 4-2 - 4-3, available at <https://www2.ed.gov/admins/lead/safety/handbook.pdf>.

52 *Id.* at 4-3.

Even if a faculty member does not rise to CSA status under the Clery Act, they may still be a Responsible Employee under Title IX. If so, the faculty member must report required information to the Title IX Coordinator, who would then report incidences of sexual assault to law enforcement. It is important to understand the distinction between CSA and Responsible Employee status to avoid violation of either governing law.

TIP Campuses should review faculty members’ “official responsibilities” and identify which persons on the campus are designated as “campus security authorities” under the Clery Act.

SEXUAL ASSAULT NURSE EXAMINERS (SANE) AND THE CRIMINAL JUSTICE SYSTEM

Questions Pertaining to SANEs and the Criminal Justice System Responses:

1. Is a SANE required to report identifiable information to the local police about someone who has received a forensic exam? Is a SANE considered a Campus Security Authority (CSA) under Clery?
2. If local law enforcement receives a report of rape from a hospital and it turns out the survivor is a student, does Ohio law require that local law enforcement notify the campus at which the student is enrolled?
3. Can a campus refer cases directly to local law enforcement and bypass their own campus security or campus police department if they don’t specialize in responses to gender-based violence?
4. Can a campus refer cases directly to a prosecutor’s office and bypass a Title IX investigation?
5. Can a complainant be polygraphed in Ohio?



Is a SANE required to report identifiable information to the local police about someone who has received a forensic exam? Is a SANE considered a Campus Security Authority (CSA) under Clery?



No. SANEs in Ohio follow ORC § 2921.22(A) and (B), which “does not require that the adult patient’s name be given, but states that any person knowing that a felony has been or is being committed shall report it to law enforcement authorities.”⁵³ If a survivor wants to remain anonymous, SANEs should uphold that request by collecting an anonymous evidence collection kit and only providing aggregate information to local law enforcement.

SANEs are not specified as CSA’s specifically. If a campus develops an MOU with a hospital this issue should be discussed with regards to protocol.



If local law enforcement receives a report of rape from a hospital and it turns out that the survivor is a student, does Ohio law require that local law enforcement notify the campus at which the student is enrolled?



No. Ohio law does not mandate that local law enforcement inform a campus. However, there may be an MOU or previously established agreement in place between the local law enforcement and campus that provides for this sharing of information.

Local law enforcement may interact with a survivor of gender-based violence and find out that they are a student at a local campus. Frequently, this report comes from a SANE when a survivor goes to a hospital to receive a forensic exam in order to preserve evidence. If a survivor does not want to remain anonymous, local law enforcement should discuss with the survivor about possible notification of the campus and the campus’ responsibility to conduct their own Title IX investigation. However, if a survivor does want to remain anonymous, local law enforcement should not share information that identifies that student in any report to campus.

53 OHIO REV. CODE § 2921.22(A)-(B) *Failure to report a crime or knowledge of a death or burn injury, available at <http://codes.ohio.gov/orc/2921.22>.*



Q *Can a campus refer cases directly to local law enforcement and bypass their own campus security or campus police department if they don't specialize in responses to gender-based violence?*



A First, under Clery, campuses are only permitted to refer cases to law enforcement (whether campus or local) **IF the complainant wants that to happen**. This is a choice of the complainant. As campuses work toward developing the capacity of their on-campus law enforcement unit or if campuses have campus security only, they should execute a MOU with local law enforcement regarding referral protocol that ensures a response to complainants that embodies best practices and recommendations enumerated in this Toolkit.

Know Your IX and the National Alliance to End Sexual Violence (NAESV) conducted an online survey in March 2015 to gauge survivors' beliefs about the criminal justice system, victim autonomy, and reporting. Almost 90% of survivors said that campus victims should retain the right to choose whether and to whom to report. Eighty-eight percent (88%) said that, were campuses required to turn rape reports over to the police (without survivors' consent), they believe fewer victims would report to anyone at all. Seventy-two percent (72%) were concerned that such requirements would lead to survivors being "forced to participate in the criminal justice system / go to trial."⁵⁴

One survivor summed up many recurring themes in the open responses, saying: "When I reported to campus officials, I was not ready to press charges and if I had been forced to report to the police I wouldn't have been able to do it. I wouldn't have told anyone because I would have felt like I had even less control of myself. Having the decision be my own and on my own time made it a lot safer and healthier."⁵⁵



Q *Can a campus refer cases directly to a prosecutor's office and bypass a Title IX investigation?*



No. This is consistent with the earlier response that campuses cannot bypass their own Title IX investigation for an investigation by local law enforcement. Under Title IX, campuses cannot abdicate their own independent investigation and adjudication process. The campus process serves a different role than the criminal justice system. This toolkit's *Guide to Campus Response Protocol Development* provides more information about what a campus should include in their response protocols as to complaint process. Additionally, VAWA clearly indicates that survivors should have the autonomy to decide whether or not to participate in the criminal justice system. While the campus must inform complainants about their right to report if they so choose to report to law enforcement, that mandate to inform complainants should not be interpreted by a campus as a mandate to report.

Campuses should strive to have a formal collaboration and MOU with the relevant county prosecutor's office that outlines:

- What information the prosecutor wants/is getting;
- What the prosecutor will do with that information and under what circumstances; and
- What type of contact the prosecutor will have with the complainant, so that the campus can inform the complainant ahead of time.

⁵⁴ *Ask Survivors Survey Results*, Know Your IX, <http://knowyourix.org/ask-survivors/>.
⁵⁵ *Id.*



Can a complainant be polygraphed in Ohio?



No. Pursuant to ORC §2907.10, survivors of sexual offenses cannot be asked or required to submit to a polygraph examination in order for the criminal investigation to proceed.⁵⁶ Also, a survivor’s refusal to submit to a polygraph cannot be used as a reason for not investigating the crime, filing criminal charges, or prosecuting the crime.⁵⁷

BEST PRACTICE Similar to ORC, VAWA, as reauthorized in 2005 and 2013, states that law enforcement “shall not ask or require a victim of an alleged sex offense to submit to a polygraph examination as a condition for proceeding with the investigation of, trial of, or sentencing for the alleged sex offense,” and “the refusal of the victim of an alleged sex offense to submit to a polygraph examination shall not prevent the investigation of the alleged sex offense, the filing of criminal charges with respect to the alleged sex offense, or the prosecution of the alleged perpetrator of the alleged sex offense.”^{58 59}

ADVOCACY

Questions Pertaining to Advocacy Responses:

1. Under Title IX are individuals with privilege the only people who can be designated as “confidential” sources for students?
2. Do rape crisis centers need to report information about the rapes experienced by the survivors that access their services, pursuant to the Ohio felony law?
3. If a community-based rape crisis center has an MOU with a campus, are they designated a “Campus Security Authority” under the Clery Act?
4. Is an advocate employed by a campus considered a “Campus Security Authority”?
5. Is an advocate who works for a campus and does not individually hold privilege under the law, required to report identifiable information about a complainant to the campus if that advocate is supervised by and reports to a department (i.e. counseling center) primarily providing services by persons with privilege?
6. Are peer advocates or peer educators considered confidential sources?



Under Title IX are individuals with privilege the only people who can be designated as “confidential” sources for students?



No. As explained earlier, confidentiality and privilege have two different meanings.⁶⁰ Campuses should identify who on their campus holds confidentiality and who holds privilege and make that information known to the larger campus population. OCR provided guidance on Title IX, strongly encouraging campuses to designate individuals who could act as confidential sources despite not having privilege. In 2014, OCR stated: “...some people who provide assistance to students who experience sexual violence are not professional or pastoral counselors. They include all individuals who work or volunteer in on-campus sexual assault centers, victim advocacy offices, women’s centers, or health centers (“non-professional counselors or advocates”), including front desk staff and students. OCR wants students to feel free to seek their assistance and therefore interprets Title IX to give schools the latitude not to require these individuals to report incidents of sexual violence in a way that identifies the student without the student’s consent. These non-professional counselors or advocates are valuable sources of support for students, and OCR strongly encourages schools to designate these individuals as confidential sources.”⁶¹

56 OHIO REV. CODE § 2907.10(A) Preliminary polygraph test of sex offense victim, available at <http://codes.ohio.gov/orc/2907.10v1>.

57 *Id.*

58 Summary of Changes from VAWA Reauthorization 2013, NATIONAL TASK FORCE TO END SEXUAL AND DOMESTIC VIOLENCE AGAINST WOMEN (2014), available at https://www.isc.idaho.gov/dv_courts/conferences/2014/NTF%20High-Level%20Summary_05.14.pdf.

59 For more general information about the reauthorization, see *The Violence Against Women Reauthorization Act of 2013: Safely and Effectively Meeting the Needs of More Victims*, NATIONAL NETWORK TO END DOMESTIC VIOLENCE, available at http://nnev.org/downloads/Policy/VAWAReauthorization_Summary_2013.pdf.

60 See Toolkit’s Glossary for specific definitions of these terms.

61 Catherine E. Lhamon, *Questions and Answers on Title IX and Sexual Violence*, U.S. DEPT. OF EDUC., OFF. FOR CIVIL RIGHTS (April 29, 2014) E-3 at 23-24, available at <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>.

In the same guidance, OCR explains that “[a] school should be aware that disregarding requests for confidentiality can have a chilling effect and discourage other students from reporting sexual violence.”⁶²

Q

Do rape crisis centers need to report information about the rapes experienced by the survivors that access their services, pursuant to the Ohio felony law?

A

Possibly, but only aggregate data, if at all. OAESV continues to work to preserve confidentiality of all rape crisis centers. Confidentiality is recognized nationally as a critical component to survivor services. This recognition is reflected in practices, and for example, rape crisis programs cannot receive Violence Against Women Act funding if they do not certify that they provide survivor/advocate confidentiality.⁶³ This is similar to when a survivor goes to an emergency room for collection of evidence and is seen by Sexual Assault Nurse Examiners (SANEs). Ohio SANEs follow ORC §2921.22(A) and (B), which “does not require that the adult patient’s name be given”⁶⁴ to law enforcement.

In Ohio, rape crisis centers have historically operated under ORC §2921.22 (G)(6) which states that disclosure is not required when:

Disclosure would amount to revealing information acquired by the actor in the course of the actor’s duties in connection with a bona fide program for providing counseling services to victims of crimes that are violations of section 2907.02 or 2907.05 of the Revised Code or to victims of felonious sexual penetration in violation of former section 2907.12 of the Revised Code. As used in this division, “counseling services” include services provided in an informal setting by a person who, by education or experience, is competent to provide those services.

However, Ohio law does not define what is considered a bona fide program. Ohio rape crisis programs are required to adhere to a set of comprehensive service standards created by OAESV, the state’s coalition, and supported by the Ohio Attorney General’s Office. These standards ensure that rape crisis programs provide the highest-quality services available to survivors.

“The cornerstone of rape crisis services is confidentiality, which is the ability to maintain the privacy of the survivor’s identity, identifying information, victimization experiences, personal history, and services sought and received. Survivors want, need, and deserve to discuss painful, personal information about their experiences under the assurance that this information will not be shared with anyone.”

62 *Id.*, E-1 at 19.

63 *Acknowledgement of Notice of Statutory Requirement to Comply with Privacy and Confidentiality Provisions of the Violence Against Women Act, as Amended*, U.S. DEPT. OF JUST. OFF. OF VIOLENCE AGAINST WOMEN, available at <https://www.justice.gov/sites/default/files/ovw/legacy/2013/09/24/conf-acknowledgement.pdf>.

64 *Ohio Protocol For Sexual Assault Forensic and Medical Exams*, OHIO DEPT. OF HEALTH (Sept. 23, 2015) <http://www.healthy.ohio.gov/en/sadv/sassault/sadvprot.aspx>.



Q *If a community-based rape crisis center has an MOU with a campus, are they designated a “Campus Security Authority” under the Clery Act?*



A Not necessarily. Campuses and rape crisis centers should discuss this as part of MOU development.

BEST PRACTICE to exclude rape crisis centers from operating as a Campus Security Authority.

Clery Act guidance available at the time of printing does not specify if a community-based non-campus rape crisis center should or should not be designated as a CSA, but the campus should consider placing protections on this relationship to foster survivors receiving the services and supports they need.

As far as Title IX is concerned, OCR recommends:

In order to identify patterns or systemic problems related to sexual violence, a school should collect aggregate data about sexual violence incidents from non-professional counselors or advocates in their on-campus sexual assault centers, women’s centers, or order or denomination as someone who provides confidential counseling, and is functioning within the scope of that recognition as a pastoral counselor....Such individuals should report only general information about incidents of sexual violence such as the nature, date, time, and general location of the incident and should take care to avoid reporting personally identifiable information about a student. Non-professional counselors and advocates should consult with students regarding what information needs to be withheld to protect their identity.⁶⁵

TIP It is imperative for each campus to make it clear who is a CSA and what is the protocol if a CSA receives a report. Under the Clery Act, a crime is “reported” when it is brought to the attention of a campus security authority, the campus’ police department or campus safety office, or local law enforcement personnel by a victim, witness, other third party or even the offender. It doesn’t matter whether or not the individuals involved in the crime, or reporting the crime, are associated with the campus. 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 the campus.



Q *Is an advocate employed by a campus considered a “Campus Security Authority”?*



A ODHE recommends that each campus consult legal counsel to assist in identifying CSA’s. CSA’s are identified by their role more than by their title and it is also irrelevant whether the campus is directly paying the individual’s salary. See the side bar for more information about determining who is a CSA.

TIP Campuses should keep their list of CSA’s current so that individuals or organizations that fit the definition of a CSA are not omitted.

How to Identify Your Institution’s CSAs Campus Security Authority definition⁶⁶

“Campus security authority” is a Clery Act-specific term that encompasses four groups of individuals and organizations associated with an institution:

- A campus police department or a campus security department of an institution. If your institution has a campus police or security department, all individuals who work for that department are campus security authorities. A security department can be as small as one person.
- Any individual or individuals who have responsibility for campus security but who do not constitute a campus police department or a campus security department (e.g., an individual who is responsible for monitoring the entrance into institutional property). Include individuals such as those who provide security at a campus parking kiosk, monitor access into a campus facility, act as event security, such as for sporting events or large, registered parties, or escort students around campus after dark (including other students).
- Any individual or organization specified in an institution’s statement of campus security policy as an individual or organization to which students and employees should report criminal offenses. If you direct the campus community to report criminal incidents to anyone or any organization in addition to police or security-related personnel, that individual or organization is a campus security authority.
- An official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline and campus judicial proceedings officials.

To determine specifically which individuals or organizations are campus security authorities for your institution, consider the function of that individual or office. Look for officials (i.e., not support staff) whose functions involve relationships with students. If someone has significant responsibility for student and campus activities, he or she is a campus security authority. Examples of individuals (outside of a police or security department) who generally meet the criteria for being

⁶⁶ 34 C.F.R. § 668.46(a) *Institutional security polices and crime statistics*, available at <https://www.law.cornell.edu/cfr/text/34/668.46>; see also U.S. Dep’t. of Educ., Off. Of Postsecondary Educ., *Handbook for Campus Safety and Security – 2016 Edition* (2016) 4-2 – 4-3, available at <https://www2.ed.gov/admins/lead/safety/handbook.pdf>.

⁶⁵ Catherine E. Lhamon, *Questions and Answers on Title IX and Sexual Violence*, U.S. DEPT. OF EDUC., OFF. FOR CIVIL RIGHTS (April 29, 2014) E-3 at 23-24, available at <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>.

campus security authorities include:

- a dean of students who oversees student housing, a student center or student extracurricular activities;
- a director of athletics, all athletic coaches (including part-time employees and graduate assistants);
- a faculty advisor to a student group;
- a student resident advisor or assistant;
- a student who monitors access to dormitories or buildings that are owned by recognized student organizations;
- a coordinator of Greek affairs;
- a Title IX coordinator;
- an ombudsperson (including student ombudspersons);
- the director of a campus health or counseling center;
- victim advocates or others who are responsible for providing victims with advocacy services

Be sure to keep your CSA list current so that you do not omit any individual or organization that fits the definition of assisting with housing relocation, disciplinary action or court cases, etc.;

- members of a sexual assault response team (SART) or other sexual assault advocates; and
- officers from local law enforcement who are contracted by the institution to provide campus safety-related services.

If your institution directs students or employees to report crimes to other individuals, then those individuals are also CSAs. These individuals could include:

- physicians in a campus health center;
- counselors, including peer counselors (except for professional or pastoral counselors); and
- health educators, including peer health educators.

Examples of individuals who would not meet the criteria for being campus security authorities include:

- a faculty member who does not have any responsibility for student and campus activity beyond the classroom; and
- clerical or cafeteria staff⁶⁷

67 Westat, Ward & Mann, *The Handbook for Campus Safety and Security Reporting*, U.S. DEPT. OF EDUC. (February 2011) at 75, available at <http://www.orgsites.com/va/asjs151/DOEHandbookforCampusSafetyandSecurityReporting.pdf>.



Q *Is an advocate who works for a campus and does not individually hold privilege under the law, required to report identifiable information about a complainant to the campus if that advocate is supervised by and reports to a department (i.e. counseling center) primarily providing services by persons with privilege?*



A It depends on the campus' protocol and ODHE recommends that each campus consult with their legal counsel before deciding this question. Pursuant to a 2014 OCR resource:

*OCR does not require campus mental health counselors, pastoral counselors, social workers, psychologists, health center employees, or any other person with a professional license requiring confidentiality, or who is supervised by such a person, to report, without the student's consent, incidents of sexual violence to the school in a way that identifies the student.*⁶⁸

Further,

*OCR recognizes that some people who provide assistance to students who experience sexual violence are not professional or pastoral counselors. They include all individuals who work or volunteer in on-campus sexual assault centers, victim advocacy offices, women's centers, or health centers ("non-professional counselors or advocates"), including front desk staff and students. OCR wants students to feel free to seek their assistance and therefore interprets Title IX to give schools the latitude not to require these individuals to report incidents of sexual violence in a way that identifies the student without the student's consent. These non-professional counselors or advocates are valuable sources of support for students, and OCR strongly encourages schools to designate these individuals as confidential sources.*⁶⁹

Therefore, a non-licensed advocate who is employed by the campus is not automatically, by virtue of this OCR guidance, exempt from reporting identifiable information. However, the campus protocol must first designate the non-licensed advocate as a confidential source and not a responsible employee under Title IX.

TIP Campus-based advocates should immediately seek clarification from their campus regarding their status as a confidential source.

BEST PRACTICE Ohio campuses should, wherever possible, make rape crisis and intimate partner violence advocates confidential sources, even when the individuals do not have licensure that provides privilege under the law.

Taking OCR guidance into consideration each campus should consult with appropriate administrators and general counsel to determine the best way forward while also taking into consideration any obligations that exist under Ohio and other federal laws.

68 Catherine E. Lhamon, *Questions and Answers on Title IX and Sexual Violence*, U.S. DEPT. OF EDUC., OFF. FOR CIVIL RIGHTS (April 29, 2014) E-3 at 22-24, available at <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>.

69 *Id.*, E-3 at 22-23.



Are peer advocates or peer educators considered confidential sources?



No, if not designated by the campus as a confidential source. Summary: Neither peer advocates nor peer educators are protected by privilege. Thus, they may be required to testify to certain details of their conversations with complainants or respondents during a criminal justice proceeding or a civil suit.

However, like others that deliver direct services or work in supportive roles, peer advocates should set up protocols for record-keeping and information-sharing that protects the privacy of those with whom they talk in order to protect information to the extent permitted by law and campus protocol.

Every campus should analyze the role of peer advocates, their duty if any to report incidents of gender-based violence to authorities, and ways to foster confidentiality. All of this should be reflected in a disclaimer that is disseminated widely, and revisited before anyone speaks to the peer advocate.

Note on Peer Educators:

The majority of prevention services are provided to a universal population and typically peer educators do not retain records on individuals that receive the education. If for some reason a campus or agency decides to keep such records, the campus must develop a protocol indicating how it meets the following rule:

Ohio Administrative Code §5122-26-08 Confidentiality

(A) This rule describes the minimum written policies and procedures for maintaining confidentiality in accordance with applicable federal and state laws and regulations; including, but not limited to, 42 C.F.R. part 2, confidentiality of alcohol and drug abuse client records, and the health insurance portability and accountability act of 1996.

(B) A provider staff person's access to an individual client's records, treatment information, diagnosis or other protected information is limited to access and disclosure in accordance with applicable federal and state laws and regulations.

(C) Storage of client records shall be in accordance with all applicable federal and state laws and regulations.

All staff would be required to follow the protocols related to confidentiality.

COUNSELING

Questions Pertaining to Counseling Responses

1. Can a campus employee who has a social work degree, but who is not yet licensed, provide confidential counseling to students?
2. Are there different levels of protections on mental health records depending upon whether the counselor involved is employed by a campus or in the community?
3. In what circumstances, under federal law, are campus Counseling Center's records open to examination?
4. Does Ohio's felony reporting law require licensed clinicians to report when they learn about the commission of a felony through a client's counseling session?



Can a campus employee who has a social work degree, but who is not yet licensed, provide confidential counseling to students?



No. Even with a social work degree, individuals cannot perform social work duties until they sit for the exam and obtain their license. Prior to that, the only time the Ohio Counselor, Social Worker, Marriage and Family Therapist Board, can register someone as a Social Work Trainee is if they are in an internship/practicum in their master's social work program. That would be a time-limited situation and they would be registered with the Board as a trainee. Social worker privilege only applies if someone has their license or is registered with the Board as a trainee.

Board confidentiality rules would not apply to the unlicensed person unregistered as a trainee. Similarly, this person would only be afforded privilege if supervised by an individual with privilege, and only to the extent that the communications were necessary to further the purpose of the supervisor's privileged relationship with the client.

TIP Campuses should create confidential resources for students so that there are some places that students feel safe and protected in their communications.

Q

Are there different levels of protections on mental health records depending upon whether the counselor involved is employed by a campus or in the community?

A

Yes, in certain circumstances. For example, if a student sues a campus, then a campus-employed mental health professional's records can be subjected to disclosure⁷⁰ but a community-based mental health professional would not have the same disclosure requirements.⁷¹

TIP Campuses should work with their general counsel to identify how and where disclosure of records can occur, absent litigation, for example, with a student's consent through a signed valid release of information form, pursuant to court order, or under subpoena. It is important for campuses to seek ways to preserve record confidentiality in both the way the records are maintained and the process for release. Campuses should develop valid release of information forms and conduct periodic reviews of how records are stored.

Q

In what circumstances, under federal law, are campus Counseling Center's records open to examination?

A

Under Clery, any confidential service (i.e. services offered by someone who legislatively holds a privileged relationship)⁷² does not have to submit any information about the crime or services to the campus. The federal government recognizes the importance of providing confidential services on campuses as a way to foster safety for survivors of gender-based violence. Therefore, campuses are exempt from submitting Clery information for crimes reported to professional counselors.⁷³ Similarly, a campus is not required to provide a timely warning to members of the campus community for crimes reported to a professional counselor.⁷⁴

The Clery Act defines a "professional counselor" as "[a] person whose official responsibilities include providing mental health counseling to members of the institution's community and who is functioning within the scope of his or her license or certification."⁷⁵ Counseling centers should be aware of the following restrictions:

- a.) An individual who is counseling students, but who does not meet the Clery Act definition of a professional counselor is not exempt from reporting.⁷⁶
- b.) A professional counselor who has other significant responsibility for student and campus activities must report crimes reported to them outside of the professional counseling setting and should seek preemptive clarification on their obligations in each setting from the U.S. Department of Education Office for Civil Rights. See id.

CAVEAT If a student files a report to OCR about the campus, then OCR has the right to access the Counseling Center's files. The information that OCR examines as part of its investigation, remains confidential.^{77 78}

TIP Read through the OCR Dear Colleague Letter issued on August 18, 2015 for more guidance on this topic. According to [this letter](#), the Family Policy Compliance Office issued a draft Dear Colleague Letter on this topic and additional guidance may be forthcoming.^{79 80}

- 70 34 C.F.R. § 99.31(a)(9)(iii)(B) *Under what conditions is prior consent not required to disclose information?*, available at <https://www.law.cornell.edu/cfr/text/34/99.31> ("If a parent or eligible student initiates legal action against an educational agency or institution, the educational agency or institution may disclose to the court, without a court order or subpoena, the student's education records that are relevant for the educational agency or institution to defend itself.")
- 71 The answer to this question does not pertain to instances in which patients file suit against mental health professionals for malpractice, or provide a detailed explanation of the legal processes that require mental health professionals to turn over patient files in civil or criminal litigation.
- 72 For a list of privilege holders in Ohio, see text accompanying fn. 8-12.
- 73 34 C.F.R. § 668.46(c)(6) *Institutional security polices and crime statistics*, available at <https://www.law.cornell.edu/cfr/text/34/668.46>. Note, however, that "Postsecondary institutions should be aware that an individual who is counseling students, but who does not meet the Clery Act definition of a pastoral or professional counselor, is not exempt from being a campus security authority if he or she otherwise has significant responsibility for student and campus activities." Catherine E. Lhamon, *Questions and Answers on Title IX and Sexual Violence*, U.S. DEPT. OF EDUC., OFF. FOR CIVIL RIGHTS (April 29, 2014) at 23 n.27 available at <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>.
- 74 34 C.F.R. § 668.46(e)(2); see also Lhamon, E-3 at 23.
- 75 34 C.F.R. § 668.46(a); see also Lhamon, E-3 at 23.
- 76 Lhamon, at 23 n.27, available at <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>.
- 77 See 34 C.F.R. § 99.31(a)(3)(iii), available at <https://www.law.cornell.edu/cfr/text/34/99.31#>; 34 C.F.R. § 100.06(c), available at <https://www.law.cornell.edu/cfr/text/34/100.6>.
- 78 34 C.F.R. § 100.6(c) (2015), available at <http://www2.ed.gov/policy/rights/reg/ocr/34cfr100.pdf>.
- 79 Kathleen M. Styles, *Dear Colleague Letter to School Officials at Institutions of Higher Education*, U.S. DEPT OF EDUCATION, FAMILY POLICY COMPLIANCE OFF. (August 18, 2015), available at <http://ptac.ed.gov/sites/default/files/DCL%20Final%20Signed-508.pdf>; see also U.S. DEPT OF EDUCATION, FAMILY POLICY COMPLIANCE OFF, *Guidance on this Issue* (Oct. 2, 2015), <http://familypolicy.ed.gov/dear-colleague-letter-to-school-officials-at-institutions-of-higher-education>.
- 80 Under current law, it appears that an institution may legally access the counseling records of a student who files suit against that institution, regardless of whether a release is signed. *Joint Guidance on the Application of the Family Educational Rights and Privacy Act (FERPA) And the Health Insurance Portability and Accountability Act of 1996 (HIPAA) To Student Health Records*, U.S. DEPT. OF HEALTH & HUMAN SERVICES, U.S. DEPT OF EDUC. (2008), available at <http://www2.ed.gov/policy/gen/guid/fpco/doc/ferpa-hipaa-guidance.pdf> ("it is important to note, that a school may disclose an eligible student's treatment records for purposes other than the student's treatment provided that the records are disclosed under one of the exceptions to written consent under 34 CFR § 99.31(a)"); 34 C.F.R. 99.31(a)(9)(iii)(B) ("If a parent or eligible student initiates legal action against an educational agency or institution, the educational agency or institution may disclose to the court, without a court order or subpoena, the student's education records that are relevant for the educational agency or institution to defend itself.")



Q Does Ohio's felony reporting law require licensed clinicians to report when they learn about the commission of a felony through a client's counseling session?



A It depends. In Ohio, licensed professionals do have limits to confidentiality, particularly if a client poses an imminent risk to self or others. In those circumstances, a report is mandated. Clinicians should consult with supervisors and relevant licensure boards regarding specific cases in question. For many privileges, like attorney-client and physician-patient, this felony exception does not apply if communications were made during the course of a professional relationship (there are a few exceptions).

Thus, in general, when an adult student reports that they were raped during a counseling session to a Ohio licensed professional, pursuant to ORC § 2921.22, that professional is not required to report knowledge of a felony.⁸¹

TIP The term “counselor” is protected under Ohio Revised Code §4757.02(B)(1).⁸² That means individuals who are holding themselves out as mental health professionals but are not licensed with the Ohio Counselor, Social Worker, Marriage and Family Therapist Board are not allowed to call themselves a “counselor.”

CASE OUTCOMES

Questions Pertaining to Case Outcomes

1. What information and to whom can a campus release information about the outcome of a gender-based violence complaint?
2. Are campuses allowed to require a complainant to abide by a nondisclosure agreement?
3. Are campus police records at private institutions public records?



Q What information and to whom can a campus release information about the outcome of a gender-based violence complaint?



A First and foremost, Clery dictates that both the complainant and respondent must be notified, in writing about the outcome. However, FERPA also influences what information campuses can share at the conclusion of adjudication.⁸³ Under FERPA, a campus is permitted to tell the complainant if the respondent was found responsible and if so, what sanctions were imposed that relate directly to the complainant. FERPA also permits campuses to disclose to anyone—not just the complainant—the final results of a grievance proceeding if it determines that the respondent is an alleged perpetrator of a crime of violence or a non-forcible sex offense.



Q Are campuses allowed to require a complainant to abide by a nondisclosure agreement?



A No.⁸⁴

81 OHIO REV. CODE § 2921.22 Failure to report a crime or knowledge of a death or burn injury, available at <http://codes.ohio.gov/orc/2921.22>.

82 OHIO REV. CODE § 4757.02 Unauthorized practice, available at <http://codes.ohio.gov/orc/4757.02v1>

83 Catherine E. Lhamon, *Questions and Answers on Title IX and Sexual Violence*, U.S. DEPT. OF EDUC., OFF. FOR CIVIL RIGHTS (April 29, 2014) at 19, 19 n.25, 25-28, 37, available at <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>; Russlynn Ali, *Dear Colleague Letter*, U.S. DEPT. OF EDUC., OFF. FOR CIVIL RIGHTS (April 4, 2011) at 13-14, available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>.

84 Ali, at 14, available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>.



Are campus police records at private institutions public records?



Yes. In June 2015, the Ohio Supreme Court ruled in *State ex rel. Schiffbauer v. Banaszak*⁸⁵ that a private college or university’s police department is a public office. Therefore, they can be compelled to provide their records. In that case, the court determined that the private university’s police department was established by state statute to enforce criminal laws and that function makes the police department a public office under Ohio’s Public Records Act. The university argued that the police department is not a public office because the university is private and the police department is a subdivision of the university. However, the court found that because the university campus police department was established by state law for the purpose of exercising a core function of government - the enforcement of criminal laws - it met the definition of a public office and must produce public records upon request.

TIP Private campuses should think through the impact of this decision by the Ohio Supreme Court and how it relates to its potential impact on all students’ confidentiality. Campuses should proactively account for this change in policy and revise their protocols and practices as necessary to protect student confidentiality to the greatest extent possible. It is also recommended that campuses consult with their general counsel regarding this matter.

BE ON THE LOOKOUT
Ohio House Bill Number 504, which as of July 2016 is pending in the House Government Oversight Committee, proposes to amend the law governing private institutions of higher education. This amendment would protect private colleges from liability that arises from the campus’ disclosure of public records, such as for a breach of confidentiality.

ADDITIONAL RESOURCES FOR CONSIDERATION⁸⁷

Responsible Employee Training Video

LINK <http://clerycenter.org/store/educational-videos/responsible-employee-training-video>.

OCR 2014 Q&A

LINK <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>.

Campus TA and Resource Project

LINK <http://changingourcampus.org/application/files/6714/6340/6313/Where-to-Start-Assessment-Tool-Guide-Employee-Sheet.pdf>.

Guidelines for Child Abuse Reporting of Consensual Sexual Activity

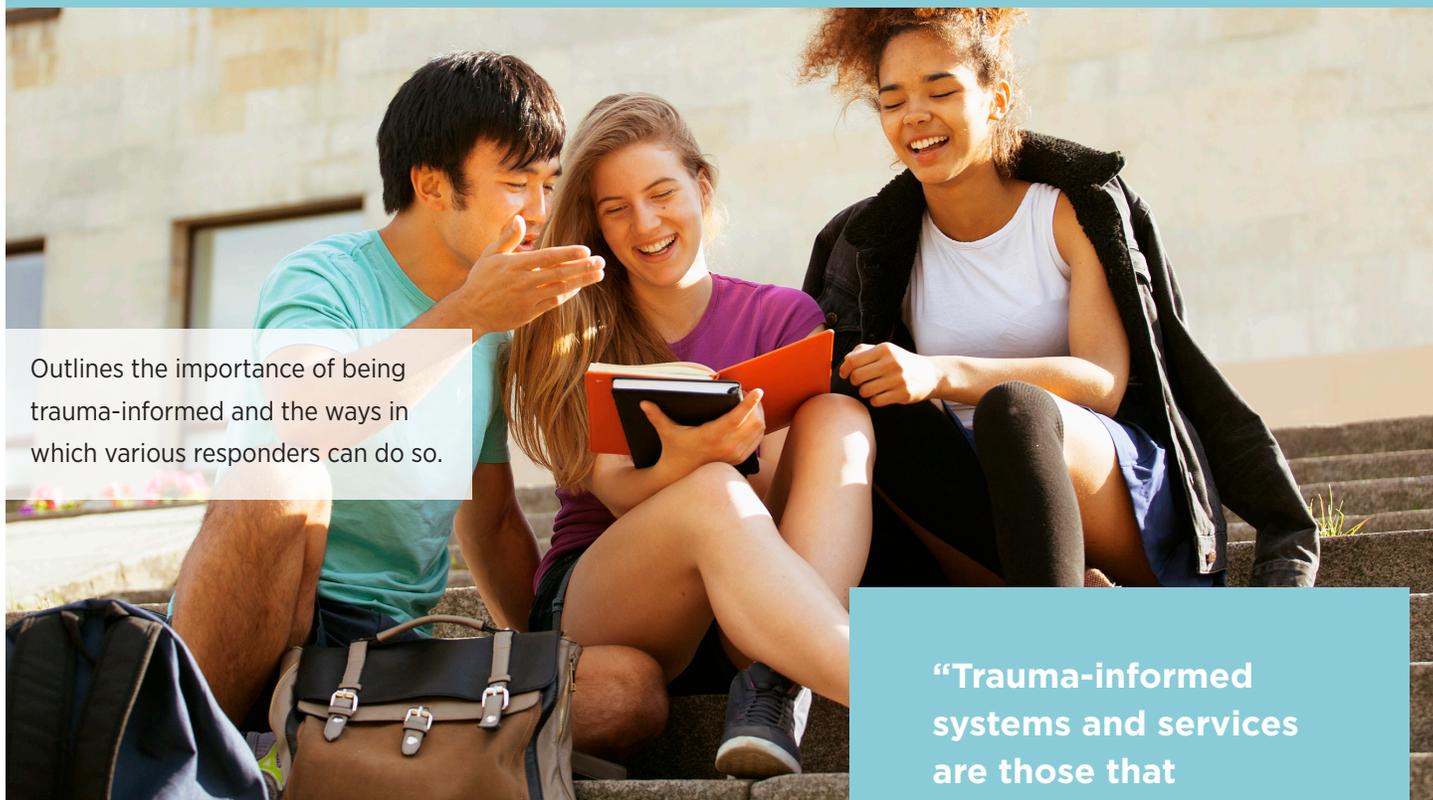
LINK <http://www.healthy.ohio.gov/~media/HealthyOhio/ASSETS/Files/SADVP/Ohio%20Protocol/Appendix%2019.pdf>.

Age of Consent in Ohio

LINK <http://www.oaesv.org/wp-content/uploads/2012/12/Ohio-Age-of-Consent-Fact-Sheet.pdf>.

85 *State ex rel. Schiffbauer v. Banaszak*, 142 Ohio St. 3d 535, 2015-Ohio-1854, available at <https://www.supremecourt.ohio.gov/ROD/docs/pdf/0/2015/2015-Ohio-1854.pdf>.
87 The Online Resources component of the Toolkit offers a tremendous listing at well.

UNPACKING ESSENTIAL C'S COMPETENCY: A Guide to Trauma-Informed Approaches



Outlines the importance of being trauma-informed and the ways in which various responders can do so.

“Trauma-informed systems and services are those that have thoroughly incorporated an understanding of trauma, including its consequences and the conditions that enhance healing, in all aspects of service delivery.”¹

The trauma associated with experiencing gender-based violence can be pervasive, impacting every aspect of a complainant’s life.² Institutions that take the trauma into account when responding to gender-based violence are much more likely to help survivors on their path to recovery.

To be trauma-informed, one must understand the widespread impact of trauma, recognize its signs and symptoms, respond accordingly, and actively avoid re-traumatization.³ This paradigm shift asks responders to move their frame of thinking, ceasing to ask “What is wrong with a person?” and instead inquiring “What happened to this person?”⁴ Similarly, responders should stop assuming “I know what this person should do”, and instead ask themselves “How will I work with this person so he/she can make informed decision about his/her well-being?”

A trauma-informed approach can be implemented by anyone on a campus. It is different than the professional delivery of trauma-specific interventions or treatments designed specifically to address trauma consequences and facilitate healing,⁵ both of which require credentials or in depth training. Instead, with some basic information about trauma-informed approaches, campus community members will be better prepared to support individual disclosures of gender-based violence or previously unreported trauma. This basic information will also help those who have a desire to be helpful or are situated to build caring relationships with students.

1 Roger D. Fallot, Ph.D. & Maxine Harris, Ph.D., *Trauma-Informed Approaches to Systems of Care*, Community Connections (Spring/Summer2008).
2 Throughout most of the Toolkit, the term “complainant” is used versus “survivor.” In this document, survivor is used more frequently because the person who has experienced gender-based violence often does not come forward and is not known. The goal is not to always pursue a complaint. The goal is always helping a survivor.
3 The Substance Abuse and Mental Health Services Administration, SAMHSA’s Six Key Principles of a Trauma-Informed Approach, website (last updated August 14, 2015) at <http://www.samhsa.gov/nctic/trauma-interventions>.
4 Maxine Harris & Roger D. Fallot, eds, *Using Trauma Theory to Design Service Systems: New Directions for Mental Health Services*, (April 2001) ISBN: 978-0-7879-1438-7.
5 Supra note 3 at Trauma-Informed Approach and Trauma-Specific Interventions.

WHAT DOES THIS REALLY MEAN?

To reduce trauma, a complainant needs to be respected, informed, and involved in their own pathway to recovery.⁶ Exposure to trauma can create new vulnerabilities and increases a range of pre-existing vulnerabilities. Trauma-informed responses are anchored in five principles:⁷ safety, choice, empowerment, collaboration and trust.

These principles are essential, as they represent some of the most prominent things many survivors feel are taken away from them by the very act of gender-based violence. Responders should pay particular attention to these principles and incorporate them into their approach whenever possible. The following summaries provide guidance on the interconnection of the five principles central to the trauma-informed approach:

Ensuring Physical and Emotional Safety

All responses should take into account the physical and emotional safety of a complainant by providing the complainant choices (see next principle) in deciding how best to facilitate that safety. Safety pertains to every aspect of the responder's interaction with the complainant, including the physical space (location and environment), the time, and type of communication (frequency and mode). Responses should be sufficiently flexible, allowing for modification when a complainant feels other strategies would increase safety. Responders should be cognizant of the trauma in all of their interactions, and seek alternate ways to minimize revictimization when they perceive signs of stress or discomfort.

Maximizing Choice and Control

Whenever possible, people should have the autonomy to direct their own lives. Acts of gender-based violence should not remove that autonomy. Therefore, complainants should be offered real choices, free from coercion, in the aftermath of gender-based violence. Campus protocols should reflect this commitment to survivor autonomy. Complainants should be informed about their rights and available options, and provided with information about possible benefits and consequences of each option. Services and interim measures should be offered to a complainant without any contingencies. Responders should consider providing a complainant with options about meeting times and locations; asking about preferred method of contact; and inquiring about the preference of the gender of providers. In addition, responders should discuss with the complainant the individual's ability to start and stop services or interim measures. Responders can also bolster complainant autonomy by asking about preferred names and pronouns, inquiring about whether the complainant wants to attend specific meetings, and giving complainants the option of having a support person at all meetings and proceedings.

Maximizing Collaboration and Sharing Power

Complainants are an integral part of any response to gender-based violence. They must be consulted about their goals and feelings throughout the entire process and whenever possible, have decision-making power. Though complainant decisions can be made collaboratively with campus stakeholders, a complainant's independent decisions should be upheld as often as possible. Responders should also collaborate with each other to maximize resources and reduce the number of burdens on the complainant.

Prioritizing Empowerment and Skill-Building

Each individual has their own strengths and capabilities, and is ultimately the foremost expert on their own life. A complainant's strengths and capabilities should be fostered to help empower a complainant and build resilience. Campus stakeholders should not assume what a complainant wants, needs, or feels. Instead, it is important to ask complainants and believe their answers. Finally, responders should encourage complainants to give feedback about responses, affirm and validate complainant feelings and experiences, and use the feedback to implement changes.

Maximizing Trustworthiness through Task Clarity, Consistency, and Interpersonal Boundaries

Trustworthiness is built through engaging in consistent practice, upholding boundaries, and communicating in a clear manner. There should not be an expectation by any responder that a complainant should automatically put trust in them. There are numerous reasons why that is not the case. However, campus stakeholders can begin to create a trustworthy environment by providing clear and consistent information about what will be done, by

⁶ *Id.*

⁷ *Supra* note 1.

whom, when, why, under what circumstances and with what goal. Transparency is important, and responders must be accurate and honest about possible outcomes, and must never make promises. Campus stakeholders should also maintain personal boundaries. For example they should refrain from sharing personal information, touching, exchanging personal phone numbers, and having contact outside of professional appointments.

BECOMING TRAUMA-INFORMED

“Any human service program, regardless of its primary task, can become trauma-informed by making specific administrative and service-level modifications in practices, activities, and settings in order to be responsive to the needs and strengths of people with lived experience of trauma.”⁸

Commitment & Communication

Stakeholders must not underestimate the critical need to educate the larger campus community about the need for, and focus on, trauma. Articles in alumni magazines and student newspapers, messages from the President’s office, letters to students and their parents, information including but not limited to during orientation sessions, and talking points developed by the communications department are just a few ways to begin communication.

Communication is meaningless if it is not supported by commitment. Commitment means there is both a financial and philosophical investment in ensuring that the campus is trauma-informed. Campuses should require through protocols that responders to gender-based violence be trauma-informed. Campuses should sponsor training, pay for responder education, and provide resources to responders that assist them to become trauma-informed directly in their role. Campuses should consider requiring specific training, work experience or certifications in trauma-informed treatment modalities for positions that would work directly with survivors in a support capacity.

Building Capacity

The specific type, length and frequency of training required to utilize a consistent trauma-informed approach will vary depending on the stakeholder’s level of engagement with and responsibilities to the complainant or overall campus. The following recommended methods should be used to train individuals on trauma-informed approaches, at either basic or advanced levels:

- Develop or utilize existing short online modules accessible to the entire campus population.
- Create talking points and one-page guides for communicating directly with survivors/complainants.
- Create online, downloadable lists of on- and off-campus resources that can assist survivors of gender-based violence.
- Offer in-person trainings with experiential components, such as scenarios and role plays.
- Capitalize on the resources and training already developed by professional groups by identifying these training and resources, making them available on campus, or sending campus responders to attend. For example, there are courses on integrating trauma-informed approaches for law enforcement, advocates, medical and mental health professionals, and attorneys.⁹
- Create trauma-informed questions to be used by investigators.
- Post articles on best practices.
- Include descriptions of trauma-informed approaches in protocols.
- Include descriptions of trauma-informed approaches in proposals for new campus initiatives, activities, or funding.
- Connect with and participate in campaigns that focus on gender-based violence and trauma.
- Develop talking points for communications with the larger campus community and the media.

Addressing Challenges

It is important to think about the challenges a campus may face in implementing a trauma-informed approach. Be prepared to think creatively about solutions to address these common challenges.

8 Supra note 1.

9 See, e.g., *End Violence Against Women International, Trauma Best Practices*, List of Resources at <http://www.evawintl.org/PAGEID19/Best-Practices/Resources/Trauma-Informed>. For more suggestions on trauma-informed resources, see the Online Resource Guide.

General

- How to keep a campus community trained and informed when there is constant change and turnover.
- Stakeholders are unsure what, if any, role they could or should play in responding to gender-based violence.
- People are not comfortable discussing anything related to gender-based violence.
- How to incentivize training and trauma-informed responses.
- Understaffed campuses (especially for smaller campuses that may have only one or two people actively engaged in the response), and individuals finding it too time consuming to engage in training.

Availability

- Difficult to access a variety of employment statuses, including full-time, part-time, tenured, seasonal, adjunct, contractor etc.
- Stakeholders feel overwhelmed with their current positions or caseloads. Responders do not want to take on anything new, let alone something that may attract more clients.
- Due to legal constraints (e.g., union contracts) training cannot be required without prior approval.

Personal Belief Systems

- Individuals are tied to myths about how a “true” survivor should respond.
- Stakeholder fear of appearing biased. For example, someone may be in a position to interact with both a complainant and respondent, especially if both are part of the same diverse community (same racial or ethnic group, LGBTQI+, etc.) and feel that this could compromise that role.
- Some people may not understand or believe in the effectiveness of trauma-informed approaches. Others may not want to gain expertise in this area or feel it is not a priority. Still others believe they already are trauma-informed.
- Depending upon their position and role, a responder may be concerned that this approach could compromise confidentiality.
- Some may be distrustful of campus systems.



“BLAB IT” is an easy way to remember the key steps for supporting a survivor of gender-based violence. It was developed by the Cleveland Rape Crisis Center to help anyone respond if someone they knew disclosed gender-based violence. BLAB IT provides a trauma-informed response method, and moves responders away from the compliance-only mindset that hinders their ability to develop a more relationship-centered response. This response will likely help the complaint feel heard and supported, and potentially encourage them to become connected with other resources on campus or in the community. Below is a detailed explanation of BLAB IT. Remember, anyone can use BLAB IT.

B BREATHE

Breathe deeply—We describe that as “connecting your head and heart.” So you are thinking logically, but emotionally intelligent.

Check in with yourself

L LISTEN

Listen supportively and empathetically to the student—Ask clarifying questions, but avoid questions that start with “why?” These tend to come across as blaming and can shut down the conversation.

A AFFIRM

Affirm, validate experience, normalize response—Given how diverse our potential responses to trauma are, any response can be seen as “normal.” Saying something like, “It makes sense you feel that way,” or, “I think a lot of people experience that,” can help normalize a reaction to a traumatic situation.

B BELIEVE

Assure the student that you believe them—remember that a policy does not need to have been violated for someone to feel traumatized, we aren’t asking you to be investigator and judge in that moment.

I INFORMATION

Create a supportive environment to gather appropriate information, if it is your role—especially if you are a mandated reporter. Inform stakeholders early and often about the role as responsible employees and mandated reporters.

T TRAUMA-INFORMED SUPPORT

Make appropriate referrals for supportive services.

Continue to validate, normalize and offer referrals for ongoing concerns.

Take care of yourself; these situations are difficult to handle, and you will need an outlet to access in the event you require emotional support yourself!

THE WHO AND WHY

Institutions, both criminal justice and campus, can unintentionally exasperate or re-inflict trauma through approaches that do not account for the complainant's experiences.¹⁰ Most campus stakeholders have an opportunity, if properly prepared, to interact with complainants in a trauma-informed manner. Beyond the primary responders, below are some examples of who should be ready to respond and what that interaction may look like.

Groups that Potentially Have the Most Frequent Contact with Student Survivors

These individuals should know what to do if they receive a disclosure of gender-based violence.

1. Other Students

Peers are most often the first person a survivor confides in and seeks support from. Student groups, student leaders, and the general student body should be prepared for such disclosures by knowing where to access information for survivors of gender-based violence, and encouraging survivors to seek assistance and other emotional support as needed.

2. Environmental Services/Custodial Staff, and Food Services Staff

Individuals in the above referenced positions hold unique relationships with students, as they interact on a regular, sometimes daily basis. These interactions take place even on evenings and weekends, often in spaces that students occupy in a more comfortable, informal setting.

3. Landlords

Landlords may also need to work with law enforcement or other stakeholders regarding an incident of gender-based violence, or assist in creating a safe living space for a complainant (e.g. upholding CPOs, letting a complainant out of their lease, etc.).

Individuals and Groups that Have Influence on Changing Campus Culture

1. Alumni

These individuals should understand that increased reporting of gender-based violence is indicative of trauma-informed protocols. Increased reporting is therefore a positive thing, not a poor reflection on their alma mater.

Alumni play a key role in partnering with the administration to discuss the impact of trauma-informed responses to gender-based violence on student retention and sustainment of alumni support. Alumni can use their connections to bring both attention and resources to the campus' effort. It may be helpful to provide alumni with talking points when speaking about their alma mater's proactive approach to gender-based violence. Alumni should also help promote a healthier campus culture through events, and support of new campus initiatives.

2. Parents

Parents must be informed, starting at orientation and continuing through their child's enrollment, about the campus' dedication to responding to gender-based violence and the reasons behind doing so. Parents place their trust in the campus community to provide protection and care, and help their child achieve their educational goals.

Providing a culture of transparency helps parents better understand the campus' role in ending gender-based violence. Perhaps more importantly, campuses can help equip parents to respond in a trauma-informed manner if their child discloses victimization directly to them. Parents should understand (1) the issue of gender-based violence and why it is important; (2) what the campus will do if it receives a report of gender-based violence; and (3) how parents can work with the campus if their child is either a complainant or respondent.

3. Public Relations, Marketing, Media and IT Departments

Persons in these departments are in a position to help communicate information about the existence and content of campus protocols and have an opportunity to infuse trauma-informed messages across multiple marketing and communications projects. These departments should create crisis communication plans to respond to media coverage of significant cases of gender-based violence.

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10 Supra note 5.

4. Presidents, Provosts, Vice-Presidents, Boards of Trustees, Human Resources, General Counsel and Other Leadership

These key individuals authorize campus-wide communications, approve protocol development and implementation, and allocate resources for addressing gender-based violence. As such, it is critical that these individuals be able to clearly explain the importance of addressing gender-based violence through trauma-informed protocols to other stakeholders, articulate the role and requirements of responsible employees, and enter into Memoranda of Understanding agreements with off-campus responders in order to provide a holistic response to complainants.

Primary Responders to Gender-Based Violence

Primary responders must go beyond recognizing trauma and understanding response protocols. Specifically, primary responders must find ways to incorporate the five principles into their role and work collaboratively to create holistic, culturally-relevant, and safe responses for individual complainants. Primary responders include:

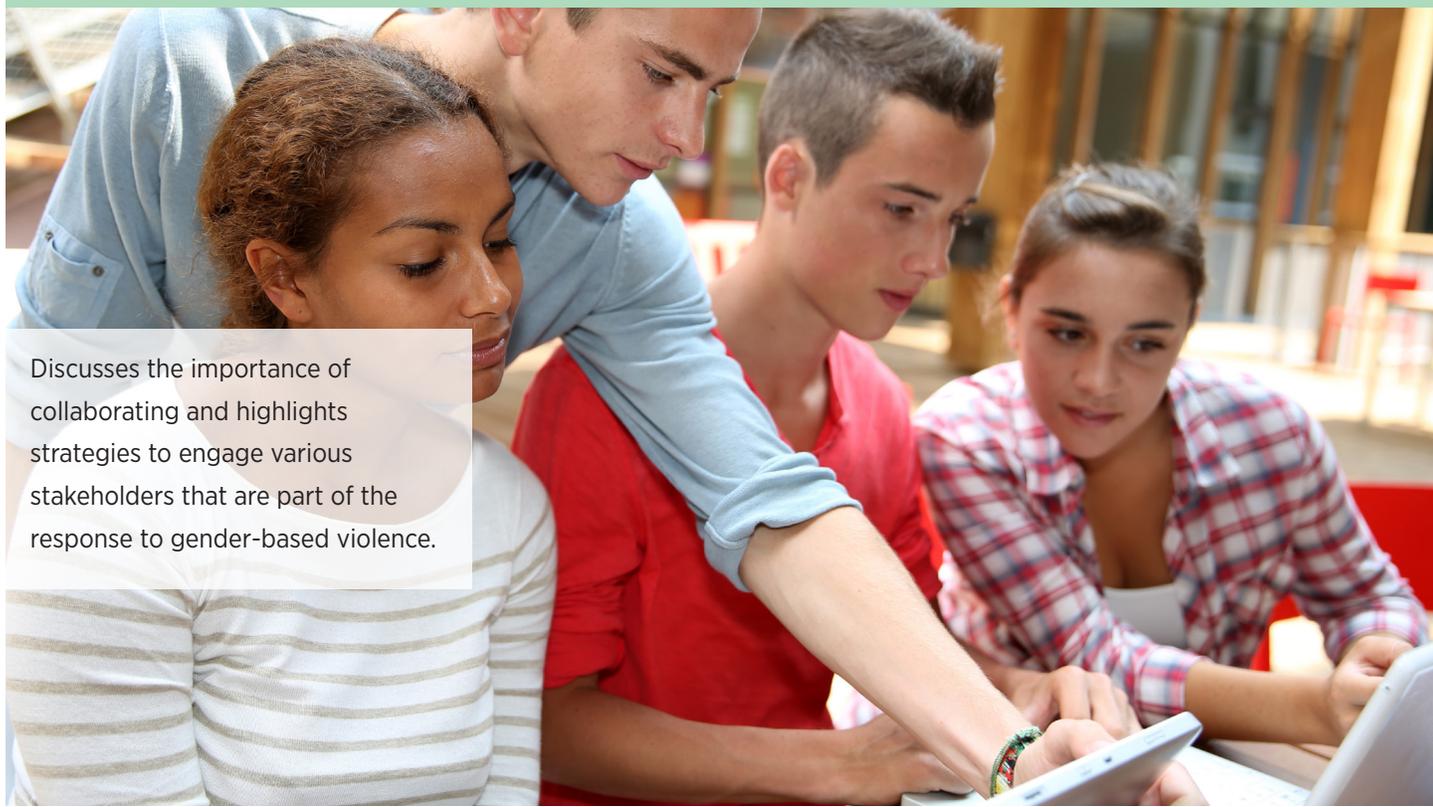
- Hospitals & Health and Wellness Centers
- Community Rape Crisis and Domestic Violence Centers
- Alcohol or Other Drug and Mental Health Agencies
- Cultural Organizations
- Language Bank/Interpretation Services
- Campus Police
- Responsible Employees
- Campus Security Authorities
- Clergy
- Prosecutors
- Local Police
- Attorneys
- Title IX Staff
- On-Campus Advocates
- Complaint Resolution Decision-Makers

When creating training materials and educational programs for first responders, campuses should consider integrating:

- The five principles of trauma-informed care;
- Basic information regarding the dynamics and definitions of gender-based violence, including how specific populations are impacted and additional barriers that may exist within those populations;
- Information about the impact of trauma on individuals;
- Clarification on when, what, and to whom stakeholders need to report a disclosure of gender-based violence;
- Compassionate and non-judgmental language that minimizes revictimization;
- Information about on-campus and community-based support services¹¹; and
- Recognition of the possibility for vicarious trauma and offering of self-care tips.

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11 See, Appendix A, *A Safer Campus A Guidebook on Prevention and Response to Sexual & Intimate Partner Violence & Stalking for Ohio Campuses*, 2nd Edition, Sarah Osmer, JD (editor), in collaboration with OAESV, ODH and ODVN (2016).

UNPACKING ESSENTIAL C'S COLLABORATION: A Guide to Stakeholder Engagement



Discusses the importance of collaborating and highlights strategies to engage various stakeholders that are part of the response to gender-based violence.

Given the epidemic rate of gender-based violence,¹ every person in the campus community has a role to play in the effort to change a campus' culture. Each individual must be actively engaged and understand their role. To support this engagement, key stakeholders must work collaboratively to create a vision for a campus free from gender-based violence and develop response protocols to fulfill that vision.

There is no shortage of information to guide stakeholders in their efforts to effectively collaborate and maintain engagement. These existing resources should be consulted to gain ideas and help address any critical junctures that prevent movement.² This document will provide a brief overview of ways to engage, collect information, and facilitate meetings with campus stakeholders.

STRATEGIES FOR ENGAGEMENT

- **One-on-one communications and in-person meetings:** This personal format is the most effective way to connect with individuals. These meetings are more productive if prefaced with a clear request and purpose.
- **Small group trainings (groups under 20 people):** This method can successfully convey information and help build relationships among training participants. Training with smaller groups allows for more hands-on, experiential learning and content tailored to the needs of specific stakeholder groups.
- **Online modules:** Online education is a way to broadly share information with multiple stakeholders at one time. Modules can reach people with differing schedules and availability. Modules are not as effective as in-person trainings, because they are less personalized. However, they are an efficient means of disseminating general information about the need for the change in campus culture and strategies to achieve that end.

1 Krebs, C.P., Lindquist, C.H., Warner, T.D., Fisher, B.S., & Martin, S.L. (2007). *The Campus Sexual Assault (CSA) Study*. Washington, DC: National Institute of Justice, U.S. Department of Justice.; Krebs, C.P., Lindquist, C.H., Warner, T.D., Fisher, B.S., & Martin, S.L. (2009). College Women's Experiences with Physically Forced, Alcohol- or Other Drug-Enabled, and Drug-Facilitated Sexual Assault Before and Since Entering College. *Journal of American College Health*, 57(6), 639-647.

2 See, Winer, Michael Barry, *Collaboration Handbook: Creating, Sustaining, and Enjoying the Journey* (1994); University of Kansas, Community Toolbox for Community Engagement; and other materials listed in the Online Resource Guide

- **Campus-wide communications:** Campus community members should use emails, text messages, and other broadly inclusive transmissions to communicate with the overall campus. This is not an effective way to train people, but instead is an efficient way to keep stakeholders informed about campus culture change efforts and outcomes.
- **Handouts and materials:** It is important for stakeholders to have materials they can reference once leaving meetings and trainings. It is also useful to leave information around campus in public and prominent places, where individuals are likely to pick up handouts about changing campus culture efforts.
- **Articles and publications:** These materials reach a wide audience, both on and off campus. These sources bring credibility to gender-based violence issues and are an effective means for sharing nuanced information not otherwise easily accessible.

FOCUS GROUP FACILITATION

A focus group is a way to gather information about a specific topic from a group of individuals connected in some way to that topic. Examples of focus groups related to gender-based campus violence include: (1) a group of complainants relaying information about their experiences with campus responders; (2) a group of campus responders discussing their challenges and successes in responding to gender-based violence; or (3) a group of individuals designated as responsible employees explaining how well they understand their role and resources they may need. These are just a few examples, and campuses are encouraged to hear from many stakeholders, including respondents, about their experiences and needs.

To be successful, focus group participants should not be coerced to participate. Their participation should be confidential (with only themes being reported out), and the focus group should be held at a time and place that is most convenient for the participating stakeholder group. Participant size should be limited to no more than 12 people. People's time should be honored – start and finish on time, offer food, provide time out of office, and consider gift/transportation cards. The facilitator should possess knowledge about gender-based violence issues and have experience facilitating focus groups. Most importantly, facilitators should have no personal stake in focus group outcomes or direct connections with focus group stakeholders.

Focus groups should be tailored to the extent possible to the participating stakeholder group. It is recommended that focus groups last no longer than 90 minutes. Participants should have a clear understanding of the focus group's purpose and how their responses to key questions will be used.

STAKEHOLDER MEETING FACILITATION

Stakeholder meetings bring people together to discuss current issues, work through challenges, and bridge philosophical difference so that there can be a unified campus vision and response. Stakeholders are frequently members of different task forces and also participate in meetings within their own agency/department. Therefore, it is imperative to craft well-structured and healthy meetings to keep stakeholders engaged.

Some of the ways to create a healthy meeting structure include:

- Prepare a planned agenda for each meeting that contains objectives and outlined mechanisms for reaching those objectives. Abide by meeting time frames. People are busy, honor their time.
- Develop a clear mission for regularly-meeting stakeholder groups. Define each stakeholder's roles and responsibilities in furthering group's mission.
- Decide early on how the group will resolve conflicts and make decisions.
- Use a facilitator when needed.
- Move meeting locations from time to time to help keep people engaged and reach new stakeholders.
- Offer food and ensure the meeting space is accessible.
- Request stakeholders take actions between meetings and assign tasks. After each meeting, confirm next steps and check-in with progress and the need for additional resources to complete tasks.

CONSIDERATIONS FOR SPECIFIC STAKEHOLDER GROUPS

Student Groups and Student Leaders

- Work within existing structures to target potential participants, such as:
 - Student Government
 - Greek Life—Interfraternity Council; Panhellenic Council
 - Commuter student groups
 - Cultural student groups
- Offer food and networking as incentives.
- Consider what time of the year would work best to engage each group and identify influential students.
- Ask for any scenarios or situations regarding gender-based violence students/groups have encountered that they would have liked help with.
- Explore other ways students/groups could see collaborating, such as joining a campus SART or CCRT, or planning a joint program dedicated to raising awareness of gender-based violence.

Media, Public Relations/Marketing, and IT

- Can increase efficiency in reaching other stakeholder groups, such as parents and alumni.
- Can establish mechanisms to collect data online.
- Can be trained and engaged to identify online stalking and harassment.
- Explore other ways this group could see collaborating, such as planning events to raise awareness of gender-based violence.

Community Rape Crisis and Domestic Violence Centers, AOD and Mental Health Programs, Cultural Organizations, Language Bank/Interpretation Services, and Hospitals

- Work within existing structures (county SART and CCRT teams) to identify potential stakeholders.
- Hold meetings in the community and at the stakeholder organizations.
- Explain that you are seeking partnership.
- Engage in cross-training.
- Find out:
 - The capacity of the agency to serve complainants or respondents – either on or off campus.
 - How the agency sees itself adding value to the campus.
 - Situations agencies have encountered that they found challenging.
 - Topics agencies feel would be beneficial for training.
 - What they would need to truly partner with the campus.
- Explain what campus protocols are in place to support the response to gender-based violence.
- Ask for an introduction to other community partners that would help the campus respond more comprehensively to gender-based violence.
- Explore other ways an organization could see collaborating, such as contract programming and planning a joint program to raise awareness.

Vice Presidents, Presidents, Board of Trustees, General Counsel, and Human Resources

- Using one-on-one meetings is recommended for these stakeholders, given their unique scheduling needs and the importance of allowing them a space to discuss issues in confidence.
- Build relationships with administrative support staff.
- Encourage this stakeholder group to contact their peers about best practices.
- Use facts, figures, and specific dollar amounts.
- Ask what support they need before they can fully commit to changing the campus culture.

Prosecutors, Law Enforcement, and Legal Community

- Work within existing structures to identify potential stakeholders (judges, police officers, community outreach liaisons, assistant prosecutors, public defenders, and private attorneys that represent complainants and respondents).
- Include both civil and criminal justice system stakeholders.
- Inform about campus response protocols and educate on the differences between the campus grievance process and criminal justice responses.
- Ask key questions, such as:
 - How are they helping students who have experienced gender-based violence off-campus?
 - How frequently are they dealing with students or faculty that had perpetrated gender-based violence off-campus?
 - What do they need from the campus to better support their efforts?
 - How can they help the campus better support its efforts?
- Explore ways to collaborate both formally and informally.
- Ask if the campus can join an existing community SART or CCRT.
- Plan a joint awareness-raising program.

Faculty, Student Affairs Staff, Residence Life, Athletic Departments, Diversity Centers, Disability Centers, Health and Wellness Centers, International / Study Aboard Centers, Service Learning/Volunteer Center, Campus Ministry, Women's Center

- Develop scenarios to help start conversations. These scenarios should include a role for all the stakeholder groups that are discussing the scenario. Ask the stakeholder group for other scenarios they have encountered, that they either found challenging or felt had a positive outcome.
- Ask what would encourage the stakeholder group to participate in trainings, or what resources they need to be better equipped to address gender-based violence in their respective roles.
- Identify key decision makers and discuss who else should be at the table.
- Explore other ways these stakeholder groups could collaborate, such as participating in programs/events.

GLOSSARY



This is a comprehensive document of terms. Many definitions also include learning points.

ACRONYMS

AG	Attorney General	LGBTQI+	Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex
ASCA	Association for Student Conduct Administration	MOU	Memorandum of Understanding
ASR	Annual Security Report	NCHERM	National Center for Higher Education Risk Management
ATIXA	Association of Title IX Administrators	NCO	No Contact Order
BJS	Bureau of Justice Statistics	OAESV	Ohio Alliance to End Sexual Violence
CCR	Community Coordinated Response	OCR	Office for Civil Rights
CFR	Code of Federal Regulations	ODHE	Ohio Department of Higher Education
CPO	Civil Protection Order	ODVN	Ohio Domestic Violence Network
CPS	Child Protective Services	ORC	Ohio Revised Code
CSA	Campus Security Authority	OVW	Office on Violence Against Women
DCL	Dear Colleague Letter	RE	Responsible Employee
DOJ	Department of Justice	SA	Sexual Assault
DV	Domestic Violence	SANE	Sexual Assault Nurse Examiner
FERPA	Family Educational Rights and Privacy Act	SART	Sexual Assault Response Team
IPV	Intimate Partner Violence	TA	Technical Assistance
IPSV	Intimate Partner Sexual Violence	TPO	Temporary Protection Order
LE	Law Enforcement	VAWA	Violence Against Women Act
LEP	Limited English Proficiency		

TERMINOLOGY

To ensure consistent definitions across Ohio campuses, the authors of this Toolkit compiled definitions from numerous sources, including state and federal laws, and national gender-based violence resources, and the Ohio reports, *Changing Campus Culture: Preventing and Responding to Sexual Violence* and *A Safer Campus: A Guidebook on Prevention and Response to Sexual & Intimate Partner Violence & Stalking for Ohio Campuses* (2nd Edition).

Accommodation	Another term for “interim measures.”
Acquaintance Rape	Unwanted, coerced and/or forced sexual penetration that occurs between people known to each other. This relationship may be a dating relationship, a blind date, or “hook up.” The parties may know one another well or be acquainted only briefly. The issue in legal or campus proceedings is not identifying the perpetrator; but rather identifying how force or coercion was manifested.
Adjudication	The process by which a determination is made as to whether or not a campus policy was violated.
Advisor of Choice	The complainant and respondent should be given the option to have an “advisor of choice” accompany them and be present in meetings, proceedings, and grievance hearings related to the investigation and adjudication. Campuses should maintain a list of potential advisors that the complainant and respondent can choose from. Any individual on this list must be familiar with the campus’s conduct and disciplinary process. Note that the same person should not serve as an advisor of choice to both parties, and that both parties may choose an individual outside of the list. Finally, an advisor of choice cannot serve as witness or trier of fact in that particular case.
Advocate	A person who provides support, options, resources, and referrals for survivors. Advocates have training and expertise in sexual and domestic violence. An advocate’s primary roles include helping survivors navigate complex systems and make autonomous and safe decisions. For purposes of this Toolkit, advocates are professionals who work in community-based rape crisis or domestic violence programs, or campus-based programs dedicated to addressing sexual assault and domestic violence.
Aggregate Data	Refers to numerical or non-numerical information that is (1) collected from multiple sources and/or on multiple measures, variables, or individuals and (2) compiled into data summaries or reports, typically for the purposes of public reporting or statistical analysis—i.e., examining trends, making comparisons, or revealing information and insights that would not be observable when data elements are viewed in isolation. Aggregate data does not contain identifiable information.
Alcohol/Drug Facilitated Sexual Assault	A sexual assault in which the perpetrator uses alcohol or other drugs to subdue the complainant. An array of substance are used for this purpose, however, common examples include Rohypnol, GHB and Ketamine, which are reported by Ohio medical professionals to rarely appear in toxicology screens. Note that alcohol remains the most common substance perpetrators use to subdue victims during the commission of sexual assault.
Annual Security Report	By October 1st of each year, campuses must publish and distribute their Annual Security Report (ASR) to current students and employees. Campuses must also produce its ASR to others, including prospective students, upon request. The Clery Act requires the ASR to disclose crime statistics for the prior three years, policy statements on safety and security measures, campus crime prevention program descriptions, and protocols for the response to gender-based violence. Complainant’s personally identifiable information should not be released, except as required by law or court order. See Clery Act for a list of crimes that must be reported.
Batterer	A batterer is someone who uses physical, emotional, psychological, sexual, or economic abuse and other tactics in order to maintain power and control over their intimate partner. Campuses refer to this person as the respondent.
Batterer Intervention Program	A program designed to hold people who use violence against their intimate partners accountable for their behavior. BIPs do not use anger management programming techniques. Instead, BIPS are grounded in an understanding of the dynamics of intimate partner violence.

Best Practices	A standard, technique or methodology that has been proven valid and reliable through research and replication. A commitment to use best practices is a commitment to use all knowledge and technology at one's disposal to ensure success.
Campus	An umbrella term for any post-secondary school, including "college," "institution of higher education," or "university." This term interchangeably refers to public and private, two-year and four-year institutions. The term "campus" may encompass the broader community surrounding the institution. Campus is the term that is used throughout the Toolkit to include all of the meanings above.
Campus Climate	The current attitudes, behaviors and standards of faculty, staff, administrators and students concerning the level of respect for individual needs, abilities and potential. However, it is not just the experience of individuals and groups on a campus; it is also the quality and extent of the interaction between those various groups and individuals that determines a healthy campus climate.
Campus Response	Actions a campus takes after a gender-based violence adjudication concludes. Examples include the imposition of sanctions, continuation or imposition of remedies for the survivor, targeted or campus-wide educational response, and enforcement of additional security or other such measures.
Campus Security Authority	<p>A person identified as a Campus Security Authority (CSA) is required to report any allegation made in good faith of the occurrence of a Clery crime to an office/individual designated by the campus. CSAs play an important role in ensuring the campus is in compliance with the collection and reporting of statistics as required by Clery. CSAs do not make a judgment about or investigate what happened. They only collect the facts. Survivors have the option of reporting crimes to a CSA without being identified. This means the campus will keep a record that a crime occurred but will not publish any identifying information. CSAs also inform survivors of their options, including confidential reporting options, and offer referrals to resources (e.g., campus assistance programs or counseling service, if appropriate). CSAs are defined by job function and not by title. The U.S. Department of Education defined CSA's as "officials with significant responsibility for student and campus activities." The law defines "significant responsibility" broadly and includes, but is not limited to:</p> <ul style="list-style-type: none"> • Campus police/security. • Individuals with campus security responsibility. These are individuals who have responsibility for campus security, but do not constitute a campus police or security department. For example, an individual responsible for monitoring entrance onto the campus' property is a CSA. Additional examples include parking enforcement, event security, and bicycle patrol staff. • Individuals designated by the campus. These are individuals or organizations specified in a campus' statement of campus security policy as one to which students and employees should report criminal offenses. Examples include the Chancellor's Office, Ombudsman Office and Office of Student Life. • Officials with significant responsibility for student and campus activities. These may be, but are not limited to, student housing, student discipline, and campus judicial proceedings. Examples include the Deans of Students, Student Housing Officials, Title IX Coordinator, student judicial affairs officials, officials who oversee a student center, officials who oversee student extracurricular activities, Director of Athletics, team coaches, and faculty advisors to student groups. <p>CSA Reporting Exemption: licensed professional mental health counselors and pastoral counselors do not have to report as a CSA if receiving information about a Clery crime when working within the scope of their license or religious assignment.</p>
Campus Sexual Violence Elimination Act	While the Campus Sexual Violence Elimination (Campus SaVE) Act never passed in its introduced state, portions were included and passed in the Violence Against Women Act Reauthorization Act of 2013. This had the effect of amending the Clery Act. These amendments were designed to complement Title IX and help bolster the response and prevention of gender-based violence. Specifically, it broadened the reporting and response of sexual violence to include incidents of domestic violence, dating violence and stalking. It also mandates a prevention education component and creates heightened transparency, accountability, education, and collaboration for campuses to these incidents.

<p>Civil Protection Order</p>	<p>A legal order issued by a court at the request of the survivor (petitioner) against the perpetrator of the threat/violence (respondent). A civil protection order (CPO) can order the respondent to refrain from violent or threatening acts or harassment against; contact or communication with; or physical proximity to the survivor. A CPO is a tool that can facilitate safety for some survivors. Violations may have civil and criminal penalties. In Ohio, there are different types of CPO's available depending upon the relationship between the parties, the type of act, and other factors. Here is a quick overview:</p> <ul style="list-style-type: none"> • Domestic Violence Civil Protection Order – may be obtained in the domestic relations court where victim lives, where abuser lives or has a business, or where incident(s) occurred. Reason needed: causing or trying to cause injury or placing someone in fear of imminent serious harm. Person causing the injury or fear must be a family or household members including: spouses/ former spouses, parent, child, foster parent, people who have kids in common, or intimate partners who lived together in the last 5 years. If obtained, CPO is valid for up to 5 years and can be renewed. • Stalking Protection Order - may be obtained in the common pleas court where victim lives (if family or household member, can be filed as CPO see above). Reason needed: engaging in a pattern of conduct (two or more events, closely related in time) that causes distress or makes victim believe the stalker will cause harm. No relationship with stalker is required. If obtained, CPO is valid for up to 5 years and can be renewed. • Sexually Oriented Offense Protection Order - may be obtained in the general division of the common pleas court where survivor lives. Reason needed: any person who was a victim of a sexually oriented offense or unwanted sexual contact. If obtained, it is valid for up to 5 years and can be renewed. • Juvenile Protection Order – may be obtained in juvenile court where victim lives. Reason needed: same as other CPOs but respondent is under the age of 18. <p>Some other states call CPO's restraining orders. In Ohio, restraining orders are issued in most divorce cases as standard procedure pertaining to property and children. They are not enforceable by law enforcement and have nothing to do with dangerous situations.</p>
<p>Clery Act</p>	<p>The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery) is a federal statute codified at 20 U.S.C. § 1092(f), with implementing regulations at 34 C.F.R. 668.46. Clery requires all campuses that participate in federal financial aid programs to keep and disclose information about crimes on and near their respective campuses. Compliance is monitored by the U.S. Department of Education, which can impose civil penalties against campuses for infractions and can suspend campuses from participating in federal student financial aid programs.</p> <p>Clery requires campuses to disclose statistics for crimes based on: where the crimes occurred; to whom the crimes were reported; the types of crimes reported; and the year in which the crimes were reported. Clery crimes include:</p> <ul style="list-style-type: none"> • Criminal homicide (murder and non-negligent manslaughter) • Negligent manslaughter • Sex offenses (rape, fondling, incest, and statutory rape) • Robbery • Aggravated assault • Burglary • Motor vehicle theft • Domestic Violence • Dating Violence • Stalking • Arson <p>Additionally campuses are required to report:</p> <ol style="list-style-type: none"> 1. Persons referred for campus disciplinary action for liquor law violations, drug-related violations, and weapons possession; 2. Hate crimes by category of prejudice, including race, gender, gender identity, religion, sexual orientation, ethnicity, national origin, and disability. 3. Statistics on four additional crime categories if the crime committed is classified as a hate crime: <ul style="list-style-type: none"> • Larceny/Theft • Simple Assault • Intimidation • Destruction of Property/Vandalism

<p>Clery Geography</p>	<p>Campuses must disclose all Clery crimes for statistical purposes that occur on any of four specified areas or pieces of geography. The definitions for these geographic categories are Clery Act-specific and are the same for every institution, regardless of its physical size or configuration. The four categories are:</p> <p>On-campus: “any building or property owned or controlled by an institution of higher education within the same reasonably contiguous geographic area of the institution and used by the institution in direct support of, or in a manner related to, the institution’s educational purposes, including student halls; and property within the same reasonably contiguous geographic area of the institution that is owned by the institution but controlled by another person, is used by students, and supports institutional purposes (such as a food or other retail vendor).”</p> <p>On-campus Student Housing: “any student housing facility that is owned or controlled by the institution, or is located on property that is owned or controlled by the institution, and is within the reasonably contiguous geographic area that makes up campus.”</p> <p>Non-campus Building or Property: “any building or property owned or controlled by a student organization recognized by the institution; and any building or property (other than a branch campus) owned or controlled by an institution of higher education that is used in direct support of, or in relation to, the institution’s educational purposes, is used by students, and is not within the same reasonably contiguous geographic area of the institution.”</p> <p>Public Property: “all public property that is within the same reasonably contiguous geographic area of the institution, such as a sidewalk, a street, other thoroughfare, or parking facility, and is adjacent to a facility owned or controlled by the institution if the facility is used by the institution in direct support of, or in a manner related to the institution’s educational purposes.”</p> <p>“Reasonably contiguous” refers to a building or property owned or controlled by an institution that is in a location that the institution or students consider to be, and treat as, an integral part of the main or core campus; and is covered by the same security policies as the larger campus.</p> <p>“Directly support, or relate to, the institution’s educational purposes” relates to the function of the building or property.</p>
<p>Climate Survey</p>	<p>Typically a quantitative data collection instrument, a climate survey helps campuses assess the prevailing attitudes, standards, or environmental conditions of a group, period, or place. The White House Task Force to Protect Students from Sexual Assault led the charge in supporting the establishment of a common vision, shared language, and best practices for what “climate survey” means when it comes to changing campus culture to promote effective response and prevention of sexual violence. In January 2015, as part of the White House Task Force, BJS published a report presenting the results of a nine-school pilot test conducted to develop a campus climate survey that collects school-level data on sexual victimization of undergraduate students. This tool is free and available for all campuses to administer.</p>
<p>Collaboration</p>	<p>The process in which individuals and/or organizations share resources and responsibilities jointly to plan, implement, and evaluate programs to achieve common goals. With an emphasis on fundamentally altering traditional agency relationships, a true collaboration requires individual agencies to commit considerable amounts of resources on behalf of individual agencies. The relationship includes a commitment to mutual goals, a jointly developed structure and shared responsibility, mutual authority and accountability for success, and sharing of resources and rewards. Such relationships require comprehensive planning and well-defined communication channels operating on many levels.</p>
<p>College</p>	<p>Another term for “campus.”</p>
<p>Co-Located Positions</p>	<p>When staff from one agency is placed at another or has access to regular office hours at the other location (e.g. community-based advocate working at campus health center). Co-located positions help create a seamless delivery of services and reduce the confusion and lack of coordination that individuals frequently experience with systems. For example, an advocate from a community-based rape crisis center holds office hours on campus so that students can speak directly to that advocate without having to leave campus.</p>
<p>Compassionately Interrupt</p>	<p>A compassionate interruption occurs when a student discloses gender-based violence to an individual who has any type of reporting duty, and that individual stops the disclosure in order to explain their limits on confidentiality, what must be reported, and to whom. The goal is not to shut down the conversation, but instead to pause or interrupt the disclosure. During this pause, information is provided to the survivor so that he/she can make a determination of whether to continue to disclose based on what that person wants and needs to happen for their own well-being. Whenever possible, it is encouraged that a conversation about confidentiality happens prior to a disclosure.</p>

Competence	Acquisition of knowledge, skills, and experience necessary for the development and implementation of services to different groups served.
Complainant	Any person who reports or alleges that the campus's code of conduct has been violated.
Confidentiality	Pertains to the treatment of information that an individual has disclosed in a relationship of trust with the expectation that it will not be divulged in ways inconsistent with the understanding of the original disclosure without the individual's permission. It is the process of ensuring that information is accessible only to those authorized to have access. During the informed consent process, if applicable, individuals must be informed of the precautions that will be taken to protect the confidentiality of the information and be informed of the parties who will or may have access. This allows individuals to decide whether to release information given the available protections and the possibility of release of private information. Confidentiality is not the same as privilege.
Confidential Source	An individual who is specially trained to perform a survivor-centered, trauma-informed response and is available to complainants on campus to answer questions, provide information, and help navigate the options available both on campus and in the community. It is recommended that all campuses designate individuals as confidential sources. Confidential sources are only required to report aggregate data. Therefore, "responsible employees" should not be selected as confidential sources.
Consent	Words or overt acts indicating freely given agreement to the sexual contact or conduct at issue by a competent person. Consent cannot be given by a person who is substantially impaired by any drug, intoxicant, or mental or physical condition. Consent cannot be compelled by force, threat of force, coercion, or deception. Consent may be withdrawn at any time, and agreement to any given act during a sexual experience does not imply consent to others. Prior sexual activity does not constitute consent per se for the sexual contact or conduct at issue. Note that, though the ORC does not define "consent," the definition included here is a best practice definition recommended for Ohio campuses in A Safer Campus Guidebook.
Corrective Action	Sanction imposed on guests, visitors, vendors, and other persons who are alleged to have engaged in gender-based violence. See "sanction."
Corrective Rape	A hate crime in which one or more people may be targeted because of their perceived sexual orientation or gender identity. During this type of rape, the perpetrator may make comments indicating that the victim(s) should be heterosexual or seeking to enforce conformity with gender stereotypes.
Counselor	An individual who practices counseling. Under Ohio law, counseling means rendering or offering to render to individuals, groups, organizations, or the general public a counseling service involving the application of clinical counseling principles, methods, or procedures to assist individuals in achieving more effective personal, social, educational, or career development and adjustment, including the diagnosis and treatment of mental and emotional disorders. See O.R.C. § 4757.01
Crime Log	A campus police or security department is required to maintain a public log of all crimes reported directly to them or those of which they are otherwise made aware. The log must have the most recent 60 days' worth of information. Each entry in the log must contain the nature, date, time and general location of the crime and, if known, the disposition of the complaint. Logged information more than 60 days old must be made available within two business days. Crime logs must be kept for seven years.
Crisis Line/Hotline	A dedicated telephone line staffed by people with expertise in gender-based violence who are available for emergency counseling, information, and referral. Hotlines receive calls from survivors, persons seeking advice about how to assist an acquaintance, friend, or relative, and professionals seeking referrals for survivors of gender-based violence.
Culture	The shared experiences that develop and evolve according to changing social and political landscapes. Culture includes race, ethnicity, gender, sexual orientation, class, immigration, location, time, and other axes of identification understood within the historical context of oppression. Culture is not static – it is fluid. Norms and values may also differ for individuals within the same group.

Cultural Competency	The ability of practitioners to function effectively in the context of racial, ethnic, religious, cultural, sexual orientation, ability, and gender differences and respond to the unique strengths and concerns of individuals, groups, systems, and communities. Cultural competency is not something that is “achieved” but instead requires constant assessment by organizations and self-examination by individuals. Cultural competence is a developmental process that evolves over an extended period. Characteristics of cultural competence include understanding, appreciating, and respecting the cultural differences and similarities within, among and between diverse groups, respecting individuals and cultural differences, and implementing a trust-promoting method of inquiry.
Cultural Diversity	Differences in race, ethnicity, language, nationality, sexual orientation, religion, or gender identity among individuals within a community.
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. (i) The existence of such a relationship shall be determined 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. (ii) For the purposes of this definition: (A) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. (B) Dating violence does not include acts covered under the definition of domestic violence. (iii) For the purposes of complying with the requirements of this section and § 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.
Disability	A person is considered to have a disability under the Americans with Disabilities Act (ADA) if he/she has a record of a physical or mental impairment which substantially limits one or more major life activities.
Disciplinary Action	See “sanction.”
Disciplinary Hearing/Proceeding	A campus-based process to hear and review evidence regarding an allegation of student misconduct. Those designated by the campus to be part of the proceeding will determine by a preponderance of evidence whether evidence exists to support the complaint and, if so, what sanction should be imposed. Title IX requires campuses to take immediate action to eliminate gender-based violence, prevent its recurrence, and address its effects. As part of that effort, campuses must provide an equitable complaint resolution process ensuring that these proceedings are prompt, impartial and fair. Disciplinary hearings are not trials and are not constrained by rules of procedure and evidence typically used in a court of law. A campus disciplinary system operates under a standard of fairness, which includes an opportunity for the student/group to be notified of the alleged incident and policy violations under consideration, as well as and an opportunity to be heard. Throughout a campus’s disciplinary proceeding, the complainant and the respondent must be afforded similar and timely access to any information that will be used at the hearing, including an equal opportunity to present relevant witnesses and other evidence, and the right to accompaniment by an advisor of choice.
Disclosure	When a survivor tells someone about their victimization in order to talk about their experience and find out options, including trauma-informed crisis services, medical assistance, and other safety measures.
Domestic Violence	Each state has its own definition for civil and criminal proceedings, but generally, domestic violence is a pattern of assaultive and coercive behaviors, including physical, sexual, and psychological attacks, as well as economic coercion, that adults or adolescents use against their intimate partners, where the perpetrator and victim are currently or have been previously dating, cohabiting, married, or divorced. The term is used for this behavior whether or not it meets the definition under criminal or civil statutes. In Ohio, like many other states, domestic violence is defined more broadly to include family or household members (See O.R.C. § 2919.25). However, for campus response protocols, domestic violence should be considered in the context of a current or previous relationship involving dating, cohabitation, marriage or divorce. Another term for IPV.

<p>Due Process</p>	<p>Due process requires a fair procedure (procedural due process) and a fair outcome (substantive due process). The concept of “due process” is applicable to public and private institutions, either as a matter of constitutional law, contract law, or both. Campuses conduct complaint resolution processes under their internal policies, not criminal or civil trials. Due process requires careful listening to reach a fair outcome. The disciplinary process is educational in the sense that it starts with the imperative of seeing and responding to students as individuals.</p> <p>OCR has provided guidance on what it considers “due process” in Title IX hearings:</p> <ul style="list-style-type: none"> • Procedures that ensure the rights of the complainant, while at the same time according due process to both parties involved... (2001 Guidance, p. 22). • The rights established under Title IX must be interpreted consistent with any federally guaranteed due process rights involved in a complaint proceeding. (2001 Guidance, p. 22). • [Institutions must] [a]dopt and publish grievance procedures providing for prompt and equitable resolution of student and employee sex discrimination complaints. (Letter, p. 6) • [T]he school’s inquiry must in all cases be prompt, thorough, and impartial. (Letter, p. 5). • [There must be] adequate, reliable, and impartial investigation of complaints, including the opportunity for both parties to present witnesses and other evidence. (Letter, p. 9). • [A] school’s investigation and hearing processes cannot be equitable unless they are impartial. Therefore, any real or perceived conflicts of interest between the fact-finder or decision-maker and the parties should be disclosed. (Letter, p. 12). • The Title IX coordinators should not have other job responsibilities that may create a conflict of interest. For example, serving as the Title IX coordinator and a disciplinary hearing board member or general counsel may create a conflict of interest. (Letter, p. 12). • The complainant and the alleged perpetrator must be afforded similar and timely access to any information that will be used at the hearing (Letter, p. 11). • Public and state-supported schools must provide due process to the alleged perpetrator. However, schools should ensure that steps taken to accord due process rights to the alleged perpetrator do not restrict or unnecessarily delay the Title IX protections for the complainant. (Letter, p. 12).
<p>Emergency Notifications</p>	<p>These are notifications that are triggered by any significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees on the campus. This includes Clery crimes, crimes not reportable under Clery, and non-criminal incidents, such as an outbreak of a communicable illness, an impending weather emergency or a gas leak. Emergency notifications are for incidents occurring anywhere on campus. Notifications are to be issued without delay and upon confirmation of the emergency. Notifications can be tailored exclusively to the segment of the campus at risk. A notification does not have to be immediate if issuing it would compromise efforts to assist a victim, contain the emergency, respond to the emergency, or mitigate the emergency.</p>
<p>Family Educational Rights and Privacy Act</p>	<p>The law applies to all campuses that receive funds under an applicable program of the U.S. Department of Education. Codified at 20 U.S.C. §1232g, FERPA protects the privacy of student education records and gives parents certain rights with respect to their children’s education records until the rights transfer to a student when he or she reaches the age of 18 or attends a school beyond the high school level. Generally, schools must have written permission from the parent or eligible student in order to release any information from a student’s education record except under the conditions outlined in 34 CFR § 99.31.</p>
<p>Gender-Based Violence</p>	<p>An umbrella term that encompasses all forms of violence and harassment committed against an individual because of and/or based on their biological sex, gender identity and/or sexual orientation. This term includes sexual assault, rape, sexual harassment, all forms of intimate partner violence, and stalking.</p>
<p>Informed Consent</p>	<p>Informed consent is a phrase used to indicate that the process of obtaining consent from a person meets certain minimum, legal standards. The person consenting must have a clear appreciation and understanding of all the facts, implications, and future consequences of an action. Consent should be obtained in writing. The person giving consent must have the capacity to do so (not be under the influence of any coercion, legally able to consent based on age, absent of cognitive disabilities, etc.) The information provided to the person giving consent should be in a language they understand. Individuals should be advised whether their communications are confidential and whether the confidentiality of the statements is covered by a privilege. Understanding what will happen to the information provided and the extent to which it may be protected is an important component of informed consent. Informed consent is imperative for forensic exams and often for sharing any information related to the victim.</p>

Institution of Higher Education	Another term for “campus.”
Interim Measures	<p>Temporary actions taken by the campus to foster a safer and more stable environment during a period of ongoing exploration of options, investigation and/or adjudication, after an allegation of gender-based violence. Interim measures, sometimes called protective measures, may be requested by either of the parties or imposed by the campus on its own initiative. Under Title IX, when a complainant requests interim measures, a campus must assess and implement the request. Interim measures may be imposed regardless of whether formal disciplinary action is sought by the reporting party or the campus. Interim measures in and of themselves are not a resolution to a report of gender-based violence. Some interim measures include changing housing, addressing academic concerns, assisting with access to civil and criminal justice assistance, and providing financial aid guidance. Potential measures, which may be applied include:</p> <ul style="list-style-type: none"> • Access to counseling services, both on and off campus. • Providing medical services. • Imposition of a campus no contact or trespass order. • Security assistance. • Transportation assistance. • Academic accommodations. • Providing academic support services, such as tutoring. • Change in work schedule or job assignment. • Residence modifications assistance. • Immigration assistance. • Limit an individual or organization’s access to certain campus facilities or activities pending resolution of the matter. • Voluntary leave of absence. • Interim suspension or campus-imposed leave. • Any other remedy that can be tailored to the involved individuals.
Intimate Partners	Intimate partners include current and former spouses and dating partners. Intimate partners include same-sex and opposite-sex relationships. Classification as an intimate partner relationship does not require the presence of sexual activity at any point before, during, or after the relationship.
Intimate Partner Violence	A pattern of assaultive and coercive behaviors, including physical, sexual and psychological attacks, as well as economic coercion, that adults or adolescents use against their intimate partners. IPV includes wide-ranging coercive behaviors, some physically injurious, all psychologically damaging. IPV can occur in any relationship, regardless of sexual orientation and/or gender identity. Some behaviors are chargeable as crimes in most states (e.g., physical assault, sexual assault, menacing, arson, kidnapping, harassment), while other battering episodes are not illegal (e.g., name-calling, interrogating children, denying access to the family automobile, control of financial resources). While intervening professionals may try to make sense of one specific incident that resulted in an injury, the complainant is typically dealing with that incident in the context of a pattern of both obvious and subtle coercion. IPV also includes acts that may represent first-time perpetration and/or victimization. IPV is another term for “domestic violence” or “dating violence” that is often considered more inclusive of LGBTQI+ relationships.

Investigation	<p>The process a campus uses to resolve complaints about gender-based violence. This includes the fact-finding investigation and any hearing and decision-making process used to determine: (1) whether it is more likely than not (preponderance of the evidence) that the conduct occurred; and, if so, (2) what actions the campus will take to end the gender-based violence, eliminate the hostile environment, and prevent its recurrence, which may include imposing sanctions on the respondent and providing remedies for the complainant and broader student population. An investigation by a campus is different than one conducted by law enforcement.</p> <p>The specific steps in a campus Title IX investigation will vary depending on the nature of the allegation, the age of the student or students involved, the size and administrative structure of the school, state or local legal requirements (including mandatory reporting requirements for campuses working with minors), and what it has learned from past experiences. In all cases, a campus Title IX investigation must be adequate, reliable, impartial, and prompt, and include the opportunity for both parties to present witnesses and other evidence.</p>
Limited English Proficiency	<p>Someone who is referred to as Limited English Proficiency (LEP), is an individual who does not speak English as their primary language, and who has a limited ability to read, speak, write, or understand English. These individuals may be entitled to language assistance with respect to a particular type of service, benefit, or encounter.</p>
Linguistically and Culturally-Relevant Services	<p>Services that offer full linguistic access and culturally-specific services and resources, including outreach, collaboration, and support mechanisms primarily directed toward underserved and marginalized communities.</p>
Mandatory Reporter	<p>Ohio law mandates certain specified professionals report (or cause a report to be made) whenever physical, sexual or other types of abuse have been observed or are suspected, or when there is evidence of neglect, knowledge of an incident, or an imminent risk of serious harm. These professionals tend to be physicians, counselors, social workers, and other professionals who have contact with children or vulnerable adults, and includes persons employed by a campus when minors are involved. See O.R.C. §2151.421 Other federal laws also have reporting requirements in place, and those definitions are listed under “Responsible Employee” and “Campus Security Authority.”</p> <p>O.R.C. § 2921.22 requires that healthcare providers handle reports of domestic violence by documenting them in the patient’s chart or medical record. If a victim presents with felony-level injuries, such as gunshot wounds, stabbings, third degree burns, or other life threatening or serious injuries, healthcare workers providing aid to these victims are required to report these injuries to law enforcement. Victims are not required to discuss their victimization with law enforcement when responding to a report from healthcare workers. In addition, healthcare workers are not required to disclose identifiable victim information of adult rape victims who do not want to report. See O.R.C. § 2921.22(G) Failure to report a crime or knowledge of a death or burn injury and exceptions to when reporting is not required.</p> <p>Ohio’s mandatory reporting laws are separate from Title IX’s Responsible Employee reporting obligations (see Responsible Employee definition below).</p>
Memorandum of Understanding	<p>A written agreement that outlines mutually-accepted expectations between two or more people or organizations as they work together toward a common objective. MOU’s also provide a mutually beneficial framework that partners can use to achieve shared goals.</p>

No Contact Order	<p>Some campuses issue no contact orders (NCO or no contact directives) as a protective measure for complainants. A NCO should be issued in collaboration and consultation with the complainant. Therefore, it should not be issued automatically and without consideration for the complainant’s wishes regarding safety and confidentiality, especially in incidents of intimate partner violence where its issuance may increase lethality.</p> <p>A no contact order prohibits the respondent from contacting the complainant. It can be issued based on good cause as an interim measure (before an investigation is started or anytime through the investigation or hearing process), or as part of a sanction. The NCO should be issued in writing and signed by the respondent. It can remain in effect as long as the respondent is a student at the institution. A comprehensive NCO should state that the respondent is prohibited from contacting the complainant in person, by phone (including text messages, voicemail, and through apps), via third party, in any form of written communication, or by any electronic or internet-based communication.</p> <p>A NCO should state that any violation will result in formal disciplinary action investigation and hearing. Because every campus varies widely in size, culture, and structure, and consequently may be nearly impossible to eliminate the possibility of incidental contact, it is important that the enforcing administrators understand the difference between incidental and intentional contact and explain these differences, both verbally and in writing, to the involved parties. A NCO is not the same as a CPO, see the definition for a civil protection order listed above for more information about that safety tool.</p>
Notification	<p>After a Title IX complaint has been filed, campuses are required to notify both the complainant and respondent with written updates. These notifications should include, but are not limited to, the commencement and conclusion of an investigation, the administrative resolution, the adjudication and/or sanctioning outcome, any right to appeal, and the conclusion of any appeal.</p>
Office for Civil Rights	<p>The enforcement agency for Title IX. The U.S. Department of Education, Office for Civil Rights (OCR), evaluates, investigates, and resolves complaints alleging sex discrimination. OCR also conducts proactive investigations, called compliance reviews, to examine potential systemic violations based on sources of information other than complaints. In addition to its enforcement activities, OCR provides technical assistance, information, and guidance to schools, universities and other agencies seeking voluntary compliance with federal education laws.</p>
Office on Violence Against Women	<p>Created in 1995, the Office on Violence Against Women (OVW) administers financial and technical assistance to communities across the country that are developing programs, policies, and practices aimed at ending domestic violence, dating violence, sexual assault, and stalking. Currently, OVW administers four formula-based and 20 discretionary grant programs, established under VAWA and subsequent legislation.</p>
Ohio Alliance to End Sexual Violence	<p>As Ohio’s federally recognized statewide sexual assault coalition, the Ohio Alliance to End Sexual Violence (OAESV) advocates for comprehensive responses and rape crisis services for survivors and empowers communities to prevent sexual violence. Its objectives are to: end isolation of survivors and agencies working on their behalf; improve services and responses to survivors and all those impacted by sexual violence; increase public awareness about sexual violence; inform and shape public policy; and end sexual violence.</p>
Ohio Domestic Violence Network	<p>As Ohio’s federally recognized statewide domestic violence coalition, the Ohio Domestic Violence Network (ODVN) advances the principles that all people have the right to an oppression and violence free life; fosters changes in our economic, social and political systems; and brings leadership, expertise and best practices to community programs. ODVN maintains a commitment to the empowerment of battered women and children as well as to the elimination of personal, institutional and cultural violence.</p>
Perpetrator	<p>Another term for “batterer”, “abuser”, “stalker”, or “rapist.” It is recommended that Ohio campuses use the term “respondent.”</p>

Personally Identifying Information	<p>Information, for or about a complainant, that, if shared, would most likely identify that complainant. This could be a single piece of information or a set of facts about that person. Some examples are:</p> <ol style="list-style-type: none"> 1. a first and last name; 2. a home or other physical address; 3. contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number); 4. a social security number; and 5. any other information, including date of birth, racial or ethnic background, or religious affiliation, that, in combination with any of subparagraphs (A) through (D), would serve to identify any individual.
Post Separation Violence	<p>Tactics of coercive control used to retain power and control over the survivor when the survivor is seeking to end or after the survivor has ended the intimate partner relationship. Separation is one of the most dangerous times for survivors of intimate partner violence, and many survivors report an escalation in coercive control when attempting to end the relationship. This type of violence often involves engaging systems to actively work against the survivor. Post separation violence can take many forms, including physical or sexual assault against the survivor, threats of abuse or violence, stalking, harassment, and threats or actual harm related to children.</p>
Preponderance of Evidence	<p>The appropriate standard for determining if there is sufficient evidence to support a finding of a campus policy violation. The amount of evidence that rises to the level of preponderance cannot be reduced to a simple formula. It has been described as just enough evidence to make it more likely than not that the fact(s) the claimant seeks to prove are true.</p>
Prevention	<p>A wide range of activities aimed at reducing risks or threats to health. There are three categories of prevention: primary, secondary and tertiary. Primary prevention aims to prevent disease or injury before it ever occurs. Secondary prevention aims to reduce the impact of a disease or injury that has already occurred. Tertiary prevention aims to soften the impact of an ongoing illness or injury that has lasting effects.</p>
Privacy	<p>The right of the individual to determine when, how, and to what extent he or she will release personal information. This right has developed into a liberty of personal autonomy protected by the 14th amendment of the United States Constitution. The 1st, 4th, and 5th Amendments also provide some protection of privacy, although in all cases the right is narrowly defined. It is best practice for a campus to limit information sharing and take other steps to protect the privacy of the complainant during the entire investigation and disciplinary process.</p>
Privilege	<p>Also known as a privileged communication, privilege is a legal term describing certain specific types of relationships that enjoy protection from disclosure in legal proceedings. Privilege is granted by law and belongs to the client in the relationship. It can either be absolute or qualified, each affording a different level of protection. Privileged relationships vary by state law. If a survivor discloses to someone with privilege, that person does not have a legal duty to report it to the Title IX Coordinator or to law enforcement, unless other mandated reporting requirements apply, typically involving minors or the disclosure of an imminent risk to self or others.</p>
Protocol	<p>A written document that outlines the expected conduct and behaviors of the larger campus community and the steps and measures the campus will take when those expectations are not met.</p>
Rape	<p>Although the legal definition of rape varies from state to state, rape is generally defined as forced or non-consensual sexual contact.</p>
Release of Information	<p>A form signed by a survivor/student that gives permission to an entity or agency to release certain personal information or documentation about that survivor. A release is only valid under VAWA, if it meets certain requirements, including that it must be signed, dated, time-limited, and specific as to the information to be released and for what purposes. Survivors must not be coerced or mandated to sign a release, and they should have the ability to revoke the release at any time.</p>

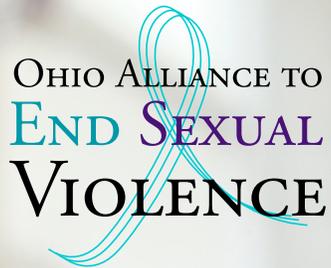
Reporting	When a survivor of gender-based violence tells an individual or entity about the violence because the survivor either wants the campus to initiate some type of grievance or disciplinary response or desires an off-campus criminal justice response.
Respondent	Anyone accused of violating a campus's code of conduct.
Responsible Employee	Title IX requires that campuses appoint and identify employees who have a duty to report gender-based violence to the Title IX Coordinator or other appropriate campus designee. Campuses are required by OCR to make clear to all employees and students which staff members are responsible employees, so students can make informed decisions about whom to confide in, and so that those designated understand their reporting obligations. Additionally, responsible employees must explain to the survivor (1) their particular obligation to report any information the student reveals to the Title IX Coordinator (2) the student's option to ask that the campus consider maintaining their confidentiality, but that the campus may not be able to guarantee confidentiality, and (3) the student's option to instead share this information with counseling, advocacy, health, mental health or other sexual assault-related resources who are not obligated to report it to the Title IX Coordinator.
Risk Assessment	Also known as a lethality assessment, it is a tool used to identify the amount of potential danger a victim may face. Risk assessments should be administered by a trained professional or advocate. They are complex instruments and should not be considered foolproof. Additionally, an individual's risk may change over time.
Safety	Condition of being safe; freedom from danger or hazard.
Safety Planning	A process during which survivors explore and evaluate strategies to increase their own safety and the safety of their loved ones, including children and pets. Safety planning includes considerations for various situations that may elicit safety concerns. The philosophy is to have decisions made in advance and safety strategies practiced, so if an emergency arises, there are concrete plans in place to achieve, eliminate, or manage a safety threat. This is something that survivors can benefit from doing with an advocate or another trained supportive individual.
Sanction	An accountability measure used by campuses when the conduct of a faculty, staff member, administrator or student has violated the policies and procedures that promote a positive learning environment. While an act of gender-based violence can never be "undone," there may be situations in which one or a multitude of sanctions or remedies can include some restoration of harm caused. For respondents, this can include transcript notifications, suspension or expulsion. For those working on the campus, it could include graduated sanctions up to discharge. Additional sanctions could include educational programming or alcohol/substance assessment, reassignment of work duties or location, reassignment of class meetings, reassignment of or removal from living accommodations, restrictions on contact with complainant, access restrictions to campus property and/or events, disciplinary probation, and suspension or expulsion. Guests and other persons alleged to have engaged in gender-based violence can be subject to corrective action, which may include removal from campus, ban from campus, and/or termination of contractual arrangements. Vendors or other agencies in contract with the campus should be promptly notified if any of their employees are alleged to have violated policy. Such employees may be banned from any or all campus properties, and may also be subject to action deemed appropriate by their respective employer. Restrictions regarding access to campus property or events may also be imposed.
Sexual Harassment	A form of sex discrimination prohibited in education settings by Title IX and Title IV. An "unwelcome conduct of a sexual nature" that may include "unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature." Sexual harassment also encompasses nonsexual conduct, provided the behavior is unwelcome, is based on sex or sexual stereotyping, and has the effect of interfering with a student's ability to participate in or benefit from a school program, such as participation in athletics
Sexual Violence	An umbrella term covering a wide range of [sexual] actions taken against a person without the person's consent, against the person's will, or under force, threat of force or coercion. Sexual violence is a broad term that describes perpetration by individuals known and unknown to the victim, and includes a wide range of unwanted sexual actions, including rape. Legally, consent cannot be given if the person is substantially impaired (refer to the definition of "consent" in this glossary). For Ohio definitions, see O.R.C. §2907

Stakeholders	Individuals and organizations that are actively involved in a project/initiative, or whose interests may be affected as a result of project execution or project completion. Stakeholders can also exert influence over the project’s objectives and outcomes.
Stalking	<p>The exact definition varies by state (see below for Ohio), but in general, stalking is a pattern of repeated, unwanted attention, harassment, or contact which reasonably alarms, torments, or terrorizes the person being stalked. Stalking can occur through unwanted contact through electronic and telephonic methods (phone calls, text messages, e-mails, social media, etc.), unwanted presence at locations without legitimate purposes, spreading rumors about the complainant on the internet, vandalism, posting messages, and/or threatening physical harm to or against the victim.</p> <p>In Ohio, refer to O.R.C. §2903.211 Menacing by stalking, which states that “no person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or cause mental distress to the other person. [T]he other person’s belief or mental distress may be based on words or conduct of the offender that are directed at or identify a corporation, association, or other organization that employs the other person or to which the other person belongs.”</p>
Student Conduct Hearing	See “Disciplinary Hearing.”
Survivor	Someone who has experienced any form of sexual violence, intimate partner violence, sexual harassment, or stalking. Though the word “victim” is often consistent with legal and legislative language, it is recommended that campuses use the word “survivor.”
Temporary Protection Order	A temporary protection order (TPO) may be ordered in a criminal domestic violence-related case. It terminates when the criminal case is over. See O.R.C. §2919.26
Timely Warnings	Campuses must give a timely warning when a Clery Act crime occurs on Clery geography and represents a serious or continuing threat to the safety of students or employees. Timely warnings are triggered as soon as the pertinent information becomes available. Each report must be evaluated to determine if a timely warning should be issued. Because the nature of criminal threats often is not limited to a single location, timely warnings must be issued in a manner likely to reach the entire campus community. Disclosure within privileged relationships of the occurrence of a Clery Act crime is exempt from the timely warning requirements. It is generally expected that timely warnings will contain more guidance than an emergency notification. Campuses are required to publish their policies regarding timely warnings in their ACR.
Title IX	Title IX of the Education Amendments of 1972 (Title IX), prohibits discrimination on the basis of sex in education programs, activities, and employment. Title IX applies to all campuses that receive federal financial assistance. Title IX states, “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.” Title IX covers students, staff, and faculty. It protects any person from sex-based discrimination, regardless of their real or perceived sex, gender identity, and/or gender expression. Female, male, and gender non-conforming students, faculty, and staff are protected from all forms of sexual discrimination, including sexual harassment, sexual misconduct, and sexual violence and to gender-based harassment.
Title IX Complaint	A document that details the ways in which a student, staff, or faculty member (student for purposes of this Toolkit) who has experienced sexual harassment, sexual battery, sexual assault, or rape, or has faced retaliation for speaking out about sexual assault issues (i.e. a violation of Title IX). The complaint can involve a single case or multiple cases. Complainants can either be named or anonymous, and they can include as much or little detail about their case as they would like. Some campus activists have also included violations of additional laws in their Title IX complaints (e.g., Title VI and Title VII of the Civil Rights Act of 1964, which ban retaliation, and Title II of the Americans with Disabilities Act, which addresses failure to provide adequate mental health accommodations to rape survivors and other mental health-related discrimination).

Transcript Notation	<p>A notation added to a respondent's transcript when he/she has been found responsible for any act of gender-based violence. Some states are now requiring campuses to note on transcripts whether a student was suspended or expelled due to sexual assault allegations.</p> <p>ATIXA's Board of Advisors adopted a position statement in favor of a mandatory transcript notation for any student expelled for such acts and a discretionary transcript notation for any student that was suspended or voluntarily withdrew while allegations of intimate partner violence, stalking, and/or sexual violence were pending. Though Ohio has no such requirement, it is an emerging best practice that campuses may want to review.</p>
Trauma-Informed	<p>An organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma. Trauma-informed responses emphasize physical, psychological and emotional safety, and help survivors rebuild a sense of control and empowerment. When responding to a student who has experienced gender-based violence, trauma-informed practices take into account the existence of trauma and the impact of an investigation process and any informal or formal action that follows.</p>
University	<p>Another term for "campus."</p>
Victim	<p>Another term for "survivor."</p>
Victim/Witness Advocate	<p>Professionals trained to support victims through the criminal justice system. Their role is to link victims to services, explain the processes of the criminal justice system, and if requested, make the survivor's wishes known in the criminal justice proceeding. Victim/witness advocates reach out to the survivor during the investigation and, if applicable, prosecution of the crime. Their role often ends when a criminal case ends. Most work for law enforcement or prosecutors, which can impact confidentiality. For example, the information survivors provide may be shared with the prosecutor. In turn, the prosecutor may be required to release that information to the defense. Victim/witness advocates may work in conjunction with community-based advocates to ensure a survivor has a holistic support system.</p>
Violence Against Women Act	<p>The Violence Against Women Act (VAWA) is the cornerstone of the United States' response to domestic and sexual violence (codified through Title IV, sec. 40001-40703 of the Violent Crime Control and Law Enforcement Act of 1994, H.R. 3355) signed as Pub.L. 103-322. VAWA was passed in 1994, and has been reauthorized many times. It established the Office on Violence Against Women within the Department of Justice, and authorizes money for criminal and civil responses to violent crimes against women.</p>

The logo for the Ohio Department of Higher Education, featuring the word "Ohio" in a bold, red, sans-serif font.

Department of
Higher Education

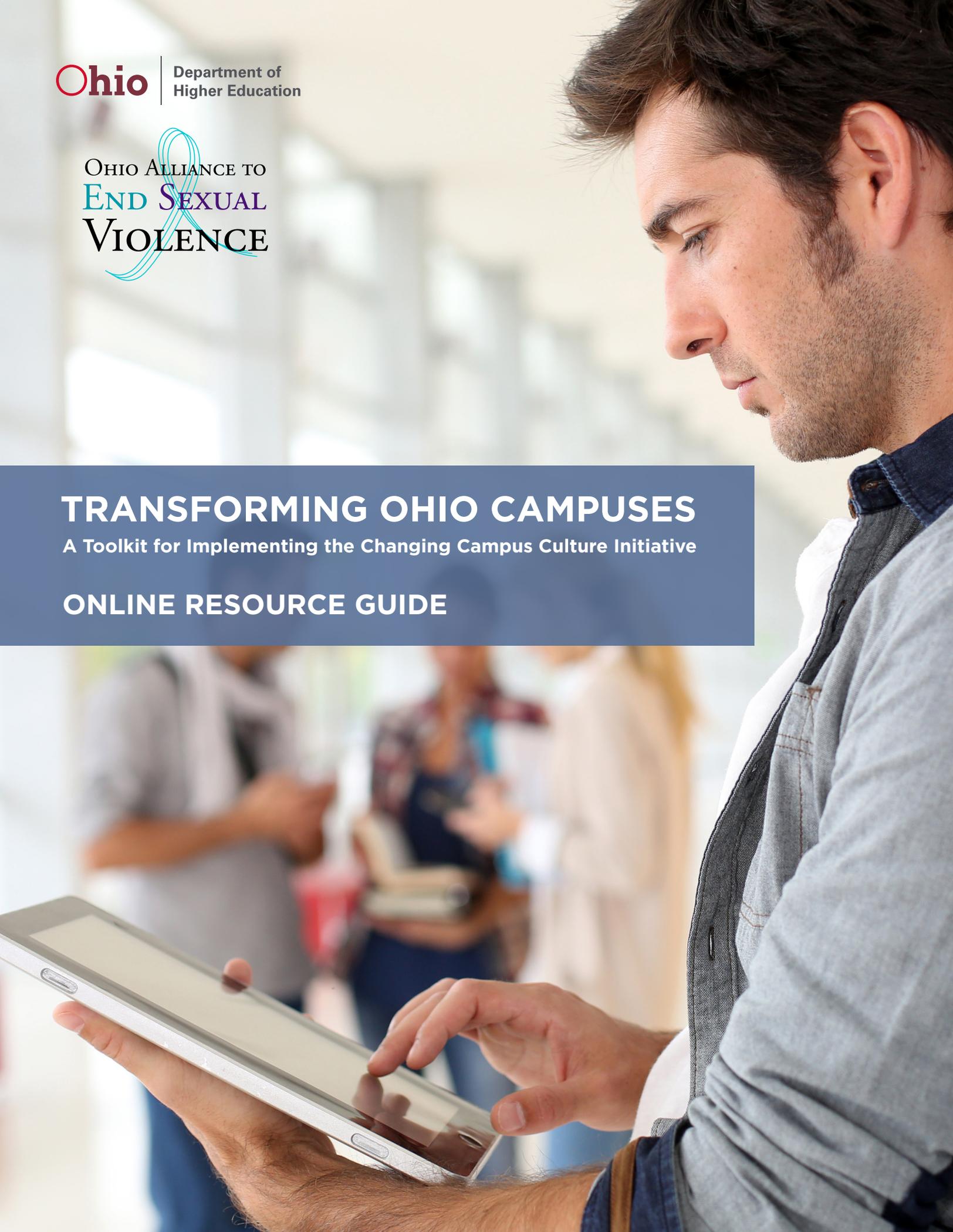
The logo for the Ohio Alliance to End Sexual Violence, featuring a stylized blue and purple ribbon graphic to the left of the text. The text "OHIO ALLIANCE TO" is in a small, black, sans-serif font, "END SEXUAL" is in a larger, bold, blue, sans-serif font, and "VIOLENCE" is in a larger, bold, purple, sans-serif font.

OHIO ALLIANCE TO
END SEXUAL
VIOLENCE

TRANSFORMING OHIO CAMPUSES

A Toolkit for Implementing the Changing Campus Culture Initiative

ONLINE RESOURCE GUIDE



The number of resources developed to assist campuses in enhancing their responses to gender-based violence continues to grow. Campuses are encouraged to seek information about emerging best practices as they become available. This list serves as a starting point and companion for guidance on some of the key points discussed in [Transforming Ohio Campuses: A Toolkit for Implementing the Changing Campus Culture Initiative](#). To facilitate access, only resources that can be retrieved electronically were included on this list.

COMMITMENT

[Campus Sexual Assault Suggested Policies and Procedures](#)

American Association of University Professors, Committee on Women in the Academic Profession (Adopted November 2012).

[The First Report of the White House Task Force to Protect Students From Sexual Assault](#)

White House Task Force to Protect Students From Sexual Assault. (April 2014).

COMPLIANCE

Clery

Authority & Enforcement

[The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act](#)

20 U.S.C. § 1092(f) (1990), with implementing regulations in the [Federal Registrar](#) 34 C.F.R. 668.46.

[The Campus Sexual Violence Elimination \(SaVE\) Act](#)

The Campus SaVE Act is Section 304 of the reauthorized Violence Against Women Act (March 19, 2013) (it is a 2013 amendment to the Clery Act that will help bolster the response to and prevention of sexual violence in higher education by expanding attention to stalking, and intimate partner violence). [Federal Registrar](#) (regulations under the Campus SaVE Act, 34 CFR Part 668, Vol. 79, No. 202 (October 20, 2014).

[The Campus SaVE Act: A Compliance Guide](#)

Risk Research Bulletin, United Educators Insurance, a Reciprocal Risk Retention Group (2014).

[U.S. Department of Education](#)

Responsible for enforcing the Clery Act.

Guidance

[The Handbook for Campus Safety and Security Reporting](#)

U.S. Department of Education, Office of Postsecondary Education (2016 Edition).

[Properly Classifying Geographic Locations for Clery Act Annual Security Report Purposes](#)

Joseph Storch, Associate Counsel Office of General Counsel State University of New York, (Updated May 2013).

Title IX

Authority & Enforcement

[Title IX](#) of the Education Amendments of 1972 20 U.S.C. §1681 et seq.

[Office for Civil Rights](#)

Under the U.S. Department of Education, OCR enforces several Federal civil rights laws that prohibit discrimination in programs or activities that receive federal financial assistance from the Department of Education, including Title IX.

Guidance

Dear Colleague Letter on Title IX Coordinators
U.S. Department of Education, Office for Civil Rights (April 25, 2015).

Title IX Resource Guide
U.S. Department of Education, Office for Civil Rights (April 2015).

Questions and Answers on Title IX and Sexual Violence
U.S. Department of Education, Office for Civil Rights (April 29, 2014).

Sample Language for Title IX Coordinator's Role in a Sexual Misconduct Policy
The White House Task Force to Protect Students from Sexual Assault (this document serves as a guide that highlights issues for schools to consider when assigning the Title IX coordinator functions and responsibilities related to their response to incidents of sexual misconduct).

The Challenges of Title IX Responses to Campus Relationship and Intimate Partner Violence: The 2015 Whitepaper
Juliette Grimmett, MPH et al., Published by ATIXA (2015).

Dear Colleague Letter: Sexual Violence
U.S. Department of Education, Office for Civil Rights (April 4, 2011).

Effective Implementation of the Institutional Response to Sexual Misconduct Under Title IX and Related Guidance
Gina Maisto & Leslie Marie Gomez, Pepper Hamilton LLP Philadelphia, PA (June 19-22, 2013).

Dear Colleague Letter: Harassment and Bullying
U.S. Department of Education, Office for Civil Rights (October 26, 2010).

Resolution Agreements between campuses and the U.S. Department of Justice
Here are a few examples of Resolution Agreements entered into after investigations. These can be useful as lessons learned documents.

Resolution Agreement, University of Virginia (September 2015).

Resolution Agreement & Letter and Findings, University of Montana – Missoula (May 2013).

Memorandum of Agreement, University of Montana (May 2013).

Voluntary Resolution Agreement, Yale University (June 2012).

Resolution Agreement, Xavier University (July 2012).

Resolution Agreement, University of Notre Dame (July 2011).

Resolution Agreement, Eastern Michigan University (November 2010).

COLLABORATION

Building Partnerships Among Law Enforcement Agencies, Colleges and Universities

Developing a Memorandum of Understanding to Prevent and Respond Effectively to Sexual Assaults at Colleges and Universities, The White House Task Force to Protect Students from Sexual Assault (this document provides sample language for schools to improve communication and coordination with law enforcement in order to improve sexual assault response efforts).

Building Partnerships with Local Rape Crisis Centers: Developing a Memorandum of Understanding

The White House Task Force to Protect Students from Sexual Assault (this document provides sample language for schools to develop or strengthen partnerships with community-based organizations that provide victim services and advocacy).

Common Challenges in Clery Act Compliance

Clery Center Webinar, (December 10, 2015) (Clery Act compliance requires collaboration and coordination among many departments within higher education, but sometimes that is easier said than done. Webinar highlights common Clery Act compliance challenges and possible solutions).

SART Toolkit: Resources for Sexual Assault Response Teams

(website) (a resource both for communities considering a SART response and communities that already have a coordinated response but want to make it better).

Community Partnership Tool Kit

W.K. Kellogg Foundation, (on-line tool for building and maintaining partnerships to strengthen communities).

Community Tool Box

Hosted by the University of Kansas, the tool box is a free, online resource for those working to build healthier communities and bring about social change. It offers thousands of pages of tips and tools for taking action in communities including collaboration, advocacy, community engagement, and building leadership.

COMPETENCY

The Blueprint for Campus Police: Responding to Sexual Assault

University of Texas at Austin Institute on Domestic Violence & Sexual Assault, School of Social Work. (Feb. 2016).

Key Components of Sexual Assault Crisis Intervention/Victim Service Resources

The White House Task Force to Protect Students from Sexual Assault (this document discusses the existing research on sexual assault crisis intervention and victim services).

Training Responsible Employees

Clery Center and the Victim Rights Law Center (February 10, 2016), (webinar addresses strategies for training responsible employees, including how responsible employees can thoughtfully communicate about their reporting responsibilities before and when responding to a disclosure).

Responsible Employee Training Video

Clery Center for Security on Campus.

Self-Care and Trauma Work

National Sexual Violence Resource Center and National Sexual Assault Coalition Resource Sharing Project (2012).

Data

Campus Safety and Security Data Analysis Cutting Tool

Website, U.S. Department of Education, Office of Postsecondary Education (an analysis cutting tool designed to provide rapid customized reports for public inquiries relating to campus crime and fire data).

Campus Climate Survey Validation Study Final Technical Report

Bureau of Justice Statistics (2015).

Climate Surveys: Useful Tools to Help Colleges and Universities in Their Efforts to Reduce and Prevent Sexual Assault Not Alone Toolkit (April 2014) (provides methods for developing and conducting an effective survey and contains a set of evidence-based sample questions to help schools identify the complex dimensions of the problem).

Trauma-Informed

Creating Trauma-Informed Services: A Guide for Sexual Assault Programs and Their System Partners

Washington Coalition of Sexual Assault Programs (2012) (report downloadable from webpage).

The Neurobiology of Sexual Assault

Rebecca Campbell, PhD, NIJ, Webinar (December 3, 2012).

National Center for Trauma-Informed Care and Alternatives to Seclusion and Restraint (Website).

Building Cultures of Care: A Guide for Sexual Assault Services Programs

The National Sexual Assault Coalition Resource Sharing Project and the National Sexual Violence Resource Center (2013) (this guide provides information to support sexual assault services programs in strengthening their organizational and individual responses to survivors of sexual violence through the use of a trauma-informed approach).

End Violence Against Women International

Trauma Best Practices, List of Resources (website).

Investigation & Disciplinary Process

Dear Colleague Letter: Retaliation

U.S. Department of Education, Office for Civil Rights (April 23, 2013).

Ten Principles for College Student Conduct Officers

Gary Pavela (no date provided).

ATIXA Position Statement in Favor of Notation of Expulsion and Suspension on College and University Transcripts (ratified September 22, 2015).

The Seven Deadly Sins of the Title IX Investigations: The 2016 Whitepaper

Michael Henry, et al., for ATIXA (2016).

Emerging Litigation Regarding Fundamental Fairness of Investigation and Resolution of Sexual Assault Claims by Colleges and Universities

Boyle, Shaughnessy & Campo, P.C. (2014).

Interim Measures & Support for Survivors

.....
[Sample Language for Interim and Supportive Measures to Protect Students Following an Allegation of Sexual Misconduct](#)
The White House Task Force to Protect Students from Sexual Assault (this document provides assistance on how “interim measures” required by Title IX can be incorporated into a college’s sexual misconduct policy and offers sample policy language).

.....
[Where to Start: Drafting, Implementing, and Enforcing No Contact Orders for Sexual Violence Victims on College Campuses](#)
Victim Rights Law Center (2013).

[Pandora’s Project](#)

This organization’s mission is to provide information, facilitate peer support and offer assistance to male and female survivors of sexual violence and their friends and family.

.....
[Widening Our Scope: Meeting The Long-Term Health Care Needs of Survivors](#)
Washington Coalition of Sexual Assault Programs (2009).

.....
[Advocacy Beyond Leaving: Helping Battered Women in Contact With Current or Former Partners, A Guide for Domestic Violence Advocates](#)
Jill Davies, Published by Futures Without Violence (2009).

.....
[Safety Planning with Adult Sexual Assault Survivors: A Guide for Advocates and Attorneys](#)
Victim Rights Law Center (2013).

.....
[Recognize, Respond, Starting Conversations Means Ending Violence](#)
Presented by the Ohio Domestic Violence Network and the Ohio Alliance to End Sexual Violence, Avon Foundation.

Confidentiality

.....
[Dear Colleague Letter: Implementation of the VAWA Final Regulations](#)
U.S. Department of Education, Office for Civil Rights (July 22, 2015).

.....
[Mandatory Reporters: A Policy for Faculty, Trustees and Professional Staff](#)
ATIXA (2015) (this document is intended to outline the College’s policy regarding mandated reporting of concerning behaviors, discrimination, harassment and crimes by employees).

[Subpoena Defense Project](#)

Protecting Privacy to Enhance Safety Pro Bono Project is a partnership between the American Bar Association and Confidentiality Institute. The project is designed to create a corps of attorneys nationwide who are knowledgeable in the area of advocate confidentiality and can provide pro bono assistance to programs to respond to subpoenas when they come in. Ohio campuses should not use this resource in place their general counsel’s advice.

[Safety Net Project](#)

A project of NNEDV that focuses on the intersection of technology and intimate partner abuse and works to address how it impacts the safety, privacy, accessibility, and civil rights of victims. Contains many forms and helpful guides on creating VAWA compliant confidentiality forms and policies.

.....
[VAWA Confidentiality: History, Purpose, DHS Implementation and Violations of VAWA Confidentiality Protections](#)
Leslye E. Orloff, National Immigrant Women’s Advocacy Project.

.....
[Acknowledgement of Notice of Statutory Requirement to Comply with the Confidentiality and Privacy Provisions of the Violence Against Women Act](#)
U.S. Department of Justice, OVW (requirements for OVW grantees).

Culture & Diversity

[Dear Colleague Letter on Transgender Students Notice of Language Assistance](#)
U.S. Department of Education, Office for Civil Rights (May 13, 2016).

[Responding to Transgender Victims of Sexual Assault](#)

FORGE and the Office for Victims of Crime (June 2014) (online toolkit offers practice tools and research to assist health care providers, law enforcement, emergency medical personnel, advocates, therapists, and other responders deliver culturally sensitive, respectful care when working with transgender survivors of sexual violence and their loved ones).

[Making Sexual and Domestic Violence Services Accessible to Individuals with Limited English Proficiency: A Planning Tool for Advocacy Organizations](#)

National Latin@ Network for Healthy Families and Communities, a project of Casa de Esperanza (2015) (toolkit bridges the gap between the laws, rules, and standards of services; and the effort necessary - community assessments, program policy, staff training, etc. - to develop and implement language access services for survivors with limited English proficiency).

[End Abuse of People with Disabilities](#)

The website is managed by the Center on Victimization and Safety at the Vera Institute of Justice as a place to connect with others engaged in this work, to access the latest resources and research from the field, and to advance the thinking around intervention and prevention.

[Sisters of Tamar Support Circle](#)

A faith-based support group for women survivors of sexual abuse developed by Dr. Tyffani Dent. The resource guide and curriculum is available for free by contacting author through website.

Considerations

[Intersection of Title IX and the Clery Act](#)

Char designed to clarify the reporting requirements of Title IX and the Clery Act in cases of sexual violence and to resolve any concerns about apparent conflicts between the two laws. To date, the Department of Education has not identified any specific conflicts between Title IX and the Clery Act.

Model Policies, Checklists & Toolkits for Developing Response Protocols

[ATIXA Gender-Based and Sexual Misconduct Model Policy](#)

NCHERM Group, LLC Partners, Brett A. Sokolow, et al., for ATIXA (2015).

[Model Campus Stalking Policy](#)

National Center for Victims of Crime & CALCASA (February 2011).

[Student Conduct Administration & Title IX: Gold Standard Practices for Resolution of Allegations of Sexual Misconduct on College Campuses](#)

Association for Student Conduct Administration (2014).

[Checklist for Campus Sexual Misconduct Policies](#)

The White House Task Force to Protect Students from Sexual Assault (highlights elements that are particularly important for institutions to consider when drafting sexual misconduct policies as part of their overall response to sexual misconduct).

[Sample Language and Definitions of Prohibited Conduct for a Sexual Misconduct Policy](#)

The White House Task Force to Protect Students from Sexual Assault (a guide with sample language and definitions of key terms for schools to consider when developing its sexual misconduct policy, and definitions for prohibited conduct under that policy).

Informing Students about Campus Policies and Resources: How They Get the Message Matters

Prevention Innovations Research Center, University of New Hampshire (April 2015) (White Paper describes results of a research study on ways to deliver sexual misconduct policy information to first-year college students).

Ending Campus Sexual Assault Tool Kit

American Association of University Women (no date) (online tool includes Take Action: 10 Ways to Fight Sexual Assault, 6 Ways Faculty and Staff Can Fight Sexual Violence on Campus, Take the Pledge to Deliver New Title IX Resources to Your Local Schools, Here's Your Talking-Points Memo on Campus Sexual Assault, and Funding Sources for Sexual Assault Prevention and Awareness Initiatives).

Beyond Title IX: Guidelines for Preventing and Responding to Gender-Based Violence in Higher Education Futures Without Violence (2012).

Protocols cited by state and federal governments as good practice:

Title IX & VAWA, University of Virginia's website provides the university's policies, procedures, and resources.

Membership Organizations

American Association of University Women

The American Association of University Women (AAUW) is the nation's leading voice promoting equity and education for women and girls.

Association of Title IX Administrators

ATIXA provides a professional association for school and college Title IX Coordinators and administrators who are interested in serving their districts and campuses more effectively. ATIXA offers a plethora of template forms and other guidance. As an example, a few include

Sample: Notice of Interview & Investigation; A Sample Skeleton for Completing Investigative Reports; Timeline Compliance Template; Incident Report Form; Investigation Notice Form UMBC; No Contact Directive – Template; Sample Appeals Practices and Template Language Examples Wichita State University; and Sample Hearing Questions – Sexual Assault, Developed by Texas Woman's University.

National Association of College and University Attorneys

NACUA's purpose is to enhance legal assistance to colleges and universities by educating attorneys and administrators as to the nature of campus legal issues.

Organizations & Websites Dedicated to Gender-Based Violence on Campus

Clery Center for Security on Campus

Focused on advocacy, education and collaboration, the organization is dedicated to safe campus communities nationwide.

Not Alone

Dedicated website for campuses and students providing information, tools, and resources for addressing and responding to campus sexual assault NotAlone.gov includes links to non-governmental organizations, websites and resources developed by The White House Task Force to Protect Students from Sexual Assault.

California Coalition Against Sexual Assault Campus Technical Assistance Project

CALCASA is charged with providing technical assistance to campuses developing effective coordinated community response in a concerted effort to prevent and respond to sexual assault, domestic violence, dating violence and stalking.

Center for Changing Our Campus Culture

This comprehensive online clearinghouse is supported by OVW in collaboration with its designated Campus Program Technical Assistance Provider Team. It provides important resources, including promising practice models, for colleges and universities on sexual assault, domestic violence, dating violence, and stalking.

National Center for Campus Public Safety

NCCPS' vision is to have safer and stronger campus communities. It has two primary technical assistance projects, the Campus Public Safety Online and Trauma-Informed Sexual Assault Investigations and Adjudications Training Program, and has a database of campus safety resources.

Know Your IX Empowering Students to Stop Sexual Violence

Know Your IX is a survivor- and youth-led organization that aims to empower students to end sexual and dating violence in their schools. Website offers comprehensive information on Title IX, advocacy, and best practices.

SAFER

SAFER strengthens student-led movements to combat sexual and interpersonal violence in campus communities.

NCHERM Group, LLC

A law and consulting firm that offers systems-levels solutions for safer schools and campuses. A repository for models that will enhance and advance campus risk management and preventive law efforts.

National Organizations & Resources Specializing in Gender-Based Violence

The National Organization of Sisters of Color Ending Sexual Assault

SCESA was established for Women of Color across the country engaged in the Anti-Sexual Assault Movement.

National Network to End Domestic Violence

As a membership and advocacy organization of state domestic violence coalitions, allied organizations and supportive individuals, NNEDV is the leading voice for domestic violence victims and their advocates.

National Sexual Violence Resource Center

NSVRC's mission is to provide leadership in preventing and responding to sexual violence through collaboration, sharing and creating resources, and promoting research.

Stalking Resource Center

SRC's mission is to enhance the ability of professionals, organizations, and systems to effectively respond to stalking.

National Alliance to End Sexual Violence

NAESV educates the policy community about federal laws, legislation and appropriations impacting the fight to end sexual violence.

Rape, Abuse & Incest National Network

RAINN is the nation's largest anti-sexual violence organization. RAINN created and operated the National Sexual Assault Hotline in partnership with more than 1,100 local rape crisis centers across the country and operates the DoD Safe Helpline for the Department of Defense.

National Online Resource Center on Violence Against Women

VAWnet is a comprehensive and easily accessible online collection of full-text, searchable materials and resources on domestic violence, sexual violence and related issues, with particular attention to its intersections with various forms of oppression.

Office on Violence Against Women

As a component of the U.S. Department of Justice, OVW provides federal leadership in developing the national capacity to reduce violence against women and administer justice for and strengthen services to victims of domestic violence, dating violence, sexual assault, and stalking.

Ohio Specific Resources

Changing Campus Culture Initiative

(website) background, resources, and other information about the Ohio Department of Higher Education's Initiative including the Changing Campus Culture Report: Preventing and Responding to Sexual Violence (October 2015)

A Safer Campus: A Guidebook on Prevention and Response to Sexual & Intimate Partner Violence & Stalking for Ohio Campuses, 2nd Edition, Sarah Osmer, JD (editor), in collaboration with OAESV, ODH and ODVN (2016).

Ohio Attorney General's Office

The Ohio AG Office has sharpened its focus on work that protects Ohio's families and children. Among a wide range of initiatives, it has stepped up assistance to and resources for law enforcement, strengthened efforts to solve crimes against children, and introduced measures to catch and prosecute those responsible for consumer scams. It offers funding opportunities the State Victims Assistance Act (SVAA) and the federal Victims of Crime Act (VOCA) grant programs; victim compensation and notification; and up-to-date training for first responders to gender-based violence.

Recommendations for Crafting a Memorandum of understanding Between Critical Partners Responding to Reports of Campus Sexual Assault
Ohio Attorney General.

Self-Help Legal Manual for Survivors of Domestic Violence, Sexual Violence and Stalking
Ohio Domestic Violence Network (2013).

Ohio Revised Code

Searchable, online database, of Ohio's statutes. The website also has a link to Ohio's Administrative Code which is searchable as well.

Ohio Alliance to End Sexual Violence

As Ohio's statewide coalition, OAESV advocates for comprehensive responses and rape crisis services for survivors and empowers communities to prevent sexual violence.

Buckeye Region Anti-Violence Organization

BRAVO provides comprehensive individual and community programs for survivor advocacy and support to LGBTQI survivors of hate and bias violence, discrimination, intimate partner violence, stalking, and/or sexual assault.

Ohio Domestic Violence Network

ODVN's purpose is to support and strengthen Ohio's response to domestic violence through training, public awareness and technical assistance and to promote social change through the implementation of public policy.

