

Changing Campus Culture: Preventing and Responding to Sexual Violence

October 2015



EXECUTIVE SUMMARY

This report provides recommendations for changing the culture on Ohio's campuses, public and private, with regard to preventing and responding to sexual violence. The recommendations, developed with feedback from key stakeholders, are built on two essential premises:

- 1. A single act of sexual violence is one too many.** Despite the work colleges and universities have done to prevent their occurrence, in 2013 over 100 sexual assaults were reported on Ohio's public campuses.¹ Because of the tendency to underreport this type of crime, the number of actual assaults is likely higher.
- 2. Many survivors of sexual violence do not have faith in institutional processes, nor do they have a survivor-centered support system available to them.** A number of national studies have revealed inconsistencies in how campuses investigate and respond to campus sexual violence. An overview of Ohio institutions by the Ohio Department of Higher Education (ODHE) shows wide variances in campus policies and support systems.

Changing campus culture is a complex and challenging undertaking, but studies have shown it is critical. Stand-alone sessions for students are not effective, but comprehensive, coordinated initiatives are.² This report calls for campuses to embrace five strategies aimed at preventing and responding to sexual violence:

- 1. Use data to guide action.** Specifically, campuses are asked to administer an annual campus climate survey to inform prevention and response strategies and to track trends over time.
- 2. Empower staff, faculty, campus law enforcement and students to prevent and respond to sexual violence through evidence-based training.** Using feedback from the campus climate survey and/or other data sources to help select the most appropriate program, campuses should implement a comprehensive training program for their institution. Programs focused on bystander intervention are particularly encouraged.
- 3. Communicate a culture of shared respect and responsibility.** Campuses should utilize a widespread awareness and communication campaign in synergy with trainings and other initiatives to help shift culture.
- 4. Develop a comprehensive response protocol.** Campuses are encouraged to engage a variety of stakeholders in developing and adopting a comprehensive protocol to address sexual violence on campus. This comprehensive protocol will be both survivor-centered and respect the rights of the accused.
- 5. Adopt a survivor-centered response.** By developing a response centered on survivors' needs, such as providing confidential advisors, campuses can strengthen student trust in campus systems and processes.

These strategies will further a cohesive approach across all of our campuses to end sexual violence.

The tone of campus culture starts with leadership acting to ensure a safe and welcoming environment. Campus presidents must encourage faculty, staff and students to stand up and speak out against campus sexual violence. Leveraging the unique strengths of each of Ohio's colleges and universities, and coordinating efforts across campuses, allows us to share best practices and resources and to create new opportunities that will better protect all of Ohio's college students. This report serves as a launching point for this important work.

1 The Campus Safety And Security Data Analysis Cutting Tool. Office of Postsecondary Education, *U.S. Department of Education*. <http://ope.ed.gov/security/>.

2 "Preventing Sexual Violence on College Campuses: Lessons from Research and Practice." *Centers for Disease Control and Prevention*, 2014. Accessed from notalone.gov.

Thank you to the many stakeholders who provided guidance and insight while drafting and reviewing these recommendations. Their feedback and knowledge have been invaluable.

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INTRODUCTION

Current research on campus sexual violence shows:

The likelihood of experiencing sexual violence is particularly high in college.^{3,4} National research indicates that during their time in college, one in five women is sexually assaulted.⁵

Sexual violence is underreported. Most statistics include only cases reported to police or other authorities, and therefore may severely underestimate the incidence of sexual victimization.⁶

While victims of sexual violence are more commonly women, anyone can experience sexual violence. According to the Campus Sexual Assault (CSA) Study, 6.1 percent of college males were victims of attempted or completed sexual assault.⁷

Sexual assault has wide-ranging costs: survivors are far more likely to leave school⁸, face both immediate and chronic psychological consequences, and incur a number of short-term physical consequences such as sexually transmitted infections.⁹

To support a safer campus environment for all of Ohio's students, Governor John R. Kasich and the Ohio Department of Higher Education (ODHE) encourage our university leaders to implement the recommendations in this document. Immediate and thoughtful action can help prevent the occurrence of terrible crimes, reduce secondary trauma by promoting trauma-informed response when violations do occur, promote healthy relationships and ultimately support every university's aim to provide an excellent and safe learning environment for students.

Based on federal law and guidelines, research and the ODHE and Campus Safety Task Force document *A Safer Campus Guidebook*, the following five recommendations seek to prevent and respond to sexual violence on Ohio's campuses. In this document, the term campus sexual violence is used broadly to encompass non-consent crimes such as sexual and intimate partner violence and stalking. (For more information on Ohio's legal definitions of these crimes and related key terms, please refer to *A Safer Campus Guidebook*, available at ohiohighered.org.) These recommendations focus on developing, selecting, and implementing best practices that have the highest chance of successfully changing a culture of sexual violence, and will also create uniform minimum standards across Ohio campuses. They build on the strength of work done to date across all our campuses and are intended to work together comprehensively to address prevention and response.

This document recognizes Ohio's colleges and universities are unique, with their own demographics, communities and resources. In addition, every school is in a different place on the journey to a safer campus, free of sexual violence. Some campuses may have implemented several or all of these recommendations already. Our goal is that 100 percent of Ohio's campuses will have 100 percent of these recommendations in place by the start of the 2016-2017 academic year.

3 Bonnie S. Fisher, Christopher P. Krebs, Christine H. Lindquist, Sandra L. Martin, Tara D. Warner. "The Campus Sexual Assault (CSA) Study." *National Institute of Justice*, 2007. <https://www.ncjrs.gov/pdffiles1/nij/grants/221153.pdf>.

4 "National Research on Sexual Violence: A Look to the Future." *National Sexual Violence Resource Center*, 2011.

5 "Not Alone." The White House Task Force to Protect Students from Sexual Assault. April 2014.

6 Kristina Mastropasqua. "Sexual Assault and Rape on U.S. College Campuses." *Journalist's Resource*, 2014.

7 See number 3.

8 Connie J. Kirkland. "Academic Impact of Sexual Assault." Fairfax, VA: George Mason University, 1994.

9 Centers for Disease Control and Prevention. "Sexual Violence: Consequences." <http://www.cdc.gov/violenceprevention/sexualviolence/consequences.html>. Accessed September 2015.

RECOMMENDATIONS

Recommendation #1: Use data to guide action.

Objective: By the start of the 2016-2017 academic year, 100 percent of Ohio's campuses will have developed and implemented an annual campus climate survey and defined next steps based on results.

Rationale: Many colleges and universities are working to address sexual violence, but they often lack assessment tools to understand the student perspective. This hampers efforts to identify gaps and implement the most effective strategies to curtail sexual violence. A lack of assessment tools also makes it difficult to determine whether strategies are working. Climate surveys fill this gap and are strongly supported by the U.S. Department of Education as an important tool in curtailing campus sexual violence.¹⁰ Baseline assessments will establish priorities and provide a tool to gauge success. Additionally, survey results will allow for a state-level review of programs and processes in place at Ohio institutions. In addition to the climate survey, ODHE encourages campuses to measure effectiveness of all programs aimed at reducing campus sexual violence. ODHE is aware of pending federal legislation, and will revise or update strategy as needed to ensure alignment (and avoid duplication) with federal requirements.

Resources to help achieve Recommendation #1

- The Ohio Department of Higher Education will disseminate a common climate survey to private and public colleges throughout Ohio and provide technical support as needed. Campuses may implement their own surveys, but surveys must include questions that collect common data points requested by ODHE.
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Recommendation #2: Empower staff, faculty, campus law enforcement and students to prevent and respond to sexual violence through evidence-based training.

Objective: By the start of the 2016-2017 academic year, staff, faculty, students and law enforcement will receive training relevant to the most urgent issues identified in the campus climate survey, readiness assessment tool, or other forms of feedback (i.e. focus groups).

Rationale: Campuses should adopt and implement a comprehensive training program that addresses multiple stakeholders using feedback gained from the campus climate survey or other sources. There are a number of national programs with demonstrated success in reducing sexual violence on college campuses. Prevention strategies consistent with best practices, such as being theory-based and including multiple skill-based sessions, have the greatest potential in reducing rates of sexual violence.¹¹

Below are recommended types of training often included as part of a comprehensive program. There are other types of training that may be useful to implement. Institutions may wish to partner with community-based programs and rape crisis centers to bring these programs to campus:

Bystander Training: Bystander training encourages people to intervene if they think they are witnessing sexual violence or behavior that may lead to sexual violence. According to [Notalone.gov](http://www.notalone.gov), the common components of bystander training are raising awareness, building a sense of responsibility, discussing norms, weighing the pros and cons of speaking up, and building skills and confidence. *Bringing in the Bystander* is a popular program that provides a

¹⁰ Catherine E. Lhamon. Dear Colleague Letter. U.S. Department of Education, Office of Civil Rights. 24 Apr 2015. <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201504-title-ix-coordinators.pdf>.

¹¹ "Bystander-Focused Prevention of Sexual Violence." Not Alone: Together Against Sexual Assault is an official website of the United States Government and the White House Task Force to Protect Students from Sexual Assault. <https://www.notalone.gov/assets/bystander-summary.pdf>.

training opportunity for people throughout the campus community (including students, staff and police) who are then empowered to peer-train others on campus.

Self-Protection: A study published in the *New England Journal of Medicine* assessed a training program using clinical drug trial standards and found promising results: college women who received 12 hours of training focused on assessing risk, self-defense and defining personal sexual boundaries were 46 percent less likely to be raped.¹² Because the perpetrator is most often someone known to the victim, the training incorporated strategies students would feel comfortable employing in a variety of social contexts. While the onus of preventing sexual violence should not be on potential victims, this is a proven practice that can be used to complement other efforts.¹³

Trauma-Informed Training: Sexual assault survivors, traumatized by the events that have occurred, often struggle with guilt and suffer memory issues. Because of the trauma, they may not always act in ways responders expect. Trauma-informed training for campus responders, such as Title IX coordinators, investigators, and police, ensures responders act in ways that build survivor trust and make it easier to document the criminal act that occurred. The Justice Department currently is piloting trauma-informed programs for a wide range of campus stakeholders. Online modules can be found at evawintl.org/onlinetraining.aspx.

Resources to help achieve Recommendation #2:

- The results of the campus climate survey and insight of the campus Title IX coordinator should provide direction as to which program(s) is/are best suited for a particular campus.
 - For self-protection course selection, the National Coalition Against Sexual Assault Self-Defense AD-HOC Committee issued *Guidelines for Choosing a Self-Defense Course* at bpscom.com/selfdefense.html.
 - Culture of Respect has a chart comparing training programs. To be included in the chart, programs must be evidence-based, utilize innovative strategies for violence prevention and be available for use by colleges and universities across the country. Links for each program provide more detailed information, including costs and contact information: cultureofrespect.org/colleges-universities/programs/.
 - For more information on the purpose and use of a campus readiness assessment, see the Pennsylvania Coalition Against Rape's manual <http://www.pcar.org/resource/assessing-campus-readiness-prevention>.
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Recommendation #3: Communicate a culture of shared respect and responsibility.

Objective: By the start of the 2016-2017 academic year, every Ohio campus and university will have in place a cohesive communication and/or awareness program aimed at reducing sexual violence on campus.

Rationale: In a recent survey of over 140 strategies for reducing sexual violence, the Centers for Disease Control and Prevention conclusively found that stand-alone, single session educational programs are ineffective.¹⁴ Conversely, "cohesive strategies that include consistent messaging and reinforce consistent [social] standards and norms across multiple levels and contexts are ideal."¹⁵

¹² "Efficacy of a Sexual Assault Resistance Program for University Women." *New England Journal of Medicine*, 11 June 2015. <http://www.nejm.org/doi/full/10.1056/NEJMsa1411131>.

¹³ Jan Hoffman. "College Rape Prevention Program Proves a Rare Success." *The New York Times*. 10 June 2015.

¹⁴ "Preventing Sexual Violence on College Campuses: Lessons from Research and Practice." *Center for Disease Control and Prevention*, 2014.

¹⁵ Ibid.

One current awareness program is the *It's On Us* campaign, which seeks to engage college students and members of campus communities in preventing sexual assault. The campaign aims to shift thinking about sexual assault by inspiring everyone to see it as their responsibility to do something, big or small, to prevent it. In a survey sent to Ohio's campuses, many report positive results from the *It's On Us* campaign.¹⁶ While a college may prefer to build its own communication campaign, the framework and tools provided by *It's On Us* may serve as a helpful starting point.

Resources to help achieve Recommendation #3:

- Current materials and media for the national *It's On Us* campaign are available at itsonus.org.
 - Within current university staffing structures, campus communication and public relations departments are an excellent existing resource to utilize in launching a communication/awareness campaign.
 - The Ohio Department of Higher Education will host a clearinghouse of currently existing state and national campaign materials in fall 2015.
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Recommendation #4: Develop a comprehensive response protocol.

Objective: Every institution has a comprehensive sexual violence response protocol (similar to the "comprehensive sexual misconduct policy" in the resources below) in place by the start of the 2016-2017 academic year.

Rationale: Campuses should develop a comprehensive response protocol that works with their survivor-centered strategies and preserves the rights of the accused. Developing a comprehensive protocol by engaging a committee of stakeholders (such as students, staff, campus police, representatives of local domestic violence supports, and sexual assault agencies) and using campus climate surveys will ensure: (1) a more informed community; (2) more coherent and consistent policies and procedures; (3) stronger community partnerships; (4) policies tailored to meet campus needs.

A key objective of the campus sexual assault protocol is to reduce barriers to reporting sexual violence. Going beyond federally-mandated publication of procedures and policies, campus administrators should attempt to increase reporting through ongoing outreach to students. Campuses should make reporting policies and procedures widely known within the campus community. This includes following the federally-required process of publishing Annual Security Reports; however, a comprehensive model will include processes that go beyond "what's required" with a more holistic approach.

Resources to help achieve Recommendation #4:

- For additional guidance on establishing campus protocols, please visit *A Safer Campus Guidebook* (ohiohighered.org).
 - For a guide on creating a comprehensive sexual misconduct policy, visit: notalone.gov/assets/checklist-for-campus-sexual-misconduct-policies.pdf.
 - Universities in other states, such as the University of Oregon, have implemented comprehensive policies created in partnership by university leadership and the student body. See aaeo.uoregon.edu/sexual-harassment-assault/incidents-response-protocol/coordinated-institutional-response for more information.
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¹⁶ Board of Regents, Faith Yingling, Director of Wellness, Bowling Green State University. Conversation. 25 June 2015.

Recommendation #5: Adopt a survivor-centered response.

Objective: By the start of the 2016-2017 academic year, every campus will adopt one or more survivor-centered strategies and integrate those strategies into the comprehensive response policy (see Recommendation #4).

Rationale: Survivors of sexual assault should feel they are believed and trust that the system works for them. When the federal government conducted listening sessions with victims of campus sexual violence, the most common feedback was sexual violence survivors are seeking a system that recognizes they may want to discuss the incident confidentially and seek services before, if ever, moving into an official investigation.¹⁷ It is recommended that campuses identify responsible employees and confidential resources, both on and off campus, to provide a response that ensures survivors feel cared for and receive appropriate report services:

Confidential Advisor: A confidential advisor is a trained professional who works for or is associated with the higher education institution. The confidential advisor can provide support to survivors while safeguarding survivors from engagement in subsequent investigative processes.^{18, 19} Most commonly, the confidential advisor holds a mental health practitioner certification. The confidential advisor can be an important asset to students traumatized by sexual violence. Confidential advisors can answer questions, provide information and navigate institutional and community options, as well as provide counseling.

Victim Advocate: A victim advocate is an individual who works at colleges and universities, rape crisis centers, and domestic violence programs. The victim advocate is a trained professional works one on one with the survivor. Advocates offer victims information, emotional support, 24/7 response at the hospital during the evidence collection process, assistance with interim measures, help with finding resources, safety planning, assistance filing for victims of crime compensation and more. Advocates can go to court with victims, act as an advisor during the campus disciplinary process, and with a survivor's written permission, can assist with communications with the criminal justice system and other social service agencies to get help or other information for victims. Advocates are familiar with campus policies and, depending on campus policy and procedures, they may be given additional authority within the institutional setting. (For example, the most effective advocate should have the authority to request changes to a survivor's academic, living and campus work situations for the survivor, at the request of the survivor.)

Sexual Assault Response Guarantee: The institution and police should develop a sexual assault response guarantee that explains in survivor-friendly terms what can be expected in the reporting process. The guarantee typically attempts to proactively alleviate many of the concerns a survivor might have, such as where they will meet with the police and if/how their identity will be protected.

Resources to help achieve Recommendation #5:

- For information about current state and federal laws about utilizing a confidential advisor in a campus response, please see Appendix 1.

¹⁷ "Not Alone." The White House Task Force to Protect Students from Sexual Assault. April 2014.

¹⁸ While Ohio law imposes certain reporting requirements on individuals with knowledge that a felony has or is being committed, confidential advisors are exempt from this requirement so long as they meet one of the law's exemptions (See RC 2921.22(G)). Additionally, federal law (Title IX and the Clery Act) also creates certain reporting requirements and colleges and universities should be aware of these requirements when presenting certain staff as "confidential advisors." Specific attention should be paid to those individuals who are considered "Responsible Employees" under Title IX, and survivors of sexual violence should be notified when they are speaking with such an employee and that other staff would be better able to ensure confidentiality. More information on federal reporting requirements and how best to maintain confidentiality can be found at <https://www.notalone.gov/assets/reporting-confidentiality-policy.pdf> and <https://www.notalone.gov/assets/ferpa-clerychart.pdf>.

¹⁹ A sample federal policy may be found at <https://www.notalone.gov/assets/reporting-confidentiality-policy.pdf>.

- Campuses can create formal partnerships with local organizations to assist with response to sexual violence. These organizations can include rape crisis centers, domestic violence shelters, child advocacy centers and other networks of expertise. A sample memorandum of understanding can be found in Appendix 2 and at the following sites:

Partnering with Rape Crisis Centers

notalone.gov/assets/mou-rape-crisis-centers.pdf

Partnering with Local Law Enforcement

justice.gov/opa/blog/responding-and-protecting-students-sexual-assault

Ohio Attorney General MOU Recommendations

www.ohioattorneygeneral.gov/MOU

- Title IX coordinators can provide additional information on adopting survivor-centered strategies and, with advice of legal counsel, on confidentiality requirements (and exemptions).
 - This document compares reporting requirements of Title IX and the Clery Act and briefly summarizes confidentiality exemptions: notalone.gov/assets/ferpa-clerychart.pdf.
 - The federal government has a template available for updating the confidentiality section of student handbooks: notalone.gov/assets/reporting-confidentiality-policy.pdf.
 - A link to a Sexual Assault Guarantee (from The Ohio State University's Department of Public Safety) can be found at dps.osu.edu/police/campus_safety/reporting_sexual_assault.php.
 - Rape crisis centers and the Ohio Alliance to End Sexual Violence are important existing resources. To learn more and connect with a local rape crisis center, visit oaesv.org/resources/.
 - *You Have Options* is a program developed out of Ashland, Oregon, in which law enforcement agencies are trained in interviewing survivors to assist with collecting evidence, while maintaining that the survivor controls the direction of the investigation. The collaboration also entails data sharing so reporting obligations are exempt under Title IX and Clery. According to Carrie Hull, developer of *You Have Options*, "reports of sexual assault to the Ashland police department are up 106 percent (since the program started in 2013). Previously, the department received about 30 reports a year. In 2013, they had 63 cases, in 2014 they had 55."²⁰ More information on the program is available at www.reportingoptions.org.
 - *Campus Choice* is a response approach developed at Southern Oregon University. Through *Campus Choice*, survivors of sexual violence can access confidential advisors who are able to explain all options available to them, as well as guide them through the process. More information can be found at www.sou.edu/campuschoice/index.html.
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²⁰ Choate-Nelson, Amy. "How one community in Oregon is changing the discussion on campus sexual assault." Deseret News National. <http://national.deseretnews.com/article/4181/How-one-community-in-Oregon-is-changing-the-discussion-on-campus-sexual-assault.html>.

NEXT STEPS

This report is meant to further shift campus culture and protect our students. In order to ensure this work continues, ODHE will:

- Organize regular meetings for Title IX coordinators and other institutional policymakers.
- Create a resource portal on ODHE's website.
- Host a sexual violence prevention and response summit for campus leadership and Title IX coordinators during the 2015-2016 academic year.
- Disseminate the campus climate survey and communicate a plan for analyzing state-level data.
- Highlight campuses making progress on meeting the recommendations' objectives on ODHE's website by summer 2016.
- Provide support to campuses to achieve these objectives through individual grant opportunities. Technical assistance also will be provided to campuses through a qualified entity/entities awarded through a competitive RFP process in 2015.

This work is complex and there are no easy solutions. However, by harnessing the energy of all our campuses and communities, there is opportunity to make campuses safer for all of Ohio's students.

APPENDIX 1

Establishing a campus confidential advisor program for acts of sexual violence

The purpose of the confidential advisor is to ensure students will seek the help they need. A campus confidential advisor program should include counselors who may be members of the campus staff or made available through community resources. Advisors may be licensed professionals, but are not required to be. Before establishing a confidential advisor program campus administrators should consult with legal counsel on what state and federal regulations, guidelines and procedures require with respect to reporting incidents of sexual assault to either police or campus authorities.

UNDERSTANDING THE OHIO REVISED CODE AND CONFIDENTIAL ADVISORS:

One statute in Ohio law that may affect a confidential advisor program is Section 2921.22 of the Ohio Revised Code. Specifically, the law 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. However, the statute also provides specific exemptions to this requirement when certain conditions exist.

One of these exceptions applies when confidential information is shared in a privileged communication/environment. Under this exception, a person is not required to report knowledge of a crime when this knowledge is based on information that is privileged by reason of the relationship between the victim/survivor and any of the following types of individuals: licensed psychologist, a licensed professional clinical counselor, licensed professional counselor, independent social worker, or social worker; or a member of the clergy, rabbi, minister, or priest. The key to this exemption is that the information that would otherwise need to be reported is made confidential by Ohio's laws regarding privilege.

The other type of exemption relevant to the reporting requirements of confidential advisors protects information shared as part of a bona fide program for providing counseling services. To meet this exemption, the program should provide these counseling services in an informal setting by a person who, by education or experience, is competent to provide those services to victims of rape or gross sexual imposition and other sexual assault related crimes.

The complete statute, including the exemptions discussed above, can be found at codes.ohio.gov/orc/2921.22.¹

UNDERSTANDING FEDERAL GUIDANCE AND/OR REGULATIONS AND CONFIDENTIAL ADVISORS:

Federal regulations and guidance detail how and under what limiting circumstances a confidential advisor program can be operated in a campus setting and what information may be withheld and what must be reported.

The *Clergy Act* (20 U.S.C. §1092(f)) requires all institutions to collect crime reports from a variety of individuals and organizations that Clergy considers to be "campus security authorities" as identified by the institution. However, the Clergy Act² provides two exemptions to the mandatory reporting requirements of a campus security authority.

Pastoral counselor: *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 as a pastoral counselor.*

Professional counselor: *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.*

¹ The exemptions apply to students eighteen and older as there are much broader reporting requirements for minors under ORC 2151.421.

² 34 CFR 668.46(a)

To be exempt from disclosing or reporting a crime as otherwise required by Clery, the person with knowledge of that crime must have been acting in the capacity of a pastoral or professional counselor.

Some individuals who provide assistance to students who experience sexual violence are not professional or pastoral counselors. This type of assistance is often provided by campus counselors or individuals who work or volunteer in on-campus sexual assault centers, victim advocacy offices, women's centers, or health centers fall into this category. While these individuals are required to report incidents of sexual violence, the Clery Act does not require such reporting **in a way that identifies the student** without the student's consent. Therefore, these non-professional counselors or advocates are valuable sources of support for students, and may be designated as confidential advisors who can still meet reporting obligations without identifying survivors.³

Additional reporting requirements are imposed by Title IX, and are designed to ensure colleges and universities provide a safe and non-discriminatory environment that does not interfere with a victim's right to pursue an education.⁴ Like *Clery*, professional and pastoral counselors are exempt from Title IX reporting obligations. Unlike *Clery*, Title IX requires employees identified as a "responsible employee" who do not otherwise meet the professional or pastoral exemption to report incidents of sexual assault or violence to the Title IX Coordinator or designee when that "responsible employee" has become aware of such an incident. And, critical to any confidential advisor program, these "responsible employees" cannot withhold information that identifies the victim or alleged assailant when a report is made. Given these unique reporting requirements for "responsible employees" under Title IX, colleges and universities should be cautious in presenting such individuals as confidential advisors and be sure to explain the degree to which confidentiality can be protected depends on whether an employee or other individual to whom the person reported the act can engage in privileged communications.

Anyone working in a counseling setting must be instructed on what and how to inform students of their rights to file a complaint and about campus resources for counseling, medical and academic support. Again, it is important to consult with legal counsel before establishing a confidential advisor program.

For additional and more specific information concerning these federal regulations, please refer to:

<http://www2.ed.gov/admins/lead/safety/handbook.pdf> and

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

INTERSECTION OF STATE AND FEDERAL LAW:

All confidential advisors that have an established relationship as described under Ohio Revised Code Section 2921.22(G) are exempt from state laws requiring reporting to law enforcement authorities. However, a determination needs to be made if the communication is privileged and thus also exempt from Clery and Title IX reporting requirements. If the information is not exempt under Clery and Title IX reporting, Clery and Title IX do not require reporting in a manner that discloses personally identifiable information.

³ See 34 CFR 668.46(c)(5)

⁴ See Title IX of the Education Amendments of 1972, and its implementing regulation at 34 CFR Part 106.

APPENDIX 2

**SAMPLE
MEMORANDUM OF UNDERSTANDING
BETWEEN
Rape Crisis Center and College
(from notalone.gov)**

This Memorandum of Understanding (MOU) is entered into by Rape Crisis Center and College. The MOU formalizes the commitment of the parties to work together to provide trauma-informed services to student and employee victims of sexual assault and to improve the overall response to sexual assault at College. The parties share the goal of preventing sexual assault on campus and in the community, and responding appropriately to students and employees who have been victimized.

I. Description of the Partner Agencies

Rape Crisis Center is a nonprofit, community-based organization dedicated to the elimination of sexual violence in all its forms. Rape Crisis Center provides free, confidential services including a 24-hour hotline, therapeutic services, medical and legal advocacy, community education and training for professionals. Through direct services and education, Rape Crisis Center provides services to more than [insert number] individuals annually. Rape Crisis Center provides empowerment-based services that focus on healing, support, and justice for victims of sexual assault.

College was founded in [year], and serves [enrollment number] students. Its mission is to provide high-quality education in a safe learning environment.

II. History of Previous Collaboration

College and Rape Crisis Center have collaborated for the [insert the length in years of the collaboration] on programs to prevent sexual violence on campus. Rape Crisis Center has conducted [insert number] on-campus educational programs for students of College and provided professional training for health center staff. This MOU builds on the previous collaboration to provide services to victims and training to additional school officials.

III. The Role of the Rape Crisis Center

Rape Crisis Center agrees to:

- a) Appoint a qualified Coordinator of Services to focus on making services accessible to and appropriate for students and employees referred by College.
- b) Make 24-hour rape crisis hotline services available to students and employees of College.
- c) Provide confidential crisis intervention, counseling, information and referral, and accompaniment to medical and legal services as requested by students and employees.
- d) Provide students and employees of Community College with information about how to file a complaint with the College and how to report a crime to campus or local law enforcement and offer to assist students and employees with filing a complaint or report.
- e) Provide College with general information about incidents of sexual violence and other reportable offenses for inclusion in its annual Clery Act security report and to help the College identify patterns or systemic problems related to sexual violence.
- f) Conduct victim satisfaction surveys or use other methods to assess the effectiveness of the services provided to students and employees.

- g) Meet regularly with the school's Title IX Coordinator or designee to share information about: the needs of victims, trends in sexual assault services provided, additional services that are needed by students and employees, and the effectiveness of the school's sexual assault prevention and response program.
- h) Provide [specify hours] of training to College health care and student services staff, officials involved in student conduct proceedings, and campus law enforcement on the incidence and prevalence of sexual assault, myths about sexual assault, the physical and emotional effects of sexual assault on victims, the neurobiology of trauma, and appropriate methods for interviewing and communicating with victims.
- i) Assist schools with the development and provision of prevention programming and training to faculty, students and school officials.
- j) Participate in College Sexual Assault Response Team (SART) or other coordinated team effort.

IV. The Role of College

College agrees to:

- a) Identify a central point of contact for Rape Crisis Center staff to facilitate referrals for confidential services.
- b) Provide training to Rape Crisis Center staff about: on-campus resources that are available to student and employee victims of sexual assault; the federal and state requirements for colleges in responding to sexual assault; reporting procedures for victims who wish to file a report with campus law enforcement and/or a complaint with college officials; the student code of conduct and disciplinary process; and the educational accommodations that can be provided to victims of sexual assault.
- c) Provide printed and online materials about reporting options for students and employees, including information about how to file a complaint with the College and how to report a crime to campus or local law enforcement.
- d) Inform the Rape Crisis Center about the reporting obligations of school employees and identify those school employees with whom students can speak confidentially (and any exceptions to that confidentiality.)
- e) Inform the Rape Crisis Center about the school's prohibitions on retaliation, how allegations of retaliation can be reported, and what protections are available for students who experience retaliation.
- f) Ensure availability of the Title IX Coordinator or designee to meet regularly with Rape Crisis Center Coordinator.
- g) Collaborate with the Rape Crisis Center on prevention approach and activities.
- h) Compensate Rape Crisis Center for services provided. [Attach compensation agreement.]

V. Confidentiality

Rape Crisis Center and College affirm the importance of providing students with options for confidential services and support. All services provided by Rape Crisis Center to students and employees of College will be kept confidential except in the following circumstances:

- a) If the student or employee wants information shared with College or campus security, campus or local law enforcement, Rape Crisis Center will obtain informed consent for release of the information. When releases of information are required, they will be written, informed, and reasonably time-limited.

b) Rape Crisis Center will provide College aggregate data about incidents of sexual violence and other reportable offenses to include in its annual Clery Act security report and to help the College identify patterns or systemic problems related to sexual violence. No personally identifying information will be provided for Clery Act purposes. The Rape Crisis Center will consult with victims regarding what information needs to be withheld to protect their identity.

c) If the federal or state law requires disclosure because there is an imminent risk of harm to self or others, the Coordinator will determine: who will be notified; in what form; what information will be provided to the victim regarding this disclosure; and what steps will be taken to protect the victim from the imminent risk.

VI. General Provisions

This section includes the school's required language for MOUs.

By _____

President, College

Date _____

By _____

Executive Director, Rape Crisis Center

Date _____