



## Title IX and the Clery Act

### Information for Students and Coaches

#### Title IX

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

Under Title IX, discrimination on the basis of sex can include sexual harassment, rape, and sexual assault. A college or university that receives federal funds may be held legally responsible when it knows about and ignores sexual harassment or assault in its programs or activities.

Sexual harassment can qualify as discrimination under Title IX if it is "so severe, pervasive, and objectively offensive that it effectively bars the victim's access to an educational opportunity or benefit."

#### The Clery Act

The Clery Act requires colleges and universities that receive federal funding to disseminate a public annual security report (ASR) to employees and students every October 1st. This ASR must include statistics of campus crime for the preceding 3 calendar years, plus details about efforts taken to improve campus safety. ASRs must also include policy statements regarding (but not limited to) crime reporting, campus facility security and access, law enforcement authority, incidence of alcohol and drug use, and the prevention/response to sexual assault, domestic or dating violence, and stalking.

#### Your Rights

##### 1. The Campus Sexual Assault Victims' Bill of Rights was passed by Congress in 1992. It mandates that colleges/universities must provide the following:

- ⇒ Accuser and accused must have the same opportunity to have others present.
- ⇒ Both parties shall be informed of the outcome of any disciplinary proceeding.
- ⇒ Survivors shall be informed of their options to notify law enforcement.
- ⇒ Survivors shall be notified of counseling services.
- ⇒ Survivors shall be notified of options for changing academic and living situations.

##### 2. Some states have laws that go farther than Title IX in protecting victims of assault:

In 2007, the New Jersey Supreme Court, applying the New Jersey Law Against Discrimination, ruled that a school will be liable when it "knew or should have known" about student sexual harassment, but "failed to take action reasonably calculated to end the harassment." Other states have similar laws, including the Florida Education Equity Act, the Rhode Island Civil Rights Act of 1990, the Maine Human Rights Act, the Minnesota Human Rights Act, and the Washington Law Against Discrimination.

##### 3. Title IX applies to both sexual harassment and sexual violence:

Title IX covers all forms of sexual harassment, and sexual violence is considered a form of sexual harassment.

Very generally, sexual harassment is unwelcome sexual conduct. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent.

Title IX also prohibits gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, even if those acts do not involve conduct of a sexual nature.

##### 4. All students are covered by Title IX.

Title IX covers all students regardless of sex or gender identity. International students, foreign citizens, visiting students, and prospective students on campus are protected by Title IX.

##### 5. What is a Clery Act complaint?

A Clery complaint is a document that details the ways in which you believe your college has violated the Clery Act and/or the Campus Sexual Assault Victims' Bill of Rights. This complaint can involve a single case or multiple cases. Complaints typically include appendices with supporting documents.



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### Actions to Take

#### 1. I'm not sure what to do.

- ⇒ **Seek support and, if you would like, seek medical treatment.** Take care of yourself first. You don't need to deal with harassment or violence alone. Whether or not you decide to make a formal complaint, seek support from your friends, family, and from counselors. If you are struggling, there are people who can help. You can ask your school's student health center, student services, or a local hospital for resources. RAINN provides information on finding support in your area.
- ⇒ **Try to write down what happened.** In as much detail as possible, write down what happened. Note the place, time, and anyone who was around. As uncomfortable as it is to describe any form of sexual harassment, it is important to record what happened while it is fresh in your mind. If you decide to file a formal complaint with your school or with the OCR later on, you will need to provide information about what happened.
- ⇒ **File an internal complaint with your school.** Under Title IX, schools must have procedures in place to investigate complaints of sexual harassment and sexual violence. Ask student services about your school's procedures. Filing a complaint with your school allows you to access help that only the school can provide, like issuing an on-campus no-contact order to the perpetrator, changing your class schedule so that you don't have to see the perpetrator, or even expelling the perpetrator.

#### 2. How do I file a complaint with the Office of Civil Rights (OCR)?

The Office of Civil Rights handles all Title IX complaints. Generally, an OCR complaint must be filed within 180 days of the incident. Electronic complaint forms can be found on the OCR's website.

#### 3. If I've faced sexual violence, do I have to report the crime to the police before I can file a complaint with my school or with the OCR?

No. You are not required to make a police report, and your rights under Title IX are not affected by your decision whether to involve the police. You can choose whether you want to involve the police, file a complaint with your school, or file a complaint with the OCR. You can choose to pursue more than one process, and you do not have to pursue any of those processes.

#### 4. Why Should I report?

- ⇒ You may not be the only person who is being harassed by this individual.
- ⇒ So the harassment will stop.
- ⇒ To get the support you need.

#### 5. What if I am sexually harassed or assaulted at a tournament?

**An example:** student from School A is receiving unsolicited harassing messages from student from School B, while at a tournament on School C's campus. Student from School A reports this incident to their coach or files a report with their own school. Coach from School A is a mandatory reporter and must report to incident to School A, School B and School C, to be in compliance with the Cleary act and Title IX. Coach from school A is not required to do any follow up; that is the job of Title IX officer and the school's office of public safety.

If Student from School A reports the incident directly to their own school, the Title IX officer will report the incident to School B and School C.

If, in the above scenario, an unaffiliated judge is the perpetrator, the incident must be reported to Schools A and C.

#### 6. How do I file a Clery complaint?

You can call in, mail, or email your Clery complaint:

- ⇒ Call: You can call 1-800-1-FED-AID to lodge your Clery complaint.
- ⇒ Mail: Clery complaints should be sent to the regional Department of Education office that has jurisdiction over your college/university. A list can be found at: <http://www2.ed.gov/offices/OSFAP/services/casemanagement.html>
- ⇒ E-mail: To file a Clery complaint by email, send a message to the regional office (see above) and to [clerycomplaints@ed.gov](mailto:clerycomplaints@ed.gov) Most complaints are too large to send as one email attachment, so we suggest sending the complaint and appendices as separate documents.