



The State University
of New York

Office of General Counsel

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Policy and Programming Changes Pursuant to the Campus SaVE Provisions of the Violence Against Women Act

**Office of General Counsel
State University of New York**

July 2014

To Learn
To Search
To Serve

the Power of SUNY

Introduction

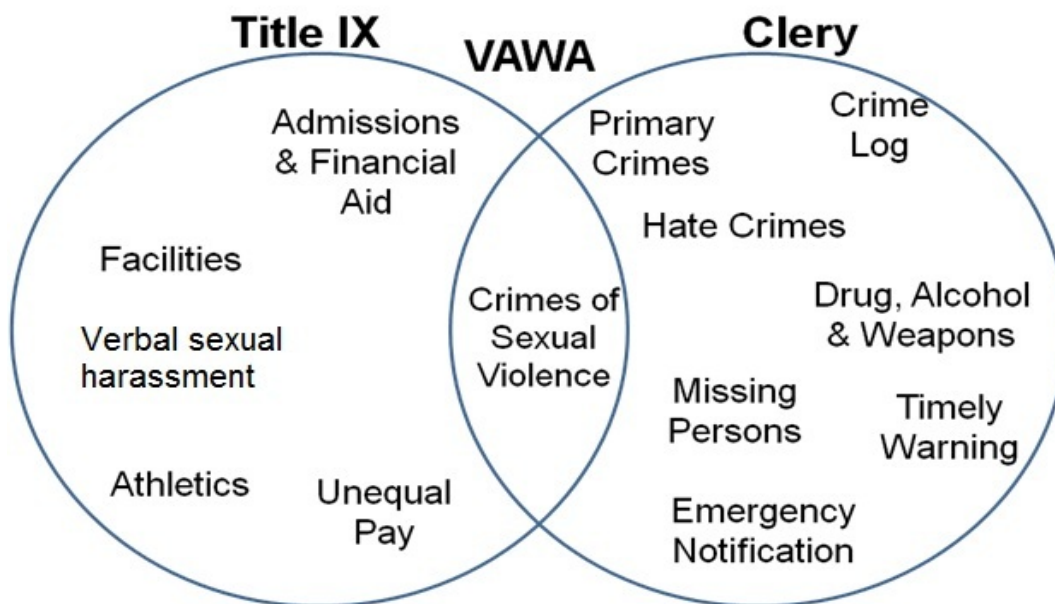
This document represents a team effort of members of the State University of New York Office of General Counsel, alongside partner organizations, to create guidance that SUNY colleges can use to prepare for the changes required by the [2013 amendments to the Violence Against Women Act](#) and its [regulations](#). The Department of Education released a [letter](#) detailing expectations for colleges to make a “good faith effort” to comply with these changes. The documents below were created specifically for two sessions SUNY hosted for campuses in the summer of 2014 to help them prepare to meet the requirements. We were pleased that hundreds of campus professionals representing all corners of the SUNY system attended those trainings. As we were preparing for these sessions, we benefitted significantly from the resources of the [First Report of the White House Task Force to Protect Students From Sexual Assault](#).

Attorneys often provide guidance about compliance with the law and regulations, and the guidance documents found here certainly aim to ensure compliance with the laws and regulations as we currently understand them. But we don’t want to “miss the forest for the trees.” **Our objective is to work with SUNY colleges and universities to best serve our students and foster a safe and healthy environment for our students and employees. Our priority at SUNY is not checking the boxes on compliance checklists or documenting details for an audit; our priority is an educational environment free from discrimination and assault. The most important concepts we hope that our clients take from this guidance is the need to be fair, transparent, and supportive with members of our campus community who experience, learn about, or otherwise report these very serious incidents and crimes.**

This guidance is meant to be used by SUNY State-operated and community colleges. The documents appear in the order of the trainings the Office of General Counsel conducted in June and July 2014. As new guidance arrives from the Department of Education and White House, we will update our guidance and maintain the current copy on the SUNY Website. Other colleges and universities may feel free to adapt the language in the documents under a [Creative Commons Attribution-NonCommercial 4.0 license](#) wherein colleges and universities may use this content provided that it is attributed to the State University of New York, but no one may sell or make other commercial use of this content. Higher education organizations may link to or post this document on their Web site provided no one is charged to access the content and the document retains its attribution. Non-SUNY readers are encouraged to consult with college counsel as the contents of this guidance do not constitute legal advice.

The amendments to the Violence Against Women Act make changes to Clery Act compliance. Some of these changes are minor (adding gender identity and national origin to hate crime reporting or ensuring victims are never identified in Timely Warnings) while others are complex (the myriad training, programming and campaign requirements). **Compliance with these laws requires an institution-wide effort and support from college leadership.** The

proposed regulations insist that they make no changes to Title IX, but casual and intense readers will certainly note overlap and distinctions between Title IX compliance and Clery/VAWA compliance. In response to questions from clients, we created this Venn diagram:



While there is some overlap between the Clery Act and Title IX, most of each law does not concern the other. Remember also that the Clery Act is part of the Higher Education Act, only applicable to colleges and universities that accept Title IV funds, whereas Title IX is applicable to both higher education and K-12 schools.

SUNY colleges and universities take reports of crimes, including sexual assault, domestic violence, dating violence, and stalking, very seriously. We are proud of the work of our SUNY clients and we remain available to support you as you continue to work towards a safe and supportive college environment for all of our students.

As stated earlier, this project was a true team effort among SUNY colleagues willing and eager to provide a helpful resource to our clients. **The idea was to create an efficiency by centralizing the research and drafting of appropriate language, so campus clients could return to doing what they do best—serving students.** We are deeply grateful to our Counsel’s Office colleagues who both participated in the training and worked together seamlessly to draft the guidance that appear in this comprehensive document:

- Nedra Abbruzzese-Werling, Director of Compliance
- Jim Jarvis, Associate Counsel
- Elise Puzio, Special Assistant to the Deputy Counsels
- Wendy Ravitz, Associate Counsel
- Suzanne Shane, Associate Counsel
- Janet Thayer, Associate Counsel

We appreciate the support and leadership of Senior Vice Chancellor and General Counsel Bill Howard and Deputy General Counsel Sandra Casey who convened SUNY's VAWA training sessions. Bill played a significant role in the White House Task Force process, attending a meeting with Vice President Biden and Cabinet members, and providing them with useful feedback on these issues. We were fortunate to have two bright and thoughtful legal interns during the summer of 2014 who played a large part in the research and presentation of these concepts. Stephanie Morrison, a 2L at Cornell Law School and Alex Slichko, a 2L at Harvard Law School, each distinguished themselves by going above and beyond their assignments and providing our clients with innovative and well-prepared presentations. Kudos to both of you.

We are also very thankful for the partnership with colleagues across SUNY, especially Commissioner Bruce McBride and Deputy Commissioner Paul Berger of the SUNY University Police and University Life colleagues Liz Droz, Cariann Quick and Lisa Kelsey. We were lucky to work closely with our friend and colleague Bob Passonno of the New York State Office for the Prevention of Domestic Violence, whose work on bystander intervention inspired great parts of the training.

During the VAWA Negotiated Rulemaking process, we were privileged to work with a team of higher education lawyers, organized by NACUA, to analyze the proposals and suggest solutions that are workable and also allowed colleges to best provide support and assistance to students. NACUA members Dana Scaduto and Jerry Blakemore provided exceptional representation to the rulemaking team and we appreciate their leadership, friendship and collegiality. Thank you also to NACUA colleague John Graff who has been a great partner in teaching Clery compliance to the NACUA community and who contributed the checklist to this document. We are lucky to have such colleagues and could not complete this without them.

Any readers who see areas of improvement in this paper or have additional resources to suggest are encouraged to reach out to us. We hope to continually update and improve this document to serve as a resource both for compliance with the law and, more importantly, to create cultures on our campuses that strongly resist sexual violence in all forms.

Best wishes as you work to comply with the VAWA changes to the Clery Act and please let us know if we can be helpful.



Andrea Stagg
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Counting Crimes in The Annual Security Report¹

Hate Crimes:

If reporting in tabular format, add a column/row in Hate Crimes for **Gender Identity**. You should already be reporting for **National Origin** based on guidance from the 2011 Clery Act Handbook.

If reporting in paragraph, leave as before, just include these crimes (if they occur).

Add **Gender Identity** to list of categories for Hate Crime purposes.

To the extent practicable, institutions should include such hate crimes, if any occurred, from the 2013 calendar year in the 2014 Annual Security Report. Such reporting shows good faith in compliance, even prior to the July 1, 2015 effective date of the VAWA regulations.

The Violence Against Women Act and its Proposed Regulations require us to use two (or potentially three) different definitions in counting, notifying, and holding students accountable for crimes of sexual violence, dating violence, domestic violence and stalking.

- Counting Crimes – Use VAWA definitions only (below).
- Notifying of Definitions in Annual Security Report – Use New York State definitions and campus definitions (if applicable). See [New York Crime Definitions](#), below.
- Holding students accountable in Judicial/Conduct Code – Use campus or New York State definitions.

Counting Crimes

Use the following definitions from the Proposed Regulations to count Sexual Violence, Dating Violence, Domestic Violence and Stalking.

Note: Sex crimes definitions have changed. In a positive development sure to reduce confusion and misreporting of sexual violence, especially in the area of acquaintance sexual assault, the Department of Education removed the descriptors of “Forcible and Non-Forcible Sex Offense” in favor of clear definitions of crimes.

Sex Offenses

Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

¹ Prepared by Joseph Storch, Associate Counsel.

Rape

The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

Fondling

The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

Incest

Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape

Nonforcible sexual intercourse with a person who is under the statutory age of consent.

Note: The Proposed Regulations will use the age of consent of the jurisdiction. In New York State, the age of consent is seventeen.

For campuses with operations outside of New York State, the Department of Health and Human Services has created a resource, *Statutory Rape: A Guide to State Laws and Reporting Requirements: Summary of Current State Laws* which is available here:

<http://aspe.hhs.gov/hsp/08/sr/statelaws/summary.shtml>

To the extent practicable, institutions should include such VAWA crimes, if any occurred, from the 20013 calendar year in the 2014 Annual Security Report. Such reporting shows good faith in compliance, even prior to the July 1, 2015 effective date of the VAWA regulations.

New York Crime Definitions²

The Violence Against Women Act and its proposed regulations require the inclusion of certain New York State definitions in a campus's Annual Security Report and also require that those definitions be provided in campaigns, orientations, programs and trainings for employees and students. Definitions required include: consent; dating violence; domestic violence; sexual assault; and stalking.

CONSENT: Lack of consent results from: forcible compulsion; or incapacity to consent; or where the offense charged is sexual abuse or forcible touching, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the actor's conduct. Where the offense charged is rape in the third degree, a criminal sexual act in the third degree, or forcible compulsion in circumstances under which, at the time of the act of intercourse, oral sexual conduct or anal sexual conduct, the victim clearly expressed that he or she did not consent to engage in such act, and a reasonable person in the actor's situation would have understood such person's words and acts as an expression of lack of consent to such act under all the circumstances. A person is incapable of consent when he or she is: less than 17 years old; or mentally disabled; or mentally incapacitated; or physically helpless; or committed to the care and custody of the state department of correctional services, a hospital, the office of children and family services and is in residential care, or the other person is a resident or inpatient of a residential facility operated by the office of mental health, the office for people with development disabilities, or the office of alcoholism and substance abuse services, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to the care and custody of such department or hospital.

CONSENT, ABBREVIATED: Clear, unambiguous, and voluntary agreement between the participating to engage in specific sexual activity.

DATING VIOLENCE: New York State does not specifically define "dating violence." However, under New York Law, intimate relationships are covered by the definition of domestic violence when the act constitutes a crime listed elsewhere in this document and is committed by a person in an "intimate relationship" with the victim. *See* "Family or Household Member" for definition of "intimate relationship."

DOMESTIC VIOLENCE: An act which would constitute a violation of the penal law, including, but not limited to acts constituting disorderly conduct, harassment, aggravated harassment, sexual misconduct, forcible touching, sexual abuse, stalking, criminal mischief, menacing, reckless endangerment, kidnapping, assault, attempted murder, criminal obstruction or breaching or blood circulation, or strangulation; and such acts have created a substantial risk of physical or emotional harm to a person or a person's child. Such acts are alleged to have been committed by a family member. The victim can be anyone over the age of sixteen, any married

² Prepared by Stephanie Morrison, Legal Intern, 2L at Cornell Law School under the supervision of Joseph Storch, Associate Counsel.

person or any parent accompanied by his or her minor child or children in situations in which such person or such person's child is a victim of the act.

FAMILY OR HOUSEHOLD MEMBER: Person's related by consanguinity or affinity; Persons legally married to one another; Person formerly married to one another regardless of whether they still reside in the same household; Persons who have a child in common regardless of whether such persons are married or have lived together at any time; Unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household; Persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors that may be considered in determining whether a relationship is an "intimate relationship" include, but are not limited to: the nature or type of relationship regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an "intimate relationship"; Any other category of individuals deemed to be a victim of domestic violence as defined by the office of children and family services in regulation. Intimate relationship status shall be applied to teens, lesbian/gay/bisexual/transgender, and elderly individuals, current and formerly married and/or dating heterosexual individuals who were, or are in an intimate relationship.

PARENT: means natural or adoptive parent or any individual lawfully charged with a minor child's care or custody.

SEXUAL ASSAULT: New York State does not specifically define sexual assault. However, according to the Federal Regulations, sexual assault includes offenses that meet the definitions of rape, fondling, incest, or statutory rape as used in the FBI's UCR program.

SEX OFFENSES; LACK OF CONSENT: Whether or not specifically stated, it is an element of every offense defined in this article that the sexual act was committed without consent of the victim.

SEXUAL MISCONDUCT: When a person (1) engages in sexual intercourse with another person without such person's consent; or (2) engages in oral sexual conduct or anal sexual conduct without such person's consent; or (3) engages in sexual conduct with an animal or a dead human body.

RAPE IN THE THIRD DEGREE: When a person (1) engages in sexual intercourse with another person who is incapable of consent by reason of some factor other than being less than 17 years old; (2) Being 21 years old or more, engages in sexual intercourse with another person less than 17 years old; or (3) engages in sexual intercourse with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent.

RAPE IN THE SECOND DEGREE: When a person (1) being 18 years old or more, engages in sexual intercourse with another person less than 15 years old; or (2) engages in sexual intercourse with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated. It is an affirmative defense to the crime of rape in the second degree the defendant was less than four years older than the victim at the time of the act.

RAPE IN THE FIRST DEGREE: When a person engages in sexual intercourse with another person (1) by forcible compulsion; or (2) Who is incapable of consent by reason of being physically helpless; or (3) who is less than 11 years old; or (4) who is less than 13 years old and the actor is 18 years old or more.

CRIMINAL SEXUAL ACT IN THE THIRD DEGREE: When a person engages in oral or anal sexual conduct (1) with a person who is incapable of consent by reason of some factor other than being less than 17 years old; (2) being 21 years old or more, with a person less than 17 years old; (3) with another person without such persons consent where such lack of consent is by reason of some factor other than incapacity to consent.

CRIMINAL SEXUAL ACT IN THE SECOND DEGREE: When a person engages in oral or anal sexual conduct with another person (1) and is 18 years or more and the other person is less than 15 years old; or (2) who is incapable of consent by reason of being mentally disabled or mentally incapacitated. It is an affirmative defense that the defendant was less than four years older than the victim at the time of the act.

CRIMINAL SEXUAL ACT IN THE FIRST DEGREE: When a person engages in oral or anal sexual conduct with another person (1) by forcible compulsion; (2) who is incapable of consent by reason of being physically helpless; (3) who is less than 11 years old; or (4) who is less than 13 years old and the actor is 18 years old or more.

FORCIBLE TOUCHING: When a person intentionally, and for no legitimate purpose, forcibly touches the sexual or other intimate parts of another person for the purpose of degrading or abusing such person; or for the purpose of gratifying the actor's sexual desire. It includes squeezing, grabbing, or pinching.

PERSISTENT SEXUAL ABUSE: When a person commits a crime of forcible touching, or second or third degree sexual abuse within the previous ten year period, has been convicted two or more times, in separate criminal transactions for which a sentence was imposed on separate occasions of one of one of the above mentioned crimes or any offense defined in this article, of which the commission or attempted commissions thereof is a felony.

SEXUAL ABUSE IN THE THIRD DEGREE: When a person subjects another person to sexual contact without the latter's consent. For any prosecution under this section, it is an affirmative defense that (1) such other person's lack of consent was due solely to incapacity to consent by reason of being less than 17 years old; and (2) such other person was more than 14 years old and (3) the defendant was less than five years older than such other person.

SEXUAL ABUSE IN THE SECOND DEGREE: When a person subjects another person to sexual contact and when such other person is (1) incapable of consent by reason of some factor other than being less than 17 years old; or (2) less than 14 years old.

SEXUAL ABUSE IN THE FIRST DEGREE: When a person subjects another person to sexual contact (1) by forcible compulsion; (2) when the other person is incapable of consent by reason of being physically helpless; or (3) when the other person is less than 11 years old; or (4) when the other person is less than 13 years old.

AGGRAVATED SEXUAL ABUSE: For the purposes of this section, conduct performed for a valid medical purpose does not violate the provisions of this section.

AGGRAVATED SEXUAL ABUSE IN THE FOURTH DEGREE: When a person inserts a (1) foreign object in the vagina, urethra, penis or rectum of another person and the other person is incapable of consent by reason of some factor other than being less than 17 years old; or (2) finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person and such person is incapable of consent by reason of some factor other than being less than 17 years old.

AGGRAVATED SEXUAL ABUSE IN THE THIRD DEGREE: When a person inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person (1)(a) by forcible compulsion; (b) when the other person is incapable of consent by reason of being physically helpless; or (c) when the other person is less than 11 years old; or (2) causing physical injury to such person and such person is incapable of consent by reason of being mentally disabled or mentally incapacitated.

AGGRAVATED SEXUAL ABUSE IN THE SECOND DEGREE: When a person inserts a finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person by (1) forcible compulsion; or (2) when the other person is incapable of consent by reason of being physically helpless; or (3) when the other person is less than 11 years old.

AGGRAVATED SEXUAL ABUSE IN THE FIRST DEGREE: When a person subjects another person to sexual contact: (1) By forcible compulsion; or (2) when the other person is incapable of consent by reason of being physically helpless; or (3) when the other person is less than eleven years old; or (4) when the other person is less than thirteen years old and the actor is twenty-one years old or older.

COURSE OF SEXUAL CONDUCT AGAINST A CHILD IN THE SECOND DEGREE: When over a period of time, not less than three months, a person: (1) Engages in two or more acts of sexual conduct with a child less than 11 years old; or (2) being 18 years old or more engages in two or more acts of sexual conduct with a child less than 13 years old. A person may not be subsequently prosecuted for any other sexual offense involving the same victim unless the other charges offense occurred outside of the time period charged under this section.

COURSE OF SEXUAL CONDUCT AGAINST A CHILD IN THE FIRST DEGREE:

When a person over a period of time, not less than three months in duration, a person: (1) Engages in two or more acts of sexual conduct, or aggravated sexual contact with a child less than 11 years old; or (2) being 18 years old or more engages in two or more acts of sexual conduct which includes at least one act of sexual intercourse, oral sexual conduct, anal sexual conduct, or aggravated sexual contact with a child less than 13 years old.

FACILITATING A SEX OFFENSE WITH A CONTROLLED SUBSTANCE: A person is guilty of facilitating a sex offense with a controlled substance when he or she: (1) knowingly and unlawfully possesses a controlled substance or any preparation, compound, mixture or substance that requires a prescription to obtain and administers such substance or preparation, compound, mixture or substance that requires a prescription to obtain to another person without such person's consent and with intent to commit against such person conduct constituting a felony defined in this article; and (2) commits or attempts to commit such conduct constituting a felony defined in this article.

INCEST IN THE THIRD DEGREE: A person is guilty of incest in the third degree when he or she marries or engages in sexual intercourse, oral sexual conduct or anal sexual conduct with a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or the half blood, uncle, aunt, nephew or niece.

INCEST IN THE SECOND DEGREE: A person is guilty of incest in the second degree when he or she commits the crime of rape in the second degree, or criminal sexual act in the second degree, against a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or the half blood, uncle, aunt, nephew or niece.

INCEST IN THE FIRST DEGREE: A person is guilty of incest in the first degree when he or she commits the crime of rape in the first degree, or criminal sexual act in the first degree, against a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or half blood, uncle, aunt, nephew or niece.

STALKING IN THE FOURTH DEGREE: When a person intentionally, and for not legitimate purpose, engages in a course of conduct directed at a specific person, and knows or reasonably should know that such conduct (1) is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person's immediate family or a third party with whom such person is acquainted; or (2) causes material harm to the mental or emotional health of such person, where such conduct consists of following, telephoning or initiating communication or contact with such person, a member of such person's immediate family or a third party with whom such person is acquainted, and the actor was

previously clearly informed to cease that conduct; or (3) is likely to cause such person to reasonably fear that his or her employment, business or career is threatened, where such conduct consists of appearing, telephoning or initiating communication or contact at such person's place of employment or business, and the actor was previously clearly informed to cease that conduct.

STALKING IN THE THIRD DEGREE: When a person (1) Commits the crime of stalking in the fourth degree against any person in three or more separate transactions, for which the actor has not been previously convicted; or (2) commits the crime of stalking in the fourth degree against any person, and has previously been convicted, within the preceding ten years of a specified predicate crime and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or (3) with an intent to harass, annoy or alarm a specific person, intentionally engages in a course of conduct directed at such person which is likely to cause such person to reasonably fear physical injury or serious physical injury, the commission of a sex offense against, or the kidnapping, unlawful imprisonment or death of such person or a member of such person's immediate family; or (4) commits the crime or stalking in the fourth degree and has previously been convicted within the preceding ten years of stalking in the fourth degree.

STALKING IN THE SECOND DEGREE: When a person: (1) Commits the crime of stalking in the third degree and in the course of and furtherance of the commission of such offense: (a) displays, or possesses and threatens the use of, a firearm, pistol, revolver, rifle, sword, billy, blackjack, bludgeon, plastic knuckles, metal knuckles, chuka stick, sand bag, sandclub, sligshot, slungshot, shirken, "Kung Fu Star," dagger, dangerous knife, dirk, razor, stiletto, imitation pistol, dangerous instrument, deadly instrument or deadly weapons; or (b) displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or (2) commits the crime of stalking in the third against any person, and has previously been convicted, within the preceding five years, of a specified predicate crime, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or (3) commits the crime of stalking in the fourth degree and has previously been convicted of stalking in the third degree; or (4) being 21 years of age or older, repeatedly follows a person under the age of fourteen or engages in a course of conduct or repeatedly commits acts over a period of time intentionally placing or attempting to place such person who is under the age of fourteen in reasonable fear of physical injury, serious physical injury or death; or (5) commits the crime of stalking in the third degree, against ten or more persons, in ten or more separate transactions, for which the actor has not been previously convicted.

STALKING IN THE FIRST DEGREE: When a person commits the crime of stalking in the third degree or stalking in the second degree and, in the course and furtherance thereof, he or she intentionally or recklessly causes physical injury to the victim of such crime.

VAWA's Impact on Student Conduct Codes/Disciplinary Proceedings³

VAWA requires that the Institution's policy describe its procedures for disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, and stalking cases.

Prompt, Fair, and Impartial

All proceedings must be prompt, fair, and impartial from initial investigation to final result. A proceeding is defined in the proposed regulations as "all activities related to a non-criminal resolution of an institutional disciplinary complaint, including, but not limited to, fact-finding investigations, formal or informal meetings or hearings." The proposed regulations require that the Code of Conduct:

- Have designated and reasonably prompt timeframes for the major stages of the grievance process that apply equally to the parties of the complaint, including the investigation, complaint resolution, and appeal processes, if any.
- Be conducted by officials who receive annual training on issues related to dating violence, domestic violence, sexual assault, and stalking and the procedure to conduct an investigation that protects the safety of victims and promotes accountability;
- Include a statement of the standard of evidence that will be used during the proceeding. VAWA does not prescribe a particular evidentiary standard, but OCR guidance directs the 'preponderance of the evidence standard' for Title IX purposes;
- The proposed regulations indicate that the process should:
 - Allow for an extension of timeframes for good cause with written notice to the accuser and the accused of the delay and the reason for the delay;
 - Be consistent with the institution's policies and transparent to the accuser and accused;
 - Include timely notice of meetings at which the accuser or accused, or both, may be present;
 - Provide the accuser, the accused, and appropriate officials timely access to any information that will be used after the fact-finding investigation and during informal and formal disciplinary meetings and hearings;
 - Be conducted by officials who do not have a conflict of interest or bias for or against the accuser or the accused; and
 - Include in the results (which is defined as any initial, interim and final decisions by any official or entity authorized to resolve disciplinary matters within the institution) any sanctions imposed by the institution and must include the rationale for the result and the sanctions. Result will replace "outcomes," "resolution" and "final determinations" in statute regulations.

³ Prepared by Suzanne Shane, Associate Counsel & Alexander Slichko, Legal Intern, 2L Harvard Law School.

Sample Language

ESTABLISHING TIME FRAMES FOR THE REVIEW PROCESS

The University will conduct a timely review of all complaints of domestic violence, dating violence, and/or stalking. Absent extenuating circumstances, review and resolution is expected to take place within sixty (60) calendar days from receipt of the complaint.

The preliminary review of all complaints, including any necessary interviews to be conducted and any necessary interim measures to be put in place, will usually be completed within ___ days of receipt of the complaint.

The subsequent, comprehensive review and investigation of the complaint, including interviews with all involved parties and gathering of evidence, is usually completed within ___ days of receipt of the complaint.

Results of the complaint, via either a formal hearing or waiver of hearing are typically issued within ___ days of receipt of the complaint.

An appeal of the results must be submitted within 7 days of receipt of the written result. Absent extenuating circumstances, decisions on appeals are typically issued within ___ days of submission of the appeal.

BURDEN OF PROOF

The burden of proof in all cases is “the preponderance of the evidence” – whether it is “more likely than not” that the sex discrimination, dating violence, domestic violence, sexual assault, or stalking occurred. If the evidence presented meets this standard, then the respondent must be found responsible.

Adopted from SUNY Oswego Student Code of Conduct

EXTENSIONS

All deadlines and time requirements in the Code may be extended for good cause as determined by _____. Both the respondent and the complainant will be notified in writing of the delay, the reason for delay, and provided the date of the new deadline or event. Extensions requested by one party will not be longer than 5 business/school days.

EVIDENCE

Evidence to be presented by complainant(s) and respondent(s) during any hearing on the charges must be shared with the opposing party at least two (2) business days in advance of the scheduled hearing. The University Official presiding at and/or hearing the case may exclude evidence that has not be shared or adjourn the hearing to afford all parties the opportunity to review evidence to be presented during the hearing. The University Official presiding at and/or hearing the case will make the final decision relating to the admissibility of all evidence.

Adapted from the SUNY Stony Brook University Student Conduct Code

Meeting/Hearing

- Both the complainant and the alleged offender must be given equal opportunity to have others present during a disciplinary proceeding including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice. The Institution cannot limit the parties' choice of an advisor but may establish restrictions regarding the **extent** to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.
 - For example: Any school-imposed restrictions on the ability of lawyers or other advisors to speak or otherwise participate in the proceedings must also apply equally.
 - Similarly, if the school permits one party to submit third-party expert testimony, it must do so equally for both parties.
- An adviser is defined in the proposed regulations as “any individual who provides the accuser or the accused support, guidance or advice.”

Sample Language

PARTIES' RIGHTS TO ADVISORS

The respondent and complainant may be assisted during disciplinary hearings and related meetings, by an advisor of their choice. The respondent and complainant may present witnesses and may produce other evidence for consideration by the student conduct body. The respondent and complainant are responsible for presenting evidence on their own behalf. Advisors may speak privately to their advisee, respondent or complainant, during the proceeding. Either party may request a brief recess to consult with their advisor which will be granted at the discretion of the Assistant Dean of Students for Student Conduct or designee. Advisors for the respondent and complainant may not present evidence or question witnesses.

Adapted from the SUNY Oswego Student Code of Conduct

Notification

Both parties must be notified **simultaneously and in writing** of:

- (a) the result of the disciplinary proceeding;
- (b) any appellate procedures available (which should be available to both parties);
- (c) any change to the result that may occur prior to the time that the result becomes final;
- (d) when the results become final.

Note: OCR Guidance recommends only that the parties be provided the determination “concurrently.”

Sample Language

Notification of findings

Within five (5) class days after the adjournment of the hearing, the student conduct hearing body shall submit written findings of fact, conclusions regarding the charge(s), and imposition of a sanction, if any, to the respondent and any College official who is determined by the Assistant Dean of Students for Student Conduct to have a legitimate interest in the result. In the case of sexual misconduct and violations involving dating violence, domestic violence, sexual assault, or stalking, both the complainant and respondent shall also receive simultaneous notice of the results and sanctions imposed (and the rationale for the result and sanctions), as well as notice of the appellate procedures available, any possible changes to the result that may occur before it becomes final, and when the result becomes final.

Adopted from SUNY Oswego Student Code of Conduct

Protective Measures/Sanctions and Retaliation

Language should be included which explains:

- The range of protective/interim measures that an institution may offer following an allegation of domestic violence, dating violence, sexual assault or stalking such as changing academic, living, transportation and/or working situations;
- The possible sanctions that the institution may impose following a final determination of a disciplinary proceeding regarding rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking;
- The prohibition against retaliation. Retaliation is prohibited against any individual who files a sex discrimination complaint under Title IX or participates in a complaint investigation in any way. (Was previously in the statute but not the regulations.)

Sample Language

SANCTIONS

The University considers dating violence, domestic violence, sexual assault, and stalking as extremely serious violations and subject to SUSPENSION and/or EXPULSION from the University. In such cases, the Exceptional Procedure of EXECUTIVE SUSPENSION also may be invoked.

Adopted from the SUNY Stony Brook University Student Conduct Code

RETALIATION

No member of the University community shall retaliate, intimidate, threaten, coerce or otherwise discriminate against a person who files a Title IX complaint, serves as a witness, or assists or participate in a Title IX proceeding in any manner. Participants who experience retaliation should report the incident to _____.

Adopted from the SUNY Oswego Student Code of Conduct

New VAWA Required Definitions for Student Conduct Codes⁴

Dating Violence

The definition must include:

- Reference to a violent **act**;
- Committed by
 - A person who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - The existence of the relationship shall be determined based on victim's statement with consideration of the length of the relationship, the type of the relationship, and the frequency of the relationship.

Domestic Violence

The definition must include:

- Reference to a violent **crime**;
- Committed by
 - Current or former spouse or intimate partner;
 - Person sharing a child with the victim; and
 - Person cohabitating with or has cohabitated with the victim as a spouse or intimate partner.

Stalking

The definition must include:

- Engaging in a course of conduct (two or more acts by which the stalker directly, indirectly, or through third parties follows, monitors, observes, surveils, threatens, or communicates about a person or interferes with his or her property);
- Directed at a specific person; and
- Causes a reasonable person to fear for his or her safety or the safety of others or causes that person to suffer substantial emotional damage.

Consent

The definition must include:

- Consent is a voluntary agreement to engage in sexual activity;
- Someone who is incapacitated cannot consent;
- Past consent does not imply future consent; silence or an absence of resistance does not imply consent;
- Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another;
- Consent can be withdrawn at any time; and
- Coercion, force, or threat of either invalidates consent.

⁴ Prepared by Alexander Slichko, Legal Intern, 2L at Harvard Law School under the supervision of Andrea Stagg, Associate Counsel and Joseph Storch, Associate Counsel.

Sample Language

DATING VIOLENCE

Dating violence is any act of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the victim's statement and with consideration of the type and length of the relationship and the frequency of interaction between the persons involved in the relationship. Two people may be in a romantic or intimate relationship, regardless of whether the relationship is sexual in nature; however, neither a casual acquaintance nor ordinary fraternization between two individuals in a business or social context shall constitute a romantic or intimate relationship. This definition does not include acts covered under domestic violence.

DOMESTIC VIOLENCE

Domestic violence is any violent felony or misdemeanor crime committed by a current or former spouse or intimate partner of the victim, a person sharing a child with the victim, or a person cohabitating with the victim as a spouse or intimate partner.

STALKING

The term stalking means intentionally engaging in a course of conduct, directed at a specific person, which is likely to cause a reasonable person to fear for his or her safety or the safety of others or cause that person to suffer substantial emotional damage. Examples include, but are not limited to, repeatedly following such person(s), repeatedly committing acts that alarm, cause fear, or seriously annoy such other person(s) and that serve no legitimate purpose, and repeatedly communicating by any means, including electronic means, with such person(s) in a manner likely to intimidate, annoy, or alarm him or her.

CONSENT

Consent is the agreement to engage in specific sexual contact, which may be given by verbal agreement or active and willing participation in the sexual activity. Consent to sexual contact or any specific sexual act cannot be given if an individual is incapacitated or impaired because of a physical or mental condition or the ingestion of drugs or alcohol, or under the age of 17. Silence, previous sexual relationships, current relationships, or the use of alcohol and/or drugs is not an indication of consent. The use of force, threat of force, threat of immediate or future harm, or use of physical intimidation to secure compliance with sexual activity is evidence of lack of consent. Consent may be initially given, but it may be revoked at any point, either verbally, through physical resistance, or by losing consciousness. Failure to cease sexual contact promptly in response to a withdrawal of consent constitutes prohibited nonconsensual sexual contact. "No" or any other negative statement or acts/physical gestures supporting the desire to cease contact in response to sexual contact or an invitation to sexual contact will be regarded as a denial of consent to such sexual contact.

Developing a Confidentiality and Reporting Webpage⁵

VAWA requires that Institutions publish policy statements describing their reporting and confidentiality protocols used in cases of dating violence, domestic violence, sexual assault, and stalking.⁶ Publishing this information on the Title IX page can encourage students to seek help.

What information should be included?

- A description of the options through which a student can report an incident of dating violence, domestic violence, sexual assault, or stalking. The description should also explain how the Institution could assist the student through the process. These reporting options should include:
 - Filing a criminal complaint with law enforcement;
 - Filing student disciplinary charges with the Institution; and
 - Filing a discrimination complaint with the Institution's Title IX Coordinator.
- A list of the people and organizations to whom the student may report and their respective obligations to report that information to the Institution, including:
 - **Professional Counselors** – These licensed and pastoral counselors provide mental-health counseling to members of the campus community and are not obligated to report any information to the Institution.
 - **Non-Professional Counselors** – Other individuals that work or volunteer in on-campus counseling centers may talk to a victim without revealing any personally identifying information to the Institution. However, those individuals must report the nature, date, time, and general location of the incident to their Title IX Coordinator.
 - **Responsible Employees** – Responsible employees must report all relevant details to the Title IX Coordinator. If a student requests confidentiality, the Institution will consider the request, but cannot guarantee that it will honor it.
- How an Institution will decide if it can honor a student's confidentiality request and how it will protect and assist the student if it cannot.

⁵ Prepared by Alexander Slichko, Legal Intern, 2L at Harvard Law School under the supervision of Andrea Stagg, Associate Counsel and Joseph Storch, Associate Counsel.

⁶ There are many ways to accomplish this notification. This is one example but, like the other resources in this guidance, there are many ways to accomplish the same goals. Institutions that do a good job with this information include the University at Buffalo (<http://www.buffalo.edu/equity/obtaining-assistance/sex-discrimination-and-sexual-harassment/if-you-have-experienced-sexual-assault.html>).

- Information about alternative confidential avenues to disclose an incident. These alternatives include public awareness events, such as Take Back the Night, and anonymous reporting procedures.
- An explanation of the Institution’s reporting obligations under the Clery Act, including the annual reporting responsibilities of Campus Security Authorities and the school’s obligation to issue timely warnings.
- The Institution’s policy for granting amnesty for violations from drug, alcohol, and other student code of conduct violations when reporting incidents of dating violence, domestic violence, sexual assault, and stalking. For more information, *see* the section on [Good Samaritan 911 Policy](#), below.

How to make your information more accessible:

- *Use The Title IX Website* – Creating a separate webpage on the college’s website devoted to sexual assault helps to consolidate and simplify information that is otherwise scattered among the Student Code of Conduct, Handbook, and Safety Report.
- *Make the Website Easy* – Use a short URL with no more than one slash. (e.g. [titleix.college.edu/report](#)). Use links and headings to guide students to the information they need.
- *Help Students Find It* – Check the search results using Google and your website’s built-in search function. Try phrases such as “report rape” or “sexual assault” to ensure students can reach the information they need.

How to make your information clear:

- *Place commonly requested information prominently* – Addresses, phone numbers, and email addresses of places where students can request help should be placed toward the top of the website.
- *Websites must be more than readable, they should be “skimable”*- Students will rarely read every word on a webpage. Instead, they will scan for what is most important to them. Important information should be kept to the top and left of a webpage, where it is most likely to be read.
- *Use lists and Q&A’s to organize information* – Lists and “Questions and Answers” sections can organize information in a more digestible form. Minimizing hassle encourages students to get the help they need.⁷

⁷ Good examples include: SUNY Oswego (<http://www.oswego.edu/about/titleix/incidentreport/sexualassault.html>), and SUNY New Paltz (<http://www.newpaltz.edu/police/faqs.html>).

Information to Place in the Student Handbook or a Website⁸

Sample Sexual Misconduct Policy

Introduction

Policy Statement on Sexual Misconduct:

SUNY [insert school] is committed to creating and maintaining an educational environment free from all forms of sex discrimination, including sexual misconduct. Any act involving sexual harassment, violence, coercion, and intimidation will not be tolerated.

Specifically, SUNY strictly prohibits the offenses of domestic violence, dating violence, sexual assault, and stalking. These acts have a real impact on the lives of victims. They not only violate a person's feelings of trust and safety, but they can also substantially interfere with a student's education. It is the policy of SUNY [insert name] that, upon learning that an act of sexual misconduct has taken place, immediate action will be taken to address the situation and punish the perpetrator. This includes working with State and local law enforcement to bring possible criminal charges, seeking disciplinary action through the college/university, and enforcing mandatory transcript notifications so other institutions are on notice of the offense committed. SUNY police has long required a mandatory transcript notification for students found responsible of certain crimes.

SUNY [insert name] encourages the reporting of sexual misconduct that is prompt and accurate. This allows the college/university community to quickly respond to allegations and offer immediate support to the victim. SUNY [insert name] is committed to protecting the confidentiality of victims, and will work closely with students who wish to obtain confidential assistance regarding an incident of sexual misconduct. Certain professionals at the College are permitted by law to offer confidentiality. Those who do not maintain the privilege to offer confidentiality are expected to keep reports private to the extent permitted under the law and college policy. This means that they may have to report to college officials, but will not broadcast the information beyond what is required by law and policy. All allegations will be investigated promptly and thoroughly, and both the victim and the accused will be afforded equitable rights during the investigative process.

It is the collective responsibility of all members of the SUNY [insert name] community to foster a safe and secure campus environment. In an effort to promote this environment and prevent acts of sexual misconduct from occurring, the college/university engages in ongoing prevention and awareness education programs. All incoming students [and employees] are required to participate in these programs, and all members of the college/university community

⁸ Prepared by Janet Thayer, Associate Counsel & Elise Puzio, Special Assistant to the Deputy Counsels. Language in yellow highlight is taken directly from the VAWA proposed regulations.

are encouraged to participate throughout the year in ongoing campaigns and trainings focused on the prevention of sexual misconduct on campus.

Scope

Who: This policy applies to all members of the SUNY [insert name] community, including students, faculty, staff, visitors, independent contractors, and other third parties who are on campus and involved in an incident of sexual misconduct (this can be someone who witnessed an incident or who wishes to report an incident on behalf of another). The policy applies to these parties regardless of sexual orientation or gender identity.

What: This policy prohibits all forms of sexual misconduct. This broad term includes, but is not limited to, acts of sexual harassment, sexual violence, sexual coercion, sexual threats or intimidation, domestic violence, dating violence, sexual assault, stalking, and cyber-stalking. Please refer to the Definitions section for a complete list of terms and prohibited acts [may include a definitions section in Handbook or refer to definitions in your Student or Judicial Code—make sure to include the new required definitions].

Where: This policy covers conduct that takes place on the college/university campus. This includes any building or property owned or controlled by SUNY [insert name] and used in direct support of, or in a manner related to, the school's educational purposes, including residence halls, dining halls, and public property within or immediately adjacent to and accessible from campus. This also includes any building or property owned or controlled by a student organization that is officially recognized by the college/university and any building or property not within the same reasonably contiguous geographic area of the college/university that supports or relates to the school's educational purposes and is frequently used by students. This policy also covers conduct that takes place off-campus that may have a nexus to the college/university community.

Programs: This policy covers all educational, extracurricular, athletic, or other campus programs.

Activities: This policy covers all campus and school-related activities, including, but not limited to, student organizations (academic, greek, multicultural, religious, service, social and support, sports and recreational), community organizations with student [and/or faculty] participation, and all other educational or extracurricular events hosted by or at the college/university.

Relationships: This policy covers sexual misconduct occurring between individuals in various types of relationships. These include, but are not limited to, student to student, staff to staff, faculty member to faculty member, visitor/contracted employee to faculty/staff, faculty member to student, staff to student, supervisor to subordinate, and coach to student athlete. Sexual misconduct may be acts committed by an individual or collective actions committed by members of a group or organization. These acts may be committed against an individual or against a

group or organization. These acts may be committed by a stranger, an acquaintance, or someone with whom the victim has a social, romantic, or intimate relationship. These acts may be committed by or against any individual, regardless of sexual orientation or gender identity.

Confidentiality: The college/university is committed to maintaining the privacy of all individuals involved in a report of sexual misconduct. While the college/university encourages victims to report an incident of sexual misconduct, there are many options available for students to speak with someone about what happened while maintaining confidentiality. Please *see* the Handbook sections on Resources Available for Support and Reporting Procedures for more information on confidentiality.

Resources Available for Support

After an allegation that an act of sexual violence has occurred, including any act of dating violence, domestic violence, sexual assault, or stalking, the college/university offers students a range of protective measures.

- Resources for Immediate Assistance:** The information below provides contacts for trained on- and off- campus advocates and counselors who can provide an immediate confidential response in a crisis situation. Also provided are emergency numbers for on- and off- campus safety, law enforcement, and other first responders.

Confidential Resources: The college/university encourages all members of the school community to report any incidents of sexual misconduct; however, there are several confidential resources available to students [faculty and staff] who are not yet ready to report an incident. These individuals can help a victim obtain needed resources, explain reporting options, and assist in navigating the reporting process. These resources are required by law to keep all communications confidential without an individual’s express consent to release information or as otherwise required by law.

On-Campus	Off-Campus
(advocates)	
(counselors)	
(emergency response)	

Campus Resources: These are resources provided by the college/university community offering intervention services, counseling, academic support, and medical services. These resources are not bound by confidentiality, but will work together to maintain individual privacy.

On-Campus
(college police)
(campus EMS)
(campus health services)

(Dean of Students)
(Title IX Coordinator)

Community Resources: These are resources located off-campus in the local community offering intervention services and counseling.

Off-Campus

Sexual Assault Response Team (SART)/Title IX Team/Similar Name: [Optional—Describe your school’s resource if one exists/funding exists to establish one] The Sexual Assault Response Team (SART) is a free service to students seeking medical transport following an incident of sexual assault, domestic violence, dating violence, sexual assault, or stalking. Students will be transported by a trained driver and accompanied to the hospital by a student advocate who is available to provide confidential, nonprofessional support. Upon arriving to the hospital, an advocate specifically trained in sexual assault will be contacted to provide assistance at the hospital, including during the medical visit. The driver will depart and return at a later time to pick up the student as needed. This is a confidential service. Students transported by the SARTeam are not required to report the incident.

SART Contact Information or link to SART page

Health Care Resources: Medical assistance is available [times available, i.e. 24/7, during business hours, etc.] by calling [list number to call, i.e. campus security/police or local police]. Every victim has the option to seek treatment for injuries sustained during an incident of sexual misconduct, preventative treatment for sexually transmitted diseases, and other health services. A medical exam is also an important way for a health provider to properly collect and preserve evidence. In cases where necessary, rape kits are also available [explain where/how are they available on your campus], and victims may contact a Sexual Assault Nurse Examiner (SANE) located [where, if available on your campus or in the community]. Also, victims may be accompanied by an advocate to the hospital or health provider. See below for contact information.

Immediate Medical Attention
(911)
(local hospital)
(campus EMS)
(campus health services)

(local rape crisis center)
(on-campus advocacy program)

2. **Resources for Ongoing Assistance:** The information below provides contacts for trained on- and off- campus advocates who can provide on-going counseling, advocacy, and support following an incidence of sexual misconduct.

Confidential Resources: These are resources on- and off- campus where the victim may disclose confidentially with counseling, advocacy, health, mental health, or sexual-misconduct-related resources.

On-Campus	Off-Campus
(advocates)	
(counselors)	

Campus Resources: These are resources provided by the college/university community offering counseling and support for victims of sexual misconduct, whether or not a victim chooses to make an official report or participate in the institutional disciplinary or criminal process. These individuals can also provide ongoing support during the institutional disciplinary and criminal process.

On-Campus
(college counseling)
(Title IX Coordinator)
(campus health services)

Academic Accommodations: The college/university is committed to ensuring the safety and well-being of the victim. A student who has been a victim of sexual misconduct may request an academic accommodation or change in residence after a report of sexual misconduct. Any individual who makes a request will receive an appropriate and reasonable accommodation. Possible requests include the ability to change academic schedules or work schedules, withdraw from or retake a class without penalty, access academic support such as tutoring services, and change residence hall assignments. Pursuant to Title IX, in most cases of sexual violence or sex discrimination, the College will endeavor, to the extent practicable, to change the schedule or accommodations of the accused student prior to changing the schedule or accommodations of the victim.

Interim Measures: In situations where it is necessary, the college/university will take immediate steps to protect victims pending the final outcome of an investigation. **These steps include the**

accommodations listed above in addition to issuing no contact orders. Pending resolution of the complaint, the accused may be prohibited from contacting the victim and may be placed on suspension or denied access to campus. Also, the college/university may change the course schedule or residence assignment of the accused. Please refer to the Student Code of Conduct for disciplinary procedures related to acts of sexual misconduct.

Title IX Coordinator

The Title IX Coordinator is responsible for the University's compliance with Title IX of the Education Amendments of 1972. In this role, the Title IX Coordinator administers the review, investigation, and resolution procedures for reports of sexual misconduct. Please refer to the Reporting Policies & Procedures section for additional information on the role and duties of the Title IX Coordinator.

--Provide contact information for Title IX Coordinator--

Reporting Policies & Procedures

A. Where to Report All Acts of Sexual Misconduct/Violence

1. Filing a Complaint with the University:

A student may report sexual misconduct, including sexual harassment, sexual assault, domestic violence, dating violence, sexual assault, stalking, and cyber-stalking to the following offices:

1. Criminal complaint
 - a. University Police (telephone number)
2. Institutional complaint
 - a. Title IX Coordinator (telephone number)
 - b. Office of Diversity and Inclusion [or institutional name] (telephone number)
 - c. Campus Security Authorities (telephone numbers)
 - Advocacy Center for Sexual Assault
 - Counseling Center
 - Student Health Center
 - Residential Life (all staff)
 - Vice Provost for Undergraduate Education/Dean of Students
 - Professional staff in Student Success/Student Affairs
 - Senior staff in the Office of Human Resource Management
 - Academic Advisors in Advisement Services Center Undergraduate Studies
 - Educational Opportunity Program
 - Professional staff in Athletics, including coaches
 - Faculty Advisors to student groups
 - d. Student Discipline

Office of Conflict Resolution/Judicial Affairs/Student Conduct (telephone number)

e. Employee Discipline

Office of Human Resources (telephone number)

A student may file a complaint with one or more Offices, and each Office is prepared to assist the student with deciding on where complaints may be filed, if any, and the processes associated with each Office's complaint procedures. In addition, each Office is able to refer a student for academic accommodations, housing accommodations, and health care services.

2. Filing a Complaint with a State and/or Federal Agency:

A student who is not satisfied with the University's handling of a complaint, may also file a complaint with federal and state agencies. Attached is an Appendix listing the agencies and their respective contact information.

3. Dual Filing a Complaint with the University and a State and/or Federal Agency:

In addition, the Complainant may file a complaint with the appropriate State or Federal agency at any point during the process.

Role of the Title IX Coordinator in the Complaint Process:

The Title IX Coordinator shall be notified of all sexual misconduct complaints by the University employee who took the complaint in order for the Title IX Coordinator to oversee the complaint processes and accommodations for the student.

B. Investigatory Procedures:

1. ***Criminal complaints:*** the NYS and/or federal law will apply, and the matter will follow the criminal processes through a police investigation, a referral to the District Attorney's Office for prosecution and the criminal court system for resolution.
2. ***Institutional complaints:*** the complaint will be handled through the University's Policy and Procedures Against Sexual Harassment. Please *see* <http://sexualharassmentprocedures.university.edu>.
3. ***Student Disciplinary complaints:*** the complaint will be handled through the University's Student Disciplinary Code. Please *see* <http://studentdiscipline.university.edu>.
4. ***Employee Disciplinary complaints:*** the complaint will be handled through the Office of Human Resources, in accordance with its procedures for complaints against management confidential employees, or for complaints against a employee who is a member of a union, in accordance with the disciplinary procedures set forth in the applicable NYS Collective Bargaining Agreements negotiated statewide through the NYS Governor's Office of Employee Relations.

C. Evidentiary Standard in Institutional, Student Disciplinary and Employee Disciplinary Complaints:

Preponderance of the Evidence: the standard of proof in sexual misconduct cases, which asks whether it is “more likely than not” that the sexual misconduct occurred [this standard is required for sexual assault, but not required for other crimes (dating violence, domestic violence, stalking), but we recommend using this standard].

D. Potential Outcomes under the Procedures:

1. **Criminal Complaints:** The complaint may result in criminal penalties, such as fine, community service, probation, jail sentence, registration as a sex offender with the NYS or Federal data bases.
2. **Institutional Complaints:**
 - a. Under the *sexual harassment policy*, if there is a finding that a sexual assault may have occurred *and the alleged perpetrator is*
 - A *student*, then the matter is referred to the Student Discipline process for student discipline, and the penalties may be disciplinary probation, suspension or expulsion from the residence halls, or suspension or expulsion from the University.
 - An *employee*, then the matter is referred to the Office of Human Resources for employee discipline and the penalties may include fines, formal counseling, probation, suspension with or without pay, or termination from employment.
 - b. Under the *Student Discipline process*, the penalties may be disciplinary probation, suspension or expulsion from the dorms, or suspension or expulsion from the University.
 - c. Under the *Employee Disciplinary process*, the penalties may be fines, formal counseling, probation, suspension with or without pay, or termination from employment.

Retaliation

The University is firmly committed to a policy that encourages timely disclosure of sexual misconduct. Any person, who, in good faith, reports sexual misconduct will be protected from retaliation (defined as an adverse action taken because an individual has engaged in protected activities), threats of retaliation, suspension or discharge from an educational opportunity or employment, or any other forms or means of discrimination because this person reported sexual misconduct.

Confidentiality and Reporting Protocol

If a crime of sexual misconduct has occurred, including dating violence, domestic violence, sexual assault, or stalking, the college/university encourages accurate and prompt reporting of these crimes to the campus police or State and local police agencies. However, it can be difficult for a victim to come forward after such an event, and there are several options available for students who wish to maintain confidentiality while getting the support they need. Different employees on campus have different abilities to maintain a victim's confidentiality:

1. Privileged Communications: Some employees are required to maintain near complete confidentiality; talking to them is sometimes called a “privileged communication”
2. No Personally Identifying Information: Other employees may talk to a victim in confidence, and generally only report to the College that an incident occurred without revealing any personally identifying information. Disclosures to these employees will not trigger a College investigation into an incident against the victim's wishes
3. Responsible Employees: These employees are required to report all the details of an incident (including the identities of both the victim and accused) to the Title IX coordinator. A report to these employees (called “responsible employees”) constitutes a report to the College—and generally obligates the College to investigate the incident and take appropriate steps to address the situation

1. Privileged & Confidential Communications:

Professional and Pastoral Counselors:

Professional, licensed counselors and pastoral counselors who provide mental-health counseling to members of the school community (and including those who act in that role under the supervision of a licensed counselor) are not required to report any information about an incident to the Title IX coordinator without a victim's permission. [If an institution has no pastoral counselors, simply state that clearly]. Following is the contact information for these individuals:

Professional & Pastoral Counselors

2. No Personally Identifying Information:

Non-Professional Counselors and Advocates:

Individuals who work or volunteer in the on-campus [list the offices that pertain to your school: sexual assault center, victim advocacy office, women’s center, health center], including front desk staff and students, can generally talk to a victim without revealing any personally identifying information about an incident to the College. A victim can seek assistance and support from these individuals without triggering a College investigation that could reveal the victim’s identity or that the victim has disclosed the incident. While maintaining a victim’s confidentiality, these individuals or their office should report the nature, date, time, and general location of an incident to the Title IX Coordinator. This limited report – which includes no information that would directly or indirectly identify the victim – helps keep the Title IX Coordinator informed of the general extent and nature of sexual violence on and off campus so the coordinator can track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses. Before reporting any information to the Title IX Coordinator, these individuals will consult with the victim to ensure that no personally identifying details are shared with the Title IX Coordinator. A victim who speaks to a professional or non-professional counselor or advocate must understand that, if the victim wants to maintain confidentiality, the College will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the accused. Even so, these counselors and advocates will still assist the victim in receiving other necessary protection and support, such as victim advocacy, academic support or accommodations, disability, health or mental health services, and changes to living, working or course schedules. A victim who at first requests confidentiality may later decide to file a complaint with the school or report the incident to local law enforcement, and thus have the incident fully investigated. These counselors and advocates will provide the victim with assistance if the victim wishes to do so. Following is contact information for these non-professional counselors and advocates:

Non-Professional Counselors and Advocates

3. Reporting to Responsible Employees:

A “responsible employee” is a College employee who has the authority to redress sexual violence, who has the duty to report incidents of sexual violence or other student misconduct, or who a student could reasonably believe has this authority or duty. When a victim tells a responsible employee about an incident of sexual violence, the victim has the right to expect the College to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably. A responsible employee must report to the Title IX coordinator all relevant details about the alleged sexual violence shared by the victim and that the College

will need to determine what happened – including the names of the victim and accused, any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident. To the extent possible, information reported to a responsible employee will be shared only with people responsible for handling the College’s response to the report. A responsible employee should not share information with law enforcement without the victim’s consent or unless the victim has also reported the incident to law enforcement. Before a victim reveals any information to a responsible employee, the employee should ensure that the victim understands the employee’s reporting obligations – and, if the victim wants to maintain confidentiality, direct the victim to confidential resources. If the victim wants to tell the responsible employee what happened but also maintain confidentiality, the employee should tell the victim that the College will consider the request, but cannot guarantee that the College will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the responsible employee will also inform the Coordinator of the victim’s request for confidentiality. Responsible employees will not pressure victims to request confidentiality, but will honor and support their wishes, including for the College to fully investigate an incident. By the same token, responsible employees will not pressure victims to make full reports if they are not ready.

4. Requesting Confidentiality:

If a victim discloses an incident to a responsible employee but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the College must weigh that request against the College’s obligation to provide a safe, non-discriminatory environment for all students, including the victim. If the College honors the request for confidentiality, a victim must understand that the College’s ability to meaningfully investigate the incident and pursue disciplinary action against the accused may be limited. Although rare, there are times when the College may not be able to honor a victim’s request in order to provide a safe, non-discriminatory environment for all students. The College has designated the following individual(s) to evaluate requests for confidentiality once a responsible employee is on notice of alleged sexual violence:

Requests for Confidentiality

When weighing a victim’s request for confidentiality or that no investigation or discipline be pursued, [name/position] will consider a range of factors, including the following:

- The increased risk that the accused will commit additional acts of sexual or other violence, such as:
 - whether there have been other sexual violence complaints about the same accused individual;
 - whether the accused has a history of arrests or records from a prior school indicating a history of violence;

- whether the accused threatened further sexual violence or other violence against the victim or others;
- whether the sexual violence was committed by multiple perpetrators;
- whether the sexual violence was perpetrated with a weapon;
- whether the victim is a minor;
- whether the College possesses other means to obtain relevant evidence of the sexual violence (e.g., security cameras or personnel, physical evidence);
- whether the victim's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group

The presence of one or more of these factors could lead the College to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, the College will likely respect the victim's request for confidentiality. If the College determines that it cannot maintain a victim's confidentiality, the College will inform the victim prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the College's response. The College will remain ever mindful of the victim's well-being, and will take ongoing steps to protect the victim from retaliation or harm and work with the victim to create a safety plan. Retaliation against the victim, whether by students or College employees, will not be tolerated.

The College will also:

- Assist the victim in accessing other available victim advocacy, academic support, counseling, disability, health or mental health services, and legal assistance both on and off campus (see portion of policy identifying these);
- Provide other security and support, which could include issuing a no-contact order, helping arrange a change of living or working arrangements or course schedules (including for the accused pending the outcome of an investigation) or adjustments for assignments or tests; and inform the victim of the right to report a crime to campus or local law enforcement – and provide the victim with assistance if the victim wishes to do so.

The College may not require a victim to participate in any investigation or disciplinary proceeding. Because the College is under a continuing obligation to address the issue of sexual violence campus-wide, reports of sexual violence (including non-identifying reports) will also prompt the College to consider broader remedial action – such as increased monitoring, supervision or security at locations where the reported sexual violence occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revisiting its policies and practices. If the College determines that it can respect a victim's request for confidentiality, the College will also take immediate action as necessary to protect and assist the victim.

5. Other Confidential Avenues:

There are other ways to disclose a sexual assault that will be handled confidentially:

a. **Take Back the Night and other Public Awareness Events**

If a student discloses a situation through a public awareness event such as "Take Back the Night," candlelight vigils, protests, a Student Survivor Advocacy Alliance forum, or other public event, the information the student provides will not result in an investigation. The University may use the information the student provides to inform the need for additional education and prevention efforts.

b. **Anonymous Reporting**

A student may call the [Relevant Office] anonymously at [contact number] to talk about the situation and find out information about the student's options. The student should simply tell the receptionist that he or she would prefer not to give his or her name. The student can talk confidentially with [office name], and disclose as much or as little information as the student would like to. The student may also complete a Sexual Assault Anonymous Report.

c. **Off-Campus Counselors and Advocates**

Crisis Services and off-campus healthcare providers will generally maintain confidentiality unless a student signs a consent or waiver form.

Timely Warnings and Emergency Notifications

1. What warrants a "timely warning" or "emergency notification"?

Timely Warnings shall be issued whenever a Clery Crime that is considered to represent a serious or continuing threat to students and employees is reported to UPD or a local police agency and has occurred within the University's Clery Geography. Whenever a timely warning is sent it may be sent to the entire Campus Community or to the relevant population if technology allows.

Emergency Notifications shall be issued when a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurs on the campus. As appropriate, emergency notifications may be targeted at only a segment or segments of the campus community that is at risk. Emergency notifications will be issued without delay unless doing so would compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency.

Who decides? [The Vice President for Student Success/Student Affairs/the individual responsible at your institution], or a designee of the [Vice President], in conjunction with the

Chief of University Police and/or other campus and non-campus officials as appropriate, shall confirm the existence of a situation that may warrant a warning or notification and determine if a timely warning or emergency notification is warranted and the extent of the notification as appropriate. In addition to criminal incidents, emergency notifications may be issued in situations such as, but not limited to:

1. Safety Related Issues:

- An incident that occurs on any of our campuses that affects the personal safety and security of our population.
- An incident that occurs in close proximity to the campus that may potentially affect the personal safety and security of our student, faculty and staff population.

2. Health Related Issues:

- Diagnosis of a serious or life threatening communicable/infectious disease.
- Evidence of bio terrorism.

An immediate notification for a confirmed emergency or dangerous situation may not be issued if doing so will compromise efforts to: assist a victim, contain the emergency, respond to the emergency, or otherwise mitigate the emergency.

2. How will a Timely Warning or an Emergency Notification be Communicated?

For Safety Related Issues: The means of communication will be chosen by the [VP for Student Success/Student Affairs/the individual responsible at your institution] or the designee based upon the nature of the incident. Possible means of communication are:

- E-mail to all students and/or faculty/staff
- Postings in campus center, residence halls, as applicable to the incident. Postings can be emailed as attachments to various offices as indicated below
- Delivery of hard copy notification to all residential suites
- Student Newspaper ad, based on timing of the incident
- Posting of notification on University Police Department web site
- ***SUNY NY Alert in the case of a critical campus wide emergency***
- Email to parents
- Post to web portal

For Health Related Issues: The means of communication will be chosen by the [VP for Student Success/Student Affairs/the individual responsible at your institution] or the designee based upon the nature of the incident. Possible means of communication are:

- Letters to students and/or parents (communication to parents is extremely minimal, most likely done in cases of measles, mumps, or rubella. Viral Meningitis would be communicated to the parents whose students are directly affected.)
- Letters to faculty and staff, if appropriate
- Posting of notification on the University web-site
- Student Newspaper ad, based on timing of the incident

Investigation, Grievance, & Adjudication Procedures

Please refer to the Judicial Code of Conduct and the Student Code of Conduct for a complete description of procedures.

How to Help as a Bystander⁹

The college/university expects all members of the campus community to take reasonable and prudent actions to prevent or stop an act of sexual misconduct. Educating and engaging bystanders are effective ways to help prevent acts of sexual misconduct. Bystanders can help in several different ways, including direct invention, seeking assistance from an authority figure, notifying campus security, or calling State or local law enforcement.

If you see an act of sexual misconduct: It is important to understand that no individual has the right to be violent, regardless of whether people are in a relationship. Recognizing when acts of sexual misconduct are occurring is the first step to intervening. Required campus education and training programs give a full synopsis on recognizing when sexual misconduct is taking place. If you make the decision to intervene, do so safely—violence does not stop violence, and, if you cannot stop the act with your words, call law enforcement. Do not be afraid to ask an RA, RD, or other students for help.

If a victim confides in you: It is important to let the victim tell their story. Listen respectfully, and help them explain and identify what has happened to them. Do not contradict them or play “devil’s advocate” even if parts of the story don’t immediately make sense or even if you would have made other choices when presented with the same scenario or challenges. Help the victim identify others in their network who they can confide in. Ask the victim what they need to feel safe, encourage them to seek medical attention and counseling, and encourage them to report the act if they feel comfortable doing so. The first people that a victim talks to can have a significant impact on the person and their ability to report and get through an ordeal. Be a supportive, kind, understanding and nonjudgmental person and you can be a positive force for this victim in seeking the help they require to move forward.

OPTIONAL

Insert Good Samaritan 911 Policy here [This type of policy is STRONGLY encouraged]¹⁰

Prevention Education & Awareness Programs/Trainings

The College has education programs to promote the awareness of rape, including acquaintance rape, dating violence, domestic violence, sexual assault, and stalking. These education programs include primary prevention and awareness programs for all incoming students and new employees. These education programs will include: a statement that these

⁹ For background on bystander intervention see [Some Thoughts on the Importance of Bystander Intervention](#), below.

¹⁰ For an example of a Good Samaritan 911 Policy, see [Good Samaritan 911 Policy](#), below.

crimes are prohibited at the College; definitions of consent, domestic violence, dating violence, sexual assault, and stalking in the College's jurisdiction; safe and positive bystander intervention when there's a risk of one of those incidents; information on risk reduction to recognize warning signs of abusive behavior and avoiding potential attacks; and information about the institutional disciplinary procedures. The various programs and trainings offered by the college/university are described below:

1. *Prevention Programs*: These are programs to prevent dating violence, domestic violence, sexual assault, and stalking. The programs are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research or assessed for value, effectiveness, or outcome. They also consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels.
 - Specifically, at SUNY [insert name]...describe your prevention programs
2. *Awareness Programs*: These are community-wide or audience-specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration.
 - Specifically, at SUNY [insert name]...describe your awareness programs
3. *Bystander Intervention*: These programs and trainings offer safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking. They include recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene.
 - Specifically, at SUNY [insert name]...describe your bystander intervention programs/trainings
4. *Ongoing Prevention & Awareness Campaigns*: These include programming, initiatives, and strategies that are sustained over time and focus on increasing understanding of topics relevant to and skills for addressing dating violence, domestic violence, sexual assault, and stalking, using a range of strategies with audiences throughout the college/university and including information provided in campus education programs.
 - Specifically, at SUNY [insert name]...describe your ongoing campaigns
5. *Primary Prevention Programs*: These include programming, initiatives, and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop dating violence, domestic violence, sexual assault, and

stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions.

- Specifically, at SUNY [insert name]...describe your primary prevention programs
6. *Risk Reduction Programs*: These programs present options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence.
- Specifically, at SUNY [insert name]...describe your risk reduction programs

APPENDIX:

NYS Division of Human Rights

State Headquarters

New York State Division of Human Rights
One Fordham Plaza, 4th Floor
Bronx, New York 10458
Tel: (718) 741-8400
Fax: (718) 741-3214

Albany

New York State Division of Human Rights
Empire State Plaza, Corning Tower, 28th Floor, Post Office Box 2049
Albany, New York 12220
Tel: (518) 474-2705
Fax: (518) 473-3422

Office of Sexual Harassment

New York State Division of Human Rights
Office of Sexual Harassment
55 Hanson Place, Suite 347
Brooklyn, New York 11217
Tel: (718) 722-2060 or 1-800-427-2773
Fax: (718) 722-4525

Office of AIDS Discrimination

New York State Division of Human Rights
Office of AIDS Discrimination
20 Exchange Place, 2nd Floor
New York, New York 10005
Tel: (212) 480-2522 or 1-800-522-4369
Fax: (212) 480-0143

United States Department of Labor

Office of Federal Contract Compliance Programs (OFCCP)

201 Varick Street, Room 750
New York, NY 10014
Tel: (212) 337-2006
Fax: (212) 620-7705

OFCCP New York District Office

26 Federal Plaza, Room 36-116
New York, NY 10278-0002
Tel: (212) 264-7742
Fax: (212) 264-8166

New York State Department of Labor

State Campus, Building 12, Room 500
Albany, NY 12240-0003
Tel: (518) 457-2741
Fax: (518) 457-6908

United States Equal Employment Opportunity Commission

EEOC National Headquarters
131 Main Street NE, Fourth Flr., Suite 4NW02F Washington, D. C. 20507
Tel: (202) 663-4900
Fax: (202) 663-4912

EEOC Field Office
6 Fountain Plaza, Suite 350
Buffalo, New York 14202
Tel: (716) 551-4441
Fax: (716) 551-4387

Office for Civil Rights

OCR National Headquarters
U. S. Department of Education
Office of Civil Rights, Customer Service Team
Mary E. Switzer Building
330 C. Street, S. W.
Washington, D. C. 20202
Tel: (800) 421-3481
Fax: (202) 205-9862

Office for Civil Rights, New York Office
32 Old Slip, 26th Floor
New York, NY 10005-2500
Tel: (646) 428-3800
Fax: (646) 428-3843

Good Samaritan 911 Policy¹¹

Policy Summary:

The University's *Good Samaritan 911 Policy* supports students who reach out for assistance in the case of a medical emergency, as well as supports the student who is helped. Therefore, a student or student organization seeking medical treatment for him/herself, or for any other student who is in immediate medical need, or any student who is the recipient of this emergency medical help, will not be subject to disciplinary sanctions related to the violation of using or possessing alcohol or other drugs, as defined in *Community Rights and Responsibilities (Prohibited Conduct Drugs and Alcohol)*. This policy applies to emergencies both on and off campus.

Purpose:

At the University, the health and safety of every student is of primary importance and all students are strongly encouraged to be empowered bystanders who respond in a potentially dangerous situation without fear of reprisal from the University. The University's *Good Samaritan 911 Policy* supports students who act responsibly by reaching out for assistance in the case of a medical emergency, as well as supports the student who is helped.

Application of the Policy:

A student is eligible to use the Good Samaritan 911 Policy on more than one occasion and students are always strongly encouraged to report a medical emergency. The positive impact of reporting a medical emergency will always hold the highest priority when determining the appropriate response for University policy violations.

Repeated use of the amnesty provided by the Policy is cause for a higher level of concern for the well-being of the student and amnesty in these cases will be individually reviewed.

Parental Notification:

Because parents are vital partners in the educational process and because the student can be best supported from home, the University typically contacts parents of students under 21 years of age in instances where there is evidence of risk to health, welfare or safety. In addition, the University may record names of those students involved to enable the University to follow up with the students as deemed necessary to ensure a student's well-being.

¹¹ Prepared by Janet Thayer, Associate Counsel based on 911 Good Samaritan Policy at the University at Albany.

Mandatory Intervention Program:

A student who receives medical assistance for alcohol use under the Good Samaritan 911 Policy will be referred by the Vice President for Student Success or their representative to a mandatory intervention program, such as the *Brief Alcohol Screening and Intervention for College Students* (BASICS) program at the University Counseling Center. Additionally, a student who qualifies for the Good Samaritan 911 Policy by calling for medical assistance for another student may be referred to this program at the discretion of the Vice President for Student Success.

Frequently Asked Questions:

Q. What if I am underage and drunk when I call for help for a friend?

A. In this situation, emergency personnel will be mainly concerned with the person who needs the most help. Make sure to stay with your friend until help arrives. Emergency personnel might want to ask you a few questions about how much the sick person had to drink or if they mixed the alcohol with any other drugs, for example. This information will be critical to helping your friend. In such a case, the University will not refer you or the person you called for an alcohol violation.

Q. Will my name be recorded if I call for help for my friend?

A. In most situations, if you are level-headed enough to call for help and you are not showing signs of alcohol or other drug overdose, emergency personnel will thank you for your assistance and simply help your friend.

Q. How will anyone know I was the Good Samaritan who called for help?

A. In most cases, a professional staff member from Residential Life or the Office of Conflict Resolution and Civic Responsibility will know that you called for help. If they do not know, you can simply inform them of your role in helping your friend or yourself.

Q. Does the Good Samaritan Policy apply if I call for help for myself?

A. Yes

Q. Does the University contact my parents if I am transported to the hospital?

A. The University does not automatically contact your parents when you are transported to the hospital. However, your parents would eventually be notified by mail if you are under 21 and had a hospital transport for alcohol or drug use.

Q. What happens if I am transported to the hospital for the second time – does the Good Samaritan Policy apply?

A. While the main concern is the health and safety of every student, a pattern of behavior for hospital transports will require a staff member to review the situation and follow up using professional judgment for each individual situation.

Q. What should I do if a friend is showing signs of alcohol poisoning or overdose?

A. Remember to **Check**, **Call** and **Care**. Alcohol overdose can be scary, but getting help is not.

CHECK: Watch out for your friends throughout the night. Encourage healthy choices. If someone you know has consumed too much alcohol, check for signs of overdose.

Click [here](#) for a list of signs of possible alcohol poisoning or overdose.

CALL: If you discover any one of the above problems, call for medical help immediately. Call 911. The above indicators of alcohol overdose are very serious and time is of the essence.

CARE: Continually talk to the person and monitor their skin color, temperature and breathing. Turn and keep the person on his/her left side as this will help to keep the person from choking should they vomit. Wait with your friend until help arrives; never leave a sick friend alone.

Q. What should I do if a friend is showing signs that he or she might be thinking of suicide?

A. Click [to appropriate link] to learn about what you can do to help a friend who is showing signs that he or she might be thinking of suicide.

Q. What should I do if a friend has been raped or sexually assaulted?

A. Click [to appropriate link] to learn about what you can do to help a friend who has been raped or sexually assaulted.

Q. Is there training on campus to be a better bystander and help other students who may be in distress?

A. ***STEP UP!*** is a bystander intervention program that educates students to be proactive in helping others when faced with problematic or risky situations that are of concern.

The ***STEP UP!*** training program focuses on real-life situations/scenarios students might encounter. The goal of the program is to generate open, honest and non-judgmental discussions about the material presented. This training is not meant to cover all possible scenarios or variables, nor is it meant to train you as a counselor.

Please contact the University Counseling Center () if you would like to schedule a *STEP UP!* training session for your class or student group.

For more information on the University Good Samaritan 911 Policy, please contact:

Name

Address

Telephone

Email

Optional Addition: Crime Reporting, Sexual Assault, and Amnesty/Good Samaritan Policies

Some campuses add a statement to the existing medical amnesty/Good Samaritan policy to make clear that an individual reporting a crime such as sexual assault will not be charged under the student conduct code for violating drugs or alcohol policies if such use was involved. This statement encourages reporting of sexual assault without fear of self-reporting alcohol or drug violations. It is likely that most campuses already exercise such discretion, but publishing it in the policy may help students determine whether or not to report an incident.

Note that, pursuant to due process and Title IX considerations, if the College does not charge a victim or complaining witness with alcohol violations stemming from a particular incident, the College should likewise not charge the respondent with the attendant alcohol violations stemming from that same incident, but concentrate instead on the charges of sexual violence/sexual assault.

Statement of Victim's Rights¹²

VICTIMS OF CAMPUS SEXUAL ASSAULT: STATEMENT OF PRINCIPLES AND RIGHTS

The University is committed to providing a safe and secure environment in which all members are treated with dignity and respect, and a campus free from all discrimination on the basis of sex. To that end, the University takes the strongest possible stance against sexual misconduct in all its forms, including sexual harassment, sexual assault, sexual violence or the use of coercion, intimidation or exploitation of others for sexual purposes. The University is actively engaged in educating its members about these vital issues and in providing timely support and assistance to victims of sexual assault.

Should a sexual assault be reported, the University will investigate allegations and take appropriate actions, to the fullest possible extent. The University supports the victim's right to privacy. In the event that a victim wishes to remain anonymous, the University will respect that request while evaluating the obligation to protect the safety and well-being of the broader community. For example, in the event that the assault/crime must be reported, the request for anonymity would be weighed against other factors, such as whether the accused individual is the subject of other complaints. In such instances, every safeguard will be taken in order to ensure the victims' anonymity. It is imperative that victims be fully supported in their efforts to heal and respond as they determine is in their own best interests. To this end, the University will provide information about campus and community medical and counseling resources and support the victim's right to make choices about these resources and options.

All members and representatives of the University community, including campus officers, administrators, faculty, professional staff, employees, and students are expected to recognize and abide by the following principles regarding victims of campus-related sexual assaults:

1. The Right to Human Dignity

Victims shall:

Be treated with fairness and respect for their dignity;

Have their privacy honored;

¹² Prepared by Janet Thayer, Associate Counsel. As with all resources incorporated in this guidance, this is one strong example of a statement of victim's rights, but other institutions can and do include other information. Another example is the SUNY Cortland Victim's Rights page (<http://www2.cortland.edu/offices/judaffairs/victims-rights.dot>).

Be free from any suggestions that they must report sexual assaults to be assured; recognition of any other identified principles or rights;

Have their allegations of sexual assault treated seriously;

Be free from any suggestion that they are responsible for the sexual assaults committed against them;

Be free from any threat of retaliation or other attempt to prevent the reporting of sexual misconduct;

Be free from unwanted pressure from campus personnel to:

Report sexual assaults if they do not wish to do so,

Report sexual assaults as less serious offenses,

Refrain from reporting sexual assaults for any reason, including the fear of unwanted personal publicity.

2. The Right to Resources On and Off Campus

Victims shall:

Receive notice describing options to pursue a criminal complaint with the appropriate law enforcement agency, to pursue the University's disciplinary process, or to pursue both processes simultaneously;

Be notified of existing campus and community-based medical, counseling, mental health and student services for victims of sexual assault whether or not the assault is formally reported to campus or civil authorities;

Have access to campus counseling;

Be informed of and assisted in exercising:

Any rights to confidential or anonymous testing for sexually transmitted infections, HIV, and pregnancy,

Any rights to preventive measures such as emergency contraception or HIV prophylaxis,

Any rights that may be provided by law to obtain the communicable diseases test results of sexual assault suspects;

Be informed of the possible availability of crime victim assistance compensation through the New York State Crime Victims Board;

Additional information about resources and options to aid in recovery are available at the end of Appendix X and at [website].

3. The Right to Campus Judicial Proceedings

Victims have the right to:

Written and advance notice about a disciplinary hearing involving the person or persons accused of sexually assaulting them;

Have the opportunity to present witnesses and other evidence, and to receive notice of the process, information about procedures, and written notice of the outcome in a manner that is equivalent to the process of the accused;

Have a person of their choice accompany them throughout the disciplinary hearing;

Remain present during the entire proceeding, whenever possible; alternative arrangements may be made for those who do not want to be present in the same room as the accused during the disciplinary hearing;

Be heard at the proceeding;

Be assured that their irrelevant past sexual history will not be discussed during the hearing;

Make a “victim impact statement” if the accused is found in violation of the code;

Be informed in a timely fashion (60 days) of the outcome of the hearing;

Have the right to appeal the outcome of the hearing.

4. The Right to Law Enforcement and Campus Intervention

Reports of sexual assault will be investigated and evaluated by the appropriate criminal and civil authorities of the jurisdiction in which the sexual assault is reported;

Victims shall receive full and prompt cooperation and assistance of campus personnel in notifying the proper authorities;

Victims shall receive full, prompt, and victim-sensitive cooperation of campus personnel with regard to obtaining, securing and maintaining evidence, including a medical examination when it is necessary to preserve evidence of the assault; “No contact” orders (e.g., Cease and Desist orders) shall be issued promptly and in writing to all parties to a reported sexual assault after the University receives notice of a complaint;

Campus personnel shall take reasonable and necessary actions to prevent further unwanted contact by victims’ alleged assailants;

Victims shall be notified of the options for and provided assistance in changing academic and living situations if such changes are reasonably available.

5. Note: Statutory Mandates

Nothing in this Statement of Principles and Rights shall be construed to preclude or in any way restrict the University from carrying out its duties under law to report suspected offenses to the appropriate law enforcement authorities. Except as required by law, the University will take care not to identify the victim.

Nothing in this Statement of Principles and Rights shall be construed to preclude or in any way restrict the University from issuing a Timely Warning when the University is aware of a reported sexual assault incident that potentially puts the campus community at risk. The University will take care not to identify the victim in such notices but may, in certain cases of continuing danger, identify the suspect, assailant or the address where the crime occurred.

VAWA Requires Institutions to Add New Policy Statements to the Annual Security Report¹³

Encouraging Prompt Reporting

*Campus policy encourages every member of the campus community to report a crime promptly to UPD if the victim wants to or is unable to report.*¹⁴

Institutional Response to Reports of VAWA Crimes

The institution has programs to prevent domestic violence, dating violence, sexual assault, and stalking. When an incident of domestic violence, dating violence, sexual assault, or stalking is reported, the College will provide victims with written notice of available options, remedies, and services. If the accused individual is a student, the standard of evidence used in an institutional disciplinary hearing will be preponderance of the evidence.

Education Programs re VAWA Crimes

The College has education programs to promote the awareness of rape, acquaintance rape, dating violence, domestic violence, sexual assault, and stalking. These education programs include primary prevention and awareness programs for all incoming students and new employees. These education programs will include: a statement that these crimes are prohibited at the College; definitions of consent, domestic violence, dating violence, sexual assault, and stalking in the College's jurisdiction; safe and positive bystander intervention when there's a risk of one of those incidents; information on risk reduction to recognize warning signs of abusive behavior and avoiding potential attacks; and information about the institutional disciplinary procedures.

Sanctions for VAWA Crimes

Following a final determination of an institutional disciplinary procedure for cases of rape, acquaintance rape, dating violence, domestic violence, sexual assault, or stalking, the following sanctions or protective measures may be imposed: [*list, for example: suspension, expulsion, education programs, community service, probation, no-contact order.*]

Procedures for survivors of domestic violence, dating violence, sexual assault, or stalking

Survivors/victims of these crimes will be provided written information about evidence preservation, how and to whom to report these crimes, options about involvement of law enforcement and campus authorities, and assistance in notifying law enforcement if the victim chooses, as well as the option to decline to notify authorities. Victims will also be provided

¹³ Prepared by Andrea Stagg, Associate Counsel.

¹⁴ The italicized language is already required to be in the ASR—the plain text language that follows is new.

information in writing about rights and institutional responsibilities regarding no contact orders, orders of protection, or other available applicable options.

- Evidence preservation: In order to best preserve evidence, victims should avoid showering, washing, changing clothes, combing hair, drinking, eating, or doing anything to alter physical appearance until after a physical exam has been completed.
- Reporting: Victims should report to [*insert person/title, email address, office address, phone number.*]
- Notifying Law Enforcement: Victims have the right to notify law enforcement, and the campus can assist in notifying law enforcement if victims choose. Victims may also choose to decline to notify authorities.

Procedures for institutional disciplinary procedures in cases of domestic violence, dating violence, sexual assault, and stalking

The institutional disciplinary procedures will provide a fair, prompt, and impartial process from investigation to final result. The investigation and any hearing will be conducted by those who receive annual training on issues related to VAWA crimes, how to conduct an investigation, and a hearing process that protects victim safety and promotes accountability. Parties are entitled to the same opportunities to have an advisor of their choice present at any hearing and related meetings. There is no limit to the choice of an advisor; however, the parties are responsible for presenting evidence on their own behalf. Advisors may speak privately to their advisee during the proceeding, and cannot present evidence or cross-question witnesses. Parties will be informed simultaneously in writing of the outcome of the process, the availability of any appeal procedures, and when the results become final after any appeals.

The disciplinary processes available for victims of domestic violence, dating violence, sexual assault, and stalking are [*insert options for procedures. For example, “campus student conduct disciplinary procedures”*]. [*Describe the steps—report taken, investigation, charges issued, initial meeting, pre-hearing meeting, hearing, appeal.*] [*Describe timeline – how many days between the steps? How many days for an appeal?*] The standard of evidence in these cases is preponderance of the evidence. Following an allegation or report of one of these crimes, the institution may offer available protective measures such as a no-contact order; alteration of living, academic, and work situations; or [*more?*]. [*sanctions are already listed above.*]

Confidentiality

The institution will maintain as confidential any accommodations or protective measures provided to the victims so long as it does not impair the ability to provide such measures. Personally identifiable information about victims will not be included in any publicly available record-keeping, including the reporting and disclosure of crime statistics.

Written Notifications to Students, Employees, and Victims of VAWA Crimes

For Students and Employees:

The College will provide written notification to students and employees about existing and available counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, and other services available in community and on campus to victims of

dating violence, domestic violence, sexual assault, and stalking. The College will also provide information about these services in writing to victims of domestic violence, dating violence, domestic violence.

For Survivors/Victims:

The College will provide written notification to victims regarding rights and options, including: available and existing on- and off-campus services such as victim advocacy, counseling, health, mental health, legal assistance, visa and immigration assistance; available and applicable institutional disciplinary procedures, and an explanation of those procedures; confidentiality in protective measures and Clery reporting and disclosure; and reasonable and available options and assistance with changing academic, living, transportation, and working situations, regardless of whether the victim chooses to report the crime to law enforcement.

VAWA, Title IX, and Clery Training & Education Considerations¹⁵

Background

What is VAWA? Under The Violence Against Women Act (“VAWA”), colleges and universities are required to: (1) report dating violence, domestic violence, sexual assault, and stalking, beyond crime categories the Clery Act already mandates; (2) adopt certain student discipline procedures, such as for notifying purported victims of their rights; and (3) adopt certain institutional policies to address and prevent campus sexual violence, such as to train in particular respects pertinent institutional personnel.¹⁶

Updates to VAWA: The Violence Against Women Reauthorization Act, which President Obama signed into law on March 7, 2013, imposes new obligations on colleges and universities under its Campus Sexual Violence Act (“SaVE Act”) provision, Section 304. This provision imposes new reporting requirements, new student discipline requirements, and new requirements to educate and train students and employees on sexual violence.

What is Clery? Requires colleges and universities that participate in federal financial aid programs to report annual statistics on crime, including sexual assault and rape, on or near the campus, and to develop and disseminate policies.

Components to Clery: Part of the Higher Education Act. Compliance requirements are gathered from the statute, as well as the regulations. Additional information comes from sub-regulatory guidance, the Clery Handbook, Annual Clery Letters to Institutions, Dear Colleague Letters, Clarifications (published and unpublished), and Program Reviews.

What is Title IX? Title IX of the Education Amendments of 1972 is a comprehensive federal law that protects people from discrimination based on sex in education programs or activities which receive Federal financial assistance. The law prohibits discrimination on the basis of sex in any federally funded education program or activity. Title IX applies to traditional educational institutions such as colleges, universities, including SUNY campuses. Under Title IX of the Educational Amendments Act of 1972, colleges and universities are required to develop procedures to respond to claims of sexual harassment.

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.*

College duty under Title IX: promptly respond to complaints of sexual harassment and sexual violence in a way that limits its effects and prevents its recurrence, through the Title IX coordinator, and training and education.

¹⁵ Prepared by Nedra Abbruzzese-Werling, Director of Compliance.

¹⁶ American Council on Education, *New Requirements Imposed by the Violence Against Women Reauthorization Act* <http://www.acenet.edu/news-room/Documents/VAWA-Summary.pdf>.

New Obligations to Train and Educate under VAWA

New Obligation to Train: The Department of Education engaged in negotiated rulemaking to implement VAWA's 2013 amendments to the Clery Act, which requires schools to provide education and awareness programs. Regulations will become effective in July 2015.

New Requirements to Educate New Students and Employees on Sexual Violence: Under VAWA, new students and new employees must be offered "primary prevention and awareness programs" that promote awareness of rape, acquaintance rape, domestic violence, sexual assault, and stalking.

CAVEAT: Schools are expected to make a good faith effort to meet these new requirements now even though the regulations are not yet effective

SUNY state-operated campuses are required to comply with the [SUNY OCR 2013 Voluntary Resolution Agreement](#), which is more specific than the general national guidance. Per the agreement, campuses offer a series of information sessions to students so that they are aware of the campuses' prohibition against sex discrimination (including sexual harassment, sexual assault, and sexual violence).

The SUNY Campus information sessions at the campus cover:

- How to recognize such sex discrimination and sexual harassment when it occurs
- How and with whom to report any incidents of sex discrimination
 - including sexual harassment, sexual assault, and sexual violence
- Title IX Information, including:
 - Campus' revised grievance procedures for Title IX complaints
 - General overview of Title IX,
 - Rights that Title IX confers on students
 - Resources available to students who believe that they have been victims of sexual harassment/assault/violence
 - The existence of OCR and OCR's authority to enforce Title IX

When Should the Information Sessions Be Held?

These sessions may be provided as part of the existing annual student orientation for new and returning students, and existing annual residence life orientation for students residing in campus housing.

Who Needs to Be Trained?

All students and employees of the campus should receive some level of training.

As discussed in the New Obligations to Train and Education under VAWA section of this document, new students and new employees should be offered “primary prevention and awareness programs” that promote awareness of rape, acquaintance rape, domestic violence, sexual assault, and stalking. Existing employees should be offered ongoing prevention and awareness campaigns directed specifically at employees, while existing students should be offered ongoing prevention and awareness campaigns directed specifically to students.

Students:

- Incoming Students: Programs to prevent dating violence, domestic violence, sexual assault, and stalking must be directed at incoming students.
- All Students: ongoing prevention and awareness campaigns should be offered to all students.

Employees:

- New Employees: Programs to prevent dating violence, domestic violence, sexual assault, and stalking must be directed at new employees.
- All Employees: Ongoing prevention and awareness campaigns should be offered to all employees.

What has changed? How is this new training obligation different from our past obligation?

Past obligations under Clery and Title IX

- Mandated training for the Title IX Coordinator, investigators, and adjudicators and campus police.
- Campus community must have been provided information to know what can and should be reported.
- Was only a best practice to provide training to students, staff and faculty.

Note: Specific employees have to receive more training, depending upon their role on the campus. Refer to the Specialized Employee Training Considerations section of this document for more information on employees who may need specialized training, and what that training should entail.

Frequency of the Trainings

The frequency of these trainings was not spelled out in the new regulations, except with respect to those involved with campus investigations, disciplinary actions and proceedings and hearings, where the regulations state clearly they need to be trained at least annually.

Trainings, according to the White House Report, should be:

- Sustained (not brief, one-shot educational programs).
- Comprehensive.

Suggestions for When to Offer the trainings for Students:

Pre-orientation / Arrival

- Student orientation handbook.
- Email.
- Flyers.
- Peer-to-peer letter.

Orientation / Arrival Stage

Post-Orientation/ Ongoing Stage

- Target Events:
 - Athletics activities.
 - Rush activities.
 - New Student fairs.
 - Awareness tables outside of bookstore/ student union.
- Residence Hall training.
- Peer theater presentations.
- Follow-up emails on particular days based on holidays (Dating violence on holidays, consent message before a campus weekend event where students are prone to party).
- Establish a webpage for program information, articles, blogs, etc.
- Recruit students to become involved in peer education.

Suggestions for When to Offer Trainings for Employees:

New Employees

- Pamphlets with their offer letters.
- First day job on-boarding.
- Initial mandated training sessions.

Current Employees

- Annual retraining.
- Exposure to ongoing programs aimed at students.

Training Goals

The three key functions of the training program are:

- 1. PREVENTION:** A primary prevention and awareness program [which includes bystander intervention] for all incoming students aims to prevent dating violence, domestic violence, sexual assault, and stalking.
- 2. POLICY AWARENESS:** Primary prevention and awareness programs lay out the institution's policy regarding dating violence, domestic violence, sexual assault and stalking and¹⁷;
- 3. PROCEDURE AWARENESS:** Inform students and employees about the procedures that the institution will follow when one of these crimes is reported.¹⁸

What should the training include?

To comply with VAWA'S new rules, Title IX's new guidance, and Clery training components:¹⁹

1. Incorporate mandatory statement in all trainings, programs, orientations or campaigns:

“[Institution name] prohibits the crimes of dating violence, domestic violence, sexual assault, and stalking.”

2. Provide the state definitions of dating violence; sexual assault; domestic violence; and stalking.

The Violence Against Women Act and its Proposed Regulations require the inclusion of New York State definitions and the campus code definitions in the Annual Security Report and for programs and training for employees and students.²⁰

¹⁷ §668.46 Institutional security policies and crime statistics, page 28 <http://www.gpo.gov/fdsys/pkg/CFR-2012-title34-vol3/pdf/CFR-2012-title34-vol3-sec668-46.pdf>, Section B (11).

¹⁸ §668.46 Institutional security policies and crime statistics, page 28 <http://www.gpo.gov/fdsys/pkg/CFR-2012-title34-vol3/pdf/CFR-2012-title34-vol3-sec668-46.pdf>, Section K.

¹⁹ §668.46 Institutional security policies and crime statistics, page 28 <http://www.gpo.gov/fdsys/pkg/CFR-2012-title34-vol3/pdf/CFR-2012-title34-vol3-sec668-46.pdf>.

²⁰ See [New York Crime Definitions](#), above.

The required terms that must be defined for purposes of training include:

- Dating Violence.
- Domestic Violence.
- Sexual Assault.
- Stalking.

3. Provide the definition of “consent” in reference to sexual activity from our New York State jurisdiction.

Consent at SUNY: Consent is clear, unambiguous, and voluntary agreement between the participants to engage in specific sexual activity.

4. Provide safe and positive options for bystander intervention an individual may take to prevent harm or intervene in risky situations.

Bystander Intervention: teaching men and women to speak out against rape myths, and to intervene if someone is at risk of being assaulted, has been shown to be an effective prevention tool.

- Resources to help teach bystander intervention:
 - The White House released a [Public Service Announcement](#) video featuring President Obama, Vice President Biden, and celebrity actors to spread the message of “if she doesn’t consent – or can’t consent – it’s a crime. And if you see it happening, help her, don’t blame her, speak up.” The video “urge[s] men’s groups, Greek organizations, coaches, alumni associations, school officials and other leaders to use the PSA to start campus conversations about sexual assault.”
 - A [Bystander Intervention Fact Sheet](#) released by the White House in conjunction with the White House Sexual Assault Task Force Report is a succinct document that covers:
 - Common Components of Bystander Intervention.
 - Delivery methods for training.
 - Information on combining tools for training.
 - Challenges to the bystander action.

5. Provide options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims to promote safety and to help individuals and communities address conditions that facilitate violence.

Giving survivors more control:

- Assuring confidentiality so they are more likely to come forward.

- Why: Survivors / victims need support and assurances to regain a sense of control, so they can confidentially sort through their options without others knowing, or without the school conducting a full-fledged investigation.
- Recognition of signs of abusive behavior and how to avoid potential attacks.

Signs of Abuse: Recognition of signs of abusive behavior and how to avoid potential attacks.

Confidentiality: Communicate and identify those trained, confidential victim advocates who can provide both emergency and ongoing support.

Who can be confidential: Non-professional on campus counselors and advocates – like those who work or volunteer in sexual assault centers, victim advocacy offices, women’s and health centers, as well as licensed and pastoral counselors-- can talk to a survivor in confidence.

- Must clearly communicate policy statement on confidentiality, and what it says with regard to the campuses need to override confidentiality when necessary to pursue alleged perpetrator and/or keep the campus community safe.
- New Department of Education guidance for Title IX says that these employees can now maintain confidentiality and talk to survivors in confidence:
 - Non-Professional On-campus counselors and advocates
 - On-campus advocates: work or volunteer in sexual assault centers, victim advocacy offices, women’s and health centers, and some licensed and pastoral counselors.
- **Resources available to survivors/ victims:** Schools must provide student with information on services available, including:
 - Identify trained, confidential victim advocates who can provide emergency and ongoing support.
 - Who can a victim/ survivor talk to in confidence?
 - Where can the student go?
 - Where can the student go for emergency services
 - On campus.
 - Local partnerships with community: (if you have them- such as a rape crisis center).

Optional Campus Climate Survey (not currently required by law, highly encouraged by White House First Report):

- **Campus Climate Survey:** Communicate the results of your Campus Climate Survey
 - What does campus climate measure:
 - Gauges the prevalence of sexual assault on campus, tests students attitudes and awareness of the issue, and provides schools with information to help them come up with solutions.

- What was the problem your campus climate survey identified
 - Remember - to fix a problem, you understand the extent of the problem.
 - Goal of campus climate is to provide a fair measure of the problem
- Campus climate surveys are not currently mandated, but the White House Report urges schools to conduct a survey within the next year, as they are considering legislative and administrative options to require climate surveys by 2016.

6. Provide your campuses comprehensive policy regarding programs to prevent dating violence, domestic violence, sexual assault, or stalking.

Campuses should effectively communicate their policy to the campus and make it clear what sexual assault is according to campus policy.

- What your campus policy says on instances when confidentiality can be overridden in order to provide a safe campus for all.

7. Provide information on the institutional disciplinary proceedings for cases of dating violence, domestic violence, sexual assault, or stalking.

Resources for survivors and victims

Train both students and employees on what is in place at the campus to help students in this situation, including:

- Communicating campus model reporting and confidentiality protocol.
 - Campus should make very clear who on campus can maintain confidentiality.
- Investigation and Adjudication Procedures.

8. For Title IX, campus community should know, generally, how to identify sexual harassment and how to report discrimination.

- What is Title IX?
- What is sexual discrimination?
- How does one report under Title IX?
- Who is the campus Title IX Coordinator?
- What is the process for a Title IX Claim?

9. Include ongoing prevention and awareness campaigns for students and employees, both staff and faculty.

Student-Specific Training Elements

1. Title IX

- Student rights under Title IX:
 - Title IX protects all students regardless of their sexual orientation or gender identity or immigration status or disability
 - Students who report sexual violence can expect their school to take steps to protect and support them, including while a school investigation is pending.
- Definitions of sexual violence and consent.
- Sexual Harassment: What it is and how to identify it?
- How the campus analyzes complaints.
- Confidential resources available to the students.
- Reporting options available to the students.
- Confidentiality.
- Relevant and applicable campus procedures and codes.
- Bystander intervention.
- The Role of alcohol and drugs, and the prohibition of retaliation.
 - Student Safety: Campuses should put an emphasis on student safety and take efforts during the training to focus on safety to ensure that alcohol or drug use do not chill reporting.

Employee-Specific Training Elements

These are elements of a training that apply to employees specifically, in addition to the general training requirements for both students and employees

All employees should be trained on:

- **How to respond to reports of sexual violence, and responsible employees know their obligation to report**
 - This includes practical information about identifying, preventing, and reporting sexual violence
- **Communicate to responsible employees:**
 - General information:
 - The employees' reporting obligation under Title IX if they are told information by a student.
 - Confidentiality –the confidentiality available to the student.
 - Students Rights.
 - Students Remedies.
 - Student Services.
 - Obligation to report:
 - Employees must report incidents of sexual harassment or sexual violence to the Title IX coordinator or designee.
 - Employee does not need to make a determination of whether harassment occurred or whether a hostile environment was created – that is the job of the Title IX Coordinator and other allied offices.
 - The dynamics of crimes of sexual assault:
 - Employee should understand the dynamics of sexual assault and the unique toll it can take on self-blaming and traumatized individuals; Need to ensure that all staff understand the dynamics of sexual assault so that they are aware of the dynamics of the crimes, and elements including:
 - What is proper questioning?
 - What would constitute harsh/ hurtful questioning?
 - Questions about past sexual history should not be permitted.
 - Questions that are not relevant to the incident should not be permitted, including accusations of past mental health history.
 - Mere fact of previous consensual relationship does not imply consent or preclude a finding of sexual violence.
 - Parties should not be allowed to cross-examine one another.

Specialized Training for Certain Key Employees May Include:

Trauma-Informed Training Programs: training to prevent trauma to the victims that may result from insensitive or judgmental questions

- Employee should understand the dynamics of sexual assault and the unique toll it can take on self-blaming and traumatized individuals.
- Understand how sexual assault occurs, how it is perpetrated, and how victims naturally respond during and after assault.

Campuses may consider providing additional training in various forms to employees who will be involved with sexual violence issues in some way, including those on the front-line, those who a student would be most likely to make the official report to. Often times, the students are most comfortable reporting to those who they have an established relationship with, which is why training those on the ‘front-line’, those with the most student contact, is important. Keep the front-line employees in mind when deciding who needs this trauma-informed training. However, we know at the very least, the list of those who must be subjected to trauma-informed training include::

- School Officials and administrators charged with oversight or specific duties related to Clery, Title IX and VAWA.
- Investigators.
- Employees likely to witness or receive reports under Title IX.
- Campus and local law enforcement.
- Campus Security Authorities Under Clery:
 - campus police department or a campus security department of an institution.
 - Any individual or individuals who have responsibility for campus security but who do not constitute a campus police department or a campus security department.
 - 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.
 - 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.

Confidential Victim Advocates:

- Like all employees, this person should:
 - Understand the **dynamics of sexual assault** and the toll it can take on victims who self-blame or are traumatized.
 - Know where to direct the victim for **resources** and **accommodations**.

- Be able to **effectively communicate** to the student how the campus **disciplinary system**.

Those involved with campus investigations, disciplinary actions and proceedings/hearings:

- Who: Those who are charged with ensuring a prompt, fair, and impartial investigation and result.
- Frequency: At a minimum, must receive annual training on how to conduct an investigation and issues related to VAWA crimes. This is the only place in the VAWA Proposed Regulations where a frequency of training is specified directly.
- Title IX: Requires that campuses train employees implementing Title IX procedures, specialized employees on certain elements of Title IX, and law enforcement personnel.

Title IX Specialized Training:

Who: Employees Implementing Title IX Grievance Procedures, including Title IX Coordinators, Investigators, and Adjudicators, and A Law Enforcement Title IX Designee.

Best Practice Note - One Law Enforcement Expert: at least one member of the campus police department should be fluent in the campus grievance procedures and act as liaison between the police and the Title IX coordinator

They should have training on, and experience with the following:

- Handling sexual violence complaints and using the campus grievance procedures
- How to:
 - interview victims.
 - identify sexual discrimination.
 - identify sexual violence.
- For purposes of the investigation:
 - How to conduct an investigation.
 - Consent, what it means, including when drugs and alcohol are involved.
 - Evaluating evidence impartially.
 - Determining credibility.
- Maintain a documentation system that documents the process of following the procedure
- Cultural awareness.
- Understanding of what constitutes sexual harassment and violence.
- Familiarity with the institution's grievance procedures.
- How to implement the institution's grievance procedures.

- To promote an impartial investigation and hearing process.
- Confidentiality.
- Conflicts of interest: Real or perceived conflicts of interest should be reported to investigators and adjudicators.
- Notice and hearing requirements.
- Information about preponderance of evidence standard OCR requires in sexual harassment and sexual assault cases.

Title IX Training for Law Enforcement

- Copies of the Title IX policies and grievance procedures.
- Recognize Red Flags: ability to recognize when a ‘red flag’ – such that they can work with the law enforcement Title IX.
- Notification to Complainant: Law enforcement personnel obligation to notify complainants of their right to file a Title IX sex discrimination complaint with the school in addition to filing a criminal complaint.
- Obligation for law enforcement personnel to report incidents of sexual violence or sexual harassment to the Title IX Coordinator.
- Title IX Coordinator Availability: Ensure law enforcement are aware that the Title IX Coordinator is available to them as a resource in cases of sexual violence and harassment.
- One Law Enforcement Expert: at least one member of the campus police department should be fluent in the campus grievance procedures and act as liaison between the police and the Title IX coordinator.

Delivery Methods for Trainings

The VAWA, Clery, and Title IX laws and regulations do not tell us how training must be delivered. However, we know that in-person training for students, faculty and staff, rather than an online model that simply requires some clicks through a slideshow, can be more effective to convey the message of the importance of sexual violence prevention and education. If online training modules are used, a best practice is to add some participation elements, such as questions throughout, or quizzes at the end of the training, to keep trainees engaged in the content and the message.

The following is a list of some ideas for how campuses can deliver the mandated trainings and programs to their students, staff, and faculty

How to Deliver the Trainings:

- Websites.
- Courses – online or in-person.
- Presentations.
- Seminars.
- Theatre discussions.
- Letters/ emails.
- Visible campus campaigns.

Elements of Training Programs

According to the new regulations,²¹ programs to prevent dating violence, domestic violence, sexual assault, and stalking must:

- Be comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end dating violence, domestic violence, sexual assault, and stalking.
- Be culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research or assessed for value, effectiveness, or outcome.
- Consider environmental risk and protective factors as they occur on the individual, relationship institutional, community, and societal levels.

Effective Programs: Guidance from the CDC, and discussed in the White House Task Force Report, tells us that effective programs are those that are:

²¹ §668.46 Institutional security policies and crime statistics, <http://www.gpo.gov/fdsys/pkg/CFR-2012-title34-vol3/pdf/CFR-2012-title34-vol3-sec668-46.pdf>.

- Sustained (not brief, one-shot educational programs).
- Comprehensive.
- Address the root: individual, relational, and societal causes of sexual assault.

Note on Effective Programs: White House admits that more research needs to be done to understand what constitutes an effective program

- Planned Studies:
 - CDC collaborating with the Justice Department’s Office on Violence Against Women and the Department of Education to identify emerging, promising practices to prevent sexual assault, with the goal of putting consensus recommendations into practice.
 - Justice Department’s Office on Violence Against Women developing a multi-year initiative on campus sexual assault to test and evaluate prevention programs.
- White House Task Force First Report includes an announcement that the Federal government plans to provide more resources on training in the future, on both the substance offered in the training for specialized staff and student training and the effectiveness of certain programs.

Getting Buy-In From Your Campus to participate in the Training

Campuses may experience an uphill battle in convincing all campus staff, faculty and students to participate in the training. However, there are a few things that can be done to communicate the importance of the training. Some ideas for building buy-in at your institution include:

- **Setting a Tone From the Top**

Be sure that the importance of prevention of sexual assault, sexual violence, and discrimination is communicated from the top down. Campus leaders should be actively engaged in communicating just how important these issues are to the campus community as a whole.

Tone at the Top is a phrase commonly used in the compliance world to describe an organization’s ethical climate and tone as beginning with its leaders. The principle is that if leaders believe that an issue is important, and communicate that importance to the organization, and then continue to live by the idea that it is important by acting ethically and leading by example, the organization will be more apt to believe that the message being communicated is important.

To set the tone at the top, leaders at your campuses should not just be communicating the importance of combating sexual assault, sexual violence, and gender inequality; they should be demonstrating its importance through their actions. The hope is that this tone’ will filter through the institution, and ensure that everyone believes that the issues are important.

- **Communicate the idea that training is for everyone's benefit**

Often, people think of training as just a way for an institution or organization to reduce their own liability and protect their own interests. In reality, though, the training is empowering the trainees because it provides them with the knowledge they will need if a situation arises, and helps to create a culture where everyone has an awareness of sexual assault prevention, and the resources available to them on the campus. If you can communicate the message that training is NOT just for the institution's benefit, but is meant to help prevent and reduce sexual violence, then it shifts the conversation from one of the institution's self-protection, to the protection of the campus and its community. Everyone will benefit from the training, from the employee who will know how to respond when a situation arises, to the student who is empowered by the message and understands their rights under the laws, to the potential perpetrator or bystander, who by way of bystander intervention training, will be more aware of what they can do to become part of the solution rather than part of the problem.

- **It is the Law (and regulations will be effective in 2015)**

The new VAWA regulations require training and education for all new and existing student and employees on elements of VAWA, Clery, and Title IX, as discussed throughout this document.

Document, Document, Document

As with all compliance, we need to take certain steps to comply, but documenting can help show what we have done to meet our obligations.

In the training realm, documentation is particularly important with regard to:

- Who took the training?
- When they took the training?
- What the training entailed - what was the substance of the training completed by the employee?
- Delivery method for the training: how was the content delivered? In-person, online?
- How long was the training?
- How often was the training taken?

The proposed regulations require that institutions provide the training, but do not penalize institutions if students and employees do not attend trainings. Keep track of those who do, and consider offering incentives to attend training.

Compliance is important, but unless there is a record of the compliance, it could seem to someone coming in from the outside that nothing has been done to ensure compliance.

Nine Steps to Effective Training²²

Program Definitions

Programs to prevent dating violence, domestic violence, sexual assault, and stalking:

- Comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end dating violence, domestic violence, sexual assault, and stalking that –
 - Are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research or assessed for value, effectiveness, or outcome; and
 - Consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community and societal levels.
- Programs to prevent dating violence, domestic violence, sexual assault, and stalking include both primary prevention and awareness programs directed at incoming students and new employees and ongoing prevention and awareness campaigns directed at students and employees.

Awareness programs:

- Community-wide or audience-specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration.

Bystander Intervention:

- Safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene.

Ongoing prevention and awareness campaigns:

- Programming, initiatives, and strategies that are sustained over time and focus on increasing understanding of topics relevant to and skills for addressing dating violence, domestic violence, sexual assault, and stalking, using a range of strategies with audiences throughout the institution and including information on the eight steps the institution is taking for effective programming as described below.

Primary prevention programs:

- Programming, initiatives, and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop dating violence, domestic violence,

²² Prepared by Stephanie Morrison, Legal Intern, 2L at Cornell Law School under the supervision of Nedra Abbruzzese-Werling, Director of Compliance.

sexual assault, and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions.

Risk reduction:

- Options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence.

9 STEPS FOR EFFECTIVE PREVENTION PROGRAMMING:

The proposed activities outlined below are intended to be expanded upon as an individual campus deems appropriate or tailored specifically to meet the needs of the individual campus.

1. Identify specify prevention goals for your campus.

By identifying specific learning goals, your campus can best tailor its prevention programs to the needs of your community. Examples include: (1) increasing students’ knowledge about policies and resources on campus; (2) increasing positive bystander attitudes and action; (3) reducing women’s risk of sexual assault; or (4) reducing potential self-blame after an assault.

- A “campus climate survey” is the best way to identify the needs of your campus. The Justice Department has partnered with Rutgers University’s Center on Violence Against Women and Children to launch a pilot program. The White House Task Force also has released a “Tool-kit” guide to campus climate surveys.²³
- The Tool-kit includes an overview of how to plan and conduct a climate survey and describes and provides examples of an empirically informed survey based on best practices. The planning overview provides information for selecting appropriate individuals to conduct the survey, mediums through which the survey can be conducted, and using an appropriate sample of participants
- The Tool-kit also includes examples of questions to be addressed in the survey. Examples from the Took-kit are reproduced below.²⁴

²³ <https://www.notalone.gov/assets/ovw-climate-survey.pdf>

²⁴ <https://www.notalone.gov/assets/preventing-sexual-violence-on-college-campuses-lessons-from-research-and-practice.pdf>

Sample Programming:

Sample Context and Disclosure Question

For the next set of questions, please pick the MOST SERIOUS INCIDENT if you had more than one, and answer the questions below about this experience. If you had no unwanted sexual experiences, circle “no experience” for each of the questions below.

Who did the UNWANTED BEHAVIOR involve? (Check only one)

- a. Stranger
- b. Family Member
- c. Acquaintance
- d. Coworker
- e. Employer/supervisor
- f. College professor/instructor
- g. College staff
- h. Non-romantic friend
- i. Casual or first date
- j. Current romantic partner

Sample Programming:

Perceptions of Leadership, Policies and Reporting

If someone were to report a sexual assault to a campus authority, how likely is it that:

Very Likely Moderately Likely Slightly Likely Not at all Likely

- a. The university would take the report seriously.
- b. The university would keep knowledge of the report limited to those who need to know in order for the university to respond properly.
- c. The university would forward the report outside the campus to criminal investigators.
- d. The university would take steps to protect the safety of the person making the report.
- e. The university would support the person making the report.
- f. The university would take corrective action to address factors that may have led to the sexual assault.
- g. The university would take corrective action against the offender.
- h. The university would take steps to protect the person making the report from retaliation.
- i. Students would label the person making the report a troublemaker.
- j. Students would support the person making the report.
- k. The alleged offender(s) or their associates would retaliate against the person making the report.
- l. The educational achievement/career of the person making the report would suffer.

2. Know your target audience.

Universal prevention education for all students is best for campuses because it is likely that individual students' attitudes or peer norms for particular subgroups are more important than group membership, per se. (e.g., Greek system members or student athletes.) Prevention will be more effective if it is tailored to a community's level of motivation of preparedness to address the issue.

- The Center for Disease Control and Prevention (CDC) has shifted its concentration from victims to perpetrators to reduce rates of sexual violence. These efforts are designed to work alongside efforts focused on risk reduction, criminal justice, recidivism prevention, and victim services.²⁵
- Efforts shifting to perpetrators can be seen in a number of programs endorsed by the White House Report, and advanced through websites such as PreventIPV.org and CALCASA.org.

Sample Programming:

Coaching Boys Into Men

This program engages athletic coaches through the Coaches Leadership Program to help shape the attitudes and behaviors of young male athletics. This program targets specific, at risk populations. Because of the special role coaches play in the lives of young men, the program equips coaches to talk with their athletes about respect for women and girls that violence does not equal strength.

The Playbook is a core feature and component of the Coaches Leadership Program that provides “teach easy tactics and teachable moments” that illustrate ways to role model and promote healthy choices and relationships among young.

For more information, visit

http://www.futureswithoutviolence.org/section/our_work/men_and_boys/coaching_leadership/

²⁵ See Preventing Sexual Violence on College Campuses: Lessons from Research and Practice, Division of Violence Prevention, Centers for Disease Control and Prevention. April 2014, <https://www.notalone.gov/assets/evidence-based-strategies-for-the-prevention-of-sv-perpetration.pdf>.

3. Use the best practices available.

Many tools exist that are evidence informed or promising. Programs should build on clearly written logic models drawn from research that help explain why programs should work. Research shows that using multiple tools for a multi-pronged approach to prevention is best.²⁶ Programs can and should include a variety of methods – website, courses, presentations, seminars, theater discussions, letters etc.

Strategies to Reduce Risk for Sexual Violence:

- Develop organizational policies and environmental interventions to reduce risk.
- Strengthen existing policies or services on campus related to reporting and responding to sexual violence.
- Increase negative consequences for perpetrators.
- Decrease social norms that facilitate sexual violence.

Primary Prevention: Two primary prevention strategies, to date, have demonstrated significant reductions in sexual violence behaviors using a rigorous evaluation design.²⁷ These programs include *Safe Dates* and *Shifting Boundaries*.²⁸ Both programs were developed for the middle-school age student. However, both provide opportunities for adaptation in college populations. College and universities can use these evidence-based approaches to address risk for sexual violence in college relationships.

Sample Programming: Bringing in the Bystander

This education and training program is developed for college students and delivered in 4.5 hours over 1-3 sessions. It provides participation skills to help students act when they see behavior that puts others at risk for violence, victimization, or perpetration. The skills include speaking out against rape myths and sexist language, supporting victims, and intervening in potentially violent situations.

²⁶ Nation, M. Crusto, C., Wandersman, A., Kumpfer, K.L., Seybolt, D., Morrissey-Kane, E., & Davino, K. (2003). What works in prevention: Principles of effective prevention programs. *American Psychologist*, 58,449-456.

²⁷ See Preventing Sexual Violence on College Campuses: Lessons from Research and Practice, Division of Violence Prevention, Centers for Disease Control and Prevention. April 2014.

²⁸ *Safe Dates* is a “universal dating violence prevention program for middle and high school students.” It includes a ten session curriculum that addresses attitudes, social norms, and health relationship skills. It includes a 45 minute student play and a poster contest. For more information, visit <http://www.hazelden.org/web/public/safedates.page>. *Shifting Boundaries* is part of a universal, 6-10 week, school based dating violence prevention strategy that addresses policy and safety concerns through the use of temporary building based restraining orders, a poster campaigns to increase awareness of dating violence, and “hotspot” mapping to identify unsafe areas of the school for increased monitoring. To learn more, visit <https://www.crimesolutions.gov/ProgramDetails.aspx?ID=226>.

Risk Reduction: The CDC also evaluated some programs based on their impact on sexual violence behaviors. These programs were found to be effective in reducing risk of sexual violence or related outcomes. These programs include:

- *Coaching Boys into Men.*
- *Bringing in the Bystander.*
- *Green Dot.*²⁹
- *The Rape Prevention and Education Program.*³⁰

In addition, CALCASA’s “Campus Violence Prevention: Resource Guides” has a number of resources that can be accessed for risk-reduction programs.

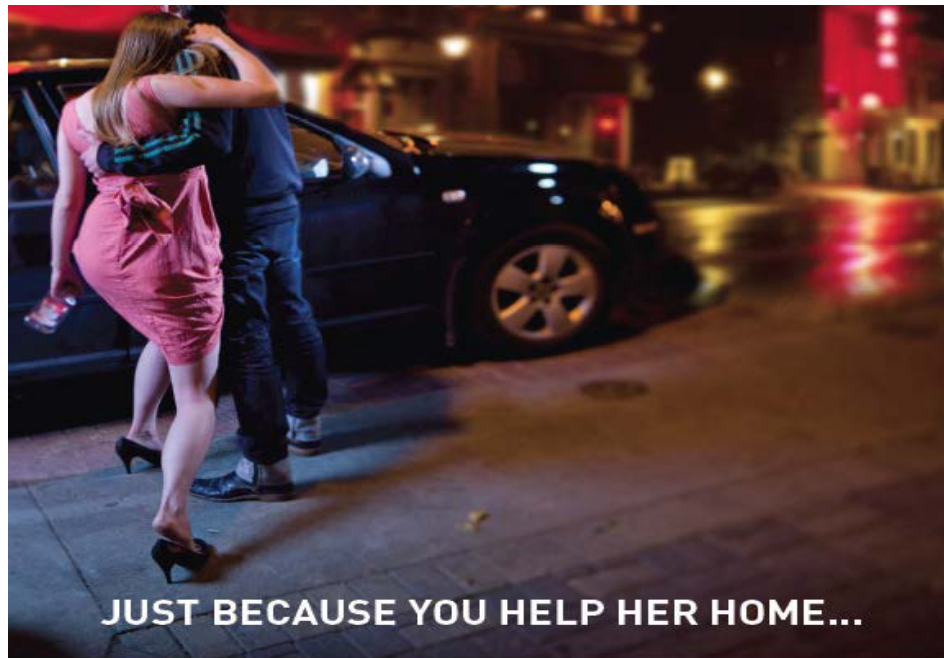
- **Awareness Programs:** *Social Media Campaigns* are an effective method that will help to increase awareness, and potentially reduce risk and perpetration of acts of violence. A number of social media and awareness campaigns have been developed including:
- Know Your Power.
 - Red Flag Campaign.
 - White Ribbon Campaign.
 - Walk a Mile in her Shoes.
 - Don’t Be That Guy.

Bystander Intervention Programs: One requirement of the VAWA Regulations is to increase positive bystander action. Bystander intervention programs share a number of components that aim to increase: (1) Awareness; (2) Sense of responsibility; (3) Perceptions of norms; (4) Weighing pros and cons; (5) Confidence; (6) Skills; and Context. A common challenge with increasing bystander participation is that bystanders are often unsure of themselves as responders and unclear about whether intervention is unwelcome or needed. Developed bystander intervention programs include:

- *Bringing in the Bystander.*
- *One in Four.*
- *Coaching Boys to Men.*
- *Men’s Project.*
- *Green Dot.*

²⁹ *Green Dot*, is another program that includes bystander training and has proven to be effective in increasing bystander behavior scores.

³⁰ <http://www.cdc.gov/violenceprevention/pdf/svprevention-a.pdf>



JUST BECAUSE YOU HELP HER HOME...

DOESN'T MEAN YOU GET TO HELP YOURSELF.

sex without consent = sexual assault

DON'T BE THAT GUY.

vpd.ca



To see more campaign posters, visit <http://www.theviolencestopshere.ca/dbtg.php>

4. Consider what is needed for implementation on your campus.

Use tools that will allow students to see themselves reflected in the stories and images used. For example, social marketing campaigns taken from one campus should be modified when implemented on another campus.

5. Find the resources to go big.

Short single session prevention tools do little to create long-term attitude or behavior changes. Campuses should commit to multiple components of prevention education over time to reach broad audiences.

Many resources exist that are designed to provide information, encourage communication, and prevent violence. One such example is “Prevent IPV, Tools for Social Change.” This site includes a “tool kit” of resources to review and use.³¹

6. Connect your work to other prevention efforts on campus.

Prevention work could be much more effective if offices worked collaboratively. Connect prevention of sexual violence efforts with offices that address substance abuse, mental health concerns, and risky sexual behavior.

7. Include faculty, staff, and administrators in prevention and training efforts.

College students are more likely to report concerns about violence if they trust campus authorities. Faculty, staff, and administrators can support prevention, bystander action, and victim assistance.

By providing information to students about their reporting options, a student will be more likely to report the occurrence. Make sure the student knows their options for addressing the incident with the criminal justice system or by keeping it limited to the College justice system.

8. Evaluate and help move toward an evidence base.

Ask participants in prevention programs to answer a short survey before and after a program that tests what they have learned, and then follow up a few months later to learn if they have used new skills. Use these surveys to collect information on what impact these programs are having.

9. Plan for sustainability

Look to the future and consider how these prevention tools will continue for your campus over time.

³¹ For more information visit, <http://preventipv.org/>.

Some Thoughts on the Importance of Bystander Intervention³²

After a series of sexual assaults, Golda Meir, the first female Prime Minister of Israel, was advised to place a curfew on women. Golda retorted that, “[i]t is the men who are attacking the women. If there is to be a curfew, let the men stay at home.”³³ Higher education groups, and society in general, have spent many years talking to victims and potential victims about how to avoid sexual assault. We have told them:

- Watch your drink,
- Walk in groups,
- Lock your doors,
- Be careful with strangers,
- And other messages to help them avoid becoming victims of sexual assault.

But that is merely half the message (and perhaps not even the proper half to fully *prevent* sexual assault, not simply work to minimize exposure to it). For some time now, SUNY, and other New York State agencies, most prominently Bob Passonno of the New York State Office for the Prevention of Domestic Violence, have been talking about the other half of the equation: talking to potential assailants and potential bystanders to violence. Now, with the encouragement of the VAWA Proposed Regulations (requiring bystander intervention programming) and the resources of the White House First Report,³⁴ we have an opportunity to educate our campuses about this different method of training to confront sexual violence and encourage the use of bystander intervention.

Changing the culture of bystanders takes several steps and it cannot be accomplished overnight. Colleges should use a sustained approach to train and encourage bystanders using different methods including live discussion, peer-to-peer conversations, social media, and many other methods to educate and reinforce the message. Concurrent with the training of bystanders, we may impact potential assailants, who may be confronted with information about sexual assault and may choose to act differently when given the opportunity to commit such a crime.

In Group and Out Group Dynamics: Expanding the Reference Group:

In his book *Identity and Violence*,³⁵ Nobel Prize winner in Economic Sciences Amartya Sen wrote about identity and how individuals are more willing to commit violence against those who are outside their identity’s group. In other words, individuals experience an “us versus them” mentality about those in different identity groups. Sen, as a Solitarist, believes each individual has a single identity mostly revolving around race and religion. Although it is always

³² Prepared by Joseph Storch, Associate Counsel.

³³ Glenn E. Good and Nancy B. Sherrod, *the Sychology of Men and Masculinity: Research Status and Future Directions*, in *Handbook of the Psychology of Women and Gender* (Rhoda K. Unger, ed.) (2001), p. 201; Jagdish N. Singh, *Addressing the Rape Crisis in India: Will Golda Meir Inspire Modi?*, THE JEWISH PRESS, <http://www.jewishpress.com/indepth/opinions/stopping-rapes-in-india-or-will-golda-meir-inspire-modi/2014/06/22/2/> (June 23, 2014).

³⁴ See especially <https://www.notalone.gov/assets/bystander-summary.pdf>.

³⁵ Amartya Sen, *Identity and Violence: The Illusion of Destiny*, 2006.

dangerous to disagree with a Nobel winner, this author has a slightly different analysis: individuals, including college students, have a variety of identities, some that shift over time, some that are stronger than others. While individuals may have a primary identity (sometimes revolving around their race or religion), students have a myriad of identities that may shift, swell and recede based on circumstances:

- Race
- Religion
- Gender
- Geographic Origin (wide, as in state and nation, and narrow, as in block or school district)
- Athletic Teams
- School Affiliation
- Greek or club affiliation
- Residence hall or other housing

People naturally organize themselves in groups. Some of the groups, when viewed with a critical eye, look rather random and unimportant, and yet can lead to violence.³⁶ Each of these and other identities have an “in group” and “out group.” Those who are “in” receive protection from violence while those who are “out” are susceptible to violence. Although there are clear examples of within-group violence, such as domestic violence this section of the guidance is aimed at violence against those outside the in group.

In many cases, stronger identities lead to more willingness to commit violence against those outside the group. The saving grace that we learn from Sen’s work, however, is that education (especially education that allows you to see through others’ eyes) can lower the incidence of violence.

One path toward encouraging bystander intervention is to increase the size of the reference group. When the reference in group is narrow, bystanders may not act to help those outside the in group. By widening the reference group, we can train bystanders to empathize with those who would not otherwise be in the group, and advance them down the path of stepping in to prevent sexual violence.

To accomplish this, colleges and universities should work to expand the reference in group: we are better served by a reference group of “students at my college” than we are by a reference group of “members of my fraternity, sports team, club, or house.”

Bystander Inaction:

³⁶ Consider for instance the Los Angeles Dodgers baseball fans who brutally beat a fan of the Giants, an opposing major league baseball team, or the football fans who knocked over an eight-year-old child wearing a New York Jets jersey. Sonya Hamasaki, *Jury: Dodgers Negligent in Giants Fan’s Beating*, CNN, <http://www.cnn.com/2014/07/09/justice/california-giants-fan-beating/> (July 9, 2014); Mike Florio, *Eight-Year-Old Jets Fan Allegedly Tackled While Leaving Browns Game*, NBCSPORTS, <http://profootballtalk.nbcsports.com/2010/11/16/eight-year-old-jets-fan-allegedly-tackled-while-leaving-browns-game/> (November 16, 2010).

Classic research on bystanders consistently shows that bystanders are loath to act to stop violence. The most famous story of bystander inaction was the 1964 murder of Kitty Genovese in Queens, New York. As was later exposed by the media, dozens of her neighbors saw or heard Winston Mosely attacking, assaulting, sexually assaulting, and killing her without calling the police or stopping the assault.³⁷ As in many bystander cases, they might have assumed someone else would step in or call the police.

One man reportedly took a small step, shouting down from his window to “leave that girl alone.” Even though the shout was not accompanied by calling police or any other step, that small intervention by a bystander caused Mosely to temporarily flee. However, her salvation did not last long. When no police cars arrived, Mosely returned to Genovese, assaulted her and killed her.

In the fifty years since that murder, human nature has not changed. In that time, however, the level of research on bystander action and inaction has increased significantly, and we have learned steps we can take to encourage bystander action when witnessing violence.

The cruel irony of the bystander effect is that the number of bystanders to violence is inversely proportional to the likelihood that any one of them will step in to stop violence or call for assistance. In laboratory experiments, one or two people witnessing violence will often step in; the larger the crowd, the less likely any of them will step forward. Bystanders look around at others, see that the others are not stepping in, and assume it is appropriate *not* to step in since no one else does. Known as the principle of social proof, individuals in a situation observe and mimic the behavior of others, behavior they assume *must* be correct if others engage in it. This is sometimes called “herd behavior,” as a large group of otherwise free-thinking individuals stands around like a herd afraid to think for themselves.

How Colleges Can Change Bystanders’ Actions:

At colleges and universities, the signs of sexual assault often begin at events with large crowds, including parties, concerts, “after hours,” and athletic events. At these events, many people witness the beginnings of sexual assaults, but most do not recognize what is occurring. For those that do recognize what is occurring, almost none step in to stop the impending crime. Following are suggested steps that colleges should use to train bystanders to complete the process of stepping in or calling authorities to prevent these heinous crimes.

- Recognize that an incident is occurring or will occur;
- Reduce the ambiguity of whether it is a crime or not;
- Believe that the potential victim is in your “in group;”
- Become empowered to act where others do not;
- Determine if one can intervene safely;

³⁷ Note that the precise facts of the Genovese murder are subject to some dispute among competing writers. See Nicholas Lehman, *A Call For Help*, THE NEW YORKER, <http://www.newyorker.com/magazine/2014/03/10/a-call-for-help?currentPage=all> (Mar. 10, 2014).

- Determine if Direct Intervention or Detour Intervention (calling University Police, alerting friends) is more appropriate;
- Act (directly, indirectly, or sneakily); and
- Feel proud of your role in preventing a life altering crime.

Some Brief Context on Each Segment:

- Recognize that an incident is occurring or will occur;

Bystander training can provide students and members of the college community with the tools to recognize signs of an impending sexual assault. Some students are naive to what is occurring around them and others simply lack the skill set to recognize crimes as they are occurring. Not all students will have obtained training in this area in high school, and colleges can fill in the gaps by explaining what these crimes are and what some signs of these crimes look like.

- Reduce the ambiguity of whether it is a crime or not;

One of the problems in bystander intervention in sexual violence is the ambiguity between what is consensual sexual activity and what is sexual assault. Most people naturally assume the best about their friends and roommates and cannot imagine that what they would be doing would constitute a crime. In an alcohol-fueled environment, there can also be confusion about exactly what individuals are willingly participating in, and what they are participating in under duress. Using media and poster campaigns described elsewhere in this guidance can be a strong education tool to reduce ambiguity in the area of sexual assault. Among other resources, the posters in the Canadian project “Don’t Be That Guy” are hard-hitting and can help clarify for potential assailants and potential bystanders the differences between consensual activity and a crime. <http://www.theviolencetopshere.ca/dbtg.php>.

- Believe that the potential victim is in your in group;

As described earlier, one of the biggest gains in this area can come from increasing the size of the reference in group that one considers when observing potential sexual violence. Colleges can use phrases that increase the size of the group. For example, at a college with the mascot of the Eagle, training can include statements such as the “Eagle Way is to stand up for each other and protect all Eagles from violence.”

- Become empowered to act where others do not;

Part of successful bystander intervention is training to ignore all those around you who are not acting. As described earlier, the principle of social proof often means that a large number of bystanders and potential heroes in a situation simply stand around as a herd, unsure of what to do, mimicking the behavior of others who are likewise simply standing around. Educating about this phenomenon, and empowering students to “step forward even if you are the only one doing so” can be a powerful message to minimize the herd phenomenon.

- Determine if one can intervene safely;

Violence should not beget violence. Training should encourage students to intervene only if they can do so safely, not increasing risk for themselves or the potential victim. Ways to avoid such risk include obtaining the assistance of others and involving police or campus professionals.

- Determine if Direct Intervention or Detour Intervention (calling University Police, alerting friends) is more appropriate;

While Direct Intervention can be a powerful method of stopping an impending assault, students should be encouraged to also consider Detour Intervention, including bringing in law enforcement and campus professionals who have proper training to assist in such a situation. Students should receive tools to consider which method is best.

- Act (directly, indirectly, or sneakily);

After considering the above factors (ideally in a very quick way), students and college community members should be empowered to act to prevent assault and sexual violence. Sometimes that can be direct action, sometimes it can be sneaky, such as spilling a drink, turning down the music, or asking the potential victim or assailant to step outside so they can tell them something important. Whatever the method, it is important to step up and act to prevent this violence.

- Feel proud of your role in preventing a life altering crime.

Students should understand the difference they can make in the life of a potential victim, and should feel proud of their efforts to intervene and prevent crimes.

In an oft quoted line from the Bible “God said unto Cain: ‘Where is Abel thy brother?’ And he said: ‘I know not; am I my brother's keeper?’” With bystander intervention programs, we can and should convince our students that, in many ways, we are our brothers’ and sisters’ keeper. Even if the individual student does not have a legal duty to step in and prevent a given situation, we can help convince our students to be better. We can make our campuses (and off campus communities) safer for all members of the college community. Bystander training can help us get there.

For more information, please review the resources collated by the White House First Report in this document: <https://www.notalone.gov/assets/bystander-summary.pdf>.

NACUA 2014 Annual Conference

An Insiders' Guide to the Violence Against Women Act Negotiated Rulemaking: Implementing Changes to the Clery Act

[John Graff, Hirsch Roberts Weinstein LLP](#)

The regulations implementing the Violence Against Women Reauthorization Act (“VAWA”) amendments to the Clery Act have not been finalized. However, VAWA became effective March 7, 2013, and institutions nevertheless are required to comply with the resulting changes to Clery. From the effective date of VAWA through issuance of the implementing regulations, institutions will be judged against a ‘good faith’ standard in determining compliance. The checklist below is designed to assist institutions in attempting to reach that good faith standard.

- ✓ Do I know my *key* definitions³⁸ for statistical counting³⁹ of reported crimes?
 - **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.
 - **Violence** includes, but is not limited to, sexual or physical abuse *or* the threat of such abuse.
 - The existence of a **social relationship of a romantic or intimate nature with the victim** is determined based on:
 - The reporting party’s statement;
 - The length of the relationship;
 - The type of relationship; and
 - The frequency of interaction between the persons involved in the relationship.

³⁸ The definitions in this section are not intended to be an exhaustive list of definitions contained in the proposed regulations. Rather, they are provided for the purpose of assisting with the determination of whether the elements of a crime are present such that the incident should be disclosed in an institution’s annual security report.

³⁹ When counting statistics, the hierarchy rule does not apply to *dating violence, domestic violence, stalking, and sexual assault*.

- The term *dating violence* excludes acts covered under the definition of *domestic violence*.
- **Domestic violence:** A felony or misdemeanor crime of violence committed by any of the following individuals:
 - A current or former spouse *or* intimate partner of the victim; *or*
 - A person with whom the victim shares a child in common; *or*
 - A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; *or*
 - A person similarly situated to a spouse of the victim under the domestic or family laws of the jurisdiction in which the crime of violence occurred; *or*
 - Any other person against an adult or youth victim who is protected under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- **Sexual assault:** An offense that meets the definition of *rape, fondling, incest, or statutory rape* as stated in the FBI’s Uniform Crime Reporting program.
 - **Rape** is defined as the penetration, not matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person without the consent of a person.
- **Stalking:**⁴⁰ Engaging in a *course of conduct* directed at a specific person that would cause *a reasonable person* to fear for the person’s safety or the safety of others *or* suffer substantial emotional distress.
 - A **course of conduct** is two or more acts, including, but not limited to:
 - Acts in the which the ‘stalker’ directly, indirectly, or through third parties by any action, method, device, or means,
 - Follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person’s property.

⁴⁰ See Appendix to this document.

- **Substantial emotional distress** is significant mental suffering or anguish that may, *but does not necessarily require*, medical or other professional treatment or counseling.
 - A **reasonable person** is one under *similar circumstances and with similar identities to the victim*.
- ✓ Has my institution included in its annual security report (“ASR”) a statement of policy regarding the institution’s programs to prevent *dating violence, domestic violence, sexual assault, and stalking*?
 - Your institution’s policy statement must contain the following:
 - A description of programming to promote the awareness of *dating violence, domestic violence, sexual assault, and stalking*?
 - The statement must include the following:
 - A description of the institution’s primary prevention⁴¹ and awareness programs⁴² for all incoming students and new employees, which must include:
 - A statement that the institution prohibits the crimes of *dating violence, domestic violence, sexual assault, and stalking*;
 - The definitions of “dating violence,” “domestic violence,” “sexual assault,” and “stalking” in the applicable jurisdiction;
 - The definition of “consent,” in reference to sexual activity, in the applicable jurisdiction;

⁴¹ The term **primary prevention programs** means programming, initiatives, and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop dating violence, domestic violence, sexual assault, and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions.

⁴² The term **awareness programs** means community-wide or audience-specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration.

- A description of safe and positive options for bystander intervention; and
 - Information on risk reduction.⁴³
 - A description of the institution's ongoing prevention and awareness campaigns⁴⁴ for students and employees.
 - Procedures victims should follow in the event of a crime of *dating violence, domestic violence, sexual assault, and stalking*.
- The statement of procedures must contain information about the following:
 - The importance of preserving evidence that may assist in proving that the alleged criminal offense occurred *or* which may be helpful in obtaining a protection order.
 - How and to whom the alleged offense should be reported.
 - Options about the involvement of law enforcement *and* campus authorities, including notification of the victim's option to:
 - Notify proper law enforcement authorities, including on-campus and local police; and
 - Decline to notify such authorities.
 - Where applicable, the rights of victims and the institution's responsibilities for *orders of protection, no contact orders, restraining orders, or similar lawful orders* issued by a criminal, civil, or tribal court *or by the institution*.

⁴³ The term ***risk reduction*** means options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence.

⁴⁴ The terms ***ongoing prevention*** and ***awareness campaigns*** mean programming, initiatives, and strategies that are sustained over time and focus on increasing understanding of topics relevant to and skills for addressing *dating violence, domestic violence, sexual assault, and stalking*, using a range of strategies with audiences throughout the institution.

- Information about how the institution will protect the confidentiality of victims and other necessary parties, including how the institution will:
 - Complete publicly available record-keeping and, for purposes of Clery Act reporting and disclosure, without the inclusion of identifying information about the victim, as defined in 42 U.S.C. 13925(a)(20);⁴⁵ and
 - Maintain as confidential any *accommodations or protective measures* provided to the victim, *to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures.*
- A statement that the institution will provide written notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, and other services available for victims, both within the institution and in the community.
- A statement that the institution will provide written notification to victims about options for, and available assistance in, changing academic, living, transportation, and working situations. The institution must make such accommodations if the victim requests them and if they are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement.
- An explanation of the procedures for institutional disciplinary action in cases of alleged *dating violence, domestic violence, sexual assault, or stalking*, including:

⁴⁵ ***Personally identifying information*** or ***personal information*** as defined under 42 U.S.C 13925(a)(20) mean individually identifying information for or about an individual including information likely to disclose the location of a victim of *domestic violence, dating violence, sexual assault, or stalking*, regardless of whether the information is encoded, encrypted, hashed, or otherwise protected, including a first and last name; a home or other physical address; contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number); a social security number, driver license number, passport number, or student identification number; and any other information, including date of birth, racial or ethnic background, or religious affiliation, that would serve to identify any individual.

- A description of each type of disciplinary proceeding used by the institution;
- The steps, anticipated timelines, and decision-making process for each type of disciplinary proceeding;
- How the institution determines which type of proceeding to use based on the circumstances of an allegation of dating violence, domestic violence, sexual assault, or stalking;
- A description of the standard of evidence that will be used during any institutional disciplinary proceeding arising from an allegation of dating violence, domestic violence, sexual assault, or stalking;
- A listing of *all* of the possible sanctions that the institution may impose following the results of any institutional disciplinary proceeding for an allegation of dating violence, domestic violence, sexual assault, or stalking;
- A description of the range of protective measures that the institution may offer following an allegation of dating violence, domestic violence, sexual assault, or stalking;
- The procedures must:
 - Include a prompt, fair, and impartial process⁴⁶ from the initial investigation to the final result;
 - Be conducted by officials who at a minimum receive annual training on the issues related to dating violence, domestic violence, sexual assault, and stalking and on how to conduct an investigation

⁴⁶ A prompt, fair, and impartial proceeding includes a proceeding that is: (a) completed within reasonably prompt timeframes designated by an institution's policy, including a process that allows for the extension of timeframes for good cause with written notice to the accuser and the accused of the delay and the reason for the delay; (b) conducted in a manner that (i) is consistent with the institution's policies and transparent to the accuser and accused, (ii) includes timely notice of meetings at which the accuser or accused, or both, may be present, and, and (iii) provides timely access to the accuser, the accused, and appropriate officials to any information that will be used after the fact-finding investigation but during informal and formal disciplinary meetings and hearings; and (c) is conducted by officials who do not have a conflict of interest or bias for or against the accuser or the accused.

and hearing process that protects the safety of victims and promotes accountability;

- Provide the accuser and the accused with the same opportunities to have others present during any institutional disciplinary proceeding,⁴⁷ including the opportunity to be accompanied to any related meeting or proceeding by the advisor⁴⁸ of their choice;
- Not limit the choice of advisor or presence for either the accuser or the accused in any meeting or institutional disciplinary proceeding; however, the institution may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties; and
- Require simultaneous notification, in writing, to both the accuser and the accused, of:
 - The result⁴⁹ of any institutional disciplinary proceeding that arises from an allegation of dating violence, domestic violence, sexual assault, or stalking;
 - The institution's procedures for the accused and the victim to appeal the result of the institutional disciplinary proceeding, if such procedures are available;
 - Any change to the result; and
 - When such results become final.
- A statement that neither the institution, nor any officer, employee, or agent of an institution, may retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual for exercising their rights to avail themselves of the institution's grievance procedures.

⁴⁷ The term *proceeding* means all activities related to a non-criminal resolution of an institutional disciplinary complaint, including, but not limited to, fact-finding investigations, formal or informal meetings, and hearings.

⁴⁸ The term *advisor* means any individual who provides the accuser or accused support, guidance, or advice.

⁴⁹ The term *result* means any initial, interim, and final decision by any official or entity authorized to resolve disciplinary matters within the institution. The result must include any sanctions imposed by the institution. The result must also include the rationale for the result and the sanctions.

- A statement that, when a student or employee reports to the institution that the student or employee has been a victim of *dating violence, domestic violence, sexual assault, or stalking*, whether the offense occurred on or off campus, the institution will provide the student or employee a written explanation of the student's or employee's rights and options with respect to the report.

APPENDIX

A Note on Recording Reports of Stalking

When recording reports of stalking that include activities in more than one calendar year, an institution must record a crime statistic only for the calendar year in which the course of conduct was first reported to a local police agency or to a campus security authority.

If the course of conduct continues in a subsequent year, it must be recorded for that year.

An institution must record each report of stalking as occurring at only the first location within the institution's Clery Geography in which (a) a perpetrator engaged in the stalking course of conduct; *or* (b) a victim first became aware of the stalking.

A report of stalking must be counted as a new and distinct crime and is not associated with a previous report of stalking when the stalking behavior continues after: (a) an official intervention including, but not limited to, an institutional disciplinary action; *or* (b) the issuance of a no-contact order, restraining order or any warning by the institution or a court.

Resource List

White House First Report Resources

Report: <http://www.nacua.org/documents/WhiteHouseTaskForceonSexualAssaultReport.pdf>

Not Alone: Together Against Sexual Assault: <https://www.notalone.gov/>

Climate Survey Toolkit: <https://www.notalone.gov/assets/ovw-climate-survey.pdf>

CDC Prevention Findings: <https://www.notalone.gov/assets/evidence-based-strategies-for-the-prevention-of-sv-perpetration.pdf>

PSA: <http://www.whitehouse.gov/1is2Many>

Bystander Intervention Factsheet: <https://www.notalone.gov/assets/bystander-summary.pdf>

Establishing Prevention Programming: <https://www.notalone.gov/assets/prevention-overview.pdf>

Confidential Reporting Sample Policy: <https://www.notalone.gov/assets/reporting-confidentiality-policy.pdf>

Sexual Misconduct Policy Checklist: <https://www.notalone.gov/assets/checklist-for-campus-sexual-misconduct-policies.pdf>

MOU Samples (Note also Ed Law on MOU): <https://www.notalone.gov/assets/mou-rape-crisis-centers.pdf>

Fostering Healthy Norms:

<http://www.alanberkowitz.com/articles/Preventing%20Sexual%20Violence%20Chapter%20-%20Revision.pdf>

Key Components of Sexual Assault Crisis Intervention/Victim Service Resources:

<https://www.notalone.gov/assets/intervention-resources.pdf>

WH Call to Action: http://www.whitehouse.gov/sites/default/files/docs/sexual_assault_report_1-21-14.pdf

Sexual Assault Datasets:

<http://catalog.data.gov/dataset?q=sexual+assault&sort=score+desc%2C+name+asc>

TIX/FERPA/Clery Chart: <https://www.notalone.gov/assets/ferpa-clerychart.pdf>

DOE/DOJ MOU: http://www.justice.gov/crt/about/cor/ED_DOJ_MOU_TitleIX-04-29-2014.pdf

VAWA Resources

Statute: <http://www.nacua.org/documents/VAWA2013.pdf>

Redline against Clery: <http://www.nacua.org/documents/CleryLanguageForVAWRA2013.doc>

Brief Review: <http://www.nacua.org/documents/Vawasummary.pdf>

Interim Department of Ed VAWA Guidance:

<http://www.ifap.ed.gov/eannouncements/052913ImplementofChangesMade2CleryActViolenceAgainstWomenReauthorizationAct2013.html>

Proposed Regs: <https://s3.amazonaws.com/public-inspection.federalregister.gov/2014-14384.pdf>

Summary of Consensus Language:

http://www.nacua.org/documents/VAWARulemakingSummary_4714.pdf

New Requirements Imposed by the Violence Against Women Reauthorization Act:

<http://www.acenet.edu/news-room/Documents/VAWA-Summary.pdf>

Other Resources

Department of Education Resources:

Department of Education Campus Security Page:

<http://www2.ed.gov/admins/lead/safety/campus.html>

2011 Clery Handbook: <http://www2.ed.gov/admins/lead/safety/handbook.pdf>

Clery primer (pre-VAWA):

http://www.nacua.org/securedocuments/programs/june2012/pc05b_xxvi-12-06-1.pdf

Department of Education Office for Civil Rights:

<http://www2.ed.gov/about/offices/list/ocr/index.html>

Title IX: <http://www.law.cornell.edu/uscode/text/20/1681>

SUNY 2013 TIX Resolution Agreement: <http://www.ed.gov/news/press-releases/us-department-education-reaches-agreement-state-university-new-york-address-and->

http://www.nacua.org/securedocuments/resourcepagedocs/SexualMisconduct/SUNY_OC_RComplianceReviewLetter.pdf

http://www.nacua.org/securedocuments/resourcepagedocs/SexualMisconduct/SUNY_OC_RComplianceReviewAgmnt.pdf

April 2011 DCL: <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.html>

April 2014 OCR DCL Follow Up:

http://www.nacua.org/documents/OCRQandA_TitleIXSexualViolence.pdf

SUNY Resources:

Distilling the OCR Q&A from 2014: <http://www.nacua.org/documents/DistillingOCR.pdf>

Properly Classifying Geographic Locations for Clery Act Annual Security Report Purposes:

http://www.nacua.org/securedocuments/resourcepagedocs/CleryAct/ProperlyClassifyingGeographicLocations_CleryAct.pdf

Notifications Following Student Conduct Hearings (Explanatory Chart):

<http://www.nacua.org/securedocuments/resourcepagedocs/CleryAct/VictimNotificationChartJuly2014.pdf>

OPDV Resources:

- 1) **General information from the New York State Office for the Prevention of Domestic Violence (OPDV):**

<http://www.opdv.ny.gov/help/fss/fss.pdf>

<http://www.opdv.ny.gov/professionals/campus/ipvcampusguide.pdf>

<http://www.opdv.ny.gov/whatisdv/ipvinfostudent.pdf>

<http://www.opdv.ny.gov/whatisdv/ipvinfoparent.pdf>

- 2) **Bystander intervention on OPDV site:**

<http://www.opdv.ny.gov/whatisdv/ipvinfobystander.pdf>

<http://www.respectlove.opdv.ny.gov/yourpower/bystander.html>

<http://www.stopabuse.vt.edu/bystander.php#strategies> (Virginia Tech)

- 3) **Other helpful resources regarding bystander intervention (state and federal levels):**

<http://www.cdc.gov/violenceprevention/pdf/svprevention-a.pdf> (CDC's sexual violence prevention recommendations)

<http://www.health.ny.gov/publications/2040.pdf> (state level - New York)

<https://www.notalone.gov/assets/evidence-based-strategies-for-the-prevention-of-sv-perpetration.pdf> (White House guidelines - federal level)

<http://www.sexualassault.army.mil/index.cfm> (US ARMY I. A.M. STRONG campaign)

http://www.nsvrc.org/sites/default/files/publications_nsvrc_guide_engaging-bystanders-prevent-sexual-violence_0.pdf (NSVRC - federal level)

<http://wiki.preventconnect.org/Bystander+Intervention> (PreventConnect project)

<http://www.purdue.edu/incsapp/bystanderintervention/index.shtml>

<http://www.northwestern.edu/womenscenter/issues-information/bystander-intervention.html>
Responsible Action Protocol (RAP)

4) Relevant research articles:

<http://www.ncdsv.org/images/Sex%20Violence%20Prevention%20through%20Bystander%20Education.pdf>

<http://www.tandfonline.com/doi/pdf/10.1080/07448481.2013.849258>

http://www.courtinnovation.org/sites/default/files/MVP_evaluation.pdf (MVP gender violence prevention program evaluated at Syracuse Univ.)