

Notifications Following Student Conduct Hearings

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2017

Violation & Example	Notifications	Relevant Rules
Crime of Violence, Statutory Rape, Incest ¹	Written notice of outcome and any sanctions to both parties. If someone other than the parties asks, you <i>may</i> provide certain information <u>only if</u> the accused was found responsible.	Clery and FERPA FERPA
Sexual Violence (included in Crime of Violence and requires the same notifications, but listed separately because it invokes Title IX) Example: rape, sexual assault, sexual coercion	Written notice of outcome and sanctions imposed to both parties, including rationale and sanctions. If someone other than the parties asks, you <i>may</i> provide certain information <u>only if</u> the accused was found responsible. Not required without a subpoena or other legal reason.	Clery ² , FERPA ³ Title IX DCL ⁴ , VAWA/S aVE ⁵
Sexual Harassment, nonviolent Example: sexually explicit comments, unwanted nonphysical sexual attention	Provide written notice of outcome to both parties. Notify the victim/complainant about sanctions <u>that directly relate to the harassed student</u> . Example of sanctions that directly relate to the harassed student: no-contact order, suspension, expulsion. Example of sanctions that <u>do not</u> relate: probation, cleaning duties.	Title IX DCL ⁷ and FERPA ⁸
Stalking, Domestic Violence, Dating Violence	Written notice of outcome and sanctions to both parties, including rationale of results and sanctions.	VAWA/SaVE ⁹

¹ Crimes of violence is defined in [18 U.S.C. 16](#) as: “offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or any other offense that is a felony and that, by its nature, involves substantial risk that physical force against the person or property of another may be used in the course of committing the offense.” [34 C.F.R. 99, Appendix A to Part 99](#) lists Crimes of Violence and their definitions, including arson, assault offenses, burglary, criminal homicide, destruction/damage/vandalism of property, kidnapping/abduction, and sex offenses.

² [The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act](#) requires institutions to inform both parties of the outcome of any disciplinary proceeding brought alleging a sex offense (which includes sexual violence like rape or assault). Under [FERPA](#), “final results” and “outcome” include: the name of the accused student, the violation found to have been committed, and any sanction imposed. See 20 USC 1232g(b)(6)(C).

³ For crimes of violence and non-forcible sex offenses, [FERPA](#) permits the disclosure of the final results of a disciplinary proceeding to the victim, regardless of whether or not the accused was found responsible. See 20 USC 1232g(b)(6)(A).

⁴ [Guidance from the Department of Education’s Office for Civil Rights](#) (OCR) requires written notice of outcome, including all sanctions, to victims of sexual violence.

⁵ [The amendments to the Violence Against Women Act](#) require the accused and accuser in cases of sexual assault to be simultaneously informed in writing of the outcome of a disciplinary proceeding. They also must be informed of the appeals procedures, if any, and any change that occurs before the results become final (outcome of appeals). The [proposed regulations](#) require providing both parties in VAWA cases with the rationale for the result and sanctions, and to do so does not violate FERPA. See 34 C.F.R. 668(k) and (l).

⁶ For crimes of violence and nonforcible sex offenses, [FERPA](#) permits the disclosure of the “final results” of a disciplinary hearing only if that student was found responsible for violating the institutions rules or policies with respect to such crime or offense. See 20 USC 1232g (b)(6)(B),.

⁷ [Guidance from OCR](#) requires written notice of the outcome to both parties and of course notifying the accused of any sanctions. The institution can only disclose to the harassed student the sanctions that directly relate to the student.

⁸ Guidance from OCR also affirms that under FERPA institutions are permitted to disclose outcome and the sanction to the victim in a case of sexual harassment (nonviolent) if that sanction directly relates to the harassed student. See page vii of the [2001 Revised Sexual Harassment Guidance](#) from OCR and pages 5 and 13 of the 2011 [DCL on Sexual Violence](#). OCR’s view is that disclosing the outcome and sanctions that relate to the victim is necessary to eliminate the hostile environment.

⁹ [The amendments to Clery in the Reauthorization of the Violence Against Women Act](#) require the accused and accuser in cases of stalking, dating violence, and domestic violence to be simultaneously informed in writing of the outcome of a disciplinary proceeding. They also must be informed of the appeals procedures, if any, and any change that occurs before the results become final (eg, the outcome of appeals). The [regulations](#) require providing both parties in VAWA cases with the rationale for the result and sanctions, and to do so does not violate FERPA. See 34 C.F.R. 668(k) and (l).