

TITLE IX AND CLERY COMPLIANCE CHART

The U.S. Department of Education’s Office for Civil Rights enforces Title IX, which prohibits sex discrimination (including gender-based violence and sexual harassment) in educational institutions that receive federal financial assistance. The U.S. Department of Education also enforces the Clery Act (1990), which was amended in 2013 through the Campus Sexual Violence Elimination Act. Title IX and the Clery Act are two separate federal regulations with overlapping concerns that are intended to be complementary.

Both include same-sex or opposite-sex incidents/complaints. Both include students and employees.

TITLE IX	CLERY ACT
<p>INCIDENTS COVERED</p> <ul style="list-style-type: none"> • Sexual Harassment • Sexual Violence 	<ul style="list-style-type: none"> • Sexual Assault • Domestic Violence • Dating Violence • Stalking
<p>CONFIDENTIALITY</p> <p>If the complainant requests confidentiality, Institutes of Higher Education must take all reasonable steps to investigate and respond, consistent with the request. It is to be a balanced decision.</p>	<p>The act requires disclosures to protect the confidentiality of victims in statistical disclosures as well as any public record keeping, to the extent provided by the law.</p>
<p>VICTIM ASSISTANCE</p> <p>IHE must take prompt interim measures once it becomes aware of the report. IHE must inform the complainant of resources, whether there is a report to law enforcement.</p>	<p>Those reporting victimization must be provided with written notice of rights to be assisted by campus authorities, to change any situations to avoid a hostile environment, to obtain or enforce a restraining order, to have a clear description of the institution’s disciplinary process, and to receive contact information of services for victims both on and off campus, whether there is a report to law enforcement.</p>
<p>DEFINITIONS</p> <p>Sexual harassment is a type of sex discrimination. Sexual violence is a type of sexual harassment to include rape and other sexual assaults.</p>	<p>Dating violence, domestic violence and stalking are defined by 42 USC federal code. Sexual assault is defined by FBI Uniform Crime Reporting. IHE defines consent.</p>
<p>REPORTERS</p> <p>“Responsible Employees” are designated by the IHE and must report any incidents of sexual assault or sexual harassment to the Title IX Coordinator. Some employees can/will be considered “Confidential Employees,” who do not need to share information.</p>	<p>“Campus Security Authorities” are designated by the IHE and must report any incidents of sexual assault, domestic violence, dating violence and stalking in their Annual Security Reports and the Campus Safety and Security Survey. Demographics only are reported – victims’ names must be withheld.</p>

TITLE IX

CLERY ACT

REPORTING TO VICTIMS

When an IHE knows of student-to-student sexual assault, it should notify the complainant of the right to file a law enforcement report to the proper agency.

Victims of domestic violence, sexual assault and stalking must be given written notice of rights and procedures, and the right to file a law enforcement report on a voluntary, confidential basis.

POLICIES, PROGRAMS, PROCEDURES

IHE must have a nondiscrimination policy and are encouraged to have a sexual assault policy. IHE need grievance procedures for allegations.

IHE must have policies and procedures for victims or witnesses to report crimes to be included in the institutions' crime statistics. Policies must identify "sanctions of preventive measures" and must describe each type of disciplinary proceeding the institution may impose following a final determination of domestic violence, dating violence rape, sexual assault or stalking.

STANDARD OF PROOF

IHE must use preponderance of the evidence to determine if responsible for incident.

Procedures must state the standard of evidence used in IHE proceeding. Preponderance of evidence is recommended.

TRAINING/EDUCATION

IHE must choose "Responsible Employees" and train them to identify, report and offer information about resources, rules and policies to complainants.

Annual training is required on sexual assault, domestic violence and stalking, and how to investigate and conduct hearings in a manner that "protects the safety of the victims" and "promotes accountability." Awareness and prevention education is required for all incoming and ongoing members of IHE, both students and employees. These prevention programs also must be described in IHE's ASRs.

JURISDICTION

IHE must process complaints of student-on-student sexual harassment or sexual assault regardless of where they occurred.

Applies to sexual violence that occurs on campus, on public property and on non-campus property. The provisions for protecting the rights of victims, the accused and accusers are applicable no matter where the act occurred.

SOURCE: CONNIE KIRKLAND, 2016