Balancing Prevention and Compliance

What the Clery Act and Title IX Mean to Your Institution

Complying with sexual assault legislation should naturally be a part of your sexual assault prevention efforts. After all, failure to comply can cost your institution in fines, student attrition, reputational repercussions, enrollment, and litigation costs.

Compliance is vital, but remember that the goal of your sexual assault prevention programming is to create a safer and healthier campus community. When you do the best work possible with your prevention efforts, you are much more likely to achieve compliance with Clery Act and Title IX legislation as a part of those efforts. Doing your best work starts with knowing the legislation itself. There are other federal and state regulations related to sexual assault, but the two most significant ones to consider are the Clery Act and Title IX.

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Clery Act

The overarching purpose of the Clery Act is to require colleges and universities to be transparent about campus policy and statistics. To comply with the Act, higher education institutions must (among other requirements) report campus crime data, support victims of violence, and publicly outline policies and procedures put in place to improve safety on campus. The Department of Education (ED) monitors compliance of the Clery Act and can assess fines if an institution is found noncompliant.

The Violence Against Women Act (VAWA) Reauthorization Act of 2013 includes amendments to the Clery Act that expand the rights of those who experience sexual assault, domestic violence, dating violence, and stalking on college campuses. These amendments also outline requirements for colleges and universities as it relates to response procedures, prevention efforts, and reporting of crimes, among other responsibilities.

Title IX

Title IX is a federal civil rights law enacted as part of the Education Amendments of 1972. The purpose of Title IX is to put an end to gender discrimination in all educational institutions that receive federal funding, from K-12 schools to colleges and universities. Title IX requires an education environment that is free of sex and gender-based discrimination and harassment. Sexual assault, dating violence, domestic violence, stalking, and sexual harassment all threaten the campus environment and are forms of discrimination against members of the campus community. The ED’s Office for Civil Rights enforces Title IX and can suspend federal financial aid funding for Title IX violations.
Six Key Elements of Compliance Programs

How do you remain compliant with the Clery Act and Title IX as you create a safer and healthier campus community? We’ve identified six prevention education requirements from these key pieces of legislation. Refer to these as you review your current practices to ensure your institution meets and exceeds compliance.

1. Implement Primary Prevention and Awareness Programs
2. Develop Ongoing Prevention and Awareness Campaigns
3. Define Key Terms
4. Encourage Bystander Intervention
5. Reduce Risk
6. Grievance Policies, Procedures, and Resources
Implement Primary Prevention and Awareness Programs

According to the Clery Act, all institutions are required to have primary prevention and awareness programs in place for all incoming students and new employees. The Clery Act regulations define primary prevention and awareness programs as 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. These programs include both community-wide and audience-specific engagement. The goals for awareness programs are to increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration.

The legislation requires institutions to provide primary prevention programs to all incoming students, faculty, and staff. This includes transfer students, graduate or professional students, and non-traditional students like online learners, members of the military on active duty, dual-enrolled high school students and more. Incoming staff includes those we typically consider, such as faculty and administrators, but also includes temporary employees, adjunct faculty or lecturers, and employees who may have no direct connection to students, such as maintenance or facility management crews. Since providing education to such diverse populations at scale can be difficult for many campuses, deploying online programs has become an invaluable prevention approach for many schools.

Questions to Ask:

- **How do our primary prevention and awareness programs promote positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality?**

- **How do we encourage safe bystander intervention training and strategies so students can identify situations of possible harm and take action to intervene? Are our strategies developmentally appropriate and do they address the different needs within our campus community (i.e., traditional first year students, adult learners, online learners, graduate students, etc.)?**

- **How do we communicate community expectations to our students, faculty, and staff?**

- **What positive values within our community are we reinforcing and how do we encourage positive behavior?**
Develop Ongoing Prevention and Awareness Campaigns

Programming, initiatives, and strategies for students and employees must be sustained over time with regular additional training opportunities. When considering the degree to which your prevention education programs meet this Clery Act mandate for “ongoing” education, assess both the breadth and depth of course content as part of ongoing prevention and awareness campaigns. At the very least, you must provide annual prevention programs to maintain compliance.

Doing the bare minimum, however, will likely not drive breakthrough progress in prevention. If you want to have more of an impact on the attitudes and behaviors on your campus, tailor your prevention messages to the unique needs and strengths of target groups. These messages should build upon themselves over time and through different means in order to deepen understanding, reinforce key information, and build critical skills.

Questions to Ask

☑ Do we have prevention education programming that engages students beyond their first year?
☑ Do our faculty and staff receive regular training about Title IX and the Clery Act?
☑ In addition to community-wide prevention programming, what specific populations do we engage through targeted programming? How are we tailoring information to that audience?
☑ Does our programming account for different learning styles and include multiple methods of engagement and delivery?

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Define Key Terms

In order for students, faculty, and staff to create safe and healthy communities, they must have an understanding of offenses that threaten this goal.

By providing education on these key terms, students, faculty, and staff must be made aware of how both legal statutes and campus policy define these offenses.

Title IX prohibits sex and gender-based discrimination in education programs and activities. Sexual assault, dating violence, domestic violence, stalking, and sexual harassment all threaten the campus environment and are forms of sex discrimination against members of the campus community.

Research has found that population-level prevention approaches can spark significant shifts in awareness and understanding of these key terms. Being able to recognize what constitutes sexual violence and abuse is a critical first step in getting students invested in addressing it, in seeking support resources, and in reporting their experiences to the institution.

Clery Act Key Terms

The Clery Act requires prevention and awareness programs to define “key terms” including:

- Consent, in reference to sexual activity
- Dating Violence
- Domestic Violence
- Sexual Assault
- Sexual Harassment
- Stalking
Encourage Bystander Intervention

Building skills to increase bystander intervention is another part of remaining compliant with Clery Act and Title IX legislation.

According to the Clery Act, bystander intervention is defined as the “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 occurs when an individual interrupts a potentially harmful situation that they encounter. Since most students, faculty, and staff endorse positive attitudes and behaviors that do not support violence, providing training for bystander intervention empowers these individuals to take action to promote safe and healthy communities.

How likely is someone to intervene during a crisis? A person’s decision to intervene is largely shaped by their perceptions of peer support and is affected by other barriers such as:

- Lack of awareness of problematic situations
- Lack of confidence in their skills to intervene successfully
- Fear of embarrassment or retaliation

In fact, the bystander effect — when no one takes action in a critical situation — is largely caused by the assumption that someone else will intervene if a situation truly warrants action. In addition, there are often situations when a student, faculty, or staff member identifies a behavior as problematic, but incorrectly assumes that others do not see it as a problem, particularly if others are doing nothing to intervene.

It is possible for you to correct social norm misperceptions and provide the skills to intervene effectively. You can do so by educating and engaging the critical mass of students, faculty, and staff who have positive attitudes and behaviors. Make them aware that they are part of a healthy majority on campus. With this approach, your institution can rely on your students, faculty, and staff to help create a safer, more positive campus community.

Components of Bystander Intervention

- Recognizing situations of potential harm
- Understanding institutional structures and cultural conditions that facilitate violence
- Overcoming barriers to intervening
- Identifying safe and effective intervention options
- Taking action to intervene

Compliance is vital, but remember that the goal of your sexual assault prevention programming is to create a safer and healthier campus community.
Reduce Risk

To remain compliant, your prevention programming should address how to reduce risk by providing options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims.

The Clery Act defines “risk reduction” as the “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.”

Since 50% of campus sexual assaults involve alcohol, addressing student drinking and the role alcohol plays in many sexual assaults can be an important part of a campus’ risk reduction strategy.

But risk reduction messages aren’t only about alcohol. Risk reduction programs should encompass a variety of risk behaviors, going far beyond a singular focus on strategies to avoid victimization. This myopic perspective to risk reduction has led to an inappropriate and undue burden and blame placed on survivors of sexual assault and abuse, rather than focusing on those who committed the crime.

Questions to Ask:

- What risk behaviors are most closely or commonly associated with sexual assault and harassment on my campus?
- How does our risk messaging go beyond providing information that helps potential victims better protect themselves? How and what are we communicating to potential perpetrators?
- What training have our compliance and prevention educators received and are they adequately prepared to deliver comprehensive and trauma-informed trainings to our community?

Perspectives from Sexual Assault Victims

“Who did you tell about the incident?”

<table>
<thead>
<tr>
<th>27%</th>
<th>No one</th>
</tr>
</thead>
<tbody>
<tr>
<td>27%</td>
<td>Roommate</td>
</tr>
<tr>
<td>55%</td>
<td>Close Friend</td>
</tr>
<tr>
<td>13%</td>
<td>Parent</td>
</tr>
<tr>
<td>5%</td>
<td>Police</td>
</tr>
</tbody>
</table>

“If you did not tell anyone, why was that the case?”

| 52% | It’s a private matter. I wanted to deal with it on my own |
| 44% | Ashamed/embarrassed |
| 43% | Didn’t think what happened was serious |
| 43% | Wanted to forget it happened |
Grievance Policies, Procedures, and Resources

According to EVERFI research, 27% of students who experience sexual assault don’t tell anyone about the incident. The reasons victims choose not to tell are troubling and institutions should see to address them.

Sexual assault is one of the most underreported crimes. In addition to EVERFI’s research, other recent studies have estimated that student report rates range from only 12-20%. Effective prevention programs will likely result in an increase in reported incidences in the short term, and this is a good sign. Creating a culture where survivors are aware of resources and options, and feel safe and supported enough to report, is necessary for holding those who commit harm accountable.

In addition to the prevention-related training mandates previously described, the Clery Act requires schools to provide information to students and employees about what options exist if a crime does occur. These requirements are similar, although not identical, to the response-oriented aspects of Title IX.

Once an offense is reported, institutions must adhere to certain procedures for the investigation and provide certain rights/options for both the reporting student and the alleged offender.

Questions to Ask:

Ask your Title IX and Student Conduct team how your institution’s policies:

- Provide reasonable accommodations for the victim
- Include efforts to protect confidentiality, if requested
- Ensure fair and timely disciplinary hearings
- Embody clear and transparent sanctions and standards of evidence
- Offer protection from retaliation

Protect Your Students, Faculty, Staff, and Institution By Doing the Best Work Possible

Compliance with legal mandates, particularly in response to incidents, will continue to be a critical focus on the minds of Title IX Coordinators, Clery Compliance Officers, Student Affairs administrators, and institutional leadership. We believe that legislative requirements provide a solid foundation for campus efforts to address sexual and relationship violence.

Institutions committed to protecting and supporting students, faculty, and staff should strive to exceed compliance by prioritizing prevention best practices. With this in mind, “checking the box” of compliance is only the first step toward achieving the ultimate goal of creating safer and healthier campus communities.
At the foundation of every student experience is a safe and healthy learning environment. Research shows that the most effective prevention education requires messaging that is tailored to a diverse population and delivered across the student lifecycle.

**Sexual Assault Prevention Courses**

**Sexual Assault Prevention for Undergraduates**
Title IX and Clery Act training that engages undergraduate students in fostering healthy relationships and preparing them to recognize and respond to sexual assault and harassment when it occurs.

**Sexual Assault Prevention for Student Athletes**
Student-athlete training to address the NCAA Policy on Campus Sexual Violence.

**Sexual Assault Prevention for Graduate Students**
Title IX and Clery Act training to support graduate students interactions with advisors, faculty members, peers, and undergraduate students (including responding to disclosures).

**Sexual Assault Prevention for Community Colleges**
Title IX and Clery Act training to identify and respond to sexual assault on campus, in the workplace, and at home.

**Sexual Assault Prevention for Adult Learners**
Title IX and Clery Act training for non-traditional students that emphasizes identifying abuse in long-term relationships and bystander intervention for in-person and online situations.

**Sexual Assault Prevention Ongoing Education**
Ongoing training that emphasizes healthy relationship skills, tactics for bystander intervention among close friends, and survivor empathy.

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