An Advocates Guide to Sexual Assault on College Campuses

Compliance as a tool for Collaboration

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CALCASA Campus Work

- 15+ years providing technical assistance to universities and colleges
- Policy Leader in developing campus related best practices
- International, national, statewide and local work
- Student voices represented
Changing Landscape

- Student survivors using institutions like media and courts
- Advocates working with governmental institutions and universities to collaborate
- White House Task Force
- DOE investigations-55 schools (and more)
- Everyone’s in now! Sort of...
Principles for Addressing Sexual Assault on Campus

• **Survivor Centeredness**
  - pay attention to the varying needs of survivors
  - develop strong policies regarding confidential resources

• **Community Collaboration and Engagement**
  - Systematic climate checks and partnerships between various campus programs and departments and community based resources

• **Comprehensive Prevention**
  - Prevention efforts must occur at various levels
  - Comprehensive prevention efforts saturate the campus
Current Regulations

- Title IX
- Jeanne Clery Act
- VAWA 2013 (Campus SaVE)
- White House Task Force
- State Laws
Title IX

- Most commonly known to address gender deficiencies in sports programs
- Requires that students **have meaningful access to all school activities** and that discrimination based on gender not prevent them from full participation
- Addresses sexual harassment (and sexual assault as part of that continuum) on campus
Title IX

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

- Requires schools that “know or should have known” about the harassment/assault to respond “promptly & effectively”

- The school must take “immediate action to eliminate the harassment; prevent its recurrence and address its effects”
Dear Colleague Letters, 2011& 2012

• April 2011 Dear Colleague Letter reminded schools that (among other things):
  • **Sexual violence is sexual harassment** for purposes of Title IX compliance
  • That the **preponderance of the evidence standard** should be used in university adjudication vs. clear and convincing standard
  • That campus adjudication did not require a concurrent criminal prosecution and that “prompt” meant that regardless of criminal investigation/prosecution schools needed to respond
  • **2012 prevents retaliation** against students, faculty and staff from identifying and reporting problems
Opportunities for Collaboration

- Prevent Recurrence
  - Offering self defense classes
  - Providing specialized education with specific high risk groups
- Address Its Effects
  - Counseling support
  - Policy Changes
- Prompt response
  - 24 hotline
  - Accompaniment services
Jeanne Clery Act of 1992

- Requires universities to:
  - Publish an annual crime report inclusive of many crimes
  - Have a public crime log documenting the nature and general proximity of the incident
  - Disclose crime statistics occurring on campus and some public facilities
    - Criminal Homicide
    - Sex Offenses
    - Robbery
    - Aggravated Assault
    - Some Burglaries
    - Motor Vehicle Theft
    - Arson
Jeanne Clery Act of 1992

- Requires universities to:
  - Issue timely warnings about crimes that pose a **serious or ongoing threat** to students or employees
  - Devise an emergency response, notification and testing policy
  - Enact Policies to handle reports of missing students
  - Campus Sexual Assault Victims Bill of Rights
    - **Survivors shall be notified of their options to notify law enforcement.**
    - Accuser and accused must have the same opportunity to have others present.
    - **Both parties shall be informed of the outcome of any disciplinary proceeding.**
    - **Survivors shall be notified of counseling services.**
    - **Survivors shall be notified of options for changing academic and living situations.**
Opportunities for Collaboration

- Devise an emergency response, notification and testing policy
  - Collaborate on “emergency response” protocols
- Enact Policies to handle reports of missing students
  - Policy development related to missing students and SA/DV
- Campus Sexual Assault Victims Bill of Rights
  - Develop MOU’s related to law enforcement notification
  - Support person during disciplinary proceedings
  - Off campus counseling services
  - Living arrangements or other advocacy
Campus SaVE Act

- Amendments to Clery
- Section 304 of the Violence Against Women Act of 2013
- Rules Negotiations finished in April with Consensus
- Out for public comment
- Representatives from universities and colleges, students and advocates at the table
• Addition of domestic violence, dating violence, and stalking
• Prevention and awareness programs
• Information in writing
• Change in academic/living/transportation/working situation
• Option to notify law enforcement
• Campus disciplinary procedures
• Sanctions following a final determination
Campus SaVE Act (VAWA 2013)

- Covers students and staff of institutions
- Codifies parts of Title IX into VAWA/Clery
- Adds domestic violence, dating violence, and stalking to Clery Act reporting requirements
- Includes Hate Crimes
- Requires reporting and policies to include
  - Description of four crimes
  - Institutional procedures followed once an incident has been reported
  - Description of victims’ rights and institutional responsibilities regarding protection orders
Campus SaVE Act (VAWA 2013)

- Requires prevention programs for all incoming student and ongoing programs for students and faculty that includes primary prevention and awareness and is inclusive of the following:
  - Institutional prohibition of the four crimes
  - Definitions under state law
  - Definition of consent
  - Options for bystander intervention
  - Information on risk reduction
  - Reporting procedures and options
  - The importance of preserving evidence
Programs to prevent...

- “Education programs to promote the awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking, which shall include…”
- “Ongoing prevention and awareness campaigns for students and faculty”
• Comprehensive Prevention for Students and Faculty
  • Awareness Programs
  • Bystander Intervention
  • Risk Reduction
  • Primary Prevention
  • Must be ongoing
  • Must be for new students and faculty
  • Must be informed by research or evaluated
Campus SaVE Act (VAWA 2013)

- Requires **Written Victim Notification**
- Any student or employee who reports being a victim must be provided a written explanation of rights and options including:
  - How confidentiality of victim will be protected
  - Available services
  - Victim options & accommodations
  - Sanctions
Campus Save Act (VAWA 2013)

Regulates Student and employee conduct:

- Mandates certain procedures in cases of violence:
  - Prompt, equitable investigation and resolution
  - Conducted by trained officials
Disciplinary Proceedings

- “Must include…clear statement that such proceedings shall:
  - Provide a **prompt, fair, and impartial** investigation and resolution
  - Be conducted by officials **who receive annual training** on:
    - The issues related to domestic violence, dating violence, sexual assault, and stalking
    - How to conduct an investigation and hearing process that protects the safety of victims and promotes accountability”

- “The accuser and accused are entitled to the same opportunities to have others present during an institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an **advisor of their choice**.”
Campus SaVE Act (VAWA 2013)

Requires changes in Disciplinary proceedings:

• Institution must indicate the standard of evidence (cannot be inconsistent with Title IX)
• Right to have someone present (“Advisor”)
• Written notice to the victim and accused about:
  – Outcome
  – Appeals
  – Any change in results before they become final
  – Final results
Campus Save Act (VAWA 2013)

- Implementation
  - Takes effect March 2014
  - October 2014 security reports should reflect new reporting requirements.
  - Schools are expected to begin working on other aspects of the law in spring 2014
  - Specific guidelines will be released after the negotiated rulemaking process (reached consensus in April).
Opportunities for Collaboration

- Comprehensive Prevention for Students and Faculty
  - Awareness Programs
  - Bystander Intervention
  - Risk Reduction
  - Primary Prevention

- Disciplinary Proceedings
  - Be conducted by officials who receive annual training
  - “advisor of their choice”

- Written Victim Notification
  - How confidentiality of victim will be protected
  - Available services
  - Victim options & accommodations
White House Task Force
www.notalone.gov

- Campus Climate Survey
- Prevention
- Confidential Resources
- Comprehensive Policies
- Training for administrators, staff and faculty
- Community Support Systems
- Improving Enforcement (DOE/DOJ)
Opportunities for Collaboration

- Campus Climate Survey
  - Community/Campus climate surveys
- Prevention
  - RPE Scope of Work
  - Self-Defense Classes
- Confidential Resources
  - Hotline
  - Counseling
- Comprehensive Policies
  - Collaborative policy development
- Training for administrators, staff and faculty
  - Experts for staff, administrator, faculty, judicial affairs
- Community Support Systems
  - What other support system’s are available?
  - Housing, taxi, food, etc.
  - Formal MOU’s
2014 CALCASA Student Summit

- **Response**
  - Campuses should ensure that safe, confidential services are available.
  - Survivor-centered campus response systems should be clearly articulated in writing and communicated to all students and faculty in ways that are highly visible, accessible, and frequent.
  - Campus response systems should be crafted in ways that consider the experiences of marginalized groups and prevent further harm to survivors.
  - Regular capacity building that includes sensitivity and supportive communication skills should be required for all individuals who are likely to come into contact with sexual assault survivors.
  - There needs to be stronger coordination among the various campus and community response systems.
  - Response systems that include collaboration with a community-based rape crisis center and/or other outside groups are often more effective.
2014 CALCASA Student Summit

- Resources
  - College/University administrations should be responsible for sharing and publicizing clear, accessible, easily found written resources (online and hard copy) about available sexual assault services and response at orientation and throughout a student’s academic career.
  - There should be mandatory training for students, faculty and staff every year to ensure knowledge of student rights and campus policies and resources.
  - There should be specific survivor-centered services for LGBT students, immigrant students, students with disabilities, and other marginalized communities.
  - Campuses should have 24-hour access to survivor advocates by establishing a memorandum of understanding with community-based rape crisis centers as well as employing full-time, campus-based staff.
  - Campuses should have ways to provide a wide array of tangible resources such as housing assistance, no-questions asked transportation, and childcare for survivors who seek services and redress.
2014 CALCASA Student Summit

- **Policies**
  - All campuses should have written, transparent, explicit, and accessible policies that prioritize offender accountability and survivor and campus safety including, for example, amnesty policies in cases where alcohol was present.
  - Campus policies should include mandatory sensitivity and resource training related to sexual assault for all students, staff and faculty.
  - Policies should evolve over time and ensure mechanisms for student representatives and campus administrators to collaboratively monitor and improve policies, including accurate reporting.
  - Campuses should have at least one paid staff person working on sexual assault and formal partnerships with community based organizations to keep momentum going and provide continuity given high student turnover.
2014 CALCASA Student Summit

- **Prevention**
  - Responsible prevention programs are comprehensive, hold perpetrators accountable and are sensitive to various survivor experiences
  - Prevention activities need to be responsive, relevant, engaging for students, and effective
  - Prevention messages need to be integrated into a wide variety of campus events and curricula on a regular basis, offering multiple opportunities to receive and reinforce prevention messages (not just during orientation or sexual assault awareness month).
  - Colleges and universities should partner with community-based RCCs to integrate their prevention programming and messages throughout the larger community context
Opportunities for Collaboration

- ALL!!!!!
State Law (Pending)

- SB 967 De Leon
  - Institutionalizes national best practices
  - Affirmative Consent Standard
  - Collaboration with Community Based Victim Services
  - Comprehensive Prevention

- AB 1733 Gatto
  - Direct report to law enforcement
  - Opt out available
  - Creates a direct line between Title IX disciplinary procedures and Criminal Justice process
Opportunities for Collaboration

SB 967

- MOU’S with campuses to provide supportive services
- Work with universities to provide comprehensive prevention programming
- Educate Judicial Boards adjudicating “affirmative consent”

AB 1433

- MOU’s with campuses and community law enforcement
- Advocacy in both adjudication and criminal justice system
- Training of campus and community law enforcement
Model Response

- Survivor-Centered
- Community Collaboration
- Comprehensive Prevention

- Problematic responses are emerging
  - “one size fits all” approaches
  - Blanket reporting policies
  - Direct lines to law enforcement
  - All services being school based
Changing the Culture on Your Campus

- **For University Administrators:**
  - Reach out and explore existing community programs that can support your students who have experienced sexual assault.
  - Start a climate survey by beginning to JUST ASK students, faculty and community partners about the culture on campus related to sexual assault.

- **For Advocates:**
  - Call your local university and discuss establishing or strengthening your relationships.
  - Discuss how you can create more formal resources and make them available to students and survivors

- **For Students:**
  - Review your campus policies regarding sexual assault for a student/survivor focused tone. Tell your university what you find.
  - Become a partner with your university in creating more effective responses. Reach to your local rape crisis center to see what other ways you can become involved in your community and your university.

- **For Faculty:**
  - Include discussions in your classroom and elements in your curriculum that promote safety, support, and gender equity
  - Know where students can go for help…be aware about any obligations to report to inform students
Next Steps...
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