

crime log) reports of crimes that have been determined to be “unfounded.” We have also added a requirement that institutions report to the Department and disclose in the annual security report statistics the number of crime reports that were “unfounded” and subsequently withheld from its crime statistics during each of the three most recent calendar years. This information will enable the Department to monitor the extent to which reports of Clery Act crimes are unfounded so that we can provide additional guidance about how to properly “unfound” a crime report or intervene if necessary.

Discussion of Costs and Benefits

A benefit of these regulations is that they will strengthen the rights of campus victims of dating violence, domestic violence, sexual assault, and stalking. Institutions would be required to collect statistics for crimes reported to campus security authorities and local police agencies that involve incidents of dating violence, domestic violence, sexual assault, and stalking. This would improve crime reporting. In addition, students, prospective students, families, and employees and potential employees of the institutions, would be better informed about each campus’s safety and procedures.

These regulations will require institutions to include in their annual security report information about the institution’s policies and programs to prevent sexual assault, which would include information about programs that address dating violence, domestic violence, sexual assault, and stalking. This information would help students and employees understand these rights, procedures and programs. Prevention and awareness programs for all new students and employees, as well as ongoing prevention and awareness campaigns for enrolled students and faculty would be beneficial in providing additional information to students and employees.

The revised provisions related to institutional disciplinary proceedings in cases of alleged dating violence, domestic violence, sexual assault, and stalking would protect the accuser and the accused by ensuring equal opportunities for the presence of advisors at meetings and proceedings, an equal right to appeal if appeals are available, and the right to learn of the outcome of the proceedings. Victims of these crimes would gain the benefit of a written explanation of their rights and options.

Institutions would largely bear the costs of these regulations, which will fall into two categories: paperwork costs of complying with the regulations, and other compliance costs that institutions may incur as they attempt to improve security on campus. Under the regulations, institutions will have to include in the annual security report descriptions of the primary prevention and awareness programs offered for all incoming students and new employees and descriptions of the ongoing prevention and awareness programs provided for enrolled students and employees. To comply, some institutions will have to create or update the material or the availability of prevention programs while others may have sufficient information and programs in place. Awareness and prevention programs can be offered in a variety of formats, including electronically, so the costs of any changes institutions would make in response to the regulations can vary significantly and the Department has not attempted to quantify additional costs associated with awareness and prevention programs.

Another area in which institutions could incur costs related to the regulations involves institutional disciplinary proceedings in cases of alleged dating violence, domestic violence, sexual assault, or stalking. The policy statement describing the proceedings will have to include: a description of the standard of evidence that applies; a description of the possible sanctions; a statement that the accused and the accuser will have an equal right to have others present, including an advisor of their choice; and a statement that written notice of the outcome of the proceedings would be given simultaneously to both the accused and the accuser. The proceedings would be conducted by officials who receive annual training on issues related to dating violence, domestic violence, sexual assault, and stalking as well as training on how to

conduct investigations and hearings in a way to protect the safety of victims. Depending upon their existing procedures, some institutions would have to make changes to their disciplinary proceedings. The Department has not attempted to quantify those potential additional costs, which could vary significantly among institutions.

In addition to the costs described above, institutions will incur costs associated with the reporting and disclosure requirements of the regulations. This additional workload is discussed in more detail under the *Paperwork Reduction Act of 1995* section. We expect this additional workload would result in costs associated with either the hiring of additional employees or opportunity costs related to the reassignment of existing staff from other activities.

Under the regulations, these costs will involve: updating the annual security reports; changing crime statistics reporting to capture additional crimes, categories of crimes, differentiation of hate crimes, and expansion of categories of bias reported; and the development of statements of policy about prevention programs and institutional disciplinary actions. In total, the regulations are estimated to increase burden on institutions participating in the title IV, HEA programs by 77,725 hours annually. The monetized cost of this additional burden on institutions, using wage data developed using BLS data available at: www.bls.gov/ncs/ect/sp/ecsuhst.pdf, is \$2,840,849. This cost was based on an hourly rate of \$36.55 for institutions.

Net Budget Impacts

The regulations are not estimated to have a significant net budget impact in the title IV, HEA student aid programs over loan cohorts from 2014 to 2024. Consistent with the requirements of the Credit Reform Act of 1990, budget cost estimates for the student loan programs reflect the estimated net present value of all future non-administrative Federal costs associated with a cohort of loans. (A cohort reflects all loans originated in a given fiscal year.)

In general, these estimates were developed using the Office of Management and Budget's (OMB) Credit Subsidy Calculator. The OMB calculator takes projected future cash flows from the Department's student loan cost estimation model and produces discounted subsidy rates reflecting the net present value of all future Federal costs associated with awards made in a given fiscal year. Values are calculated using a "basket of zeroes" methodology under which each cash flow is discounted using the interest rate of a zero-coupon Treasury bond with the same maturity as that cash flow. To ensure comparability across programs, this methodology is incorporated into the calculator and used government-wide to develop estimates of the Federal cost of credit programs. Accordingly, the Department believes it is the appropriate methodology to use in developing estimates for these regulations.

We are not estimating that the regulations will have a net budget impact on the title IV aid programs. We assume that institutions will generally continue to comply with Clery Act reporting requirements and such compliance has no net budget impact on the title IV aid programs. In the past, the Department has imposed fines on institutions that violate the Clery Act but those fines do not have a net budget impact. Therefore, we estimate that the regulations will have no net budget impact on the title IV, HEA programs.

Alternatives Considered

The Department determined that regulatory action was needed to implement the changes made to the Clery Act by VAWA, reflect the statutory language in the regulations and make some technical and clarifying changes to the Department's existing Clery Act regulations.

During the development of the regulations, a number of different regulatory approaches were discussed by the Department and the non-Federal negotiators during the negotiated rulemaking process. Some of these approaches

included the addition of clarifying definitions for “outcomes,” “initial and final determinations,” “resolution,” “dating violence,” “employees,” and “consent.” The alternative approaches to these definitions considered by the Department are discussed in the following section.

Definitions of Outcomes, Initial and Final Determinations, and Resolution

The Department considered harmonizing the terms, “outcomes,” “initial and final determinations,” and “resolution,” used throughout the Clery Act regulations for internal consistency and to provide clarity for institutions. These terms are often used interchangeably, along with the term “results.” The Department considered defining “outcomes” to be one or more parts of the results. An alternative definition of “initial determinations” was also considered by the Department and would have referred to decisions made before the appeals process, if the institution had such a process, meaning prior to a final determination. A “final determination” would have been defined as the decision made after the appeals process had been completed. Adding a definition of the term “resolution” was also considered by the Department. The Department ultimately decided to use the term “results” in the regulations to include the initial, interim, and final decisions.

Alternative Definition of Dating Violence

The Department considered several alternatives in the definition of “dating violence.” The inclusion of emotional and psychological abuse, along with sexual and physical abuse, was considered. The Department decided to include only sexual or physical abuse or the threat of such abuse in the definition. The Department decided that emotional and psychological abuse did not always elevate into violence and had concerns over the ability of campus security authorities to identify this abuse.

The Department also took into consideration the definition of “dating violence” as a crime when it is not a prosecutable crime in some jurisdictions. To address this concern, the Department added a statement that any incident meeting the definition of “dating violence” is considered a crime for the purposes of Clery Act reporting.

Definition of Employees

The Department considered adding a definition of “employees” to the regulations. This definition would clarify whether contractors and other employees, such as hospital employees affiliated with the hospital of the institution, were included as employees since they had a presence on campus. The Department decided not to include this definition as the statute already requires institutions to determine who current employees are for the purposes of distributing their annual security reports.

Definition of Consent

The Department considered adding a definition of “consent” for purposes of the Clery Act. Some of the negotiators argued that a definition of “consent” would provide clarity for institutions, students, and employees for when a reported sex offense would need to be included in the institution’s Clery Act statistics. However, a definition of “consent” would also create ambiguity in jurisdictions which either do not define “consent,” or have a definition that differs from the one that would be in the regulations. The Department decided against including the definition of “consent” in the regulations as we were not convinced that it would be helpful to institutions in complying with the Clery Act.

For purposes of Clery Act reporting, all sex offenses that are reported to a campus security authority must be recorded in an institution's Clery Act statistics and, if reported to the campus police or the campus security department, must be included in the crime log, regardless of the issue of consent.

Final Regulatory Flexibility Act Analysis

The regulations would apply to institutions of higher education that participate in the title IV, HEA Federal student financial aid programs, other than foreign institutions of higher education. The U.S. Small Business Administration (SBA) Size Standards define for-profit institutions as "small businesses" if they are independently owned and operated and not dominant in their field of operation with total annual revenue below \$7,000,000. The SBA Size Standards define nonprofit institutions as "small organizations" if they are independently owned and operated and not dominant in their field of operation, or as "small entities" if they are institutions controlled by governmental entities with populations below 50,000. We do not consider any institution dominant in the field of higher education, so all non-profit institutions and for-profit institutions with total revenues under \$7 million in IPEDS are assumed to be small entities. No public institutions are assumed to be small entities.

Description of the Reasons That Action by the Agency Is Being Considered

This regulatory action would implement the changes made to the Clery Act by VAWA, reflect the statutory language in the regulations, and make some technical and clarifying changes to the Department's existing Clery Act regulations. The regulations would reflect the statutory requirement that institutions compile and report statistics for incidents of dating violence, domestic violence, sexual assault, and stalking that are reported to campus security authorities or local police agencies. Additionally, institutions would be required to include certain policies, procedures, and programs pertaining to these crimes in their annual security reports.

The purpose of these data collections is to give prospective and current students information to help them make decisions about their potential or continued enrollment in a postsecondary institution. Prospective and current students and their families, staff, and the public use the information to assess an institution's security policies and the level and nature of crime on its campus. In addition to the disclosure to students and employees, institutions must provide campus crime data to the Department annually.

Succinct Statement of the Objectives of, and Legal Basis for, the Regulations

On March 7, 2013, President Obama signed the Violence Against Women Reauthorization Act of 2013 (VAWA) (Pub. L. 113-4). Among other provisions, this law amended section 485(f) of the HEA, otherwise known as the Clery Act. These statutory changes require institutions to compile statistics for incidents of dating violence, domestic violence, sexual assault, and stalking that are reported to campus security authorities or local police agencies. Additionally, the regulations would require institutions to include certain policies, procedures, and programs pertaining to these crimes in their annual security reports.

Description of and, Where Feasible, an Estimate of the Number of Small Entities to Which the Regulations Would Apply

The regulations would apply to institutions of higher education that participate in the title IV, HEA Federal student financial aid programs, other than foreign institutions of higher education. From the most recent data compiled in the 2012 Campus Safety and Security Survey, we estimate that approximately 7,230 institutions would be subject to the regulations, including 2,011 public, 1,845 private not-for-profit, and 3,365 private for-profit institutions. Of these

institutions, we consider all of the private not-for-profit institutions and approximately 40 percent of private for-profit institutions as small entities. We do not believe any of the public institutions meet the definition of “small entity.”

Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Regulations, Including an Estimate of the Classes of Small Entities That Would Be Subject to the Requirement and the Type of Professional Skills Necessary for Preparation of the Report or Record

Table 1 shows the estimated burden of each information collection requirement to the hours and costs estimated and discussed in more detail in the *Paperwork Reduction Act of 1995* section. Additional workload would normally be expected to result in estimated costs associated with either the hiring of additional employees or opportunity costs related to the reassignment of existing staff from other activities. In total, by taking 100 percent (for the private non-profit institutions) and 40 percent (for the private for-profit institutions) of the estimated burden hours for § 668.46(b), (c), (j), and (k), detailed in the Paperwork Reduction Act section of this preamble, these changes are estimated to increase the burden on small entities participating in the title IV, HEA programs by 34,401 hours annually. The monetized cost of this additional paperwork burden on institutions, using a \$36.55 wage rate developed using BLS data available at www.bls.gov/ncs/ect/sp/ecsuhst.pdf, is \$1,257,357.

TABLE 1—ESTIMATED PAPERWORK BURDEN ON SMALL ENTITIES

Provision	Reg section	OMB Control No.	Hours	Costs
Annual Security Report	668.46(b)	1845–0022	8,000	292,407
Crime Statistics	668.46(c)	1845–0022	4,800	175,447
Statement of Policy—awareness and prevention programs	668.46(j)	1845–0022	12,800	467,840
Statement of Policy—institutional disciplinary proceedings	668.46(k)	1845–0022	8,801	321,662
Total			34,401	1,257,357

Identification, to the Extent Practicable, of All Relevant Federal Regulations That May Duplicate, Overlap, or Conflict With the Regulations

The regulations are unlikely to conflict with or duplicate existing Federal regulations.

Alternatives Considered

As discussed in the “Regulatory Alternatives Considered” section of the *Regulatory Impact Analysis*, several different definitions for key terms were considered. The Department did not consider any alternatives specifically targeted at small entities.

Paperwork Reduction Act of 1995

The Paperwork Reduction Act of 1995 does not require you to respond to a collection of information unless it displays a valid OMB control number. We display the valid OMB control numbers assigned to the collections of information in these final regulations at the end of the affected sections of the regulations.

Section 668.46 contains information collection requirements. Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3507(d)), the Department has submitted a copy of these sections, related forms, and Information Collections Requests (ICRs) to the Office of Management and Budget (OMB) for its review.

Section 668.46 Institutional Security Policies and Crimes Statistics

Requirements: Under the final regulations in § 668.46(b) *Annual security report*, we are revising and expanding existing language and adding new requirements for items to be reported annually. We are revising § 668.46(b)(4)(i) to require institutions to, in addition to the existing required information, address in their statements of current policies concerning campus law enforcement the jurisdiction of security personnel, as well as any agreements, such as written memoranda of understanding between the institution and State and local police agencies, for the investigation of alleged criminal offenses. This change incorporates modifications made to the Clery Act by the Higher Education Opportunity Act.

We are revising and restructuring § 668.46(b)(11). Specifically, we require institutions to include in their annual security report a statement of policy regarding the institution's programs to prevent dating violence, domestic violence, sexual assault, and stalking as well as the procedures that the institutions will follow when one of these crimes is reported. This change incorporates modifications made to the Clery Act by VAWA.

Under § 668.46(b)(11)(ii), institutions must provide written information to the victim of dating violence, domestic violence, sexual assault, and stalking. Institutions are required to provide information regarding: the preservation of evidence to assist in proving the alleged criminal offense or obtaining a protective order; how and to whom an alleged offense is to be reported; options for the involvement of law enforcement and campus authorities; and, where applicable, the victim's rights or institution's responsibilities for orders of protection. This change incorporates modifications made to the Clery Act by VAWA, discussions during the negotiations, and input we received from public comments.

In § 668.46(b)(11)(iii), we are adding a provision to specify that institutions must address in their annual security report how they will complete publicly available record-keeping for the purposes of the Clery Act reporting while not including identifying information about the victim and while maintaining the confidentiality of any accommodations or protective measures given to the victim, to the extent that such exclusions would not impair the ability of institutions to provide such accommodations or protective measures. This change incorporates modifications made to the Clery Act by VAWA, discussions during the negotiations, and input we received from public comments.

In § 668.46(b)(11)(iv), we are requiring institutions to specify in their annual security report that they will provide a written notification of the services that are available to victims of dating violence, domestic violence, sexual assault and stalking. The notice must provide information on existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration services, and other services that may be available at the institution and in the community. This change incorporates modifications made to the Clery Act by VAWA, discussions during negotiations, and input we received from public comments.

We are revising § 668.46(b)(11)(v) to require institutions to specify in their annual security report that written notification will be provided to victims of dating violence, domestic violence, sexual assault, and stalking regarding their options for, and the availability of changes to academic, living, transportation, and working situations. These options will be afforded any victim, regardless of whether the victim reports the crime to campus policy or law enforcement. This change incorporates modifications made to the Clery Act by VAWA, discussions during negotiations, and input we received from public comments.

In § 668.46(b)(11)(vi), we are adding a new provision to require institutions to specify in their ASR that when a student or employee of the institution reports to the institution that a person is a victim of dating violence, domestic violence, sexual

assault, or stalking that the victim will be provided a written explanation of their rights and options, whether the offense occurred on campus or off campus. This change incorporates modifications made to the HEA by VAWA.

Burden Calculation: We estimate that the changes in § 668.46(b)(11) will add 2.5 hours of additional burden for an institution. As a result, reporting burden at public institutions will increase by 5,028 hours (2,011 public institutions time 2.5 hours per institution). Reporting burden at private non-profit institutions will increase by 4,635 hours (1,854 private non-profit institutions times 2.5 hours per institution). Reporting burden at private for-profit institutions will increase by 8,413 hours (3,365 private for-profit institutions times 2.5 hours per institution).

Collectively, burden will increase by 18,076 hours under OMB Control Number 1845–0022.

Requirements: Under the final regulations in § 668.46(c), *Crime statistics*, we will revise and expand existing language and add new reporting requirements for items to be reported in the annual survey.

The final revisions to § 668.46(c)(1) will add the VAWA crimes of dating violence, domestic violence and stalking to the list of crimes about which institutions must collect and disclose statistics in their annual crime statistics reports. The Department is also modifying its approach for the reporting and disclosing of sex offenses to reflect updates to the FBI's Uniform Crime Reporting (UCR) Program. The Department is making other changes to improve the clarity of this paragraph.

While institutions will continue to be required to report statistics for the three most recent calendar years, the reporting requirements in these final regulations are expanded because of the addition of new crimes added by VAWA.

Under the final regulations in § 668.46(c)(2)(iii), an institution may withhold, or subsequently remove, a reported crime from its crime statistics if, after a full investigation, a sworn or commissioned law enforcement officer makes a formal determination that the crime is false or baseless and therefore “unfounded.” Under the final regulations in § 668.46(c)(2)(iii)(A), an institution must report to the Department and disclose in its annual security report statistics the total number of crimes that were “unfounded” and subsequently withheld from its crime statistics during each of the three most recent calendar years. We have determined that the burden associated with §§ 668.46(c)(2)(iii) and (iii)(A), is de minimus in nature. “Unfounding” a crime report is a long-standing process and, as indicated in the preamble to this final rule, the Department has required institutions to maintain accurate documentation of the investigation and the basis for “unfounding” a crime report when removing it from their crime statistics for compliance purposes for some time. Institutions are already expected to have documentation in the situation in which a crime has been “unfounded,” and they already report crime report statistics to the Department through our electronic, Web-based reporting system. Because this provision requires institutions to report information that they must already collect through an existing system, there is no burden associated with this provision.

The final regulations under §§ 668.46 (c)(4)(iii) and 668.46 (c)(vii) will include gender identity and national origin as two new categories of bias that serve as the basis for a determination of a hate crime.

Under the final regulations in § 668.46 (c)(6), we added stalking as a reportable crime and defined it in the regulations.

These changes implement the modifications VAWA made to the HEA, and improve the overall clarity of this paragraph. We believe that burden will be added because there are additional crimes, categories of crimes, differentiation of hate crimes, and expansions of the categories of bias that must be reported.

Burden Calculation: On average, we estimate that the changes to the reporting of crime statistics will take each institution 1.50 hours of additional burden. As a result, reporting burden at public institutions will increase by 3,017 hours (2,011 reporting public institutions times 1.50 hours per institution). Reporting burden at private non-profit institutions would increase by 2,781 hours (1,854 private non-profit institutions times 1.50 hours). Reporting burden at private for-profit institutions will increase by 5,048 hours (3,365 private for-profit institutions times 1.50 hours per institution).

Collectively, burden will increase by 10,846 hours under OMB Control Number 1845–0022.

Requirements: The final regulations in § 668.46(j), *Programs to prevent dating violence, domestic violence, sexual assault, and stalking*, specify the elements of the required statement of policy on the institution’s programs and ongoing campaigns about prevention and awareness regarding these crimes that must be included in the institution’s annual security report.

The final regulations in § 668.46(j)(1)(i) require the institution’s statement to contain certain elements in the description of the primary prevention and awareness programs for incoming students and new employees including: The prohibition of dating violence, domestic violence, sexual assault, or stalking, definitions of those crimes and a definition of consent according to the applicable jurisdiction, and descriptions of safe and positive options for bystander intervention, information on risk reduction, as well as other elements of §§ 668.46(b)(11)(ii)–(vii) and (k)(2). These changes incorporate modifications made to the HEA by VAWA.

The final regulations in § 668.46(j)(1)(ii) require that the institution’s statement must contain certain elements in the description of the ongoing prevention and awareness campaigns for students and employees including: The institution’s prohibition of dating violence, domestic violence, sexual assault, or stalking, definitions of those crimes and a definition of consent according to the applicable jurisdiction, a description of safe and positive options for bystander intervention, information on risk reduction, and as well as other elements of §§ 668.46(b)(11)(ii)–(vii) and (k)(2). This amendatory language is required to incorporate changes made to the HEA by VAWA.

Burden Calculation: On average, we estimate that the changes to the institution’s statements of policy and description of programs and ongoing campaigns will take each institution four hours of additional burden. As a result, reporting burden at public institutions will increase by 8,044 hours (2,011 reporting public institutions times 4 hours per institution). Reporting burden at private non-profit institutions will increase by 7,416 hours (1,854 private non-profit institutions times four hours). Reporting burden at private for-profit institutions will increase by 13,460 hours (3,365 private for-profit institutions times four hours per institution).

Collectively, burden will increase by 28,920 hours under OMB Control Number 1845–0022.

Requirements: Under the final regulations in § 668.46(k), *Procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking*, we are implementing the statutory changes requiring an institution that participates in any title IV, HEA program, other than a foreign institution, to include a statement of policy in its annual security report addressing the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking.

The final regulations in § 668.46(k)(1) require various additions to the institution’s statement of policy that must be included in the annual security report. While a statement of policy is required under current regulations (see § 668.46(b)(11)(vii)), the final regulations require the following additions to the statement of policy.

The final regulations in § 668.46(k)(1)(i) provide that the statement of policy must describe each type of disciplinary proceeding used by the institution, including the steps, anticipated timelines, and decision-making process for each, and how the institution determines which type of disciplinary hearing to use.

The final regulations in § 668.46(k)(1)(ii) provide that the statement of policy must describe the standard of evidence that will be used during any disciplinary proceeding.

The final regulations in § 668.46(k)(1)(iii) provide that the statement of policy must list all possible sanctions an institution may impose following the results of any disciplinary proceeding.

The final regulations in § 668.46(k)(1)(iv) provide that the policy statement must describe the range of protective measures that the institution may offer following an allegation of dating violence, domestic violence, sexual assault, or stalking.

Under the final regulations in § 668.46(k)(2), the institution will have to provide additional information regarding its disciplinary proceedings in the statement of policy. Section 668.46(k)(2)(i) requires that an institution's statement of policy must provide that its disciplinary proceeding includes a prompt, fair, and impartial process from the initial investigation to the final result. The policy statement must provide that the proceeding will be conducted by officials who receive annual training on the issues related to dating violence, domestic violence, sexual assault, and stalking and annual training on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability under the final regulations in § 668.46(k)(2)(ii).

Under the final regulations in § 668.46(k)(2)(iii), an institution's statement of policy must provide that its disciplinary proceeding will afford the accuser and the accused 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. The final regulations in § 668.46(k)(2)(iv), provide that an institution cannot limit the choice or presence of an advisor, however, the institution may establish restrictions regarding the advisor's participation in the proceedings as long as those restrictions apply equally to both the accuser and the accused. Finally, under the final regulations in § 668.46(k)(2)(v), an institution's statement of policy must require simultaneous notification, in writing, to both the accuser and the accused of the result of any institutional disciplinary proceeding, the institution's procedures for the accused and the victim to appeal the result, any change to the result, and when such results become final.

Burden Calculation: On average, we estimate that the changes to the institution's statement of policy will take each institution 2.75 hours of additional burden. As a result, reporting burden at public institutions will increase by 5,530 hours (2,011 reporting public institutions times 2.75 hours per institution). Reporting burden at private non-profit institutions will increase by 5,099 hours (1,854 private non-profit institutions times 2.75 hours). Reporting burden at private for-profit institutions will increase by 9,254 hours (3,365 private for-profit institutions times 2.75 hours per institution).

Collectively, burden will increase by 19,883 hours under OMB Control Number 1845-0022.

Consistent with the discussion above, the table below describes the final regulations involving information collections, the information being collected, and the collections that the Department will submit to OMB for approval and public comment under the PRA, and the estimated costs associated with the information collections. The monetized net costs of the increased burden on institutions and borrowers, using wage data developed using BLS data, available at

www.bls.gov/ncs/ect/sp/ecsuhst.pdf, is \$2,840,848.75, as shown in the following chart. This cost was based on an hourly rate of \$36.55 for institutions.

COLLECTION OF INFORMATION

Regulatory section	Information collection	OMB control number and estimated burden [change in burden]	Estimated costs
§ 668.46(b) Annual security report	Revises and expands existing language and adds new requirements for items to be reported annually.	OMB 1845-0022. We estimate that the burden will increase by 18,076 hours.	\$660,677.80
§ 668.46(c) Crime statistics	Revises and expands existing language and adds new reporting requirements for items to be reported in the annual crime statistics report.	OMB 1845-0022. We estimate that the burden will increase by 10,846 hours.	396,421.30
§ 668.46(j) Programs to prevent dating violence, domestic violence, sexual assault, and stalking.	Specifies the elements of the required statement of policy on and description of the institution's programs and ongoing campaigns about prevention and awareness regarding these crimes that must be included in the institution's annual security report.	OMB 1845-0022. We estimate that the burden will increase by 28,920 hours.	\$,057,026.00
§ 668.46(k) Procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, and stalking.	Implements the statutory changes requiring an institution that participates in any title IV, HEA program to include a statement of policy in its annual security report addressing the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking.	OMB 1845-0022. We estimate that the burden will increase by 19,883 hours.	726,723.65

Assessment of Educational Impact

In the NPRM we requested comments on whether the proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

Based on the response to the NPRM and on our review, we have determined that these final regulations do not require transmission of information that any other agency or authority of the United States gathers or makes available.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: www.gpo.gov/fdsys. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

(Catalog of Federal Domestic Assistance Number does not apply.)

List of Subjects in 34 CFR Part 668

Administrative practice and procedure, Aliens, Colleges and universities, Consumer protection, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Selective Service System, Student aid, Vocational education.

Dated: October 7, 2014.

Arne Duncan,
Secretary of Education.

For the reasons discussed in the preamble, the Secretary of Education amends part 668 of title 34 of the Code of Federal Regulations as follows:

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

■ 1. The authority citation for part 668 continues to read as follows:

Authority: 20 U.S.C. 1001, 1002, 1003, 1070g, 1085, 1088, 1091, 1092, 1094, 1099c, and 1099c–1, unless otherwise noted.

■ 2. Revise § 668.46 to read as follows:

§ 668.46 Institutional security policies and crime statistics.

(a) *Definitions.* Additional definitions that apply to this section:

Business day. Monday through Friday, excluding any day when the institution is closed.

Campus. (i) Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls; and

(ii) Any building or property that is within or reasonably contiguous to the area identified in paragraph (i) of this definition, that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).

Campus security authority. (i) A campus police department or a campus security department of an institution.

(ii) Any individual or individual who have responsibility for campus security but who do not constitute a campus police department or a campus security department under paragraph (i) of this definition, such as an individual who is responsible for monitoring entrance into institutional property.

(iii) 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.

(iv) 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. If such an official is a pastoral or

professional counselor as defined below, the official is not considered a campus security authority when acting as a pastoral or professional counselor.

Clery geography. (i) For the purposes of collecting statistics on the crimes listed in paragraph (c) of this section for submission to the Department and inclusion in an institution's annual security report, Clery geography includes—

- (A) Buildings and property that are part of the institution's campus;
- (B) The institution's noncampus buildings and property; and
- (C) Public property within or immediately adjacent to and accessible from the campus.

(ii) For the purposes of maintaining the crime log required in paragraph (f) of this section, Clery geography includes, in addition to the locations in paragraph (i) of this definition, areas within the patrol jurisdiction of the campus police or the campus security department.

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.

- (i) The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

(ii) For the purposes of this definition—

(A) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

(B) Dating violence does not include

acts covered under the definition of domestic violence.

- (iii) For the purposes of complying with the requirements of this section and § 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

Domestic violence. (i) A felony or misdemeanor crime of violence committed—

(A) By a current or former spouse or intimate partner of the victim;

(B) By a person with whom the victim shares a child in common;

(C) By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;

(D) By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or

(E) By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

(ii) For the purposes of complying with the requirements of this section and § 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

Federal Bureau of Investigation's (FBI) Uniform Crime Reporting (UCR) program. A nationwide, cooperative statistical effort in which city, university and college, county, State, Tribal, and federal law enforcement agencies voluntarily report data on crimes brought to their attention. The UCR program also serves as the basis for the definitions of crimes in Appendix A to this subpart and the requirements for classifying crimes in this subpart.

Hate crime. A crime reported to local police agencies or to a campus security authority that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim. For the purposes of this section, the categories of bias include the victim's actual or perceived race, religion, gender, gender identity, sexual orientation, ethnicity, national origin, and disability.

Hierarchy Rule. A requirement in the FBI's UCR program that, for purposes of reporting crimes in that system, when more than one criminal offense was committed during a single incident, only the most serious offense be counted.

Noncampus building or property. (i) Any building or property owned or controlled by a student organization that is officially recognized by the institution; or

(ii) Any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.

Pastoral counselor. A person who is associated with a religious order or denomination, is recognized by that religious order or denomination as someone who provides confidential counseling, and is functioning within the scope of that recognition as a pastoral counselor.

Professional counselor. A person whose official responsibilities include providing mental health counseling to members of the institution's community and who is functioning within the scope of the counselor's license or certification.

Programs to prevent dating violence, domestic violence, sexual assault, and stalking. (i) *Comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end dating violence, domestic violence, sexual assault, and stalking that—*

(A) 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

(B) Consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels.

(ii) 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, as defined in paragraph (j)(2) of this section.

Public property. All public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus.

Referred for campus disciplinary action. The referral of any person to any campus official who initiates a disciplinary action of which a record is kept and which may result in the imposition of a sanction.

Sexual assault. An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's UCR program and included in Appendix A of this subpart.

Stalking. (i) Engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

(A) Fear for the person's safety or the safety of others; or

(B) Suffer substantial emotional distress.

(ii) For the purposes of this definition—

(A) Course of conduct means two or more acts, including, but not limited to, acts in 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.

(B) Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

(C) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

(iii) For the purposes of complying with the requirements of this section and section 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

Test. Regularly scheduled drills, exercises, and appropriate follow-through activities, designed for assessment and evaluation of emergency plans and capabilities.

Annual security report. An institution must prepare an annual security report reflecting its current policies that contains, at a minimum, the following information:

- (1) The crime statistics described in paragraph (c) of this section.
- (2) A statement of policies regarding procedures for students and others to report criminal actions or other emergencies occurring on campus. This statement must include the institution's policies concerning its response to these reports, including—
 - (i) Policies for making timely warning reports to members of the campus community, as required by paragraph (e) of this section, regarding the occurrence of crimes described in paragraph (c)(1) of this section;
 - (ii) Policies for preparing the annual disclosure of crime statistics;
 - (iii) A list of the titles of each person or organization to whom students and employees should report the criminal offenses described in paragraph (c)(1) of this section for the purposes of making timely warning reports and the annual statistical disclosure; and
 - (iv) Policies or procedures for victims or witnesses to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics.
- (3) A statement of policies concerning security of and access to campus facilities, including campus residences, and security considerations used in the maintenance of campus facilities.
- (4) A statement of policies concerning campus law enforcement that—
 - (i) Addresses the enforcement authority and jurisdiction of security personnel;
 - (ii) Addresses the working relationship of campus security personnel with State and local police agencies, including—
 - (A) Whether those security personnel have the authority to make arrests; and
 - (B) Any agreements, such as written memoranda of understanding between the institution and such agencies, for the investigation of alleged criminal offenses.
 - (iii) Encourages accurate and prompt reporting of all crimes to the campus police and the appropriate police agencies, when the victim of a crime elects to, or is unable to, make such a report; and
 - (iv) Describes procedures, if any, that encourage pastoral counselors and professional counselors, if and when they deem it appropriate, to inform the persons they are counseling of any procedures to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics.
- (5) A description of the type and frequency of programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others.
- (6) A description of programs designed to inform students and employees about the prevention of crimes.
- (7) A statement of policy concerning the monitoring and recording through local police agencies of criminal activity by students at noncampus locations of student organizations officially recognized by the institution, including student organizations with noncampus housing facilities.
- (8) A statement of policy regarding the possession, use, and sale of alcoholic beverages and enforcement of State underage drinking laws.

- (9) A statement of policy regarding the possession, use, and sale of illegal drugs and enforcement of Federal and State drug laws.
- (10) A description of any drug or alcohol-abuse education programs, as required under section 120(a) through (d) of the HEA, otherwise known as the Drug-Free Schools and Communities Act of 1989. For the purpose of meeting this requirement, an institution may cross-reference the materials the institution uses to comply with section 120(a) through (d) of the HEA.
- (11) A statement of policy regarding the institution's programs to prevent dating violence, domestic violence, sexual assault, and stalking, as defined in paragraph (a) of this section, and of procedures that the institution will follow when one of these crimes is reported. The statement must include—
- (i) A description of the institution's educational programs and campaigns to promote the awareness of dating violence, domestic violence, sexual assault, and stalking, as required by paragraph (j) of this section;
 - (ii) Procedures victims should follow if a crime of dating violence, domestic violence, sexual assault, or stalking has occurred, including written information about—
 - (A) The importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order;
 - (B) How and to whom the alleged offense should be reported;
 - (C) Options about the involvement of law enforcement and campus authorities, including notification of the victim's option to—
 - (1) Notify proper law enforcement authorities, including on-campus and local police;
 - (2) Be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and
 - (3) Decline to notify such authorities;and
 - (D) 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;
 - (iii) Information about how the institution will protect the confidentiality of victims and other necessary parties, including how the institution will—
 - (A) Complete publicly available recordkeeping, including Clery Act reporting and disclosures, without the inclusion of personally identifying information about the victim, as defined in section 40002(a)(20) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)(20)); and
 - (B) 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;
 - (iv) 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, student financial aid, and other services available for victims, both within the institution and in the community;
 - (v) A statement that the institution will provide written notification to victims about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures. The institution must make such accommodations or provide such protective measures 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;
 - (vi) An explanation of the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking, as required by paragraph (k) of this section; and
 - (vii) 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, as described in paragraphs (b)(11)(ii) through (vi) of this section.

(12) A statement advising the campus community where law enforcement agency information provided by a State under section 121 of the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16921), concerning registered sex offenders may be obtained, such as the law enforcement office of the institution, a local law enforcement agency with jurisdiction for the campus, or a computer network address.

(13) A statement of policy regarding emergency response and evacuation procedures, as required by paragraph (g) of this section.

(14) A statement of policy regarding missing student notification procedures, as required by paragraph (h) of this section.

(c) *Crime statistics—(1) Crimes that must be reported and disclosed.* An institution must report to the Department and disclose in its annual security report statistics for the three most recent calendar years concerning the number of each of the following crimes that occurred on or within its Clery geography and that are reported to local police agencies or to a campus security authority:

(i) Primary crimes, including—

(A) Criminal homicide:

- (1) Murder and nonnegligent manslaughter; and
- (2) Negligent manslaughter.

(B) Sex offenses:

- (1) Rape;
- (2) Fondling;
- (3) Incest; and
- (4) Statutory rape.

(C) Robbery.

(D) Aggravated assault.

(E) Burglary.

(F) Motor vehicle theft.

(G) Arson.

(ii) Arrests and referrals for disciplinary actions, including—

(A) Arrests for liquor law violations, drug law violations, and illegal weapons possession.

(B) Persons not included in paragraph (c)(1)(ii)(A) of this section who were referred for campus disciplinary action for liquor law violations, drug law violations, and illegal weapons possession.

(iii) Hate crimes, including—

(A) The number of each type of crime in paragraph (c)(1)(i) of this section that are determined to be hate crimes; and

(B) The number of the following crimes that are determined to be hate crimes:

- (1) Larceny-theft.
- (2) Simple assault.
- (3) Intimidation.
- (4) Destruction/damage/vandalism of property.

(iv) Dating violence, domestic violence, and stalking as defined in paragraph (a) of this section.

All reported crimes must be recorded. (i) An institution must include in its crime statistics all crimes listed in paragraph (c)(1) of this section occurring on or within its Clery geography that are reported to a campus security authority for purposes of Clery Act reporting. Clery Act reporting does not require initiating an investigation or disclosing personally identifying information about the victim, as defined in section 40002(a)(20) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)(20)). (ii) An institution may not withhold, or subsequently remove, a reported crime from its crime

statistics based on a decision by a court, coroner, jury, prosecutor, or other similar noncampus official. (iii) An institution may withhold, or subsequently remove, a reported crime from its crime statistics in the rare situation where sworn or commissioned law enforcement personnel have fully investigated the reported crime and, based on the results of this full investigation and evidence, have made a formal determination that the crime report is false or baseless and therefore “unfounded.” Only sworn or commissioned law enforcement personnel may “unfound” a crime report for purposes of reporting under this section. The recovery of stolen property, the low value of stolen property, the refusal of the victim to cooperate with the prosecution, and the failure to make an arrest do not “unfound” a crime report.

(A) An institution must report to the Department and disclose in its annual security report statistics the total number of crime reports listed in paragraph (c)(1) of this section that were “unfounded” and subsequently withheld from its crime statistics pursuant to paragraph (c)(2)(iii) of this section during each of the three most recent calendar years.

(B) [Reserved]

(3) *Crimes must be recorded by calendar year.* (i) An institution must record a crime statistic for the calendar year in which the crime was reported to local police agencies or to a campus security authority.

(iii) When recording crimes of stalking by calendar year, an institution must follow the requirements in paragraph (c)(6) of this section.

(4) *Hate crimes must be recorded by category of bias.* For each hate crime recorded under paragraph (c)(1)(iii) of this section, an institution must identify the category of bias that motivated the crime. For the purposes of this paragraph, the categories of bias include the victim’s actual or perceived—

- (i) Race;
- (ii) Gender;
- (iii) Gender identity;
- (iv) Religion;
- (v) Sexual orientation;
- (vi) Ethnicity;
- (vii) National origin; and
- (viii) Disability.

(5) *Crimes must be recorded by location.*

(i) An institution must specify whether each of the crimes recorded under paragraph (c)(1) of this section occurred—

- (A) On campus;
- (B) In or on a noncampus building or property; or
- (C) On public property.

(ii) An institution must identify, of the crimes that occurred on campus, the number that took place in dormitories or other residential facilities for students on campus.

(iii) When recording stalking by location, an institution must follow the requirements in paragraph (c)(6) of this section.

(6) *Recording reports of stalking.*

(i) When recording reports of stalking that include activities in more than one calendar year, an institution must record a crime statistic for each and every year in which the course of conduct is reported to a local police agency or to a campus security authority.

(ii) 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.

(7) *Identification of the victim or the accused.* The statistics required under paragraph (c) of this section do not include the identification of the victim or the person accused of committing the crime.

(8) *Pastoral and professional counselor.* An institution is not required to report statistics under paragraph (c) of this section for crimes reported to a pastoral or professional counselor.

(9) *Using the FBI's UCR program and the Hierarchy Rule.*

(i) An institution must compile the crime statistics for murder and nonnegligent manslaughter, negligent manslaughter, rape, robbery, aggravated assault, burglary, motor vehicle theft, arson, liquor law violations, drug law violations, and illegal weapons possession using the definitions of those crimes from the "Summary Reporting System (SRS) User Manual" from the FBI's UCR Program, as provided in Appendix A to this subpart.

(ii) An institution must compile the crime statistics for fondling, incest, and statutory rape using the definitions of those crimes from the "National Incident-Based Reporting System (NIBRS) User Manual" from the FBI's UCR Program, as provided in Appendix A to this subpart.

(iii) An institution must compile the crime statistics for the hate crimes of larceny-theft, simple assault, intimidation, and destruction/damage/ vandalism of property using the definitions provided in the "Hate Crime Data Collection Guidelines and Training Manual" from the FBI's UCR Program, as provided in Appendix A to this subpart.

(iv) An institution must compile the crime statistics for dating violence, domestic violence, and stalking using the definitions provided in paragraph (a) of this section.

(v) In counting crimes when more than one offense was committed during a single incident, an institution must conform to the requirements of the Hierarchy Rule in the "Summary Reporting System (SRS) User Manual.

(vi) If arson is committed, an institution must always record the arson in its statistics, regardless of whether or not it occurs in the same incident as another crime.

(vii) If rape, fondling, incest, or statutory rape occurs in the same incident as a murder, an institution must record both the sex offense and the murder in its statistics.

(10) *Use of a map.* In complying with the statistical reporting requirements under this paragraph (c) of this section, an institution may provide a map to current and prospective students and employees that depicts its campus, noncampus buildings or property, and public property areas if the map accurately depicts its campus, noncampus buildings or property, and public property areas.

(11) *Statistics from police agencies.*

(i) In complying with the statistical reporting requirements under paragraph (c) of this section, an institution must make a reasonable, good-faith effort to obtain statistics for crimes that occurred on or within the institution's Clery geography and may rely on the information supplied by a local or State police agency.

(ii) If the institution makes such a reasonable, good-faith effort, it is not responsible for the failure of the local or State police agency to supply the required statistics.

(d) *Separate campus.* An institution must comply with the requirements of this section for each separate campus.

(e) *Timely warning and emergency notification.* (1) An institution must, in a manner that is timely and that withholds as confidential the names and other identifying information of victims, as defined in section 40002(a)(20) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)(20)), and that will aid in the prevention of similar crimes, report to the campus community on crimes that are—

(i) Described in paragraph (c)(1) of this section;

(ii) Reported to campus security authorities as identified under the institution's statement of current campus policies pursuant to paragraph (b)(2) of this section or local police agencies; and

(iii) Considered by the institution to represent a threat to students and employees.

(2) An institution is not required to provide a timely warning with respect to crimes reported to a pastoral or professional counselor.

(3) If there is an immediate threat to the health or safety of students or employees occurring on campus, as described in paragraph (g)(1) of this section, an institution must follow its emergency notification procedures. An institution that follows its emergency notification procedures is not required to issue a timely warning based on the same circumstances; however, the institution must provide adequate follow-up information to the community as needed.

(f) *Crime log.*

(1) An institution that maintains a campus police or a campus security department must maintain a written, easily understood daily crime log that records, by the date the crime was reported, any crime that occurred within its Clery geography, as described in paragraph (ii) of the definition of *Clery geography* in paragraph (a) of this section, and that is reported to the campus police or the campus security department. This log must include—

- (i) The nature, date, time, and general location of each crime; and
- (ii) The disposition of the complaint, if known.

(2) The institution must make an entry or an addition to an entry to the log within two business days, as defined under paragraph (a) of this section, of the report of the information to the campus police or the campus security department, unless that disclosure is prohibited by law or would jeopardize the confidentiality of the victim.

(3)(i) An institution may withhold information required under paragraphs (f)(1) and (2) of this section if there is clear and convincing evidence that the release of the information would—

- (A) Jeopardize an ongoing criminal investigation or the safety of an individual;
- (B) Cause a suspect to flee or evade detection; or
- (C) Result in the destruction of evidence.

(ii) The institution must disclose any information withheld under paragraph (f)(3)(i) of this section once the adverse effect described in that paragraph is no longer likely to occur.

(4) An institution may withhold under paragraph (f)(2) and (3) of this section only that information that would cause the adverse effects described in those paragraphs.

(5) The institution must make the crime log for the most recent 60-day period open to public inspection during normal business hours. The institution must make any portion of the log older than 60 days available within two business days of a request for public inspection.

(g) *Emergency response and evacuation procedures.* An institution must include a statement of policy regarding its emergency response and evacuation procedures in the annual security report. This statement must include—

(1) The procedures the institution will use to immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus;

(2) A description of the process the institution will use to—

- (i) Confirm that there is a significant emergency or dangerous situation as described in paragraph (g)(1) of this section;
- (ii) Determine the appropriate segment or segments of the campus community to receive a notification;
- (iii) Determine the content of the notification; and
- (iv) Initiate the notification system.

(3) A statement that the institution will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency;

(4) A list of the titles of the person or persons or organization or organizations responsible for carrying out the actions described in paragraph (g)(2) of this section;

(5) The institution's procedures for disseminating emergency information to the larger community; and

(6) The institution's procedures to test the emergency response and evacuation procedures on at least an annual basis, including—

- (i) Tests that may be announced or unannounced;

- (ii) Publicizing its emergency response and evacuation procedures in conjunction with at least one test per calendar year; and
- (iii) Documenting, for each test, a description of the exercise, the date, time, and whether it was announced or unannounced.

(h) *Missing student notification policies and procedures.*

(1) An institution that provides any on-campus student housing facility must include a statement of policy regarding missing student notification procedures for students who reside in on-campus student housing facilities in its annual security report. This statement must—

- (i) Indicate a list of titles of the persons or organizations to which students, employees, or other individuals should report that a student has been missing for 24 hours;
- (ii) Require that any missing student report must be referred immediately to the institution's police or campus security department, or, in the absence of an institutional police or campus security department, to the local law enforcement agency that has jurisdiction in the area;
- (iii) Contain an option for each student to identify a contact person or persons whom the institution shall notify within 24 hours of the determination that the student is missing, if the student has been determined missing by the institutional police or campus security department, or the local law enforcement agency;
- (iv) Advise students that their contact information will be registered confidentially, that this information will be accessible only to authorized campus officials, and that it may not be disclosed, except to law enforcement personnel in furtherance of a missing person investigation;
- (v) Advise students that if they are under 18 years of age and not emancipated, the institution must notify a custodial parent or guardian within 24 hours of the determination that the student is missing, in addition to notifying any additional contact person designated by the student; and
- (vi) Advise students that the institution will notify the local law enforcement agency within 24 hours of the determination that the student is missing, unless the local law enforcement agency was the entity that made the determination that the student is missing.

(2) The procedures that the institution must follow when a student who resides in an on-campus student housing facility is determined to have been missing for 24 hours include—

- (i) If the student has designated a contact person, notifying that contact person within 24 hours that the student is missing;
- (ii) If the student is under 18 years of age and is not emancipated, notifying the student's custodial parent or guardian and any other designated contact person within 24 hours that the student is missing; and
- (iii) Regardless of whether the student has identified a contact person, is above the age of 18, or is an emancipated minor, informing the local law enforcement agency that has jurisdiction in the area within 24 hours that the student is missing.

(i) [Reserved]

(j) *Programs to prevent dating violence, domestic violence, sexual assault, and stalking.* As required by paragraph (b)(11) of this section, an institution must include in its annual security report a statement of policy that addresses the institution's programs to prevent dating violence, domestic violence, sexual assault, and stalking.

(1) The statement must include—

- (i) A description of the institution's primary prevention and awareness programs for all incoming students and new employees, which must include—
 - (A) A statement that the institution prohibits the crimes of dating violence, domestic violence, sexual assault, and stalking, as those terms are defined in paragraph (a) of this section;

(B) The definition of “dating violence,” “domestic violence,” “sexual assault,” and “stalking” in the applicable jurisdiction;

(C) The definition of “consent,” in reference to sexual activity, in the applicable jurisdiction;

(D) A description of safe and positive options for bystander intervention;

(F) Information on risk reduction; and The information described in paragraphs (b)(11) and (k)(2) of this section; and

(ii) A description of the institution’s ongoing prevention and awareness campaigns for students and employees, including information described in paragraph (j)(1)(i)(A) through (F) of this section.

(2) For the purposes of this paragraph —

(i) *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.

(ii) *Bystander intervention* means 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.

(iii) *Ongoing prevention and awareness campaigns* means 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 described in paragraph (j)(1)(i)(A) through (F) of this section.

(iv) *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.

(v) *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.

(3) An institution’s programs to prevent dating violence, domestic violence, sexual assault, and stalking must include, at a minimum, the information described in paragraph (j)(1) of this section.

(k) *Procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking.* As required by paragraph (b)(11)(vi) of this section, an institution must include in its annual security report a clear statement of policy that addresses the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking, as defined in paragraph (a) of this section, and that—

(1)(i) Describes each type of disciplinary proceeding used by the institution; the steps, anticipated timelines, and decision-making process for each type of disciplinary proceeding; how to file a disciplinary complaint; and 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;

(ii) Describes 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;

- (iii) Lists 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; and
 - (iv) Describes the range of protective measures that the institution may offer to the victim following an allegation of dating violence, domestic violence, sexual assault, or stalking.
- (2) Provides that the proceedings will—
- (i) Include a prompt, fair, and impartial process from the initial investigation to the final result;
 - (ii) 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 and hearing process that protects the safety of victims and promotes accountability;
 - (iii) Provide the accuser and the accused with the same opportunities to have others present during any institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice;
 - (iv) 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
 - (v) Require simultaneous notification, in writing, to both the accuser and the accused, of—
 - (A) The result of any institutional disciplinary proceeding that arises from an allegation of dating violence, domestic violence, sexual assault, or stalking;
 - (B) The institution’s procedures for the accused and the victim to appeal the result of the institutional disciplinary proceeding, if such procedures are available;
 - (C) Any change to the result; and
 - (D) When such results become final.
- (3) For the purposes of this paragraph (k)—
- (i) 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—
 - (1) Is consistent with the institution’s policies and transparent to the accuser and accused;
 - (2) Includes timely notice of meetings at which the accuser or accused, or both, may be present; and
 - (3) Provides timely and equal access to the accuser, the accused, and appropriate officials to any information that will be used during informal and formal disciplinary meetings and hearings; and
 - (C) Conducted by officials who do not have a conflict of interest or bias for or against the accuser or the accused.
 - (ii) *Advisor* means any individual who provides the accuser or accused support, guidance, or advice.
 - (iii) *Proceeding* means all activities related to a non-criminal resolution of an institutional disciplinary complaint, including, but not limited to, factfinding investigations, formal or informal meetings, and hearings. *Proceeding* does not include communications and meetings between officials and victims concerning accommodations or protective measures to be provided to a victim.
 - (iv) *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. Notwithstanding section 444 of the General Education Provisions Act (20 U.S.C. 1232g), commonly referred to as the Family Educational Rights and Privacy Act (FERPA), the result must also include the rationale for the result and the sanctions.

(l) Compliance with paragraph (k) of this section does not constitute a violation of FERPA.

(m) *Prohibition on retaliation.* An institution, or an officer, employee, or agent of an institution, may not retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual for exercising their rights or responsibilities under any provision in this section.

Revise Appendix A to Subpart D to read as follows:

APPENDIX A TO SUBPART D OF PART 668—CRIME DEFINITIONS IN ACCORDANCE WITH THE FEDERAL BUREAU OF INVESTIGATION’S UNIFORM CRIME REPORTING PROGRAM

The following definitions are to be used for reporting the crimes listed in § 668.46, in accordance with the Federal Bureau of Investigation’s Uniform Crime Reporting (UCR) Program. The definitions for *murder, rape, robbery, aggravated assault, burglary, motor vehicle theft, weapons: carrying, possessing, etc., law violations, drug abuse violations, and liquor law violations* are from the “Summary Reporting System (SRS) User Manual” from the FBI’s UCR Program. The definitions of *fondling, incest, and statutory rape* are excerpted from the “National Incident-Based Reporting System (NIBRS) User Manual” from the FBI’s UCR Program. The definitions of *larceny-theft (except motor vehicle theft), simple assault, intimidation, and destruction/damage/vandalism of property* are from the “Hate Crime Data Collection Guidelines and Training Manual” from the FBI’s UCR Program.

Crime Definitions From the Summary Reporting System (SRS) User Manual From the FBI’s UCR Program

Arson

Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

Criminal Homicide—Manslaughter by Negligence

The killing of another person through gross negligence.

Criminal Homicide—Murder and Nonnegligent Manslaughter

The willful (nonnegligent) killing of one human being by another.

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.

Robbery

The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

Aggravated Assault

An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. (It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon is used which could and probably would result in serious personal injury if the crime were successfully completed.)

Burglary

The unlawful entry of a structure to commit a felony or a theft. For reporting purposes this definition includes: unlawful entry with intent to commit a larceny or felony; breaking and entering with intent to commit a larceny; housebreaking; safecracking; and all attempts to commit any of the aforementioned.

Motor Vehicle Theft

The theft or attempted theft of a motor vehicle. (Classify as motor vehicle theft all cases where automobiles are taken by persons not having lawful access even though the vehicles are later abandoned— including joyriding.)

Weapons: Carrying, Possessing, Etc.

The violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices, or other deadly weapons.

Drug Abuse Violations

The violation of laws prohibiting the production, distribution, and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use. The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation, or importation of any controlled drug or narcotic substance. Arrests for violations of State and local laws, specifically those relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs.

Liquor Law Violations

The violation of State or local laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, or use of alcoholic beverages, not including driving under the influence and drunkenness.

Crime Definitions From the National Incident-Based Reporting System (NIBRS) User Manual from the FBI's UCR Program

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.

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

Statutory Rape—Sexual intercourse with a person who is under the statutory age of consent.

Crime Definitions From the Hate Crime Data Collection Guidelines and Training Manual From the FBI's UCR Program

Larceny-Theft (Except Motor Vehicle Theft)

The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another. Attempted larcenies are included. Embezzlement, confidence games, forgery, worthless checks, etc., are excluded.

Simple Assault

An unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.

Intimidation

To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

Destruction/Damage/Vandalism of Property

To willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.

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NOT ALONE

The First Report of the White House Task Force to Protect Students From Sexual Assault

April 2014

This report was prepared by the White House Task Force to Protect Students From Sexual Assault.

The Task Force is Co-Chaired by the Office of the Vice President and the White House Council on Women and Girls.

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Executive Summary

[Why We Need to Act](#)

One in five women is sexually assaulted in college. Most often, it's by someone she knows – and also most often, she does not report what happened. Many survivors are left feeling isolated, ashamed or to blame. Although it happens less often, men, too, are victims of these crimes.

The President created the Task Force to Protect Students From Sexual Assault to turn this tide. As the name of our new website – NotAlone.gov – indicates, we are here to tell sexual assault survivors that they are not alone. And we're also here to help schools live up to their obligation to protect students from sexual violence.

Over the last three months, we have had a national conversation with thousands of people who care about this issue. Today, we offer our first set of action steps and recommendations.

1. [Identifying the Problem: Campus Climate Surveys](#)

The first step in solving a problem is to name it and know the extent of it – and a campus climate survey is the best way to do that. We are providing schools with a toolkit to conduct a survey – and we urge schools to show they're serious about the problem by conducting the survey next year. The Justice Department, too, will partner with Rutgers University's Center on Violence Against Women and Children to pilot, evaluate and further refine the survey – and at the end of this trial period, we will explore legislative or administrative options to require schools to conduct a survey in 2016.

2. [Preventing Sexual Assault – and Engaging Men](#)

Prevention programs can change attitudes, behavior – and the culture. In addition to identifying a number of promising prevention strategies that schools can undertake now, we are also researching new ideas and solutions. But one thing we know for sure: we need to engage men as allies in this cause. Most men are not perpetrators – and when we empower men to step in when someone's in trouble, they become an important part of the solution.

As the President and Vice President's new Public Service Announcement puts it: 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. We are also providing schools with links and information about how they can implement their own bystander intervention programs on campus.

3. [Effectively Responding When a Student Is Sexually Assaulted](#)

When one of its students is sexually assaulted, a school needs to have all the pieces of a plan in place. And that should include:

[Someone a survivor can talk to in confidence](#)

While many victims of sexual assault are ready to file a formal (or even public) complaint against an alleged offender right away – many others want time and privacy to sort through their next steps. For some, having a confidential place to go can mean the difference between getting help and staying silent.

Today, we are providing schools with a model reporting and confidentiality protocol – which, at its heart, aims to give survivors more control over the process. Victims who want their school to fully investigate an incident must be taken seriously – and know where to report. But for those who aren't quite ready, they need to have – and know about – places to go for confidential advice and support.

That means a school should make it clear, up front, who on campus can maintain a victim's confidence and who can't – so a victim can make an informed decision about where best to turn. A school's policy should also explain when it may need to override a confidentiality request (and pursue an alleged perpetrator) in order to help provide a safe campus for everyone.

Our sample policy provides recommendations for how a school can strike that often difficult balance, while also being ever mindful of a survivor's well-being.

New guidance from the Department of Education also makes clear that 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. In recent years, some schools have indicated that some of these counselors and advocates cannot maintain confidentiality. This new guidance clarifies that they can.

[A comprehensive sexual misconduct policy](#)

We are also providing a checklist for schools to use in drafting (or reevaluating) their own sexual misconduct policies. Although every school will need to tailor a policy to its own needs and circumstances, all schools should be sure to bring the key stakeholders – including students – to the table. Among other things, this checklist includes ideas a school could consider in deciding what is – or is not – consent to sexual activity. As we heard from many students, this can often be the essence of the matter – and a school community should work together to come up with a careful and considered understanding.

[Trauma-informed training for school officials](#)

Sexual assault is a unique crime: unlike other crimes, victims often blame themselves; the associated trauma can leave their memories fragmented; and insensitive or judgmental questions can compound a victim's distress. Starting this year, the Justice Department, through both its Center for Campus Public Safety and its Office on Violence Against Women, will develop trauma-informed training programs for school officials and campus and local law enforcement. The Department of Education's National Center on Safe and Supportive Learning Environments will do the same for campus health centers. This kind of training has multiple benefits: when survivors are treated with care and wisdom, they start trusting the system, and the strength of their accounts can better hold offenders accountable.

[Better school disciplinary systems](#)

Many sexual assault survivors are wary of their school's adjudication process – which can sometimes subject them to harsh and hurtful questioning (like about their prior sexual history) by students or staff unschooled in the dynamics of these crimes. Some schools are experimenting with new models – like having a single, trained investigator do the lion's share of the fact-finding – with very positive results. We need to learn more about these promising new ideas. And so starting this year, the Justice Department will begin assessing different models for investigating and adjudicating campus sexual assault cases with an eye toward identifying best practices.

The Department of Education's new guidance also urges some important improvements to many schools' current disciplinary processes: questions about the survivor's sexual history with anyone other than the alleged perpetrator should not be permitted; adjudicators should know that the mere fact of a previous consensual sexual relationship does not itself imply consent or preclude a finding of sexual violence; and the parties should not be allowed to personally cross-examine each other.

[Partnerships with the community](#)

Because students can be sexually assaulted at all hours of the day or night, emergency services should be available 24 hours a day, too. Other types of support can also be crucial – like longer-term therapies and advocates who can accompany survivors to medical and legal appointments. Many schools cannot themselves provide all these services, but in partnership with a local rape crisis center, they can. So, too, when both the college and the local police are simultaneously investigating a case (a criminal investigation does not relieve a school of its duty to itself investigate and respond), coordination can be crucial. So we are providing schools with a sample agreement they can use to partner with their local rape crisis center – and by June, we will provide a similar sample for forging a partnership with local law enforcement.

4. [Increasing Transparency and Improving Enforcement](#)

[More transparency and information](#)

The government is committed to making our enforcement efforts more transparent – and getting students and schools more resources to help bring an end to this violence. As part of this effort, we will post enforcement data on our new website – NotAlone.gov – and give students a roadmap for filing a complaint if they think their school has not lived up to its obligations.

Among many other things on the website, sexual assault survivors can also locate an array of services by typing in their zip codes, learn about their legal rights, see which colleges have had enforcement actions taken against them, get “plain English” definitions of some complicated legal terms and concepts; and find their states’ privacy laws. Schools and advocates can access federal guidance, learn about relevant legislation, and review the best available evidence and research. We invite everyone to take a look.

[Improved Enforcement](#)

Today, the Department of Education’s Office for Civil Rights (OCR) is releasing a 52-point guidance document that answers many frequently asked questions about a student’s rights, and a school’s obligations, under Title IX. Among many other topics, the new guidance clarifies that Title IX protects all students, regardless of their sexual orientation or gender identity, immigration status, or whether they have a disability. It also makes clear that students who report sexual violence have a right to expect their school to take steps to protect and support them, including while a school investigation is pending. The guidance also clarifies that recent amendments to the Clery Act do not alter a school’s responsibility under Title IX to respond to and prevent sexual violence.

OCR is also strengthening its enforcement procedures in a number of ways – by, for example, instituting time limits on negotiating voluntary resolution agreements and making clear that schools should provide survivors with interim relief (like changing housing or class schedules) pending the outcome of an OCR investigation. And OCR will be more visible on campus during its investigations, so students can help give OCR a fuller picture about what’s happening and how a school is responding.

The Departments of Education and Justice, which both enforce Title IX, have entered into an agreement to better coordinate their efforts – as have the two offices within the Department of Education charged with enforcing Title IX and the Clery Act.

[Next Steps](#)

This report is the first step in the Task Force’s work. We will continue to work toward solutions, clarity, and better coordination. We will also review the various laws and regulations that address sexual violence for possible regulatory or statutory improvements, and seek new resources to enhance enforcement. Also, campus law enforcement officials have special expertise to offer – and they should be tapped to play a more central role. We will also consider how our recommendations apply to public elementary and secondary schools – and what more we can do to help there.



The Task Force thanks everyone who has offered their wisdom, stories, expertise, and experiences over the past 90 days. Although the problem is daunting and much of what we heard was heartbreaking, we are more committed than ever to helping bring an end to this violence.

Introduction

For too many of our nation’s young people, college doesn’t turn out the way it’s supposed to. One in five women is sexually assaulted while in college.¹ Most often, it happens her freshman or sophomore year.² In the great majority of cases (75-80%), she knows her attacker, whether as an acquaintance, classmate, friend or (ex)boyfriend.³ Many are survivors of what’s called “incapacitated assault”: they are sexually abused while drugged, drunk, passed out, or otherwise incapacitated.⁴ And although fewer and harder to gauge, college men, too, are victimized.⁵

The Administration is committed to turning this tide. The White House Task Force to Protect Students From Sexual Assault was established on January 22, 2014, with a mandate to strengthen federal enforcement efforts and provide schools with additional tools to help combat sexual assault on their campuses. Today, we are taking a series of initial steps to:

1. Identify the scope of the problem on college campuses;
2. Help prevent campus sexual assault;
3. Help schools respond effectively when a student is assaulted; and
4. Improve, and make more transparent, the federal government’s enforcement efforts.

As the Task Force recognized at the outset, campus sexual assault is a complicated, multi- dimensional problem with no easy or quick solutions. These initial recommendations do not purport to find or even identify all of them. Our work is not over.⁶

¹ Krebs, C.P., Lindquist, C.H., Warner, T.D., Fisher, B.S., & Martin, S.L. (2007). *The Campus Sexual Assault (CSA) Study*. Washington, DC: National Institute of Justice, U.S. Department of Justice.; Krebs, C.P., Lindquist, C.H., Warner, T.D., Fisher, B.S., & Martin, S.L. (2009). College Women’s Experiences with Physically Forced, Alcohol- or Other Drug-Enabled, and Drug-Facilitated Sexual Assault Before and Since Entering College. *Journal of American College Health*, 57(6), 639-647.

² Krebs et al., *The Campus Sexual Assault (CSA) Study*.

³ *Ibid.*

⁴ *Ibid.*; see also Kilpatrick, D.G., Resnick, H.S., Ruggiero, K.J., Conoscenti, L.M., & McCauley, J. (2007). *Drug Facilitated, Incapacitated, and Forcible Rape: A National Study*. Charleston, SC: Medical University of South Carolina, National Crime Victims Research & Treatment Center.

⁵ The *CSA Study* found that 6.1% of college males were victims of either attempted or completed sexual assault. Although many advocates prefer to use the term “survivor” to describe an individual who has been sexually assaulted, the term “victim” is also widely used. This document uses the terms interchangeably and always with respect for those who have been subjected to these crimes.

⁶ This first Task Force report focuses on sexual assault at postsecondary institutions – such as colleges, universities, community colleges, graduate and professional schools, and trade schools – that receive federal financial assistance. Thus, our use of the term “schools” refers to these postsecondary institutions.

Our First Task: Listening

Many people are committed to solving this problem. To hear as many of their views as possible, the Task Force held 27 listening sessions (12 webinars and 15 in-person meetings) with stakeholders from across the country: we heard from survivors; student activists; faculty, staff and administrators from schools of all types; parents; alumni; national survivors' rights and education associations; local and campus-based service providers and advocates; law enforcement; civil rights activists; school general counsels; men's and women's groups; Greek organizations; athletes; and researchers and academics in the field. Thousands of people joined the conversation.

Not surprisingly, no one idea carried the day. But certain common themes did emerge. Many schools are making important strides and are searching in earnest for solutions. A new generation of student activists is effectively pressing for change, asking hard questions, and coming up with innovative ways to make our campuses safer.

Even so, many problems loom large. Prevention and education programs vary widely, with many doing neither well. And in all too many instances, survivors of sexual violence are not at the heart of an institution's response: they often do not have a safe, confidential place to turn after an assault, they haven't been told how the system works, and they often believe it is working against them. We heard from many who reached out for help or action, but were told they should just put the matter behind them.

Schools, for their part, are looking for guidance on their legal obligations and best practices to keep students safe. Many participants called on the federal government to improve and better coordinate our enforcement efforts, and to be more transparent. And there was another constant refrain: get men involved. Most men are not perpetrators – and when we empower men to speak up and intervene when someone's in trouble, they become an important part of the solution.

I. How Best to Identify the Problem: Campus Climate Surveys

When then-Senator Joe Biden wrote the Violence Against Women Act 20 years ago, he recognized a basic truth: no problem can be solved unless we name it and know the extent of it. That is especially true when it comes to campus sexual assault, which is chronically underreported: only 2% of incapacitated sexual assault survivors, and 13% of forcible rape survivors, report the crime to campus or local law enforcement.⁷

The reasons for non-reporting (whether to a school or to law enforcement) vary. Many survivors of acquaintance rape don't call what happened to them rape and often blame themselves. One report found that 40% of college survivors feared reprisal by the perpetrator.⁸ Survivors also cite

⁷ Krebs et al., *The Campus Sexual Assault (CSA) Study*.

⁸ Sampson, Rana (2002). *Acquaintance Rape of College Students*; Washington, DC: Office of Community Oriented Policing Services, U.S. Department of Justice.

fear of treatment by authorities, not knowing how to report, lack of independent proof, and not wanting families or other students to find out what happened.⁹ Still others don't report because they don't want to participate in a formal college adjudication process.¹⁰

For colleges and universities, breaking the cycle of violence poses a unique challenge. When a school tries to tackle the problem – by acknowledging it, drawing attention to it, and encouraging survivors to report – it can start to look like a dangerous place. On the flip side, when a school ignores the problem or discourages reporting (either actively or by treating survivors without care), it can look safer. Add to this the competition for top students or a coveted spot on a college rankings list – and a school might think it can outshine its neighbor by keeping its problem in the shadows.

We have to change that dynamic.

Schools have to get credit for being honest – and for finding out what's really happening on campus. Reports to authorities, as we know, don't provide a fair measure of the problem. But a campus climate survey can. When done right, these surveys can gauge the prevalence of sexual assault on campus, test students' attitudes and awareness about the issue, and provide schools with an invaluable tool for crafting solutions. And so:

We are providing schools with [a new toolkit](#) for developing and conducting a climate survey. This guide explains the methods for conducting an effective survey – and contains a set of evidence-based sample questions to get at the answers.

WE CALL ON COLLEGES AND UNIVERSITIES TO VOLUNTARILY CONDUCT THE SURVEY NEXT YEAR.

Again, a school that is willing to get an accurate assessment of sexual assault on its campus is one that's taking the problem – and the solution – seriously. Researchers recommend that schools conduct the survey in the winter or spring semesters, rather than when students first arrive on campus in the fall.

Rutgers University, with its leading research institute on violence against women,¹¹ will pilot and evaluate the survey. Also, the Justice Department's Office on Violence Against Women will work with its campus grantees to conduct the survey and evaluate it. And the Bureau of Justice Statistics will further refine the survey methodology. What we learn from these pilots, evaluations, and schools' experiences will chart the path forward for everyone – and will culminate in a survey for all to use.

We will explore legislative or administrative options to require colleges and universities to conduct an evidence-based survey in 2016. A mandate for schools to periodically conduct a climate survey will change the national dynamic: with a better picture of what's really happening on campus, schools will be able to more effectively tackle the problem and measure the success of their efforts.

⁹ Krebs et al., *The Campus Sexual Assault (CSA) Study*.

¹⁰ *Ibid.*

¹¹ The Center on Violence Against Women & Children at the School of Social Work.

II. Preventing Sexual Assault on Campus

Participants in our listening sessions roundly urged the Task Force to make prevention a top priority. Some even suggested that if prevention and education efforts don't start earlier, it's too late by the time students get to college. While we certainly agree that this work should begin early, the college years, too, are formative. During this transition to adulthood, attitudes and behaviors are created or reinforced by peer groups. And students look to coaches, professors, administrators, and other campus leaders to set the tone. If we get this right, today's students will leave college knowing that sexual assault is simply unacceptable. And that, in itself, can create a sea change.

Federal law now requires schools to provide sexual assault prevention and awareness programs.¹² To help colleges and universities in this endeavor, we are providing schools with new guidance and tools.

Best practices for better prevention. The Centers for Disease Control and Prevention (CDC) conducted a systematic review of primary prevention strategies for reducing sexual violence, and is [releasing an advance summary](#) of its findings. CDC's review summarizes some of the best available research in the area, and highlights evidence-based prevention strategies that work, some that are promising, and – importantly – those that don't work. The report points to steps colleges can take now to prevent sexual assault on their campuses.

Among other things, CDC's review shows that effective programs are those that are sustained (not brief, one-shot educational programs), comprehensive, and address the root individual, relational and societal causes of sexual assault. It also includes a listing of prevention programs being used by colleges and universities across the country, so schools can better compare notes about effective and encouraging approaches.¹³

Getting everyone to step in: bystander intervention. Among the most promising prevention strategies – and one we heard a lot about in our listening sessions – is bystander intervention. Social norms research reveals that men often misperceive what other men think about this issue: they overestimate their peers' acceptance of sexual assault and underestimate other men's willingness to intervene when a woman is in trouble.¹⁴ And when men think their peers don't object to abusive behavior, they are

¹² See 20 U.S.C. § 1092(f) (The Jeanne Clery Disclosure of Campus Security and Campus Crimes Statistics Act, commonly known as the Clery Act). The Department of Education is currently engaged in negotiated rule-making to implement the VAWA 2013 amendments to the Clery Act that require schools to provide education and awareness programs and to improve their campus security policies. Rule-making is scheduled to be completed in 2015, but schools are expected to make a good faith effort now to meet the new requirements.

¹³ For a concise and complementary factsheet on prevention strategies, see <http://notalone.gov/assets/prevention-overview.pdf>.

¹⁴ Berkowitz, A.D. (2010) "Fostering Healthy Norms to Prevent Violence and Abuse: The Social Norms Approach." Accessed from: <http://www.alanberkowitz.com/articles/Preventing%20Sexual%20Violence%20Chapter%20-%20Revision.pdf>

much less likely to step in and help. Programs like *Bringing in the Bystander*¹⁵ work to change those perspectives – and teach men (and women) to speak out against rape myths (e.g., women who drink at parties are “asking for it”) and to intervene if someone is at risk of being assaulted.

- **To help enlist men as allies, we are releasing [a Public Service Announcement featuring President Obama, Vice President Biden, and celebrity actors](#).** The message of the PSA is simple: 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. We particularly urge men’s groups, Greek organizations, coaches, alumni associations, school officials and other leaders to use the PSA to start campus conversations about sexual assault.
- **To help keep these conversations going, we are [providing a basic factsheet on bystander intervention](#).** In addition to the CDC summary, this document identifies the messages and skills that effective programs impart, describes the various ways to get the word out (in-person workshops, social marketing campaigns, online training, interactive theater) and provides links to some of the more promising programs out there.

Developing new prevention strategies. More research is needed to develop and evaluate evidence-based programming to prevent sexual violence on campus. And so:

- In Fall 2014, the CDC, in collaboration with the Justice Department’s Office on Violence Against Women and the Department of Education, will convene a panel of experts to identify emerging, promising practices to prevent sexual assault on campus. CDC will then convene pilot teams to put the consensus recommendations into practice.
- The Justice Department’s Office on Violence Against Women (OVW) is developing a multi-year initiative on campus sexual assault which, among other things, will test and evaluate prevention programs used by its campus grantees. Grantees will work with OVW and technical assistance experts to meet core standards and evaluate the results. The next group of campus grantees will be selected by October 2014.
- In 2015, the CDC will solicit proposals to identify, and fill, gaps in the research on sexual violence prevention.

¹⁵ Banyard, V. L., Moynihan, M. M., & Plante, E. G. (2007). Sexual violence prevention through bystander education: An experimental evaluation. *Journal of Community Psychology*, 35, 463-481

II. Responding Effectively When a Student is Sexually Assaulted

Sexual assault is a crime – and while some survivors turn to the criminal justice system, others look to their schools for help or recourse. Under federal law, when a school knows or reasonably should know that one of its students has been sexually assaulted, it is obligated to act. These two systems serve different (though often overlapping) goals. The principal aim of the criminal system is to adjudicate a defendant’s guilt and serve justice. A school’s responsibility is broader: it is charged with providing a safe learning environment for all its students – and to give survivors the help they need to reclaim their educations. And that can mean a number of things – from giving a victim a confidential place to turn for advice and support, to effectively investigating and finding out what happened, to sanctioning the perpetrator, to doing everything we can to help a survivor recover. The Task Force is taking the following steps:

[Giving Survivors More Control: Reporting and Confidentially Disclosing What Happened](#)

Sexual assault survivors respond in different ways. Some are ready to make a formal complaint right away, and want their school to move swiftly to hold the perpetrator accountable.

Others, however, aren’t so sure. Sexual assault can leave victims feeling powerless – and they need support from the beginning to regain a sense of control. Some, at least at first, don’t want their assailant (or the assailant’s friends, classmates, teammates or club members) to know they’ve reported what happened. But they do want someone on campus to talk to – and many want to talk in confidence, so they can sort through their options at their own pace. If victims don’t have a confidential place to go, or think a school will launch a full-scale investigation against their wishes, many will stay silent.

In recent years, some schools have directed nearly all their employees (including those who typically offer confidential services, like rape crisis and women’s centers) to report all the details of an incident to school officials – which can mean that a survivor quickly loses control over what happens next. That practice, however well-intentioned, leaves survivors with fewer places to turn.

This is, by far, the problem we heard most about in our listening sessions. To help solve it:

Schools should identify trained, confidential victim advocates who can provide emergency and ongoing support.

This is a key “best practice.” The person a victim talks to first is often the most important. This person should understand the dynamics of sexual assault and the unique toll it can take on self-blaming or traumatized victims. The advocate should also be able to help get a victim needed resources and accommodations, explain how the school’s grievance and disciplinary system works, and help navigate the process. As many advocates have learned over the years, after survivors receive initial, confidential support, they often decide to proceed with a formal complaint or cooperate in an investigation.

[A SAMPLE REPORTING AND CONFIDENTIALITY PROTOCOL.](#)

A school, of course, must make any policy its own – but a few guiding principles should

universally apply. As noted, some sexual assault survivors are ready to press forward with a formal (or even public) complaint, while others need time and privacy to heal. There is no one-size-fits-all model of victim care. Instead, there must be options.

That means, at a minimum, that schools should make it clear, up front, who on campus will (or will not) share what information with whom. And a school's policy should also explain when it may need to override a request for confidentiality (and pursue an alleged perpetrator) in order to provide a safe campus for everyone. The watchword here is clarity: both confidential resources and formal reporting options should be well and widely publicized – so a victim can make an informed decision about where best to turn.

And in all cases, the school must respond. When a student wants the school to take action against an offender – or to change dorms or working arrangements – the school must take the allegation seriously, and not dissuade a report or otherwise keep the survivor's story under wraps. Where a survivor does not seek a full investigation, but just wants help to move on, the school needs to respond there, too. And because a school has a continuing obligation to address sexual violence campus-wide, it should always think about broader remedial action – like increasing education and prevention efforts (including to targeted groups), boosting security and surveillance at places where students have been sexually assaulted, and/or revisiting its policies and practices.

[Developing a Comprehensive Sexual Misconduct Policy](#)

Every college and university should have an easily accessible, user-friendly sexual misconduct policy. As the Task Force recognizes, there is no one approach that suits every school – but as we also learned, many schools don't have adequate policies. To help:

We are providing schools with [a checklist for a sexual misconduct policy](#). This checklist provides both a suggested process for developing a policy, as well as the key elements a school should consider in drafting one. Importantly, schools should bring all the key stakeholders to the table – including students, survivors, campus security, law enforcement, resident advisors, student groups (including LGBTQ groups), on-campus advocates, and local victim service providers. Effective policies will vary in scope and detail, but an inclusive process is common to all.

We have not endeavored with this checklist to provide schools with all the answers: again, depending on its size, mission, student body, location, administrative structure and experience, a school community needs to tailor the checklist and make the policy its own.

By September 2014, the Task Force will provide samples of promising policy language on several other key issues. While all schools are different, we have identified several challenging areas (in addition to confidentiality) where sample language could be helpful. These include definitions of various forms of sexual misconduct; the role of the Title IX coordinator (recognizing that there may be various appropriate models for different schools); and the proper immediate, interim and long-term measures a school should take on behalf of survivors, whether or not they seek a full investigation.

[Training for School Officials](#)

Sexual assault can be hard to understand. Some common victim responses (like not physically resisting or yelling for help) may seem counter-intuitive to those unfamiliar with sexual victimization. New research has also found that the trauma associated with rape or sexual assault can interfere with parts of the brain that control memory – and, as a result, a victim may have impaired verbal skills, short term memory loss, memory fragmentation, and delayed recall.¹⁶

This can make understanding what happened challenging.

Personal biases also come into play. Insensitive or judgmental comments – or questions that focus on a victim’s behavior (*e.g.*, what she was wearing, her prior sexual history) rather than on the alleged perpetrator’s – can compound a victim’s distress.

Specialized training, thus, is crucial. School officials and investigators need to understand how sexual assault occurs, how it’s perpetrated, and how victims might naturally respond both during and after an assault. To help:

By September 2014, the Justice Department’s Center for Campus Public Safety will develop a training program for campus officials involved in investigating and adjudicating sexual assault cases. The Clery Act requires these officials to receive annual training on sexual assault (and also on domestic violence, dating violence and stalking). The Center will develop a trauma-informed training program consistent with the new requirements.

By June 2014, the Justice Department’s Office on Violence Against Women will launch a comprehensive online technical assistance project for campus officials. Key topics will include victim services, coordinated community responses, alcohol and drug-facilitated sexual assaults, and Clery Act compliance. Webinars and materials will include the latest research, promising practices, training opportunities, policy updates, prevention programming, and recent publications. The project will feature strategies and training materials for campus and local law enforcement.

By December 2014, the Department of Education, through the National Center on Safe and Supportive Learning Environments, will develop trauma-informed training materials for campus health center staff. Often, campus health centers are the first responders for victims of sexual assault. Services will vary according to the school’s resources, but all staff should be trained on trauma-informed care – and these materials will help.

¹⁶ Bremner, J.D., Elzinga, B., Schmahl, C., & Vermetten, E. (2008). Structural and functional plasticity of the human brain in posttraumatic stress disorder. *Progress in Brain Research*, 167(1), 171-186; Nixon, R. D., Nishith, P., & Resick, P. A. (2004). The Accumulative Effect of Trauma Exposure on Short-Term and Delayed Verbal Memory in a Treatment-Seeking Sample of Female Rape Victims. *Journal of Traumatic Stress*, 17(1), 31-35.

[New Investigative and Adjudicative Protocols: Better Holding Offenders Accountable](#)

Separate and apart from training, we also need to know more about what investigative and adjudicative *systems* work best on campus: that is, who should gather the evidence; who should make the determination whether a sexual assault occurred; who should decide the sanction; and what an appeals process, if the school has one, should look like.

Schools are experimenting with new ideas. Some are adopting different variations on the “single investigator” model, where a trained investigator or investigators interview the complainant and alleged perpetrator, gather any physical evidence, interview available witnesses – and then either render a finding, present a recommendation, or even work out an acceptance-of-responsibility agreement with the offender. These models stand in contrast to the more traditional system, where a college hearing or judicial board hears a case (sometimes tracking the adversarial, evidence-gathering criminal justice model), makes a finding, and decides the sanction.

Preliminary reports from the field suggest that these innovative models, in which college judicial boards play a much more limited role, encourage reporting and bolster trust in the process, while at the same time safeguarding an alleged perpetrator's right to notice and to be heard. To evaluate these ideas:

By October 2014, the Justice Department's Office on Violence Against Women and National Institute of Justice will begin assessing models for investigating and adjudicating campus sexual assault cases, and identify promising practices. OVW will also further test and evaluate these models through its campus grantees – which will be selected by October 2014.

On April 29, 2014, the Justice Department's SMART Office will release a solicitation for a pilot sex offender treatment program targeting college perpetrators. Research suggests that treatment can be effective in reducing recidivism among offenders, yet no programs currently exist for the college population. Regardless of campus-imposed sanctions, we need to help reduce the risk that young perpetrators will offend again. This first-of-its kind pilot project holds out new hope for reducing sexual violence on campuses.

[Providing Comprehensive Support: Partnering with the Community](#)

Rape Crisis Centers. Sexual assault survivors often need a variety of services, both immediate and long-term, to help them regain a sense of control and safety. While some schools may be able to provide comprehensive trauma-informed services on campus, others may need to partner with community-based organizations.

Regardless of where they are provided, certain key elements should be part of a comprehensive victim-services plan. Because students can be assaulted at all hours of the day or night, crisis intervention services should be available 24 hours a day, too. Survivors also need advocates who can accompany them to medical and legal appointments. And because, for some survivors, the road to recovery is neither short nor easy, longer-term clinical therapies can be crucial.

Rape crisis centers can help schools better serve their students. These centers often provide crisis intervention, 24-hour services, longer-term therapy, support groups, accompaniment to appointments, and community education. Rape crisis centers can also help schools train students and employees and assist in developing prevention programs. And so:

To help schools build these partnerships, we are [providing a sample Memorandum of Understanding \(MOU\) with a local rape crisis center](#). Schools can adapt this MOU depending on their specific needs and the capacity of a local center.

To help schools develop or strengthen on-campus programs, we are also [providing a summary of promising practices in victim services](#). This guide reviews the existing research on sexual assault services and outlines the elements of an effective victim services program.

To assist Tribal Colleges and Universities (TCUs) with victim services, the Justice Department's Office on Violence Against Women will continue to prioritize TCUs in its campus grant program solicitations. OVW is working to raise awareness of funding opportunities by engaging with leading tribal organizations and partnering with the White House Initiative on American Indian and Alaska Native Education. OVW will also work with tribal domestic violence and sexual assault coalitions to provide TCUs with technical assistance on victim services.

Local Law Enforcement. At first blush, many may ask why all cases of sexual assault are not referred to the local prosecutor for criminal prosecution. Some, of course, are – but for many survivors, the criminal process simply does not provide the services and assistance they need to get on with their lives or to get their educations back on track. There are times, however, when the local police and a school may be simultaneously pursuing a case. A criminal investigation does not relieve a school of its independent obligation to conduct its own investigation – nor may a school wait for a criminal case to conclude to proceed. Cooperation in these situations, thus, is critical. So:

By June 2014, we will provide schools with a sample Memorandum of Understanding (MOU) with local law enforcement. An MOU can help open lines of communication and increase coordination among campus security, local law enforcement and other community groups that provide victim services. An MOU can also improve security on and around campus, make investigations and prosecutions more efficient, and increase officers' understanding of the unique needs of sexual assault victims.

[Developing a Research Collaborative: Enlisting School Researchers to Find New Solutions](#)

Many schools have research institutes that can measurably improve our thinking about sexual assault. Schools are uniquely suited to identify gaps in the research and develop methods to address them. To lead by example, three universities have committed to developing research projects that will better inform their response to the problem and contribute to the national body of work on campus sexual assault:

The Johns Hopkins University School of Nursing will study sexual assault among student intimate partners, including LGBTQ relationships.

The University of Texas at Austin School of Social Work will develop and evaluate training for campus law enforcement and examine the effectiveness of Sexual Assault Response Teams.

The University of New Hampshire Prevention Innovations Center will design and evaluate a training program for incoming students on sexual assault policies and expectations for student conduct.

We invite others to join this collaborative – and to add their own research brains and resources toward finding solutions.

II. Improving the Federal Government's Enforcement Efforts, and Making Them More Transparent

The federal government plays an important role in combatting sexual violence. And as we outlined in our recent report, "[Rape and Sexual Assault: A Renewed Call to Action](#)," this Administration has taken aggressive action on many fronts.

We need to build on these efforts. To better address sexual assault at our nation's schools, we need to both strengthen our enforcement efforts and increase coordination among responsible federal agencies. Also, and importantly, we need to improve our communication with students, parents, school administrators, faculty, and the public, by making our efforts more transparent.

[Some Background on the Laws](#)

Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.*, requires schools that receive federal financial assistance to take necessary steps to prevent sexual assault on their campuses, and to respond promptly and effectively when an assault is reported. Title IV of the 1964 Civil Rights Act, 42 U.S.C. § 2000c *et seq.*, also requires public schools to respond to sexual assaults committed against their students. The Clery Act 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 their campuses, and to develop and disseminate prevention policies.¹⁷

¹⁷ Other laws also authorize the Justice Department to investigate campus sexual assaults and help campus police as well as local, tribal and state law enforcement adopt comprehensive policies and practices to address the problem. These include the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141; and the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. § 3789d.

The Department of Education's Office for Civil Rights (OCR) is charged with administrative enforcement of Title IX in schools receiving financial assistance from the Department. OCR may initiate an investigation either proactively or in response to a formal complaint. If OCR finds a Title IX violation, the school risks losing federal funds. In these cases, OCR must first seek to voluntarily resolve the non-compliance before terminating funds. Through this voluntary resolution process, OCR has entered into agreements that require schools to take a number of comprehensive steps to remedy the problem on their campuses.

The Department of Education's Federal Student Aid (FSA) office is responsible for enforcing the Clery Act, and conducts on-site reviews to ensure compliance. If a school is found to have violated Clery, FSA directs it to take steps to comply and can impose fines for violations.

The Justice Department (DOJ) is responsible for coordinating enforcement of Title IX across all federal agencies. DOJ shares authority with OCR for enforcing Title IX, and may initiate an investigation or compliance review of schools receiving DOJ financial assistance. If schools are found to violate Title IX and a voluntary resolution cannot be reached, DOJ can initiate litigation, including upon referral from other federal agencies, or seek to terminate DOJ funds. DOJ is also responsible for enforcing Title IV. DOJ can use its authority under Title IV, Title IX, and other federal civil rights statutes to bring all facets of a school, including its campus police, and local police departments into compliance with the law. DOJ can also intervene, file amicus briefs, and/or file statements of interest in court cases involving these statutes.

Improving Transparency and Information-sharing

The Administration is committed to making our enforcement efforts more transparent, and getting schools and students more resources. And so:

The Task Force is launching a dedicated website – [NotAlone.gov](https://www.notalone.gov) – to make enforcement data public and to make other resources accessible to students and schools. Although many tools and resources exist, students and schools often haven't been able to access them – either because the materials haven't been widely available or because they are too hard to find. Today, we are changing that.

Our new website will give students a clear explanation of their rights under Title IX and Title IV, along with a simple description of how to file a complaint with OCR and DOJ and what they should expect throughout the process. It will help students wade through often complicated legal definitions and concepts, and point them toward people who can give them confidential advice – and those who can't.

The website will also put in one central place OCR resolution letters and agreements (except those that raise individual privacy concerns), and all DOJ federal court filings, including complaints, motions, and briefs, consent decrees, and out-of-court agreements (which are also available on DOJ's website). These documents will be posted as a matter of course, so students, school officials, and other stakeholders can easily access the most current agreements.

The website will also contain the relevant guidance on a school's federal obligations, best available evidence and research on prevention programs, and sample policies and model agreements.

Finally, the website will have trustworthy resources from outside the government – like hotline numbers and mental health services locatable by simply typing in a zip code. It will also have a list of resources broken down by issue – like advocacy/survivor services, student groups, or LGBTQ resources – so someone can find more issue-specific information.

The Task Force will continue to work with developers and advocates to find ways that tech innovations can help end the violence. On April 11, more than 60 innovators, technologists, students, policy experts, and survivors of sexual assault gathered at the White House for a “Data Jam” to brainstorm new ways to use technology to shed light on campus sexual assault and better support survivors.

Federal agencies are making datasets relevant to sexual assault readily available. In keeping with the Administration's open data pledge, federal agencies, including the Departments of Education, Justice, Interior, and Health & Human Services have made public [more than 100 datasets](#) related to sexual assault and higher education. These datasets include survey results related to sexual violence, program evaluations, and guidance documents. This data is posted on data.gov.

The Department of Education is taking additional steps to make its activities more transparent. As noted, OCR is posting nearly all recent resolution letters and agreements with schools on its website. OCR will also make public the schools that are under OCR investigation, including those that involve Title IX sexual violence allegations. This information will be made available by [contacting the Department of Education](#).

The Department of Education will collect and disseminate a list of Title IX coordinators by next year. Every school must designate at least one employee to coordinate its efforts to carry out its Title IX responsibilities. Although schools must notify students of the name and contact information of the Title IX coordinator, there is no central, national repository of coordinator contact information. The Department of Education's Office of Postsecondary Education and OCR will collect and disseminate the list of higher education Title IX coordinators annually so anyone can easily locate a coordinator. This information will also encourage coordinators to talk to each other and share positive practices to Title IX compliance.

The Administration is also committed to improving, and better coordinating, our enforcement efforts. And so:

The Department of Education is providing more clarity on schools' obligations under Title IX. In April 2011, OCR [issued groundbreaking guidance](#) to schools on their obligations to prevent and respond to sexual violence under Title IX. Since then, schools and students have asked for further guidance and clarity – and, today, OCR is [issuing its answers](#) to these frequently asked questions.

Among many other topics, this new guidance clarifies that:

- Title IX protects all students, regardless of their sexual orientation or gender identity, immigration status, or whether they have a disability;
- non-professional on-campus counselors and advocates – like those who work or volunteer in on-campus sexual assault centers, victim advocacy offices, women's centers and health centers – can generally talk to a survivor in confidence;
- questioning or evidence about the survivor's sexual history with anyone other than the alleged perpetrator should not be permitted during a judicial hearing;
- adjudicators should know that the mere fact of a previous consensual dating or sexual relationship does not itself imply consent or preclude a finding of sexual violence; and
- the parties should not be allowed to personally cross-examine each other.

The Q&A also discusses (again, among many other topics) college employees' reporting obligations; the role of the Title IX coordinator; how a school should conduct investigations; and Title IX training, education and prevention.

The Department of Education is strengthening its enforcement procedures. OCR has made changes to its enforcement procedures.¹⁸

Among other things, OCR is instituting time limits for negotiating voluntary resolution agreements. By law, OCR is required to pursue a voluntary resolution with a school before initiating an enforcement action. Although this process is usually much faster than litigation, it can also take time and, as a result, be frustrating for survivors who typically remain on campus or enrolled in school for a limited time. To help guard against the risk that a school may extend negotiations to delay enforcement, OCR is placing a 90-day limit on voluntary resolution agreement negotiations where it has found a school in violation of Title IX.

OCR's procedures also now make explicit that schools should provide survivors with interim relief – such as changing housing or class schedules, issuing no-contact orders, or providing counseling – pending the outcome of an OCR investigation. OCR will also be

¹⁸ See <http://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.html>.

more visible on campus and reach out to more students and school officials during its investigations, in order to get a fuller picture as to whether or not there is a problem on campus.

The Department of Education is also clarifying how key federal laws intersect. In addition to Title IX and the Clery Act, the Family Educational Rights and Privacy Act (FERPA),¹⁹ which protects the privacy of student education records, can also come into play in campus sexual violence investigations. In response to requests for

guidance, the Department of Education [has created a chart](#) outlining a school’s reporting obligations under Title IX and the Clery Act, and how each intersects with FERPA. The chart shows that although the requirements of Title IX and the Clery Act may differ in some ways, they don’t conflict.

The Departments of Education and Justice have entered into an agreement clarifying each agency’s role vis-à-vis Title IX. OCR and the Justice Department’s Civil Rights Division (CRT) both enforce Title IX. To increase coordination and strengthen enforcement, the agencies have entered into a formal memorandum of understanding.²⁰

The Department of Education offices responsible for Title IX and Clery Act enforcement have also entered into an agreement clarifying their respective roles. As noted, the Federal Student Aid (FSA) office is responsible for Clery Act compliance, whereas OCR enforces Title IX. Sometimes, their efforts overlap. To clarify their roles and increase efficiency, FSA and OCR have formalized an agreement to ensure more efficient and effective handling of complaints and to facilitate information sharing.

Next Steps

The action steps and recommendations highlighted in this report are the initial phase of an ongoing plan. The Task Force is mindful, for instance, of the continuing challenges schools face in meeting Title IX and Clery Act requirements. We will continue to work toward solutions, clarity, and better coordination. We will also review the various laws and regulations that address sexual violence for possible regulatory or statutory improvements, and seek new resources to enhance enforcement. Also, campus law enforcement officials have special expertise – and they should be tapped to play a more central role. We will also consider how our recommendations apply to public elementary and secondary schools – and what more we can do to help there.

Our work continues.

¹⁹ 20 U.S.C. § 1232g; 34 C.F.R. Part 99.

²⁰ See http://www.justice.gov/crt/about/cor/ED_DOJ_MOU_TitleIX-04-29-2014.pdf.

2015 TITLE IX COORDINATOR RESOURCE GUIDE

TITLE IX RESOURCE GUIDE



U.S. Department of Education Office for Civil Rights April 2015

U.S. Department of Education Office for
Civil Rights

Catherine E. Lhamon
Assistant Secretary

April 2015

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Notice of Language Assistance Title IX Resource Guide

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A. Scope of Title IX

Title IX of the Education Amendments of 1972 (Title IX) prohibits discrimination based on sex in education programs and activities in federally funded schools at all levels.¹ If any part of a school district or college receives any Federal funds for any purpose, all of the operations of the district or college are covered by Title IX.²

Title IX protects students, employees, applicants for admission and employment, and other persons from all forms of sex discrimination, including discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity. All students (as well as other persons) at recipient institutions are protected by Title IX—regardless of their sex, sexual orientation, gender identity, part- or full-time status, disability, race, or national origin—in all aspects of a recipient’s educational programs and activities.

As part of their obligations under Title IX, all recipients of Federal financial assistance must designate at least one employee to coordinate their efforts to comply with and carry out their responsibilities under Title IX and must notify all students and employees of that employee’s contact information.³ This employee is generally referred to as the Title IX coordinator.

The essence of Title IX is that an institution may not exclude, separate, deny benefits to, or otherwise treat differently any person on the basis of sex unless expressly authorized to do so under Title IX or the Department’s implementing regulations.⁴ When a recipient is considering relying on one of the exceptions to this general rule (several of which are discussed below), Title IX coordinators should be involved at every stage and work with school officials and legal counsel to help determine whether the exception is applicable and, if so, properly executed.

¹ 20 U.S.C. §§ 1681–1688. The Department of Justice shares enforcement authority over Title IX with OCR. The Department of Education’s Title IX regulations, 34 C.F.R. Part 106, are available at <http://www.ed.gov/policy/rights/reg/ocr/edlite-34cfr106.html>. Although Title IX and the Department’s implementing regulations apply to any recipient institution that offers education programs or activities, this resource guide focuses on Title IX coordinators designated by local educational agencies, schools, colleges, and universities.

² An educational institution that is controlled by a religious organization is exempt from Title IX to the extent that compliance would not be consistent with the religious tenets of such organization. 20 U.S.C. § 1681(a)(3); 34 C.F.R. § 106.12(a). For application of this provision to a specific institution, please contact the appropriate OCR regional office.

³ 34 C.F.R. § 106.8(a).

⁴ 20 U.S.C. § 1681(a); 34 C.F.R. § 106.31

B. Responsibilities and Authority of a Title IX Coordinator