

Module 6: Campus Sexual Assault

Purpose

The purpose of this module is to discuss statistics on the prevalence of sexual assault on school and university campuses and to identify the resources available to these victims.

Lessons

1. Prevalence of Campus Sexual Assault
2. Laws and Recommendations That Apply to Campus Sexual Assault
3. Case Studies
4. Resources

Learning Objectives

By the end of this module, you will be able to:

- Cite key statistics on campus sexual assault.
- Describe the laws that apply to sexual assault on campus.
- Identify resources available to victims of campus sexual assault.

Participant Worksheets

- Worksheet 6.1, Campus Sexual Assault Case Studies

1. Prevalence of Campus Sexual Assault

Victims of sexual assault can be found in any community, and incidents on educational campuses are extremely common.

Regardless of the situation in which the violence occurs—at a party, within a dormitory, after consuming alcohol—rape and other types of sexual assault are criminal acts. In this module, we will take a look at the victims and the prevalence of sexual assault on campus.

One group of individuals that is often believed to be at higher risk for sexual assault is college students. In 2015, the Association of American Universities published a Campus Climate Survey on Sexual Assault and Sexual Misconduct, a survey designed to better understand the attitudes and experiences of students with respect to sexual assault and sexual misconduct.

The study can be found at www.aau.edu/sites/default/files/%40%20Files/Climate%20Survey/AAU_Campus_Climate_Survey_12_14_15.pdf.

The researchers surveyed 89,115 women and 60,957 men, including undergraduate and graduate/professional students. Among their findings:

- Of all student respondents, 11.7 percent reported experiencing nonconsensual sexual contact by physical force, threats of physical force, or incapacitation since they enrolled at their university.
- Among undergraduate students, 23.1 percent of female respondents (including 10.8 percent who experienced penetration) and 5.4 percent of male respondents reported experiencing nonconsensual penetration or sexual touching involving physical force or incapacitation since enrolling at their university.
- In the graduate/professional student population, 8.8 percent of female graduate/professional students and 2.2 percent of male graduate/professional students reported experiencing nonconsensual penetration or sexual touching involving physical force or incapacitation since enrolling at their university.

In 2007, the National Institute of Justice published the Campus Sexual Assault Survey (www.ncjrs.gov/pdffiles1/nij/grants/221153.pdf), a study of the various types of sexual assault experienced by university students.

Some aspects of campus sexual assault that the survey studied were the types of sexual assault and the risks involved:

Physically Forced Sexual Assault

- Substance abuse did not appear to play a part in the likelihood of a woman being victimized in a physically forced sexual assault; however, the number of sexual partners women had since entering college did appear to increase the risk of forced sexual assault while in college

because of an increased likelihood that one of her partners would be a sexual assault perpetrator.

- In addition, women who had been threatened/humiliated and/or physically hurt by a dating partner since entering college had just over seven times the odds of experiencing forced sexual assault since entering college.
- The study also revealed that the longer a woman remained in college, the more likely she was to experience physically forced sexual assault since entering college. Freshmen and sophomores, however, were more likely to be victims than juniors and seniors.

Incapacitated Sexual Assault

A rather different set of risk factors was associated with incapacitated sexual assault. Substance abuse was significantly associated with the likelihood of experiencing incapacitated sexual assault.

- The frequency with which women reported being intoxicated during sex also increased the odds of being a victim of incapacitated sexual assault.
- Having been given a drug without one's knowledge or consent increased the odds of being a victim of incapacitated assault.
- Women who were humiliated or hurt by a dating partner had just over two times the odds of being a victim of incapacitated sexual assault since entering college, compared to other women.
- As seen in the analysis of physically forced sexual assaults, the more years a woman has been in college, the greater the odds that she experienced incapacitated assault.

Victims of forced sexual assault before college were at higher risk of experiencing both types of sexual assault since entering college. The same was true for victims of incapacitated sexual assault.

In fact, women who experienced both types of prior victimizations had almost eight times the odds of experienced both physically forced and incapacitated sexual assault during college, compared to other women.

2. Laws and Recommendations That Apply to Campus Sexual Assault

There are a number of laws that govern sexual assault. The three that we'll discuss here are:

1. Title IX.
2. Clery Act.
3. Violence Against Women Act (VAWA) Amendments (commonly referred to as Campus SaVE).

1. Title IX

What is it and how does it apply?

- Definition: No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under educational program or activity receiving federal financial assistance.
 - ♦ Title IX is a civil rights statute.
 - ♦ This law applies to all schools that participate in federal financial aid programs (but excludes some parochial schools or schools that receive only private funding).
 - ♦ Its general purpose is to provide for fairness in education. Sexual assault impedes a victim's access to education, and therefore a school must apply Title IX when there is a complaint of sexual assault.
 - ♦ The law is enforced by the U.S. Department of Education, Office for Civil Rights.
 - ♦ Retaliation against those who complain is strictly prohibited.

On April 4, 2011, the Office for Civil Rights (OCR) in the U.S. Department of Education issued a Dear Colleague Letter on student-on-student sexual harassment and sexual violence ("DCL"). The DCL explains a school's responsibility to respond promptly and effectively to sexual violence against students in accordance with the requirements of Title IX. Specifically, the DCL:

- Provides guidance on the unique concerns that arise in sexual violence cases, such as a school's independent responsibility under Title IX to investigate (apart from any separate criminal investigation by local police) and address sexual violence.
- Provides guidance and examples about key Title IX requirements and how they relate to sexual violence, such as the requirements to publish a policy against sex discrimination, designate a Title IX coordinator, and adopt and publish grievance procedures.
- Discusses proactive efforts schools can take to prevent sexual violence.

- Discusses the interplay between Title IX, the Family Educational Rights and Privacy Act (“FERPA”), and the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act (“Clery Act”) as it relates to a complainant’s right to know the outcome of his or her complaint, including relevant sanctions imposed on the perpetrator.
- Provides examples of remedies and enforcement strategies that schools and OCR may use to respond to sexual violence.

What are the basic requirements of Title IX?

- Educational institutions must publish a notice of nondiscrimination.
- The institution must designate an employee to coordinate Title IX compliance with the following responsibilities:
 - ♦ Disseminate notice of nondiscrimination.
 - ♦ Identify and address systemic patterns of discrimination.
 - ♦ Educate parties about the policy and answer procedural questions about the logistics of the disciplinary process.
 - ♦ Oversee the investigation of a complaint.
- The educational institution must adopt and publish grievance procedures. Some would include:
 - ♦ What is the standard of proof?
 - ~ A preponderance of the evidence. (“It is more likely than not that the accused student is ‘responsible’ for the alleged sexual assault.”)
 - ♦ Can a school use both a formal and an informal grievance process?
 - ~ Yes, but mediation should not be used to resolve a sexual assault complaint. Also, the parties must be notified that they have the right to end the informal process at any time and begin the formal process.

2. Clery Act

What is it and how does it apply?

- The Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act requires schools to maintain and disclose campus crime statistics and security information.
- This Act applies to all schools that participate in federal financial aid programs.
- It is enforced by the U.S. Department of Education.

What are the basic requirements of the Clery Act?

- An educational institution must maintain crime statistics that occurred:
 - ♦ On campus.
 - ♦ In institution residential facilities.
 - ♦ In noncampus buildings.
 - ♦ On public property.
- The institution's police department or security departments are required to maintain a public log of all crimes reported to them, or those of which they are made aware.
 - ♦ The log is required to have the most recent 60 days' worth of information.
 - ♦ Each entry in the log must contain the nature, date, time, and general location of each crime and disposition of the complaint, if known.
 - ♦ Information in the log older than 60 days must be made available within 2 business days.
 - ♦ Crime logs must be kept for 7 years, 3 years following the publication of the last annual security report.

3. VAWA Amendments (Campus SaVE)

- VAWA Amendments are part of the reauthorization of the Violence Against Women Act/Amended the Clery Act.
- SaVE requires that incidents of domestic violence, dating violence, sexual assault, and stalking be disclosed in annual campus crime statistic reports.
- Students or employees reporting victimization will be provided with their written rights to:
 - ♦ Be assisted by campus authorities if reporting a crime to law enforcement.
 - ♦ Change academic, living, transportation, or working situations to avoid a hostile environment.
 - ♦ Obtain or enforce a no-contact directive or restraining order.
 - ♦ Have a clear description of their institution's disciplinary process and know the range of possible sanctions.
 - ♦ Receive contact information about existing counseling, health, mental health, victim advocacy, legal assistance, and other services available, both on campus and in the community.

- Institutional disciplinary procedures covering domestic violence, dating violence, sexual assault, and stalking must:
 - ♦ Provide a prompt, fair, and impartial investigation and resolution, which are conducted by officials receiving annual training on domestic violence, sexual assault, and stalking.
 - ♦ Permit both parties to have others present during an institutional disciplinary proceeding and any related meeting, including an advisor of their choice.
 - ♦ Provide both parties with written outcomes of all disciplinary proceedings at the same time.
- Education programs shall include:
 - ♦ Primary prevention and awareness programs for all incoming students and new employees.
 - ♦ Safe and positive options for bystander intervention.
 - ♦ Information on risk reduction to recognize warning signs of abusive behavior.
 - ♦ Ongoing prevention and awareness programs for students and faculty.

Title IX also covers the obligations of the college campus in regard to its relationship to local law enforcement.

- It is not sufficient that the local police investigate the sexual assault; the school's Title IX investigation is different from any law enforcement investigation, and a law enforcement investigation does not relieve the school of its independent Title IX obligation to conduct an "adequate, reliable, and impartial investigation of complaints."
- Title IX does not usually require schools to notify local police if a sexual assault is reported. Generally, the decision to file a criminal complaint will be up to the victim. "Title IX does not require a school to report alleged incidents of sexual assault to law enforcement, but a school may have reporting obligations under state, local, or other federal laws."
- Even if the police determine that there is insufficient evidence to proceed criminally, a school may still find an accused student "responsible." In other words, there could be sexual harassment under Title IX even if there is insufficient evidence of a criminal violation. This is due to the lower burden of proof than the "preponderance of the evidence."
- Local police may ask the victim's school to wait on the Title IX investigation but only for 7–10 days. After that, a school must start its Title IX investigation.

In January 2014, President Obama created the Task Force To Protect Students From Sexual Assault. The purpose of the Task Force was to provide colleges and universities with recommendations on preventing and responding to sexual assault.

The Task Force was also to identify efforts to hold educational institutions accountable when they fall short in addressing sexual assault on their campuses.

The Task Force issued a report that offers guidance to educational institutions on how to begin combating campus sexual assault and improve compliance with Title IX, the law that prevents discrimination by sex in programs within educational institutions.

The Task Force set out specific steps to begin addressing the problem:

1. Identify the problem using climate surveys.
2. Implement preventive programs and strategies, and research new ideas and solutions.
3. Implement effective response programs.
4. Increase transparency and improve enforcement.

The report concluded that educational institutions continue not to do enough to prevent sexual assaults on their campuses, and that schools should reinforce education and awareness programs.

While the report indicates a preference for honoring a victim's request for confidentiality, Title IX and the Clery Act impose investigatory and reporting obligations that may conflict with this preference. Schools are advised to attempt to honor requests for confidentiality while refraining from compromising any investigation. As victim service providers understand, this balance is not always easy to maintain.

3. Case Studies

The activities explore campus sexual assault case studies.

4. Resources

Although many campus assaults are handled on campus, community and system-based victim service providers do see these victims. There are a number of steps victim service providers can take to help them. For example:

- Provide resources following the assault.
- Negotiate with the school for/with the victim to:
 - ♦ Honor a stay-away order.
 - ♦ Take a class as an independent study.
 - ♦ Change dining halls or relocate to another dorm with a kitchenette.

- Provide advocacy during a disciplinary process.
- Help the victim file a Title IX complaint with the Office for Civil Rights, U.S. Department of Education.
- Provide support and resources if the victim wants to report to law enforcement (local or campus).
- Help the victim navigate the college process and/or the criminal justice process.

Victim service providers should also be aware of the resources that are found on most campuses. These include:

- Advocacy.
- Medical.
- Mental health.
- Academic counseling.
- Accommodations/interim measures for victims to be safe.
- Title IX Coordinator.

Even if victims of campus violence have access to resources on campus, they may want to use off-campus services for a number of reasons. Make sure that victims have access to:

- Sexual Assault Nurse Examiner (SANE).
- Local rape crisis center.
- Hospital visit.

Finally, if you are on campus, find out what resources there are off campus, and consider the following questions:

- Can off-campus services offer training to campus administrators?
- Are they part of a Sexual Assault Response Team (SART)?
- Are their services known and accessible to students?

Module 6
Campus Sexual Assault



Learning Objectives

- Cite key statistics on campus sexual assault.
- Describe the laws that apply to sexual assault on campus.
- Identify resources available to victims of campus sexual assault.

6-2



Victims of Campus Sexual Assault

According to the 2015 Association of American Universities Campus Climate Survey:

- 11.7 percent of all student respondents reported experiencing nonconsensual sexual contact since enrolling in their university.
- 23.1 percent of female undergraduate respondents and 5.4 percent of male undergraduate respondents reported experiencing nonconsensual sexual contact since enrolling in college.
- 8.8 percent of female graduate/professional students and 2.2 percent of male graduate/professional students reported experiencing nonconsensual sexual contact since enrolling in their university.

6-3



Physically Forced Sexual Assault Factors

According to the 2007 National Institute of Justice (NIJ) Campus Sexual Assault Survey, factors include:

- Number of sexual partners.
- Previously threatened/hurt by dating partner.
- Length of time in college.
- Years in college.



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6-4



Incapacitated Sexual Assault Factors

According to the 2007 NIJ Campus Sexual Assault Survey, factors include:

- Voluntary substance abuse.
- Substance abuse without knowledge/consent.
- Previously hurt/threatened by dating partner.
- Length of time in college.



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6-5



Primary Laws

1. Title IX.
2. Clery Act.
3. VAWA Amendments (commonly referred to as Campus SaVE).



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6-6



Title IX

- Civil rights statute.
- Applies to all schools that participate in federal financial aid programs.
- Provides for fairness in education.
- Enforced by the U.S. Department of Education, Office for Civil Rights.
- Retaliation is strictly prohibited.



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6-7



Title IX Basic Requirements

- Publish a notice of nondiscrimination.
- Designate an employee to coordinate Title IX compliance.
- Adopt and publish grievance procedures.



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Clery Act

- Requires schools to maintain and disclose campus crime statistics and security information.
- Applies to all schools that participate in federal financial aid programs.
- Enforced by the U.S. Department of Education.



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6-9



Clery Act Basic Requirements

- Maintain crime statistics.
- Maintain a public log of all crimes reported to them, or those of which they are made aware.



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6-10

VAWA Amendments (Campus SaVE)

- Part of the reauthorization of Violence Against Women Act (VAWA) / Amended the Clery Act.
- SaVE requires that incidents of domestic violence, dating violence, sexual assault, and stalking be disclosed in annual campus crime statistic reports.
- Students or employees reporting victimization will be provided with their written rights.

6-11

VAWA Amendments (Campus SaVE), continued

- Requires institutional disciplinary procedures covering domestic violence, dating violence, sexual assault, and stalking.
- Education programs.



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6-12

Title IX, Campus Obligations, and Local Law Enforcement

- It is not sufficient that local police investigate the sexual assault; a school's Title IX obligations are different.
- Title IX does not usually require schools to notify local law enforcement; generally, reporting is up to the victim.
- If the police determine that there is insufficient evidence to proceed criminally, a school may still find an accused student "responsible."
- Local police may ask the victim's school to wait on the Title IX investigation for 7–10 days.

6-13

Task Force To Protect Students From Sexual Assault

- Provides colleges and universities with recommendations for preventing and responding to sexual assault.
- Identifies efforts to hold educational institutions accountable for addressing sexual assault on campus.
- Offers guidance to educational institutions on how to combat campus sexual assault and improve compliance with Title IX.

6-14

Task Force Recommendations

1. Identify the problem using climate surveys.
2. Implement preventive programs and strategies; research new ideas and solutions.
3. Implement effective response programs.
4. Increase transparency and improve enforcement.



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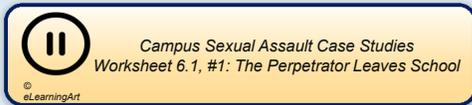
6-15

Confidentiality

- Task Force report recommends honoring victim confidentiality.
- Title IX and Clery Act may impose investigatory and reporting obligations that may conflict with a victim's request.
- Schools are advised to honor confidentiality requests while not compromising investigations—a balance that may be difficult to maintain.

6-16

Activity



- Working in groups, read Case Study #1.
- Discuss and answer questions on the worksheet.
- Discuss with the large group.

6-17

Activity

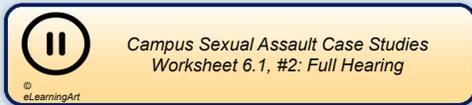
1. Is this incident considered sexual harassment under Title IX?
2. If the perpetrator already withdrew, isn't that enough?
3. Is the taunting by classmates considered sexual harassment as defined by Title IX?

6-18

Activity

4. Does Title IX permit the victim to receive accommodations? What accommodations might the victim need?
5. What written information, if any, should the school be providing to the victim?
6. Should this be disclosed in the annual crime statistics under the Clery Act?

Activity



- Working in groups, read Case Study #2.
- Discuss and answer questions on the worksheet.
- Discuss with the large group.

Activity

1. What is the disciplinary process?
2. Where can I find the disciplinary process explained?
3. In a disciplinary process, what is the panel trying to decide?

Resources for Campus Sexual Assault

What can advocates do to help campus sexual assault victims?

- Provide resources following the assault.
- Negotiate with the school for/with the victim.
- Provide advocacy during a disciplinary process.
- Help the victim file a Title IX complaint.
- Provide support and resources if the victim wants to report to law enforcement.
- Help the victim navigate the process.

6-22



Resources for Campus Sexual Assault, continued

What resources are available on campus?

- Advocacy.
- Medical.
- Mental health.
- Academic counseling.
- Accommodations/interim measures for victims to be safe.
- Title IX Coordinator.

6-23



Off-Campus Resources for Sexual Assault

What resources are available off-campus?

- Sexual Assault Nurse Examiner (SANE).
- Local rape crisis center.
- Hospital visit.

6-24



Off-Campus Resources for Sexual Assault, continued

Do you have a relationship with the off-campus resources?

- Can they offer training to campus administrators?
- Are they part of a Sexual Assault Response Team (SART)?
- Are their services known and accessible to students?

Review of Learning Objectives

- Cite key statistics on campus sexual assault.
- Describe the laws that apply to sexual assault on campus.
- Identify resources available to victims of campus sexual assault.

End of Module 6

Questions? Comments?



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