



# Legal Assistance for Crime Victims

An OVC Training and Technical Assistance Initiative

## Title IX and Clery Act Intersections

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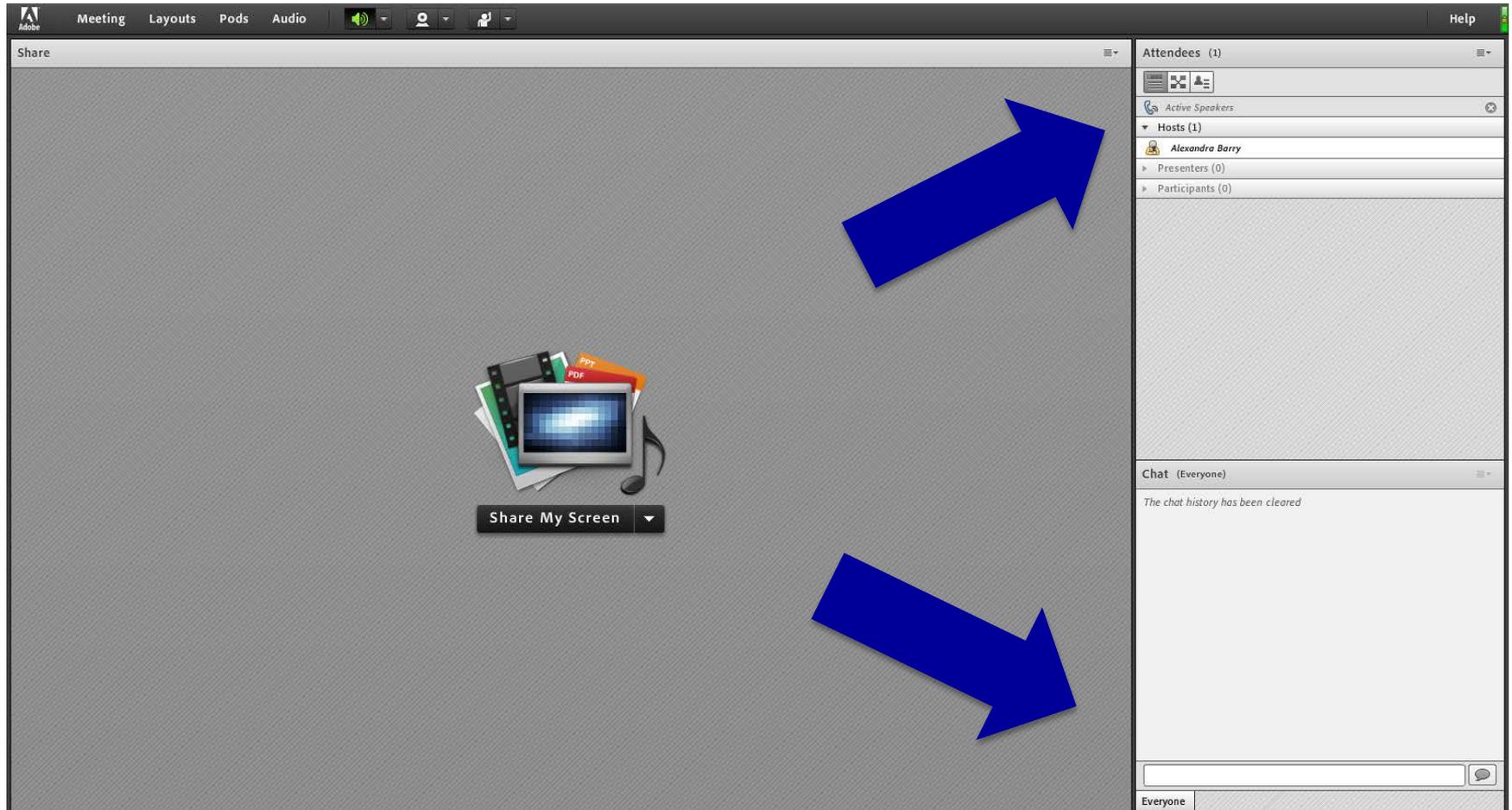


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# Overview of Adobe Connect



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# Who is the VRLC?



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Web: [www.victimrights.org](http://www.victimrights.org)**



# Who is the Clery Center?



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**CLERY  
CENTER**  
FOR SECURITY ON CAMPUS

## **Clery Center for Security On Campus**

110 Gallagher Road  
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*Note: Contact the VRLC if you would like to share or distribute this presentation outside of your organization. All requests should be submitted with sufficient time for the VRLC to review your request and provide any updated, supplemental, or alternative materials that may be appropriate.*

# Poll

Are you advocating for victims while working at a:

# High Level Overview: Intersections



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## The Clery Act

- ✓ Campus security authorities
- ✓ Non-personally identifiable information (nature, date, time, general location, current disposition)
- ✓ All Clery crimes
- ✓ Accommodations
- ✓ Disciplinary procedures

## Title IX

- ✓ Responsible employees
- ✓ All relevant details
- ✓ Sex discrimination, including sexual harassment, which includes sexual violence
- ✓ Interim measures
- ✓ Grievance procedures

# Jeanne Clery Act

- **Annual Security Report**
  - ✓ Statements of policy
  - ✓ Campus crime statistics
  - ✓ Rights for survivors of sexual assault, domestic violence, dating violence, and stalking
- **Ongoing Disclosures**
  - ✓ Emergency notification
  - ✓ Timely warning
  - ✓ Public crime log
- **U.S. Department of Education Enforces (Clery Act Compliance Team)**

# Clery Act Crime Statistics



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## **Clery Act Crimes**

- Homicide
- Sex Offenses
- Robbery
- Aggravated Assault
- Burglary
- Motor Vehicle Theft
- **Arson**
- **Hate crimes**

## **2013 Violence Against Women Act Amendments to the Clery Act**

- Dating Violence
- Domestic Violence
- Stalking

## **Arrests & Disciplinary Referrals**

- Liquor law violations
- Drug law violations
- Illegal weapons possession

# Recent Amendments to Clery Highlights

- Addition of domestic violence, dating violence, and stalking
- Prevention and awareness programs
- Information in writing (procedures, options)
- Accommodations (academic, living, transportation, employment)
- Campus disciplinary procedures

# Title IX Restrictions

## Who is required to comply with Title IX?

- All public and private educational institutions that receive federal funds.
  - What does *receive federal funds* under Title IX mean?
    - ✓ Qualifying federal financial assistance can be in the form of: an award or grant of money; use or rent of federal land or property; and federal training.
    - ✓ Federal financial assistance can also be received indirectly.
      - Ex: Accepting students who receive federal financial aid (FAFSA)

## What does Title IX say?

- General mandate: Prohibits recipients of federal financial assistance from discriminating on the basis of sex in education programs or activities. ***Sexual harassment of students, which includes acts of sexual violence, can be a form of sex discrimination prohibited by Title IX.***

# Title IX Overview

## How does Title IX protect students?

- Protects students in connection with all the academic, educational, extracurricular, athletic, and other programs of the school.
- Also protects students who may have been sexually harassed off school grounds, outside a school's education program or activity, if the harasser was a fellow student.

### Advocacy Tip

Remember that Title IX applies to K-12 schools, as well as colleges.  
Keep this in mind when working with minor survivors.

# What is required of schools, even *before* a report of sexual violence?



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- Publish a notice of nondiscrimination.
- Designate an employee to coordinate Title IX compliance.
  - (4) 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
- Adopt and publish grievance procedures.

# Title IX Enforcement



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- U.S. Department of Education’s Office of Civil Rights (OCR)
  - ✓ 12 regional offices nationwide
  - ✓ Enforces a number of federal laws
  - ✓ Provides free technical assistance
  - ✓ Handles complaints from K-12 and higher education
  - ✓ “Prompt and equitable” standard

# Clery Act Enforcement



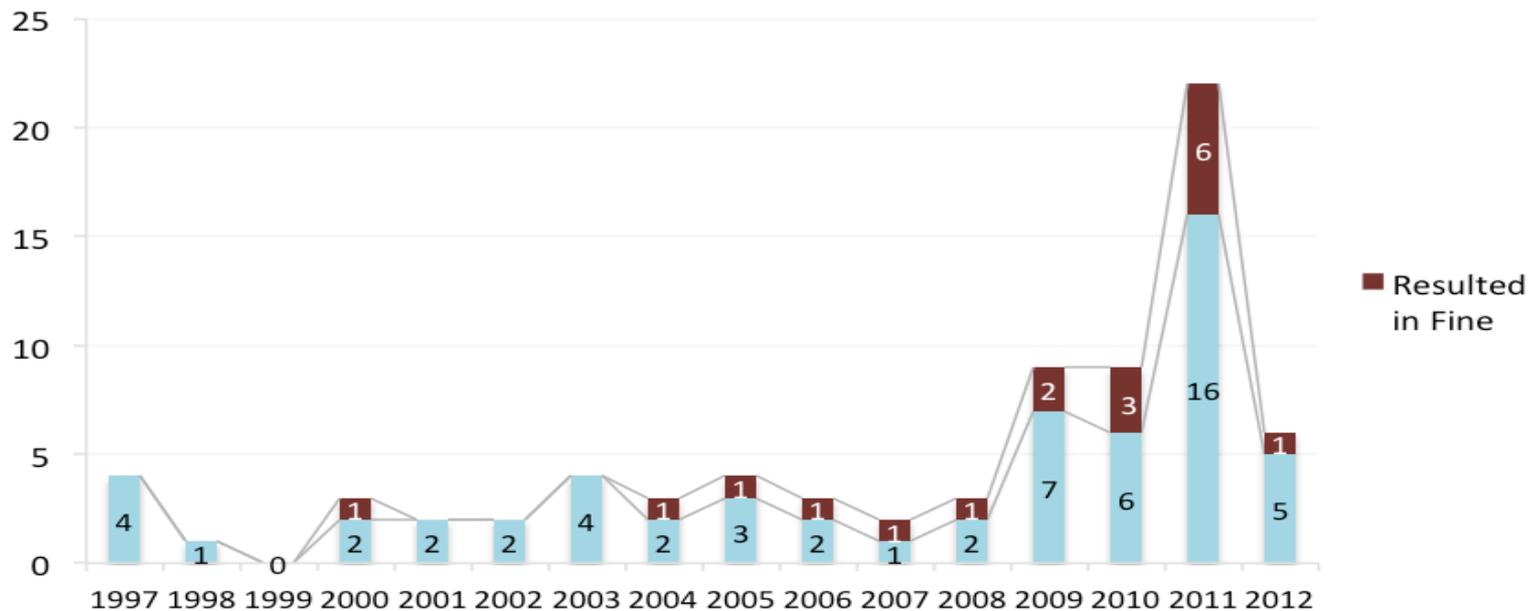
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- U.S. Department of Education Clery Compliance Team (part of the Office of Federal Student Aid [FSA])
- Administrative complaint filed with the U.S. Department of Education (ED) by any party
- Fine of \$35,000 per violation

# Evolving Compliance Landscape

## U.S. Department of ED Campus Safety Program Reviews, 1997–2012



- Ongoing/pending ED program reviews
- Increase in student-led Clery Act complaints



## The Clery Act

- **Penalty for Violating Statute**
  - ✓ If ED finds that the institution is in violation, it can issue civil fines of up to \$35,000 per violation
  - ✓ No private right to sue or receive compensation
  - ✓ The individual must write a grievance to ED, **only ED can bring action against the institution**

## Title IX

- **Penalty for Violating Statute**
  - ✓ No fee, potential revoking of federal aid
- **Private right of action against school**
  - ✓ Applies to private and public schools for student-on-student and teacher-on-student harassment

# Intersections Topics to Cover

- Relation to institution
- Campus security authorities vs. responsible employees
- Campus policies – sexual assault, domestic violence, dating violence, stalking

# Relation to Institution

- Title IX
  - ✓ Relevant – can be off-campus as long as the activity is related to the institution
- Clery
  - ✓ Tied to specific geography (on-campus, on-campus student housing, noncampus, public property)
  - ✓ Reported even if crime involved individuals not associated with the institution



## The Clery Act

### Campus security authorities

- ✓ A campus police department or a campus security department of an institution.
- ✓ Those responsible for campus security but who does not constitute a campus police department or a campus security department (access monitor).
- ✓ Those specified in an institution's statement of campus security policy as someone to whom crimes can be reported.
- ✓ An official of an institution with significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline and campus judicial proceedings.

## Title IX

### Responsible employees

- A school has notice if a responsible employee “knew or in the exercise of reasonable care should have known” about the harassment.
- ✓ Includes “any employee who has the authority to take action to redress the harassment, who has the duty to report to appropriate school officials sexual harassment or any other misconduct by students or employees, or an individual who a student could reasonably believe has this authority or responsibility.”

# Title IX Reporting Structure



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Responsible Employees

Persons With Statutory  
Privilege

Persons With  
Confidentiality

# Important Distinctions



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## The Clery Act

- ✓ Title IX coordinator is a campus security authority
- ✓ Faculty not included unless they fall into a reporting category (ex. have significant responsibility for student/campus activities)
- ✓ Pastoral/professional counselors are exempt
- ✓ Non-identifiable information
- ✓ Influence other ongoing reporting requirements (daily crime log, timely warnings)

## Title IX

- ✓ Faculty are permissible
- ✓ Persons with privilege do not have to report
- ✓ Persons designated by campus do not have to inform

# Other Areas to Consider



- Accommodations (Clery)/interim measures (Title IX)
- Written notification (Clery)
- “Advisor of choice” (Clery)
- Notice of outcome/results (both)
- Campus policies – One policy? Separate policies?  
Students/employees?

# Resources



VRLC, *Know Your Rights: Understanding Title IX for Campus Sexual Violence Victims*, available at: <http://victimrights.org/sites/default/files/VRLC%20Know%20Your%20Rights-%20Title%20IX%20.pdf>

January 2001, Office for Civil Rights Guidance, available at: <http://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>

April 2011, Dear Colleague letter, available at: <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>

April 2014, Questions and Answers on Title IX and Sexual Violence, available at: <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>

Nancy Chi Cantalupo, *Campus Violence: Understanding the Extraordinary Through the Ordinary*, 35 J.C. & U.L. 613-690 (2009).

Nancy Chi Cantalupo, *Burying Our Heads in the Sand: Lack of Knowledge, Knowledge Avoidance, and the Persistent Problem of Campus Peer Sexual Assault*, 43 Loy. U. Chi. L.J. 205 (2011).

# U.S. Department of Education – Clery Resources

Handbook for Campus Safety and Security Reporting (updated Handbook still pending), available at:

[http://rems.ed.gov/docs/ED\\_CampusSafetyAndSecurityReportingHandbook.pdf](http://rems.ed.gov/docs/ED_CampusSafetyAndSecurityReportingHandbook.pdf)

VAWA Amendments to Clery Final Regulations, available at:

<https://www.federalregister.gov/articles/2014/10/20/2014-24284/violence-against-women-act>

ED's Campus Safety and Security Reporting Training (updated training still pending), available at:

[http://www2.ed.gov/campus-crime/HTML/cc\\_on/Contents.html](http://www2.ed.gov/campus-crime/HTML/cc_on/Contents.html)

# Resources

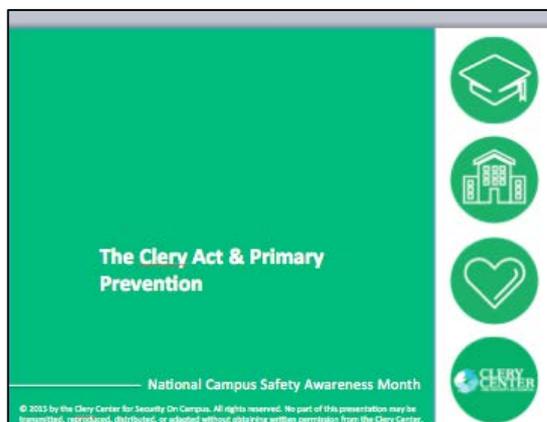


Center for Changing Our Campus Culture, available at:

- [www.changingourcampus.org](http://www.changingourcampus.org)

Clery Center for Security On Campus, available at:

- [www.clerycenter.org](http://www.clerycenter.org)



Clery Center YouTube page (free recorded webinars), available at:

- [youtube.com/clerycenter](http://youtube.com/clerycenter)

# Questions

Do you have questions we did not have a chance to address today?

If you want us to send you specific resources we referenced in this webinar, please indicate that in the Chat box.

# Information & Evaluation

Through OVC's Legal Assistance for Crime Victims Training and Technical Assistance Initiative, OVC's Training and Technical Assistance Center (OVC TTAC) is working to develop and deliver training and provide technical assistance to the legal community. Training and technical assistance provides attorneys across the country with the tools they need to increase their knowledge base about crime victim issues and increase their capacity to provide pro bono or no-cost legal representation to crime victims.

Visit the [Legal Assistance for Crime Victims Initiative](#) page to learn more about upcoming and archived trainings, or e-mail us at [legalassistance@ovcttac.org](mailto:legalassistance@ovcttac.org) for technical assistance and support.

Thank you for attending this Webinar. Please take a few minutes to complete the [evaluation](#).