



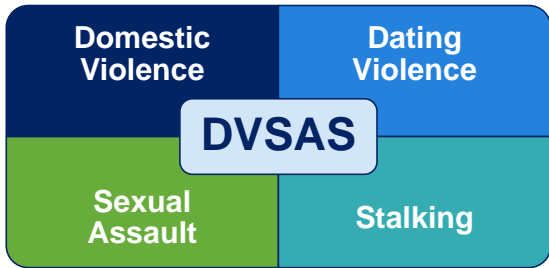
## Learning Objectives:

Understand the relationship between annual









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PART I:  
Statute vs. Regulation vs. Guidance

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Statute vs. Regulations



<https://www.youtube.com/watch?v=hDy25BfGTjQ>

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## The Clery Act

Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the Clery Act) federal **statute** codified at [20 U.S.C. § 1092](#)

With implementing **regulations** in the U.S. Code of Federal Regulations at [34 C.F.R. 668.46](#)

**Guidance:** Currently the Clery Act Appendix for the Federal Student Aid Handbook; formerly the Handbook for Campus Safety and Security Reportii51 0.8



## Large Group Activity: Seek and Find

Using the regs find answers to the following questions:

Does the Clery Act dating violence definition include emotional or psychological abuse?

Yes No

- What explanation did you find to support your answer?

Does the Clery Act define what is meant by business day?

Yes No

- If yes, what does it say?

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## Large Group Activity: Seek and Find

Using the regs find answers to the following questions

Does Title IX define sex-based harassment?

Yes

## Clery Act and Title IX Intersections

The Clery Act	Title IX
Geography	Scope/Jurisdiction
Prohibited Conduct	Prohibited Conduct
Reporting Requirements	Reporting Requirements
Accommodations	Supportive measures
Disciplinary procedures	Grievance procedures

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## Exceptions to Geography & Application

The Clery Act	Title IX
Requires institutions to provide written explanation of rights and options to students and employees <b>whether the offense occurred on or off campus</b>	Obligated to address sex-based hostile environment harassment under its education program or activity, <b>even when education program or activity or outside the United States.</b>
Off campus is broader and not the same as noncampus	



*The definitions of dating violence and stalking in Title IX are the same as within the Clery Act regulations*

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when it is brought to the attention of a  
police department or campus safety office,  
or local law enforcement personnel by a victim,  
witness, other third party or even the offender.

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What is considered a report to the institution under Title IX?

A non-confidential employee notifying the Title IX Coordinator of sex-based harassment

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## Initial Response to a Report of DVSA

### The Clery Act

Provide written information on procedures to follow:  
importance of preserving evidence,  
reporting options,  
confidentiality assurances  
accommodations  
disciplinary procedures

### Title IX

Treat the parties equitably  
Offer and coordinate supportive measures for the complainant  
Notify the complainant of grievance procedures and informal resolution process (and respondent if a complaint is made)  
Initiate grievance procedures in response to a complaint or determine whether the institution should initiate a complaint

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## Complaint Under Title IX

A complaint means an oral or written request to the institution that objectively can be understood as a request for the institution to investigate and make a determination about alleged discrimination under Title IX or this part.

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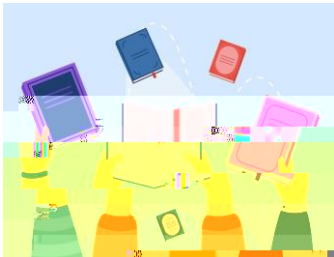
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## Procedures Victims Should Follow in Cases of DVSA



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## Procedures to Follow: Preserving Evidence

### Importance of Preserving Evidence

**Proof in a criminal or campus disciplinary proceeding**

**May be helpful in obtaining a protection order**

Knowledgeable of what may be preserved and for how long

Recent/fresh complaints

Basic preservation instructions/tips

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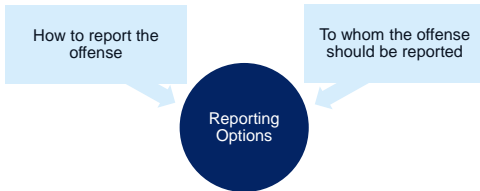
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## Procedures to Follow: Reporting Options



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## Involvement of law enforcement and campus

**Notify** proper law enforcement authorities, including on-campus and local police

**Be assisted** in notifying law enforcement authorities if victim so chooses

**Decline** to notify authorities

for orders of protection, no contact orders, restraining orders, or similar lawful orders issued by criminal, civil, or tribal court or by the institution

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## Procedures to Follow: Confidentiality

Information about how the institution will protect the confidentiality of victims and other necessary parties

Publicly available record-keeping (ex: timely warnings, daily crime log)  
Without the inclusion of personally identifying information about the victim



## WRITTEN NOTIFICATION

### *Guide to Creating a Written Notification*

Use this resource to carefully  
assess processes and  
consider how a network of  
people, offices, and activities  
all come together to support  
survivors

Look at this guidance, as well  
as other samples from other



## How The Institution Determines Which Type of Proceeding to Use

Under the Clery Act, your policy has to be clear on how the institution determines which proceedings apply under what circumstances

### Questions to Consider:

What is the jurisdiction of your policy?

Does it extend to incidents that occur off-campus? Now that Title IX accounts for behaviors that constitute sex harassment that occurred, in part, outside of the United States or education programs or activities if they result in a hostile environment on campus, will you move back to a single set of procedures?

If so, do you use the same proceedings or are there different proceedings?

Does the identity of the respondent influence which type of proceeding the institution uses?

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## Standard of Evidence

### The Clery Act

Must describe the standard of evidence that will be used

### Title IX

Use preponderance of the evidence standard *unless* the institution uses the clear and convincing standard of proof in all other comparable proceedings

Sanctions and Remedies-5(r)-2(b)-5(e) ]TJETQ EM

## Provide that Proceedings Will

### The Clery Act

Include a prompt, fair, and impartial process from the initial investigation to the final result

### Title IX

Be adequate, reliable and impartial

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## Advisor of Choice

### The Clery Act

Both parties must have same opportunities to be accompanied by an advisor of choice

***Officials Who Conduct Disciplinary Proceedings***

under Clery likely include:

- Investigators;
- Decisionmakers;
- Persons involved with grievance procedures;
- Persons involved with informal resolutions;
- Title IX Coordinators

*Training materials must be available upon request for inspection by members of the public*

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### Other Possible Training Components

- Effects of trauma
- Cultural responsiveness training
- Any others to highlight here?

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### Notice of Outcome

#### The Clery Act

Simultaneous notification in writing of:

- Result of any institutional disciplinary proceeding
- Procedures for accused and victim to appeal the result, if such procedures are available
- Any change to the result
- When such results become final

Must include rationale for the results and the sanctions

#### Title IX

Simultaneous written determination, including:

- Allegations potentially constituting sexual harassment
- Procedural steps taken
- Findings of fact supporting determination
- Conclusions regarding application of code of conduct to the facts
- Statement of, and rationale for, the results as to each allegation

Provision of response procedures in writing?

To students who report they are a victim?

To employees who report they are a victim?

Provision of disciplinary procedures in writing?

To student complainants?

To employee complainants?

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PART III:  
Policy Analysis

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### Annual Security Report

security report includes policy statements  
campus safety and security policies (including domestic violence, dating violence, sexual assault, and stalking policies)



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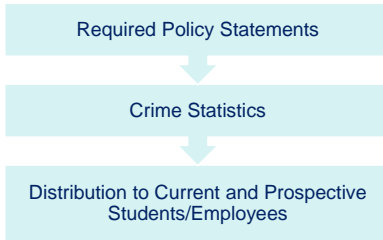
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## Annual Security Report Overview



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## ASR: Things to Remember

Summary of current, existing policies and procedures as well as three previous calendar years of Clery crime statistics

Creation of ASR ensures policies and pro3†











*Policy Analysis 2.0: If/Then*

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Closing

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