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Spring 2023

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## Addressing Sexual Violence on College Campuses—A Brief Review of Existing Policies

### Authors

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### Commentary

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#### Sexual Violence on College Campuses

Sexual violence is a major social and public health issue (Krebs et al., 2007). It refers to non-consensual sexual activity ranging from unwelcome sexual contact and verbally pressured sex to attempted rape and rape assisted by threats, physical force, or incapacity due to drinking or drugs (Breiding, 2014). One subpopulation often believed to be at elevated risk for sexual assault is college students (Cantor et al., 2019).

Federal laws require universities to safeguard students from sexual assault and harassment. Nonetheless, ambiguity in defining what sexual misconduct constitutes across states and colleges remains challenging (Education Commission of the States, 2022) as legal definitions of rape and sexual assault differ across states (Muehlenhard et al., 2017). Consequently, university sexual assault is underreported and undercounted, with just 2% of incapacitated victims and 13% of forceful rape victims coming forward to campus or local law enforcement (Krebs et al., 2007; RAINN, n.d.).

#### Existing Policies Addressing Sexual Violence

Existing policies to address campus crime and sexual violence include:

- *Title IX of the Education Amendments Act of 1972* forbids sexual harassment, violence, and discrimination of a person based on sex or sexual orientation in any school that receives federal funding if it threatens equal access to education (US Department of Education, 2023).
- *The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act*, enacted in 1990, requires Institutions of Higher Education (IHE) that receive federal funding to publicly provide Annual Security Reports (ASR) of campus crime statistics and prevalence (Fisher et al., 2003). A violation of the Act may result in a maximum fine of about \$59,000 per error.
- *The Violence Against Women Act (VAWA)* was passed to improve the justice system's response to sexual violence, dating violence, and stalking issues and to increase service support for victims and survivors (OVW, 2022). Under VAWA amendments to the Clery Act, ASRs include a statement on programs to prevent sexual assaults, domestic violence, dating violence, and stalking.
- *The Dear Colleague Letter of 2011* was a guidance issued by the U.S. Department of Education's Office for Civil Rights that clarified educational institutions' responsibilities for addressing sexual harassment and assault under Title IX (Duncan, 2014).
- *The Campus Sexual Violence Elimination Act (SaVE Act)* is an amendment to the Clery Act, passed in 2013. It mandates institutions participating in federal

programs to conduct campus-wide sexual violence prevention programs and implement measures to prevent and minimize campus crime (Campus Sexual Violence Elimination Act, 2013; Griffin et al., 2017).

### Gaps in Existing Policy

Griffin et al. (2017) observed variation in policy compliance, with only 11% of a sample of 453 universities being fully compliant, supporting existing arguments that the Clery and SaVE Acts are little more than 'feel good' symbolic policies. Non-compliance implies that IHEs may not be creating a safe space and channels for victims/survivors to report occurrences of sexual violence, which in effect, perpetuates the crime.

Proposed fines for violations of the Clery Act by IHEs are also often contested and reduced. As with Title IX, the Department of Education (DoE) occasionally settles on reduced fines for IHE for Clery Act violations.

Under Title IX, each institution is free to use either the clear and convincing evidence standard or the prevalence of the evidence standard (DoE, 2023). This makes it considerably more challenging to regulate how institutions respond to sexual assault because of the ambiguity in the needed standard of proof under federal law. Further, the DoE (2023) issued a statement prompting the protection of gender and sexual minority

students under Title IX. However, the interpretation of this among college campuses remains unclear.

### Opportunity for Policy Action

Many survivors of sexual violence prefer to speak to friends, family, and other support organizations (RAINN, n.d). Thus, it is recommended that campus and state authorities collaborate with external support sources victims/survivors engage with to obtain more accurate counts of on-campus sexual violence. Also, a restorative justice approach and actively implementing primary prevention strategies can help interrupt sexual violence on campuses.

Enforcement of existing policies is needed to address campus and sexual violence crimes effectively. Violation fines must be fully enforced by a no-reduction stance. The inability to recuperate full fine payments from IHEs that violate the policy weakens the effective implementation and impact of policies intended to reduce campus sexual violence.

Proper standardization across all institutions will help address ambiguity regarding definitions and implementation and encourage victim reporting. This will provide more accurate statistics to inform policy modification towards more functional approaches to addressing campus sexual violence.

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