

2013 Violence Against Women Act Amendments to Clery (Campus Sexual Violence Elimination Act)



On March 7, 2013, President Obama signed a bill that strengthened and reauthorized the Violence Against Women Act. Included within the bill was what is known as the Campus Sexual Violence Elimination Act (Campus SaVE). It covers students and staff of institutions and amends the Jeanne Clery Act to include domestic violence, dating violence, and stalking.

Specific guidelines as to how this will impact institutions will be released by the Department of Education after the negotiated rulemaking process. This is a preliminary document to assist colleges and universities in making a good faith effort to comply.

CAMPUS SAVE: SECT. 304 OF VAWA LANGUAGE

The Campus Sexual Violence Elimination Act		
SECT 304 of VAWA Language	Site Practice	Action Steps
For the offenses of domestic violence, dating violence, and stalking, such statistics shall be compiled in accordance with the definitions used in section 4002 (a) of the Violence Against Women Act of 1994		
(A) Each institution of higher education participating in any program under this title and title IV of the Economic Opportunity Act of 1964, other than a foreign institution of higher education, shall develop and distribute... a statement of policy regarding....		
(i) Such institution's programs to prevent domestic violence, dating violence, sexual assault, and stalking; and		
(ii) The procedures such institution will follow once an incident of domestic violence, dating violence, sexual assault, or stalking has been reported, including a statement of the standard of evidence that will be used during any institutional conduct proceeding arising from such a report		
(B) The policy described in subparagraph (A) shall address the following areas:		

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Question	Site Practice	Action Steps
(i) Education programs to promote the awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking, which shall include:		
Primary prevention and awareness programs for all incoming students and new employees, which shall include:		
<ul style="list-style-type: none"> • (aa) A statement that the institution of higher education prohibits the offenses of domestic violence, dating violence, sexual assault, and stalking; 		
<ul style="list-style-type: none"> • (bb) The definition of domestic violence, dating violence, sexual assault, and stalking in the applicable jurisdiction 		
<ul style="list-style-type: none"> • (cc) The definition of consent, in reference to sexual activity, in the applicable jurisdiction 		
<ul style="list-style-type: none"> • (dd) Safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of domestic violence, dating violence, sexual assault, or stalking against a person other than such individual 		
<ul style="list-style-type: none"> • (ee) Information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks; and 		
<ul style="list-style-type: none"> • (ff) the information described in clauses (ii) through (vii); and 		
Ongoing prevention and awareness campaigns for students and faculty, including information described in items (aa) through (ff) of subclause (I)		

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(ii) Possible sanctions or protective measures that such institution may impose following a final determination of an institutional disciplinary procedure regarding rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking		
(iii) Procedures victims should follow if a sex offense, domestic violence, dating violence, sexual assault, or stalking has occurred, including information in writing about:		
(I) The importance of preserving evidence as may be necessary to the proof of criminal domestic violence, dating violence, sexual assault, or stalking, or in obtaining a protection order		
(II) To whom the alleged offense should be reported		
(III) Options regarding law enforcement and campus authorities, including notification of the victim's option to -		
<ul style="list-style-type: none"> • (aa) notify proper law enforcement authorities, including on-campus and local police 		
<ul style="list-style-type: none"> • (bb) be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and 		
<ul style="list-style-type: none"> • (bb) decline to notify such authorities; and 		
(IV) Where applicable, the rights of victims and the institution's responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court		
(iv) Procedures for institutional disciplinary action in cases of alleged domestic violence, dating violence, sexual assault, or stalking, which shall include a clear statement that:		
(I) Such proceedings shall:		
<ul style="list-style-type: none"> • (aa) Provide a prompt, fair, and impartial investigation and resolution 		

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<ul style="list-style-type: none"> • (bb) Be conducted by officials who receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability 		
(II) The accuser and the accused are entitled to 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; and		
(III) Both the accuser and the accused shall be simultaneously informed, in writing, of:		
<ul style="list-style-type: none"> • (aa) The outcome of any institutional disciplinary proceeding that arises from an allegation of domestic violence, dating violence, sexual assault, or stalking 		
<ul style="list-style-type: none"> • (bb) The institution's procedures for the accused and the victim to appeal the results of the institutional disciplinary proceeding 		
<ul style="list-style-type: none"> • (cc) Of any change to the results that occurs prior to the time that such results become final; and 		
<ul style="list-style-type: none"> • (dd) When such results become final 		
(v) Information about how the institution will protect the confidentiality of victims, including how publicly-available recordkeeping will be accomplished without the inclusion of identifying information about the victim, to the extent permissible by law		

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(vi) Written notification of students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, and other services available for victims both on-campus and in the community		
(vii) Written notification of victims about options for, and available assistance in, changing academic, living, transportation, and working situations, if so requested by the victim and if such accommodations are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement		
(C) A student or employee who reports to an institution of higher education that the student or employee has been a victim of domestic violence, dating violence, sexual assault, or stalking, whether the offense occurred on or off campus, shall be provided with a written explanation of the student or employee's rights and options, as described in clauses (ii) through (vii) of subparagraph (B).		

Please see the attached page for the full text.

DEFINITIONS & TERMS: VIOLENCE AGAINST WOMEN ACT

1. Domestic violence (from 42 USC § 13925)

- The term “domestic violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or 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.

2. Dating violence (from 42 USC § 13925)

- The term “dating violence” means violence committed by a person:

(A) who is or has been in a social relationship of a romantic or intimate nature with the victim;
and

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(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- (i) The length of the relationship.
- (ii) The type of relationship.
- (iii) The frequency of interaction between the persons involved in the relationship.

3. Stalking (from 42 USC § 13925)

- The term “stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- (A) fear for his or her safety or the safety of others; or
- (B) suffer substantial emotional distress

Clery Center for Security On Campus

(484) 580-8754

www.clerycenter.org

info@clerycenter.org

“(D) The grantee shall train all members of campus disciplinary boards to respond effectively to situations involving domestic violence, dating violence, sexual assault, or stalking.”; and
 (5) in subsection (e), by striking “there are” and all that follows through the period and inserting “there is authorized to be appropriated \$12,000,000 for each of fiscal years 2014 through 2018.”.

SEC. 304. CAMPUS SEXUAL VIOLENCE, DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING EDUCATION AND PREVENTION.

(a) IN GENERAL.—Section 485(f) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)) is amended—

- (1) in paragraph (1)—
 - (A) in subparagraph (C)(iii), by striking the period at the end and inserting “, when the victim of such crime elects or is unable to make such a report.”; and
 - (B) in subparagraph (F)—
 - (i) in clause (i)(VIII), by striking “and” after the semicolon;
 - (ii) in clause (ii)—
 - (I) by striking “sexual orientation” and inserting “national origin, sexual orientation, gender identity.”; and
 - (II) by striking the period and inserting “; and”;
 - (iii) by adding at the end the following:
 “(iii) of domestic violence, dating violence, and stalking incidents that were reported to campus security authorities or local police agencies.”;
- (2) in paragraph (3), by inserting “, that withholds the names of victims as confidential,” after “that is timely”;
- (3) in paragraph (6)(A)—
 - (A) by redesignating clauses (i), (ii), and (iii) as clauses (ii), (iii), and (iv), respectively;
 - (B) by inserting before clause (ii), as redesignated by subparagraph (A), the following:
 “(i) The terms ‘dating violence’, ‘domestic violence’, and ‘stalking’ have the meaning given such terms in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)).”; and
 - (C) by inserting after clause (iv), as redesignated by subparagraph (A), the following:
 “(v) The term ‘sexual assault’ means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.”;
- (4) in paragraph (7)—
 - (A) by striking “paragraph (1)(F)” and inserting “clauses (i) and (ii) of paragraph (1)(F)”;
 - (B) by inserting after “Hate Crime Statistics Act.” the following: “For the offenses of domestic violence, dating violence, and stalking, such statistics shall be compiled in accordance with the definitions used in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)).”;
- (5) by striking paragraph (8) and inserting the following:

“(8)(A) Each institution of higher education participating in any program under this title and title IV of the Economic Opportunity Act of 1964, other than a foreign institution of higher education, shall develop and distribute as part of the report described in paragraph (1) a statement of policy regarding—

“(i) such institution’s programs to prevent domestic violence, dating violence, sexual assault, and stalking; and

“(ii) the procedures that such institution will follow once an incident of domestic violence, dating violence, sexual assault, or stalking has been reported, including a statement of the standard of evidence that will be used during any institutional conduct proceeding arising from such a report.

“(B) The policy described in subparagraph (A) shall address the following areas:

“(i) Education programs to promote the awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking, which shall include—

“(I) primary prevention and awareness programs for all incoming students and new employees, which shall include—

“(aa) a statement that the institution of higher education prohibits the offenses of domestic violence, dating violence, sexual assault, and stalking;

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

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

“(dd) safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of domestic violence, dating violence, sexual assault, or stalking against a person other than such individual;

“(ee) information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks; and

“(ff) the information described in clauses (ii) through (vii); and

“(II) ongoing prevention and awareness campaigns for students and faculty, including information described in items (aa) through (ff) of subclause (I).

“(ii) Possible sanctions or protective measures that such institution may impose following a final determination of an institutional disciplinary procedure regarding rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking.

“(iii) Procedures victims should follow if a sex offense, domestic violence, dating violence, sexual assault, or stalking has occurred, including information in writing about—

“(I) the importance of preserving evidence as may be necessary to the proof of criminal domestic violence, dating violence, sexual assault, or stalking, or in obtaining a protection order;

“(II) to whom the alleged offense should be reported;

“(III) options regarding law enforcement and campus authorities, including notification of the victim’s option to—

“(aa) notify proper law enforcement authorities, including on-campus and local police;

“(bb) be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and

“(cc) decline to notify such authorities; and

“(IV) where applicable, the rights of victims and the institution’s responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court.

“(iv) Procedures for institutional disciplinary action in cases of alleged domestic violence, dating violence, sexual assault, or stalking, which shall include a clear statement that—

“(I) such proceedings shall—

“(aa) provide a prompt, fair, and impartial investigation and resolution; and

“(bb) be conducted by officials who receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability;

“(II) the accuser and the accused are entitled to 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; and

“(III) both the accuser and the accused shall be simultaneously informed, in writing, of—

“(aa) the outcome of any institutional disciplinary proceeding that arises from an allegation of domestic violence, dating violence, sexual assault, or stalking;

“(bb) the institution’s procedures for the accused and the victim to appeal the results of the institutional disciplinary proceeding;

“(cc) of any change to the results that occurs prior to the time that such results become final; and

“(dd) when such results become final.

“(v) Information about how the institution will protect the confidentiality of victims, including how publicly-available recordkeeping will be accomplished without the inclusion of identifying information about the victim, to the extent permissible by law.

“(vi) Written notification of students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, and other services available for victims both on-campus and in the community.

“(vii) Written notification of victims about options for, and available assistance in, changing academic, living, transportation, and working situations, if so requested by the victim and if such accommodations are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement.

“(C) A student or employee who reports to an institution of higher education that the student or employee has been a victim of domestic violence, dating violence, sexual assault, or stalking, whether the offense occurred on or off campus, shall be provided

with a written explanation of the student or employee’s rights and options, as described in clauses (ii) through (vii) of subparagraph (B).”;

(6) in paragraph (9), by striking “The Secretary” and inserting “The Secretary, in consultation with the Attorney General of the United States,”;

(7) by striking paragraph (16) and inserting the following:
“(16)(A) The Secretary shall seek the advice and counsel of the Attorney General of the United States concerning the development, and dissemination to institutions of higher education, of best practices information about campus safety and emergencies.

“(B) The Secretary shall seek the advice and counsel of the Attorney General of the United States and the Secretary of Health and Human Services concerning the development, and dissemination to institutions of higher education, of best practices information about preventing and responding to incidents of domestic violence, dating violence, sexual assault, and stalking, including elements of institutional policies that have proven successful based on evidence-based outcome measurements.”; and

(8) by striking paragraph (17) and inserting the following:
“(17) No officer, employee, or agent of an institution participating in any program under this title shall retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual for exercising their rights or responsibilities under any provision of this subsection.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to the annual security report under section 485(f)(1) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)(1)) prepared by an institution of higher education 1 calendar year after the date of enactment of this Act, and each subsequent calendar year.

TITLE IV—VIOLENCE REDUCTION PRACTICES

SEC. 401. STUDY CONDUCTED BY THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

Section 402(c) of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (42 U.S.C. 280b–4(c)) is amended by striking “\$2,000,000 for each of the fiscal years 2007 through 2011” and inserting “\$1,000,000 for each of the fiscal years 2014 through 2018”.

SEC. 402. SAVING MONEY AND REDUCING TRAGEDIES THROUGH PREVENTION GRANTS.

(a) SMART PREVENTION.—Section 41303 of the Violence Against Women Act of 1994 (42 U.S.C. 14043d–2) is amended to read as follows:

“SEC. 41303. SAVING MONEY AND REDUCING TRAGEDIES THROUGH PREVENTION (SMART PREVENTION).

“(a) GRANTS AUTHORIZED.—The Attorney General, in consultation with the Secretary of Health and Human Services and the Secretary of Education, is authorized to award grants for the purpose of preventing domestic violence, dating violence, sexual assault, and stalking by taking a comprehensive approach that focuses