



Westchester Sexual Violence Conference

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**What are the College's Responsibilities in
Addressing Campus Sexual Violence?**

Your Panelists

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Various Federal and State Legislation/ Regulations/Guidance

- **Various federal and state legislation, regulations, and guidance have collectively imposed specific requirements on the way colleges and universities are required to handle campus sexual violence cases.**
 - **Title IX, including the 2011 Dear Colleague Letter and the 2014 Q & A's;**
 - **2013 Violence Against Women Reauthorization Act**
 - **White House “Not Alone” Report**
 - **State Legislation (e.g. New York State “Enough is Enough” which incorporates “best practices” from all three)**

What are the mandates under Title IX?

When a school knows or reasonably should know of possible sexual violence (i.e. sexual harassment, sexual assault, intimate partner violence, stalking or gender-based violence), it must take immediate and appropriate steps to investigate or otherwise determine what occurred and shall: **End the sexual violence; eliminate the hostile environment; prevent its recurrence; and remedy its effects.**

Schools now have various responsibilities, including requirement to:

- Take action, regardless of where or when the incident occurred, or whether someone affiliated with the school committed the act;
- inform the complainant of the right not notify law enforcement;
- assist with supportive measures, such as counseling, no-contact orders, academic monitoring of progress; and
- conduct grievance procedures by giving accused and complainant equal opportunity to be heard

White House Task Force “Not Alone”

- **Not Alone:** a report prepared by the White House Task Force, led by Vice President Biden, to protect students from sexual assault on campus
- **Required steps and recommendations:**
 - Anonymous campus climate surveys to identify problem areas
 - Prevention programs
 - Effective response to victims of sexual assault
 - Increasing transparency and enforcement
 - **Building partnerships (MOU’s) with local law enforcement**

Violence Against Women Reauthorization Act

- Amending the Clery Report requiring, among other things, "**primary prevention and awareness programs**" for students and employees regarding sexual misconduct and related offenses, including bystander intervention and recognizing abusive behavior.
- Procedures victims should follow if a sex offense, domestic violence, dating violence, sexual assault, or stalking

New York State Laws

- **NYS Education Law Section 6432:** requires educational awareness programs;
- **NY Campus Safety Act:** requires that campus authorities report violent felony offense on campus within 24 hours (although gives victim of sexual assault the option not to report to local law enforcement.)

NYS's *Enough is Enough*

Some significant requirements include:

- Alcohol and Drug Amnesty
- Informing complainant about rights and options to proceed, such as reporting to law enforcement, obtaining resources, legal orders of protection and legal assistance, resources for mental health counseling, and medical services.
- Provide accommodations, such as no contact orders and academic accommodations
- Colleges are to work closely with community-based partners, such as rape crisis centers and those providing Sexual Assault Forensic Exams.

Some Challenging Aspects of *Enough is Enough*

- **Affirmative Consent**
 - Difficulty in adjudicating these cases
 - Difficulty educating/explaining to students
 - *Consent Confusion*, 38 Cardozo L. Rev. 415 (2016)
- **Advisor for the Respondent and the Accused**
- **Running judicial process concurrent with a criminal investigation**
- **Balancing confidential disclosure vs. safety of campus**
- **Grievance process, including Appeals Panel (and training of these folks)**
- **Campus Climate Assessments, and publishing results**

Practical Challenges of Implementation

- **Crafting policies and procedures**
 - Clarity
 - Employees vs. students
 - How many policies?
- **Community members who are both students and employees.**
 - Which policy or procedure applies?
 - Does the role of the individual impact the standard?

Practical Challenges of Implementation

- Reluctant responsible employees
- Interplay with other civil rights laws
 - Disability
 - Age

Practicing Primary Prevention

- What is a “*comprehensive student onboarding and ongoing education campaign*”?
- “*Every institution shall use multiple methods to educate students about violence prevention*”
- “*Provide or expand specific training to include groups such as international students...[and] high-risk populations.*”

Practicing Primary Prevention

- **Key considerations**
 - Use the calendar year/ events
 - Plug into needs of your specific student population
 - Focused targeted trainings
 - Approach **all** work with cultural humility and intersectionality
 - Bring challenges and barriers into the space
 - Emphasize skills-building and practical tools
 - Work with your local Rape Crisis Program

Thank You

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