



Title IX and the Campus SaVE Act

Indiana State University Board of Trustees
February 19, 2015



Prevalence of Sexual Violence

- Females ages 18-24 had higher rates of rape and sexual assault than females in other age groups.
- Rate of rape and sexual assault victimization was 1.2 times higher for nonstudents than students.
- A greater percentage of student (80%) than nonstudent (67%) rape and sexual assault victimizations were not reported to police.

Source: Bureau of Justice Statistics, *Rape and Sexual Assault Victimization Among College Age Females, 1995-2013* (2014).



Claims Data from United Educators 2011-2013

- 90% of victims in reported claims knew the perpetrator.
- 54% of victims in reported claims were freshman.
- In 33% of the reported claims, the victim was unable to consent because he/she was drunk, passed out, or asleep.
- In 78% of the reported claims one or both consumed alcohol.
- In 45% of the claims after institution received report, the perpetrator was found responsible.

Source: EduRisk, *Confronting Campus Sexual Assault: An Examination of Higher Education Claims (2014)*



Title IX

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

Title IX of the Educational Amendments of 1972.



Prohibited Conduct under Title IX

Sex Discrimination



Sexual Harassment



Sexual Violence



Federal Laws regulating gender-based sexual assault and misconduct.

Title IX

- **Implementing regulations**
 - **34 C.F.R. Part 106**
- **April 4, 2011 Dear Colleague Letter**
- **Questions and Answers about Title IX and Sexual Violence – April 29, 2014 (Q&A)**

Campus SaVE Act

- **Legislation effective March 2014**
- **Final Regulations issued October 2014**
- **Regulations become effective July 1, 2015.**



Federal Laws regulating investigation of sexual misconduct.

Title IX

- Prohibits sexual violence as a form of sexual harassment in the educational environment.
 - Includes rape, sexual assault, sexual battery, sexual coercion.
- Enforced by the U.S. Department of Education Office of Civil Rights.

Campus SaVE

- Addresses institutional obligations in responding to dating violence, domestic violence and stalking.
- Amends VAWA and Clery reporting requirements.
- Enforced by the U.S. Department of Education.



The Title IX Coordinator

- School must designate at least one employee to coordinate efforts, including investigation of complaints.
- School shall notify students and employees of the contact information for the designated employee(s).

34 CFR Section 106.8(a)



Obligations under Title IX

(according to DCL and Q&A)

Once a school knows or reasonably should know of possible sexual violence, it must take immediate and appropriate action to investigate or otherwise determine what occurred (subject to confidentiality concerns).



Obligations under Title IX and SaVE

(according to DCL or Q&A or SaVE regulations)

Must have a nondiscrimination policy that:

- References Title IX
- Establishes that sexual harassment and sexual violence are forms of discrimination.
- Includes Title IX coordinator contact info.
- Applies to conduct off campus if negatively affects educational environment.
- Defines and prohibits sexual violence (**note addition of dating violence, domestic violence, and stalking in SaVE**).
- Is widely disseminated.



Obligations under Title IX and SaVE

(according to DCL or Q&A or SaVE regulations)

Institution must define and prohibit:

- Sexual assault (includes nonconsensual contact and nonconsensual intercourse)
- Sexual harassment (which includes sexual violence and hostile environment)
- Domestic Violence
- Stalking

Institution must define:

- Consent



Obligations under Title IX and SaVE

(according to DCL or Q&A or SaVE regulations)

Institution must have procedure that includes:

- **Prohibition on retaliation**
- **Interim measures**
- **Reporting process**
 - Includes confidential reporting process
- **Notice of right to file a criminal complaint and internal complaint.**
- **Notice of right to decline to notify police or campus authorities.**
- **Evidentiary standard**
 - preponderance of evidence, i.e. more likely than not.
- **Remedies and sanctions**
- **Evidence preservation**
- **Recordkeeping**
- **Advisor of choice for both parties (includes attorneys)**
 - May include limitations
- **Description of appeal process (if any)**





Obligations under Title IX and SaVE

(according to DCL or Q&A or SaVE regs)

Institution must provide:

Training to responsible employees

Student Training and Prevention efforts.

Climate Studies.

Established relationships with law enforcement,
victims groups, etc.



Enforcement and Litigation

- Some sources indicate that 95 institutions may currently be under investigation by OCR.
 - Difficult to obtain current numbers, as some may have resolved.
- Non-OCR litigation
 - Accusers
 - Accused



Most Recent Efforts

- ISU Sexual Violence Prevention & Response Coalition
- Take Back the Night event
- Sexual Assault Awareness Month
- Bystander Intervention
- Sexual Violence Prevention website
 - <http://www.indstate.edu/svp/>





Policy Development

- **Recommended policy and procedures for review by campus constituencies.**
 - **Student Government Association**
 - **Staff Council**
 - **Faculty Senate (including committee review)**

- **Policy presented to Board of Trustees at the June meeting.**



A Coordinated Community Response

Clear policy and process.

Small, highly trained investigative and response team.

Prevention and training for campus community



IT'S ON

