

March 12, 2015

Dear WNY Consortium Colleague:

As you may know, back in October, the Western New York Consortium (WNYC) created a task force designed at helping all of its institutions, and the state, better understand the challenges with addressing and adjudicating sexual assault on our college campuses. The Sexual Assault Awareness, Prevention, and Compliance Task Force has two main arms- prevention and compliance. As co-chairs of the compliance task force, our goal is to ensure that member institutions are well-informed on the ever-changing laws and regulations on this topic, as well as the best methods for being in compliance.

To that end, we wanted to provide an update on two (2) important legislative bills being proposed that may have an effect on your current practices.

The first piece of legislation is on the New York State level and is being proposed by Governor Andrew Cuomo has an extension of his mandate to SUNY back in November. At that time, Gov. Cuomo mandated that all SUNY institutions take a uniform approach to addressing sexual assault on campus through a myriad of means, outlined below:

1. All campuses adopt a uniform Sexual Assault Victim's Bill of Rights notifying them of their rights.
2. All campuses adopt a definition of affirmative consent (i.e. Yes means Yes)
3. All campuses adopt a student reporting amnesty policy
4. Conduct coordinated training with all SUNY campuses for best practices for campus response and investigation plans and victim sensitivity.
5. Conduct Public Awareness Campaign
6. All campuses adopt a system for confidentiality and reporting protocol
7. All campuses adopt a uniform campus climate assessment

You can view the full SUNY resource page on this topic online at:

<http://system.suny.edu/university-life/sexual-assault-prevention/>. For administrators at private institutions, it will be important to assess your current policies and procedures to determine what changes may need to be made in accordance with these changes.

Secondly, on the national level, Senators Gillibrand and McCaskill have produced a revised draft of their Campus Accountability and Safety Act (CASA) legislation originally introduced in May. A revised draft of this bill (51-pages) can be found online at:

<http://www.gillibrand.senate.gov/campus-sexual-assault>.

Recognizing that your time might be limited and that there are many complexities in reading through federal Bills, we have prepared a brief overview of the major points below. We hope you will find this helpful as you evaluate your current practices and procedures.

Our goal, as a task force, is to continue to provide you with updates on this and other pending legislation, as well as to provide resources to help you best complete your job. One of our foci for the next few months is developing a training guide for investigations. We think this is a good place to start and something that will remain relevant regardless of changes to pending legislation.

If we can be of future service, please do not hesitate to ask.

Sincerely,

Greg J Naylor, Ph.D
Co-Chair, SAAPC TF- Compliance

Brian J. Emerson
Co-Chair, SAAPC TF- Compliance

Revised Campus Accountability and Safety Act (CASA)

Modifications to the Annual Security Report to include new crime reporting in the ASR

- a. Number of incidents reported to the Title IX Coordinator;
- b. Of those incidents, number who sought campus disciplinary action;
- c. Of those incidents, number of cases processed through campus disciplinary procedures;
- d. Of those incidents, number of students found responsible AND number found not responsible;
- e. A description of final sanctions imposed for EACH incident
- f. Number of campus disciplinary procedures that closed without resolution

Report all matters, in accordance with the student's wishes, to law enforcement within 24 hrs

Codifies Responsible Persons to the same as Campus Security Authorities (CSAs)

Mandates that the Secretary develop a standard, online climate survey.

- a. Focused on sexual violence and harassment
- b. Each institution required to administer every 2 years to an "adequate, random, and representative sample size of students"
- c. Must be enacted not later than 1 year after the enactment of CASA
- d. Secretary will prepare a bi-annual report on results (no later than 2 years after enactment)
- e. Each institution must publish results on a website AND in the ASR
- f. **In no more than 180 days, the secretary must provide public guidance regarding intersection of this law and Title IX**

Civil Penalty increases

- a. Secretary MAY impose a civil penalty upon any institution deemed not in compliance of \$150,000 PER violation
 - b. OR per month that a survey has not been conducted
 - c. All funds collected shall go to the grant program established under CASA
-

Revised Campus Accountability and Safety Act (CASA)

Memorandums of Understanding with local law enforcement

- a. Each institution must enter into an MOU with local law enforcement
- b. Delineate responsibilities and share information about serious crimes including sexual assault
- c. Must reviewed every 2 years
- d. Onus is on the institution to contact law enforcement to discuss changes in policies and procedures and how they may affect provisions in the MOU.
- e. Failure to comply could result in a fine not to exceed 1% of the operating budget of the institution EACH year this is not completed (again, to be used in grant program)
- f. If local law enforcement refuses to cooperate, there are provisions for getting a waiver
- g. If a waiver is granted, the Secretary is required to share that list with the Department of Justice (Attorney General)
- h. There are additional provisions for colleges to appeal if a waiver is not granted
- i. Must be enacted 1 year after the date of enactment of CASA

Outlines requirement of Responsible Persons

- a. Must be someone who has authority to take action
- b. Has a duty to report
- c. Completed training requirements as outlined in CASA (more on that later)
- d. Assisting Title IX Coordinator
- e. Also establishes protocol for “Victim-Centered, Trauma Informed Interview techniques”

Establishes Confidential Advisors

- a. These are people who are NOT Responsible persons or CSAs, but are knowledgeable about processes and can serve as an intermediary to assist a student who reports
- b. Counselors, Clergy, etc
- c. Indicates that a college can use Crisis Services or other government agency and/or, if under 1000 students, share with another institution
- d. Cannot be an undergraduate or graduate student
- e. Role is to inform victim of rights, reporting options, serve as a liaison, etc and is NOT obligated to report crimes to the institution
- f. Secretary is responsible for designing online training materials for this role
- g. All information of these people must be listed on campus website. Information includes: name and contact info, reporting options, process for investigation, reasonable accommodations, etc.

Amnesty Policy

- a. Colleges must provide an amnesty policy for students that will not adjudicate lesser offenses who report, in good faith, a sexual assault or violence.

Training

- a. In 1 year (at the most) after the enactment of CASA, the Secretary, in coordination with the Attorney General, MUST DEVELOP A PROGRAM FOR TRAINING
 - b. Includes interview techniques
-

Revised Campus Accountability and Safety Act (CASA)

- c. Conduct types
- d. Consent and the effects of drugs
- e. Effects of trauma
- f. Cultural Awareness
- g. Each Institution is then responsible for carrying out said training no later than July 15th after it is enacted

Uniform process for adjudicating campus sexual assaults that is the same for all situations

Information about the Title IX Coordinator

- a. Each institution will submit, annually, the name and contact information for the Title IX Coordinator

Written notice of disciplinary procedures and process.

- a. Outlines specific requirements of this notification including existence of complaint, summary of process, rights and due process, copy of policies, etc.

Written notice of disciplinary determination

Secretary establishes Title IX website that includes:

- a. Name and contact info of Title IX Coordinator
 - b. Department's pending investigations, enforcement actions, letters of findings, final resolution, etc.
-