




**Identifying Primary  
Campus Security Authorities  
and Responsible Employees**



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**Agenda**



- The Laws: Clery & Title IX
- The People: Identifying & Tracking CSAs and REs
- Lessons: ED audits
- Training: Best practices
- Considerations: Making YOUR decisions

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**The Laws: Clery & Title IX**



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## The Purpose of the Clery Act



***To provide the campus community with timely, accurate, and complete information about crime and the safety of the campus environment so that they can make informed decisions to keep themselves safe.***

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## The Purpose of Title IX



Statute	Overview
Title IX 20 USCA § 1681	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.

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## Title IX Duty



- Where the school knows or reasonably should know of an incident of sexual misconduct, the school must take steps to understand what occurred and to respond appropriately.

*When do we "know?"*



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**Notice**

- A school has notice if a *responsible employee* knew or, in the exercise of reasonable care, should have known about the harassment.
- A report can be made by the student (complainant); parents or any third party

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**The People: Identifying and Tracking CSAs and REs**

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**Identifying Campus Security Authorities**

- **Group 1:** All members of campus police/security department
- **Group 2:** Individuals responsible for security—which includes student or professional employees
- **Group 3:** Officials of the institution with significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline and campus judicial proceedings
- **Group 4:** Any individual or organization specified in an institution's statement of campus security policy as an individual or organization to which students and employees should report criminal offenses.

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### CSA Determining Factors



<b>TO AVOID:</b>	<b>TO USE:</b>
<ul style="list-style-type: none"><li>Whether the individual is paid by the institution</li><li>They are <u>only</u> a volunteer.</li><li>They are NOT a head coach</li><li>They don't "want" to be a CSA</li></ul>	<ul style="list-style-type: none"><li><u>Function</u> of the individual or office</li><li>They are included in one of the <u>4 groups</u> of individuals identified in the 2016 Handbook.</li><li>The individual(s) have a clear exemption, i.e. pastoral or professional counselor of the institution</li></ul>

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### Operationalize CSA Identification



- Does your institution have someone who is responsible for managing the identification of CSAs?
  - They will not self identify.
- Are both student and employee functions being assessed to determine if they draw individuals into the CSA realm?

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### Operationalize CSA Identification



- Does your institution have formal policies developed to steer the process of identifying CSAs?
- Consider developing a CSA sub-committee to serve as a working group aside from your main Clergy Compliance Committee.
- Documentation of these activities.

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## Michigan State University PRR



*Develop and implement policies and procedures to identify all CSAs and to request and compile statistics of all Clery-reportable incidents of crime that are reported to any CSA or to any other official or office that may receive such reports. These policies and procedures must address access, communication, and coordination of campus crime statistics and information by and among institutional officials (MSU PRR Pg. 32).*

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## Considerations for CSA Policy Development



- Identify the individual responsible for coordinating CSA efforts (including the identification of CSAs). Typically this will be the CCO.
- Require institutional officials cooperate with the CCO in identifying CSAs.
- Outline HOW the institution evaluates which individuals are considered CSAs, this is an ongoing process.
  - Identify key stakeholders, Dept. Heads, HR.
  - Consider requiring Dept. Heads to have an active role with identifying CSAs in their divisions.

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## Considerations for Policy Development



- Include a formal process within the policy by which forms or memos are distributed to key stakeholders to identify CSAs within their divisions.
- Include an outline of key documents to retain related to CSA identification.
- Create a list of the CSAs identified by the institution each year.

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### Recommendations Based on ED Audit Process



Develop a list of CSAs: Include, at a minimum, the following:

- Name
- Department
- Title
- Email address

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### MSU's # of Identified CSAs by Year – (MSU PRR pg. 24)



Year	Listed by Name	Head Coaches	Study Abroad Leaders	Faculty Advisors to RSOs	REHS Staff	Total
2011	43					43
2012	48					48
2013	47					47
2014	47					47
2015	40	19	290	700	450	1,499
2016	42	19	0	700	450	1,211
2017	43	19	290	700	450	1,502

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### Handbook Guidance



- *The total number of CSAs at your institution depends on the number of individuals or organizations involved in security or that have significant responsibility for student and campus activities, not on the size of your school. Even a small school can have a number of CSAs. For example, your school may have a director, a registrar and a faculty advisor who fit the CSA definition (pg. 4-4).*

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### Handbook Guidance

- *On the other hand, perhaps only the director fits the definition. If your school does not have security personnel but has one administrator who has all of the responsibility for student and campus activities at the school, that administrator is your only CSA (pg. 4-4).*

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### Responsible Employee defined

- who has the authority to take action to redress sexual harassment/misconduct;
- who has been given the duty of reporting incidents of sexual harassment/misconduct **or** any other misconduct by students to the Title IX coordinator or other appropriate designee; or
- who a student reasonably believes has this authority or duty.

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### Responsible Employees on campus

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## Responsible Employee defined



Whether an employee is a responsible employee or whether it would be reasonable for a student to believe the employee is... will vary depending on various factors (i.e. age & educational level, position held by employee, procedures)



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## Confidential Options (Title IX)



- Is a best practice to have a confidential option on your campus (and mandated by some states)
- CAN carve out a confidential option (even if not a licensed counselor).
- CANNOT carve out a person that “has the authority to take action”

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## Opinions on Mandatory Reporting



- A study at one large institution surveyed students--“Would you disclose you were assaulted to a faculty member if you knew they had to report it?”
  - 14% said they would be less likely to report due to mandatory reporting.
  - 54% said it would make no difference.
  - 30% said it increased the likelihood they would report.
  - The numbers go up when asked about reporting someone else’s perpetration

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### And further...



- Students that have a history of victimization were MORE likely to agree that faculty/staff should be required to report, even if the student survivor does not want them to.
- Students have stronger belief that faculty members should report if the perpetrator is a faculty member and/or if the incident is rape versus verbal sexual harassment.

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### Proposed Regulations



- who has the authority to take action to redress sexual harassment/misconduct;
- ~~who has been given the duty of reporting incidents of sexual harassment/misconduct or any other misconduct by students to the Title IX coordinator or other appropriate designee; or~~
- ~~who a student reasonably believes has this authority or duty.~~

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### Proposed Regulations



- “we define actual knowledge as notice of sexual harassment or allegations of sexual harassment to a recipient’s Title IX Coordinator or any official of the recipient who has authority to institute corrective measures on behalf of the recipient.”
- “the mere ability or obligation to report ...does not qualify an employee, even if that employee is an official, as one who has the authority to institute corrective measure on behalf of he recipient.”
- “the recipient is liable only for its own misconduct.”

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### Tracking Responsible Employees and CSAs

- Employee titles and people
- Employee handbook, faculty handbook
- Collective bargaining, contracts
- Job descriptions
- Turnover
- Recordkeeping
- Training
- Temps, Volunteers, Vendors

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### Lessons: ED Audits

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### South Carolina State University (2017)

- **Finding #3: Failure to Establish an Adequate System to Collect Crime Report Information from CSAs**
  - Several "key factors" giving rise to the violation:
    - 1) Person designated to coordinate Clery Act compliance never received any relevant training until 2012.
    - 2) ASR failed to address any information about CSAs. Also, CSAs were not provided any training.
      - "The Department points out that while an institution is not specifically required to provide training for CSAs it is difficult to adequately advise officials and employees that meet the CSA criteria about the reporting obligations that are conferred upon them by the Clery Act without some form of structured training" (FPRD, p. 17, FN5).
    - 3) The responsible person failed to request crime information from CSAs

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## Occidental College (2017)



- **Finding #8: Failure to Establish an Adequate System for Collecting Crime Report Information from All Required Sources – Campus Security Authorities (\$27,500)**
  - Occidental failed to gather crime information from all but 2 of its approximately 200 CSAs for the years 2009, 2010, and 2011.
  - Additionally, “the College’s CSAs were unaware of their reporting obligations and this caused an unquantifiable number of offenses [not to be included] in the official statistics. Moreover, such failures result in survivors not being provided with the services and protective measures to which they are entitled” (FPRD, 2017, p. 47).

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## Felician College (2015)



- **Finding #6B: Failure to Request Crime Statistics from Campus Security Authorities (\$27,500)**
  - Failed to identify and train CSAs on basic skills essential to the effective performance of their duties
  - ASR specifically identified counselors as CSAs for sexual misconduct incidents, “so both should be collecting information for the statistics and reporting that information to the person responsible for Clery data collection” (FPRD, p. 9).
    - In interviews with ED, the Director of the Counseling Center and AOD Coordinators indicated they had not been contacted for crime statistics information
  - Fine imposed for “Failure to collect crime statistics from all of the College officials it listed as CSAs” (Fine Notice, p. 12)

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## ED Title IX Audits—RE Training



- **Minot State University**
  - “OCR also determined that the University’s training for staff who are responsible employees, both before and after the initiation of this complaint, is insufficient to ensure that all University employees are familiar with the University’s policies prohibiting sexual harassment and sexual assault in that it has not trained all responsible employees, including security officers and faculty other than those newly hired.”

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## ED Title IX Audits—Identifying REs

- **Minot State University**
  - “The Policy states that University employees who become aware of a complaint or violation of the policy shall report the complaint or violation to the Title IX Coordinator or Deputy Title IX Coordinator if the employee “ha[s] the authority to take action on the complaint or violation.” However, the Policy does not explain which employees “have the authority to take action on the complaint or violation.”

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## Training: Best Practices

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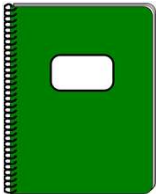
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## CSA Training

*“Recommendations—not requirements”*



- Role of a CSA
- Provide Reporting materials
  - map of Clery geography
  - list of Clery crimes
  - forms for documenting
- Importance of documentation
- Need for timely reporting
- “Super CSAs?” Do in person

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### Responsible Employee Training



- **What** is Sexual Harassment
- **How** to respond if someone reports to you.
- **Where** and **What do** you report.
- **Who** takes it from here (and what happens)
- **Why** this is important.
- What a RE is NOT
- “Super REs?” Do in person

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### Considerations: Making YOUR decisions

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### CSA Action Steps

- Develop written policies and/or procedures regarding the identification, notification, and training of CSAs as well as the process of collecting crime reports from CSAs
- Keep a current list of all CSAs, including those identified in the ASR
- Ensure the ASR clearly identifies the individual(s) or office(s) to whom students and employees should report crimes for TWN and statistical report purposes
- Develop a simple mechanism for CSAs to report crimes brought to their attention
- Provide CSAs with training regarding their responsibilities

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### CSA Action Steps

- Design and deploy an effective crime information data request
  - Send each CSA a letter requesting information about any crimes reported to them that were not already reported by the CSA to the reporting structure of the institution
  - Have CSAs with no crimes to report affirm this fact in writing
  - Implement internal controls to ensure that all CSAs respond to the request for crime information
  - As a best practice, send request letters at the end of the spring semester/term (prior to commencement)

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### Mandated Reporter Comparisons

Clery CSA	Title IX RE
<ul style="list-style-type: none"><li>■ Campus Law Enforcement and Public Safety</li><li>■ RAs, RDs, other Housing officials</li><li>■ Dean of Students Office</li><li>■ Ads and Coaches (including Assistant ADs and Coaches)</li><li>■ Faculty or Staff Advisors to Student Orgs</li><li>■ Access Monitors</li><li>■ Contract/Event Security Officers</li><li>■ Safety escorts on campus (including students)</li><li>■ Student Union Staff</li><li>■ Student Activities staff</li><li>■ Greek Affairs staff</li><li>■ Administrators at Branch/Satellite/Separate Campuses</li><li>■ Study Abroad Coordinators</li><li>■ Title IX Coordinator(s)</li><li>■ Director of the Student Health Center</li></ul>	<ul style="list-style-type: none"><li>■ Teachers</li><li>■ Law enforcement unit employees</li><li>■ Administrators</li><li>■ Counselors*</li><li>■ General counsel employees</li><li>■ Health personnel*</li><li>■ Resident advisors</li></ul>

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### To "All in" or not "All in"

- Should you (do you?) consider ALL employees to be Responsible Employees (unless specifically carved out as Confidential?)
- What about Campus Security Authorities?

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## Questions?

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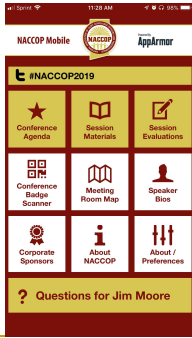
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## Remember to Evaluate This Session!





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