

## INFORMATION BRIEF

Research Department

Minnesota House of Representatives

600 State Office Building

St. Paul, MN 55155

Sean Williams, Legislative Analyst  
651-296-5053

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# Campus Sexual Violence Policies

This information brief describes the federal and state laws governing sexual violence on college campuses, including recent changes to sexual violence policies enacted in Minnesota and other states.

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## Federal Laws on Campus Sexual Violence

The **Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act** regulates the security policies of higher education institutions participating in federal student aid programs.<sup>1</sup> The Clery Act contains a number of provisions governing campus sexual violence, and the Violence Against Women Reauthorization Act of 2013 expanded upon the Clery Act's existing requirements.<sup>2</sup> Under current federal law:

- campuses must report the number of incidents reported to the institution of forcible sex offenses, nonforcible sex offenses, domestic violence, dating violence, and stalking;<sup>3</sup> and
- campuses must develop policies and procedures to prevent and respond to incidents of domestic violence, dating violence, sexual assault, and stalking. These policies must include procedures for institutional disciplinary action.<sup>4</sup>

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<sup>1</sup> [20 U.S. Code § 1092 \(f\)](#).

<sup>2</sup> Pub. L. No. 113-4.

<sup>3</sup> [20 U.S. Code § 1092 \(f\)](#), para. (1), subpara. (F).

<sup>4</sup> [20 U.S. Code § 1092 \(f\)](#), para. (8).

**Title IX** of the Education Amendments of 1972 prohibits postsecondary institutions from discriminating on the basis of sex. In April 2011, the U.S. Department of Education Office for Civil Rights (OCR) published a “Dear Colleague Letter” providing guidance to postsecondary institutions on how they can meet their legal obligations under Title IX with regards to sexual violence.<sup>5</sup> According to the letter, “Sexual violence is a form of harassment prohibited by Title IX.” As a result, if a school knows or reasonably should know about student-on-student sexual harassment, “Title IX requires the school to take immediate action to eliminate the action, prevent its recurrence, and address its effects.” In April 2014, OCR published supplementary guidance that provides additional detail as to how universities must respond to incidents of sexual violence in order to comply with Title IX.

In recent years, OCR received complaints that many postsecondary institutions were not responding to incidents of sexual assault in a manner consistent with Title IX, and it subsequently opened investigations into these complaints. In May 2014, the office released a list of institutions with open Title IX sexual violence investigations; at the time OCR was investigating 55 postsecondary schools.<sup>6</sup> As of August 5, 2015, OCR had 148 open investigations against 129 postsecondary schools, all of which were outside of Minnesota.<sup>7</sup>

## Minnesota Laws on Campus Sexual Violence

Minnesota’s laws governing campus sexual violence are codified in Minnesota Statutes, section [135A.15](#).<sup>8</sup> The legislature has amended the state’s campus sexual violence laws three times—in 1989, 1992, and 2015.

In 1989, the legislature required postsecondary institutions and systems to have a written policy on sexual harassment and violence.<sup>9</sup> In 1992, the legislature required institutions to include in their policies a list of sexual assault victims’ rights.<sup>10</sup> These rights include the following:

- Campus authorities must assist a victim of sexual assault in notifying law enforcement, if the victim wishes to do so.
- Campus authorities must also investigate and resolve sexual assault complaints through on-campus disciplinary procedures, and preserve evidence from the procedures.

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<sup>5</sup> U.S. Department of Education, Office of Civil Rights, “Dear Colleague Letter: Sexual Violence.” April 11, 2011. <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>

<sup>6</sup> U.S. Department of Education, Office of Civil Rights, “U.S. Department of Education Releases List of Higher Education Institutions with Open Title IX Sexual Violence Investigations.” May 1, 2014. <http://www.ed.gov/news/press-releases/us-department-education-releases-list-higher-education-institutions-open-title-ix-sexual-violence-investigations>

<sup>7</sup> U.S. Department of Education, Office of Civil Rights. Correspondence with House Research, August 5, 2015.

<sup>8</sup> [Minn. Stat. § 135A.15](#).

<sup>9</sup> [Laws 1989, ch. 293, § 15](#).

<sup>10</sup> [Laws 1992, ch. 571, art. 5, § 15](#).

- Campus authorities must allow a victim of sexual assault and his or her attorney to participate in campus disciplinary procedures, and must notify the victim of the outcome.
- Campus authorities must shield a victim from unwanted contact with an alleged assailant.

## Recent Changes to Minnesota Law

The 2015 omnibus higher education bill included an entire article making changes to Minnesota's campus sexual violence policies,<sup>11</sup> and appropriated money for implementation to the Office of Higher Education and the Minnesota State Colleges and Universities. All public and many private postsecondary institutions must implement the following changes.

**New Requirements for Campus Sexual Assault Policies.** The law requires campus policies on sexual assault to include several new provisions, including:

- Campus sexual assault policies must apply to incidents of sexual assault at school-sponsored events and fraternities and sororities.
- Campus policies must contain new protections for victims of sexual assault.
- Campuses may not sanction students for violating a student conduct policy on drugs or alcohol if they admit to using alcohol or drugs while reporting a sexual assault.

**Coordination between Institutions and Law Enforcement.** Institutions and local law enforcement agencies must enter into memoranda of understanding describing how they will cooperate in response to a report of sexual assault. The memorandum must delineate law enforcement and school responsibilities, establish protocols for communication and evidence preservation, and establish procedures for reporting crimes to law enforcement, at a victim's request.

**Online Reporting.** Institutions must create an online system to receive reports of sexual harassment and violence. The legislature appropriated \$25,000 in fiscal years 2016 and 2017 to the Minnesota State Colleges and Universities to implement an online reporting system.

**Reporting Requirements.** Institutions must annually report data on incidents of sexual assault to the Office of Higher Education. This data must include the number of incidents reported to the university, the outcomes of campus disciplinary procedures, and the number of cases referred to law enforcement. Using these reports, the Office of Higher Education must annually publish statewide and institution-level summary data.

**Data Privacy Protections.** Institutions must limit disclosures of data related to incidents of sexual assault to the victim, individuals whose work assignments reasonably require access, and law enforcement (at a victim's request). The law classifies data related to incidents of sexual assault as private data on individuals under the Minnesota Government Data Practices Act.

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<sup>11</sup> [Laws 2015, ch. 69](#), art. 4.

**Training.** Institutions must train campus security officers and campus administrators on how to prevent and respond to sexual assault on campus. Students must complete a training on sexual assault no later than ten days after the start of their first semester of classes.

**Student Health Services.** Student health service providers must screen students for incidents of sexual assault on college campus. They must also designate a staff member as a “confidential resource” that can meet with victims of sexual harassment and violence that do not wish to make a formal report to the institution.

## **Recent Laws Passed in Other States**

As of August 2015, 13 states in addition to Minnesota enacted new laws relating to campus sexual violence in 2014 and 2015. In addition to those that enacted laws, legislators in at least 12 additional states introduced bills that were not enacted.

Many of the recently enacted laws contain similar provisions, including changes to campus disciplinary procedures, data privacy protections, sexual assault prevention strategies, reporting, and increased cooperation with law enforcement and victims groups. Table 1 on the following pages contains a detailed list of the policies recently enacted in other states.

**Table 1: Significant Campus Sexual Violence Laws Passed in 2014 and 2015<sup>12</sup>**

Policy	CA	CO	CT	HI	LA	MD	MN	NY	ND	OR	TX	VA	WV	WA
Changes to campus disciplinary procedures to protect victims of sexual violence or the accused	X						X	X	X					X
Communications between a victim of sexual assault and victims' service providers is classified as confidential							X			X				
Faster reporting to Title IX coordinator required												X		
Institutions must adopt an "Affirmative Consent" policy	X							X						
Institutions must engage in sexual assault prevention, awareness, or outreach	X						X	X						
Institutions must enter into partnerships or memoranda of understanding with local law enforcement					X	X	X					X		X
Institutions must enter into partnerships or memoranda of understanding with organizations serving victims of sexual assault	X	X	X			X		X				X		
Institutions must have a campus policy on sexual assault		X									X			
Institutions must establish online reporting system					X		X							
Institutions must note on a student's transcript if the student is expelled or suspended due to an incident of sexual violence								X				X		X

<sup>12</sup> See California SB-967 (2014); Colorado HB 15-1220 (2015); Connecticut HB 5029 (2014); Hawaii SB 387 (2015); Louisiana SB 255 (2015); Maryland HB 571 (2015); New York A 8244 (2015); North Dakota SB 2150 (2015); Oregon HB 3476 (2015); Texas HB 699 (2015); Virginia SB 712, HB 1785, and SB 1193 (2015); Washington SB 5518 and SB 5719 (2015); and West Virginia HCR 139 (2015).

<b>Policy</b>	<b>CA</b>	<b>CO</b>	<b>CT</b>	<b>HI</b>	<b>LA</b>	<b>MD</b>	<b>MN</b>	<b>NY</b>	<b>ND</b>	<b>OR</b>	<b>TX</b>	<b>VA</b>	<b>WV</b>	<b>WA</b>
Institutions must monitor the campus sexual assault “climate” through a survey or task force			X		X	X		X						
Institutions must offer “confidential resources” to receive reports of sexual violence					X		X	X						
Institutions must permit anonymous reports of sexual violence			X				X	X						
Institutions must report aggregate data on sexual assault incidents			X				X	X						
Establishes a task force or working group on sexual violence				X									X	X
Sexual assault victims unit established in the state police department								X						
Students who report sexual violence have amnesty from campus discipline for drug/alcohol use					X	X	X	X						
Training and education requirements for students or employees			X		X		X	X						

*For more information about higher education, visit the higher education area of our website, [www.house.mn/hrd/](http://www.house.mn/hrd/).*