

New Requirements Imposed by the Violence Against Women Reauthorization Act

The Violence Against Women Reauthorization Act of 2013, signed into law on March 7, imposes new obligations on colleges and universities under its [Campus Sexual Violence Act](#) (Section 3)

- x Report domestic violence, dating violence, and stalking, beyond crime categories the Clery Act already mandates;
- x Adopt certain student discipline procedures, such as for notifying purported victims of their rights; and
- x Adopt certain institutional policies to address and prevent campus sexual violence, such as to train in particular respects pertinent institutional personnel.

The interplay of VAWA and other pronouncements² notably the April 4, 2011 [Dear Colleague Letter](#) and the new institutional policy² warrants legal risk management judgment by institutional counsel and compliance officers, and implicates a range of management steps. Here we identify some key points.

I. New Reporting Requirements

9 § : § ¶ SaVE Act provision imposes new reporting requirements:

A. The Clery Act requires annual reporting of statistics for various criminal offenses, including forcible and non-forcible sex offenses and aggravated assault. 9 § : § ¶ SaVE Act provision adds domestic violence, dating violence, and stalking to the categories that, if the incident was reported to a campus security authority or local police agency, must be reported under Clery. Parsed for clarity, these offenses are defined:

1. 3 ' R P H V W L F include: (a) violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.

2. ³ ' D W L Q J Y h e a n O v e r F e h by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.
3. ³ 6 W D O n e a n s a course of conduct directed at a specific person that would cause a reasonable person to fear for her, his, or others' safety, or to suffer substantial emotional distress.

% 7 K H S U R Y L V L R Q D G G V ³ Q D W L R O D D R u h J L Q D Q G ³ J H Q G H U
involving intentional selection of a victim based on actual or perceived characteristics, that must be reported under the Clery Act.

C. The provision requires, with U H V S H F W W R W K i l l C l e r y A c t h a d a t e s f o r S t u d e n t s W V ' considered a threat to other students and employees, that victims' names be withheld.

D. The effective date of these requirements is one year after enactment of VAWA; that is, March 7, 2014. Presumably in the coming year ED will issue guidance on the annual campus security

accompanied to any related meeting or proceeding by D Q D G Y L V R U R I W K H L U F K R I

5. Accuse U D Q G D F F X V H G P X V W E H Q R W Z U L H W G L O W D Q H R X
of the proceeding; appeal procedures; any change to the result before it becomes final;
and when the result becomes final. The OCR Guidance Letter, at page 13, merely
³ U H F R P P H I C E V that the parties be provided t K H G H W H U P E Q D W H R O W O F R Q
6. Institutional policy must address how victims' confidentiality will be protected, including
record-keeping that excludes personally-identifiable information on victims. OCR's
Guidance Letter, at page 5, encourages institutions to be cognizant of victims'
confidentiality, but does not mandate that institutional policy address it.

III. New Requirements to Educate Students and Employees on Sexual Violence

Under VAWA, new students and Q H Z H P S O R \ H H V P P X I M A Y P E V E N R I A D U A R E S
S U R J U D I C I A L P R O M ote awareness of rape, acquaintance rape, domestic violence, dating violence, sexual
assault, and stalking. The OCR Guidance Letter, at pages 15- ³ U H F R P P H I C E V
implement preventive education programs; VAWA is more prescriptive in its requirements.

The training programs must include:

- A. A statement that the institution prohibits those offenses.
- B. The definition of those offenses in the applicable jurisdiction.
- C. The definition of consent, with reference in ETBTF4 definhat th