

**Report of the Task Force to Examine the Impact of the Proposed Regulations on Students and Campus
Safety at Institutions of Higher Education in the State**

Submitted to the Higher Education and Employment Advancement Committee

November 4, 2020

Background

On May 6, 2020, the United States Department of Education issued its Final Rule concerning sexual misconduct under Title IX of the Elementary and Secondary Education Act of 1972.

Special Act 19-23, enacted by the Connecticut General Assembly during its 2019 legislative session, provided as follows:

Section 1. (Effective from passage) (a) Upon issuance of the United States Department of Education's Final Rule concerning sexual misconduct under Title IX of the Elementary and Secondary Education Act of 1972, 20 USC 1681 et seq., as amended from time to time, there shall be established a task force to examine the impact of the proposed regulations on students and campus safety at institutions of higher education in the state.

(b) The task force shall consist of the following members:

(1) Two appointed by the speaker of the House of Representatives, one of whom is a Title IX coordinator at a public institution of higher education;

(2) Two appointed by the president pro tempore of the Senate, one of whom represents a community-based sexual assault crisis service center;

(3) One appointed by the majority leader of the House of Representatives, who is a Title IX coordinator at an independent institution of higher education;

(4) One appointed by the majority leader of the Senate, who is a law enforcement officer at an institution of higher education and is certified pursuant to section 7-297d of the general statutes;

(5) One appointed by the minority leader of the House of Representatives, who represents a community-based domestic violence agency;

(6) One appointed by the minority leader of the Senate, who is a student at an institution of higher education; and

(7) Two appointed by the Governor.

(c) Any member of the task force appointed under subdivisions (1) to (6), inclusive, of subsection (b) of this section may be a member of the General Assembly.

(d) All appointments to the task force shall be made not later than thirty days after the effective date of this section. Any vacancy shall be filled by the appointing authority.

(e) The speaker of the House of Representatives and the president pro tempore of the Senate shall select the chairpersons of the task force from among the members of the task force. Such chairpersons shall schedule the first meeting of the task force, which shall be held not later than forty-five days after the publication in the Federal Register of the United States Department of Education's Final Rule concerning sexual misconduct under Title IX of the Elementary and Secondary Education Act of 1972, 20 USC 1681 et seq, as amended from time to time.

(f) The administrative staff of the joint standing committee of the General Assembly having cognizance of matters relating to higher education and employment advancement shall serve as administrative staff of the task force.

(g) Not later than one hundred twenty days after the first meeting, the task force shall submit a report on its findings and recommendations to the joint standing committee of the General Assembly having cognizance of matters relating to higher education and employment advancement, in accordance with the provisions of section 11-4a of the general statutes. The task force shall terminate on the date that it submits such report.

Task Force Establishment and Meetings

Following the May 6th Department of Education Title IX final rule issuance, the task force was established, with appointments made as reflected in the membership list attached to this report.

Task Force members met on four occasions: July 8, 2020, July 21, 2020, August 27, 2020, and October 15, 2020. These meetings were conducted remotely via Zoom due to the Covid-19 pandemic.

Task Force Findings and Recommendations

This report constitutes the task force's findings and recommendations and is respectfully submitted to the higher education and employment advancement committee.

The Title IX final rule was issued by the Department of Education on May 6, 2020 and became effective on August 14, 2020. The task force reviewed and considered the more than 2,000 pages of regulatory text and the preamble accompanying the new regulations. This consideration occurred with a focus on the impact on students in Connecticut, particularly in the context of overlapping Connecticut state law in this area (see attached chart with statutory comparisons).

In very brief summary, the new regulations require institutions of higher education to comply with a set of new requirements surrounding their response to sexual misconduct falling under the definitions promulgated within the regulations. This includes ensuring campus policy and procedures regarding Title IX incidents utilize federal definitions of sexual harassment, sexual assault, intimate partner violence, and stalking as well as requiring certain procedural steps to be in place in connection with investigations, including specific steps that must be taken within the context of a formal investigation and the requirement of a live hearing with cross examination by the parties' respective advisors.

1. Distinctions in Statutory Definitions

There are distinctions in statutory definitions for sexual misconduct at the federal regulatory and state legislative levels. These are reflected in the attached chart. For campuses, this means navigating various regulatory and legal requirements that point to different statutory definitions of sexual assault, intimate partner violence, and stalking. Following the issuance of the Title IX final rule, many institutions of higher education in Connecticut have needed to adopt two sets of definitions and procedures within their campus policies and procedures; one to ensure consistency with state law (specifically Conn. Gen. Stat 10a-55) and another to comply with the federal Title IX regulations. This policy and procedural framework could provide confusing for students.

Minimally, the Task Force would recommend that institutions of higher education provide both sets of policies and/or procedures in their annual state legislative report submissions. In addition, emphasizing and providing education for students about how these separate but interrelated regulations show up in policy and procedures, in the simplest terms possible, is important for individual campus communities. Moreover, in considering any additional state legislative requirements in this arena, it would be important for careful consideration to be given to the myriad requirements already in place under both state and federal law.

2. Messaging and Training for Connecticut Students

The Task Force discussed that the issuance of the new Title IX regulations may in some instances act as a barrier or otherwise discourage students who may have experienced or witnessed harm to disclose, report, or

participate in an investigation regarding sexual misconduct on campus. Campus leaders articulated this concern and off-campus advocates noted some confusion and concern they were hearing from students regarding whether to disclose incidents to their colleges and universities because of the perception that the Title IX regulations provide new barriers to reporting.

The Task Force recommends ongoing messaging by institutions of higher education to students regarding the ongoing availability of resources for anyone impacted by sexual misconduct, regardless of whether they choose to participate in an investigation and regardless of whether their matter falls under the new Title IX regulatory framework. This would include, but not be limited to, messaging that community-based victim-survivor confidential resources are available to students, and that such community-based resources will work collaboratively with the institution of higher education to provide ongoing support to the student if they choose to make a formal complaint. Given the global Covid-19 pandemic, it is imperative that schools consider how best to deliver this content in an impactful way in the remote era. Any additional statewide resources that could be provided to support colleges and universities in such efforts would be welcomed.

3. Review of Best Practices Related to Alternative Dispute Resolution in Title IX Cases

The Title IX regulations permit, though do not require, the use of alternative dispute resolution mechanisms, such as mediation, to resolve incidents of sexual misconduct (in cases where there is not an uneven power dynamic; i.e. such would be disallowed in a case falling under the regulations occurring between, for example, a student and faculty member). Alternative dispute resolution, including but not limited to campus restorative justice as well as mediation, is a potentially promising emerging practice on campuses.

The Task Force recommends that appropriate networks of campus administrators and, where applicable, off-campus advocates, continue to deliberate on the appropriate use of alternative dispute resolution in this arena. Forums for such discussion may include, but not be limited to, the statewide Connecticut Title IX Coordinator Coalition and the Connecticut Campus Coalition to End Sexual Violence.

4. Anonymous Reports and Complaints and Participation in Title IX Processes

While under both state law and the federal regulations an individual could submit an anonymous complaint, for matters falling under the new Title IX regulations, a school will be even more limited than it might otherwise be in determining how to respond to such report or complaint.

The Task Force recommends that institutions of higher education provide messaging to students that they may review and respond to anonymous complaints, but their ability to act might be quite limited especially if the matter falls under the new Title IX regulations, where the strict evidentiary standards require complainant (and witness) participation.

5. Impacts on Students who are Members of the LGBTQ Community, Students with Disabilities, and Students from Historically Underrepresented Communities

Students who are members of the LGBTQ community, students with disabilities, and students from historically underrepresented communities face increased risk of sexual misconduct while simultaneously facing historical reluctance to participate in formal avenues for reporting and/or investigation processes. Under the new Title IX Regulations, individuals who do not participate fully in the process may have limited redress.

The Task Force recommends that institutions of higher education design training and messaging that specifically articulates the resources available to students from these communities and deliver ongoing training to administrators involved in these processes on cultural competence when working with diverse populations.



State of Connecticut

The Connecticut General Assembly

Task Force to Examine the Impact of the Proposed Regulations on Students and Campus Safety at Institutions of Higher Education in the State

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Elizabeth Conklin, Chairperson

Membership List

NAME	APPOINTING AUTHORITY
Angelo Simoni	Speaker of the House of Representatives
Elizabeth Conklin	Speaker of the House of Representatives A Title IX coordinator at a public institution of higher education;
Julie Johnson	President Pro Tempore of the Senate
Dominica Hill	President Pro Tempore of the Senate Represents a community-based sexual assault crisis service center.
Stephanie Spangler	Majority Leader of the House of Representatives A Title IX coordinator at an independent institution of higher education.
Gary MacNamara	Majority Leader of the Senate Law enforcement officer at an institution of higher education and is certified pursuant to section 7-297d of the general statutes.
Andrea O'Connor	Minority Leader of the House of Representatives Represents a community-based domestic violence agency.
	Minority Leader of the Senate A student at an institution of higher education.
Linda Blozie	Governor
Colleen Kearney	Governor

Definitions Comparison Chart

	Title IX	Clery Handbook	CT Statute	Notes
Sexual Assault	<p>“‘Sexual assault’ as defined in 20 U.S.C. 1092(f)(6)(A)(v).” 34 C.F.R. §106.30.</p> <p style="text-align: center;">↓</p> <p>“The term “sexual assault” means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.” 20 U.S.C. 1092(f)(6)(A)(v).</p> <p style="text-align: center;">↓</p> <p>“Sex Offenses Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.</p> <p>Rape (except Statutory Rape) The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity</p> <p>Sodomy Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of</p>	<p>“Sexual Assault (Sex Offenses). Any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent.</p> <p>Rape is the penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This offense includes the rape of both males and females.</p>	<p>(a) A person is guilty of sexual assault in the first degree when such person (1) compels another person to engage in sexual intercourse by the use of force against such other person or a third person, or by the threat of use of force against such other person or against a third person which reasonably causes such person to fear physical injury to such person or a third person, or (2) engages in sexual intercourse with another person and such other person is under thirteen years of age and the actor is more than two years older than such person, or (3) commits sexual assault in the second degree as provided in section 53a-71 and in the commission of such offense is aided by two or more other persons actually present, or (4) engages in sexual intercourse with another person and such other person is mentally incapacitated to the extent that such other person is unable to consent to such sexual intercourse.</p> <p>(a) A person is guilty of aggravated sexual assault in the first degree when such person commits sexual assault in the first degree as</p>	<p>The definitions of Sex Offenses in UCR NIBRS and the Clery Handbook are identical.</p> <p>The definitions in the NIBRS user manual and the Clery Handbook vary significantly.</p> <p>The NIBRS still uses the term “carnal knowledge” (which they provide <i>Black’s Law</i> definition as ‘the act of a man having sexual bodily connections with a woman; sexual intercourse.’) While NIBRS allows that both males and females can be raped, they restrict the definition of rape to instances between members of the opposite sex.</p> <p>NIBRS’ definition of rape also does not mention objects, only sexual organs. Instead, the NIBRS enumerates another sex offense (Sexual Assault With An object) for that.</p>

	<p>giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity If the offender both raped and sodomized the victim in one incident, then LEAs should report both offenses.</p> <p>Sexual Assault With An Object To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity An “object” or “instrument” is anything used by the offender other than the offender’s genitalia, e.g., a finger, bottle, handgun, stick. Version 1.0, 3/22/2018 42</p>		<p>provided in section 53a-70, and in the commission of such offense (1) such person uses or is armed with and threatens the use of or displays or represents by such person's words or conduct that such person possesses a deadly weapon, (2) with intent to disfigure the victim seriously and permanently, or to destroy, amputate or disable permanently a member or organ of the victim's body, such person causes such injury to such victim, (3) under circumstances evincing an extreme indifference to human life such person recklessly engages in conduct which creates a risk of death to the victim, and thereby causes serious physical injury to such victim, or (4) such person is aided by two or more other persons actually present. No person shall be convicted of sexual assault in the first degree and aggravated sexual assault in the first degree upon the same transaction but such person may be charged and prosecuted for both such offenses upon the same information.</p> <p>(a) A person is guilty of sexual assault in the second degree when such person engages in sexual intercourse with another person and: (1) Such other person is thirteen years of age or older but under sixteen years of age and the actor is more than three years older than such other person; or (2) such other person is impaired</p>	
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			<p>because of mental disability or disease to the extent that such other person is unable to consent to such sexual intercourse; or (3) such other person is physically helpless; or (4) such other person is less than eighteen years old and the actor is such person's guardian or otherwise responsible for the general supervision of such person's welfare; or (5) such other person is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over such other person; or (6) the actor is a psychotherapist and such other person is (A) a patient of the actor and the sexual intercourse occurs during the psychotherapy session, (B) a patient or former patient of the actor and such patient or former patient is emotionally dependent upon the actor, or (C) a patient or former patient of the actor and the sexual intercourse occurs by means of therapeutic deception; or (7) the actor accomplishes the sexual intercourse by means of false representation that the sexual intercourse is for a bona fide medical purpose by a health care professional; or (8) the actor is a school employee and such other person is a student enrolled in a school in which the actor works or a school under the jurisdiction of the local or regional board of education which employs the actor; or (9) the actor is a coach in an athletic activity or a person who provides intensive, ongoing instruction</p>	
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			<p>and such other person is a recipient of coaching or instruction from the actor and (A) is a secondary school student and receives such coaching or instruction in a secondary school setting, or (B) is under eighteen years of age; or (10) the actor is twenty years of age or older and stands in a position of power, authority or supervision over such other person by virtue of the actor's professional, legal, occupational or volunteer status and such other person's participation in a program or activity, and such other person is under eighteen years of age; or (11) such other person is placed or receiving services under the direction of the Commissioner of Developmental Services in any public or private facility or program and the actor has supervisory or disciplinary authority over such other person.</p> <p>(a) A person is guilty of sexual assault in the third degree when such person (1) compels another person to submit to sexual contact (A) by the use of force against such other person or a third person, or (B) by the threat of use of force against such other person or against a third person, which reasonably causes such other person to fear physical injury to himself or herself or a third person, or (2) engages in sexual intercourse with another person whom the</p>	
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			<p>actor knows to be related to him or her within any of the degrees of kindred specified in section 46b-21.</p> <p>(a) A person is guilty of sexual assault in the third degree with a firearm when such person commits sexual assault in the third degree as provided in section 53a-72a, and in the commission of such offense, such person uses or is armed with and threatens the use of or displays or represents by such person's words or conduct that such person possesses a pistol, revolver, machine gun, rifle, shotgun or other firearm. No person shall be convicted of sexual assault in the third degree and sexual assault in the third degree with a firearm upon the same transaction but such person may be charged and prosecuted for both such offenses upon the same information.</p>	
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<p>Fondling</p>	<p>The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity</p>	<p>Fondling is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.</p>	<p>(a) A person is guilty of sexual assault in the fourth degree when: (1) Such person subjects another person to sexual contact who is (A) under thirteen years of age and the actor is more than two years older than such other person, or (B) thirteen years of age or older but under fifteen years of age and the actor is more than three years older than such other person, or (C) mentally incapacitated or impaired because of mental disability or disease to the extent that such other person is unable to consent to such sexual contact, or (D) physically helpless, or (E) less than eighteen years old and the actor is such other person's guardian or otherwise responsible for the general supervision of such other person's welfare, or (F) in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over such other person; or (2) such person subjects another person to sexual contact without such other person's consent; or (3) such person engages in sexual contact with an animal or dead body; or (4) such person is a psychotherapist and subjects another person to sexual contact who is (A) a patient of the actor and the sexual contact occurs during the psychotherapy session, or (B) a patient or former patient of the actor and such patient or former patient is emotionally dependent upon the actor, or (C) a patient or former patient of the actor</p>	<p>Thus, it seems NIBRS' definition of Rape is narrower than the Clery Handbook's. However, the regulations appear not to be overly concerned with the potential bias in the application of these definitions. They acknowledge that it is possible for the same assaultive act to be classified differently based on the sex of the victim. <i>See</i> 85 Fed Reg. 30,176. Because any of these acts fall under the larger umbrella of "Sexual Assault," these potential differences should not change the overall outcome that a report of such behavior would mandate a response. Institutions should use caution here as many approaches tie available sanctions to the gravity of the proven offense. Here, using such a standard sanctioning scheme could lead to inequity in the resulting standards of nonconsensual oral sex against individuals of different sexes/genders.</p> <p>The definitions of Fondling in UCR NIBRS and the Clery Handbook are identical.</p>
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			<p>and the sexual contact occurs by means of therapeutic deception; or (5) such person subjects another person to sexual contact and accomplishes the sexual contact by means of false representation that the sexual contact is for a bona fide medical purpose by a health care professional; or (6) such person is a school employee and subjects another person to sexual contact who is a student enrolled in a school in which the actor works or a school under the jurisdiction of the local or regional board of education which employs the actor; or (7) such person is a coach in an athletic activity or a person who provides intensive, ongoing instruction and subjects another person to sexual contact who is a recipient of coaching or instruction from the actor and (A) is a secondary school student and receives such coaching or instruction in a secondary school setting, or (B) is under eighteen years of age; or (8) such person subjects another person to sexual contact and (A) the actor is twenty years of age or older and stands in a position of power, authority or supervision over such other person by virtue of the actor's professional, legal, occupational or volunteer status and such other person's participation in a program or activity, and (B) such other person is under eighteen years of age; or (9) such person subjects another person to sexual</p>	
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			contact who is placed or receiving services under the direction of the Commissioner of Developmental Services in any public or private facility or program and the actor has supervisory or disciplinary authority over such other person.	
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Sex Offenses, Non-Forcible Unlawful, non-forcible sexual intercourse	<p>Incest</p> <p>Non-Forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law</p>	<p>Incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. Count one offense per victim.</p>	See Sexual Assault in the 3 rd Degree	The definitions of Incest in UCR NIBRS and the Clery Handbook are identical apart from NIBRS' "non-forcible" designation.
Statutory Rape	<p>Non-Forcible sexual intercourse with a person who is under the statutory age of consent</p> <p>There is no force or coercion used in Statutory Rape; the act is not an attack.”</p> <p>Criminal Justice Information Services Division Uniform Crime Reporting Program, 2019 <i>National Incident- Based Reporting System User Manual</i> 41-42 (2018) https://ucr.fbi.gov/nibrs/nibr-s-user-manual.</p>	<p>Statutory Rape is sexual intercourse with a person who is under the statutory age of consent. Count one offense per victim.</p> <p>U.S. DEP'T OF EDUC. OFF. OF POSTSECONDARY EDUC., THE HANDBOOK FOR CAMPUS SAFETY AND SECURITY REPORTING 3-6 to 3-7(2016), https://www2.ed.gov/admins/lead/safety/handbook.pdf.</p>	See Sexual Assault in the 2 nd Degree	The definitions of Statutory Rape in UCR NIBRS and the Clery Handbook differ only in that NIBRS specifies that Statutory Rape is non-forcible.

<p>Dating Violence</p>	<p>“‘dating violence’ as defined in 34 U.S.C. 12291(a)(10)” 34 C.F.R. §106.30.</p> <p style="text-align: center;">↓</p> <p>“Dating violence The term “dating violence” means violence committed by a person-- (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:(i) The length of the relationship. (ii) The type of relationship (iii) The frequency of interaction between the persons involved in the relationship.”</p> <p>34 U.S.C. 12291(a)(10).</p>	<p>“Dating Violence is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.</p> <p>For the purposes of this definition— Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.”</p> <p>U.S. DEP’T OF EDUC. OFF. OF POSTSECONDARY EDUC., THE HANDBOOK FOR CAMPUS SAFETY AND SECURITY REPORTING 3-36 to 3-37(2016), https://www2.ed.gov/ad</p>	<p>(1) “Family violence” means an incident resulting in physical harm, bodily injury or assault, or an act of threatened violence that constitutes fear of imminent physical harm, bodily injury or assault, including, but not limited to, stalking or a pattern of threatening, between family or household members. Verbal abuse or argument does not constitute family violence unless there is present danger and the likelihood that physical violence will occur.</p> <p>(2) “Family or household member” means any of the following persons, regardless of the age of such person: (A) Spouses or former spouses; (B) parents or their children; (C) persons related by blood or marriage; (D) persons other than those persons described in subparagraph (C) of this subdivision presently residing together or who have resided together; (E) persons who have a child in common regardless of whether they are or have been married or have lived together at any time; and (F) persons in, or who have recently been in, a dating relationship.</p> <p>(3) “Family violence crime” means a crime as defined in section 53a-24, other than a delinquent act, as defined in section 46b-120, which, in addition to its other elements, contains as an element thereof an act of family violence to a family or household member. “Family violence crime” does not include acts by parents or guardians disciplining minor</p>	<p>The definitions are incredibly similar. The noticeable difference is that Clery specifies that it is the reporting party’s statement as to the three considerations which will be used. 34 U.S.C. 12291 does not indicate which account of the considerations will be used in the determination.</p>
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<p>Domestic Violence</p>	<p>“domestic violence’ as defined in 34 U.S.C. 12291(a)(8)” 34 C.F.R. §106.30.</p> <p style="text-align: center;">↓</p> <p>“Domestic violence The term “domestic violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.” 34 U.S.C. 12291(a)(8).</p>	<p>“Domestic Violence is defined as a felony or misdemeanor crime of violence committed—</p> <ul style="list-style-type: none"> • By a current or former spouse or intimate partner of the victim; • By a person with whom the victim shares a child in common; • By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; • By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; • By any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of 	<p>See Above</p>	<p>The definitions are practically identical. In identifying the relevant jurisdiction, 34 U.S.C. 12291 mentions where funding is received, whereas the Clery Handbook specifies the jurisdiction as where the crime occurred. This is the only difference.</p>
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To categorize an incident as Domestic Violence, the relationship between the perpetrator and the victim must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship. ”

U.S. DEP'T OF EDUC. OFF. OF POSTSECONDARY EDUC., THE HANDBOOK FOR CAMPUS SAFETY AND SECURITY REPORTING 3-37 to 3-38(2016), <https://www2.ed.gov/admins/lead/safety/handbook.pdf>.

<p>Stalking</p>	<p>“‘stalking’ as defined in 34 U.S.C. 12291(a)(30)” 34 C.F.R. §106.30.</p> <p style="text-align: center;">↓</p> <p>“Stalking The term “stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to-- (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress.” 12291(a)(30)</p>	<p>“Stalking is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to—</p> <ul style="list-style-type: none"> • Fear for the person’s safety or the safety of others; or • Suffer substantial emotional distress. <p>For the purposes of this definition—</p> <ul style="list-style-type: none"> • Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property. • Reasonable person means a reasonable person under similar circumstances 	<p>(a) A person is guilty of stalking in the first degree when such person commits stalking in the second degree as provided in section 53a-181d and (1) such person has previously been convicted of a violation of section 53a-181d, or (2) such conduct violates a court order in effect at the time of the offense, or (3) the other person is under sixteen years of age.</p> <p>(a) For the purposes of this section, “course of conduct” means two or more acts, including, but not limited to, acts in which a person directly, indirectly or through a third party, by any action, method, device or means, including, but not limited to, electronic or social media, (1) follows, lies in wait for, monitors, observes, surveils, threatens, harasses, communicates with or sends unwanted gifts to, a person, or (2) interferes with a person's property, and “emotional distress” means significant mental or psychological suffering or distress that may or may not require medical or other professional treatment or counseling.</p> <p>(b) A person is guilty of stalking in the second degree when:</p> <p>(1) Such person knowingly engages in a</p>	<p>The definitions are functionally identical. The Clery Handbook is gender-neutral, however.</p>
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and with similar identities to the victim.

- Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.

U.S. DEP'T OF EDUC. OFF. OF POSTSECONDARY EDUC., THE HANDBOOK FOR CAMPUS SAFETY AND SECURITY REPORTING3-38 to 3-39(2016), <https://www2.ed.gov/admins/lead/safety/handbook.pdf>.

course of conduct directed at a specific person that would cause a reasonable person to (A) fear for such person's physical safety or the physical safety of a third person, or (B) suffer emotional distress; or

(2) Such person intentionally, and for no legitimate purpose, engages in a course of conduct directed at a specific person that would cause a reasonable person to fear that such person's employment, business or career is threatened, where (A) such conduct consists of the actor telephoning to, appearing at or initiating communication or contact at such other person's place of employment or business, provided the actor was previously and clearly informed to cease such conduct, and (B) such conduct does not consist of constitutionally protected activity.

(a) A person is guilty of stalking in the third degree when such person recklessly causes another person to reasonably (1) fear for his or her physical safety, or (2) suffer emotional distress, as defined in section 53a-181d, by wilfully and

			repeatedly following or lying in wait for such other person.	
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Sec. 10a-55m. Sexual assault, stalking and intimate partner violence policies. Affirmative consent. Prevention and awareness programming and campaigns. Anonymous reporting and disclosure. Notification of victim's rights and options. Report. (a) For purposes of this section and sections 10a-55n to 10a-55q, inclusive:

(1) "Affirmative consent" means an active, clear and voluntary agreement by a person to engage in sexual activity with another person;

(2) "Awareness programming" means institutional action designed to inform the campus community of the affirmative consent standard used pursuant to subdivision (1) of subsection (b) of this section, and communicate the prevalence of sexual assaults, stalking and intimate partner violence, including the nature and number of cases of sexual assault, stalking and intimate partner violence reported at or disclosed to each institution of higher education in the preceding three calendar years, including, but not limited to, poster and flyer campaigns, electronic communications, films, guest speakers, symposia, conferences, seminars or panel discussions;

(3) "Bystander intervention" means the act of challenging the social norms that support, condone or permit sexual assault, stalking and intimate partner violence;

(4) "Institution of higher education" means an institution of higher education, as defined in section 10a-55, and a for-profit institution of higher education licensed to operate in this state, but shall not include Charter Oak State College for purposes of subsections (c) and (f) of this section and sections 10a-55n to 10a-55p, inclusive;

(5) "Intimate partner violence" means any physical or sexual harm against an individual by a current or former spouse of or person in a dating relationship with such individual that results from any action by such spouse or such person that may be classified as a sexual assault under section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a, 53a-72b or 53a-73a, stalking under section 53a-181c, 53a-181d or 53a-181e, or family violence as designated under section 46b-38h;

(6) "Primary prevention programming" means institutional action and strategies intended to prevent sexual assault, stalking and intimate partner violence before it occurs by means of changing social norms and other approaches, including, but not limited to, poster and flyer campaigns, electronic communications, films, guest speakers, symposia, conferences, seminars or panel discussions;

(7) "Sexual assault" means a sexual assault under section 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or 53a-73a;

(8) "Stalking" means stalking under section 53a-181c, 53a-181d or 53a-181e; and

(9) "Uniform campus crime report" means a campus crime report prepared by an institution of higher education pursuant to section 10a-55a.

(b) Each institution of higher education shall adopt and disclose in such institution's annual uniform campus crime report one or more policies regarding sexual assault, stalking and intimate partner violence. Such policy or policies shall include provisions for:

(1) Informing students and employees that, in the context of an alleged violation of the policy or policies regarding sexual assault and intimate partner violence, (A) affirmative consent is the standard used in determining whether consent to engage in sexual activity was given by all persons who engaged in the sexual activity, (B) affirmative consent may be revoked at any time during the sexual activity by any person engaged in the sexual activity, (C) it is the responsibility of each person to ensure that he or she has the affirmative consent of all persons engaged in the sexual activity to engage in the sexual activity and that the affirmative consent is sustained throughout the sexual activity, (D) it shall not be a valid excuse to an alleged lack of affirmative consent that the student or employee responding to the alleged violation believed that the student or employee reporting or disclosing the alleged violation consented to the sexual activity (i) because the responding student or employee was intoxicated or reckless or failed to take reasonable steps to ascertain whether the student or employee reporting or disclosing the alleged violation affirmatively consented, or (ii) if the responding student or employee knew or should have known that the student or employee reporting or disclosing the alleged violation was unable to consent because such student or employee was unconscious, asleep, unable to communicate due to a mental or physical condition, or incapacitated due to the influence of drugs, alcohol or medication, and (E) the existence of a past or current dating or sexual relationship between the student or employee reporting or disclosing the alleged violation and the responding student or employee, in and of itself, shall not be determinative of a finding of affirmative consent;

(2) Detailing the procedures that students and employees of the institution who report or disclose being the victim of sexual assault, stalking or intimate partner violence may follow after the commission of such assault, stalking or violence, regardless of where such incidences occurred, including persons or agencies to contact and information regarding the importance of preserving physical evidence of such assault, stalking or violence;

(3) Providing students and employees of the institution who report or disclose being the victim of sexual assault, stalking or intimate partner violence both concise, written contact information for and, if requested, professional assistance in accessing and utilizing campus, local advocacy, counseling, health and mental health services, and concise information, written in plain language, concerning the rights of such students and employees to (A) notify law enforcement of such assault, stalking or violence and receive assistance from campus authorities in making any such notification, and (B) obtain a protective order, apply for a temporary restraining order or seek enforcement of an existing protective or restraining order, including, but not limited to, orders issued pursuant to section 46b-15, 46b-38c, 53a-40e, 54-1k, 54-82q or 54-82r, against the perpetrator of such assault, stalking or violence;

(4) Notifying such students and employees of any reasonably available options for and available assistance from such institution in changing academic, living, campus transportation or working situations in response to such assault, stalking or violence;

(5) Honoring any lawful protective or temporary restraining orders, including, but not limited to, orders issued pursuant to section 46b-15, 46b-38c, 53a-40e, 54-1k, 54-82q or 54-82r;

(6) Disclosing a summary of such institution's student investigation and disciplinary procedures,

including clear statements advising that (A) a student or employee who reports or discloses being a victim of such assault, stalking or violence shall have the opportunity to request that an

investigation begin promptly, (B) the investigation and any disciplinary proceedings shall be conducted by an official trained annually in issues relating to sexual assault, stalking and intimate partner violence and shall use the preponderance of the evidence standard in making a determination concerning the alleged assault, stalking or violence, (C) both the student or employee who reports or discloses the alleged assault, stalking or violence and the student responding to such report or disclosure (i) are entitled to be accompanied to any meeting or proceeding relating to the allegation of such assault, stalking or violence by an advisor or support person of their choice, provided the involvement of such advisor or support person does not result in the postponement or delay of such meeting as scheduled, and (ii) shall have the opportunity to present evidence and witnesses on their behalf during any disciplinary proceeding, (D) both the student or employee reporting or disclosing the alleged assault, stalking or violence and such responding student are entitled to be informed in writing of the results of any disciplinary proceeding not later than one business day after the conclusion of such proceeding, (E) the institution of higher education shall not disclose the identity of any party to an investigation or disciplinary proceeding, except as necessary to carry out the investigation or disciplinary proceeding or as permitted under state or federal law, and (F) a standard of affirmative consent is used in determining whether consent to engage in sexual activity was given by all persons who engaged in the sexual activity;

(7) Disclosing a summary of such institution's employee investigation and disciplinary procedures, including clear statements advising that a standard of affirmative consent is used in determining whether consent to engage in sexual activity was given by all persons who engaged in the sexual activity; and

(8) Disclosing the range of sanctions that may be imposed following the implementation of such institution's student and employee disciplinary procedures in response to such assault, stalking or violence.

(c) Each institution of higher education shall provide (1) annual sexual assault, stalking and intimate partner violence primary prevention and awareness programming for all students and employees that includes an explanation of the definition of affirmative consent in sexual relationships, information concerning the reporting of incidences of such assaults, stalking and violence and strategies for bystander intervention and risk reduction; and (2) ongoing sexual assault, stalking and intimate partner violence prevention and awareness campaigns.

(d) Each institution of higher education may provide the option for any student or employee of such institution who is the victim of a sexual assault, stalking or intimate partner violence to report or disclose such assault, stalking or violence to such institution anonymously. Each such institution shall notify any such student or employee of the institution's obligations under state or federal law, if any, to (1) investigate or address such assault, stalking or violence and (2) assess whether the report triggers the need for a timely warning or emergency notification, as described in 34 CFR 668.46(e), which obligations, in limited circumstances, may result in the learning of such victim's identity.

(e) Each institution of higher education shall provide concise notification, written in plain language, to each student and employee of such institution who reports or discloses having been the victim of sexual assault, stalking or intimate partner violence, immediately upon receiving a

report or disclosure of such assault, stalking or violence, of such student's or employee's rights and options under such institution's policy or policies regarding sexual assault, stalking and intimate partner violence adopted in accordance with subsection (b) of this section.

(f) Not later than October 1, 2015, and annually thereafter, each institution of higher education shall report to the joint standing committee of the General Assembly having cognizance of matters relating to higher education, in accordance with the provisions of section 11-4a, concerning, for the immediately preceding calendar year, (1) a copy of its most recent policies regarding sexual assault, stalking and intimate partner violence adopted in accordance with subsection (b) of this section, or any revisions thereto, (2) a copy of its most recent concise written notification of the rights and options of a student or employee who reports or discloses an alleged violation of its sexual assault, stalking and intimate partner violence policy or policies required pursuant to subsection (e) of this section, (3) the number and type of sexual assault, stalking and intimate partner violence prevention, awareness and risk reduction programs at the institution, (4) the type of sexual assault, stalking and intimate partner violence prevention and awareness campaigns held by the institution, (5) the number of incidences of sexual assault, stalking and intimate partner violence reported or disclosed to such institution, (6) the number of confidential or anonymous reports or disclosures to the institution of sexual assault, stalking and intimate partner violence, (7) the number of disciplinary cases at the institution related to sexual assault, stalking and intimate partner violence, and (8) the final outcome of all disciplinary cases at the institution related to sexual assault, stalking and intimate partner violence, including, but not limited to, the outcome of any appeals of such final outcome, to the extent reporting on such outcomes does not conflict with federal law.

(g) Nothing in this section shall be interpreted to prohibit Charter Oak State College from providing, either in person or electronically, optional sexual assault, stalking and intimate partner violence prevention and awareness programming for all students and employees of said college.

(h) Nothing in this section shall be interpreted as requiring an institution of higher education to adopt, verbatim, the definition of "affirmative consent" set forth in subsection (a) of this section, provided the institution of higher education, in the exercise of its sole authority to adopt a definition of "affirmative consent", uses a definition of "affirmative consent" that has the same meaning as or a meaning that is substantially similar to the definition set forth in subsection (a) of this section.

Sec. 10a-55n. Campus resource team. (a) Not later than January 1, 2015, each institution of higher education shall establish a campus resource team responsible for and with representatives from each of its campuses. The campus resource team shall consist of individuals selected by the president of each institution of higher education, including, but not limited to, (1) the institution's Title IX coordinator and chief student affairs officer, or their designees, (2) not less than one member from its (A) administration, (B) counseling services office, (C) health services office, (D) women's center, (E) special police force, campus police force or campus safety personnel, (F) faculty, (G) senior and mid-level staff, (H) student body, (I) residential life office, and (J) judicial hearing board, provided such entities exist on campus, and (3) any other individuals designated by the president.

(b) Not later than January 1, 2015, the president of each institution of higher education shall invite at least one individual from each of the following to serve on its campus resource team: (1) A community-based sexual assault crisis service center; (2) a community-based domestic violence agency; and (3) the criminal justice system within the judicial district in which such institution of higher education is located, including, but not limited to, members of the state police and local police department and prosecutors employed by the Division of Criminal Justice.

(c) Each institution of higher education shall ensure that every member of the campus resource team is educated in (1) the awareness and prevention of sexual assault, stalking and intimate partner violence, and communicating with and providing assistance to any student or employee of the institution who is the victim of such assault, stalking or violence; (2) the sexual assault, stalking and intimate partner violence policies of such college or institution; (3) the provisions of Title IX of the Elementary and Secondary Education Act of 1972, 20 USC 1681 et seq., and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 USC 1092(f); (4) victim-centered response and the role of community-based sexual assault victim advocates; (5) the role and functions of each member on such campus resource team for the purpose of ensuring a coordinated response to reported incidences of sexual assault, stalking and intimate partner violence, as such terms are defined in section 10a-55m; and (6) communicating sensitively and compassionately with the victims of such assault, stalking or violence, including, but not limited to, an awareness of responding to victims with diverse cultural backgrounds, and providing services to or assisting in locating services for such victims. For purposes of this subsection, "victim-centered response" means a systematic focus on the needs and concerns of a victim of sexual assault, stalking or intimate partner violence that (A) ensures the compassionate and sensitive delivery of services in a nonjudgmental manner, (B) ensures an understanding of how trauma affects victim behavior, (C) maintains victim safety, privacy and, where possible, confidentiality, and (D) recognizes that victims are not responsible for the assault, stalking or violence committed against them.

(d) Not later than July 1, 2015, the campus resource team shall review the sexual assault, stalking and intimate partner violence policies adopted by its institution of higher education in accordance with section 10a-55m and recommend to such institution protocols in accordance with such policies for providing support and services to any student or employee who reports being the victim of sexual assault, stalking or intimate partner violence. Such team shall meet not less than once per semester to review such protocols and ensure that they are updated as necessary.

Sec. 10a-55o. Memorandum of understanding with community-based sexual assault crisis service center and domestic violence agency. Not later than January 1, 2015, each institution of higher education shall enter into and maintain a memorandum of understanding with at least one community-based sexual assault crisis service center and at least one community-based domestic violence agency for purposes of (1) ensuring that any student or employee of such institution who reports or discloses being the victim of sexual assault, stalking or intimate partner violence can access free and confidential counseling and advocacy services, either on or off campus, and (2) establishing a partnership with such service center and agency, including, but not limited to, (A) involvement of the institution's campus resource team, and (B) trainings between the institution and such service center and agency to ensure the understanding of each other's role in

responding to reports and disclosures of sexual assault, stalking and intimate partner violence against students and employees of the institution and the institution's protocols for providing support and services to such students and employees, developed pursuant to section 10a-55m.

Sec. 10a-55p. Education of Title IX coordinator and special police force or campus safety personnel in awareness and prevention of sexual assault, stalking and intimate partner violence and in trauma-informed response. (a) Each institution of higher education shall ensure that its Title IX coordinator and members of its special police force, campus police force or campus safety personnel employed by such institution of higher education are educated in the awareness and prevention of sexual assault, stalking and intimate partner violence, and in trauma-informed response.

(b) For purposes of this section, "trauma-informed response" means a response involving an understanding of the complexities of sexual assault, stalking and intimate partner violence through training centered on the neurobiological impact of trauma, the influence of societal myths and stereotypes surrounding the causes and impact of trauma, understanding the behavior of perpetrators and conducting an effective investigation on behalf of victims who have suffered trauma.