



STETSON LAW

Center for Higher Education Law

***Dating and Domestic Violence,
Threat Assessment,
and Emergency Removals
on College Campuses***

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GRAND RIVER | SOLUTIONS

Meet Your Facilitators



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SCOPE OF THE PROBLEM

Dating and domestic violence are common amongst the general population, with college students experiencing increased risks.

- 1 in 4 women and 1 in 9 men experience severe intimate partner violence, including physical and sexual violence
- 1 in 7 women and 1 in 18 men have been stalked by an intimate partner during their lifetime to the point in which they felt very fearful or believed that they or someone close to them would be harmed or killed
- According to the National Domestic Violence Hotline, almost one in three college women has been the victim of dating abuse, and 43 percent report being subjected to violent or abusive dating behaviors by a partner

Data courtesy of RAINN

TITLE IX APPLICATION (POST-MAY 2020)

Type of Conduct

- Hostile Environment
- Sexual Harassment
- Quid Pro Quo
- Sexual Assault
- Dating/Domestic Violence
- Stalking

Ed Program or Activity

- On campus
- Campus Program, Activity, or Building
- In the United States

Required Identity

- Complainant is participating or attempting to participate in the Ed Program or activity
- Institution has control over Respondent

Required Response:

Section 106.45
Procedures

VIOLENCE AGAINST WOMEN ACT (VAWA)

Applies in cases of sexual assault, dating/domestic violence, stalking

On campus or off campus

Specific procedural protections

Must provide initial information on rights and resources

5-year lookback, potentially

Brochures, on website, in ASR – get the information to your community

VAWA PROCEDURAL REQUIREMENTS

- Written notice of rights, including option to notify law enforcement or NOT notify law enforcement, right to no contact directives
- Advisor of choice
- Written outcome, notified “simultaneously”
- Equal access to appeals
- Written notice of any change to results of outcome, and when outcome is final
- Record keeping that excludes personally-identifiable information
- Prevention programming (foster healthy, mutually-respectful relationships and bystander interventions)

DEFINITION: DOMESTIC VIOLENCE

- Violence, because of sex, 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: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

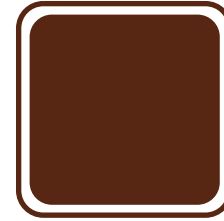
DEFINITION: DATING VIOLENCE

Violence committed by a person, who is in or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant'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. 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.

DEFINITION: STALKING

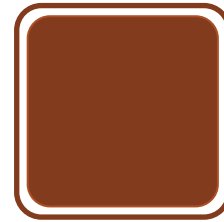
- Engaging in a course of conduct directed at a specific person, that would cause a reasonable person to fear for the person's safety, or the safety of others, or suffer substantial emotional distress.
- For the purposes of this definition, "course of conduct" means two or more acts, including, but not limited to:
 - Acts in which the Respondent 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 and with similar identities to the Complainant.
 - Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

RECEIVING A REPORT OF INTERPERSONAL VIOLENCE



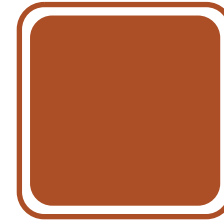
Outreach

Be mindful of how you explain why you are reaching out



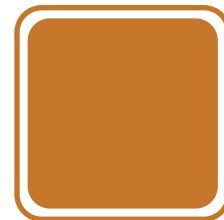
Offer support

Including options for resolution, how to file, support measures



If you get a response

Intake



If no response

Doing nothing is never best response

LEVEL 1 ASSESSMENT

- Location (On campus? Off campus?)
- Clery reportable?
- Supportive measures?
- Does this fall within Title IX?
- Do you need to move forward without complainant's Formal Complaint?
- What am I hearing that leads me to think about Emergency Removal or Threat Assessment?

LEVEL 2 ASSESSMENT

- Types of harm being experienced: Emotional? Physical? Weapons? Threats?
- Duration
- Is harm accelerating or cycle shortening?
- Was there a precipitating incident?
- What do I know about access to weapons

WHAT IS EMERGENCY REMOVAL?

- If the case falls within jurisdiction of Title IX 2020 Regulations, high bar for **STUDENT** removal
- Immediate and identified threat of physical harm to one or more persons
- Arising from conduct defined in 2020 Regs
- Not a sanction nor a determination of responsibility
- Cannot be based on speculation or assumptions
- Persons making determination must be free of bias/conflict of interest
- Written notice and right to immediate challenge

EMERGENCY REMOVAL PROCESS

Can re-review if facts
change

Conduct prompt, individualized safety and risk analysis

Analysis must confirm immediate threat compelling emergency removal

Post-incident conduct can be included in analysis

Look only at immediate threats to physical health and safety, not emotional health

Can take place whether or not investigation is already under way

Must consider Respondent's ability to carry out the threat

Are there other supportive measures that could be put in place instead?

THREAT ASSESSMENT

Not limited to Title IX cases

Individualized
assessment

Goal is to gather information and
determine level of threat, whether steps
can be taken to reduce threat level

Might involve
law
enforcement,
campus safety,
trained forensic
psychologists

Might result in
removal from
campus, but in
most cases this is
not the result

Requires
individual and
group/team
training

BEST PRACTICES IN THREAT ASSESSMENTS

- Get trained by professionals
- Know when to call someone in to help make difficult decisions
- Have a “strike team” ready to triage cases at all times, for urgent situations
- Remember threats are not just from students – faculty, staff, visitors all need to be considered in threat assessment processes
- Moving forward to open a case can be a precipitating incident
- Sometimes keeping connected to Respondent (i.e., they are still employed or enrolled) enables better monitoring

THREAT ASSESSMENT AND RELATIONSHIP VIOLENCE CASES

- Think about increased dangers when sending notice of investigation
- Before sending out Notice of Investigation, take a pause to consider:
 - Might the sending of the notice result in increased harm?
 - Is a full threat assessment appropriate before you proceed?
 - What can you do to increase safety for the Complainant? For the campus?
 - What other information might you need before you proceed?

BEST PRACTICES

Gather with threat assessment and emergency removal assessment teams to develop protocols for interpersonal violence cases



Meet with triage team or full threat assessment team to talk through interpersonal violence cases before sending a notice letter



Develop individualized contact protocols for each complainant (email, phone might be monitored)



Consult with experts for safety planning

