



# Clery Center's Clery Act Fundamentals: Title IX-related Content

## **NOTICE OF APPROVED USE**

As a way to support institutions in their efforts to comply with section 106.45 of the final Title IX Rules, Clery Center has compiled all relevant Title IX training materials from Clery Act Fundamentals into one comprehensive document.

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Clery Center embraces a multi-disciplinary approach to Clery Act compliance and recognizes there are areas wherein the Clery Act and Title IX intersect. However, we believe that only some training content could be interpreted as Title IX training. As such, institutions requesting materials used in the training of “Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process” are only permitted to download and share this document in the format provided, with Clery Center logo and branding intact and unchanged. Individuals and/or institutions are not authorized to alter, copy, adapt, crop, or otherwise change the materials in any way, nor may they use the materials for training or for any commercial purpose unless expressly provided to the institution by Clery Center for that purpose.



# Clery Act Fundamentals

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# ACCOMMODATIONS & MEASURES

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## THE CLERY ACT

- Accommodations
- Must be provided in writing
- Options for, available assistance in, and how to request changes to:
  - Academic
  - Living
  - Transportation
  - Working
  - Protective Measures
- If requested by the victim
- If reasonably available
- Regardless of whether the victim chooses to report to campus police or local law enforcement

## TITLE IX

- Supportive Measures
- Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge
- To the complainant or the respondent
- Before or after the filing of a formal complaint or where no formal complaint has been filed

# DISCIPLINARY PROCESS

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## THE CLERY ACT

- Prompt, fair, and impartial
- Describe the standard of evidence
- Be conducted by officials who receive annual training
- Advisor of choice
- Simultaneous notification of results

## TITLE IX

- Prompt and equitable
- Regulations inform standard of evidence
- Annual training requirements
- Advisor of choice with role in cross-examination
- Simultaneous notification of results

# STANDARD OF EVIDENCE

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## THE CLERY ACT

- Must describe the standard of evidence that will be used

## TITLE IX

- Must state whether institution uses preponderance of the evidence or clear and convincing
- Must be same standard for formal complaints against students as for formal complaints against employees
- Must apply same standard of evidence to all formal complaints of sexual harassment

# SANCTIONS & REMEDIES

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## THE CLERY ACT

- Must list all possible sanctions
- Must describe range of protective measures

## TITLE IX

- Must describe range of sanctions, but...
- Must describe range of remedies

# TRAINING

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## THE CLERY ACT

- Proceedings must be conducted by officials who receive annual training on:
  - Issues related to dating violence, domestic violence, sexual assault, and stalking
  - How to conduct an investigation and hearing process that protects the safety of victims and promotes accountability

## TITLE IX

- Individuals involved in process must receive training on specific topics listed in regulations
- Must make training materials publicly available on the institution's website (or if no website, available upon request for inspection)

# ADVISOR OF CHOICE

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## THE CLERY ACT

- Both parties must have same opportunities to be accompanied by an advisor of choice
- May not limit choice of advisor
- Allows institutions to establish restrictions on how the advisor may participate as long as applied equally to both parties

## TITLE IX

- Both parties notified that they may have an advisor of choice who may, but is not required to be, an attorney
- Responsible for conducting cross-examination (directly, orally, and in real time)
- Must be included in party's receipt of evidence and investigator's report
- May also serve as witness
- If no advisor, institution must provide one to conduct cross-examination (institution's choice, does not have to be an attorney, but...)



# NOTICE OF OUTCOME

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## THE CLERY ACT

- Simultaneous notification in writing of:
  - Result of any institutional disciplinary proceeding
  - Procedures for accused and victim to appeal the result, if such procedures are available
  - Any change to the result
  - When such results become final
- Must include rationale for the results and the sanctions

## TITLE IX

- Simultaneous written determination, including:
  - Allegations potentially constituting sexual harassment
  - Procedural steps taken
  - Findings of fact supporting determination
  - Conclusions regarding application of code of conduct to the facts
  - Statement of, and rationale for, the results as to each allegation



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## CLERY CENTER

501 Office Center Drive, Suite 8  
Fort Washington, PA 19034  
484.580.8754

[info@clerycenter.org](mailto:info@clerycenter.org)  
[clerycenter.org](http://clerycenter.org)

Connect with us on social media!  
@Clery Center

