



# Clery Center's Beyond the Basics: Reading the Regs – Part 2: Title IX-related Content

## **NOTICE OF APPROVED USE**

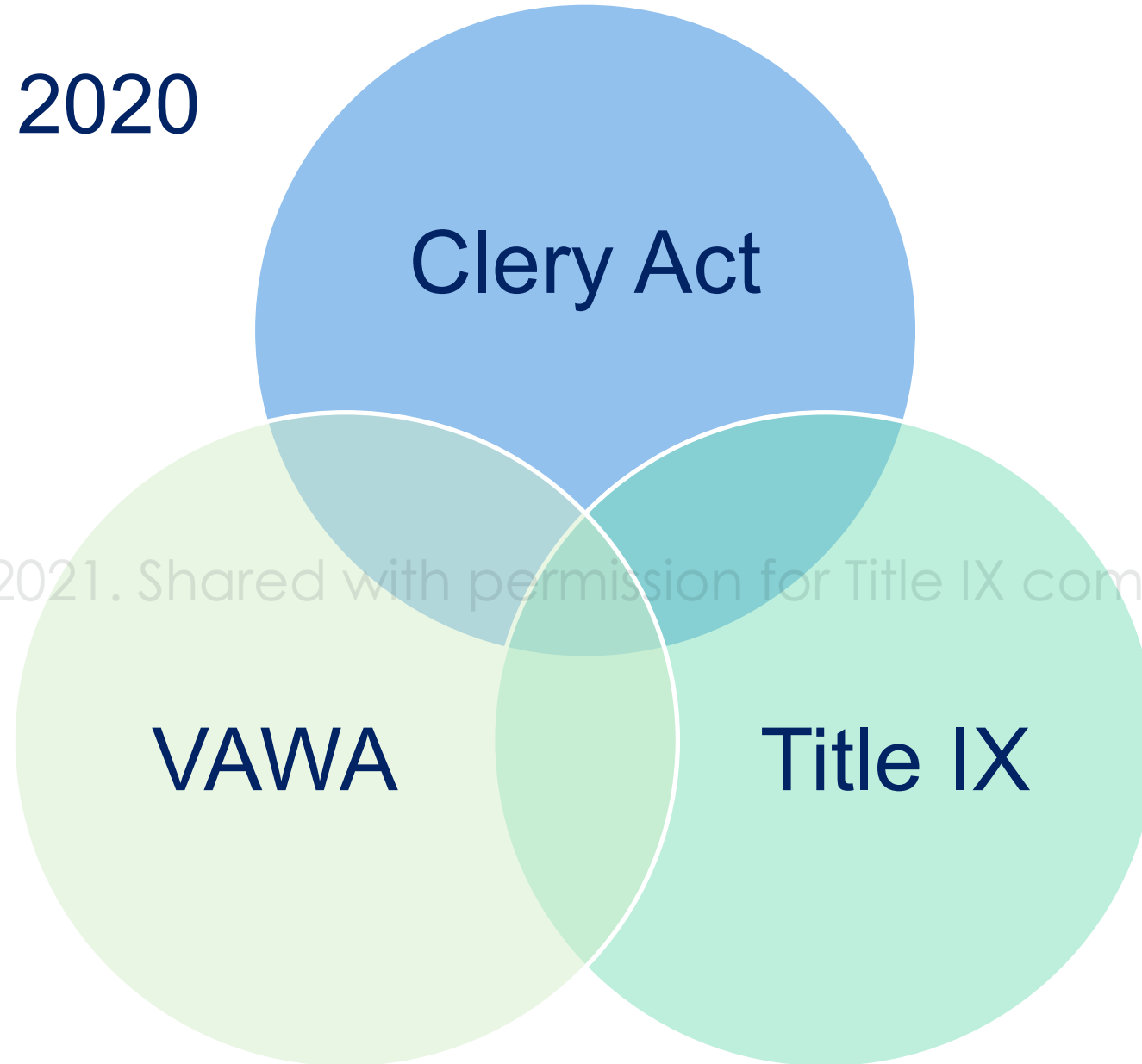
As a way to support institutions in their efforts to comply with section 106.45 of the final Title IX Rules, Clery Center will provide its Title IX-related training materials as appropriate. Clery Center maintains sole discretion over what, if any, materials used during a training, workshop, or other event are applicable.

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.

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# Intersections

AS OF MAY 2020



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# TITLE IX

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- Title IX of the Education Amendments of 1972  
[20 U.S.C. § 1681-1688](#)
- Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance **regulations** in the U.S. Code of Federal Regulations at  
[34 C.F.R. 106](#)
  - Effective August 14, 2020

# DIRECTLY FROM THE REGS

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- "The Department promulgates these final regulations under Title IX and not under the Clery Act...These final regulations do not change, affect, or alter any rights, obligations, or responsibilities under the Clery Act."
- "[Commenters] did not identify a true specific conflict. The Department acknowledges that its Clery Act regulations overlap with these final regulations and impose different requirements in some circumstances."

# INTERSECTIONS BETWEEN THE CLERY ACT AND TITLE IX

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## THE CLERY ACT

- Reporting requirements
- All Clery crimes\*
- Accommodations
- Disciplinary procedures

## TITLE IX

- Reporting requirements
- Sexual harassment\*
- Measures
- Grievance procedures

\*Dating violence, domestic violence, sexual assault, and stalking are Clery crimes and also one of three categories of sexual harassment as of the May 2020 Title IX regulations

# REPORTING REQUIREMENTS

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## THE CLERY ACT

- Broader scope of reporting responsibility
- Non-personally identifiable information (nature, date, time, general location, current disposition)
- All Clery crimes

## TITLE IX

- Higher threshold for a reported incident to be considered “actual knowledge”
- Sexual harassment – one category being DVSAAS as defined under Clery

# WHAT IS CONSIDERED A REPORT TO THE INSTITUTION UNDER TITLE IX?

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- Institutions must respond when the institution has *actual knowledge*, meaning a notice of or allegations of sexual harassment (as previously defined) to:
  - The institution's Title IX coordinator; or
  - Any official...who has the authority to institute corrective measures on behalf of the recipient



# INTERSECTIONS BETWEEN THE CLERY ACT AND TITLE IX

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## THE CLERY ACT

- Clery Act reporting authorities are called **campus security authorities**
  - Campus police/security department
  - Individuals with responsibility for campus security
  - Individuals/organizations specifies in policy as individual or organization to which to report offenses
  - Individuals with significant responsibility for student and campus activities

## TITLE IX

- Institutions may expressly designate specific employees as officials with authority for the purposes of Title IX (“taking into account the...unique educational environment”)

## THE CLERY ACT

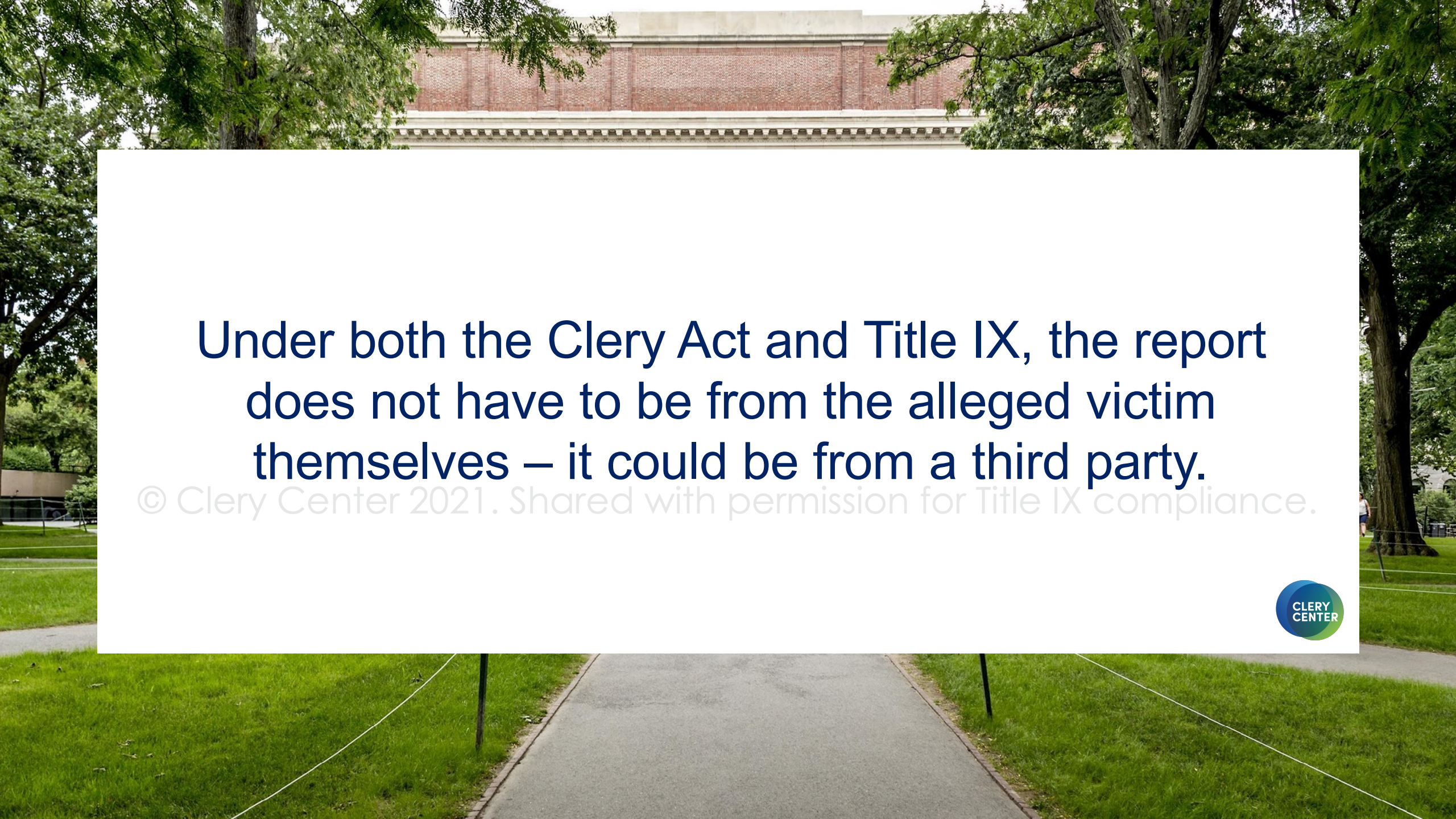
- Clery Act reporting authorities are called **campus security authorities**

## TITLE IX

- If a CSA is considered an official who has the authority to institute corrective measures, then notice to that person constitutes actual knowledge
- ED states that it's "very likely that at least some of the institution's CSAs" have this authority, but does not assume every CSA has this authority

Clery Act Appendix for FSA Handbook **Guidance:**

Clery Act If paragraphs (i)-(iii) of the definition of CSAs are not applicable, institutions should focus on the "significant responsibilities" of an employee when determining whether that employee is a CSA for Clery purposes. *Note* that a CSA for Clery purposes will include employees who meet the definition of "any official...who has the authority to institute corrective measures" for Title IX purposes under 34 CFR 106.30(a).



Under both the Clery Act and Title IX, the report does not have to be from the alleged victim themselves – it could be from a third party.

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