



# Minors on Campus: Title IX and Clery Act Compliance

1<sup>st</sup> Annual Mid-Year Conference

**Adrienne Meador Murray**

Director, Training & Compliance Activities

NACCOP

Vice President, Equity Compliance and Civil Rights Services


DSA

# Session Topics

- Overall-Minors on Campus
- Mandated Reporting
- CSA Reporting Related to Minors
- Title IX Reporting Related to Minors
- K-12 vs. Higher Education
- Scenarios
- Discussions/Q&A

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# MINORS ON CAMPUS

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## Who is a “Minor”?

- A person under the age of 18
  - 21 years of age in Mississippi, Pennsylvania and Puerto Rico
  - 19 in Alabama and Nebraska
- Special provisions related to:
  - Parent of a child of their own?
  - Living in an institutionally owned facility?
- Check laws of the jurisdiction in which the minor would be present to determine
- Pay special attention to institutions that have campuses in more than one state as your policies and procedures may need to differ.

# Facts



“Child sexual abuse is a crime that happens across race, religion and class and has lifetime effects. It includes any interaction between a child and an adult (or another child) in which the child is used for the sexual stimulation of the perpetrator or an observer. Child sexual abuse is often predicated on silencing the victim, and as a result, reporting and disclosure is low. Even without knowing the full scope of child sexual abuse instances, most experts will agree that 500,000 children will be impacted by child sexual abuse per year”.

The Children’s Assessment Center, Houston, Texas

# Facts

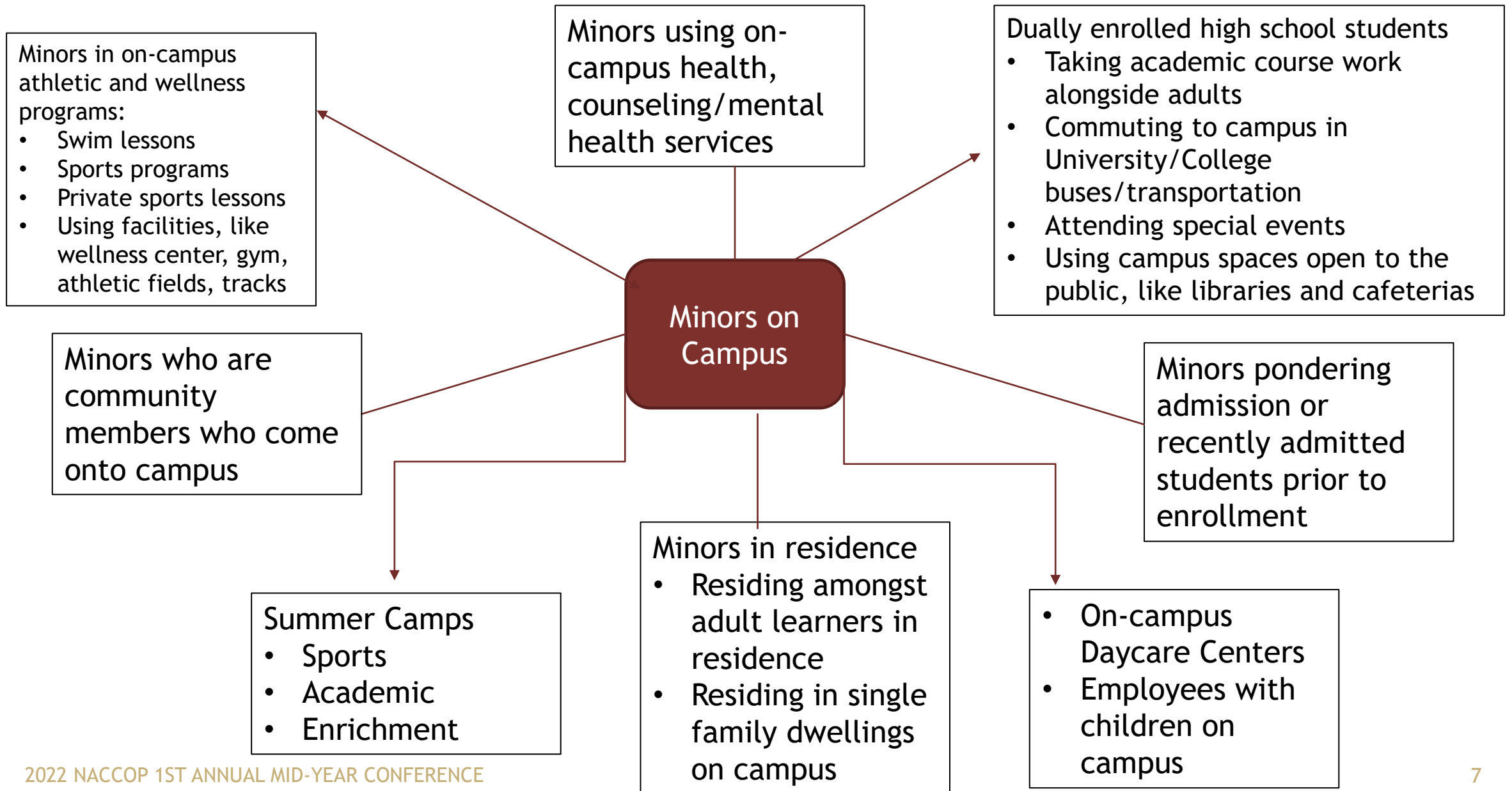


Children are at heightened risk for sexual violence. Nearly 70 percent of all reported sexual assaults occur to children ages 17 and under.

National Crime Victimization Survey

One in four girls and one in six boys will be sexually abused before they turn 18 years old.

Townsend, C., & Rheingold, A.A



# MANDATED REPORTERS





# Mandated Reporter



Laws requiring mandatory reporting vary by state- know your state's mandated reporting regulations. Most laws look something like:

*For the protection of minors in a situation of suspected child abuse, all State System administrators, faculty, coaches, staff, student workers, contractors, and volunteers are considered mandated reporters for purposes of reporting the suspected or known abuse of persons under the age of 19 who are at an institution of higher education and whom the reporter sees or is told of such abuse...*

# Mandated Reported



Anyone can report suspected child abuse or neglect, but if you are identified as a mandated reporter or you have received training in recognizing and reporting suspected child abuse and neglect - then you are a mandated reporter.

As a mandated reporter, you are required, by law, to immediately report your suspicions to the local department of social services or to the Child Abuse and Neglect Hotline. The purpose of mandated reporting is to identify suspected abused and neglected children as soon as possible so that they can be protected from further harm.

# THE CLERY ACT



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# Clery Compliance is an Institutional Responsibility

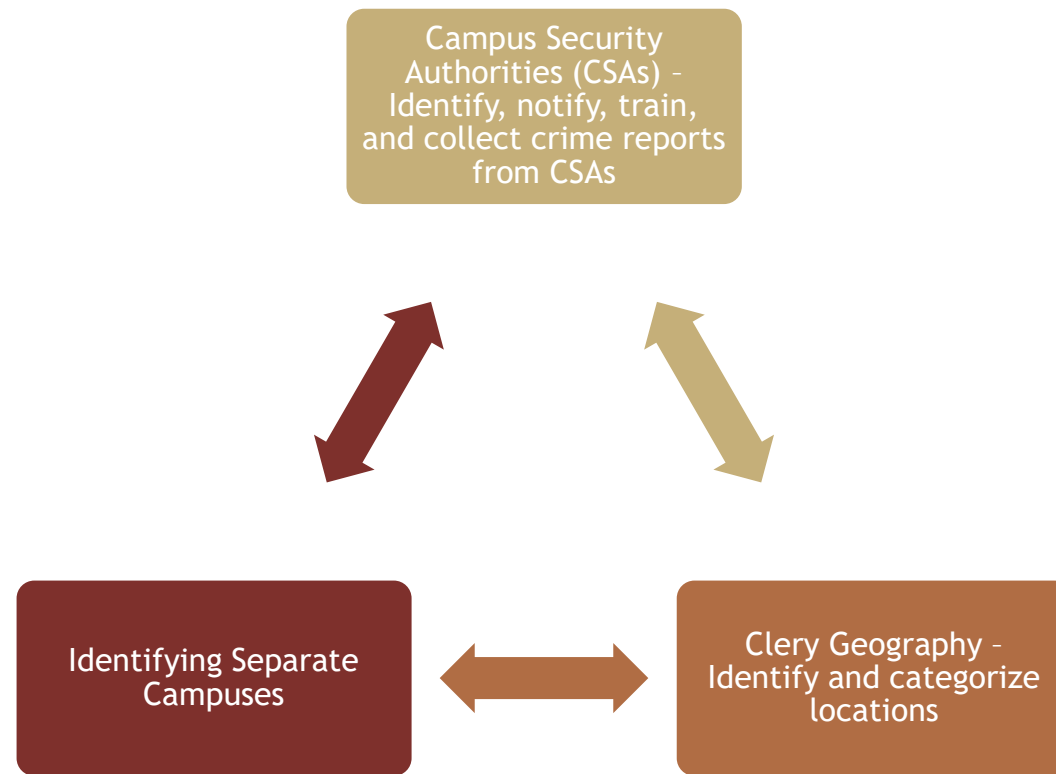
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**Clery Act compliance should not be relegated only to campus police/public safety.**

- *...the Clery Act is a campus security and crime prevention law with a consumer information and protection focus. Effective implementation requires the participation and cooperation of officials across the enterprise. Stated simply, the Clery Act is not merely a campus policing law. At most institutions, other offices ranging from residence life to student affairs will play an essential role in the overall campus safety program and are indispensable to compliance with the Clery Act. The student and employee conduct function plays a major role on both counts. (Penn State FPRD, 2016, p. 10)*

# COLLECTING, CLASSIFYING & COUNTING CRIME REPORTS

## PERFORMANCE OBJECTIVES





# COLLECTING, CLASSIFYING & COUNTING CRIME REPORTS

## PERFORMANCE OBJECTIVES

Understanding what crime categories to include and how to count them.

Arrests and referrals—how to accurately report both.

Understanding the difference between referrals for violations of state laws and local ordinances versus violations of institutional policies regarding liquor, drug, and weapons violations.

Applying the Hierarchy Rule to counting crimes.

1. Was the crime reported to a Campus Security Authority or local law enforcement agency?



2. Is the crime a Clery Act crime?



3. Did the crime occur on or within the institution's reportable Clery Geography?

THREE PART  
TEST FOR  
REPORTING  
AND  
DISCLOSING  
OFFENSES



# CAMPUS SECURITY AUTHORITIES

# CLERY ACT



Campus Security Authorities: 34 CFR 668.46(a) -

While not defined in statute, regulations provide that CSAs include: campus police or security department personnel; individuals or organizations identified in institutional security policies; and individuals with security-related responsibilities. The definition at § 668.46(a)(iv) states that a CSA also includes an official “who has significant responsibility for student and campus activities.”

A CSA'S PRIMARY  
RESPONSIBILITY  
IS...

*to report allegations of Clery Act  
crimes they receive to the  
reporting structure established by  
the institution.*



# Reported Crimes

- Under the *Clery Act*, a crime is “reported” when it is brought to the attention of a campus security authority, the institution’s police department or campus safety office, or local law enforcement personnel by a victim, witness, other third party or even the offender.
- If a Campus Security Authority receives a report, he or she must include it as a crime report using whatever procedure has been specified by your institution.

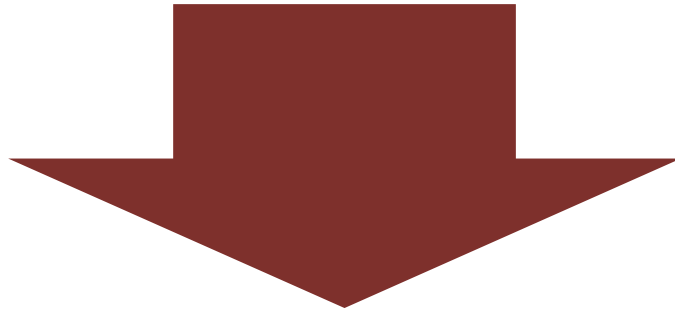
## Reported Crimes

What you must include, therefore, are **statistics based on reports of alleged criminal incidents.**

It is not necessary for

- the crime to have been investigated by the police or a campus security authority,
- nor must a finding of guilt or responsibility be made
  - to include the reported crime in your institution's crime statistics.

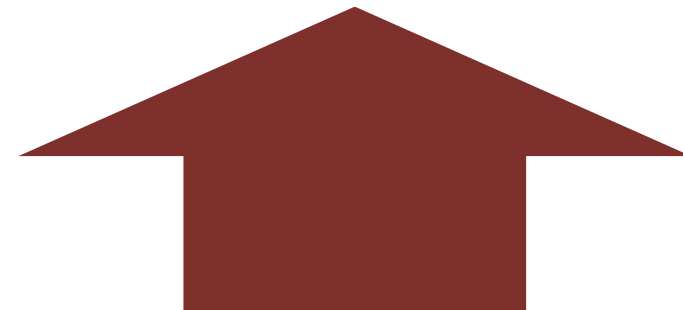
The Clery Act is concerned with the...



WHERE



WHAT



# The Clery Act is **NOT** concerned with the WHO...



The victim of a reported crime can be anyone. Including:

- A student
- A staff member
- A faculty member
- A community member
- A third party, like a vendor or contractor
- ANYONE



What's important is **WHAT** is reported, to **WHOM** (a CSA), and **WHERE** the crime reportedly occurred....

## CSA EXAMPLE INVOLVING MINORS ON CAMPUS

Ms. Jones, Director of Student Housing at your school, gets a call from the director of a counseling center in town. The caller wants to let the director know that four dually enrolled high school minors who were attending the College sought assistance at the center and told the center's counselors that they had been sexually assaulted on campus and were seeking emotional support. They also contacted the police as mandatory reporters in their state. These are third party reports and Ms. Jones, having no reason to believe that they were not made in good faith, should document all of the information she was given and forward the reports to the person or office responsible for collecting *Clery Act* crime reports at her institution.



## CSA Example Involving Minors on Campus

- A camp counselor, who is not an employee of the institution, is making rounds on the 3<sup>rd</sup> floor of Smith Hall, the basketball camper residence hall this month. He hears someone crying in the stairwell. He approaches the person and identifies them as a camper, 13-year-old Mikayla Kirkland. Kirkland tells the camp counselor that another camper (also 13 years old) touched her breasts without her permission as he came into the bathroom after she finished showering. She is frightened and wants to go home.
- The counselor calls his boss, who calls the parents. The parents come and pick up their daughter, who does not return.
- The parents call the local police the next day and report the incident.
- The media call the President's Office and tell the President's Chief of Staff what happened and ask for a statement.

# TITLE IX

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# Title IX



*“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”*

## Regardless of age

If someone discloses that they were discriminated against/harmed (potentially) based on sex/assaulted to a Responsible Employee, this information still needs to be reported to the Title IX Coordinator.

# Title IX



In elementary and secondary school settings, a school must respond whenever any school employee has notice of sexual harassment. This includes notice to a teacher, teacher's aide, bus driver, cafeteria worker, counselor, school resource officer, maintenance staff worker, coach, athletic trainer, or any other school employee.

In postsecondary school settings, notice may be more limited in scope. The institution must respond when notice is received by the Title IX Coordinator or another official who has authority to institute corrective measures on the institution's behalf. The Department is unable to provide examples of types of individuals who have this authority because the determination of whether a person is an official who has authority to institute corrective measures on behalf of the institution depends on facts specific to that institution.

(Q&A 10-11)

## §106.30 Definitions – Actual Knowledge



*“Actual knowledge means notice of sexual harassment or allegations of sexual harassment to a recipient’s Title IX Coordinator or any official of the recipient who has authority to institute corrective measures on behalf of the recipient.”*



# §106.30 Definitions – Actual Knowledge



Title IX  
Coordinator



Official  
with  
authority



Different  
K-12  
standard



Designation



Not same as  
CSAs

# K-12 VS HIGHER EDUCATION

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# Definition of “Student”

## Triggers:

- Notice of Availability of ASR/ASF SR
- Educational Programming as Required by VAWA Amendments
- Considerations in Title IX Policy and Procedures

**Question:** How does your institution’s Title IX policy and procedure (and Code of Conduct) apply to dually enrolled high school/college students? How does your institution share information with and receive information from the K-12 when a crime is reported on campus where a dually enrolled student is the victim?

# K-12 vs Higher Education



## Title IX -

New regulations requires that postsecondary institutions (but not elementary and secondary schools) hold live disciplinary hearings in sexual misconduct cases and allow cross-examination of witnesses.

The grievance procedures established by K-12 schools “may, but need not” include live hearings and cross-examination.” For the most part the regulations “require only that schools provide an equal opportunity to the parties,” leaving schools with the flexibility “to make the grievance process less formal or intimidating for students.” (1683)

# K-12 vs Higher Education



## Title IX -

K-12 must provide to each party—and their parents—a description of the allegation and a copy of the investigative report on the incident. They also “must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party.” (1685)

# K-12 vs Higher Education



## Title IX-

The other major difference is that the regulations do not specify who must be deemed a “mandatory reporter” in colleges and universities, but they require all K-12 teachers and staff to report allegations of misconduct that they have witnessed or heard about.

K-12 schools and their employees “stand in a special relationship regarding their students, captured by the legal doctrine that school districts act in loco parentis with respect to authority over, and responsibility for, their students.” (1676)

Tabitha, who identifies as a female student, is in 11th grade. She is dually enrolled at ABC College, where she is taking an AP Biology course. She is struggling in the course.

She has been assigned to a group project with two other classmates who are also dually enrolled and who attend the course with her at ABC College.

The classmates do not want Tabitha in their group and begin to isolate her due to her poor grades and “popularity.” Tabitha told them that she would be willing to help in any way because she “needed a very good grade in this course.” The classmates, Sam and Rory, said that if she sent them nudes of her that they would do all the work for her so that she would get a high grade.

Tabitha stated to the men that she would not send the pictures, but that she would “flash them” if they would meet her in a classroom.

## Case Study



Tabitha then met the two men in a science lab room in the on-campus academic building and “lifted her shirt.” The classmates then asked her to “show your whole boob with nipple”. Tabitha then pulled her bra up and showed the men her breasts. The classmates then told Tabitha that if she would let them perform oral sex on her that they would complete all of the assignment and “brag” to their teacher about how she carried the group with her “smarts” and leadership.

Tabitha did not want to do this but also did not know what to do. Sam approached her and penetrated her vagina with his tongue numerous times. Rory stood in front of the door to “watch” for people.

Tabitha’s grades continued to decrease significantly after this event leading her to a “conversation” where she disclosed the event that took place to her faculty member. Her faculty member wasn’t sure what to do.

## Case Study



- What is being disclosed/reported?
- Is the faculty member a CSA?
- Is the faculty member a person at your institution who has an obligation to report sexual harassment to your institution's Title IX Coordinator?
- In your state, is the faculty member a mandated reporter for child abuse? If so, who are they supposed to notify?

# KNOW ALL LAWS/POLICIES

- *State or Institutional policies:*

- Background Clearances,  
Mandated Reporting of Child Abuse,  
Maintenance of a Registry of Programs  
Involving Minors,  
Providing Safety and Security in programs,  
including Related to Housing of Minors  
Human Resources or Conduct, etc.

- *Federal Regulations:*

- Title IX
  - The Clery Act
  - Others



# If you don't have one...



## ■ ...construct a campus-wide protection of minor's policy!

- Ensure that the policy not only informs your community regarding what to do in the event of an incident but also creates expectations for supervision of children on campus.
- Ensure any group coming to campus where minors are present has to follow registration procedures and that HR is looped in to create background check processes.
- Clearly spell out the responsibilities of employees on campus.
- Provide training to all employees regarding the protection of minors as well as how, when and where to report.
- Ensure high risk areas for children like changing rooms, shower areas and campus housing have special procedures and rules regarding privacy, staff to child ratios and supervision of minors.



## References

Child Sexual Abuse Statistics. (2015). Rape Abuse and Incest National Network (RAINN), <https://www.rainn.org/articles/child-sexual-abuse>

Department of Education. Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance. Final Rule. August 14, 2020.

Department of Educations. Questions and Answers on the Title IX Regulations on Sexual Harassment. July 2021.

National Crime Victimization Survey, Statistic calculated by staff at Crimes against Children Research Center. 2002.

Townsend, C., & Rheingold, A.A., (2013). Estimating a child sexual abuse prevalence rate for practitioners: studies. Charleston, S.C., Darkness to Light. Retrieved from [www.D2L.org](http://www.D2L.org)

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