

Title IX and the Clery Act for Higher Education Students: Know Your Rights!

What is Title IX?

Title IX is a federal civil rights law meant to protect students against discrimination on the basis of sex. The law does this by prohibiting schools that receive federal funding from acting in a way that denies, limits, or interferes with students' ability to participate in or benefit from school classes, programs, and activities based on sex. Recent regulations issued by the federal Department of Education give schools new requirements for when and how they are required to respond to reports of sexual harassment, which can include sexual assault, dating and domestic violence, and stalking.

What rights and options do I have under Title IX?

You have the right to receive "supportive measures" from your school, regardless of whether or not you want to file a formal complaint with your school about what happened to you. To do this, students who have experienced sexual harassment can make a report to their school's Title IX Office to receive "supportive measures." Supportive measures are reasonable efforts made by the school designed to restore and preserve a student's access to education. These can include academic support and safety measures.

What's the difference between a "report" and a "formal complaint"?

There are a few big differences between making a "report" and a "formal complaint."

- **Making a Report:** anyone, including a student-survivor, a friend, a professor, or a parent, can report sexual harassment to the Title IX Office. A report just lets the Title IX Office know about the sexual harassment, but does not start a grievance process. Once the Title IX Office receives a report of sexual harassment, they must tell the survivor about options available for supportive measures (such as changes in class schedules or housing) as well as what a grievance process looks like. A survivor can get supportive measures without filing a formal complaint.
- **Making a Formal Complaint:** A formal complaint is the document that a person can file with their Title IX office that describes the sexual harassment incident(s) and asks that the school start a "grievance process." The student making the complaint is referred to as the "complainant" and the person who the complaint is filed against is called the "respondent."
 - This formal complaint process looks different from school to school, but generally consists of:
 - Filing a complaint with the school;
 - An investigation, during which the survivor and respondent have the ability to submit evidence and witness names; and then
 - A live hearing, where a decision maker decides whether or not the respondent is responsible for violating the school's Title IX policy.
 - Although not mandatory, student-survivors have the right to an advisor of their choosing, including a lawyer, when seeking supportive measures or going through the grievance process. However, advisors are mandatory for the hearing portion of the formal complaint process because the advisor is the person designated to ask questions of the respondent and any witnesses. If a student does not choose an advisor, the school must provide one for this purpose.
 - Both the complainant and respondent have the opportunity to appeal the outcome of a case.



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What is the Clery Act?

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act") is a law that aims to provide the public and campus communities with greater knowledge about a school's campus crime policies and statistics, including how that school responds to crimes like sexual assault, dating/domestic violence, and stalking.

What rights and options do I have under the Clery Act?

Students who have experienced a crime have the right to information about reporting options, including:

1. Reporting the crime both on campus and to local police;
2. The option to get help from campus authorities in reporting to local police; and
3. The right to decline to report to local police.

Regardless of whether a student who experienced crime chooses to report to law enforcement or file a university complaint, the student should be given written information about local options for orders of protection; mental health, counseling, legal, and advocacy resources that are available both on and off-campus; information about the school's grievance procedures; and information about options for "accommodations" (called "supportive measures" under the new Title IX regulations), including options for changing classes, housing, transportation, and work situations.

Students have the right to an advisor of their choice, including a lawyer, who can be present with the survivor during the disciplinary process and provide support and guidance to the survivor. Schools are allowed to limit how advisors participate; however, those limitations must equally apply to both the complainant and respondent.

Students have the right to a prompt, fair, and impartial process if they file a complaint. Students also have the right to receive a written outcome of a grievance process.

I'm not sure if I need or can pay for a lawyer to help me. Do I need a lawyer?

You are not required to have a lawyer in order to get help under Title IX or Clery; however, speaking with a lawyer who has experience representing students under Title IX and Clery can be extremely helpful!

If you are a DC college or university student considering filing a formal complaint with your school's Title IX Office and you would like to know more about your options, you can speak to an attorney at NVRDC for free by calling 202-742-1727 or visiting nvrdc.org.



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