

## Oversight Hearing

Joint Legislative Audit Committee,  
Assembly Committee on  
Higher Education and Assembly  
Select Committee on Campus Climate

### Sexual Harassment and Sexual Violence

California Universities Must Better Protect Students  
by Doing More to Prevent, Respond to, and  
Resolve Incidents

(Report 2013-124, June 2014)

California State University, Dominguez Hills  
September 24, 2015

COMMITMENT  
INTEGRITY  
LEADERSHIP

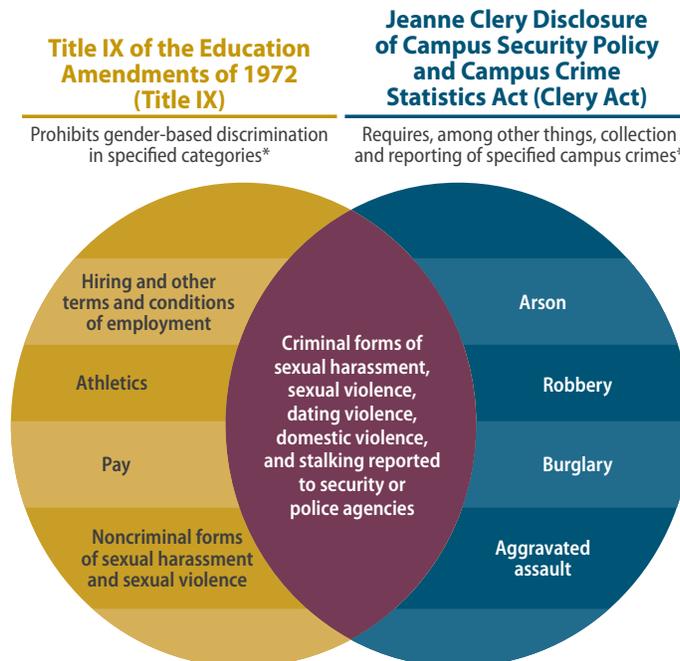


## Title IX and the Clery Act

Title IX of the Education Amendments of 1972 (Title IX) generally provides that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. Sexual harassment, including acts of sexual violence, is a form of sex discrimination prohibited by Title IX. Sexual harassment is unwelcome conduct of a sexual nature. It includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Title IX has been interpreted by a federal oversight agency and the courts to require institutions of higher education to prevent and remedy sexual harassment.

Eligible postsecondary educational institutions that participate in federal financial aid programs must also comply with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). Historically, the Clery Act has required campuses to publicly report specific campus crimes and security policies in an annual security report. Information contained in these reports is intended to provide students and their families with accurate, complete, and timely information about safety on campus so they can make informed decisions. In 2013, the Clery Act was amended to impose—effective March 2014—additional duties on campuses, such as adopting and publishing policies designed to prevent domestic and dating violence, sexual assault, and stalking. As shown in the figure, provisions of Title IX and the Clery Act converge in instances of reporting criminal forms of sexual harassment and sexual violence at universities.

**Figure**  
**Confluence of Federal Requirements**



Sources: Title IX, Clery Act, and Title 34, Part 106, of the Code of Federal Regulations.

\* Only a selection of categories covered under Title IX and the Clery Act are shown; these laws encompass more categories of unlawful discrimination and crimes than those displayed.

## Clery Act Audits

The California State Auditor (state auditor) is statutorily required to perform an audit of no fewer than six California postsecondary educational institutions that receive federal aid every three years to determine the institutions' compliance with the Clery Act. These audits evaluate the accuracy of the crime statistics the institutions report and the effectiveness of the procedures they use to identify, gather, and disseminate these data. The most recent of these reports was issued in July 2015.<sup>1</sup> In this report, we found none of the six institutions we reviewed fully complied with Clery Act requirements and five of the six institutions reported inaccurate crime statistics.<sup>2</sup> Although we made a number of recommendations to address these issues, it is too early for us to provide an update on the institutions' progress in implementing these recommendations.

## Audit Update on Title IX Audit

In June 2014, the state auditor published a report titled *Sexual Harassment and Sexual Violence: California Universities Must Better Protect Students by Doing More to Prevent, Respond to, and Resolve Incidents*, Report 2013-124 (June 2014 report). In the year following the issuance of this report, the four universities and two university systems involved in the audit have made progress in implementing the recommendations directed to them. The table below summarizes the implementation status of the 70 recommendations directed to the universities we reviewed.

### One-Year Implementation Status of Recommendations Directed to the Universities We Reviewed

RESPONSIBLE ENTITY	NUMBER OF RECOMMENDATIONS			
	MADE	IMPLEMENTED	PARTIALLY IMPLEMENTED	ACTION PENDING
<b>University of California</b>				
Office of the President	4	1	1	2
Berkeley	16	11	4	1
Los Angeles	14	9	4	1
<b>Subtotals</b>	<b>34</b>	<b>21</b>	<b>9</b>	<b>4</b>
<b>California State University</b>				
Chancellor's Office	1	0	1	0
Chico	16	14	2	0
San Diego	19	15	3	1
<b>Subtotals</b>	<b>36</b>	<b>29</b>	<b>6</b>	<b>1</b>
<b>Totals</b>	<b>70</b>	<b>50</b>	<b>15</b>	<b>5</b>

Source: California State Auditor's analysis of one-year responses received from the entities listed above.

<sup>1</sup> *California's Postsecondary Educational Institutions: More Guidance is Needed to Increase Compliance With Federal Crime Reporting Requirements* (Report 2015-032).

<sup>2</sup> The Violence Against Women Reauthorization Act of 2013 amended the Clery Act to, among other things, require postsecondary educational institutions (institutions) to compile statistics for incidents of domestic violence, dating violence, sexual assault, and stalking. However, institutions are not required to submit these statistics to the U.S. Department of Education's Office of Postsecondary Education until fall 2015. As a result, we did not assess campuses' compliance with these requirements.

## Progress Made

As indicated in the table, the universities and university systems we reviewed have implemented 50 of the 70 recommendations we made. Some of the significant actions taken have been:

- The four universities we reviewed have implemented sexual harassment and sexual violence training for coaches and resident advisors. These campus employees can be the first point of contact for students affected by sexual harassment.
- The four universities have implemented supplemental annual sexual harassment and sexual violence training to student athletes, and fraternity and sorority members. Further, California State University, Chico and San Diego State University have also selected additional student groups to attend this training.
- The four universities have made improvements to their process for responding to incidents of sexual harassment and sexual violence by creating and using a document that explains the complaint process, by providing status updates, by notifying the students of the resolution of the process, and by documenting that these meetings took place.

## Further Work Needed

Despite the progress described above, more action is still needed. In particular, the following steps are of critical importance but have yet to be completed:

- The four universities we reviewed need to continue with their efforts to implement annual refresher educational programs for all students. In addition, three of the four universities need to implement mandatory annual training to all faculty and staff.
- The University of California's Office of the President (UCOP) is still working on clarifying its policy to state that a complainant may opt out of early resolution and request a formal investigation, as well as clarifying its policy to state that, if university officials approve an extension to an investigative timeline, the extension should be restricted to a single extension of no more than 30 days.
- Both UCOP and the California State University's Office of the Chancellor need to ensure that all universities are addressing our recommendations. In addition, they need to perform regular Title IX reviews at each university. These efforts will help ensure that progress made at the four universities we reviewed extend to the other universities within their systems.