Preventing Sexual Violence in Higher Education Act

Frequently Asked Questions Regarding Reporting Requirements

Submitting the Report

• **Who has to submit an annual report?**
  All higher education institutions (HEIs) in Illinois must provide an annual report with data and information related to the implementation of the Preventing Sexual Violence in Higher Education Act. A “higher education institution” includes “any public university, a public community college, or an independent, not-for-profit, or for-profit higher education institution located in this State.” See 110 ILCS 155/5.

• **Where do HEIs submit the report?**
  The Act requires HEIs to provide an annual report to both the Illinois Attorney General’s Office and the Illinois Department of Human Rights. Send submissions to the Attorney General’s Office by mail or email to:

  Office of the Illinois Attorney General  
  Civil Rights Bureau  
  100 W. Randolph Street, 11th Floor  
  Chicago, Illinois 60601  
  civilrights@atg.state.il.us

  Send submissions to the Illinois Department of Human Rights to:

  Illinois Department of Human Rights  
  100 W. Randolph Street, 10th Floor  
  Chicago, Illinois 60601

• **When is the report due?**
  Higher education institutions must submit their first report by November 1, 2017, and must continue to submit an annual report by November 1 each year thereafter.

• **What is the consequence for failing to submit a complete annual report on time?**
  The Illinois Attorney General’s Office will include on its website a publicly available list of all HEIs that fail to comply with the annual reporting requirements.
Report Format

- **Is there a form HEIs should use to prepare the Preventing Sexual Violence in Higher Education Act annual report?**
  The Illinois Attorney General’s Office has prepared a form that schools may use for their annual report. The form is available on the Illinois Attorney General’s website at [http://www.illinoisattorneygeneral.gov/rights/civilrights.html](http://www.illinoisattorneygeneral.gov/rights/civilrights.html). A school may also use its own form as long as it includes the required information and data.

- **Can HEIs submit their Annual Security & Fire Safety Report (also known as the Clery Act Report) to fulfill their reporting requirement under the Preventing Sexual Violence in Higher Education Act?**
  HEIs do not need to create a separate report if their Annual Security & Fire Safety Report includes the data and information schools must submit for their Preventing Sexual Violence in Higher Education Act report. Schools also may submit the Annual Security & Fire Safety Report and, if necessary, supplement it with additional data and information to fulfill the Preventing Sexual Violence in Higher Education Act’s reporting requirements.

- **What period of time should be covered in the report due by November 1, 2017?**
  To the extent the school has the information, the report must include data from January 1, 2016, through December 31, 2016. For requirements that took effect on August 1, 2016, the school may report data from August 1, 2016, through December 31, 2016, if it does not have earlier data. For subsequent years, the report must contain data from the previous calendar year. For example, the report due on November 1, 2018, must contain data from January 1, 2017, through December 31, 2017. (The Act’s requirement differs from the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act’s requirement that annual security reports, due October 1, include statistics covering the three previous calendar years.)

- **Is the confidential advisor required to provide data to include in the annual report?**
  The Act requires each school to report aggregate data regarding the number of confidential and anonymous reports of sexual violence, domestic violence, dating violence and stalking it receives during a calendar year. These numbers should include reports made to the confidential advisor and professional and pastoral counselors, and through any other confidential or anonymous process implemented by the school.
Counting Reports

- **For purposes of gathering data for the Preventing Sexual Violence in Higher Education Act annual report, what qualifies as a reported incident of sexual violence, domestic violence, dating violence or stalking?**

  HEIs must identify the number of incidents of sexual violence, domestic violence, dating violence and stalking reported during the relevant calendar year to either the (1) Title IX coordinator or responsible employees and/or (2) confidential and anonymous sources.

  HEIs should consider an incident “reported” when information regarding an incident is shared with an individual, department, entity or organization that the school has identified in its comprehensive policy as a place where students may report or disclose violations of the comprehensive policies, e.g., with the Title IX coordinator, responsible employees, confidential advisor, campus police department or safety office, and pastoral or professional counselors. Data must include reports made electronically, anonymously and confidentially as well as third-party and bystander reports.

- **Which “confidential and anonymous sources” must provide data for the annual report?**

  HEIs must request aggregate data from all individuals, departments or organizations to whom a student may report a violation of the comprehensive policy. This includes professional and pastoral counselors, confidential advisors, as well as anonymous reporting hotlines and platforms. If an HEI has a contract, memorandum of understanding or other agreement with an organization to provide confidential services to students regarding sexual violence, domestic violence, dating violence or stalking, the school must request aggregate data regarding its students from that organization to include in its report. The HEI may include in its report an explanation of the various sources used to gather statistics related to confidential and anonymous reports. HEIs are not required to request or provide data for confidential resources (e.g., a national hotline) with which it has not entered into a formal agreement or arrangement to provide services to its students.

- **Are HEIs required to report only on student-on-student complaints?**

  To report data for 110 ILCS 205/9.21(4)-(8), include all student complaints, whether filed against another student, an HEI employee or someone unaffiliated with the HEI. For 110 ILCS 205/9.21 (9)-(10), include only data related to complaints made by students against students subject to discipline under the HEI’s complaint resolution procedure.

- **Are HEIs required to report complaints of incidents that occurred off campus?**

  To the extent possible, schools should only report data related to complaints of incidents that occurred within the geographic areas defined by the Clery Act, i.e., Clery geography. See 34 C.F.R. § 668.46(a). HEIs do not have to provide a breakdown of the data by location. If a report does not include the location of the incident alleged in the complaint, schools should include that report or disclosure in its data and may annotate the annual report to indicate the number of reports or disclosures where no location was given.
• Are institutions with more than one campus required to submit separate reports for each campus?
If your school has more than one campus, each campus must comply independently with the Preventing Sexual Violence in Higher Education Act’s requirements. Your institution may submit one annual report as long as the report distinguishes each campus’s policies and data. Alternatively, each campus may submit its own report.

• How should HEIs count a report when the complaint involves more than one violation?
When more than one violation has been reported from a single incident (e.g., sexual assault and domestic violence), the HEI must count all violations separately in its report. HEIs that submit their Clery Act report must update data to account for any reported incident of sexual violence not included in their Clery Act report because the school applied the FBI’s Uniform Crime Reporting hierarchy rule. See 34 CFR 668.46(c)(9).

• Should HEIs count a report of an incident that occurred before any involved party was a student at the HEI?
HEIs must include all reports of incidents of sexual violence, domestic violence, dating violence and stalking that occurred during the calendar year before the current reporting year (e.g., January 1, 2016, through December 31, 2016, for the 2017 reporting year) and were reported to the individuals, departments or organizations to whom a student may report under the HEI’s comprehensive policy. Schools may identify the number of reported incidents that occurred before any involved party enrolled as a student at the HEI, if desired, in Part C of the report form (or in supplemental materials). Schools may also indicate if they could not obtain information regarding when an incident occurred in collecting the data due to the nature of how the report was made (e.g., confidential and anonymous reports).

• What timeframe should HEIs cover when providing data for 110 ILCS § 205/9.21(6)-(9), which relates to actions taken after the HEI receives a report?
HEIs must provide the number of each action (e.g., survivor requested not to proceed, law enforcement referral, reviewed through complaint resolution procedure) that occurred during the calendar year preceding the reporting year, even when the report or incident occurred during the previous calendar year. The HEI may, if desired, in Part C of the report form (or in supplemental materials) identify whether a specific number of actions relate to reports made in previous calendar years. Example: On December 31, 2016, a student reports an incident of domestic violence that occurred in December 2016. At the student’s request, the HEI refers the matter to local law enforcement on January 1, 2017. The HEI’s 2018 report (which covers the time period of January 1, 2017, through December 31, 2017) would include the referral of an allegation of domestic violence to law enforcement. The HEI should include the report of domestic violence in its 2017 report.
• Does the law specify how often HEIs must obtain reporting data from individuals or entities who receive confidential or anonymous reports?
The Act does not specify how often an HEI must obtain data for the annual report, providing the HEI the flexibility to choose the frequency at which it requests data to be compiled in the annual report. An HEI should not obtain data so often that it will compromise confidentiality or review personally identifiable information. However, the obligation to obtain and report data under the Act does not affect any reporting obligations an HEI has under applicable local, State or federal laws, including the Clery Act.

• In which category should an individual report if they have multiple roles on campus, including as a confidential resource?
If an individual has dual roles at the HEI, one as a confidential resource (e.g., confidential advisor, pastoral counselor or professional counselor) and another that would otherwise qualify that person as a responsible employee, and the roles cannot be separated, reports to that person should be included in the Title IX/responsible employee category. If that person’s roles can be separated, then the person should include data related to reports in the category corresponding to the role the person was serving when receiving the report of an incident.

• How should an HEI handle “double counting” student reports made to multiple individuals and/or entities on campus?
The Illinois Attorney General’s Office understands that a student may report or disclose an incident of sexual violence, domestic violence, dating violence or stalking to more than one person affiliated with the higher education institution. Furthermore, the Illinois Attorney General’s Office recognizes that in identifying the number of reports received, a higher education institution may “double count” a report or disclosure if a student confidentially and anonymously reported/disclosed an incident and also reported the incident to a Title IX coordinator or responsible employee. If a higher education institution is aware of the “double counting” of a report or disclosure, then the school can include an explanation in Part C. If a school is unsure whether a report has been counted more than once, the school can indicate so in Part C.