**TITLE IX and CLERY ACT FAQs**

**What are VAWA and SaVE?**

The Violence Against Women Reauthorization Act (VAWA) was signed into law on March 7, 2014. The Campus Sexual Violence Elimination Act (SaVE Act) is a provision in VAWA that applies to colleges and universities. In a nutshell, the SaVE Act amends the Clery Act requirements regarding sexual assault. The SaVE Act requires:

 additional crime report requirements for domestic violence, dating violence and stalking;

 amendments to campus policies;

 training of employees; and

 implementation of educational programs that include primary prevention and awareness programs for the campus community, including all students.

**What is the timeframe for implementation of the new requirements?**

March 7, 2014: begin good-faith efforts to comply, including efforts to report the

additional crimes

Summer, 2014: proposed federal regulations published

October 1, 2014: institutions must show a good faith effort of compliance with the new Campus SaVE requirements, and those good faith efforts should be reflected in the institution’s ASR.

November 1, 2014: final federal regulations published

July 1, 2015: effective date of final federal regulations

October 1, 2015: Institution’s Annual Security Report must include new SaVE requirements

**Where does Title IX and the Dear Colleague Letter of 2011 fit in with the new legislation?**

Title IX prohibits sex discrimination in education. The 2011 Dear Colleague Letter (DCL) issued by the Department of Education Office of Civil Rights explained OCR’s position that the requirements of Title IX cover sexual violence. Also, it reminded schools that they must take immediate responsive action to ensure that a complainant can obtain education free from sexual discrimination, including sexual harassment and sexual violence. Some of the guidance in the DCL is codified in the SaVE Act.

**What is being done at UT System Administration?**

* **Reviewing and Amending Model Policies**

OGC will review and amend its Model Policies prohibiting ***sex discrimination*** to ensure they include and address:

statements that an institution prohibits sexual violence including domestic violence, dating violence, sexual assault, and stalking;

definitions of domestic violence, dating violence, sexual assault, and stalking in the applicable jurisdiction;

definition of consent, in reference to sexual activity;

statements of possible sanctions or protective measures that an institution may impose following a final determination of an institutional disciplinary procedure regarding rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking;

statements regarding procedures complainants should follow if a sex offense, domestic violence, dating violence, sexual assault, or stalking has occurred, including information about:

the importance of preserving evidence as may be necessary to the proof of criminal domestic violence, dating violence, sexual assault, or stalking, or in obtaining a protection order;

the persons or offices to whom the alleged offense should be reported;

options regarding law enforcement and campus authorities;

the rights of complainants and the institution's responsibilities; and

a complainant’s options for changing academic, living, transportation, and working situations;

statements explaining where educational materials and support may be obtained; and

information about how the institution will protect the confidentiality of victims, including an explanation of how publicly-available recordkeeping will be accomplished without including identifying information about the victim, to the extent permissible by law.

OGC will review and amend its Model Policies regarding ***student discipline*** to ensure they include:

procedures covering alleged domestic violence, dating violence, sexual assault, or stalking;

procedures to ensure that any hearings are conducted promptly and fairly;

a requirement that hearing officers receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and how to conduct an investigation and hearing process that protects the safety of complainants and promotes accountability;

a requirement that the complainant and respondent are entitled to the same opportunities to have others present during an institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice; and

a requirement that the complainant and respondent are simultaneously informed, in writing, of:

the outcome of any institutional disciplinary proceeding that arises from an allegation of domestic violence, dating violence, sexual assault, or stalking;

the institution's procedures for the respondent and complainant to appeal the results of the institutional disciplinary proceeding;

any change to the results that occurs before the results become final; and

the date when such results become final.

OGC anticipates beginning to review these policies after the proposed regulations are issued in summer, 2014.

* **Identifying Training Opportunities for Title IX Coordinators and Other University Employees Responsible for Title IX and Clery Act Compliance**
* **Exploring Systemwide Opportunities to Contract with Educational Program Vendors**

The SaVE Act requires institutions to have in place education programs to promote the awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking. Institutions are required to have primary prevention and awareness programs for all incoming students and new employees, and ongoing prevention and awareness campaigns for students and faculty. These education programs must include:

dissemination of information regarding the University’s sex discrimination and disciplinary policies and procedures as amended by SaVE;

bystander intervention training;

information to recognize warning signs of abusive behavior and how to avoid potential attacks;

information about the importance of preserving evidence; and

information about existing counseling, health, mental health, victim advocacy, legal assistance, and other services available both on-campus and in the community

Once the UT System Office of Employee Services obtains responses to the survey referenced above, UT System will decide whether to issue a request for proposals from appropriate educational program vendors.

**What should UT Institutions be doing right now?**

* **Designate, Train and Use Title IX Coordinators, Police, Student Affairs Officials and Other University Officials Responsible for Title IX and Clery Act Compliance**

Make sure a Title IX Coordinator is designated, trained and stays up to date regarding developments in the SaVE Act regulations and trends in OCR enforcement. Also, continue your efforts to foster relationships with all sectors of the campus community, including faculty, university athletics and student organizations, to spread the word about policies and procedures that prohibit sex discrimination and sexual violence.

* **Review Campus Websites/Literature**

Review campus websites to ensure:

 that the Title IX Coordinator is clearly designated;

 that links to current institution policies are easily accessible;

that there is easily accessible information about where to report complaints (on/off campus police, Title IX Coordinators, Campus Security Authorities);

that there is a statement about the importance of preserving evidence;

that the rights of complainants and respondents and the institution’s responsibilities are clearly outlined;

that there is information about interim measures that the institution can take to assist a complainant, including options for changing academic, living, transportation, and working situations;

that there is information about where to obtain additional educational materials and support; and

that information is available about where to obtain crime reports.

If these are in good order, they can be easily updated as policies are amended.

* **Develop, Disseminate and Document Policies, Campus Resource Information and Training**

In addition to providing crime statistics, the ASR must include information about policies, efforts to communicate policies, efforts to disseminate information about resources and information about training efforts. It is very important to maintain records so a thorough account of your institution’s efforts is available.

Additionally any OCR investigation will require an institution to produce documentation regarding compliance. Maintaining information and records about efforts so that they are easily accessible is very important to a timely and successful response in any OCR investigation.

* **Review and Revise Campus Orientations**

Review new student and new employee orientation materials, and revise them as necessary to convey the required information. These materials can be amended as new policies are developed.

**Where can UT System institutions obtain more information about the status of UT System’s efforts and other information from UT System on this topic?**

The UT System Office of General Counsel website at: [http://www.utsystem.edu/ogc**/**](http://www.utsystem.edu/ogc/)