

COMING SOON TO A COLLEGE OR UNIVERSITY NEAR YOU . . . VAWA

REBECCA LEITMAN VEIDLINGER *

I. CLARITY AND TRANSPARENCY ARE BEST FOR THE COMPLAINANT.....	593
II. INSTITUTIONAL STAFF HANDLING DV CONCERNS MUST BE KNOWLEDGEABLE ON ISSUES OF GENDER-BASED AND SEXUAL VIOLENCE (AND BY THE WAY, SO SHOULD THE TITLE IX STAFF).....	594
III. CREATE INVESTIGATIVE PROCESSES THAT CONFORM TO FEDERAL GUIDANCE TRENDS AND ACCEPTED BEST PRACTICES	596
IV. PUT EFFECTIVE PARTNERSHIPS IN PLACE IN ORDER TO ROBUSTLY FULFILL ALL OF VAWA’S MANDATES	598
V. EDUCATE, EDUCATE, EDUCATE	599

With the Violence Against Women Reauthorization Act of 2013, Pub.L. 113-4 (“VAWA”), the federal government expanded the work colleges and universities must do with respect to addressing violence against women. Institutions are already required by the Clery Act¹ to track crimes committed on their campuses and by Title IX² to take steps to prevent, investigate and redress sexual harassment and sexual assault.³ Now, under VAWA,

* Rebecca Leitman Veidlinger is an attorney and consultant who conducts external sexual misconduct investigations, provides Title IX compliance counseling, and delivers investigative training for institutions of higher education. She earned a B.A. from McGill University, an M.A. in Public Policy and Women's Studies from George Washington University, and a J.D. from Georgetown University Law Center.

1. Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. § 1092(f) (2012) [hereinafter Clery Act].

2. Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 (2012) [hereinafter Title IX]. Title IX applies to all educational institutions that receive federal funds, both public and private. Almost all colleges and universities must follow Title IX and its implementing regulations, 34 C.F.R. § 106, because they receive federal funding through federal financial aid programs used by their students. 20 U.S.C. § 1681(a) (2012); 34 C.F.R. § 106.11 (2000).

3. Title IX provides “[n]o 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” 20 U.S.C. § 1681(a) (2012). Its prohibition on sex discrimination has been

institutions must add programs and policies concerning domestic violence, dating violence, and stalking (collectively, “DV”).⁴

Perhaps reflecting an influence from the current flurry of recent Title IX federal attention⁵ and guidance,⁶ White House focus,⁷ and increased public awareness, the DV programs and policies mandated by VAWA mirror in many ways what institutions must already do under Title IX. Indeed, VAWA’s mandates do more than just expand the counting and reporting requirements typically associated with the Clery Act. VAWA is, in several important ways, a sister statute to Title IX—one that addresses DV rather than sexual harassment/assault. For instance, VAWA adopts Title IX’s focus on informing those who experience DV of all of their options, includ-

interpreted through case law and federal guidance documents (some of which are discussed *infra* note 6) as including sexual harassment and sexual assault.

4. While non-intimate partner stalking is included in VAWA, this article addresses only the aspects of VAWA related specifically to DV. VAWA also includes sexual assault; however, because campuses’ response to sexual assault is already highly regulated through Title IX, this article’s analysis is limited to the new DV-related components of VAWA.

5. As of the date of publication, approximately 106 institutions of higher education were under a Title IX review by the Department of Education’s Office for Civil Rights (“OCR”). See Tyler Kingkade, *106 Colleges Are Under Federal Investigation For Sexual Assault Cases*, HUFFINGTON POST (Apr. 6, 2015), http://www.huffingtonpost.com/2015/04/06/colleges-federal-investigation-title-ix-106_n_7011422.html.

6. The most recent guidance from OCR regarding the implementation of Title IX includes the following: Questions and Answers on Title IX and Sexual Violence, U.S. DEP’T OF EDUCATION, QUESTIONS AND ANSWERS ON TITLE IX SEXUAL VIOLENCE (Apr. 29, 2014), available at <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf> [hereinafter Title IX Q&A]; Dear Colleague Letter, Letter from Russlynn Ali, Assistant Sec’y for Civil Rights, U.S. Dep’t. of Education, to Colleague (Apr. 4, 2011), available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf> [hereinafter 2011 DCL]. Additional Title IX guidance (informative but not binding) comes from Voluntary Resolution Agreements and related letters between OCR and various institutions, including the 2013 University of Montana Letter, Letter from Anurima Bhargava, Chief of Educational Opportunities Section, Civil Rights Div., U.S. Dep’t of Justice, & Gary Jackson, Regional Director, Office of Civil Rights, U.S. Dep’t of Educ., to Royce Engstrom, President, Univ. of Mont., & Lucy France, Univ. Counsel, Univ. of Mont. (May 9, 2013), available at <http://www.justice.gov/sites/default/files/opa/legacy/2013/05/09/um-ltr-findings.pdf> [hereinafter 2013 Montana Letter]. A list of recent Voluntary Resolution Agreements can be found here: Recent Resolutions, Office for Civil Rights, <http://www2.ed.gov/about/offices/list/ocr/docs/investigations/index.html> (last visited May 10, 2015) [hereinafter Voluntary Resolution Agreements]. As used in this article, the term “Title IX” refers generally to the statute, its regulations, and all federal guidance documents including these documents and agreements from OCR.

7. The White House Task Force to Protect Students from Sexual Assault has released advisory guidance regarding Title IX. See WHITE HOUSE TASK FORCE TO PROTECT STUDENTS FROM SEXUAL ASSAULT, NOT ALONE: THE FIRST REPORT OF THE WHITE HOUSE TASK FORCE TO PROTECT STUDENTS FROM SEXUAL ASSAULT (Apr. 2014), available at <https://www.notalone.gov/assets/report.pdf> [hereinafter Not Alone].

ing the option to report the incident to law enforcement or to decline such reporting.⁸ VAWA also adopts Title IX's requirement⁹ that institutional staff handling these issues be well-trained and assuredly competent as they investigate, adjudicate, and interact with students involved in allegations of DV.¹⁰ And like parties in a Title IX sexual assault investigation, parties in a VAWA DV investigation now have the right to simultaneous, written notice of the outcome and equal rights to have an advisor assist them.¹¹

As institutions scramble to implement the new DV mandates, they must answer difficult questions, including who should be responsible for drafting DV policies, which entity on campus should be responsible for DV investigations (e.g., student affairs v. Title IX office), and what DV investigations should look like (e.g., hearing board v. single investigator model). Institutions will no doubt answer these questions in a variety of ways specific to their existing structure. No matter what shape institutions' DV policies and investigations take, it is imperative that the systems ultimately implemented for addressing DV on college campuses consider the following advice.

I. CLARITY AND TRANSPARENCY ARE BEST FOR THE COMPLAINANT¹²

The best tool for addressing sexual and domestic violence on campus is to provide clarity and transparency in the reporting process for complainants. With regard to the importance of complainant accessibility, Title IX guidance is instructive¹³. The theme running through recent Title IX guidance is quite clear: campuses must ensure they have widely-understood, easy to use and effective systems in place for addressing sexual violence on their campuses; in sum, sexual assault policies must have transparency,

8. Violence Against Women Act, 79 Fed Reg. 62,752, 62,781 (Oct. 20, 2014) (to be codified at 34 C.F.R. § 668.46 (b)(11)(iii)).

9. Title IX Q&A, *supra* note 6, at 40.

10. Violence Against Women Act, 79 Fed Reg. 62,752, 62,773 (Oct. 20, 2014) (to be codified at 34 C.F.R. § 668.46 (k)(2)(ii)).

11. Violence Against Women Act, 79 Fed Reg. 62,752, 62,773–32,774 (Oct. 20, 2014) (to be codified at 34 C.F.R. § 668.46(k)(2)(iii)–(v)); 2011 DCL, *supra* note 6, at 12.

12. Language choices are very individualized and terms can have different connotations for different people. The terms complainant, victim and survivor are often used to refer to individuals who have experienced sexual and relationship violence. I have generally chosen to use the term complainant in this article but also use the terms victim and survivor depending on the particular sentence and context.

13. *E.g.*, 2011 DCL, *supra* note 6, at 7 (“a recipient’s general policy prohibiting sex discrimination will not be considered effective and would violate Title IX if, because of the lack of a specific policy, students are unaware of what kind of conduct constitutes sexual harassment, including sexual violence, or that such conduct is prohibited sex discrimination.”). Again, as noted above in note 6, the term “Title IX” in this article refers generally to the statute, its regulations, and all federal guidance documents from OCR.

clarity and integrity. The 2011 DCL, for example, states that colleges and universities must make clear what conduct constitutes sexual harassment.¹⁴ The 2013 Montana Letter, which detailed the compliance review and investigation into the University of Montana, identified as the University's first problem that "[the] sheer number [of policies related to sexual harassment and sexual assault] and the lack of clear cross references among them leaves unclear which should be used to report sexual harassment or sexual assault and when circumstances support using one policy or procedure over another."¹⁵ The 2013 Montana Letter requires the University to revise its policies "to dispel any confusion about when, where, and how students should report various types of sex discrimination."¹⁶ The reason for avoiding this confusion is plain: complainants who don't understand what conduct is prohibited or where to report allegations will remain silent.

Likewise, without an understandable DV policy and an accessible, clearly-identified unit on campus responsible for DV investigations, institutions of higher education risk confusing complainants, and as an unwanted result, possibly also chilling reporting on their campuses. First, people who experience dating and domestic violence and stalking must understand where to report DV and which policy applies to them. Instances of DV are often enmeshed with other forms of sexual violence, including sexual assault, and sexual assault often occurs within a dating context. Given the already complex emotional and psychological dynamics of experiencing DV, it is unreasonable to expect a complainant to read the institution's sexual assault policy and as well as a separate DV policy and then determine which better fits his/her situation, which institutional entity s/he should report to, and which set of procedures will govern the investigation into his/her complaint. Thus, in the establishment of its DV policies pursuant to VAWA, institutions must steer clear of the tendency to add yet another policy, yet another set of distinct procedures, and different staff to its existing structures, and should instead strive to develop a comprehensive and clear unified structure for addressing all of these aspects of sexual violence.¹⁷ It is critical that those who experience sexual violence understand how to make reports, comprehend the processes that will be used, know what resources are available for support, and have access to the reporting/investigative system without undue obstacles.

II. INSTITUTIONAL STAFF HANDLING DV CONCERNS MUST BE

14. 2011 DCL, *supra* note 6, at 7.

15. 2013 Montana Letter, *supra* note 6, at 7.

16. 2013 Montana Letter, *supra* note 6, at 9.

17. Because allegations often include aspects of DV, sexual assault and stalking together, institutions may find that the best use of resources will be to co-locate their Title IX and DV investigations within one office.

KNOWLEDGEABLE ON ISSUES OF GENDER-BASED AND SEXUAL VIOLENCE
(AND BY THE WAY, SO SHOULD THE TITLE IX STAFF)

In order to effectively investigate dating violence, domestic violence and stalking, the assigned investigative staff will need to understand a host of complex issues involved with sexual and gender-based violence. They will need to appreciate the interplay of power, gender, and sexuality,¹⁸ why many people who experience DV choose not to report their abuser or choose not to cooperate with official efforts to hold abusers accountable¹⁹, how DV complainants can experience peer stigmatization²⁰ and victim responses to trauma.²¹ It will not be enough for campus staff handling DV issues to be educated in the arena of student conduct and student affairs.²² Rather, for many of the same reasons that prosecutors' offices often have dedicated domestic violence units,²³ institutional investigation of DV requires a particularized knowledge base and skill set.

Because DV and sexual assault share many core issues, colleges and universities should use the implementation of VAWA's requirements as an opportunity to assess the knowledge and skills of their Title IX staff. "In sexual violence cases, the fact-finder and decision-maker also should have adequate training or knowledge regarding sexual violence."²⁴ Like those

18. See generally LUNDY BANCROFT, *WHY DOES HE DO THAT? INSIDE THE MINDS OF ANGRY AND CONTROLLING MEN* (2003); SUSAN BROWNMILLER, *AGAINST OUR WILL: MEN, WOMEN AND RAPE* (1993); SUSAN ESTRICH, *REAL RAPE* (1988).

19. See, e.g., LESLIE MORGAN STEINER, *CRAZY LOVE* (2010).

20. See, e.g., Diana M. Quinn, et al., *Examining Effects of Anticipated Stigma, Centrality, Salience, Internalization, and Outness on Psychological Distress for People with Concealable Stigmatized Identities*, PLOS ONE (May 9, 2014), <http://www.plosone.org/article/info%3Adoi%2F10.1371%2Fjournal.pone.0096977>; Keertana Anandraj, *No More Silence. No More Violence.*, CHANGE MAGAZINE, Oct. 29, 2014, available at <http://change-magazine.org/2014/10/no-more-silence-no-more-violence/>.

21. E.g., Rebecca Campbell, Emily Dworkin & Giannina Cabral, *An Ecological Model of the Impact of Sexual Assault on Women's Mental Health*, 10 TRAUMA, VIOLENCE, & ABUSE 225 (2009).

22. The regulations promulgated pursuant to VAWA specifically require that DV investigative staff "at a minimum, receive annual training on the issues related to dating violence, domestic violence, sexual assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability." Violence Against Women Act, 79 Fed Reg. 62,752, 62,773 (Oct. 20, 2014) (to be codified at 34 C.F.R. § 668.46 (k)(2)(ii)).

23. Jennifer Gentile Long & John Wilkinson, *The Benefits of Specialized Prosecution Units in Domestic and Sexual Violence and Cases*, 8 Strategies in Brief (Dec. 2011); *Practical Implications of Current Domestic Violence Research: For Law Enforcement, Prosecutors and Judges*, Nat'l Inst. of Justice ch. 6, sec. 18 (June 2009), available at <http://www.nij.gov/topics/crime/intimate-partner-violence/practical-implications-research/ch6/Pages/specialized-prosecution-units.aspx>.

24. 2011 DCL, *supra* note 6, at 12. It further noted that where an allegation involves forensic evidence, that evidence "should be reviewed by a trained forensic ex-

employees working in DV investigations and adjudications, Title IX staff must be knowledgeable beyond generalized student conduct matters and procedures.²⁵ To be most effective, Title IX investigators should also be educated about the dynamics of counter-intuitive victim responses to trauma,²⁶ memory fragmentation and delayed recall,²⁷ uncooperative victims, and the interplay of power/gender/sexuality.²⁸ Both Title IX investigators and DV campus staff must appreciate the stress caused by and the ramifications of reporting sexual violence for a student within her peer community and the peer stigma that might exist for all involved parties within small groups such as fraternities, sororities, athletic teams, and university residence halls.²⁹ If an institution's Title IX staff is not trained in these issues, the timing of the implementation of the VAWA amendments to the Clery Act is the perfect moment for a comprehensive staff investigative training. Many advocacy agencies and women's shelters can provide a comprehensive training about the dynamics of all forms of sexual violence and understanding survivor experiences.

III. CREATE INVESTIGATIVE PROCESSES THAT CONFORM TO FEDERAL GUIDANCE TRENDS AND ACCEPTED BEST PRACTICES

Institutions do not need to reinvent the wheel when it comes to developing investigative practices for DV under the new VAWA requirements. Indeed, they should look to the growing body of established best practices stemming from the federal government's interpretation of Title IX for guidance on how best to investigate DV on their campuses.³⁰ Many of the

aminer." *Id.* at 12 n. 30.

25. Title IX Q&A, *supra* note 6, at 14 (institutions may use general student disciplinary procedures to resolve sexual violence complaints, but must ensure those procedures meet all of the Title IX procedural requirements as well).

26. Patricia L. Fanflik, *Victim Responses to Sexual Assault: Counterintuitive or Simply Adaptive?*, NAT'L DIST. ATTORNEYS ASS'N (Aug. 2007).

27. Matt J. Gray & Thomas W. Lombardo, *Complexity of Trauma Narratives as an Index of Fragmented Memory in PTSD: a Critical Analysis*, 15 APPL. COGNIT. PSYCHOL. S171-S186 (2001); Rebecca Campbell, Webinar, *The Neurobiology of Sexual Assault*, NAT'L INST. OF JUSTICE (2012), available at <http://nij.gov/multimedia/presenter/presenter-campbell/Pages/welcome.aspx>.

28. See, e.g., BANCROFT, *supra* note 18; BROWNMILLER, *supra* note 18; ESTRICH, *supra* note 18.

29. Because those investigating sexual assaults and DV must both understand the cultural attitudes regarding gender-based violence and various cultural norms regarding sexuality and relationships, many institutions may conclude that the best use of resources will be to use the same staff for both kinds of sexual violence. See Title IX Q&A, *supra* note 6, at 40 (requiring that sexual misconduct investigators receive "cultural awareness training regarding how sexual violence may impact students differently depending on their cultural backgrounds.").

30. E.g., 2011 DCL, *supra* note 6; Title IX Q&A, *supra* note 6; Voluntary Resolution Agreements, *supra* note 6; NOT ALONE, *supra* note 7.

procedures for investigating sexual violence under Title IX and investigating DV under the VAWA amendments to the Clery Act are either identical or can be analogized as similar enough to warrant similar processes.

In addition to these procedural similarities, the parallels between the two forms of sexual violence make it reasonable to borrow certain best practices from the Title IX field to use in the field of DV. For example, the interim measures³¹ institutions are encouraged to use for complainants in sexual assault investigations—class or housing separations, no contact orders, and express directives of no retaliation—make equal sense for DV complainants;³² the already-established procedures and networks for triggering these interim measures can therefore be brought into the DV context with little alteration.³³ Moreover, regardless of the shape of their investigative and adjudicatory structures, institutions should choose the “preponderance of evidence” standard³⁴ for their burden of proof in DV cases. While VAWA does not explicitly require the preponderance standard,³⁵ colleges and uni-

31. “Title IX requires a school to take steps to protect the complainant as necessary, including taking interim steps before the final outcome of the investigation.” 2011 DCL, *supra* note 6, at 15. Institutions must implement these interim measures “promptly” upon getting notice of an allegation of sexual harassment or sexual violence, and must minimize the burden of these interim measures on the complainant. *See id.* at 15–16. The specific interim measures delineated in Title IX federal guidance include options for no-contact and changes to academic and extracurricular activities, including living, transportation, dining, and working situations. *See* Title IX Q&A, *supra* note 6, at 32.

32. VAWA regulations require institutions to reasonably accommodate requests for changes in a complainant’s academic, living, transportation, and working situations, as well as protective measures. Violence Against Women Act, 79 Fed Reg. 62,752, 62,762–62,763 (Oct. 20, 2014) (to be codified at 34 C.F.R. § 668.46 (b)(11)(v)).

33. If an institution has not yet formalized its policy and process for providing interim measures in its Title IX cases, again, the added requirement of DV should be the trigger for implementing a wholesale protocol.

34. Allegations of sex discrimination (including sexual harassment and sexual assault) under Title IX must be reviewed by the institution using the preponderance of evidence standard of proof, i.e., that it is more likely than not that the alleged conduct occurred. Title IX Q&A, *supra* note 6, at 26; 2011 DCL, *supra* note 6, at 9–11. In requiring the preponderance of the evidence standard of proof, OCR relies on case law interpreting Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq. *See* REVISED SEXUAL HARASSMENT GUIDANCE: HARASSMENT OF STUDENTS BY SCHOOL EMPLOYEES, OTHER STUDENTS, OR THIRD PARTIES, DEPT. OF EDUC. vi (2001) (“Title VII remains relevant in determining what constitutes hostile environment sexual harassment under Title IX.”), available at <http://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>; *see, e.g.*, Desert Palace, Inc. v. Costa, 539 U.S. 90, 99 (2003) (preponderance of evidence standard generally applies in cases under Title VII); Price Waterhouse v. Hopkins, 490 U.S. 228, 252–55 (1989) (approving preponderance standard in Title VII sex discrimination case) (plurality opinion); Jennings v. Univ. of N.C., 482 F.3d 686, 695 (4th Cir. 2007) (“We look to case law interpreting Title VII of the Civil Rights Act of 1964 for guidance in evaluating a claim brought under Title IX.”).

35. VAWA requires only that the institution publicly state the burden of proof it

versities would be remiss (and potentially inviting scrutiny from the federal government) to ignore the lessons of Title IX when it comes to establishing these important aspects of their decision-making in DV matters.³⁶

IV. PUT EFFECTIVE PARTNERSHIPS IN PLACE IN ORDER TO ROBUSTLY FULFILL ALL OF VAWA'S MANDATES

VAWA's mandates extend beyond investigative policy and require enhanced coordination and communication with law enforcement as well as ample survivor services. At the heart of these mandates is the acknowledgement that relationships with sexual violence advocates and law enforcement are key to effectively addressing all forms of campus sexual violence. This is because incidents of alleged DV often give rise to parallel criminal investigations, resulting in common respondents/defendants, common witnesses, and common evidence. When considering the creation of a DV policy and process, an institution should consult with campus and local law enforcement so that each agency's role and boundaries are clear. If possible, it is best to put in writing exactly what procedures must be followed, who will respond, and who will be notified in the event of an incident of DV in the campus community.

Survivor advocacy services are also an essential component of an institution's DV policy. Campuses will rely on advocates to facilitate communication between complainants and various departments of the institution, to explain the institution's DV policies and process, to receive confidential information, and to provide support and resources. To make sure survivor interests are at the forefront of an institution's DV policy, input from advocates is necessary in the drafting of an institution's DV policy, and institu-

will be using. However, because VAWA addresses sexual assault as well as incidents of DV, because Title IX requires the "preponderance" standard for sexual assault adjudications, and because—as noted elsewhere in this article—institutions may co-locate their DV and sexual assault investigative/adjudicative offices, it is reasonable to infer that "preponderance" is the wiser choice for institutions' DV adjudications.

36. While OCR has been steadfast in its specific requirement of the preponderance standard and in its general aggressive enforcement of Title IX with respect to campus sexual assault, this approach is not without its detractors. *See, e.g.*, Elizabeth Bartholet et al., *Rethink Harvard's sexual harassment policy*, BOSTON GLOBE, Oct. 15, 2014, <http://www.bostonglobe.com/opinion/2014/10/14/rethink-harvard-sexual-harassment-policy/HFDDiZN7nU2UwuUuWMnqbM/story.html>; Joe Palazzolo, *Harvard Law Professor: Feds' Position on Sexual-Assault Policies is 'Madness'*, WALL STREET JOURNAL LAW BLOG (Dec. 31, 2014), <http://blogs.wsj.com/law/2014/12/31/harvard-law-professor-feds-position-on-sexual-assault-policies-is-madness/>; Emily Yoffe, *The College Rape Overcorrection*, SLATE (Dec. 7, 2014), http://www.slate.com/articles/double_x/doublex/2014/12/college_rape_campus_sexual_assault_is_a_serious_problem_but_the_efforts.html.

tions should continue to meet regularly with advocates to check in and confirm the process is functioning appropriately.³⁷

V. EDUCATE, EDUCATE, EDUCATE

As many educators who work with adolescent and college-age populations know, even important lessons sometimes must be repeated to ensure that learners internalize the concepts. The combination of Title IX's educational mandates³⁸ and VAWA's new educational mandate seems to embody this life truism. Title IX requires educational programs on sexual harassment and sexual violence.³⁹ VAWA requires educational programs on dating and domestic violence, stalking, and sexual assault.⁴⁰ Both statutes strongly encourage initial and ongoing educational programs.⁴¹ Because of the overlap and connection between Title IX and VAWA, institutions should consider developing comprehensive sexual violence education programs for their students that include lessons on consent, bystander intervention, risk reduction and the logistics of the institution's reporting and grievance procedures.

The problems of domestic and dating violence, stalking and sexual assault are complex, and cannot be remedied by an institutional policy that focuses on investigations to the detriment of prevention. The vast majority of incidents of sexual violence are unreported. If colleges' and universities' strategies for addressing sexual violence rely solely on investigations (which, by definition, occur after some report to the institution is made), a large portion of sexual violence will go unaddressed. Preventive education in the field of sexual assault, dating and domestic violence, and stalking is therefore particularly critical to reach the most students. VAWA specifies

37. While robust resources for complainants are necessary for campus DV proceedings, institutions must ensure fairness and balance in their systems by protecting the due process rights of students and employees accused of DV. Some protections are spelled out explicitly in the VAWA regulations, including each party's right to an advisor (often an attorney), simultaneous written notification of outcomes, transparent and "prompt, fair, and impartial process," equal access to information. Violence Against Women Act, 79 Fed Reg. 62,752, 62,771–62,772 (Oct. 20, 2014) (to be codified at 34 C.F.R. § 668.46(k)).

38. Institutions should provide training to students on Title IX and sexual violence, specifically including but not limited to extensive information about the institution's sexual violence policy and procedures; the effects of trauma including "neurobiological changes;" the role of alcohol/drugs; bystander intervention strategies; reporting and confidentiality options; law enforcement information; and the protection against retaliation. Title IX Q&A, *supra* note 6, at 41.

39. Title IX Q&A, *supra* note 6, at 41; 2011 DCL, *supra* note 6, at 14.

40. Violence Against Women Act, 79 Fed Reg. 62,752, 62,769 (Oct. 20, 2014) (to be codified at 34 C.F.R. § 668.46(j)).

41. Title IX Q&A, *supra* note 6, at 41; Violence Against Women Act, 79 Fed Reg. 62,752, 62,758 (Oct. 20, 2014) (to be codified at 34 C.F.R. § 668.46(j)(2)(iii)).

the content that must be covered in such prevention programs.⁴² Institutions should invest significantly in prevention and educational programs targeted at changing cultural norms and social behavior as a means to reduce the incidence of sexual violence on their campuses, and students should receive such programming throughout their educational years.

Institutions of higher education vary greatly—in size, public/private, commuter-oriented/highly residential, etc. Because of these differences, compliance with the VAWA amendments to the Clery Act is likely to look different from campus to campus. Regardless of the particular structure that a college or university chooses, the components discussed above constitute the minimal competencies that should be at the basis of every institution's approach to sexual violence. While the federal government continues to define institutions' role in addressing campus dating and domestic violence, stalking and sexual assault under VAWA with new regulations, these precepts provide a solid starting point for institutions implementing VAWA's mandates on their campuses.

42. Violence Against Women Act, 79 Fed Reg. 62,752, 62,769 (Oct. 20, 2014) (to be codified at 34 C.F.R. § 668.46(j)).