

Campus Law Enforcement Communication with Title IX Coordinator

Office for Civil Rights

U.S. Department of Education

April 28th, 2015

Question: What obligations does a sworn campus law enforcement unit have to share a student report of sexual violence with the Title IX Coordinator? If there is a duty, does this duty under Title IX exist notwithstanding state laws that prohibit law enforcement from sharing this information?

Answer: Each case is fact-specific and each determination is based on the particular set of facts presented. Although we do not give legal advisory opinions, we do provide information on how the civil rights laws that OCR enforces apply generally.

While we cannot opine on state laws or what information they permit a sworn campus law enforcement officer to share with a school's Title IX coordinator, we can provide information regarding how to determine whether a school's campus law enforcement officers are responsible employees under Title IX and what information Title IX requires responsible employees to provide to the Title IX coordinator, or designee. As you are aware, OCR enforces Title IX of the Education Amendments of 1972 and its implementing regulation at 34 C.F.R. Part 106 (Title IX), which require schools receiving federal funding to respond promptly and equitably to allegations of sexual violence. Under Title IX, whether an individual is obligated to report incidents of alleged sexual violence generally depends on whether the individual is a responsible employee of the school (i.e., an employee who has the authority to take action to redress sexual violence; who has been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX coordinator or other appropriate school designee; or whom a student could reasonably believe has this authority or duty). Whether an employee is a responsible employee will vary depending on factors such as the age and education level of the student, the type of position held by the employee, and consideration of both formal and informal school practices and procedures. It is up to each individual school to determine whether, based on these factors, its campus law enforcement officers are responsible employees.

Subject to certain exemptions for school counseling employees, responsible employees must report to the school's Title IX coordinator, or other appropriate school designee, all relevant details about the alleged sexual violence that the student or another person has shared and that the school will need to determine what occurred and resolve the situation. This includes the names of the alleged perpetrator (if known), the student who experienced the sexual violence, other students involved in the alleged sexual violence, as well as relevant facts, including the date, time, and location.

When investigating an incident of alleged sexual violence for Title IX purposes, to the extent possible, a school should coordinate with any other entities conducting ongoing school or criminal investigations of the incident and establish appropriate fact-finding roles for each investigator. A school should consider whether information can be shared among investigators so that complainants are not unnecessarily required to give multiple statements about a traumatic event. A school may want to enter into a memorandum of understanding (MOU) with its campus police, local law enforcement, and local prosecutor's office regarding the protocols and procedures for referring allegations of sexual violence, sharing information, and conducting contemporaneous investigations. Any MOU must allow the school to meet its Title IX obligation to resolve



complaints promptly and equitably. Earlier this year the White House Task Force to Protect Students from Sexual Assault released a sample of an MOU between a college and local law enforcement agency. The sample MOU can be used as a guide for schools and law enforcement agencies who wish to center into an MOU. The sample MOU is available [here](#).

OCR is committed to providing the public with information about the civil rights laws OCR enforces. In responding to correspondence, OCR provides general, publicly available information about a wide variety of civil rights issues in the education context. OCR does not, however, provide legal or other advice or issue advisory opinions to customers concerning specific factual scenarios. Correspondence issued by OCR in response to an inquiry from the public does not constitute a formal statement of OCR policy and should not be construed as creating or articulating new policy. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public.

Continued question: Since OCR defines responsible employees to include any employee with a duty to report other forms of misconduct, can't it be argued soundly that the duty to report crimes imposed by the Clery Act on campus law enforcement, as CSAs, meets this definition? Thus, it is not up to the recipient. It has been defined as mandated already by Congress.

Additional Clarification: OCR does not define responsible employee to include any specific type of employee. But that is a reasonable interpretation of the definition of a responsible employee under Title IX as it would apply to campus law enforcement personnel.

