

MASSACHUSETTS' NEW CAMPUS SEXUAL ASSAULT LAW

10 Tips for Colleges & Universities to prepare for the August 1, 2021 deadline

1

Start with Title IX!

The Massachusetts law is written to sync with the 2020 Title IX regulations. If your campus still needs to finalize its implementation of the new requirements required under Title IX, which took effect in August 2020, you should start by addressing Title IX compliance first, and then layer in compliance with the new state law.

2

Policies and procedures under the MA law arguably reach “farther” than Title IX in terms of application to all reports of sexual misconduct.

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3

Confidential resources are a cornerstone and the state law places high emphasis on strong intake processes.

Confidential resources must be well-trained and conversant with both on- and off-campus support and safety resources, reporting channels, medical, health, and mental health services, forensic/SANE examinations, disciplinary processes, and intersection with law enforcement.

4

As a compliance exercise: Put yourself in the shoes of a victim/harmed party in the middle of the night as you review your website.

Would it be clear to them who the confidential resource(s) are that the institution has identified? Where to make a report to the institution or law enforcement and what will happen when they do? Where to go to get help off-campus? Where to go get help on-campus?

5

Provide an anonymous report mechanism.

Massachusetts law requires that each institution provide a mechanism for anonymous reports, typically on the institution's website.

6

Use Summer 2021 as an opportunity for a “website refresh.”

The law requires a number of specific website elements that may already appear on your websites. However, we recommend that you leverage the new law as an opportunity to review and freshen up how you communicate to your community about your policy, procedures, reporting options, and support mechanisms, and contact information for a multitude of resources.

7

Investigators and Panel/Hearing Officers now need annual training.

The Title IX regulations required that investigators, decision-makers and appellate decision-makers be trained on a number of Title IX requirements. The Massachusetts law expands this requirement to require annual training for individuals in these roles.

8

Imposes a seven-day limit on providing a written outcome letter following a hearing or disciplinary proceeding.

As under Title IX and the Clery Act, the results must be shared with both parties.

9

Required Memoranda of Understanding will take time to negotiate and finalize and institutions should begin this work in Spring 2021.

All campuses must have an MOU with local law enforcement and campuses that do not host their own sexual assault crisis services must enter into agreements with local crisis service providers.

10

Campus climate surveys for students are now required every four years.

Although campuses are free to develop their own survey within certain parameters, the state Department of Higher Education will be building a uniform survey instrument available to all institutions to use.