

Vermont Campus Sexual Harm Task Force
Report to the Legislature
May 8th, 2020

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Introduction

In May of 2019, the Vermont Legislature passed [Act 77](#), an act relating to miscellaneous judiciary procedures, which included language in Section 24 creating a Task Force on Campus Sexual Harm. The Task Force was charged to “examine issues relating to responses to sexual harm, dating and intimate partner violence, and stalking on campuses of postsecondary educational institutions in Vermont,” and report to the legislature on or before March 15, 2020 with its findings and any recommendations for legislative action.

The Task Force met over a period of 9 months and held six formal, in-person meetings. Our work was grounded in the powers and duties of the Task Force, as assigned by the Vermont legislature. To summarize, our task was specifically focused on sexual harm at postsecondary educational institutions in Vermont and was called to consider:

- Pathways for survivors to seek healing and justice;
- Issues with campus adjudication processes;
- Issues related to transparency, safety, affordability, accountability of outcomes, and due process in campus adjudication processes;
 - In particular, the task force was called to consider current and best practices related to transcript notations in relation to sexual harm adjudication processes;
- How to improve survivor safety in campus adjudication processes;
- Any state policy changes that should be made in response to pending Title IX changes at the federal level;
- How to enhance collaboration between campuses and community organizations focused on domestic and sexual violence.

In order to achieve this extensive and lofty charge in the time allotted, the Task Force identified potential policy proposals during our fourth meeting that were further developed in small groups, reviewed during our fifth meeting, and ultimately voted upon during our sixth and final Task Force meeting. A more detailed summary of our process can be found in Appendix A.

There were some proposals that the Task Force unanimously agreed upon, while there were other proposals where the group was unable to find consensus. We attempted to cultivate consensus whenever possible, but there were ultimately proposals that Task Force members could simply not reach consensus on for a variety of reasons.

Summary of Recommendations Receiving Unanimous Support

As groups developed policy proposals in areas identified by the Task Force, a number of overarching recommendations emerged which all received unanimous support. These include:

1. The creation and/or expansion of a statewide council of networked professionals who are focused on both prevention and response to sexual harm on college campuses, as well as how to best support both survivors and other students who have been impacted by sexual harm. This could take the form of an expanded and supported Intercollegiate Council on Sexual Violence. There is a recognized need for better exchange of information, best practices, and data. The proposed statewide council could work to develop and support consistent, evidence-based responses among Vermont institutions. The Task Force agrees that such a group would be best facilitated by on-campus stakeholders, with community partners at the table. While support from entities such as the Vermont Department of Health, the Vermont Network Against Domestic and Sexual Violence, and other state- or community-based organizations was discussed, the group did not reach consensus on this point. Throughout the recommendations, you'll see references to the role a statewide council should play, and potential charges for this group.
 - o For example, the Task Force recommends the council be charged with organizing an annual day-long conference for stakeholders working to come together for in-depth collaboration and information sharing.
2. The increase use of alternative resolution processes for cases of sexual harm on college campuses. A state-wide entity, such as the proposed statewide council, could provide guidance, support, resource development and training in support of making alternative resolution processes widely available on all Vermont campuses.
3. Data gathering at the state level, through aggregate data collection and reporting and/or standardized campus climate survey questions.
4. Increase transparency for participants in campus investigation and adjudication processes by encouraging Vermont campuses to disclose information to participants that will inform their participation in the process. This transparency is already required by the 2014 VAWA amendments to the Clery Act, but this Task Force seeks to emphasize the importance of transparency in the reporting process.
5. Improved information pathways for survivors in the form of an email to all enrolled students within the first week of class containing concise and easy-to-understand information about free, confidential options both on- and off-campus. This recommendation is a complement to the extensive requirements already required under federal law provided by the 2014 VAWA amendments to the Clery Act.
6. Funding to help Vermont higher education institutions pilot new models and supports, such as improved accommodations for survivors and alternate resolution initiatives. Early on in the Task Force's discussions, we noted the barriers that the disparate resources from institution to institution present for encouraging consistent practices across Vermont's colleges and universities.
7. Confidentiality remains a significant barrier for survivors and warrants further consideration, especially given that Vermont state statute protects rape crisis support providers, but appears to be at odds with some of the reporting requirements required by the federal Clery Act.

Recommendation #1: Education and Prevention

There are successful models for institutions of higher education and community partner/service providers in Vermont to share local and aggregate data, review current and new best practices, and to develop professionally from local and national experts on health topics. These include:

- The Vermont College Coalition for Changing the Substance Misuse Culture on Campus, which meets every other month and is focused on cultural and structural changes to address substance use. This coalition has two paid facilitators as well as guest speakers and presenters who promote shared learning based on a yearly theme.
- The College Symposium to Address High-Risk Substance Use, which is hosted by a Vermont institution of higher education each October and is planned by volunteer representatives from campuses, community partners, and the Vermont Department of Health. This one-day symposium leverages local speakers, campus staff presentations, and national experts whom campuses may not otherwise be able to access for professional development and consultation. The Vermont Department of Health funds this symposium and attendees pay a nominal fee (\$35) to attend.

The American College Health Association has recommendations for comprehensive violence prevention in higher education in its [toolkit](#).¹

FINDINGS:

Vermont institutions of higher education do not have access to statewide data to inform programmatic and policy changes to reduce violence and improve outcomes. This impacts students, campus policy makers and enforcers, prevention and public health education staff, and prospective students and families. The lack of data limits options for strategic, collaborative, and evidence-informed approaches for addressing or preventing sexual harm in institutions of higher education.

Campus-based staff do not have ready access to structured, professional networks to share resources, information, and collaborate on violence prevention efforts. Without ongoing professional development and collaboration, campus staff are less able to effectively implement violence prevention programming and initiatives to impact students. The current Intercollegiate Council on Sexual Violence (ICSV) is facilitated by volunteers from both college campuses and community organizations, meets quarterly, and does not have funding for data collection, analysis, skill development, or curricula trainings.

¹ https://www.acha.org/documents/resources/ACHA_PSV_toolkit.pdf

RECOMMENDATION:

Create state-sponsored opportunities for institutions of higher education and community partners to review aggregate data collected from climate surveys, share best practices, and hear from local and national experts on violence prevention, sexual health education, and strategies for mitigating secondary and tertiary violence for survivors.

- Ensure that a statewide council on campus sexual harm meets (at least) quarterly.
 - Dedicate funding to support the statewide council and its two compensated chairs (at least one of whom needs to be a campus staff member) charged with:
 - Promoting and providing the tools and skills necessary for the creation and sustainability of a comprehensive violence prevention program on every college campus in Vermont. The prevention program should be based on, but not limited to, research identified by the American College Health Association, the U.S. Centers for Disease Control Division of Violence Prevention, and the 2014 & 2017 White House Task Force to Protect Students from Sexual Assault Reports.
 - At a minimum, membership shall include Title IX Coordinators, prevention/education coordinators, campus advocates, campus safety, and community partner and service-providing agencies who partner with college campuses.
- The statewide council should organize an annual symposium focused on campus sexual and relationship violence prevention. Such a symposium will require the following support:
 - Dedicated funding to support said symposium
 - The convening of a planning committee comprised of campus and community partners, to plan, execute and assess the symposium.
 - The focus of a one-day symposium will be as follows:
 - Elevate local and national experts in violence prevention
 - Showcase and explain best practices and promising practices
 - Share aggregate data collected at the state level
 - Compare and contrast state level data with national data sets
 - Identify and explore policies, programs, and services to meet the needs of underserved and/or underrepresented populations
 - Promote and provide both the tools and the skills necessary for the creation and sustainability of comprehensive violence prevention programs on every Vermont college campus.

These proposals were supported by the task force on a vote of 16 in favor, 0 opposed or abstaining, and 3 absent.

Recommendation #2: Alternative Pathways and Restorative Justice

FINDINGS:

How can we improve processes and outcomes for survivors, respondents² and campus communities in response to the epidemic of sexual harm? Students and activists argue that survivors of sexual violence do not have enough options to share their own stories and choose their own options for justice, healing and support. Nor are there adequate processes in place to stem the epidemic of intimate violence through education, accountability and interventions for respondents. Currently, survivors who attend most institutions in Vermont can choose between three options—justice through the civil or criminal systems, participation in their university’s Title IX process, or nothing. For respondents, the options are also inadequate and ineffective.

In the *New York Times*, campus sexual assault activist Sofie Karasek wrote, “Over time, many student activists have become disillusioned with an emphasis on punitive justice—firings, expulsions and in some cases, prison sentences. We’ve seen first-hand how rarely it works for survivors. It’s not designed to provide validation, acknowledgement or closure. It also does not guarantee that those who harmed will not act again.”³

There are several barriers that have consistently prevented survivors, respondents and campus communities from experiencing justice and healing and may also limit the cultural shifts required to minimize this epidemic. According to data collected by the American Academy of Colleges and Universities:

- Among undergraduate students, 25.9% of females, 22.8% LGBTQ and 6.8% of males experience rape or sexual assault through physical force, violence, or incapacitation
- Between 10-15% (differences related to type of offense and student identity) of student victims report offenses to campus officials. This leaves most sexual harm unreported.
- Very few campuses offer specific interventions for respondents that focus specifically on preventing further and/or desisting from committing harm.⁴

Survivors may be reluctant to report for a variety of reasons:

- They know the respondent.
- They are afraid of the repercussions of reporting; on themselves, their friends and the accused.
- They are concerned about being re-traumatized by the process.
- They feel confused about their own responsibility for what happened.
- They are concerned about being judged, isolated, shamed.
- They are concerned about retaliation.
- They are uncomfortable with the formal Title IX or law enforcement process.
- They think that the formal process takes too much time and have little confidence in the outcome.

² The term “respondent” is used in campus Title IX policies to describe the person who the allegations have been made against.

³ <https://www.nytimes.com/2018/02/22/opinion/campus-sexual-assault-punitive-justice.html>

⁴ <https://www.aacu.org/diversitydemocracy/2019/winter/spear>

- They feel that formal “punishments or consequences” are too harsh.
- They want the person who harmed them to receive help.

Pending federal changes to Title IX investigations are likely to create new barriers for survivors and may render campus adjudication investigations more akin to criminal proceedings, potentially leaving even more survivors feeling alone and unsupported. Further investment in alternative resolution processes could provide meaningful pathways to healing for claimants and respondents, even as traditional Title IX adjudications evolve in ways that make them less accessible than ever to survivors of campus sexual harm. Programs at the University of Michigan, Skidmore College, The College of New Jersey and others provide potential models and show promising results.

Forms of sexual harm (including intimate partner violence/abuse, sexual assault and harassment) are significant problems in our society. People between the ages of 18-24 are particularly vulnerable, making our campuses sites of extensive harm which can have negative impacts throughout people’s life-time. Since a very small percentage of people currently report these offenses, we should consider alternative methods of addressing this harm and making those practices known and available on campuses.

RECOMMENDATIONS:

Utilize the statewide council as an ongoing entity that can provide guidance, support, resource development and training to all campuses in Vermont on alternative resolution processes for cases of sexual harm. This entity will be funded by legislature and empowered to design and implement policies and practices that:

- Develop Interventions, Services and Feedback
 - a. Consult with campuses using alternative resolution processes. As part of the design of services and interventions in Vermont, we should explore the successes and challenges of other campuses around the country.
 - b. Develop an implementation plan including initial training, location within campus services and evaluation process/satisfaction surveys.
- Build Skills
 - a. Develop regular methods to provide guidance and skill building to campuses regarding options for alternative practices that are consistent with forthcoming Title IX regulations.
 - b. Share information, best practices and build skills of campus Title IX professionals on alternate resolution processes as part of the proposed annual symposium held by the statewide council.
 - c. Create an online resource to share information about Title IX and alternative responses.
 - d. Develop and support a network of experts/consultants that can provide training, support and skill building on an as needed basis.
 - e. Prioritize Tier 1 practices prior to the development of Tier 2 & 3. Because of our commitment to Tier 1 we take some time to describe these phases here:

- Tier 1: Whole community education, courses, facilitated dialogue and circles that create a shift in the culture of harm on campuses and build connections, empathy and better communication.
 - Tier 2: Restorative approaches to reports of sexual misconduct and harassment. Colleges and universities are able to host alternative resolutions that contain restorative elements as an alternative to formal Title IX investigations in appropriate cases. Alternative resolution (sometimes called informal resolution) is a process where both the complainant and respondent voluntarily agree to certain terms, with the help of a trained facilitator. Alternative resolution is not appropriate for every report of sexual misconduct, as institutions must take public safety into account. The goals of alternative resolution are to address the reported conduct, identify the nature of the harm potentially experienced by the complainant, and to develop an alternative resolution agreement intended to repair harm and prevent any future sexual harassment or misconduct. Alternative resolution is intended to allow a respondent to acknowledge the impact of their conduct and accept responsibility, without specifically admitting to a violation of policy or law. A variety of measures may be voluntarily agreed on by the parties, including impact statements, counseling sessions, no-contact and no-trespass directives, regular meetings with college officials, and other measures that the Title IX Coordinator deems appropriate.
 - Tier 3: Restorative approaches to re-entry for respondents who have been removed from a dorm, team, campus or other group in the campus community.
- Design and Support Pilot Programs: Given the importance of these new practices, funding should be made available to pilot effective projects on campuses.
 - a. The state should provide grant funding to Vermont higher education institutions for training, pilot projects, and/or assessment of alternative resolution programs in campus sexual harm adjudications.
 - b. Results and impact from these pilot programs will be shared at the annual conference and through websites and publications.
 - Provide Legal Protection:
 - a. Given potential implications of utilizing alternative resolution strategies, the legislature should explore the potential civil and criminal liability of survivors, respondents, and campuses. This should include a consideration of statutory protections to exempt proceedings in alternative resolution processes from being used as evidence in future criminal cases.

These proposals were supported by the task force on a vote of 16 in favor, 0 opposed or abstaining, and 3 absent.

Recommendation #3: Campus Climate Survey

FINDINGS:

Vermont lacks any publicly available data on higher education campus sexual harm, either by institution or statewide. This impacts students, policy makers and the general public, and limits options for strategic approaches for addressing or preventing sexual harm in institutions of higher education.

RECOMMENDATION:

Vermont should require institutions of higher education to collect, and make publicly available, aggregate information about sexual harassment, sexual assault and other sexual harm impacting their students and staff.⁵

- Vermont should charge the expanded statewide council with:
 - Reporting to an established entity such as the Higher Education Sub-committee of the Prekindergarten–16 Council.
 - Developing a model sexual harm climate survey (in consultation with the Vermont Department of Health) for distribution to institutions of higher education in Vermont, to gather information on topics including but not limited to:
 - The incidence, prevalence and impacts of sexual harm, stalking and intimate partner violence impacting students and staff;
 - Whether or not incidents were disclosed, to whom, and what was the response;
 - Perceptions about the institutions' response systems;
 - Perceptions about available options, resources and supports available for complainants and respondents;
 - Knowledge of relevant institutional resources, policies, and procedures;
 - The existence or use of voluntary alternative resolution processes;
 - Perceptions of campus safety;
 - Community attitudes toward gender-based and identity-based violence and harassment, including individuals' willingness to engage as a bystander or ally;
 - Demographic information that could be used to identify groups disproportionately targeted for sexual harm;
 - Providing the oversight entity (eg: the PreK-16 Council) with any related recommendations regarding the content, timing and application of the survey, at a minimum identifying practices necessary to protect the anonymity of survey respondents;
 - Analyzing aggregate statewide data and providing executive summary reports to all participating institutions of higher education along with a raw data set of each

⁵ Resource: [Massachusetts bill H.1208 / S.736](#): “An act requiring sexual misconduct climate surveys at institutions of higher education”

school's data for those institutions for whom the agency has administered the survey

- Utilizing best practices from peer reviewed research and consulting with content area experts; and
 - Accounting for the diverse needs and differences of Vermont's institutions of higher education.
- Vermont should establish a data repository for all institutions' summaries of sexual harm climate surveys, as well as rules and procedures for implementing the survey described above.

This proposal was supported by the task force on a vote of 10 in favor, 0 opposed, 0 abstaining, and 9 absent.

Recommendation #4: Information Sharing for Participants in Title IX Processes

FINDINGS:

Federal law (that is, the 2014 VAWA amendments to the Clery Act) requires postsecondary education institutions to provide a variety of information to a student who reports to the institution that they have been a victim of dating violence, domestic violence, sexual assault or stalking. Despite these requirements, a perceived lack of transparency in the campus investigation and adjudication process can increase mistrust of the process, which in turn may discourage students from coming forward to report sexual harm and seek help.⁶ A lack of transparency during the process may also negatively impact trust in the process and perceptions about the legitimacy of outcomes of cases.⁷

RECOMMENDATION:

To increase transparency for participants in the campus investigation and adjudication process, the task force recommends that postsecondary educational institutions disclose important information to participants, including both participants who are reporting campus sexual harm and participants who are accused of sexual harm. In order to provide extensive information to participants, the Task Force strongly urges postsecondary educational institutions to create and distribute the following information to participants who are reporting campus sexual harm and participants who are accused of sexual harm:

- Explanation of neutrality
- Explanation of available processes
- Allowability of using a support person during process
- Explanation of anonymity and confidentiality
- Explanation of interim measures
- Explanation of investigative process
- Explanation about any voluntary alternative resolution processes
- Explanation of potential outcomes
- Prohibition of retaliation
- Resources for support

Postsecondary educational institutions are encouraged to refer to model information provided by the Office for Institutional Equity at the University of Michigan.⁸ The provision of this information is distinct from providing participants with a postsecondary educational institution's policies. Postsecondary educational institutions should strive to make the information they provide easy for participants to understand.

This proposal was supported by the task force on a vote of 10 in favor, 0 opposed, 0 abstaining, and 9 absent.

⁶ Zoe Ridolfi-Starr, Transformation Requires Transparency: Critical Policy Reforms To Advance Campus Sexual Violence Response, 125 Yale L.J. 2156 (2016).

⁷ *Id.*

⁸ <https://hr.umich.edu/sites/default/files/discrimination-harassment-complaint.pdf>

Recommendation #5: Improve Information Pathways for Survivors

FINDINGS:

Students impacted by sexual harm need more information that is easily accessible about resources and options available to them on and off campus, especially confidential and free supports – before a report is triggered. Despite the presence of federal laws requiring extensive and detailed information-sharing by institutions, it can be difficult for students to find the information they need, or to understand the information they are offered. Additionally, many institutions designate *responsible employees* broadly, resulting in environments in which it may be difficult for students to avoid inadvertently triggering a report or investigation if they disclose harm – even if this is not what they want.

RECOMMENDATION:

Improve information pathways for survivors. As a complement to the extensive requirements under federal law provided by the 2014 VAWA amendments to the Clery Act:

- Require that institutions email all enrolled students within the first week of classes each semester, and make easily available on their websites, concise and easy-to-understand information about free, confidential options on and off campus including:
 - How to access support, information, accommodations, health care and other resources for people impacted by sexual harm, intimate partner violence and stalking,
 - Who is / is not required to share potentially identifying information with any other person or entity, and
 - What will happen if they disclose harm to a *responsible employee*.

This proposal was supported by the task force on a vote of 12 in favor, 0 opposed, 2 abstaining, and 5 absent.

Recommendation #6: Pilot Funding to Improve Options, Resources & Support for Survivors

FINDINGS:

Students impacted by sexual harm need a range of options for dealing with the impacts of what happened, limiting additional harm and trauma, finding safety, healing and community, and pursuing accountability and justice as they define it.

Many survivors do not want to file a formal report or start a Title IX investigation. Some survivors instead prioritize basic accommodations, such as changing a class or work schedule or a living situation. Some students need to take a leave, or benefit from having time with a support person – for example, traveling to spend time with a parent, or having a parent come to them. When students are able to access this type of accommodation it can have a significant impact on their ability to maintain their academic standing or enrollment in higher education, and their resilience and well-being overall. While federal law establishes that institutions should provide accommodations that are “requested and reasonably available”, we have no data on whether students are aware they can request accommodations, or how often requests are granted or denied. When a request is denied, students have no recourse.

Vermont’s institutions of higher education have widely varying resources available to improve responses for people impacted by sexual harm.

RECOMMENDATION:

Create a time-limited grant program to fund one or more institutions to:

- Pilot the recommendations of this Task Force, evaluate their impacts, and report on what was learned to the legislature and other institutions of higher education and stakeholders in Vermont.
- Enable institutions to make available to students impacted by sexual harm a range of free options, resources and supports to ensure safety, eliminate a hostile campus environment and address its effects, manage the impacts of harm and support continued access to education. Institutions could:
 - Ensure students have a range of options for accessing confidential health care with no out of pocket costs, including post-exposure STI prophylaxis & treatment, a SANE exam (with transportation for off-site exams), follow up health & long-term mental health care;
 - Establish an MOU with a community health center *and* a community sexual violence advocacy organization to augment the programming and supports offered on-campus;
 - Make flexible funding available to survivors to help them manage the impacts of sexual harm, support healing, and maintain their enrollment in higher education.

Typical examples of needs include expenses for travel for themselves or a support person, housing, and the costs associated with the need to re-take a class.

- Establish a “grace period” for impacted students receiving academic scholarships to allow them to maintain their scholarship even as they take a leave or experience fluctuation in their GPA
- Establish a mechanism for students who feel they were unfairly denied an accommodation to appeal or seek recourse.
- Define and establish equitable (but not necessarily equal) options and supports for students who are accused of causing or found to have caused sexual harm, that respond to their distinct needs, and make these available whether or not they are respondents in a formal process.

This proposal was supported by the task force on a vote of 12 in favor, 0 opposed, 0 abstaining, and 7 absent.

Recommendation #7: Need for Confidential Support

FINDINGS:

Students impacted by sexual harm need confidential support in order to pursue a course of action that allows them to deal with the impacts; limit additional harm; access accommodations and maintain enrollment in higher education; and find safety and healing.

Students of color and other students from traditionally marginalized communities experience additional barriers to accessing support and engaging with mainstream systems on campus in the aftermath of sexual harm, especially when personnel in response systems frequently do not reflect the students' identities.

While the need for and benefits of confidential support are well-established, it is less clear how best to accomplish this goal universally across institutions of higher education in Vermont.

Students impacted by sexual harm may not seek help or make a report because they fear being punished for underage drinking, illegal drug use or being in violation of their school's conduct policy.

RECOMMENDATIONS:

The Task Force considered proposals to strengthen confidentiality provisions on Vermont campuses but lacked sufficient time to build consensus on the best path forward on this complicated issue. We recognize that this is a significant barrier for survivors and that it warrants further consideration. The Task Force also notes that state statute protects rape crisis support providers but appears to be at odds with federal law to some extent, in that the federal Clery Act requires that rape crisis support providers employed by colleges and universities must report sexual assaults of which they become aware for purposes of campus crime reporting requirements. While Clery regulations do not require reporting of identifying information, institutions may collect and retain this information, and have discretion for how they handle and share it within the institution. The legislature should be aware of this issue and consider whether any options are available to promote confidentiality protections.

The proposal was supported by the task force on a vote of 9 in favor, 0 opposed, 1 abstaining, 9 absent.

Summary of Recommendations Receiving Majority, but not Unanimous, Support

During our final deliberation two policy recommendations received majority, but not unanimous support.

Recommendation 8 sought to reduce barriers to reporting by recognizing that survivors may be fearful of facing repercussions for other behavior, such as underage drinking. Those in support of the proposal saw a statutory protection as a way to support survivors and increase their comfort with reporting. Task force members indicated that under the new proposed Title IX regulations it is likely that any accommodations provided for survivors will also have to be made available to respondents. Those who ultimately opposed this proposal did not state specific reasons for their votes.

Recommendation 9 was focused on how Vermont institutions collect and share data around their campus adjudication processes. Those in support of this proposal saw the potential benefit of increased transparency and the benefit of identifying any potentially concerning trends, especially in relation to students from historically marginalized communities. Those who opposed the recommendation were concerned that demographic data reported by small campuses would be easily identifiable and compromise student confidentiality. The Task Force considered other alternative ideas, such as reporting data in aggregate form on a four-year cycle, or by including this demographic information in a campus climate survey, as recommended by the Task Force. Ultimately the recommendation, in the form it was considered by the Task Force, received majority, but not unanimous, support.

Recommendation #8: Statutory Protections for Survivors of Sexual Harm

Finding: Students impacted by sexual harm may not seek help or make a report because they fear being punished for underage drinking, illegal drug use, or being in violation of their school's conduct policy.

RECOMMENDATION:

Establish statutory protections to ensure that survivors of sexual harm will not be punished for reporting an incident of sexual violence due to alcohol, drug use, or other minor conduct violations occurring at or around the time of an assault.

This proposal was supported by the task force on a vote of 9 in favor, 2 opposed, 1 abstaining, and 7 absent.

Recommendation #9: Collection & Distribution of Data

The aim of this proposal is to increase transparency surrounding campus adjudication processes and illuminate any potentially concerning trends, especially in relation to students from historically marginalized communities.

FINDINGS:

Vermont lacks any publicly available data from higher education campuses describing the demographics and socioeconomic status of either complainants or respondents involved in Title IX processes related to allegations of sexual harm. Anonymized data from educational institutions on the demographics of complainants and respondents and the outcomes of cases would answer questions as to whether, for example, schools are making appropriate resources available to the transgender community, whether African American men are being adjudicated more frequently with harsher outcomes, or whether schools are more frequently dismissing concerns of students who are not white. Do outcomes correlate to levels of student financial assistance; in other words, do students from wealthier families who have access to private counsel have different outcomes in campus judicial proceedings? Do complainants with more financial resources have different outcomes?⁹

RECOMMENDATION:

Vermont should require institutions of higher education to collect, and make publicly available, aggregate statistical information that may show whether students from historically disadvantaged groups (eg: students of color, LGBTQ students, students with disabilities and first-generation college students) are disproportionately represented among complainants or respondents, as well as whether and with what frequency those persons accessed campus adjudicative processes, and any disparate outcomes within these processes. The data should be released in aggregate across all institutions of higher learning and/or be released no more than every 4 years.

This information should include:

- Information regarding the investigation and sanctioning of cases:
 - The number of reports filed;
 - The type of process used to resolve each report (i.e., informal resolution or formal investigation);
 - The number of investigations opened;
 - The policy violation(s) alleged;
 - The determination made;
 - The sanctions imposed;
 - Any changes made to the determinations or sanctions as a result of an appeal;
 - The length of each case;
 - The names of the decision makers responsible for findings, sanctioning, and appeals.

⁹ Sources: Zoe Ridolfi-Star, *Transformation Requires Transparency: Critical Policy Reforms To Advance Campus Sexual Violence Response*, Yale Law Journal, Volume 125:7, May 2016

- Demographic Information on the Involved Parties
 - This information will provide a body of data that will help stakeholders determine whether particular groups of respondents or survivors are experiencing disparate outcomes. Such demographic information is already collected and released in other areas of higher education policy to ensure fairness and equal treatment. For example, schools release racial demographic information about their student body, and this is used to understand the achievements and barriers to academic success for minority groups.
 - Careful steps should be taken in this section in particular to avoid releasing any individually identifying information. In order to protect the privacy of both survivors and respondents within the system, the data should be released in aggregate across all institutions of higher learning and/or be released no more than every 4 years. It should include information regarding:
 - The type of party against which the allegation was made (i.e., student, faculty member, fraternity);
 - The racial identity of the parties involved;
 - The gender identity of the parties involved.
 - The sexual orientation of the parties involved.
 - Whether any of the parties involved had a disability.
 - Whether any of the parties involved was a first-generation college student.

This proposal was supported by the task force on a vote of 5 in favor, 4 opposed, 1 abstaining, and 9 absent.

Summary of Recommendation Not Supported by a Majority

A central charge of the Task Force was to consider current and best practices related to campus adjudication process outcomes being conveyed through transcript notation. The Task Force discussed this issue in depth and heard from national, state and local experts on this topic.

There were a variety of arguments made both in support of, and in opposition to, the transcript notation proposal. Those who supported the proposal of transcript notation saw the potential for increased transparency and accountability. Those in opposition of the proposal raised questions around the effectiveness of this approach, as well as the potential for unintended negative impact.

Ultimately the proposal brought forth to the Task Force, as outlined below, did not receive majority support.

Recommendation #10: Transcript Disciplinary Notations

Require transcript notation of suspensions and expulsions resulting from Title IX adjudications relating to campus sexual harm.

1. Vermont higher education institutions will create a *prominent notation* on a student's transcript in the event that they are found responsible for sexual misconduct, domestic/dating violence, or stalking and the result is suspension or expulsion.

[The American Association of Collegiate Registrars and Admissions Officers provide clear guidelines and recommendations](#)¹⁰ on transcript disciplinary notations that should inform *prominent notation* requirements.

The Task Force considered two scenarios for addressing this issue:

- a. Any Clery Act/Title IX violation resulting in suspension or expulsion requires a notation.
- OR**
- b. *All* suspensions and expulsions of any nature (e.g. academic, behavioral, etc.) are noted.
2. Notation is automatically expunged from the student's transcript one year after a suspension is complete or five years after an expulsion began.

¹⁰ American Association of Collegiate Registrars and Admissions Officers. Transcript Disciplinary Notations: Guidance to AACRAO Members. June 2017. <https://www.aacrao.org/docs/default-source/signature-initiative-docs/disciplinary-notations/notations-guidance.pdf>

3. Academic institutions must have an appeals process for transcript notation removal.
4. Institutions must make the potential consequences of the respondent being found responsible clear to both the complainant and respondent at the outset of an investigation.
5. Vermont higher education academic institutions will collect and report annual demographic data for complainants and respondents in Title IX investigations.

Sample legislative proposals:

Safe Transfer Act: <https://www.congress.gov/bill/114th-congress/house-bill/6523>

Texas: <https://legiscan.com/TX/text/HB3142/2017>

Virginia: <http://lis.virginia.gov/cgi-bin/legp604.exe?151+sum+SB1193>

New York: <https://legislation.nysenate.gov/pdf/bills/2015/S5965>

California: https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB968

Colorado: https://leg.colorado.gov/sites/default/files/documents/2017A/bills/2017a_128_01.pdf

Florida: <https://www.flsenate.gov/Session/Bill/2019/238/BillText/Filed/PDF>

Maryland: http://mgaleg.maryland.gov/2015rs/bills_noln/hb/fhb0749.pdf

Massachusetts: <https://malegislature.gov/Bills/191/S747>

Pennsylvania:

<https://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?year=2017&sind=0&body=H&type=B&bn=1440>

This proposal failed to gain majority support from the task force on a vote of 7 in favor, 8 opposed, 1 abstaining, 3 absent.

Future Considerations

At the time this report was written, the new, and highly anticipated, Title IX federal regulations had yet to be released. Many questions remain about the potential impact of those new regulations on both campus adjudication processes and for survivors of campus sexual harm. The Task Force also raised questions concerning the new Raise the Age law in Vermont and how that law will impact campus adjudication processes. With these questions in mind, the Task Force recommends the following:

RECOMMENDATION:

The Task Force recommends that the Vermont Legislature either initiate a new study committee comprised of similar stakeholders, or charge the proposed statewide council, to examine the impact of the new Title IX regulations on Vermont colleges and universities and survivors of campus sexual harm. Such a group should consider how the new federal regulations interface with existing Vermont laws, examine the policy implications for Vermont postsecondary institutions, and pay particularly close attention to how the new regulations impact students from marginalized communities.

This proposal was supported by the task force on a vote of 14 in favor, 1 opposed, 1 abstaining, and 3 absent.

RECOMMENDATION:

The Task Force recommends campus stakeholders who work with students on issues of sexual harm, including confidential support persons, are offered annual training from the Juvenile Justice Stakeholder Group, or another appropriate entity. This training would focus on providing campus stakeholders with information on the criminal justice process, as well as the new “Raise the Age” Law, in order to ensure students receive comprehensive, current, and accurate information regarding their options to pursue matters in Vermont’s criminal court system.

This proposal was supported by the task force on a vote of 16 in favor, 0 opposed, 0 abstaining, and 3 absent.

Appendix A—Process Summary

In May of 2019, the Vermont Legislature passed Act 77, an act relating to miscellaneous judiciary procedures, which included language in Section 24 creating a Task Force on Campus Sexual Harm. The Task Force was charged to “examine issues relating to responses to sexual harm, dating and intimate partner violence, and stalking on campuses of postsecondary educational institutions in Vermont,” and report to the legislature on or before March 15, 2020 with its findings and any recommendations for legislative action.

The legislature charged the Vermont Against Domestic and Sexual Violence with convening the first meeting of the Task Force on or before July 15, 2019. The Vermont Network worked with the entities named in the legislation to appoint members to the Task Force. The final membership list is included below.

During the first meeting of the Task Force, on July 10th 2019, the group unanimously elected Catherine Welch to serve as chair, reviewed and discussed the charge, prioritized questions to explore and identified potential sources of information. The group formed a subcommittee to develop a proposed work plan to bring back for approval at the next meeting, and to plan and coordinate meetings. The work plan adopted at the next meeting on October 9th is included below.

Over the course of three meetings held in October and November of 2019, the Task Force heard from content area experts on proposed changes to Title IX regulation, transcript notation, campus-based restorative practices and other informal resolution strategies, and options for state level policies. Task Force members surveyed two groups of stakeholders: 1) Vermont institutions of higher education, to understand current practices for preventing and responding to sexual harm, and 2) Community-based sexual violence advocates, to understand their perceptions of survivors’ experiences with campus sexual harm and institutional responses. At each meeting, the Task Force also heard directly from a person impacted by campus sexual harm or reviewed in advance primary source content focused on experiences of people impacted by campus sexual harm. A list of meeting content for these three meetings, and materials reviewed in advance, is included below.

During its fourth meeting on November 13th, the Task Force agreed on priority areas for findings and proposals. A working group formed around each of the priority areas listed here, charged with drafting language for finding(s) and proposal(s) for review by the full Task Force during its final two meetings.

1. **Transparency 1:** Transcript Notation.
2. **Transparency 2:** Record-keeping, demographic data, climate assessment, due process and information sharing.
3. **Resources and Accommodations:** Information pathways, confidentiality, resources, culturally specific supports for people of color and others from marginalized communities.
4. **Education and Prevention:** Accountability-focused education for people who cause harm, universal prevention education.
5. **Alternative Resolution & Restorative Practices:** Protecting information, funding, resource-sharing.

6. **Future Considerations:** Vermont’s response to new federal regulations, impact of “Raise the Age” law.

The working groups met during December and January to draft findings and proposals, which were distributed to Task Force members in advance of its next meeting on January 23rd. This meeting was devoted to discussion of the proposals and suggestions for improving them. Working groups later revised findings and proposals, which were also sent out to the full Task Force in advance of its final meeting on February 13th. During this final meeting, the group voted on each proposal. Task Force Chair Catherine Welch facilitated discussion of and amendments to proposals, allowing the group to move toward majority support for proposals where possible. Some proposals were amended or merged, and a number of over-arching recommendations emerged.

During this final meeting, the Task Force formed a working group to organize the findings and proposals and prepare a final report. This working group distributed a draft of this report to the full Task Force in early March and incorporated feedback before submitting this final report to the House and Senate Committees on Education and on Judiciary.

Campus Sexual Harm Task Force: Final Membership List

Name	Appointed by	Affiliation
Representative Selene Colburn	Speaker of the House	VT House of Representatives
Senator Phillip Baruth	Committee on Committees	VT Senate
Sydney Ovitt	Vermont Center for Crime Victim Services	
Jen Martelle	Vermont Center for Crime Victim Services	
Chani Waterhouse	VT Network Against Domestic & Sexual Violence	Vermont Network
Kerri Duquette-Hoffman	VT Network Against Domestic & Sexual Violence	WomenSafe
Nick Stanton	University of Vermont	University of Vermont
Michelle Whitmore	Vermont State Colleges	Northern VT University
Catherine Welch	Association of Vermont Independent Colleges	St. Michael's College
Barbara McCall	Higher Ed Subcommittee of PreK-16 Council	Middlebury College
Judy Rickstad	Higher Ed Subcommittee of PreK-16 Council	University of Vermont
July Cruz	Higher Ed Subcommittee of PreK-16 Council	Student
Indira Romero-Marcano	Higher Ed Subcommittee of PreK-16 Council	Student
Alisa Del Tufo	Community Justice Network of Vermont	Bennington College
Lucy Basa	Pride Center of Vermont	Woven Collective
Dawn Matthews	Defender General's Office	Defender General's Office
Emily Pijanowski	Vermont Dept of State's Attorneys and Sheriffs	Chittenden County State's Attorneys Office
Jeffrey Nolan	Vermont Bar Association	

Cassandra Burdyslaw	Human Rights Commission	Human Rights Commission
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Campus Sexual Harm Task Force // Work Plan Approved 10/9/19

Focus Areas	Study Questions
Current practices in Vermont	<p>What is the range of practices and experiences in Vermont?</p> <ul style="list-style-type: none"> • Commonalities and differences – including across public v. private institutions, large v. small, etc • Experiences of survivors and respondents • Recommendations • Promising practices • What should exist across all institutions of higher ed? • Federal Title IX and Clery rules – current and new – for context
Transcript Accountability	<ul style="list-style-type: none"> • Goal / purpose • What is it – the basics • Best practices • Baseline practices • How effective are state laws in VA and NY?
Informal resolution options including restorative practices	<ul style="list-style-type: none"> • Should restorative practices move forward on VT campuses? • If so, how? • Evidentiary issues in re: admitting wrong-doing • How could survivors’ needs be centered?
Supports for survivors	<ul style="list-style-type: none"> • Who is most impacted? • What do they want and need? • What is the gap between this and what is available? • Communications with survivors about a menu of options – how is that working?

Meeting Schedule & Content

<i>July 10th</i>	<ul style="list-style-type: none"> ○ Organizational items including election of a Chair ○ Review charge ○ Goal setting & Work Planning
<i>October 9th</i>	<ul style="list-style-type: none"> ○ Organizational items including minutes, planning meetings and drafting report to legislature ○ Adoption of Work Plan ○ Current practices in VT: Adjudication and Transcript Accountability ○ Transcript Accountability ○ Title IX overview – current, and proposed changes
<i>October 16th</i>	<ul style="list-style-type: none"> ○ Federal Laws – Title IX and Clery ○ Current practices in VT: Restorative practice ○ Restorative practice in IHE overview

	<ul style="list-style-type: none"> ○ Transcript accountability
November 13 th	<ul style="list-style-type: none"> ○ Deeper dive content TBD ○ Current practices and experiences of survivors & respondents: Campus Climate Surveys; Supports for Survivors; What do we know & what is unknown?
# 5	Review draft report content
# 6	Adopt report content

Campus Sexual Harm Task Force – Summary of Meeting Content

The Task Force was able to devote three meetings to exploring key content areas related to its charge. Following is a list of the content explored during these meetings, the subject area experts who spoke with the group, and the materials Task Force members reviewed in advance.

Meeting	Content	Materials reviewed in advance
October 9 th , 2019	<p>Current practices in Vermont: survey results regarding adjudication; transcript notation.</p> <p>Transcript Accountability: Jonathan Iglesias, Public Policy Director from the Virginia Sexual and Domestic Violence Action Alliance, with Liz Cascone, a campus advocate from VA</p> <p>Title IX high level overview of current rules and proposed change: Jeffrey Nolan, Esq</p>	<p><u>2014 White House Task Force Report Overview of Federal Title IX Rules – current and proposed changes</u></p> <p><u>AASCU Policy Brief – Intro (pp 1-4) & Transcript Notation (p 6)</u></p> <p><u>ATIXA Statement in Favor of Safe Transfer Act</u></p> <p>Virginia Action Alliance Statement on Transcript Notation</p>
October 16 th , 2019	<p>Transcript Accountability: Marjorie Fisher, Associate Vice President and Title IX Coordinator, Columbia University; Syd Ovitt, <u>Explain the Asterisk</u></p> <p>Title IX: continued discussion and questions re: current rules and proposed change: Jeffrey Nolan, Esq</p>	<p>Current Practices in Vermont - Survey responses</p> <p><u>U.S. Department of Education Proposed Title IX Regulation Fact Sheet</u></p> <p><u>Know Your IX Campus Playbook</u></p> <p><u>Article from Middlebury College’s “Beyond the Green”</u></p>
November 13 th , 2019	<p>State Policy Recommendations: Sage Carson, <u>Know Your IX Manager</u></p> <p>Experiences of Survivors: Summary of Advocate Survey results</p> <p>Restorative Practices for Informal Resolution: Kaaren Williamsen, Director, Sexual Assault Prevention & Awareness Center, University of Michigan</p>	<p><u>Know Your IX Campus Playbook</u></p> <p><u>Restorative Process at College of New Jersey</u></p>

