

In March of 2013, President Obama signed the Campus Sexual Violence Elimination Act (Campus SaVE Act) into law. This Fact Sheet outlines the ways in which the Campus SaVE Act will bolster higher education institutions' response to sexual violence. While this Fact Sheet may serve as a point of reference, advocates should always consult an attorney before providing any legal advice to survivors. For further information contact the Sexual Violence Justice Institute at the Minnesota Coalition Against Sexual Assault, www.mncasa.org.

***Campus SaVE Act:
Quick Facts***

- The Campus SaVE Act is an amendment of the federal Jeanne Clery Act to update outdated sexual assault policy requirements for institutions of higher education. SaVE is an amalgamation of the Clery Act, the Sexual Assault Victims' Bill of Rights, and Title IX of the Education Amendments of 1972.
- SaVE has detailed requirements regarding campus policy, response to sexual violence, and transparency regarding the scope and frequency of sexual violence on campus.
- SaVE requires training for all new students, faculty, and staff.
- The Campus SaVE Act applies to all postsecondary institutions that participate in federal student financial assistance programs under Title IV of the Higher Education Act of 1965.
- President Obama signed the measure into law as part of the Violence Against Women Reauthorization Act of 2013 on March 7, 2013.
- Institutions must implement SaVE by October 1, 2014 in order to incorporate the new requirements into their 2014-2015 academic year. Noncompliance could mean loss of federal funding.

***What does the
Campus SaVE Act
require?***

- In addition to reporting annual sexual assault incidents, institutions must now also report incidents of domestic violence, dating violence, and stalking in annual campus crime statistic reports. Incidents included in the annual report may occur on-campus, on public property within and adjacent to campus, and at non-campus properties such as off-campus student organization housing and remote classrooms.
- The term "sexual assault" should be defined as a forcible or non-forcible sex offense, as classified by the Federal Bureau of Investigation's Uniform Crime Reporting (UCR) program.
- Schools must have education programs for all incoming students and staff as well as ongoing prevention and awareness programming for students and faculty. These education programs should include:
 - A statement that the institution prohibits sexual violence;
 - The definition of domestic violence, dating violence, sexual assault, and stalking in the institution's jurisdiction;
 - The definition of consent for sexual activity in the institution's jurisdiction;
 - Bystander intervention training;
 - Risk reduction information;
 - Information about disciplinary proceedings and victims' rights as required by SaVE.
- Schools must have a clear description of their disciplinary process for when a report is made.
- Any students or employees who report to an institution of higher education that they have been a victim of domestic violence, dating violence, sexual assault, and/or stalking, whether it has occurred on or off-campus, must be provided with a written explanation of individual rights, options, campus procedure, and possible sanctions.
- Schools must provide annual sexual assault and domestic violence training for anyone, student or staff, involved in the report response or adjudication procedure.

What must a school's policy statements include under SaVE?

- Schools cannot wait for a criminal investigation to be complete before starting their own investigation, but they are able to put the school investigation on hold for a few days while the criminal investigation gets underway.
 - Schools must offer services and options to the victim even if there is no official incident report.
 - SaVE allows for and encourages communication and collaboration between campuses and community agencies.
 - Procedures victims should follow if domestic violence, dating violence, sexual assault, or stalking occur, including information in writing about:
 - The importance of preserving evidence to prove a crime or obtain a protective order;
 - To whom such incidents should be reported;
 - That, if the victim wishes, campus authorities may assist the victim in notifying police;
 - Victims' option to notify or not notify local law enforcement, campus law enforcement, and/or campus authorities.
 - Possible sanctions or protective measures that an institution may impose following a final determination of an institutional disciplinary procedure regarding domestic violence, dating violence, sexual assault, and/or stalking.
 - Written notification to students and employees about existing services including:
 - Counseling
 - Health
 - Mental health
 - Victim advocacy
 - Legal assistance
 - Other services available to victims, both on campus and within the community.
- Notification of services must also include that the victim can utilize campus and community services without reporting the crime to anyone.**
- An outline of victims' rights and institutional responsibilities regarding any lawful no contact or restraining orders (regardless of whether these orders are civil, criminal, or tribal).
 - Written notification to victims about options for, and available assistance in, changing (at the victim's request) academic, living, transportation, and/or working situations if reasonably available. Campuses need to accommodate the victim's request regardless of whether the victim chooses to officially report the incident.
 - Statements must include information about how confidentiality of victims will be protected, including how publicly available recordkeeping will be accomplished without including identifying information about the victim, to the extent permissible by law.

What will campus adjudication look like under SaVE?

- Campus proceedings shall provide prompt, fair, and impartial investigation and resolution and are conducted by officials receiving annual training on domestic violence, sexual assault, and stalking.
- The Campus SaVE Act does not have the same language as Title IX regarding standard of evidence, meaning that schools do not have to adhere to Title IX's preponderance of evidence standard ("more likely than not"). Each institution must choose a standard of evidence, whether it's "clear and convincing" or "more likely than not," and incorporate that standard into their policies and procedures. Unlike in criminal cases in the judicial system, however, there is no "beyond reasonable doubt" standard. - Although not required by SaVE, the preponderance of evidence standard is still required by Title IX, as per the direction of the Office for Civil Rights' *Dear Colleague Letter*.

- A school's Title IX Coordinator is likely to investigate reported incidents, but campus security and/or another administrator might play the investigator role.
- Both the victim and the assailant must have the same opportunity to have others present during the disciplinary proceedings.
- Campus investigation may include victim, assailant, and witness interviews.
- Finding of "responsible" or "not responsible" may be determined by the Title IX Coordinator or a hearing board.
- Generally attorneys are not involved in campus proceedings, although it is possible for attorneys to be included.
- The highest sanction for a responsible finding is expulsion. Expulsion sanctions are usually a very rare outcome.
- Both parties will receive written outcomes of all disciplinary proceedings at the same time.
- Campuses should aim to adhere to a 60-day turnaround for the adjudication process. However, appeal processes are available and might lengthen the process in its entirety.

Important for advocates

- Laws about mandated reporting of maltreatment of minors still apply for individuals under the age of 18 on a campus (such as first-year or high school students taking college courses).
- If a survivor discloses to someone with a confidential relationship on campus (Health Center staff, an advocate, a counselor, etc.), no investigation or any further action need occur. However, if a survivor discloses to someone affiliated with the school not identified as providing a confidential relationship (such as a coach, a dean, etc.), some sort of further investigation must take place.
- Victims might be more willing to report to campus officials rather than local law enforcement because the sanctions are less severe under campus proceedings.
- Common fears among students regarding reporting incidents of sexual violence stem from the heightened social dynamics within higher education institutions (shared living quarters, classrooms, student activities, social groups, etc.). Student survivors might not want their parents to find out about the incident (see below), or they might not want to take action against a perpetrator who was previously considered a "friend" or "boyfriend." Acknowledging these complicated dynamics is crucial when working with survivors within a campus culture.
- According to the Family Educational Rights and Privacy Act (FERPA), universities and colleges cannot share information with parents unless the student signs a release or the school officials deem a situation a health and safety issue for the student. Most cases of sexual assault, domestic violence and stalking do not meet this level. A student's confidentiality is protected under FERPA at any age, not just over age 18 (so if a high school student is attending a college class, for example, the higher education institution cannot share information with the parent unless the student gives consent or there is a situation that meets the threshold of disclosure).
- It is important to acknowledge that schools might be reluctant regarding statistical reporting requirements. Despite a school's commitment to serving and responding to its students, public knowledge of violent incidents on campus, particularly if there are many, can reflect poorly on the school and affect application rates.
- Keep in mind that the campus disciplinary process is not a legal process and does not look as it would in the judicial system. If a victim reports the crime only to campus officials, the most that may happen is that the assailant gets expelled.
- Depending on what appeal processes schools have in place, assailants may be able to remain on campus for longer than the 60-day adjudication process. It is therefore all the more important that accommodations are made to protect the victim through housing transfers, class transfers, protective orders, etc.