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| Requirement | Title IX | Clery/VAWA | Notes/Summary of Differences |
| InstitutionalApplicability | Educational institutions receiving federal financial assistance. | Postsecondary institutions receiving Title IV with physical campus locations. | Title IX has much broader applicability applying to both postsecondary and K-12 institutions receiving any type of federal funding; Clery applies only to Title IV Postsecondary institutions with physical campuses-does not apply to online only schools. |
| Prohibited conduct | Sexual Harassment:(1) Quid Pro Quo(2) Severe, pervasive, offensive(3) Sexual assault, Dating & Domestic Violence, Stalking as defined in Clery/VAWA | Sexual Assault, Domestic & Dating Violence, Stalking | Title IX and Clery/VAWA crimes of sexual assault, dating & domestic violence and stalking are identical; Title IX explicitly incorporates these offenses directly from Clery. |
| Scope | Within the institution’s educational program or activity, property owned and controlled by institutions or by organizations officially recognized by school. Does not apply to conduct occurring outside the U.S.  | Clery geography which includes: on-campus, public property immediately adjacent to, or within, campus bounds, buildings/property owned or controlled by officially recognized student organization, or buildings and property owned by the institution and used for educational purposes/frequented by students. Victims of VAWA crimes must receive notice regarding their rights and options *irrespective of where the crime occurred (on or off campus)*; could apply to locations of U.S. school with campuses outside the U.S.  | In general, Clery’s scope is geographical in nature, while Title IX may extend beyond geographical boundaries if the conduct occurs in the scope of the school’s educational program or activity, whether or not it occurs on campus. That said, under Clery, schools must respond to reports of VAWA crimes occurring off campus by providing written explanation of the victim’s rights and reporting options, accommodations/supportive measures and a description of disciplinary proceedings.  |
| Notice | Report or formal complaint to Official with Authority &/or Title IX Coordinator is considered actual knowledge triggering the school’s mandatory response obligations under Title IX. | Report to a Campus Security Authority (CSA); If a VAWA offense creates an immediate or ongoing threat, a timely warning may need to be issued.  | The notice requirements under Title IX are narrower than Clery as only notice (report or complaint) to the T9C or OWA trigger an institutional response under Title IX. Title IX distinguishes between a report and a formal complaint. Only a formal complaint by a complainant triggers the formal grievance process. The Title IX Coordinator would be considered a CSA and would need to report any Title IX reports for purposes of inclusion in the annual security report (ASR). OWA would also likely be considered CSA.  |
| External Reporting | None. | All Clery offenses must be reported in the institution’s ASR. |  |
| Policy | Must adopt & publish policy prohibiting discrimination based on sex; must adopt Title IX Grievance Procedure which adheres to new Title IX Rules outlining specific process for disposition of sexual harassment complaints. | School must adopt policy that institution prohibits sexual assault, dating and domestic violence and stalking. ASR must contain a number of policy statements addressing numerous items, however, school has much greater discretion to adopt policy/process for disposition of allegations of sexual assault, dating & domestic violence and stalking than under Title IX which is more prescriptive. | Both Title IX and Clery require published policy statements. With respect to the overlapping offenses, Title IX requires a prescriptive written Grievance Process which must address numerous items. Clery requires publication of the process but allows greater flexibility. Practically, in cases of sexual assault, dating & domestic violence and stalking, the more stringent & specific Title IX Grievance Process will generally apply.  |
| Personnel Training | Coordinator, Investigator, Decision-maker & Informal Resolution Facilitator (if applicable) must receive training on the definition of sexual harassment, how to conduct a grievance process including an investigation and hearing (as applicable), how to avoid conflicts of interest, how to be objective and avoid bias including prejudgment of the facts. Training may not rely of sex stereotyping. There is no training frequency requirement, schools have discretion on determining how and when to provide training. | CSAs, grievance/disciplinary process staff must be trained on an annual basis.  |  |
| Educational Programs | None mandated. | Educational programming that promotes prevention & awareness of VAWA crimes provided to all incoming students and new employees; bystander awareness and risk reduction programming; both primary and ongoing awareness training/campaigns. | Title IX only mandates training for Title IX Personnel. There are no requirements for employee or student training otherwise. Clery/VAWA requires annual training for CSAs and anyone responsible for implementation of grievance/disciplinary process. All incoming students and employees must also receive training under Clery. Clery also requires both primary and ongoing prevention and awareness training/campaigns aimed at students and the overall campus community.  |
| Confidentiality | School must maintain confidentiality of parties and witness to the greatest extent possible. | School must maintain confidentiality of parties and witness to the greatest extent possible. |  |
| Supportive Measures | Must be offered to all complainants whether or not formal complaint is filed; complainant input must be considered in determining appropriate measures. Measures must be free, non-punitive and avoid unreasonably burdening either party. Supportive measures may be provided to respondent as appropriate. No-contact orders must be mutual.  | School must provide written notification to students and employees regarding the range of available supportive measures; school must provide victims with written information about available supportive measures and how to request them. Supportive measures must be provided upon request if reasonably available, whether or not the victim reports the crime to law enforcement or campus security or whether or not the offense occurred on or off campus. Protective measures should minimize burden on victim. | Both Title IX and Clery require reasonably available supportive measures to complainant/victim whether or not a formal complaint is filed. Title IX requires that any such measures are non-punitive and do not unreasonably burden the respondent. Clery/VAWA requires that they minimize impact on victims. Title IX specifically notes supportive measures may be appropriately provided to respondent in addition to complainant.  |
| Grievance Process | Must be prompt, fair and impartial. Decision-maker must be neutral and independent (investigator/coordinator may not be decision-maker). Process mandates specific/detailed requirements including live hearing, cross-examination. Personnel responsible for grievance process must be trained.  | Must be prompt, fair and impartial. No specific process required; school must publish a clear statement of procedural disciplinary process including timelines, decision-making process, standard of evidence and how to file a disciplinary complaint. Officials involved in disciplinary process must, at a minimum receive annual training on the issues related to the VAWA crimes, and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability. Training should address relevant evidence (not defined) techniques for questioning witnesses, procedural rules, avoiding actual and perceived conflicts of interest. | Generally, the Title IX Grievance Process will apply to complaints of sexual assault, dating & domestic violence or stalking by default as it provides for the most stringent/detailed requirements.  |
| Advisors | Parties must be advised of right to advisor, who may be, but does not have to be an attorney; Advisors must conduct cross-examination on behalf of a party; school must provide one for this limited purpose if a party does not have one. | Parties must be advised of right to advisor, who may be, but does not have to be an attorney; no requirement that school provide an advisor if a party does not have one. | Parties will always have an advisor, for purposes of conducting cross-examination, in cases where a formal complaint involving allegations of sexual assault, dating/domestic violence or stalking that fall within Title IX scope/jurisdiction has been made, as advisors must conduct cross-examination.  |
| Determinations | Must be made by independent, neutral, conflict-free decision maker; written notice of determinations must be provided simultaneously to parties. | Written notice of determinations must be provided simultaneously to parties. |  |
| Appeal | Three mandatory bases of appeal. | No mandated basis of appeal. |  |
| Conflict of Interest | No Title IX personnel may have a conflict of interest. | Officials responsible for disciplinary process should have no real or perceived conflicts of interest. |  |
| Standard of Evidence | School may choose preponderance of the evidence or clear and convincing standard. | None mandated. |  |
| Sanctions | Must publish range of possible sanctions and remedies. | Must publish all possible sanctions. | Title IX requires that only the range of potential sanctions be published; Clery requires all possible sanctions be provided.  |
| Recordkeeping | All documents must be maintained for seven years; hearing must be recorded; school must document how and why actions/decisions were not “deliberately indifferent”. | School must maintain crime log; institutions report all crimes annually to the Department of Education, and disclose crime statistics from three most recent years.  | Title IX documentation requirements are much more in-depth; Clery crimes must be documented and reported/published in annual report. |