

2021 Campus Sexual Assault Law: Year 1 Implementation Procedures

Introduction

This implementation guidance was developed in furtherance of [Chapter 337 of the Acts of 2020: *An Act Relative To Sexual Violence On Higher Education Campuses*](#), also known as the 2021 Campus Sexual Assault Law. It is designed to provide a roadmap for institutions during Year 1 Implementation (August 1, 2021-August 1, 2022) of the statute, specifically pertaining to: the Department of Higher Education (DHE) annual data collection report; the requirement that Institutions of Higher Education (IHEs) "where feasible" enter into memorandum of understanding (MOUs) with Local Law Enforcement; and the requirement that IHEs establish MOUs with local rape crisis centers.

I. Annual data collection report - Section 168E(q)

Under the statute, institutions shall prepare and submit to the DHE a report that includes: (i) the total number of reports of sexual misconduct reported to the institution's Title IX coordinator by a student or employee of the institution against another student or employee of the institution; (ii) the number of reports made by a student or employee of the institution against another student or employee of the institution investigated by a local or state law enforcement agency, if known; (iii) the number of students and employees found responsible for violating an institution's policies prohibiting sexual misconduct; (iv) the number of students and employees found not responsible for violating an institution's policies prohibiting sexual misconduct; and (v) the number of disciplinary actions imposed by the institution as a result of a finding of responsibility for violating an institution's policies prohibiting sexual misconduct.

- The DHE, in consultation with the Office of the Attorney General (AGO) and a sampling of Title IX Coordinators, is currently working on a format and manner for submission of the report.
- ***IHEs must submit this information annually, no later than December 1.***
- The DHE is developing a portal or other electronic means through which institutions will be able to submit data each year easily and securely.
- DHE will analyze the incident data received and publish an annual report containing aggregate statewide information on the frequency and nature of sexual misconduct at institutions, as required under the statute. M.G.L. c. 6, § 168E(q), enacted by [St. 2020, c. 337, § 1](#).

- DHE will also file the annual report with the AGO, the clerks of the senate and the house of representatives and the joint committee on higher education Id.

II. Local Law Enforcement MOUs – Section 168E(c): Feasibility Assessment

Under the statute, each institution shall, to the extent feasible, adopt an MOU with local law enforcement agencies to establish the respective roles and responsibilities of each party related to the prevention of and response to on-campus and off-campus sexual misconduct.

Also, in compliance with the statute, DHE must promulgate regulations to implement the subsection on Police MOUs. Those regulations (610 CMR 14.00) can be found on our [website](#).

IHEs are expected to engage in good faith efforts to secure the statutorily required MOUs during Implementation Year 1. The DHE will ask institutions via the annual report due on December 1, 2021 (see section I above), to provide a status update on Year 1 implementation efforts to establish, where feasible, the necessary MOUs with local law enforcement agencies, and to identify areas where technical assistance may be helpful. An institution that has not yet entered into an MOU will be expected to provide a feasibility assessment required by 610 CMR 14.04(2), which will include at a minimum, a “summary of and attestation to the institution’s good faith efforts towards entering into an MOU with the local law enforcement agency that meets the minimum requirements set forth in 610 CMR 14.03.” 610 CMR 14.04(2)(a).

To that end, the DHE is developing a portal or other electronic means for institutions to submit this information, including their feasibility assessments. An update will be posted on the [website](#) when the portal is available.

During Implementation Year 1 and beyond, the DHE will conduct outreach to institutions, state agency partners, and others to help identify and disseminate best practices and sample MOUs; and also offer general technical assistance guidance in this area, with the goals of helping to address feasibility challenges and continuously advance institutions’ efforts to establish the statutorily required MOUs.

III. MOUs with local rape crisis centers - 168E(h): Waiver Submission Process

Under the statute, an institution that does not provide its own sexual assault crisis service center shall enter into and maintain an MOU with a community-based sexual assault crisis service center funded by the department of public health and a community-based domestic violence program funded by the department of public health.

Institutions that already have such services in place on-campus may be exempt from this statutory requirement. An institution that plans to add to or adjust its existing on-campus services to meet the intent of the statute should use Implementation Year 1 to make the

appropriate changes. The DHE is developing a portal or other electronic means for institutions to provide a status update and information related to their exempt status along with the annual report due on December 1, 2021 (see section I above).

IHEs that do not offer such services on-campus are expected to engage in good faith efforts to secure the statutorily required MOUs during Implementation Year 1. The DHE intends to develop a portal or other electronic means for institutions to provide a status update and information related to their efforts to enter into the required MOUs along with the annual report due on December 1, 2021.

If an institution is encountering challenges in this process despite its good faith efforts, and/or requires additional time, a waiver request may be submitted with the annual report due on December 1, 2021.

Please check back soon for more guidance on the criteria and the process for submitting a waiver.

Please contact Amanda Robbins at arobbins@dhe.mass.gov with any questions.