
SEXUAL VIOLENCE ON COLLEGE CAMPUSES

A NEW YORK STATE PERSPECTIVE

Senator Kenneth P. LaValle, Chairman
New York State Senate
Standing Committee On
Higher Education

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**NEW YORK STATE SENATE
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INTRODUCTION

Sexual violence on college campuses is a serious issue. The perpetration of sexual violence is horrible and individuals who commit such acts must be held accountable. Under various federal and state laws, college campuses are required to establish policies and practices to prevent the occurrence of these offenses, and provide for their investigation and adjudication when they do occur.

In May 2014, Senator LaValle, Chairman of the Senate Higher Education Committee, convened a roundtable of advocates, legislators, college and university officials and security personnel to discuss this extremely important topic. The discussions and suggestions laid the groundwork for this report, which concludes with several key recommendations to assist our institutions of higher education as they seek to prevent and respond to sexual violence.

While recognizing that sexual violence will not be eradicated until the attitudes that lead to sexual offenses change, this report seeks to promote a greater understanding of sexual violence on campus, efforts to eliminate it and more collaboration between state government and higher education. Specifically, this report:

- 1) summarizes existing federal and state law on the issue of campus sexual violence;
- 2) reviews existing research regarding sexual violence on college campuses;
- 3) outlines some of the best practices at New York's colleges to prevent and respond to sexual violence; and
- 4) provides legislative recommendations designed to improve prevention efforts and response to incidents of sexual violence on campus.

Much work has been done on this issue, including recent efforts by Governor Andrew Cuomo and the State University of New York (SUNY), to address this pervasive problem. The information and recommendations in this report are intended to be complementary and improve the prevention of, and response to sexual offenses by institutions throughout the higher educational system in New York. Therefore, as statutory changes are contemplated throughout this and the next legislative session, the changes undertaken by SUNY must be monitored and thoroughly evaluated.

SUMMARY OF FEDERAL LAWS

There are multiple laws on the issue of sexual violence and discrimination on campus. Three major landmark pieces of legislation exist at the federal level: Title IX, the Clery Act and the Campus SAVE Act.

Title IX

Title IX of the Education Amendments of 1972 (20 U.S.C., Section 1681) was enacted by Congress and signed into law by President Richard Nixon. The law prohibited discrimination on the basis of sex within institutions of higher education. It explicitly stated:

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance...”

Since the law’s inception, the Supreme Court has held that schools have an obligation under Title IX to prevent and address harassment against students, regardless of whom within the school commits the harassment.¹ In a case involving a fifth-grade girl who was subjected to repeated sexual harassment with no intervention on the part of the school to stop the harassment, the Supreme Court ruled that “a school can be liable for student-centered sexual harassment if the harassment is so severe, pervasive and offensive that it interferes with the victim’s educational environment, and the school knows about the harassment and its response if clearly unreasonable under the circumstances.”²

While the scope of Title IX is intended to address much more than campus sexual assaults, the legislation has major implications for college campuses. For example, a 2011 Title IX Guidance letter from the U.S. Department of Education required that every college have a Title IX coordinator. These coordinators are responsible for managing complaints involving sexual discrimination or sexual violence. Additionally, Title IX regulations require that colleges investigate and resolve reports of sexual misconduct, whether or not the police are involved.³

Clery Act

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, also known as the Clery Act (20 U.S.C. Section 1092 (f)), was first enacted by Congress and signed into law by President George H.W. Bush in 1990. The law is named in memory of Jeanne Clery, who was raped and murdered in a residence hall by another student on April 5, 1986. It requires that public and private colleges and universities participating in federal financial aid programs disclose campus safety information and imposes basic requirements for handling incidents of sexual violence and emergency situations.⁴

¹ Davis, Aurelia v. Monroe County Board of Education

² <http://www.titleix.info/Resources/Legal-Cases/Davis-Aurelia-v-Monroe-County-Board-of-Education.aspx>

³ 34 C.F.R. Part 106.8

⁴ <http://www.cleryact.info/clery-act.html>

Among the specific mandates of the Clery Act are a requirement to publish an Annual Security Report (ASR) documenting three consecutive years of campus crime statistics and policies, procedures and information concerning the basic rights of sexual assault victims. Institutions with a police or security department are also required to maintain a public crime log. Regarding the disclosure of criminal statistics, there are six major categories, in addition to sexual assault for which institutions are required to report.

Campus SaVE Act

The Campus Sexual Violence Elimination (SaVE) Act is a series of amendments to the Clery Act that were signed into law by President Barack Obama on March 7, 2013.⁵ It includes a number of provisions related to transparency, victims' rights, disciplinary proceedings and educational programs. Institutions of higher education that participate in federal aid programs were required to fully implement the Campus SaVE Act no later than October 1, 2014.

Beginning with the 2013 calendar year, colleges are required to collect and report statistics for domestic violence, dating violence and stalking, in addition to the sexual assault statistics required under the original Clery Act. Institutions are also required to provide victims of sexual violence specific information in written format; including information on the basic rights a victim is afforded. This includes information about: sanctions or protective measures that may arise from institutional proceedings; procedures to be followed after the report of an incident (including the right to notify local law enforcement); the availability of counseling and other supportive services; and the requirement that institutions accommodate requests for changes in the living, working, or academic situation of the victim.

The SaVE Act also requires institutions to adopt and disclose specific policies related to campus conduct proceedings that arise as a result of a sexual violence report. These include policies that: state the standard of evidence; provide a prompt, fair and impartial resolution; require proceedings to be conducted by individuals who receive annual sexual violence training; provide the accuser and accused the same opportunities to have others present during the proceeding; and require the accuser and accused to be simultaneously informed in writing of the outcome of the proceeding, the process for appeal, any changes as a result of an appeal and when such changes become final.

Lastly, the SaVE Act requires institutions to provide prevention and awareness programs for incoming students and new employees.

Enforcement of Federal Laws

The Office for Civil Rights (OCR), within the U.S. Department of Education, is responsible for enforcing Title IX. The OCR has authority to investigate formal complaints that are filed against colleges and universities. Within New York State for example, four colleges have recently come

⁵ <http://www.cleryact.info/campus-save-act.html>

under investigation by the OCR.⁶ Recent data however, suggests that federal enforcement has had a limited impact on campus policies nationally. A recent article in *The Chronicle of Higher Education* revealed that while sexual violence complaints filed with the Office for Civil Rights have tripled in the last five years, within the last ten years, fewer than one in 10 complaints filed with the Department of Education have led to a formal agreement between federal and college officials to change campus policies.⁷

The U.S. Department of Education (ED) is also responsible for enforcing the Clery Act and the Campus SaVE Act. The ED publishes campus crime statistics online with the most recent data available for colleges and universities from the 2007-2009 periods. Institutions found to be in violation of these laws may face fines of up to \$35,000 per violation, a suspension or limitation of federal aid, or be deemed ineligible to participate in federal student aid programs.

In recent years, federal involvement with regard to campus sexual violence has increased by the issuance of new regulations and guidelines. As colleges encounter more federal rules and guidelines, a primary outcome has been the hiring of more legal staff to interpret the federal government's complex, ever-changing and often ambiguous new rules.⁸ It is unclear that these steps taken at the federal level will lead to significant reductions in campus sexual assaults. In fact, if the OCR's enforcement of Title IX is any indicator, the new slate of federal rules may not have much of an impact on the reduction of sexual assaults given the limited impact it has had on campus policies.

Clearly, the enactment and enforcement of federal laws, regulations and policies are not enough to solve this pervasive problem.

⁶ Bakeman, Jessica. "Feds Investigate four NY colleges for Mishandling Sexual Assaults." *Capital New York*. May 1, 2014. <http://www.capitalnewyork.com/article/Albany/2014/05/8544688/feds-investigate-four-ny-colleges-mishandling-sexual-assault#>

⁷ Smith, Jason, P. "Promise Unfulfilled." *The Chronicle of Higher Education*. May 9, 2014

⁸ Kelderman, Eric. "Colleges Confront a Thicket of Rules on Sexual Assault." *The Chronicle of Higher Education*, June 25, 2014

SUMMARY OF NEW YORK STATE LAWS

Article 129-A of the New York State Education law governs the issuance of regulations by public and private colleges related to campus conduct. Article 130 of the Penal law addresses sex offenses.

Education Law Article 129-A

Article 129-A of the New York State Education law requires all colleges chartered by the Regents of New York State or incorporated by special act of the Legislature to adopt written rules for the implementation of policies related to campus conduct. Colleges are required to file annual certificates with the State Education Department (SED) demonstrating compliance with Article 129-A. The failure to file a certificate by the annual deadline will result in the withholding of state aid, until the certificate is filed.

Article 129-A includes several provisions designed to prevent and address sexual violence on New York's college campuses.

- All colleges, with the exception of independent colleges ineligible for Bundy Aid⁹, are required to maintain advisory committees on campus safety to review and make recommendations on policies and procedures. The advisory committees are statutorily required to report to their college presidents annually.
- All colleges are required to inform incoming students about sexual assault, domestic violence and stalking prevention through programs designed to promote discussion, encourage reporting and facilitate prevention of these crimes.
- All colleges receiving state aid are required to indicate in their campus catalog, student handbook and viewbook, how to access campus crime statistics required pursuant to the Clery Act. Colleges are also required to furnish these statistics upon request and state in these documents that the advisory committees on campus safety will furnish all campus crime statistics upon request.¹⁰
- All colleges are required to adopt and implement plans providing for the investigation of violent felony offenses (which include rape in the first and second degrees) which occur at or on the grounds of the institution. These plans include written agreements with local law enforcement agencies to provide for the prompt investigation of these crimes.

⁹ Section 6401 of the New York State Education Law authorizes the Commissioner of Education to allocate funds to independent institutions of higher education that meet specific statutory requirements. The program is named after former U.S. National Security Advisor, McGeorge Bundy.

¹⁰ Legislation amending this statute was recently passed unanimously by the Senate and Assembly. The legislation, if enacted, would require institutions of higher education to report violent felony offenses to local law enforcement agencies within 24 hours, provided the reporting does not conflict with the federal Campus Sexual Assault Victims' Bill of Rights

Penal Law Article 130

Article 130 of the Penal law governs sex offenses in New York State. While there are no statutes specific to sexual assault on campus, several statutes are relevant.

- *Consent and Sexual Assault*

Section 130.05 of the Penal law provides that an element of every sexual offense is that the sexual act be committed without the consent of the victim. Lack of consent results from forcible compulsion, incapacity to consent, and for certain crimes may include a lack of expressed or implied consent. A person is deemed incapable of consent when he or she is less than seventeen years old, mentally disabled, mentally incapacitated or physically helpless. The Penal law defines mentally incapacitated as a person being “rendered temporarily incapable of appraising or controlling his conduct owing to the influence of a narcotic or intoxicating substance administered to him without his consent, or to any other act committed upon him without his consent,” and defines physically helpless as “a person is unconscious or for any other reason physically unable to communicate unwillingness to an act.”

- *Specific Sex Offenses*

Article 130 of the Penal law includes statutory criteria for the crimes of rape in the first, second and third degrees, criminal sexual act in the first, second and third degrees, sexual abuse in the first, second and third degrees, aggravated sexual abuse in the first, second, third and fourth degrees, sexual misconduct, forcible touching, facilitating a sex offense with a controlled substance, persistent sexual abuse, sexually motivated felony and predatory sexual assault. Sexual misconduct, forcible touching and sexual abuse in the second and third degrees are classified as misdemeanors, whereas all other crimes are classified as felonies, most of which are violent felonies that result in steeper sentences.

RESEARCH ON SEXUAL VIOLENCE ON COLLEGE CAMPUSES

There is no shortage of research on the topic of sexual violence on college campuses. Several studies and reports have documented its prevalence, sought to identify effective strategies for preventing sexual violence, and more recently, identified shortcomings in campus policy and practice with the goal of improving institutional responses to these serious incidents. The following is a brief review of a few key studies in this area.

U.S. Senate Survey of Sexual Violence on Campus

In July 2014, the U.S. Senate Subcommittee on Financial and Contracting Oversight released a report on the reporting, investigation and adjudication of sexual violence at colleges and universities. The report was based on a survey of 440 four-year institutions of higher education across the nation. The report states: “The survey results showed that many institutions are failing to comply with the law and best practices in how they handle sexual violence among students. These problems affect nearly every stage of the institutions’ responses to sexual violence.”

Key findings from the survey include:

- Less than five percent of college rape victims report their attack to law enforcement;
- Only 16 percent of institutions conducted climate surveys, whereby the prevalence of, and attitudes contributing to sexual assault are gauged;
- Fewer than half (44 percent) of institutions allow students to report sexual assaults online;
- Only slightly more than half (51 percent) of institutions provide a hotline to victims;
- More than 40 percent of schools have not conducted a single investigation in the past five years;
- Only 25 percent of institutions incorporate the local prosecutor’s office into the provision of services for victims;
- More than 40 percent of the nation’s largest public schools allow students to help adjudicate sexual assault cases; and
- More than 20 percent of institutions give the athletic department oversight of sexual violence cases involving student athletes.

The Campus Sexual Assault (CSA) Study

In October 2007, a study of sexual assault on college campuses was submitted to the U.S. Department of Justice (DOJ) in October 2007. *The Campus Sexual Assault Study* collected and analyzed data from random samples of undergraduate students at two large public universities in the South and Midwest. This study found that nearly one in five women reported experiencing completed or attempted sexual assault since entering college.¹¹ Other significant findings of the study include:

¹¹ This oft-cited statistic may overstate the prevalence of sexual assault on American campuses. The National Institute of Justice states, “Researchers have been unable to determine the precise incidence of sexual assault on

- A greater risk for freshman and sophomores than juniors and seniors¹²;
- More than a quarter of incapacitated sexual assault victims¹³ (28 percent) reported that the assailant was a fraternity member at the time of the incident;
- More than half of incapacitated sexual assault victims (58 percent) reported being assaulted at a party;
- 5.3 percent of the women in the sample reported being given a drug without their knowledge or consent since entering college, and only 0.6 percent of women reported being assaulted after being given a drug without their knowledge or consent;
- Women who reported getting drunk were more than twice as likely to have experienced sexual assault; and
- A majority of sexual assaults happened off campus (greater than 60 percent).

Findings related to the reporting of sexual assault include:

- More than 60 percent of victims reported that they told someone about the incident, but less than 20 percent reported contacting a victim's crisis, or health center;
- More than half of victims who did not report the incident to law enforcement reported that they did not think it was serious enough to report.

Other Research and Findings

Abbey and McAuslan¹⁴ (2004) surveyed 200 college men and analyzed the data to examine sexual assault perpetration over an extended period of time. Thirty-five percent of those surveyed reported that they had committed at least one sexual assault since age 14, and nine percent reported that they were repeat assaulters. All of the perpetrators assaulted women they knew. The researchers analyzed findings from the survey to identify predictors of sexual assault and distinguish characteristics among four different groups in the study: nonassaulters, past assaulters, new assaulters and repeat assaulters. The findings indicated that repeat assaulters had the most extreme scores on measures of hostile attitudes about women, dating and sexual experiences, and drinking. Past assaulters were closer to repeat assaulters on most of the measures than were new assaulters, who were closer to nonassaulters on most of the measures. The findings of the research largely suggest the extent to which attitudes and behaviors aligned with sexual assault perpetration become entrenched over time.

American campuses because the incidence found depends on how the questions are worded and the context of the survey." See <http://www.nij.gov/topics/crime/rape-sexual-violence/campus/pages/measuring.aspx>

¹² This is consistent with the findings of a study by United Educators, which found that 63 percent of accusers in sexual assault cases are first-year students.

¹³ The CSA study characterized an incapacitated sexual assault as "any unwanted sexual contact occurring when a victim is unable to provide consent or stop what is happening because she is passed out, drugged, drunk, incapacitated or asleep, regardless of whether the perpetrator was responsible for her substance use or whether substances were administered without her knowledge."

¹⁴ Abbey, Antonia & McAuslan, Pam. "A Longitudinal Examination of Male College Students' Perpetration of Sexual Assault." *Journal of Consulting and Clinical Psychology*. 2004, Vol. 72, No. 5. Pages 747-756

Breitenbecher (2000)¹⁵ conducted a literature review on the effectiveness of sexual assault prevention programs on college campuses. Her findings indicated that “sexual assault prevention programs can be effective in producing desirable changes in attitudes and behavioral intentions, at least as measured immediately after participation in such programs.” However, it also found that while certain attitudes are correlated with sexually aggressive behavior among men, the data related to women are much more ambiguous. Additionally, the magnitude of attitude changes among those that participate in sexual assault prevention programs is often very small. Lastly, the author concludes that with regard to sexual assault programs, “an ounce of prevention” is probably not enough, but that campus administrators need to carefully evaluate the effectiveness of these programs rather than abandon them.

¹⁵ Breitenbecher, Kimberly, H. “Sexual Assault on College Campuses: Is An Ounce of Prevention Enough?” *Applied and Preventive Psychology*. 2000. Volume 9, Pages 23-52.

BEST PRACTICES AT NEW YORK COLLEGES

While sexual violence on college campuses remains a pervasive problem, several of New York's colleges have taken proactive measures to reduce its incidence, and improve responses to its perpetration. Both our public university systems, and various independent colleges and universities are responding to calls to address the issue.

STATE UNIVERSITY OF NEW YORK

The State University of New York is comprised of 29 state-operated campuses, 30 community colleges and five statutory, or contract colleges. It is the largest public university system in the nation with nearly 463,000 students. SUNY's state-operated (four-year) colleges and universities are distinct from other colleges and universities in New York State in that each campus has a fully sworn police department with the authority to investigate and enforce all laws and regulations.¹⁶

Activities undertaken by the SUNY Police to address sexual violence include:

- The formation of a committee in March 2014 to review and create a comprehensive sex crime investigation protocol;
- Training personnel to conduct on campus sexual assault investigations; and
- Collaborating with the SUNY Office of General Counsel to compile a list of effective prevention and educational programs about sex crimes for SUNY campuses.

Additionally, on October 2, 2014, the SUNY Board of Trustees adopted a resolution¹⁷ to create a system-wide, sexual assault prevention and response plan to include the following:

- A uniform sexual assault victims' bill of rights;
- A uniform sexual assault student reporting amnesty policy;
- A uniform freshman orientation training;
- A uniform confidentiality and reporting protocol;
- A uniform campus climate assessment; and
- A uniform definition of affirmative consent.

Several colleges and universities within the SUNY system have also taken specific actions to combat sexual assault on campus.

Stony Brook University

In April 2014, Stony Brook University was one of eleven schools nationwide recognized by the U.S. Department of Justice (DOJ) for its implementation of best practices in the area of sexual

¹⁶ See New York State Criminal Procedure Law section 1.20, subsection 34 (s) and Education Law Section 255, subsection 2.

¹⁷ <http://www.suny.edu/media/suny/content-assets/documents/boardoftrustees/memos/Sexual-Assault-Response-Prevention-REVISED.pdf>

assault prevention.¹⁸ Stony Brook's prevention programming consists of a 53-minute education video followed by discussion among groups of fewer than 20 students. Evidence-based online prevention interventions that cover topics, such as healthy relationships and substance abuse are also utilized. Bystander intervention workshops are provided to students, including specific populations such as fraternity and sorority members, student athletes and resident assistants. Stony Brook also administers an empirically validated, anonymous needs assessment to understand the prevalence of sexual violence on campus. The results from this assessment are reviewed by a committee of university and community stakeholders who use the information to develop strategies and policies to prevent and respond to sexual assault.

In the area of outreach and response, Stony Brook maintains a sexual assault nurse examiner (SANE) center, which distinguishes it from the majority of institutions nationally.¹⁹ The SANE center provides victim-centered medical care and forensic evidence collection which often improves the adjudication process, should the victim choose to report.

University at Buffalo

The UB Men's Group is a peer-run, university advised group sponsored by the UB Student Affairs Student Wellness Team. The Men's Group "provides training, presentations and awareness raising events with a focus on cultivating men as allies in preventing sexual violence." The group is comprised of men and women trained in peer education and advocacy. It also has an 11 point pledge that covers topics ranging from "talking with other men about rape" to "challenging images of violence against women in advertising and pornography"²⁰

University at Albany

SUNY Albany's Community Rights and Responsibilities Student Code of Conduct requires that "active consent" be established for sexual contact. Active consent requires "that person involved in sexual contact not only agrees to the sexual activity but also agrees freely and knowingly."²¹ The University also maintains an Advocacy Center for Sexual Violence and employs a coordinator for sexual assault prevention. The Advocacy Center utilizes posters, brochures videos and periodic educational programming to spread awareness and prevent sexual assault. Additionally, the University includes a process within its sexual assault response protocols that prioritizes the victim's safety and confidentiality.

¹⁸ Catalano, Shelley; Hammock Amy; Majumdar, Smita. "SBU Programs Recognized by Department of Justice For Dedication to Sexual Assault Prevention." *Stony Brook University Happenings*. May 13, 2014 <http://sb.cc.stonybrook.edu/happenings/oncampus/sby-programs-recognized-by-department-of-justice-for-dedication-to-sexual-assault-prevention/>

¹⁹ The U.S. Senate Subcommittee on Financial and Contracting Oversight reported in July 2014 that most institutions in its national survey failed to provide access to a SANE.

²⁰ <http://www.student-affairs.buffalo.edu/shs/pledge.php>

²¹ <http://www.albany.edu/advocacycenter/docs/SA%20PROTOCOL%20ammended%208-27-13.pdf>

SUNY College at Plattsburgh

Overall, SUNY Plattsburgh has developed a victim-centered approach to sexual assault. The University Police Department at Plattsburgh has comprehensive sexual assault complaint handling procedures that meet standards developed by the New York State Law Enforcement Accreditation Program (NYSLEAP). The College's response protocols consist of a one-page, six-step response process to be followed in reports of sexual assault, and a victim's services notice that can be obtained from the Title IX coordinator/affirmative action officer. The victim's services notice provides information related to medical assistance, counseling and advocacy services, complaint and adjudication options and safety services. Plattsburgh has also assembled a thorough, eight-page packet on sexual assault, partner violence, stalking and hate crimes that covers safety and support, the judicial process, educational programs and legal definitions for each of the crimes.

SUNY College at Brockport

SUNY Brockport has developed a definition of consent that addresses many of the ambiguities related to the term. The Brockport Code of Student Conduct states that "consent is permission, freely given by word or action, by all participants to a sexual act."²² The Code of Conduct also outlines a number of considerations that may be taken into consideration when violations of the consent policy are taken into consideration, including incapacitation or intoxication, consent to other forms of sexual contact and the use of coercion or unreasonable pressure.

CITY UNIVERSITY OF NEW YORK

The City University of New York (CUNY) consists of 24 campuses across New York City and nearly 270,000 degree-credit students. In 2013, CUNY established a Title IX Working Group which meets biweekly. In addition to meeting specific requirements mandated by federal and state law, CUNY has employed a number of unique practices in the area of sexual assault prevention and response. These include:

- The creation of a Title IX Sharepoint site containing CUNY policies, training materials and other resources for campus Title IX Coordinators;
- Conducting nearly 30 training sessions for various audiences;
- The development of a Medical Amnesty/Good Samaritan policy to encourage students to seek medical assistance related to drug and/or alcohol use without fear of discipline; and
- The use of online training modules for new students designed to increase knowledge and understanding of sexual assault.

In addition to these activities undertaken by the Working Group, CUNY's campuses are also employing a number of best practices.

²² [http://www.brockport.edu/policies/docs/code of student conduct.pdf](http://www.brockport.edu/policies/docs/code%20of%20student%20conduct.pdf)

John Jay College

John Jay College seeks to prevent and spread awareness of sexual assault by utilizing technology. The College created a free mobile app, accessible via iTunes, that contains relevant polices regarding sexual assault. The College also has a gender-based Violence Prevention and Response Advocate who facilitates discussions among students on the topic of gender-based violence. In terms of responding to incidents of sexual violence, John Jay offers individual therapy for trauma victims.

Hostos Community College

Hostos Community College incorporates sexual assault education into credit-bearing courses. It has a summer freshman bridge program which includes information about Title IX. Hostos also has a Domestic Violence Empowerment (DoVE) Program to assist student victims and victims of domestic violence. The DoVE Program is committed to promoting and enhancing healthy lifestyles and relationships, as well as the emotional and spiritual wellness of its students. Hostos has also used innovative mechanisms for educating its student population, such as a business card which outlines prohibited behavior.

Other Activities at CUNY Colleges

- The College of Staten Island provides bystander intervention training. The “Step Up! Be a Leader, Make a Difference” program was developed by national experts at the University of Arizona and the National Collegiate Athletic Association.
- Medgar Evers College has a Male Development and Empowerment Center that conducts information sessions on sexual assault for its students.
- Queens College provides palm cards during orientation entitled “Be In the Know.”
- Kingsborough Community College and Lehman College participate in national campaigns, including the “Enough is Enough” and “Take Back the Night” campaigns.

INDEPENDENT COLLEGES AND UNIVERSITIES

There are more than 100 independent, not-for-profit colleges and universities across New York State serving approximately 492,000 students.²³ The following are just a few of the best practices employed by select colleges across the independent sector.

Hamilton College

Hamilton College has started a voluntary student discussion group facilitated by university administrators called “Yes Means Yes.” The group focuses on healthy sexuality. Hamilton anticipates offering two six-week sessions in the fall 2014 semester. Hamilton will also be incorporating an interactive, performance-based group called “Speak About It!” into its First-Year Experience program. The group covers topics such as consent, boundaries and healthy

²³ Based on Fall 2013 enrollment data from the New York State Education Department, Office of Research and Information Systems.

relationships. In addition, the university trains peer advocates to serve as resources for students in need of information regarding Hamilton's policies and procedures for sexual assault response.

Skidmore College

In September, Skidmore College covered revisions to its sexual and gender-based misconduct policy for the 2014-15 academic year as part of the "First Six Weeks" program. Also part of the First Six Weeks program is "Consentfest", in which Skidmore's Office of Health Promotion provides information about the college's alcohol and drug policy, as well as its sexual and gender-based misconduct policy. Skidmore mandates two online programs for first-year and transfer students: "Alcohol EDU" and "Haven", which focuses on sexual assault prevention. Lastly Skidmore covers sexual and gender-based misconduct through another mandatory orientation entitled "SOS", or Safety Orientation for Students.

The Sage Colleges

The Sage Colleges mandates a number of training sessions around sexual assault. All new graduate students are required to take an online course covering Title IX. All new students, student leaders and student life employees are required to take an online module from United Educators that focuses on sexual assault titled "Lasting Choices." Bystander intervention is also mandatory for new students. As part of orientation, a bystander intervention session titled "If Not You, Who?" is required for incoming students.

The Sage Colleges also employ specific strategies during their sexual assault prevention trainings. One such strategy that has proven to be effective is the use of men and women as co-facilitators during training. Another strategy is the use of student driven initiatives, such as the Alliance for Sexual Assault Prevention at Sage College of Albany.

Cornell University

In September of 2013, Cornell University, at the direction of its President, established a Council on Sexual Violence Prevention. The Council focuses on three key areas to sexual violence prevention: the environment, education and services provided to victims. Cornell has also designed and dedicated an entire website to Sexual Harassment and Assault Response and Education (SHARE). This website serves as a one-stop shop for information pertaining to laws, policies, procedures on sexual assault, including but not limited to, reporting, emergency services and follow-up care. Around-the-clock services are provided to sexual assault victims, through the local Advocacy Center.

Cornell, like many other universities and colleges, takes the approach of shared responsibility in combating sexual violence. It has provided online training to more than 6,000 faculty and staff members on their reporting and consultation obligations, through its "Respect at Cornell" program. Additionally, a new version of its Title IX training video called "Building a Culture of Respect at Cornell" is being used for the 2014-15 academic year.

LEGISLATIVE RECOMMENDATIONS

PREVENTION

Education and Awareness

- *Clarify and broaden the law requiring that all incoming students receive sexual assault, domestic violence and stalking prevention information**

Education Law, Section 6432 requires that all “incoming” students receive this information. Some colleges have interpreted this to mean that only freshmen are required to be provided with prevention and education information. Because some students transfer from colleges outside of New York State, where this may not be a requirement, this statute should be amended. Additionally, dating violence should be incorporated into this law, as it has become more widespread among teens and young adults.

- *Incorporate bystander intervention training into first-year and transfer student orientation programs*

Bystander intervention makes the prevention of sexual assault a shared responsibility. Furthermore, bystander intervention training increases the likelihood that individuals will help someone who could become the victim of a sexual assault. More colleges are implementing these programs nationwide and New York colleges should do the same.

Campus Culture and Climate

- *Conduct periodic climate surveys*

Colleges should assess the campus environment to better understand the nature and prevalence of sexual assault on their campuses, and determine what attitudes and values linked to high risk for sexual assault are prevalent.

- *Devote more campus resources to reducing underage drinking*

As stated earlier, sexual assaults are substantially more likely to occur during the first two years of college. Additionally, research reveals that nearly four in five campus sexual assaults involve the consumption of alcohol.²⁴ Reducing underage drinking, particularly binge drinking, should reduce the incidence of sexual assault. Colleges and universities have alcohol and drug abuse policies in place and should enforce them.

RESPONSE

Reporting and Victim Support

- *Provide on-campus hotline or online confidential reporting for victims of sexual assault*

²⁴ A 2009 study reported that 80 percent of campus sexual assaults involve alcohol. For more information see “College Women’s Experiences with Physically Forced, Alcohol or Other Drug-Enabled, and Drug-Facilitated Sexual Assault Before and Since Entering College” in the Journal of American College Health, Volume 57, Issue 6, 2009.

Only a small percentage of sexual assaults are reported. Expanding options for reporting is one way to address this.

- *Incorporate sexual assault response training into faculty and staff training sessions*
In many cases, sexual misconduct goes unreported, but the victim may turn to a friend, or other member of the campus community. Faculty and staff should be made aware of victim-friendly reporting procedures prior to the start of the academic year.

Investigation and Adjudication

- *Require sexual assault response training for campus safety/law enforcement officials*
Incorporating sexual assault response into mandatory training requirements for campus safety is critical. Law enforcement and campus safety should have proper protocols for responding to allegations of sexual assault.
- *Encourage and support the use of Sexual Assault Nurse Examiners (SANEs)*
SANEs are critical to preserving evidence for investigations and adjudicatory proceedings, whether criminal charges are brought or not. To the extent practicable, they should be made available on every college campus, and funds should be appropriated to encourage their use.
- *Require colleges to adopt policies and procedures that comport with best practices for sexual assault response**
Many colleges already have policies and procedures in place for how to respond to an allegation of sexual assault. Colleges should follow best practices when designing these policies and procedures.
- *Require training prior to serving on college disciplinary panels**
Adjudication panels should be comprised of individuals who understand the laws and institutional policies around rape and sexual misconduct. These individuals should also understand questioning techniques. Proper training needs to be instituted for those who serve on panels.
- *Prohibit the use of different campus adjudication systems for different populations**
Each college should have one disciplinary process for students accused of sexual misconduct. Athletic departments, for example, should not be responsible for adjudicating their own cases, nor should fraternities and sororities have their own adjudicatory process apart from the general college disciplinary process.
- *Protect due process rights*
As colleges are required by federal law and regulations to investigate and resolve reports of sexual misconduct, the rights of all parties involved should be upheld. Colleges must take deliberate steps to ensure that the rights of the accuser and the accused are not violated during any adjudicatory proceeding. This means incorporating these rights into any campus-wide policy or procedure outlined and conveying this information in any materials distributed to the campus community.

ACCOUNTABILITY

- *Pursue expanded oversight for Title IX compliance by the New York State Education Department through more flexible agreements with the U.S. Department of Education*
SED's Office of K-16 Initiatives and Access Program (KIAP) has an agreement with the U.S DOE to monitor and determine compliance with various federal civil rights laws and regulations, including Title IX. It is currently required to conduct onsite reviews of 2.5 percent of the institutions of higher education in New York's annual review pool.²⁵ This percentage should be increased, as well as SED's authority to oversee Title IX compliance. As stated earlier, the U.S. Department of Education's Office for Civil Rights enforcement has had a limited impact on the transformation of campus sexual assault policies. SED's direct oversight of colleges and universities in New York makes it better positioned to enforce Title IX compliance.
- *Adopt a clear and uniform definition of the term "consent"**
Many students enter college without a solid understanding of what consent to sexual activity means. Colleges should educate and inform students not only of the penal law standard for consent, but also adopt an unambiguous, uniform definition of consent for the college campus code of conduct, and educate students as to the similarities and differences.

* Indicates an action for which statutory or regulatory changes are required or recommended

²⁵<http://www.highered.nysed.gov/kiap/colldev/VTEA/CarID.PerkinsCareerandTechnicalEducationCivilRightsCompliance.htm>