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2022 Campus Safety and Violence Prevention (CSVP) Annual Report FAQs and Guidance

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I. Incident Data Collection

1) What changes have been made to the incident data collection section of the report?

Between January and June 2022, the Massachusetts Department of Higher Education (DHE or Department) reviewed the questions and feedback institutions (IHEs) submitted to it regarding the incident data collection component of the 2021 CSVP Annual Report, developed proposed changes in response to that feedback, conducted outreach to all 114 reporting institutions' CSVP contacts for additional feedback on the proposed changes, and held three focus groups in June with CSVP contacts and Title IX Coordinators to finalize the incident data component of the 2022 CSVP Annual Report. In response to the stakeholder feedback, the Department has made a number of adjustments to the incident data collection section of the report. In summary, institutions will no longer need to report the number of anonymous reports received but will be asked to report on the status of reports that result in formal complaints, and the outcome of those formal complaints. The changes below incorporate additional fields and terminology adjustments for more accurate and comprehensive reporting than what was provided in the 2021 Campus Sexual Assault Law. As such, please read each category carefully to ensure accurate data are prepared and submitted in the 2022 CSVP Annual Report that is due December 31, 2022. Note, for each category, the institution will report out the number of reports or formal complaints filed by students against students, students against employees, employees against students, and employees against employees, as appropriate.

- (i) reports of sexual misconduct made to TIX coordinator;
- (ii) reports of sexual misconduct investigated by sworn campus police officers or LLEAs, if known;
- (iii) reports of sexual misconduct made to TIX coordinator that **did not result** in a formal complaint;
- (iv) reports of sexual misconduct made to TIX coordinator that resulted in a formal complaint;
- (v) formal complaints under Title IX or sexual misconduct policies that were dismissed, withdrawn, or did not result in disciplinary action
- (vi) formal complaints under Title IX or sexual misconduct policies that resulted in disciplinary action
- (vii) students and employees found responsible for violating Title IX or sexual misconduct policies
- (viii) students and employees subject to disciplinary action as a result of a finding of responsibility

2) What will the reporting time period be for the 2022 CSVP Annual Report?

Calendar year 2021: January 1, 2021 – December 31, 2021, similar to Clery and last year's CSVP report. IHEs will have until December 31, 2022 to complete the 2022 CSVP Annual Report.

3) What will the reporting time period be going forward?

Calendar year basis, similar to Clery and last year's CSVP report. Next year's report, the 2023 CSVP Annual Report, will cover January 1, 2022 – December 31, 2022.

4) When will the portal be made available?

Not later than December 1, 2022, but potentially sooner. CSVP contacts will be notified directly by DHE when the portal is live.

5) Will there be training on how to use the portal?

Additional information and resources, including a blank version of the report, will be made available on DHE's CSVP webpage: <https://www.mass.edu/strategic/csvp.asp>, similar to last year. Questions should be directed to Amanda Robbins, Campus Safety Advisor, arobbins@dhe.mass.edu, and Alex Nally, Assistant General Counsel, alex.nally@dhe.mass.edu. CSVP contacts should anticipate notice regarding an additional Q&A session to be hosted via Zoom later this fall.

6) Can reports be amended after they are submitted?

Yes, but for a limited amount of time, similar to last year. When a report is submitted, it is placed in a "Submitted" status until DHE either "Reverts" the report for IHEs to make additional edits or "Approves" the report after which point the IHE will no longer be able to edit the report. If an IHE needs to amend a report prior to DHE's approval/acceptance of the report, the IHE can request DHE to "Revert" the report while it is in the "Submitted" status.

If an IHE needs to amend a report after it has been "Approved" and accepted by the DHE, the IHE can always start a new one and communicate the reason for the subsequent submission.

7) IHEs that have both Title IX harassment policies that comply with the August 2020 federal Title IX regulations often also have broader equity policies that cover conduct outside of the recently narrowed scope of Title IX. How will the department address cumulative data where definitions of conduct may vary widely from school to school as it pertains to those broader equity policies?

The Massachusetts statute defines sexual misconduct, and requires institutions to report annually on incident data which align with the statute's definition. Institutions should note the scope of the statute's definition of sexual misconduct and ensure that data reported to the DHE include incidents which may have been reported or addressed through other institutional policies, e.g., regarding gender-based harassment, if the institution's Title IX policies do not include incidents within the scope of the statute's definition of sexual misconduct.

8) What is the definition of sexual misconduct for reporting purposes?

Sexual misconduct is defined in the statute as, “an incident of sexual violence, dating violence, domestic violence, gender-based violence, violence based on sexual orientation or gender identity or expression, sexual assault, sexual harassment or stalking.” Note, the 2021 Campus Sexual Assault Law’s definition of sexual misconduct may include conduct that otherwise might be excluded under “sexual harassment” as defined in Title IX regulations.

9) What is meant by a report? Do reporting parties or claimants need to be identified for something to be considered a report? This is an important distinction because institutions receive many complaints that do not include identification.

While the term “report” is not defined in the statute, DHE interprets the term “report” to mean reaching out to share information regarding an alleged sexual misconduct incident with a student or employee of the institution regardless of the reporting person’s identity or the identity of the alleged perpetrator, regardless of where the incident allegedly occurred, that is initially or subsequently brought to the attention of and recorded by the institution’s Title IX Coordinator.

10) Should an institution include in its numbers reports of pre-enrollment sexual misconduct?

Generally, no; however, reports concerning sexual misconduct that occurs after the student(s) have made a deposit and are in the process of enrolling or are engaged in summer or other pre-term activities at the institution should be included.

11) What is meant by a “report investigated by sworn campus police officers or LLEAs [local law enforcement agencies], if known?” Sometimes institutions are not always informed of such reports or investigations, or such investigations are confidential under federal or state law.

A report investigated by sworn campus police officers or LLEAs, if known, means a report of sexual misconduct investigated by a state or local law enforcement agency that has been shared with the institution’s Title IX Coordinator; or a report of sexual misconduct that results in a criminal investigation conducted by campus police who are sworn officers that has been shared with the institution’s Title IX Coordinator. If an investigation is confidential, it should not be reported if it would be in violation of any federal or state law concerning the privacy of such investigations.

12) How should IHEs report the number of anonymous reports or reports regarding an unknown party?

The 2021 Campus Sexual Assault Law only requires institutions to report the number of reports made by or against a student or employee of the institution. An institution may wish to include reports that are initially made anonymously but concern conduct between students and employees to accurately report the number of reports received concerning sexual misconduct that occurred between students and employees.

13) How should IHEs report when a complainant decides not to move forward with filing a formal complaint after making a report of sexual misconduct?

In the 2022 CSVP Annual Report, IHEs should report this number of reports in the subcategory of reports that did not result in a formal complaint.

14) How should IHEs report instances where a bystander reported an incident of sexual misconduct where that instance of sexual misconduct was not confirmed by the Complainant?

These reports should be reported under two sections of the incident data component of the annual report. First, as a report of sexual misconduct made by an employee or student against an employee or student and second, under the sub-category of reports that were made by an employee or student against a student that did not result in a formal complaint.

15) How should IHEs report when multiple reports are filed regarding the same incident?

An IHE, in its discretion, may opt to report multiple reports as one consolidated report where multiple reports have been filed concerning the same incident. IHEs should generally report the total number of reports by each category as close to the circumstances of the incident as appropriate, e.g., if a report is made by a student and an employee regarding the same incident of student-to-student sexual misconduct, it should be counted as one report of sexual misconduct filed by a student against another student. If, however, only the employee filed a report concerning the student-to-student sexual misconduct, it would be reported as a report of sexual misconduct filed by an employee against a student that did not result in a formal complaint. Ultimately, in this fact pattern, if one of the students were found responsible, the IHE would report there being one (1) student found responsible for this incident, regardless of the number of reports filed concerning the incident.

If the institution wishes to provide additional clarification to be included in any published report, the institution will continue to have the ability to add any such clarifications. An institution, for example, may wish to report an unduplicated total number of incidents for any category and then clarify any instance in which multiple reports have been made regarding one (1) complainant or respondent, or vice versa.

16) How should IHEs report sexual misconduct incidents that occur off-campus?

These incidents should be tallied in the same manner as other reports, formal complaints, etc., as the scope of the 2021 Campus Sexual Assault Law includes off-campus conduct. The law does not ask IHEs to differentiate in its numbers between on or off-campus incidents like Clery does.

17) Should IHEs report the number of formal complaints that could not be adjudicated due to a student or employee's withdrawal or voluntary departure? What about pending investigations?

Yes, institutions should include these data, if applicable, in the total number of formal complaints that were dismissed, withdrawn, or did not result in disciplinary action.

18) What is the reporting period for reports, formal complaints, or adjudicatory actions that concerned conduct from a prior year?

The totals for all fields in the 2022 CSVP Annual Report should concern activities in the 2021 calendar year, which may include reports of sexual misconduct made in 2021, formal complaints filed in 2021, and disciplinary actions taken in 2021. Although some adjudicatory actions, for example, may result from reports or formal complaints filed in a prior year, the data will smooth out over time given the annual nature of this report. Institutions will also continue to have the ability to clarify differences in data from year to year as cases span across reporting periods.

19) If an institution is concerned regarding its interpretation of the reports required by the statute, compared to other reporting criteria, such as under the Clery Act, will institutions be able to provide information regarding their methodology to the DHE in the report?

Yes, institutions will continue to have the ability to communicate any concerns they have regarding data quality in the annual reporting portal. Since this is year 2, and slight changes have been made to the report since last year, DHE understands data may vary across institutions as they adjust to the new reporting requirements. It is recommended that institutions try to identify appropriate data and a consistent process for compiling these data to ensure a smooth submission process for 2023 and beyond.

20) Are Presidents/CEOs required to initial each President/CEO field, or can a designee initial those fields on behalf of the President/CEO?

A President or CEO may log in directly to initial the fields themselves if they choose to do so; but if they would prefer that another CSVP contact do so on their behalf, that is also acceptable as only Presidents/CEOs and CSVP contacts can access the CSVP Annual Report. Please note that the portal will log which user initials each field for documentary purposes.

21) Will institutions be able to revise their submissions if any corrections need to be made?

If an institution submits a report and has subsequent concerns or needs to update the information submitted in the report, they will be able to amend the report for a limited time in 2023 before the report is finalized and "accepted" for 2022.

22) How can CEOs/Presidents designate new or additional CSVP contacts for the institution?

To designate additional or new CSVP contacts, institutions should contact Amanda Robbins, Campus Safety Advisor, arobbins@dhe.mass.edu, or Alex Nally, Assistant General Counsel, alex.nally@dhe.mass.edu.

II. Local Law Enforcement MOUs

1) The Regulations (610 CMR 14.00) define Local Law Enforcement Agency as "A municipal or state law enforcement agency, with jurisdiction on or around an institution's campus, including property owned and not owned by the institution."

Is there an expectation that every College in the Commonwealth enter or attempt to enter into an MOU with the State Police?

Only where the institution deems a State Police unit to have jurisdiction on or around the institution's campus, e.g., there is a reasonable likelihood that the State Police would be more or as likely to respond to a report of sexual misconduct as a local/municipal LEA. In most cases, it is expected that IHEs will only need to enter into MOUs with local/municipal LEAs.

2) The definition of Local Law Enforcement Agency further provides, “As set forth in 610 CMR 14.03(2), an institution subject to the jurisdiction of more than one local law enforcement agency may enter into one MOU with multiple law enforcement agencies.” Section 14.03(1) then states, “Each institution shall, to the extent feasible, enter into an MOU with each local law enforcement agency having jurisdiction to report as a first responder to an incident of sexual misconduct occurring on or around each campus of the institution.”

Where institutions are in multiple jurisdictions *must* they attempt to enter into an MOU with each local law enforcement agency?

Yes, especially if the institution for the purposes of Clery Act reporting must report on incidents in multiple jurisdictions.

3) For institutions that have a main campus in one City of the Commonwealth, but may have satellite campuses (which are reportable under Clery) in other cities or towns, will those smaller satellite campuses need MOUs as well?

Yes. For each campus which reports under Clery, the institution will need to submit a separate MOU for each campus, and also indicate any applicable LEAs with jurisdiction on or around each campus, the status of its entrance into any applicable MOUs, and any applicable feasibility determinations the institution has made regarding each campus.

4) Is DHE reaching out to large urban PDs like Boston, Worcester, and Springfield to alert them that this is happening? (Some have been very slow in even responding to timing questions.)

DHE has been coordinating with state and municipal LEAs, as well as the Executive Office of Public Safety and Security (EOPSS) throughout the implementation of the statute and the promulgation and implementation of 610 CMR 14.00. In February of 2022, the Secretary of EOPSS and the DHE Commissioner sent a joint letter to all municipal Chiefs in the Commonwealth informing them of the law and regulations and encouraging their participation in the MOU process. Another communication also went out from the Massachusetts Chiefs of Police Association (MCOPA) on August 10, 2022.

5) How should an institution that has not yet begun discussions with its local LEA(s), or is still experiencing resistance from its local LEA(s) report this status to the DHE?

Pursuant to 610 CMR 14.04(2), if an institution has not entered into an MOU, the terms of which are in compliance with 610 CMR 14.03, with each LEA with jurisdiction on or around each of the institution’s campuses, the institution will still need to certify that entry into such an MOU or MOUs at this time is not feasible; and to indicate any applicable reasons. The CSVP annual report is designed to accommodate this scenario by providing institutions ample space to provide additional information regarding its efforts to enter into the required MOU or MOUs. For example, one potential reason provided that an institution could select is that an MOU could not be negotiated or finalized despite good faith efforts of both the LEA(s) and the institution. There is also an “other” field where the institution could provide more specific details, in addition to the “Status Update” field where institutions will provide a Status Update on compliance with 610 CMR 14.00.

Since last year, the DHE has posted additional LEA MOU resources on the CSVP website, including model MOUs, at <https://www.mass.edu/strategic/csvp.asp>. All institutions are expected to substantially comply with the LEA MOU requirement and 610 CMR 14.00 by December 31, 2022.

III. Sexual Assault Crisis Service Center (SACSC) and Domestic Violence Program (DVP) MOUs

1) M.G.L. c. 6, § 168D(c) states that the sexual assault crisis centers with whom institutions must enter into must be funded by the Department of Public Health (DPH), but many crisis centers may not be funded by DPH. Is there any flexibility on this requirement?

Per the statute, there is not. IHEs must enter into MOUs with DPH-funded general, community-based sexual assault crisis service centers (SACSCs) and domestic violence programs (DVPs). DPH has published lists of general community-based SACSCs by region [here](#); and general community-based DVPs by program type [here](#).

2) If an institution provides its own Sexual Assault Crisis Service Center (SACSC) for students, but needs to enter into MOUs to provide crisis center services for its employees; or vice versa, how should an institution report on its status of compliance with M.G.L. c. 6, § 168D(c)?

Institutions which provide their own SACSC for students and employees are exempt from this requirement. If an institution's SACSC does not provide services to both students and employees, the institution must enter into the required MOUs to provide services to students or employees not already served by the institution's SACSC. If an institution has not entered into the MOU by the end of the 2022 reporting period (December 31, 2022) it would need to request a waiver through the annual reporting portal by indicating that despite its good faith efforts, it requires additional time to enter into the required MOUs. All institutions are expected to substantially comply with the SACSC and DVP MOU requirement by December 31, 2022.

For any institution which has a SACSC, the SACSC must provide the minimum required services in the statute to students and employees, which include:

- (i) provide an off-campus alternative for students and employees to receive sexual assault crisis services, including access to a sexual assault nurse examiner if available, or domestic violence crisis services in response to sexual misconduct;
- (ii) ensure that a student or employee of the institution is able to access free and confidential counseling and advocacy services either on campus or off campus; and
- (iii) encourage cooperation and trainings between the institution and the service center or program to ensure an understanding of the roles that the institution, service center and program should play in responding to reports and disclosures of sexual misconduct against students and employees of the institution and the institution's protocols for providing support and services to the students and employees

IV. Campus Climate Surveys

1) Are there any updates on when we IHEs will see model survey questions?

The Task Force on Sexual Misconduct Surveys' final report and recommendations, as approved by the Commissioner of Higher Education on May 3, 2022, are available on the CSVp webpage at <https://www.mass.edu/strategic/csvp.asp>.

2) When will IHEs be required to conduct their first sexual misconduct survey under the 2021 statute? And will IHEs be required to report on their progress in implementing their surveys to the DHE?

Per DHE's interpretation of the statute, IHEs have until August 1, 2025 to conduct their first survey (under the "no less than every four years" requirement for survey administration). Beginning this year, IHEs will be asked via the annual reporting portal to indicate their status as it relates to conducting a sexual misconduct survey using the Task Force's model questions, or developing their own survey that aligns with the Task Force's model questions.

3) Is there additional guidance for IHEs wishing to develop their own survey rather than use the Task Force's model questions?

The Department encourages all IHEs to use the model questions as developed by the Task Force and approved by the Commissioner of Higher Education. For IHEs seeking to develop their own surveys, guidance for meeting the intent of the law can be found in Appendix A of this document as well as on the DHE's [CSVp website](#).

APPENDIX A: Guidance for Developing a Sexual Misconduct Survey

Introduction & Background

This implementation guidance was authored by the Department of Higher Education (DHE or Department) and 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 guidance to an institution of higher education (IHE) that has chosen to develop its own sexual misconduct climate survey, rather than utilize the [sexual misconduct climate survey and model questions](#) (Appendix B in the linked report) developed by the Task Force on Sexual Misconduct Surveys and approved by the Commissioner of Higher Education.

Under the law, M.G.L. c. 6, § 168D (d)(4) states: *The commissioner of higher education shall review and approve the sexual misconduct climate survey model questions provided by the task force and shall periodically review and make recommendations for changes to the model questions and to the content and timing of the sexual misconduct climate surveys. In addition, the task force may be revived at any time by the commissioner. The commissioner shall provide a copy of the model questions to all institutions; provided, **however, that an institution may develop and use its own campus-specific survey if the survey: (i) is designed to provide the institution with data to inform policies to prevent and respond to sexual misconduct; (ii) meets quality standards determined by the commissioner; and (iii) includes the subset of model questions described in paragraph (2).***

The Task Force and DHE interpreted this clause in the law to allow for IHE's to develop and implement their own surveys. This option is included in the Task Force's [Report](#):

Recommendation #2: [The Commissioner shall] [i]ssue policy guidance and allow for a process, in furtherance of the intended purpose of M.G.L. c. 6, § 168D(d)(4) of the law, which enables institutions to develop their own surveys for use on their campuses, as long as the institutions include a subset of questions that generate responses related to topics including, but not limited to:

- a. the prevalence of sexual misconduct on campus;
- b. student knowledge of and familiarity with campus practices for reporting and addressing sexual misconduct; and
- c. services available to victims of sexual misconduct.

Institutions developing their own surveys are encouraged to review and utilize the model questions in Appendix B of the Report for use in their surveys and/or to serve as a guide to successful question development. To the extent that an institution chooses not to use the model questions, the institution must indicate to the Department the modules and/or specific questions in its survey that generate responses related to the mandatory topics required by statute and covered by the model questions.

Compliance with the Law / Reporting to DHE

In order to be in compliance with the law, an institution that wishes to exercise the option to develop, in whole or in part, its own sexual misconduct climate survey, **MUST**:

- (1) certify that its survey:
 - a. is designed to provide the institution with data to inform policies to prevent and respond to sexual misconduct;
 - b. meets quality standards determined by the commissioner; and
 - c. includes the subset of questions set forth in **M.G.L. c. 6, § 168D(b)(2)***

AND

- (2) provide a narrative, chart, or other explanatory material setting out the basis for the IHE's certification of compliance with Section 1(a-c) of this guidance.

IHEs shall fulfil the certification requirement by providing this information in narrative or chart form. For example, an IHE may choose to provide a *narrative description* of how its survey is designed to provide the institution with data to inform policies to prevent and respond to sexual misconduct (Section 1(a) above), and meets quality standards determined by the commissioner (Section 1(b) above). "Quality standards" for this purpose are the recommendations and best practices set forth in the Task Force of Sexual Misconduct Survey's Report and Recommendations document¹ approved by the Commissioner on May 3, 2022, and in particular those set forth in Sections I., III., and IV. of the report.

In terms of fulfilling the requirement to include a subset of questions described in paragraph (2) [of the statute]* (Section 1c above), IHEs shall also draft a narrative response or develop a chart (e.g., in a spreadsheet program, or a table embedded within a word processing program, or otherwise). Either the narrative response or chart must clearly identify which modules or questions within the institution's survey align with or satisfy the requirements set forth in the statute and described above.

All IHEs will be expected to provide this certification as an attachment to its CSVP Annual Report, hosted on the Department's EDvera platform, which collects other compliance information required by M.G.L. c. 6, § 168E(q) and 610 CMR 14.04(1). As with the collection of compliance information and sexual misconduct incident data, certification as it relates to developing a sexual misconduct climate survey shall be submitted through the portal not later than December 31st of each year.² DHE will notify all designated Campus Safety and Violence Prevention (CSVP) contacts when the reporting portal is open for submissions.

¹ The Task Force on Sexual Misconduct Climate Surveys' final report and recommendations are available at: <https://www.mass.edu/strategic/documents/Task%20Force%20on%20Sexual%20Misconduct%20Surveys%20Final%20Report%20and%20Recommendations-Update.pdf>. For additional information, please visit <https://www.mass.edu/strategic/csvp.asp>.

² DHE reserves the right to adjust data collection periods and due dates.

2022 CSVP Annual Report Incident Data Template

(Data provided for demonstrative purposes)

Reports of sexual misconduct made to TIX coordinator	100
filed by students against students	25
filed by students against employees	25
filed by employees against employees	25
filed by employees against students	25
Reports of sexual misconduct investigated by sworn campus police officers or LLEAs, if known	20
filed by students against students	5
filed by students against employees	5
filed by employees against employees	5
filed by employees against students	5
Reports of sexual misconduct made to TIX coordinator that <u>did not result</u> in a formal complaint	20
filed by students against students	5
filed by students against employees	5
filed by employees against employees	5
filed by employees against students	5
Reports of sexual misconduct made to TIX coordinator that resulted in a formal complaint	60
filed by students against students	15
filed by students against employees	15
filed by employees against employees	15
filed by employees against students	15
Formal complaints under Title IX or sexual misconduct policies that were dismissed, withdrawn, or did not result in disciplinary action	28
filed by students against students	7
filed by students against employees	7
filed by employees against employees	7
filed by employees against students	7

Formal complaints under Title IX or sexual misconduct policies that resulted in disciplinary action **32**

filed by students against students	8
filed by students against employees	8
filed by employees against employees	8
filed by employees against students	8

Students and employees found responsible for violating Title IX or sexual misconduct policies **32**

number of students found responsible	16
number of students subject to disciplinary actions as a result	16
number of employees found responsible	16
number of employees subject to disciplinary actions as a result	16