

LEGAL UPDATES

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Senators Introduce the Campus Accountability and Safety Act

Recently, a bi-partisan group of senators introduced for consideration the Campus Accountability and Safety Act (the Act), which attempts to codify much of the recent regulatory guidance concerning the obligation of colleges and universities to prevent, investigate, and redress campus sexual assaults. If enacted in its current form, the Act would, among other things:

Require institutions to designate “confidential advisors” who will serve as a confidential resource for victims of sexual violence. **Note:** The Act’s language is broad enough to suggest “confidential advisors” may extend beyond those persons with a confidentiality privilege under state law (such as licensed counselors and medical professionals).

Require institutions to grant amnesty for certain violations of student conduct policy that are disclosed as part of a good faith report of sexual violence, such as underage drinking.

Mandate minimum training standards for confidential advisors, those responsible for investigating and participating in disciplinary proceedings, and other officials and employees.

Require that institutions survey students concerning their experience with sexual violence and publish the results online.

Require that the U.S. Department of Education publish the names of institutions under investigation, as well as final resolutions and voluntary resolution agreements.

Require institutions to use a uniform process for campus discipline proceedings, which effectively prohibits policies that permit athletic departments or Greek councils to conduct separate discipline proceedings for students within their jurisdictions.

Requires institutions to enter into memoranda of understanding with local law enforcement to delineate responsibilities and share information when crimes occur. **Note:** While Congress may have the power to require institutions receiving Title IV funds to propose such memoranda to local law enforcement, it is unclear whether Congress has the power to require local law enforcement to reciprocate.

Impose a penalty for noncompliance with the Act of up to 1 percent of the institution's operating budget, and increase penalties for Clery Act noncompliance to \$150,000 per violation from the current penalty of \$35,000.

A copy of the proposed Act is available [here](#).

Passage of the Act by Congress is uncertain. The Act has been criticized by some outside groups and commentators for its failure to include adequate due process safeguards for accused students, and for effectively requiring institutions to adjudicate criminal conduct, which, they argue, should be left to the criminal justice system. It remains to be seen whether these arguments will result in amendments to the Act or its failure to gain adequate votes for passage.

What This Means to You

Given the Congressional calendar and upcoming mid-term elections, it is unlikely the Act will be considered by the full Congress until sometime after the start of the 2014-2015 academic year. Institutions should monitor the Act's progress through Congress as passage in its current form would impose substantial compliance obligations and put noncompliant institutions at substantial financial risk. Regardless of whether the Act passes in its current form (or at all), the Act's introduction illustrates the continuing attention that lawmakers and regulators are paying to sexual violence on

campus. Thus, the Act serves as yet another warning to institutions that they should proactively address sexual violence on campus through increased training, better policies, and sound practices.

Contact Information

If you have questions or require more information, please contact your Husch Blackwell attorney or Derek Teeter at 816.983.8331.