CAMPUS Technical Assistance and Resource Project

WEBINAR

INTERGRATING VICTIM SERVICES INTO POLICY

Victim Services and Conduct Policy Tip Sheet

Abstract

Committing to provide victim services on campus extends beyond the advocacy itself. A conduct policy is an excellent place to educate student survivors about their privacy rights, the resources, and options available to them and how to access these services.

MS Coalition Against Sexual Assault
Partnership with Ladder Consulting

Integrating Victim Services into Conduct Policies

Conduct policies are critical tools to combat campus domestic violence, dating violence, sexual assault, and stalking (DVSAS). Policies provide important details defining the prohibited conduct, how to report DVSAS, the process of the investigation and what sanctions are possible. What is often overlooked is the important role policies play in helping campus victims understand what options and resources are available to them. Student victims of DVSAS are often unaware about what resources are available. Campuses can utilize their policies to demonstrate a commitment to Victim Services by ensuring that victims are aware of essential definitions including confidentiality, options for reporting, and considerations for engaging with the institution's resolution process. Victim Services not only provides critical resources but the best possible information to help campus survivors make the most informed choices. This guide provides sample language illustrating important concepts of Victim Services that can be included in an institution's DVSAS conduct policy.

Definitions

The definitions section is key when considering how to incorporate Victim Services. Institutions should provide students with as much information in their policies as possible to ensure students understand how certain words or how particular choices impact reporting or an investigation. Consider including the definitions provided below.

1. Confidentiality should be defined as explicitly as possible to ensure that students make an informed choice when deciding who to speak with and the types of protections that can be offered.

Confidential by Law: Depending on the state or territory, confidentiality is determined by which professions are recognized as having state statutory privilege. For those campuses that have student-facing staff from professions such as counselors, advocates, doctors, nurses, or clergy who provide services on campus, it is essential to explain whether these professionals have privilege and what protections it affords students. Campuses should be clear if off-campus providers such as local rape crisis or domestic violence advocates, doctors or nurses at the local hospital, or social workers have confidentiality and what additional benefits or limitations this provides the student.

Confidential by Institutional Policy: For those student-facing professions on campus without statutory privilege, institutions may designate some of these professionals exempt from reporting under Title IX or the Clery Act. Often these professionals include campus advocates, medical professionals and faculty who provide resources to campus survivors. Note that there may be good reason why reporting parties may choose to speak with a person who has less privacy protections, such as an existing relationship, fewer logistical barriers, or more experience working with survivors. The intention is to define the level of protection to ensure the student makes an informed decision.

2. Privacy is defined as not sharing content beyond a small group of individuals who need to know to be responsive to the reporting party's needs, except as required by law. For instance, a Title IX Coordinator can only offer privacy to anyone sharing information with them. Including privacy in the definitions section alerts students that information could be shared without their permission because of litigation or requirements under federal law.

*Sidebar: Campuses should review any policies or communications from other departments and offices (e.g., ombudsman, counseling, or advocacy) to ensure the use of the words **"confidential" or "private"** match the definitions section. Several positions on campus cannot be confidential such as the Title IX Coordinator, Investigator or Hearing Panel Members. Policies that suggest reporting to a Title IX Coordinator is "confidential" or is a "confidential process" should consider alternate language.*

3. Safety Plan. Students who are contemplating reporting to an advocate or school official are often grappling with several safety concerns including the realization of previous threats or potential retaliation. While many institutions offer No Contact Orders, this is only one piece of a much larger safety plan. A customized safety plan prioritizes the safety of a student by considering their daily logistics such as academic schedule, housing, extracurriculars, employment and transportation designed to keep parties separated on campus. For instance, a safety plan may include assigning designated hours for the parties to use various campus amenities like a dining hall or gym, specifics for entering and exiting residence halls and academic buildings, use of staff bathrooms in certain buildings, eliminating requirements to ride on team bus to away games, or offering parking in a lot typically used by faculty and staff.

4. Supportive Measures. Campus survivors fear being ostracized from personal, athletic, and academic circles if they report, which can dramatically impact a survivor's ability to continue to succeed in class, on athletic teams or making professional connections. Including a definition of supportive measures can highlight the differences between safety planning and other accommodations such as switching classes, extending exam deadlines, or transferring residence halls. Policies must be clear that supportive measures are available regardless of whether a complaint is filed.

Reporting

Conduct policies should include a separate section on how students can report incidents of DVSAS. While providing contact information is important, a

comprehensive reporting section is an opportunity for an institution to show their knowledge about the needs and concerns victims have, as well as how identity plays a role in decision making. It is ideal to include both on and off-campus resources in the reporting section, giving survivors options and a full range of services that one or the other could not solely provide.

1. On Campus Resources. Survivors of DVSAS have critical needs in the immediate aftermath of violence. Policies that prioritize the medical, mental health and population specific needs of the survivor before focusing on reporting to law enforcement or campus officials clearly demonstrate the value the institution places on the well-being and safety of their students. Conduct policies can and should provide more than contact information for reporting. Incorporating victim services into the reporting section is an opportunity to alert survivors to their rights and the options available to empower them to make the best decisions for them.

a. *Confidential Resources.* Policies should clearly delineate all services available on-campus, and whether those services are confidential. Every resource available to DVSAS victims on campus should be listed, such as medical, counseling, advocacy, or clergy as well as the level of confidentiality for each. Be sure to hyperlink the terms "confidential" and "private" to the definitions in the policy.
b. *Responsibilities of On-Campus Advocates.* Policies can provide a clear picture of the types of services and support campus advocates can offer students. Services may include safety planning, engagement with other administrators for academic and housing accommodations, referrals to off-campus services, information about the institutional reporting process and law enforcement, if the victim wishes to pursue either route.
c. *Population Specific Services*. Institutions that incorporate population specific resources in their Victim Services program further demonstrate their commitment to meaningfully serve all students. The impact of DVSAS on different populations necessitates a nuanced and customized approach that considers staff and accessible resources that meet those needs. Campuses should provide the policy in a wide range of languages for limited English proficiency students to make informed decisions about seeking services.

*Sidebar: **Population specific services** provide resources, counseling and aid customized to the unique needs of a person within a certain population. Providers may be in the community as well as on-campus. Before incorporating these providers into the policy, campuses should reach out to each provider to ensure they are well equipped to handle DVSAS survivors. For example, it is good practice to reach out to local hospitals to ensure which are trained to provide sexual assault forensic examinations for transgender survivors. Additionally, institutions can work with on-campus counseling centers to ensure a wide range of the student body is reflected in referrals for long-term counseling for student survivors. Campuses could also agree to provide cross-training to these providers to ensure institutional staff are better informed about the unique needs of the population and any referred DVSAS student victims would get accurate information and have a positive experience. Depending on the provider, the institution could offer confidentiality by policy designation for their staff members.*

2. Off-Campus Resources. While many campus Victim Service programs offer a wide range of services, there are often other essential resources offered by local service agencies such as local rape crisis centers, domestic violence shelters, and population specific organizations. Off-campus service providers are critical to ensure student victims are knowledgeable about all available options. In some instances, off-campus providers may offer services that on-campus Victim Services do not. For example, services that may not exist on-campus include support during forensic examinations, court accompaniment for civil protection orders, assistance during the criminal justice process and access to off-campus counseling services. Especially for survivors with differing identities, campuses may not offer population specific services such as counselors with other language capabilities, other religious counselors, or advocacy that understands cultural needs. Policies that reflect these population specific organizations clearly signal the priority placed on meeting the needs of the entire campus community.

Even if similar services exist on-campus, including off-campus providers acknowledges that student survivors may feel more comfortable working with an advocate or service provider off-campus. In jurisdictions without statutory privilege for campus advocates, working with an advocate off-campus may provide more privacy protections. Policies should indicate whether each service provider has statutory privilege to aid in a survivors' decision making.

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*Sidebar: Depending on campus location, accessing service providers, hospitals or local law enforcement may be difficult without **transportation**. This can be especially daunting for campuses in rural communities where service providers may be hours away. If your campus can provide transportation or would be willing to pay for ride-share or taxi services, including this information and whom to contact confidentially on campus provides student victims critical information. One common practice is to create a ride-share account (if it is available in your area) and give survivors code names to protect their identity. Advocates can track the ride online to ensure the survivor has made it to the hospital or service provider. Campuses should research accessible transportation options in their area to ensure all students have access to resources.*

Resolution Process

Survivors who file a DVSAS complaint can benefit from an understanding of what risks exist if they wish to incorporate their advocate into the process. Under the Clery Act, both the reporting and responding parties may bring an "advisor of choice" to all meetings, interviews, and hearings. The parties may choose the advisor they feel supports them most. The conduct policy is a good place to delineate what responsibilities an advisor has. Both the student/reporting party and campus advocate should review the list of responsibilities to ensure the advocate feels comfortable with the role. Advocates could discuss other options for support during the resolution process if they are uncomfortable being the

advisor, including scheduling meetings immediately after interviews or being available via text during breaks in a hearing.

As discussed before, survivors are often unaware of their privacy rights and may not realize that inviting a campus advocate to be their advisor could have future legal ramifications. In the event of litigation, where either party sues each other or the institution, opposing counsel could subpoena the records of the campus advocate. Without statutory privilege, the advocate would have little ability to refuse, and information provided by the student survivor with the advocate outside the complaint process could be shared. An advocate, regardless of whether they have statutory privilege, may still jeopardize the confidentiality of the survivor's records depending on the laws in their jurisdiction and their own recordkeeping procedures.

Policies can arm student survivors with information so they can choose the best option for them. The risk of litigation may be high at some institutions, and much less likely at others. Regardless of the potential loss of privacy, a reporting party may still feel more comfortable with a campus advocate as their advisor. Examples could include where family is unaware or not close by, community providers are not easily accessible, or if an existing relationship with the campus advocate is the reason a student continues with the complaint process.

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*Sidebar: To maintain as much transparency as possible, the policy should state clearly that **campus advocacy records** will not be made available to the responding party without the knowledge and permission of the reporting party. Even if the campus advocate does not have statutory privilege, the resolution process is controlled by the institution and may establish what evidence will be allowed.*

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