

Safe Campus Act (H.R. 3403)

The bill adds a new Part F to Title I of the Higher Education Act (HEA) entitled “Treatment of Allegations of Sexual Violence. (Sec. 161, et. seq.) Its provisions apply to all Title IV-receiving institutions.

Sec. 162 encourages institutions of higher education (IHEs) to provide education programs designed to address sexual violence, and to provide access to them for all students, particularly new students. IHEs would be required to “devote appropriate resources for the care, support and guidance for students affected by sexual violence.” IHEs would be prohibited from designating non-employee advisors to student organizations as campus security authorities under the Clery Act, nor may they deny recognition to such an organization because its advisor or employee does not register as a campus security authority. IHEs must provide training to relevant personnel on the requirements of the provisions in this bill.

Sec. 163 has garnered the most attention of all the provisions in this bill. An IHE that receives a “covered allegation” (defined as an act of sexual violence, which is also a defined term specifying particular crimes) must, if consent from the alleged victim is given, report and refer the allegation to local law enforcement (LE) within 48 hours of obtaining the consent. If the alleged victim provides written notification to the IHE that he or she does not want the allegation to be investigated by LE, the IHE may not carry out any disciplinary proceeding with respect to the allegation. For allegations that have been referred to LE, an IHE may not carry out a disciplinary proceeding while LE is investigating the allegation (30 days, plus subsequent 30 day periods if investigation is still ongoing), other than to impose certain interim sanctions. In these cases, the clock for the IHEs compliance with Title IX or any other law does not start until after LE finishes its investigation. Sworn college officers may investigate an allegation during this timeframe if authorized to do so by local LE. IHEs may investigate and impose interim sanctions if it determines that they are a reasonable measure to promote campus safety. Suspensions as interim sanctions are limited in duration and can be extended only in certain circumstances.

Sec. 164 lays out new due process requirements for IHE disciplinary proceedings conducted in response to a covered allegation. Sanctions in these cases can only be imposed after a former hearing or similar adjudicatory proceeding that meets these requirements:

- Written notice to all parties at least 2 weeks prior to the start of the hearing that includes all relevant details of the allegation and a specific statement of the sanctions that may be imposed.
- A “meaningful opportunity” for the accused to admit or contest the allegation.
- Access for all parties to all material evidence at least 1 week prior to the hearing.
- Each party has the opportunity, at their expense, to retain an attorney or other advocate for all phases of the proceeding. The advocate must be permitted to ask questions during the proceeding, file papers, and examine evidence and witnesses.
- Right to confront witnesses with questions, except for those asking about sexual history of accuser.
- No individual may act in more than one of the following roles:
 - Victim counselor

- Investigator
- Prosecutor
- Adjudicator
- Appellate adjudicator

IHEs may use the standard of proof of their choice in disciplinary proceedings. The bill creates a private right of action for anyone aggrieved by the IHEs within 1 year of final notice of the sanction. The court must use an arbitrary and capricious standard in these cases.

Fair Campus Act (H.R. 3408)

This bill is identical to the Safe Campus Act, except that it does not include the latter's Sec. 163 provisions relating to mandatory reporting to LE of covered allegations.

Hold Accountable and Lend Transparency on Campus Sexual Violence Act or the HALT Campus Sexual Violence Act (H.R. 2680)

This bill amends the Department of Education Organization Act to require the Department of Education (ED) to make publicly available on its website:

- a list of the institutions of higher education (IHEs) under investigation, sanctions or investigation findings, and a copy of program reviews and resolution agreements entered into with ED or the Department of Justice (DOJ), under title IX of the Education Amendments of 1972 (Title IX) or title IV of the Civil Rights Act of 1964;
- the letter terminating the ED's monitoring of such agreements; and
- a list of the IHEs under investigation, and a copy of the program reviews, sanctions or investigation findings, and resolution agreements entered into with ED or DOJ, under the provisions of the Higher Education Act of 1965 known as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act).

ED may impose a civil penalty on an IHE that has violated a law under the jurisdiction of its Office for Civil Rights.

The bill amends the Clery Act to direct ED to develop a biennial sexual violence climate survey and include statistics from such survey in the annual campus security report provided to current and prospective students and employees.

An individual may allege a violation of the Clery Act in a judicial proceeding.

The maximum penalty for substantially misrepresenting the number, location, or nature of the crimes required to be reported under the Clery Act is increased.

The IHE's annual statement of its policy regarding domestic violence, dating violence, sexual assault, and stalking must:

- use simple and understandable language and clear formatting;
- be made available and posted on its public website and in conspicuous places in and around student housing and other campus buildings;
- be provided to each student group, team, or organization that has a specified connection to the IHE or is known by the IHE to act on an unaffiliated basis; and
- ensure that each of those groups distributes a copy of such policy to each of its members or applicants for membership.

ED and DOJ are directed to create a joint interagency Campus Sexual Violence Task Force.