



Beyond Title IX: Defending Civil Rights for Survivors on Campus

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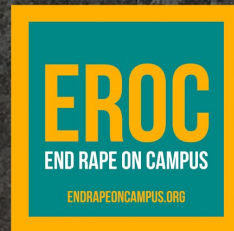
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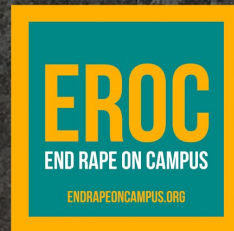
OUR MISSION

End Rape on Campus (EROC) works to end campus sexual violence through direct support for survivors and their communities, prevention through education, and policy reform at the campus, local, state, and federal levels.



OUR VISION

We envision a world in which each individual has an educational experience free from violence, and until then, that all survivors are believed, trusted, and supported.



Objectives

1. Understand the current federal landscape around Title IX, the Clery Act, and other civil rights laws that protect sexual assault survivors on college campuses.
2. Envision the way forward in California around protections for survivors, including new laws intended to maintain progress gained under the Obama administration.
3. Gain tools for local rape crisis center professionals, victim advocates, and community members to hold local campuses accountable and provide resources to survivors in a campus environment.

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Topics Area

- Title IX
- Clery Act and other Campus Sexual Assault Civil Rights Legislation
- Legislative landscape in California for college survivors
- Accountability tools and tactics for community advocates

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Community Agreements

1. All questions are useful.
2. Please take care of yourself in whatever way is healthy for you.
3. Listen with the intent to learn.



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Who is in the Room?

1. Community advocates?
2. University administrators?
3. Students?



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TITLE

IX

“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.”

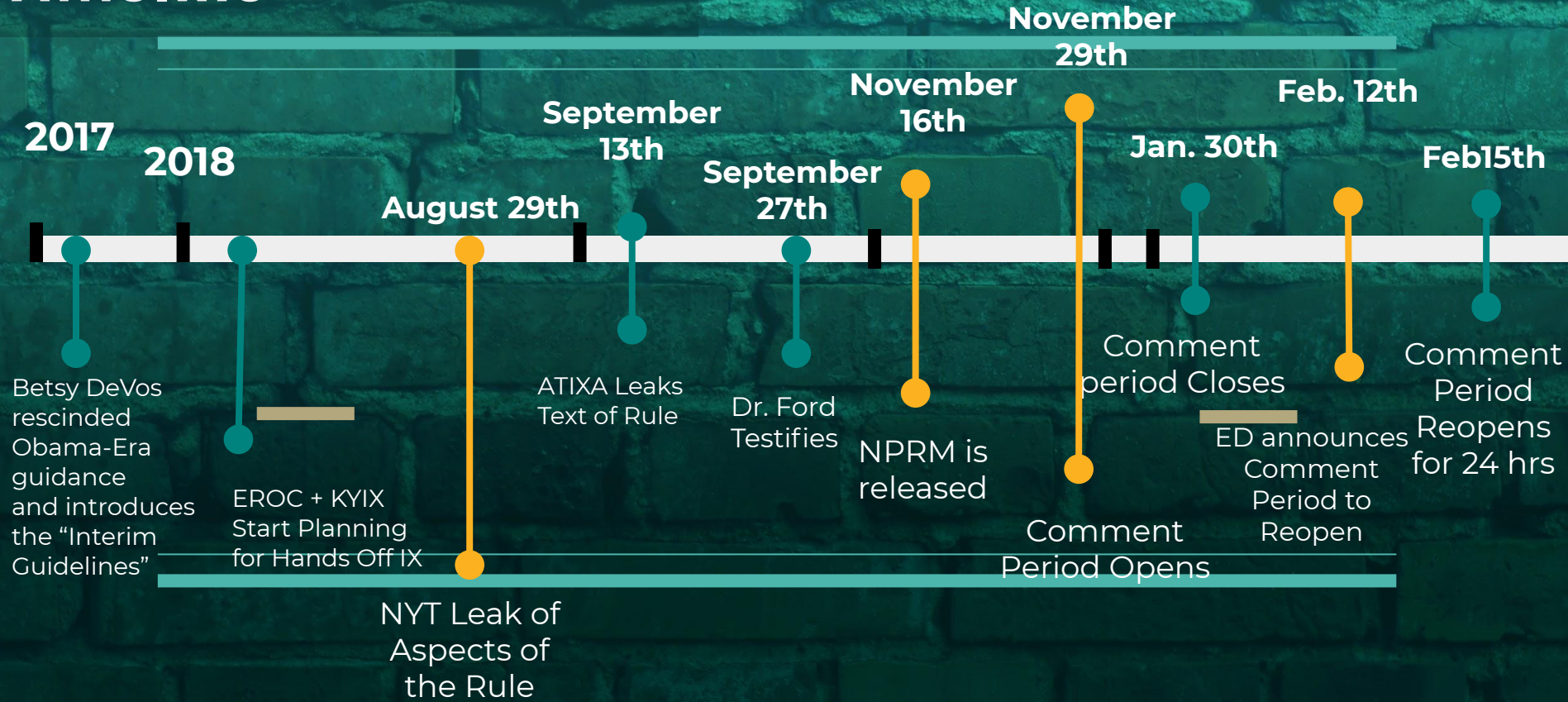
Where We've Come with Title IX

- Title IX was adopted on June 23, 1972 by the Nixon administration
- Title IX is a follow up to the Civil Rights Act of 1964 which sought to include the ability to bring legal action for discrimination on the basis of sex
- Title IX has been limited and narrowed in many ways, mostly through legal challenges to the law.

Title IX During the Obama Era

- 2011 Dear Colleague Letter
 - *Alexander v. Yale (1977)*
- OCR Investigations and Enforcement

Timeline



New Title IX Regulations

- New definition of sexual harassment
- Universities are not responsible for addressing off-campus violences
- Title IX hearings will be required to use cross examination
- Limits reporting options



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Sexual Harassment

- Prior to 2017: “Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Harassment creates a hostile environment when the conduct is sufficiently severe, pervasive, or persistent so as to interfere with or limit a student’s ability to participate in or benefit from the services, activities, or opportunities offered by a school.”



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Sexual Harassment

- New Regs; “unwelcome conduct on the basis of sex that is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient’s education program or activity”



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The Effect on Students

- Decrease the number of investigations
- Decrease reporting
- Puts students who live at the intersections of multiple marginalized identities at risk



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Off-Campus Investigations

- “a recipient is only responsible for responding to conduct that occurs within its education program or activity.”
- “An “education program or activity” includes “any academic, extracurricular, research, [or] occupational training.”



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The Effect on Students

- Increases confusion
- Decreases reporting and trust in one's institution
- Decreases safety



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Cross Examination

- Cross examination is the “greatest legal engine ever invented for the discovery of truth.”
- “Not only does cross- examination allow the accused to identify inconsistencies in the other side’s story, but it also gives the fact-finder an opportunity to assess a witness’s demeanor and determine who can be trusted”



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Effect On Students

- Intimidate survivors → decrease reporting
- Increase class inequalities
- Replicate the adversarial nature of the criminal-legal system



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Limits Reporting Options

- New regulations only recognize a university's responsibility to address an instance of sex discrimination if a **formal complaint** is made to the Title IX coordinator



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California Specific Concerns

- Federal supremacy and preemption
- ‘Reverse sexism’ in training topics AND trainers



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Federal Civil Rights Law

Clery and Beyond!!!

United States Government



Department of Education



Office For Civil Rights



Title IX
Title II
Title VI



Federal Student Aid



Clery Act



Colleges & Universities

Guiding Questions

1. What opportunities do you see for improving survivor and student experiences in your campus community?
2. What opportunities do you see for improving primary prevention?

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THE CLERY ACT

Requires all colleges and universities who receive federal funding to share information about crime on campus and their efforts to improve campus safety as well as inform the public of crime in or around campus.

THE CLERY ACT



Publish an annual security report



Disclose crime statistics for incidents



Issue timely warnings



Devise an emergency response, notification, & testing policy



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The Clery Act and the Campus Sexual Assault Victims' Bill of Rights

1. Survivors shall be notified of their options to notify law enforcement.
2. Accuser and accused must have the same opportunity to have others present.
3. Both parties shall be informed of the outcome of any disciplinary proceeding.
4. Survivors shall be notified of counseling services.
5. Survivors shall be notified of options for changing academic and living situations.

Clery and Prevention Training

- Primary prevention programs for new staff and students:
 - Institutional prohibition against domestic violence, dating violence, sexual assault, and stalking
 - Definitions under state law
 - Definition of consent
 - Options for bystander intervention
 - Information on risk reduction

VAWA

- The Office on Violence Against Women within the Department of Justice administers grants to fund programs to address campus sexual assault
- Sec. 303 in VAWA Reauthorization of 2019: Grants to Combat Violent Crimes on Campus
 - Increasing campus grant amount over time to \$500,000
 - Expanding training for all participants in the resolution process, including the Title IX coordinator's office + student conduct office
 - Adding disclosure training and improving the delivery of primary prevention training and victim assistance on campus
 - Develop + implement an alternative justice response



Other Federal Civil Rights Legislation for Survivors of College Sexual Assault

1. Campus Accountability and Safety Act
2. Hold Accountable and Lend Transparency on Campus Act
3. Title VII
4. Title VI
5. Title II

Campus Accountability and Safety Act (CASA)


- Introduced into Congress
- Establishes new campus resources and support services for student survivors
- Ensures minimum training standards for on-campus personnel
- Creates historic new transparency requirements
- Requires a uniform discipline process
- Ensures coordination with law enforcement
- Establish enforceable Title IX penalties and stiffer penalties for Clery Act violations

Hold Accountable and Lend Transparency on Campus Sexual Violence (HALT) Act

- Introduced by Congress
- Allowed to issue financial penalties for noncompliance with civil rights requirements under Title IX
- Increase penalty for violating Clery Act
- Students to have a private right of action
- Mandate biennial climate surveys
- Require public disclosure of a list of colleges/universities under investigation
- Expand requirements for notifying and publicly posting students' legal rights and universities' obligations under Title IX
- Create a Campus Sexual Assault Task Force

Title

VII



INJUSTICE ANYWHERE IS A THREAT
TO JUSTICE EVERYWHERE.
Martin Luther King, Jr.

The Civil Rights Act of 1965

“It shall be an unlawful employment practice for an employer ... to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s race, color, religion, sex, or national origin.”



Title VI

“No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”



Title



The Americans with Disabilities Act

“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.”

STUDENTS WITH PSYCHIATRIC DISABILITIES HAVE PROTECTIONS UNDER TITLE II

- Post Traumatic Stress Disorder, Depression, Bipolar Disorder, Borderline Personality Disorder, and other mental health conditions are considered **protected disabilities** under the Americans With Disabilities Act.
- Institutions are required to provide reasonable accommodations for academics, housing, and programs **including exam/assignment extensions, medical withdrawals, and residence hall relocation.**
- Institutions **cannot discriminate** against a survivor that has a mental disability, nor can their disability be used against them in a sexual assault investigation or adjudication.

Question

1. What opportunities do you see for improving survivor and student experiences in your campus community?
2. What opportunities do you see for improving primary prevention?

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**What are other states
doing?**

New York's Education Law 129B - “Enough is Enough”

Definition of Affirmative Consent

Policy for Alcohol and/or Drug Use Amnesty in Sexual Violence Cases

Campus Climate Assessment Policy

Student Bill of Rights

Sexual Violence Response Policy

Options for Confidentiality Disclosing Sexual Violence

Student Onboarding and Ongoing Education Mandate

Title IX



Investigation
T9 Coordinator
Adjudication/
Response
Freedom from
retaliation

Title VI



Inclusion of racial
and ethnic identity

Clery Act



Reporting options to
the police & campus
police
Definitions of crimes
Informed of
resources
Share information
on prevention
programing

Campus SaVE/
VAWA



Advisor of Choice
Broadened university
responsibility to address
DV, Intimate partner
violence
Gender identity
Prevention programming
for staff and students

Opportunities for Survivor Legislative Advocacy in California

California State Law- 2019 Opportunities

1. A1000 - requires schools to annually review, and update as necessary in collaboration with sexual assault counselors and student, faculty, and staff representatives, the written procedure or protocols for sexual violence reporting.

Passed and Signed by the Governor!

California State Legislative Opportunities for Survivors

1. SB-493 - Adds additional requirements to California higher education institutions that receive state funds, including for student financial aid, including:
 - a. Disseminate a notice of nondiscrimination to each employee, volunteer and individual or entity contracted with the institution.
 - b. Create investigation procedures
 - c. Publish on its website the name, title and contact information for the employee designated to coordinate the institution's efforts to comply with this bill's requirements and individuals with the authority to investigate complaints or to institute corrective measure.
 - d. Provide training for each employee engaged in the grievance procedure.
 - e. Provide training for residential life student and nonstudent staff on trauma-informed handling of reports regarding incidents of sexual harassment at an institution with on-campus housing.
 - f. Notify employees of the obligation to report sexual harassment to appropriate school

California State Legislative Opportunities for Survivors

1. AB- 381 - Amends requirements for universities in order to receive state funds for student financial assistance, to enter into memoranda of understanding, agreements, or collaborative partnerships with existing on-campus and community-based organizations, to the extent feasible, to refer students for assistance or make services available to students, including counseling, health, mental health, victim advocacy, and legal assistance, and including resources for the accused.
 - a. Domestic Violence Shelters and Rape Crisis Programs are specifically mentioned
 - b. Additional prevention mandates

Accountability Tools

EROC's School Accountability Map

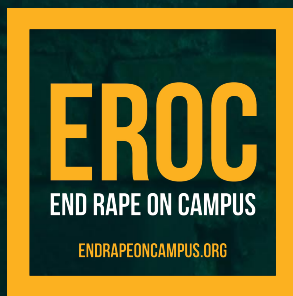
The screenshot shows the EROC School Accountability Map interface. At the top, there is a navigation bar with a 'BACK TO THE MAP' link and several menu items: OVERVIEW, POLICY INFO, PREVENTION, SURVIVOR SUPPORT, INVESTIGATION, and RESOURCES. The main content area is divided into two columns. The left column features a dark background with a building image and the text: 'The University of Chicago', 'CHICAGO, IL', 'PRIVATE' and '8-YEAR' buttons, '50,430 ENROLLED', and 'TOTAL PAGE VIEWS: 2,312'. The right column displays the 'EROC SCORE' as '8.4/10' with a progress bar. Below the score, it states: 'Scoring is based purely on existing school policies and not on the experiences of individual students.' and includes a link 'See how we score'. A 'SHARE THIS PAGE' button is also present. Below the main content, there is an 'OVERVIEW' section with the 'TITLE IX COORDINATOR: BRIDGET COLLIER' and contact information: 'bcollier@uchicago.edu', '773.702.5671', and '5525 S. Ellis Ave., Room 171, Chicago, IL 60637'. To the right of this section is a 'DOWNLOAD ANNUAL REPORTS' section with buttons for the years: '15-'16', '16-'17', '17-'18', '18-'19', and '19-'20'.

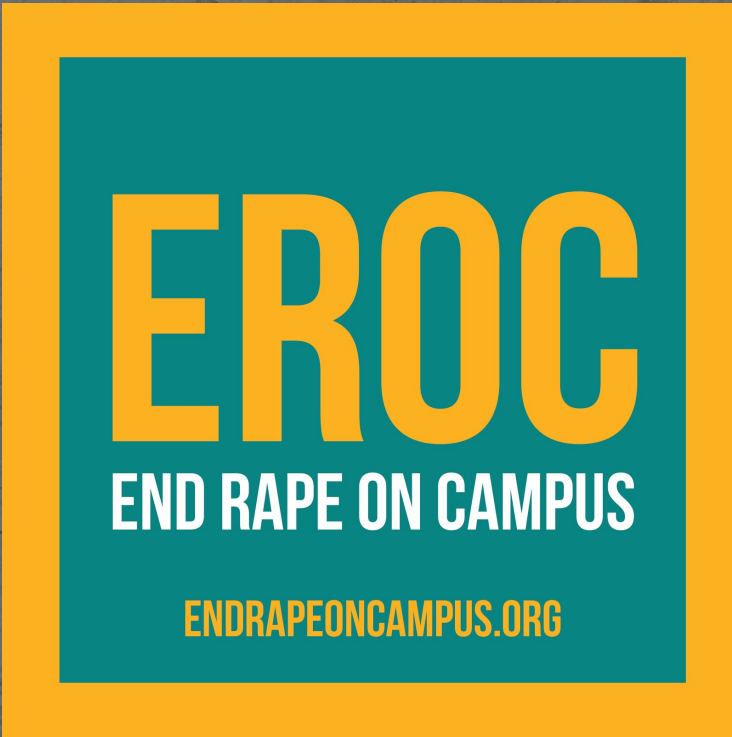
Email [map@
endrapeoncampus.org](mailto:map@endrapeoncampus.org)
to learn how to get
your school's
information uploaded!

Email [policy@
endrapeoncampus.org](mailto:policy@endrapeoncampus.org)
for all other questions.

Other

1. Apply your expertise in your home school district--- Do you know your local Title IX coordinator?
2. SARTs and cross-community bodies





Email

Programs@endrapeoncampus.org

Invite EROC to your next conference, training, or company event!

- We offer trainings on various topics for multiple populations, including:
 - Trainings for students on their rights
 - Trainings for young people on intersectionality, anti-white supremacy organizing
 - Trainings for professionals on sexual violence, workplace sexual harassment, and Title IX

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