Department of Higher Education Provides Updates on Campus Sexual Assault Law Compliance

BY CHELSIE A. VOKES • NOVEMBER 30, 2021

Recently, we wrote about the new MA Campus Sexual Assault Law, including the requirement that all Colleges file a report with the MA Department of Higher Education (DHE) on or before December 1, 2021 (the first of what will be annual reports). Within the past week, the DHE posted the portal and also updated the DHE website to include (1) a report template, (2) an announcement that the portal will be live on Dec. 1st, (3) an announcement that institutions will have until **December 31st** to submit their reports, and (4) Q&A on the annual reporting requirement.

Some highlights from the Q&A include:

ANNUAL REPORTING

- Institutions should look out for notice regarding an additional Q&A session to be hosted via Zoom on a date to be determined.
- Institutions should make sure their reports include all instances of sexual misconduct, as defined by the Massachusetts Campus Sexual Violence Act (the "Act"). Importantly, this may include conduct beyond the scope of their Title IX policies (as the definition of sexual misconduct under the MA Campus Sexual Violence Law is broader than the definition of sexual harassment under Title IX).
- While not defined in the Act, the DHE clarifies in the Q&A that it considers a report of sexual misconduct (which must be included in the Institution's annual report to the DHE) "reaching out to file a complaint against a particular person, by a student or employee of that campus or against a student or employee of that campus, regardless of where the incident allegedly occurred."
- The Q&A also discusses revising annual reports post-submission, communicating concerns regarding data quality, and designating CVSP contacts to initial fields on behalf of Presidents/CEOs.

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MEMORANDA OF UNDERSTANDING ("MOUS")

- Regarding law enforcement MOUs, the Q&A reiterates DHE's prior statements that Institutions must enter into MOUs with local law enforcement, including those surrounding satellite Campuses. In the alternative, Institutions who are unable to meet the MOU deadline will need to certify that entrance into such MOU(s) at that time is infeasible, and to indicate any applicable reasons.
- The Q&A clarifies that crisis centers must be funded by the Department of Public Health, with no exceptions, and reiterates that institutions are only exempt from the crisis center MOU requirement if they offer crisis center services to ***both*** employees and students.

CAMPUS CLIMATE SURVEY

- Finally, Institutions should expect to receive draft Campus Climate Survey questions in December 2021.

CLIENT TIP

Institutions should continue to monitor the DHE website—and this blog—for further updates and should begin preparing (or, if prepared, upload) their first annual report.

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