

Surviving Campus Sexual Assault: An Overview of Your Rights as a Student

This guide provides an overview of options available to victims of sexual assault perpetrated by a fellow student on campus or off campus, a student visiting from a different university, or by an employee of the university including a faculty member.

The local rape crisis center might be able to help you find an advocate at no cost. Advocates can help you at every stage, including finding a lawyer to help with the school's complaint procedure, to asking for a deadline extension for assignments from your school or to seeking a protective order in court.

If you need help finding resources in your area to keep you safe, contact Legal Momentum's Helpline at (212) 925-6635, ext. 650 or peo@legalmomentum.org.

OVERVIEW

What laws protect my right to be safe on campus?

- The federal law known as Title IX protects your right to an equal education. It says that no public or private school, from pre-school to graduate school, can discriminate against its students on the basis of sex if the school has received federal funding (for instance, through the federal school lunch or college financial aid programs). Almost all schools are covered by this law.

Title IX requires schools to respond appropriately to complaints of sexual violence, including harassment, assault, and rape. The school's failure to respond appropriately and protect students is sex discrimination. Female victims, male victims, transgender victims, and victims of same-sex sexual violence are protected under Title IX.

- You have a right to press criminal charges in the regular criminal justice system, not just the campus system.
- Depending on the laws in your area, you might be able to seek a protection order from a civil court. See discussion below.

Something happened, but I'm not sure if it was "sexual violence."

If you're not sure what happened to you because you were unconscious, or you're not sure how to interpret what happened, whether it happened a minute ago or years ago, you can call the National Sexual Assault Hotline at 800-656-HOPE. It's a confidential 24-hour hotline that will connect you with a local rape crisis center. You can also use the online version at <https://hotline.rainn.org/online/>.

YOUR RIGHTS AS A STUDENT UNDER TITLE IX

What is sexual violence according to Title IX?

“Sexual violence” means any sexual touching or activity against your will or when you are not capable of giving consent (including when you were drunk, disabled, or under the influence of drugs).

How does Title IX address sexual violence?

If you experience sexual violence from any source in connection with school—another student, a teacher or professor, school staff, someone visiting your campus, you can notify your school; and Title IX requires your school to help you. A single event of a severe behavior like sexual assault is sufficient to trigger your school’s duty to protect you under Title IX.

How can I find out about my school’s resources for dealing with sexual violence?

Under Title IX, schools must have several methods to address sexual violence, including:

- Naming and publicizing how to contact a specific person, the “[Title IX Coordinator](#),” with whom you can speak if you are a victim of sexual violence or simply want to learn more about your school’s Title IX policies;
- Writing and publicizing a policy of not discriminating on the basis of sex; and
- Writing and publicizing the process you should use if you need to inform your school about discrimination or sexual violence.

To find out about these resources, call your school’s administration, check your student handbook, or check the school’s web site.

What are my legal options if I am a victim of sexual violence in connection with my school?

You have several legal options:

- You can call your local police to report the crime and ask them to investigate and make an arrest. Be aware that your “campus police,” if you have them, are not necessarily the same as your “local police.” Consider taking someone with you to be your advocate when you meet with the police—(a friend, clergy person, or call the National Sexual Assault Hotline at 800-656-HOPE for a referral).
- Your local police may be willing to receive a confidential report of a crime without expecting you to decide yet whether you want an arrest to happen—call and ask.
- Depending on your state and the type of relationship you have had with your assailant, you may also be able to seek a civil order of protection from your local family court or civil court. This is discussed below.
- You can inform your school’s Principal, Dean, or Title IX Coordinator that someone has assaulted you and that you want the school to investigate and protect you.
- You can always go to the hospital (not your student health services) to ask them to collect evidence of sexual violence without deciding which of these options, if any, you want to use.

If a criminal investigation is already underway, can I still make a complaint to my school?

Yes. Your school is obligated to investigate reports of sexual violence affecting its students even if the police are also investigating, and even if the police have declined to investigate or prosecute.

What if I don’t want to make a complaint? What if I want my identity to be kept confidential?

Be aware that Title IX obligates schools to investigate whenever they receive information about a risk or incident of sexual violence connected to their students, whether you make a formal complaint or not. Title IX requires your school to protect your identity during the investigation if you request it. This may limit the

effectiveness of the investigation. For example, if the Title IX Coordinator interviews a witness but cannot ask questions that will reveal your identity, then the witness's responses might be vague and/or off-topic.

Can I be protected from my assailant while my school is investigating?

Yes. Under Title IX, you have the right to request that your school take steps to protect you at any point, including before the investigation is finished. Be proactive. Be clear about what you need to feel safe. Some of the interim measures that you can request are:

- Ordering the perpetrator not to have any contact with you while the investigation is ongoing;
- Providing an escort to ensure that you can walk safely to and from your classes and activities;
- Ensuring that you and your assailant do not take the same classes; and/or
- Transferring the perpetrator to a different residence hall or a different school within the district.

Unless you request it, your school should not attempt to limit your contact with your assailant by transferring you, as opposed to your perpetrator, out of your classes or your residence hall.

Can I request other kinds of help from my school?

Yes. The school should provide you other accommodations if you need them. These can include counseling, medical services, tutoring, and additional time to meet your academic obligations.

How much time can my school take to resolve my complaint?

Title IX requires schools to resolve complaints of sexual violence promptly and fairly. In the typical case, your school should issue a decision and announce any remedies within 60 days of your complaint.

What happens if my school concludes that my assailant is responsible?

That depends on the penalties your school imposes on members of its community who commit acts of sexual violence. Among other things, your assailant may be prohibited from contacting you, removed from any classes you take, barred from living on campus, suspended, or expelled altogether.

What can I do if I believe that my school has failed to investigate or decide my case properly?

If your problem has occurred within the last 180 days, you can file an administrative complaint with the Department of Education's Office of Civil Rights (OCR) at (800) 421-3481, ocr@ed.gov, or by using the online form at <http://www2.ed.gov/about/offices/list/ocr/complaintintro.html>.

Be aware that after you file a complaint with OCR, the process can take a long time. If you need help right away, contact your local rape crisis center, a private attorney, or Legal Momentum's Helpline at (212) 925-6635, ext. 650 or peo@legalmomentum.org.

NO CONTACT ORDERS

There are several types of orders that you can get from your school or a local court that can keep your assailant away from you. They are different depending on where you live. For that reason, this guide is general and does not provide detailed information.

Orders Issued by Your School

Sometimes school officials order students to stay away from each and issue a "mutual no contact order" while they are investigating a complaint of sexual violence. These orders are not legally binding. Students might get in trouble with their school for violating this order. But they will not face any legal penalties like fines or jail time.

School officials sometimes change or revoke the no contact order without warning the victim, either because they have concluded that the accused student is not responsible, or for other reasons. Therefore you might consider seeking a legal order from the courts even if the school has already ordered your assailant to stay away from you.

Orders Issued by a Civil Court

Depending on the law in your area, you might be able to seek an order from a civil court to keep your assailant away from you.

Some states require that the victim and the assailant have had a relationship of some kind, but some do not.

In general, civil orders of protection can require one party to stay away from and not contact the complaining party. Although plaintiffs request the order in civil court, the defendant might be charged with a crime if the order is violated. There is often no requirement that the plaintiff press criminal charges against the defendant in order to obtain a civil protection order however, it might be helpful in some cases.

You can obtain an order of protection on your own by appearing in court, or you might be able to ask for help from a local advocacy organization, such as a rape crisis center. The steps to getting an order include going to court, filling out forms, and telling your side of the story to a judge or magistrate. It is possible that the first step of the process will take a whole day, but it also possible that it will move quickly.

At some point, the defendant will get to tell the other side of the story to the court. That is why you should consider seeking the help of an advocate or attorney to help you navigate the legal system. But if you are not able to obtain this help, you should not be discouraged. Many people go through the process by themselves and are successful.

Don't worry about using legal terms when you ask for your order. You can speak in your own voice. Just so you know what to expect, here are some terms you might see. The orders may be called "restraining orders," "protective orders," or "orders of protection." The person requesting the order is often called the "plaintiff" or "petitioner," and the person you want to keep away is called the "defendant" or "respondent." The civil court can have different names like Family Court, District Court, or County Court.

To obtain this type of order, your local rape crisis center or legal aid office might be able to help you find an advocate at no cost. If you need help finding resources in your area, contact Legal Momentum's Helpline at (212) 925-6635, ext. 650 or peo@legalmomentum.org.

Criminal Orders of Protection

States may also offer criminal protection orders, or "no contact orders." These orders are typically requested by the government Attorney handling the case after the survivor has filed criminal charges. They may be issued by the local District Attorney or prosecutor and may apply to both parties.

This guide provides general information. It should not be used as a substitute for an attorney's services. It does not constitute legal services or representation. If you need help finding legal resources in your area, contact Legal Momentum's Helpline at (212) 925-6635, ext. 650 or peo@legalmomentum.org.

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