

2022 Institutional Guidelines for Sexual Assault and Other Sexual Misconduct Incident Log and Incident Report

Please take time to read this entire set of guidelines to ensure your institution is compliant with what is required for submission.

Changes and Updates for the 2020-2022 cycle

No changes or updates for this cycle.

Note: The agency has reviewed the new Title IX regulations that went into effect in August and has determined that they do not preclude MHEC from continuing to collect the same data of incidents of sexual assault and other sexual misconduct as MHEC has collected in the past. We are aware that these new regulations do limit and narrow the scope of data your institution might collect and therefore report. Please contact Barbara Schmertz (see contact information below) should you have concerns about the effects these regulations will have on your institutional reporting.

The purpose of the guidelines

Since 2015, all higher education institutions are required by statute (Md. Education Article, Section §11-601) to conduct and report the results of a sexual assault campus climate survey, and to provide institution-level data on incidents of sexual assault and misconduct. The first statewide report summarizing these reports was completed in November 2016.

The cycle of reporting spans two years, and legislation requires institutions to administer a climate survey every two years and collect incident data for a two- year period. Surveys are to be administered every two years, and incident data is collected for a two-year period. Results from the current cycle of reporting are due in 2022.

All higher education institutions are required to compile a Sexual Assault and Other Sexual Misconduct Incident Report. The next edition, containing data collected for the 2020-2022 academic years, must be submitted to the Maryland Higher Education Commission (MHEC) on or before June 1, 2022. MHEC is required to compile a report aggregating institution-level data on the Incident Report to report to the State by October 1, 2022.

The following guidelines are meant to aid institutions in the implementation of the 202-2022 cycle of the Incident Report and Incident Log. These guidelines were originally created through close collaboration with a workgroup representing all segments of higher education in Maryland, and have been strengthened by feedback from institutional representatives. The workgroup's expertise in Title IX, student affairs, and survey administration was invaluable in ensuring that the processes and guidelines reflect a wide range of concerns affecting all institutions of higher education. The guidelines serve to help answer questions and address concerns related to the statute's requirements in an effort to help ensure that the data from the Incident Report can be useful to students, colleges and universities, and the public.

Recognizing the unique needs of individual campuses, these guidelines should not be considered exhaustive. Campuses should rely on their institutional experts (e.g. faculty, Title IX officers, legal counsel) for guidance on the collection of incident data.

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This document provides a set of guidelines and an appendix to aid in the completion of the Incident Log and submission of the Incident Report. Please note that several changes to the Log and Report have been put in place for this cycle; these are the result of institutional feedback and reporting improvements. The Incident Report should include all incidents in which a student is involved in an allegation of sexual assault or sexual misconduct, regardless of whether a formal complaint is filed. If a formal complaint is filed, the Report asks for data regarding the final action within the appropriate system of the institution.

The appendices include a set of definitions that can aid in completing the Incident Report and Incident Log. Please review them in preparation for the 2020-2022 cycle.

Incident report guidelines

All institutions are required by State law to provide a report aggregating the data they collected regarding sexual assault and other sexual misconduct incidents and complaints made to the institution, including:

1. Type(s) of misconduct,
2. The outcome of each incident,
3. Disciplinary actions taken by the institutions,
4. Accommodations made to the students in accordance with institutional sexual assault policies, and
5. The number of reports involving non-student perpetrators.

The framework for reporting incidences involves two parts: the Incident Log and the Incident Report. The Incident Log provides a standard format for collecting and recording information about specific incidents. Specific data from the Incident Log should be used to prepare the Incident Report. The Incident Log should NOT be submitted to MHEC. Only the Incident Report should be submitted. The appendix includes a set of definitions of key terms used throughout the materials. The Incident Log and Incident Report accompany these guidelines. **Please note changes have been made to both since the 2020 reporting cycle.**

Due to the nature of the legislation, the Incident Log and Incident Report focus on incidents involving students (as complainants or respondents); therefore institutions **should not** include incidents that involve solely staff, faculty, or other non-student members of the campus community.

Completing the Incident Log and Report

- All incidents reported should involve one or more students. Incidents involving only faculty and/or staff, which would be subject to employee disciplinary systems, should not be reported.
- In preparing the materials for the June 1, 2022 deadline, institutions should begin the Incident Report reporting cycle at the time the last reporting cycle ended (e.g., if the 2020 cycle ended on May 31, 2020, the 2022 cycle should begin June 1, 2020). Please refer to your previously submitted report for the start date of this current cycle. The beginning and end date must be clearly indicated on the Incident Report.
- Each institution may determine, based on its institutional calendar, the appropriate date in spring 2022 for the report to end. Recommendations include such key dates as

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commencement, end of finals, or end of classes. Regardless of the date selected, institutions must ensure all data is prepared for submission on or before June 1, 2022, as mandated in the legislation. The end date selected must be clearly indicated in the Incident Report.

- Your institution's Title IX coordinator should play a crucial role in supplying the data required for the Incident Log and Incident Report.
- To complete the Incident Log, please use the text fields and pull-down menus provided. The prompts on the Log correspond with the responses required in the Incident Report that will be submitted to MHEC.
- Please note that additions to the Log have been made, both in columns to report and in menu selections to choose from.
- In complex cases such as when an alleged sexual assault is tied to a dating violence incident, the Incident Log and corresponding Report should reflect only one category (Sexual Assault I, Sexual Assault II or Other Sexual Misconduct). Please prioritize in order of incident (e.g., the aspect of the alleged incident which is defined under Sexual Assault I would take priority over aspects of the alleged incident that are defined under Sexual Assault II or Other Sexual Misconduct). This mirrors the Hierarchy Rule, as described in the Violence Against Women Reauthorization Act of 2013.
- All efforts must be made to protect student privacy in the collection and reporting of data.
- Please consult the data definitions provided in Appendix B as you complete the Incident Log and Incident Report. Regardless of your institution's definitions, please use the three definitions provided.

Data Collection and Submission Timeline

- The Incident Report must be submitted in the Excel worksheets provided by the Commission and is due on or before June 1, 2020. Submit this report to Dr. Barbara Schmertz via email to barbara.schmertz@maryland.gov.
- Each institution must designate an official point of contact to work with Commission staff on submission of the Incident Report. These guidelines have been sent to the institutional point of contact for the previous edition of the Incident Report; this person is presumed to continue as the point of contact. Institutions must notify the Commission immediately of any change in the identity of the point of contact. Please email Dr. Schmertz (barbara.schmertz@maryland.gov) with any changes.
- Report A of the Incident Report must include the URL of the institution's most recent Annual Security Report, as required by the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act, as amended by the Violence against Women Reauthorization Act of 2013. If your institution is not required to complete an Annual Security Report, please insert an "N/A" in the space provided in Report A.

If you have additional questions or concerns regarding these guidelines or the collecting and reporting of the incident data, please email Dr. Schmertz at barbara.schmertz@maryland.gov or call her at (410) 767-3094.

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Appendix - Operational definitions for the Incident Log and Incident Report¹

Regardless of your institution's definitions, please use the three definitions provided below in classifying incidents for the Incident Log and Incident Report.

Types of sexual assault and other sexual misconduct

- 1. Sexual Assault I - non-consensual sexual intercourse:** any act of sexual intercourse with another individual without consent. Sexual intercourse includes vaginal or anal penetration, however slight, with any body part or object, or oral penetration involving mouth to genital contact.
- 2. Sexual Assault II—non-consensual sexual contact:** any intentional touching of the intimate parts of another person, causing another to touch one's intimate parts, or disrobing or exposure of another without consent. Intimate parts may include genitalia, groin, breast, or buttocks, or the clothing covering them, or any other body part that is touched in a sexual manner. Sexual contact also includes attempted sexual intercourse.
- 3. Other Sexual Misconduct**
Incidents should be included in this category if they relate to any other category of violence or misconduct as defined by the institution. These may include dating violence, domestic violence, sexual exploitation, sexual harassment, sexual intimidation, sexual violence, and stalking.

The remaining definitions provided serve as an aid and reference for institutions; specific definitions at your institution may differ. Please adhere to the definitions MHEC has provided when reporting the incident data.

Additional definitions

Accommodations: Steps the institution may take to respond to the needs of the person reporting the incident, even if no formal process is conducted. There are a number of possible accommodations, but often include academic or housing adjustments, access to counseling, and medical services.

Alternative resolution: Alternative resolution is a voluntary, structured interaction between or among affected parties that is designed to allow a respondent to accept responsibility for misconduct and acknowledge harm to the complainant. At most institutions, the Title IX coordinator retains the discretion to determine which cases are appropriate for alternative resolution.

Complaint/ Complainant: A formal report completed by the student regarding the alleged incident; the complaint can begin a proceeding under the campus student disciplinary system or trigger a formal investigation by the institution. Not all incidents result in complaints. The

¹ The sources of these definitions include: the White House Task Force to Protect Students from Sexual Assault, the Violence against Women Reauthorization Act of 2013, and the University System of Maryland's Policy on Sexual Misconduct.

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Incident Log and Report record incidents, including those that result in formal complaints. The student filing the complaint is considered the Complainant.

Disciplinary action: Action taken by the institution toward the person(s) found to have violated the institution's sexual assault and sexual misconduct policies. Actions can include expulsion or suspension.

Incident: An allegation of sexual assault or other sexual misconduct involving a student which is reported or referred to the institution's Title IX coordinator. An incident does not have to result in a formal complaint or investigation to be reported in the Log or corresponding Report.

Note: MHEC anticipates that institutions are providing data on all reported incidents but is aware that this can be difficult when little additional information is shared with the Title IX officer and/or the victim is unresponsive to inquiries. Prompts have been provided to allow Title IX staff to report on these incidents regardless of lack of additional data (e.g., via use of "unknown," "undisclosed," "not enough information provided" for some prompts).

Initial assessment/ review/investigation: Title IX coordinators (or other institutional designees) are required to complete an initial, preliminary inquiry on all reported incidents. These initial steps can include reaching out to the victim, gathering information and data, conducting interviews, and taking additional actions to determine what occurred. Not all initial assessments/reviews/ investigations result in formal complaints.

Non-student perpetrator: A person who is alleged to have committed a sexual assault or other sexual misconduct who is not a student of the same institution as the person who made the incident report. This can include individuals such as visitors to the campus, faculty, or staff members.

On-campus: A term used to help classify the location of the reported incident. These are locations within the campus property, including dormitories and other on-campus student housing, classrooms, academic spaces, athletic complexes, parking lots, green spaces, libraries, Greek Life or other designated on-campus housing for specific student groups, and branch campuses. This definition does not align with Clery reporting and is more broadly defined (e.g., definition does not consider the control of building).

Off-campus: A term used to help classify the location of the reported incident. These are locations outside of the campus property including the adjacent community, off-campus housing, and off-campus fraternities or sororities, This could also include a foreign location (e.g., students studying abroad).

Outcome: The result of a reported incident regardless of whether the reported incident results in a formal complaint. Outcomes can be determined by the institution's student conduct or disciplinary process as well as criminal prosecution.

Respondent: An individual who is reported to have committed act(s) of sexual assault or other sexual violence.

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Responsible employee: Any college or university employee who has been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX coordinator or other appropriate school designee; or whom a student could reasonably believe has this authority or duty.

Retaliation: Using acts or words against an individual because of the person's participation in a complaint, investigation, and/or resolution of an allegation of prohibited conduct.

School-sponsored off-campus activity/event: A term used to help classify the location of the reported incident. These include activities sponsored or sanctioned by the college or university. These activities occur off the campus.

Sworn law enforcement officers: Persons formally authorized to make arrests while acting within the scope of explicit legal authority.