

# Disclaimers

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We can't help ourselves. We're Lawyers.

- We are not giving you legal advice
- Consult with legal counsel regarding specific situations
- There will be more guidance from ODHE so stay tuned.

# Agenda

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# **CAMPUS Act Issues**

- Introductions
- What are the CAMPUS Act requirements? And when are they effective?
- What should we be alert to as public schools and private schools?
- What definitions are applicable and how can they create tension with existing requirements?

# Campus Accountability and Modernization to Protect University Students (CAMPUS) Act Bricker

- Effective Date: October 24, 2024
- CAMPUS Act creates sections 3320.05 to 3320.08 of the Ohio Revised Code
- The CAMPUS Act was passed as part of Sub. SB 94.
   The original bill was HB 606 (the text in this House Bill is different than SB 94).
  - <u>https://search-prod.lis.state.oh.us/api/v2/general\_assembly\_135/legislation/sb94/05\_EN/pdf/</u>

NOTE: There are different requirements for state institutions of higher education and private for-profit colleges and private nonprofit institutions of higher education. We will call those out.

# Key Requirements: Publish Policy

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Policy on harassment and intimidation (You have these in various forms)

Requires state institutions of higher education and private for-profit colleges to adopt and enforce a policy on racial, religious, and ethnic harassment and intimidation.
 Requires private nonprofit institutions of higher education to adopt and enforce a policy on racial and ethnic harassment and intimidation. [Religious harassment and section of the policy on racial and ethnic harassment and intimidation.]

- intimidation not required]
   Requires that each institution's policy include related:
- Training for administrators, faculty, and staff
- complaint procedures (including anonymous reporting),

# Key Requirements: Training for Faculty and Staff Bricker Control Bricker Control Incident Response Training. State institutions of higher education and private for-profit colleges and private nonprofit institutions of higher education Requires Incident Response Training. training for all institution administration, faculty, and staff: Incident sof harassment that occurs." training for all institution administration, faculty, and staff: Incident sof harassment that occurs." This training may be provided online Dependential a classion "event held at the institution at the time the incident occurs." This training may be provided online Dependential Practice Tip: Include session in orientations and professional development spaces that make sense (Faculty Orientation, Student Affairs Training, Student Organization Orientation for Advisor)

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# **Key Requirements: Required Procedures** (State/For-profit)

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Procedural Requirements for accepting and investigating complaints.

## Requires:

Procedures for accepting and investigating student complaints and allegations of **racial**, **religious**, **or ethnic** harassment or intimidation against any student, staff, or faculty member. The procedures shall include: (a) An option to **submit complaints and report threats anonymously**; (b) **Potential disciplinary actions** that may be taken after an investigation is conducted; (c) At the conclusion of an investigation, **any mandatory communications**, regardless of whether disciplinary action is taken. These communications may include educational information on the institution's policy against racial, religious, and ethnic harassment and intimidation.

Open question(s): (1) "mandatory, communications" are not defined; however, communication requirements may exist for cases that also constitute Clery crimes or have Title IX-related conduct. NOTE: Consider mapping out complaints that could trigger multiple policy requirements and create guide for compliance with existing policies and procedures.

# Key Requirements: Required Procedures Bricker (Private Non-profit) Procedural Requirements for accepting and investigating complaints (note: no religious harassment or intimidation policy requirements. rofit institutions of higher education Requires: Procedures for accepting and investigating student complaints and allegations of <u>rockil or ethnic</u> harassment or intimidation against any student, staff or faculty member. The procedure shall include: (1) An option to submic complexits and report threads nonsymously. (2) Potential discplinary actions that may be taken after an investigation is conducted; (3) At the conclusion of an investigation, *any mond toxy communications*, regardless of whether disciplinary action is taken. These communications may include educational information on the institution's policy against <u>rockil and ethnic</u> harassment and initiadiation. Open question(c): (1) Same as State/For-profit (prior slide) (2) Private, now priofit schools must comply with Title VII (cover religion as protected category in employment), unless they qualify for as a religioux corporation, association, education, and an and an and an and an analysis of the school of th 8

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ges and private nonprofit
plice department, if the <b>tate highway patrol, and</b> hinstitutional policies for soft ferror attacks or hate
nctions" for "institutionally response protocols that

# Key Requirements: Policy definitions -Harassment

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CAMPUS Act Definition: based on Ohio Rev. Code Ann. § 3345.0211

"Hanssment" means unvelocime conduct that is so every experiable, <u>and</u> objectively offensive that it **effectively denies** an individual equal access to the individual's education program or activity. U.S. Deportment of Education's Office for Civil Rights (OCI) definition July 2024:

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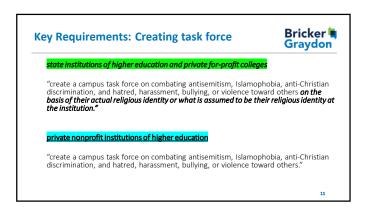
OCR determines that a "hostile environment exists when harassing conduct is both subjectively and objectively offensive, and so severe <u>or</u> pervasive that il **inits or denies** a somo's ability to participate in or benefit from the recipient's education program or activity." Ex. of EEOC definition of religious horassment:

"a hostile work environment, in which the employee is subjected to unwelcome, religiously based statements or conduct so severe or pervasive that the employee objectively and subjectively finds the work environment to be hostile or abusive."

 Open Questions:
 (1)
 ORC. 3345.0211's definition borrows from the discussion of student-on-student harassment from U.S. Sup. Ct. In Davis v. Monroe County Board d Education (1999); how do we square this with other potentially inconsistent areas of state and federal law?

 (2)
 Do we incorporate the harassment definition for reporting purposes along with other applicable definitions?

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Key Requirements: Annual Reporting	Bricker 🖣 Graydon
state institutions of higher education and private for-profit colle private nonprofit institutions of higher education	ges
[IHEs] must submit an annual report to the chancellor of a and intimidation reports submitted to the federal governm with the "Jeanne Clery Disclosure of Campus Security Po Crime Statistics Act," <u>20 U.S.C. 1092(f)</u> .	ent consistent
Practice notes: (1) Will incidents of harassment and intin reported in your ASR? Only if they meet Clery definitions? (2) ASR is reported on or before October 1 for the prior ca October 1, 2025 ASR deadline will be for January 1 – Dec	? alendar year.
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# **Quick Review: Clery Crime Statistics and Hate** Crimes

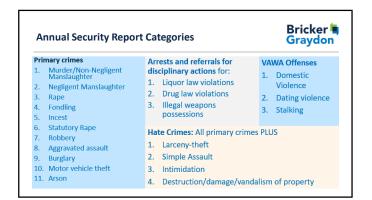
- Clery crimes within its Clery geography that are reported to campus security authority
- Must be reported and disclosed for the three most recent years .
- Must be recorded by location
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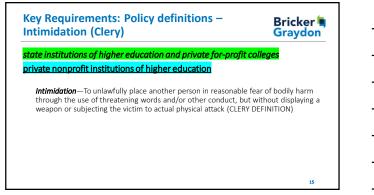
- Cannot remove from statistics based on a decision by court, jury, etc. Must be recorded by calendar year (not academic year) Hate crimes must be recorded by category of bias: Race, Religion, Sexual Orientation, Gender, Gender Identity, Ethnicity, National Origin, Disability. Disability.
- Must make reasonable, good faith effort to obtain statistics, may rely on the information supplied by a local or State police agency

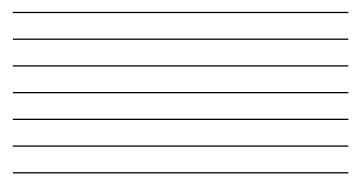


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# Key Requirements: Policy definitions -Intimidation (CAMPUS Act)

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state institutions of higher education and private for-profit colleges private nonprofit institutions of higher education CAMPUS Act Defin, "Intimidation" means the violation of ethnic intimidation described in <u>section 2927.12 of the</u> Revised Code, R.C. § 3320.05(A)(3).

## How does R.C. § 2927.12 define Intimidation?

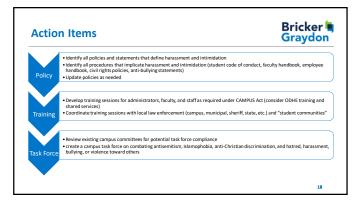
No person shall violate section 2903.21, 2903.22, 2909.06, or 2909.07, or division (A)(3), (4), or (5) of section 2917.21 of the Revised Code by reason of the race, color, religion, or national origin of another person or group of persons. 2903.21 (Aggravated Menacing) (knowingly cause another to believe offender will cause serious physical harm to person or property)

2903.22 (Menacing) (consider 2903.22(A)(2) – displaying a deadly weapon toward an emergency service responder) 2909.06 (Criminal Damaging) 2909.07 (Criminal Mischief)

2917.21 (A)(3), (4), or (5). (A)(3) – telecommunications harassment + aggravated menacing: (A)(4) – telecommunications harassment and destruction of property; (A)(5) – continued telecommunication harassment after being warned to stop communicating.

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Time, place, and manner restrictions State Schools	Bricker Graydon
state institutions of higher education	
"Each state institution of higher education, as defined in section <u>334</u> Revised Code, shall publicize on its web site any time, place, or man places on expressive activities, as defined in section <u>3345.0211</u> of th	ner restrictions it
R.C. <b>§</b> 3320.08.	
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