

# Taking Stock of the Survey: Advantages and Challenges of a National Climate Survey by the U.S. Department of Education

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## A National Climate Survey Requirement

The [2022 federal Omnibus legislation](#)<sup>1</sup> included a new requirement that the U.S. Department of Education (the Department) develop and administer a climate survey of college student experiences with domestic violence, dating violence, sexual assault, sexual harassment, and stalking at all colleges and universities that accept federal funds.

This lofty goal may prove challenging, however. The actual timeline of the development and administration of the survey is unclear. The Department must assemble specialists to research, develop the survey, provide an opportunity for institutions to add customized questions to the survey, create or purchase a tool to collect or assist institutions in collecting millions of responses, analyze the results, produce individualized data sets to each institution, and produce a national report.

Consider the scale and frequency of the federal survey project. The Department's campus climate survey promises to become the second largest survey conducted by the federal government—reaching 20 million students at well over 5,000 colleges and universities every other year. Only the U.S. Census is larger, and the Census requires more than 4,000 employees at the Census Bureau to successfully implement

every ten years. Furthermore, the Omnibus legislation requires the Department to create a substantial report by 2024 (and every two years thereafter) on the data collected by the survey.

Members of Congress have considered different forms of a national climate survey for many years. However, this provision became public merely days before the House and Senate passed the legislation and the President signed it into law. Reaching the lofty goal may require a considerable amount of funding, personnel, and detailed planning, both at the Department and at individual institutions.

The Department's survey enters a developing field. Institutions have long conducted surveys to assess areas of improvement and measure campus climate. Highlighted in the [2014 White House First Report](#), states including [New Jersey](#), [Washington](#), and [Louisiana](#) now require many institutions to conduct climate surveys, and other states such as [California](#) include them in state law as optional compliance approaches. Because institutions have used surveys that differ in key areas, we lack a standard set of measurable data to compare. A national survey, if executed very well, could lead to additional insights and granular findings. At the same time, we must remember that institutions of higher education differ significantly and, as with so many things in education, one size may not fit all.

## What Does the Omnibus Legislation Require?

The Department, working with experts, “shall develop, design, and make available through a secure and accessible online portal, a standardized online survey tool regarding postsecondary student experiences with domestic violence, dating violence, sexual assault, sexual harassment, and stalking.”

The following discussion includes key takeaways and analysis of different provisions.

### DEVELOPING THE SURVEY

To develop the survey tool, the Department must work with interdisciplinary experts and federal agencies including the Justice Department, Centers for Disease Control and Prevention, Health and Human Services, and experts in survey development, prevalence, higher education, and victim services.

#### TAKEAWAYS —

The Department must develop a structure and process to work with stakeholders. It may proceed in a manner equivalent to [negotiated rulemaking](#) based on stakeholder and agency consensus. Alternatively, internal or external experts may be assigned to develop the survey and then circulate a draft to the required groups for review and comment before finalizing. Note that, unlike the 2013 Violence Against Women Act (VAWA) [amendments to the Clery Act](#), which used VAWA Reauthorization to make changes to the Higher Education Act (HEA), this requirement appears to sit firmly in VAWA, not HEA, and applies to all colleges and universities that accept federal funds (not just Title IV funds). Therefore, the negotiated rulemaking required under the HEA likely does not apply. Regardless, many voices will be heard in the process.

Some will have strong opinions about the appropriateness and effectiveness of specific questions, language choice, length and comprehensiveness of the survey, topics covered, and whether (and how) to ask if the survey respondent has committed any of these violations. Reasonable minds will differ, and these differing opinions will require discussion and (hopefully) consensus.

One challenge in group development of a survey is the “kitchen sink” approach to question inclusion, which may produce a long survey that runs counter to the legislation’s goals. For example, Expert A and Expert B each feel strongly about different questions that test a similar area. Rather than choosing one or the other, some drafting committees historically chose to include both questions; perhaps to keep the peace and because there is generally not a financial cost to adding additional questions. In fact, in some cases there are advantages to testing the same topic in different ways to determine if responses are consistent. However, when we rinse and repeat for each topic, you end up with a very long instrument, and that will not be ideal for this purpose. As discussed below, a “kitchen sink” approach poses challenges that may conflict with the legislation’s goals.

### SURVEY TOPICS

The legislation outlines general survey topics, including:

- Optional demographic reporting;
- Prevalence of domestic violence, dating violence, sexual assault, stalking and sexual harassment;
- Student knowledge of institution policies and procedures;

- For disclosed incidents:
  - Whether incidents were reported;
  - To whom;
  - Whether there was a referral to law enforcement;
  - Whether an investigation occurred and the length and final resolution of the investigation;
  - Whether force, incapacitation, or coercion was used;
  - Whether the accused was a student at the institution;
  - Whether the survey taker reported the incident to law enforcement, and why they chose to report or not report; and
  - The impact on the survey takers' education (including lower grades, dropped classes, leaves of absence and financial consequences).
- The impact and effectiveness of prevention and awareness programs as well as complaint processes;
- Attitudes towards violence and harassment, and the willingness of bystanders to intervene; and
- Other questions added by the Department of Education.

#### TAKEAWAYS —

The mandated topics appear drawn from a review of existing surveys and state laws governing climate surveys and each topic will likely include several questions. The legislation has firmly adopted a “kitchen sink” approach to required survey topics leading to what may be a very long instrument, perhaps the longest climate survey to date. That comprehensiveness will come at a cost. Length of survey is

the enemy of completion, especially for survey participants who may have demanding work and familial obligations. It is easy and may feel costless for policymakers to require testing of many areas, and in a perfect world, a national sample for each question is valuable. The students who are being asked to voluntarily complete the survey, however, may be deterred by a long instrument. Compounding the problem, students will not be equally likely to complete a long survey. Residential students who do not work full time and are not taking care of children will have more time to complete a long survey than commuting students who are balancing full-time work (sometimes multiple jobs), children, and other obligations. Length will also compound inequitable completion rates on the basis of other identities, meaning we will not have a fully representative sample.

The topics seem best pegged to a four-year liberal arts institution with mostly traditional-aged students. The Department, however, will have to create a survey that makes sense for all types of institutions. Questions about experiences at residence halls or Greek-letter organizations will feel out of place at community colleges and trade schools that are not residential. Questions about experiences on campus are not appropriate for students who take classes solely online (or at institutions that do not maintain a physical campus). The Department will either have to create a very vague survey that technically fits all institution types, or create various surveys that can be used for different institution types. Either way, this will take work and careful consideration.

Another challenge will be capturing impact and effectiveness of prevention, awareness programs, and complaint processes. Institutions use a variety of prevention programs, bystander intervention programs, and awareness programs,

and the Department (through the since withdrawn [Clery Act Handbook](#)), said colleges could meet the VAWA/Clery Act prevention requirements using programs that are “tailored to your institution’s community and the needs of your students and employees” and could be those shown to be effective through research or “promising practices that have been assessed...for value, effectiveness, or outcome but not yet subjected to scientific review.” The Department may need to afford flexibility for institutions to modify the prescribed questions to account for differences in nomenclature, programs, and policy or process at each institution. Some interventions are evidence-based, others evidence-informed, and still others are promising but untested. There is no catalog of all programs offered at all institutions, so this question may need to be customized by institution. Similarly, different institutions use different terms for defining violations, the process used to respond to sexual and interpersonal violence and harassment, even including the document that students must follow (Code of Conduct, Honor Code) and what the responsible offices are called (Conduct Office, Judicial Affairs, Student Rights and Responsibilities, Community Standards), and such questions may likewise need customization to be meaningful to survey respondents.

Finally, the questions about whether an investigation occurred and the length and final resolution of that investigation will clearly identify the survey taker at the large number of institutions that have one or two reports (and fewer investigations) per year. The Department will have to determine how to ask these questions while maintaining the confidentiality of the survey respondent (see the section below on administration). At these institutions (which may be the majority of all colleges and universities), the economics “law of small numbers” should caution against trying to read major differences in response and effectiveness as the very small number of cases for which responses

are received may not be representative of how the institution would respond in other matters.

## CUSTOMIZING QUESTIONS

The Department will give colleges and universities the opportunity, at no cost, to request custom questions in addition to the standard questions developed by the Department, and the Department must review and approve these questions before they are added.

### TAKEAWAYS —

This provision is a significant undertaking and will require time and resources. The Department may have to conduct rulemaking or develop a process to address considerations.

- What will be the process and the timeline for submitting customized questions?
- What standards will be used for reviewing and accepting or rejecting a question?
- Will there be an appeal for custom questions that are rejected?
- What will happen if a question from Institution A is accepted by one reviewer, while a substantively similar or identical question from Institution B is rejected by a different reviewer?
- How many custom questions may an institution submit for consideration?
- How will the Department respond to questions that are not scientifically valid, even if of interest to the institution?
- What will the Department do if an institution submits a question that they may be interested in (and perhaps even scientifically valid), but that the Department (in this Administration or a future one) finds to be controversial or politically unpalatable?

Institutions may collectively submit tens of thousands of custom questions and the Department will have to organize, review, and respond in a uniform way. Once accepted, the questions will have to be entered into the Department's survey tool and reviewed for formatting and accessibility. This process may repeat every other year as institutions seek inclusion of new or different questions, and potentially removal of approved questions.

## ACCESSIBILITY

The Department's survey tool must be accessible to individuals with disabilities.

### TAKEAWAYS —

This is a best practice and likely required by other federal accessibility laws, some of which the Department enforces. The Department will have to consider specifically how the survey will be made accessible for those with differing abilities, especially as technology changes.

## INTERSECTION WITH THE CLERY ACT

The responses to the survey will be confidential and are not to be included in Clery Act statistics or provided in a way that can identify the person.

### TAKEAWAYS —

It is a standard practice for these anonymous results to not be included in the Clery Act report, and it is good that the legislative language makes this principle crystal clear. [Recent research](#) may lead to additional insights on Clery Act reporting when compared to a larger set of climate survey data, and help institutions better understand actual prevalence based on a comparison of Clery Act and climate survey data.

## ADMINISTERING THE SURVEY

Beyond developing the national survey tool, the Department must also build an infrastructure for the survey to be administered to students at every college and university that accepts federal funds. Notably, the bill does not specify whether it must be administered to all students (census) or to a sample (though a census survey may provide a better chance of having a representative sample complete the survey). Survey administration must occur no later than one year after the survey is available, and the survey must be conducted every two years.

### TAKEAWAYS —

#### *Who Administers the Survey?*

The bill uses slightly different language to describe the task for the Department. In 1507(a), the Department must "make available through a secure and accessible online portal, a standardized online survey tool..." In 1507(d), the Department, in concert with other agencies, "shall develop a mechanism by which institutions of higher education may...administer [and] modify" the survey tool." In that same section, it says that "each institution of higher education that receives Federal educational assistance shall administer the survey tool developed." So it is not perfectly clear exactly how the roles will be divided between the Department and institutions. There are at least three main possible paths to compliance:

1. Centralized administration
2. Distributed institutional link
3. Distributed tool with data upload

There are significant pros and cons to each potential approach, and below we lay out specific challenges that can apply to individual approaches or to all three.

**1****Centralized Administration**

In a centralized administration, the Department would create a single tool, require institutions to provide it with contact information for students, and distribute the survey to all, or a representative sample, with a unique link for each survey respondent. An example of this type of approach is the [SUNY climate survey](#), where each campus sent student contact information to the system, and the system conducted the survey for all students (disclaimer, the author served as Principal Investigator for the SUNY survey). This will likely yield the most valid data, though it is the most complicated and expensive.

**2****Distributed Institutional Link**

In a distributed institutional link, the department would not collect names and email addresses from campuses, and would instead send each institution a different link that could be shared with students. All students would receive the same link, and data would be received by the Department. The institution would receive aggregate data from the Department and would not know which of its students have used the link (or if any students have taken the survey more than once). This would be the least secure approach and could result in skewed data and challenges determining the representativeness of the sample.

**3****Distributed Tool with Data Upload**

In a distributed tool, the Department would create a tool equivalent to an uneditable (but customized for each institution) Qualtrics or Survey Monkey survey, and institutions would populate it with contact information and send it to students. This could be a single link or individualized links (though that could reveal who has taken the survey and their responses at low numbers). The institution would have to upload results to the Department via a data input tool (as they do with Clery data). This may be the easiest path but is also problematic for campus implementation and confidentiality of responses.

**Validity of Data**

If the Department uses a distributed institutional link, there will be questions about representativeness of sample and validity of data. Since anyone can access the link (and it can be forwarded to non-students), it is possible for those with strong feelings to take the survey more than once. The institution and Department will have limited tools to stop this (and will also have to address the possibility of bots filling out the survey). A centralized administration or

distributed tool with personalized links will likely lead to more valid data, though it may be far more complex and expensive to administer and will face many of the challenges laid out below. The less controls there are on who takes the survey (especially with a very long instrument), the less reliable the data, the more questionable the representativeness of the data, and the less meaningful the “apples to apples” comparisons between institutions will be.

## *Privacy and Security*

If conducting the survey centrally or by distributed link, to protect the survey and its responses, the Department will have to build or buy multiple servers and backups and deploy state-of-the-art security systems. The Department will also have to develop this database while conforming to the requirement in the Higher Education Act (added in the 2008 Higher Education Opportunity Act) not to develop, implement, or maintain “a Federal database of personally identifiable information on individuals receiving” financial aid (with exceptions for programs that pre-dated 2008 and programs necessary for operating Title II, IV, or VII of the Higher Education Act). [20 U.S.C. §1015c \(2008\)](#). If the Department uses a distributed tool model, it will have to build a system to collect data from institutions, similar to the Clery Act data that is uploaded each fall, and including a vast range of data points, where a mis-key could lead to a very different survey result. The Department may wish to build in some type of automated uploading in its tool to prevent the type of errors that have been found with manual Clery Act data uploading.

Using any of the approaches, the Department will have to take steps to guard against fraud and spam emails that attempt to drive students to a fake website to collect data. This is, of course, a concern for all surveys and one that institutions take seriously. This survey, however, will include tens of millions of students, and may become a gigantic target for fraud, spam, and phishing attacks. At the same time, the Department will have to develop or procure state-of-the-art data security systems, especially considering the sensitivity of the data, and the potential for blackmail of survey takers. Other federal agencies have been [breached](#), even for some of the [most sensitive data](#), and the

Department will have to have a nearly flawless approach to ensure trust in the tool by future student survey respondents. It is noted again that the nature of the required detailed process questions will mean that at the vast number of institutions with a handful of reports, the survey respondent who answers questions about the length and outcome of an investigation, alongside other details, will be identifiable.

## *Resources for Students Who Are Taking the Survey*

One other aspect of being trauma informed when conducting a survey is providing the survey respondents with contact information for a service provider, available anytime, to speak to while taking the survey. While the Department can potentially use a national hotline, it would be far better to allow customization for each institution to list a campus, local, or state hotline. This may seem like a minor detail to some but will be a critical trauma-informed best practice for a survey that will ask personal, difficult questions (especially for those who have been directly impacted by harassment or violence). If the Department cannot customize the surveys and a national hotline is chosen, the Department should carefully work in coordination with them, as they might not be otherwise staffed or funded for an influx of outreach when potentially tens of millions of students receive this survey for the first time.

## *Considerations for International and Traveling Students*

Some of the students taking the survey will be international students and others will be born domestically but studying abroad when the survey is offered. The Department (and individual institutions) may need to consider the effect of privacy and data security laws in other nations

for students completing the survey outside the United States. The Department may conclude that the United States, as a sovereign, is not bound by laws such as [GDPR](#) if it conducts the survey centrally. That immunity, however, may not prove helpful for colleges and universities, if the survey uses either distributed model. This may require some consideration, especially given the data's sensitivity and the additional protections other countries have for the collection and transfer of such data.

### *Communications and Timing*

If centrally administered, the Department will need to ensure that it collects accurate email addresses for all students, as some colleges and universities do not provide email addresses and many students do not use their institutional email address as their primary form of contact. Not only will every college and university need to “whitelist” the Department of Education email address to ensure that climate survey emails are not marked as spam, every private email provider and internet service provider will have to do so as well, lest a large percentage of notifications never reach their intended recipient. If the path chosen is a distributed link or distributed tool, each institution will have to ensure that its survey email addresses are whitelisted, since sending so many of the same email to all students (especially using certain terms) may be flagged as spam.

Particularly for students who have experienced violence and do not wish to see additional references to the survey topics, the Department should ensure a process to allow students to opt out of additional notifications and reminders. Whether the survey is conducted centrally or distributed, there will be different challenges in this sphere, and a survey built under a law that emphasizes a “trauma-informed approach”

to “avoid re-traumatization” must empower students to determine if they no longer wish to be reminded to participate. If centralized, the Department will need to provide a way for institutions to update lists of students who have enrolled and withdrawn from classwork after the institution submits its contact list to the Department.

### *Who is a Student?*

As part of this process, the Department must define who is a student eligible to receive the survey. Would students on leave, on suspension, interning but taking no classes, or ABD for a doctoral degree be included for the survey, if the survey is given in a semester in which they are not actively taking classes? What about high school students taking college classes? Or students who are enrolled in multiple colleges (who might receive multiple survey requests)? Is this just for full-time students or also part-time students? What about non-degree or non-credit students? What cutoffs will apply? Will students who are under the age of 18 receive the survey (many climate surveys are addressed only to those 18 and over and are not sent to those in high school who are taking college credits). The Department may have to engage in some rulemaking or policy decisions to establish these standards.

Administering the survey every other year matches what [New York State](#) (the first state to require such a climate survey) and several other states have chosen and is especially important at community colleges where a longer timeframe between surveys may miss an entire cohort of students. Two years is a good balance to try to reduce survey fatigue while collecting useful data that can measure change, though it differs from the timelines in other states.

Along with defining how often the survey is administered, the Department will have to establish a field period, meaning the amount of time in which the survey is open for responses. The [Bureau of Justice Statistics](#) recommends at least 57 days for the field period, which can be a challenge since not all institutions use the same academic calendar and for some, a longer field period may exceed the length of programs that may only be a few weeks or months long. The administration will either be simultaneous for all students or at different times/semesters based on institution. Scientifically, simultaneous implementation (with a uniform field period) is better, as institution numbers may differ from fall to spring to summer, leading to some challenges in “comparing apples to apples.” Every institution accepting federal funds does not follow the fall/spring academic calendar, and those different schedules must be accounted for. The Department will have to decide if all surveys will be administered simultaneously or if it will use a calendar year approach and an institution can conduct its survey anytime in that biennial year.

***Questions Abound! More Questions for the Department to Consider Include:***

- Will the survey be made available in more than one language?
  - If so, which ones (noting that there are institutions that accept federal funds for which English is a second language for all or most students)?
- Will the survey be optimized for desktop computers, tablets, and mobile devices?
- Will the Department offer a paper and pencil version for students at institutions that do not provide email addresses or use computers, such as certain religious institutions?

- If some students take the survey on paper, how will confidentiality be protected when returning the forms and how will the data be input in the system?
- If a decentralized tool is used, how will the Department protect the confidentiality of respondents at very small institutions with few incidents, where the responses to the large number of survey questions can lead to the identification of survey respondents before data is uploaded to the Department?

## **ENSURING A REPRESENTATIVE SAMPLE**

The Department must require that each institution “to the maximum extent practicable” “ensures” that “an adequate, random, and representative sample size of students” (as determined by the Secretary of Education) who are enrolled complete the survey.

### **TAKEAWAYS —**

What is “an adequate, random, and representative sample size” for such a survey? This is likely to be the most controversial element of this legislation and the one that will need the most consideration from the Department, hopefully with input from the higher education community. The Department will have to establish definitions for what it means by “adequate, random, and representative” and what “maximum extent practicable” means. They will likely have to create numerical percentage standards for institutions to strive towards and, if centralized administration or a decentralized link, the Department will have to determine how and on what cadence to communicate this shortfall to institutions while the survey is open. If the Department goes the route of a decentralized link, there is no real way of knowing who has taken the survey, who more than once, and even

whether individuals outside of the institution take the survey, potentially skewing the results.

Further, the longer the survey is (and, based on the required elements, this survey will be very long), the harder it becomes to obtain a representative sample, and the institution-level data as well as the national data may be unrepresentative of the experiences of student populations. The Department may wish to consider the makeup of the student population and whether an institution may achieve its participation goals through incentives (more on this below). The student population makeup may impact reaching the goal of “to the maximum extent practicable.” For instance, whether the institution is primarily made up of traditional-aged, on campus students or is a program for non-traditional students taking courses part-time while working (and parenting) full-time, the institution may have an easier or harder time reaching its goals. It is also unclear what, if any, penalties there are for not reaching this goal, whether those penalties may be appealed (as penalties assessed under the Higher Education Act are), and what the process is for making such a determination (as noted earlier, this survey requirement does not appear to be part of Title IV of the HEA, for which violations can result in fines or reductions in funds).

A critical challenge will be that the legislation appears to prevent the Department from telling institutions who has and who has not participated. If this is the case, on a centrally conducted or distributed link approach, it will be difficult to impossible for institutions to improve participation and the representativeness of those participating. For instance, if female identifying students are participating at 30% and male identifying students at 5%, having this information can allow for targeted outreach to

male identifying students to raise their participation to the maximum extent practicable; not having this information can lead to additional outreach to all students, but it would not be improving representativeness of the sample.

## NATIONAL REPORT

The Department must create a national report that includes institution-specific data, and each institution must publish its campus-specific results on its website.

### TAKEAWAYS —

The Department will need to establish standards for the thousands of data reports it will create for institutions. For one thing, it will have to determine the minimal size of a data sample to display content (such as at least ten responses before a result can be shared), to preserve privacy. For another, the Department must decide, after what will likely be significant discussion, what the report will look like, and how it will be formatted in a way that is accessible to all students, including students with disabilities, and useful for campus-level reports. The Department will have to decide at what participation percentage number (or how far the sample strays from representing the institution’s population) it will withhold an institution’s survey results for not having data that is representative, and determine what to post in such a report.

If the Department uses a centralized administration or distributed institutional link, it will have to decide whether institutions will receive raw data, for which they can conduct their own additional analysis, or simply the Department’s standard report.

If through a distributed tool, the Department will have to decide what level of access the institution will have to that raw data, before data is uploaded to the Department. Whichever path it takes, it will need a process for this data to be transferred securely.

## INCENTIVIZING PARTICIPATION

One other consideration is how we incentivize students to participate in a long survey that asks about sensitive and personal topics. We know from research that incentives are effective in raising participation rates. Given the potential cost, it's hard to imagine that the federal government will be able to fund meaningful incentives for those who complete the survey, and if centralized or via a distributed link, this may be technically impracticable. If the Department uses a decentralized tool, it will have to determine whether to allow institutions to incentivize student participation and, if so, what the standards are (for instance, very high cost incentives may be seen as coercive, as students will not feel truly free not to take the survey), what system will be used to create and award the incentives, and how that can be done in a way that maintains the confidentiality of those who complete the survey (for instance, the survey completion page could lead to a separate incentive survey that cuts ties with the underlying data). The lack of incentives could impact student participation and result in data that does not represent the true student experience. At the same time, unequal distribution of incentives among institutions may lead to skewed results—particularly between resourced and under-resourced institutions—and detract from the legislative intent to have “apples to apples” type comparisons between institutions.

## Conclusion

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A national climate survey is a noteworthy goal with the potential to produce an unmatched level of data on the prevalence of campus violence and harassment and build significant policy knowledge in the field. At the same time, this legislative approach presents significant implementation challenges for the Department as well as the thousands of institutions that accept federal funds. The Department, in following this law, may find itself with a long survey, inequitable levels of access, and low response rates, particularly at certain institutions and among certain groups. Reaching the goal will require a considerable amount of funding, personnel, and detailed planning, both at the Department and at individual institutions. Despite the tremendous scope of this survey, this legislation was not subject to hearings and did not go through the standard process of obtaining feedback from all stakeholders, meaning that some of these questions will have to be answered at the agency level.

Although it is only a few pages among thousands of pages in the Omnibus bill, a national climate survey is not a ministerial requirement for the Department. It will be a major lift to plan, develop, and implement, and one that may require significant funds. With surveys, sometimes trying to “have it all” leads us to far less than what a more limited policy approach may yield. Whatever happens, we can “count” on one thing—the next few years will be very interesting—stay tuned.

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<sup>1</sup> Unless otherwise stated, all references are to Consolidated Appropriations Act, H.R. 2471, 117 Cong. §1507 [2022].



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