

**Amnesty clauses** (also known as ‘Good Samaritan’ provisions) grant immunity from consequences of drug, alcohol, and other minor student conduct infractions that could discourage reporting of sexual misconduct. Without an amnesty policy, individuals who report being sexually assaulted while in violation of a school’s “Honor Code” could be disciplined or even prosecuted.<sup>1</sup>

The adoption of an amnesty provision is a concrete policy reform that serves survivors and members of the campus community. Activists around the country recognize that students who have been drinking, using drugs, and/or committing other nonviolent infractions at the time that sexual violence occurs may be hesitant to report sexual assault because they fear the consequences for their own conduct.<sup>2</sup>

Multiple reports confirm that an amnesty clause can encourage sexual assault reporting. These include reports from the [White House Task Force to Protect Students from Sexual Assault](#), [American Association of State Colleges and Universities](#), [Office for Civil Rights](#), and most recently [Brigham Young University](#).

Encouraging reporting is critical to our movement since it provides data on the scope of the problem and can motivate institutions and individuals to take steps toward changing campus culture.

## POLICY LANDSCAPE

In 2013, SAFER released a report titled [“Making the Grade? Findings from the Campus Accountability Project on Sexual Assault Policies.”](#) After reviewing sexual misconduct policies from nearly 300 universities, SAFER found that less than 1 in 5 of the policies (15.9%) have amnesty clauses for underage survivors who were drinking or survivors who were using other drugs at the time of their assault.

The **Campus Accountability and Safety Act** (CASA), is currently under consideration by the Committee on Health, Education, Labor, and Pensions. It provides university support for survivors of sexual violence by specifying that:

“The institution shall provide an amnesty clause for any student who reports, in good faith, sexual violence to a responsible employee so that they will not be sanctioned by the institution for a student conduct violation, such as underage drinking, that is revealed in the course of such a report.”<sup>3</sup>

Many institutions have implemented amnesty provisions within the last five years as a means of increasing reporting of sexual assault and protecting survivors from subsequent discipline or prosecution. In 2015, New York State enacted **“Enough is**

**Enough,”** legislation requiring all public and private colleges to adopt comprehensive procedures and guidelines, including a uniform definition of affirmative consent, an amnesty policy, and expanded access to law enforcement.<sup>4</sup>

## RECOMMENDATIONS

- **Institutions should include amnesty clauses directly in their sexual misconduct policy.** They should explicitly declare that students who report, in good faith, a violation of the policy are immune from receiving disciplinary sanctions for conduct violations, such as underage drinking and drug-use.<sup>5</sup> There is no evidence to suggest that amnesty policies promote substance use or false reporting of sexual assault.
- **If there is more than one institution in the local community, SAFER encourages all institutions within the municipality to adopt the same amnesty policy.** Uniform policies across institutions would encourage consistent practices and responses to campus sexual assault across administrators, campus police, mandated reporters, and local police.
- **A comprehensive amnesty clause should extend to bystanders of sexual assault incidents.** Bystander intervention focuses efforts not on the potential victim or perpetrator, but on other people who might be able to observe problematic behavior and attempt to stop it.<sup>6</sup> A Bystander clause stipulates that a bystander acting in good faith that discloses any incident of sexual misconduct to institution officials or law enforcement will not be subject to the institutional sanctions for violations of alcohol and/or drug use policies occurring at or near the time of the incident.<sup>1</sup>
- **Once adopted, amnesty policies should be publicized and shared widely with the school community.** Students, faculty, and administrators should know the clause exists and understand how it applies to them.
- **The criminal legal system and institutions of higher education should work together to ensure the effective adoption and implementation of sexual misconduct policies.** Student activists can support the implementation of amnesty policies by advocating for its inclusion in a memorandum of understanding (MOU) between local law enforcement and their campus. An MOU serves as an important tool that supports collaboration, trust-building and coordination across parties.<sup>7</sup>

*SAFER strengthens student-led movements to combat sexual and interpersonal violence in campus communities. We are a nonprofit organization that is devoted to empowering college students by providing them with the resources they need to build successful grassroots campaigns. For support with crafting and implementing policy reforms, email [info@safercampus.org](mailto:info@safercampus.org) or visit [www.safercampus.org](http://www.safercampus.org).*

1. <https://www.washingtonpost.com/news/morning-mix/wp/2016/04/20/brigham-young-university-under-fire-for-disciplining-a-sexual-assault-victim-for-honor-code-breach/>  
 2. <http://system.suny.edu/sexual-violence-prevention-workgroup/policies/drugs-amnesty/>  
 3. <https://www.congress.gov/bills/113th-congress/senate-bill/2692/text>

4. <https://www.ny.gov/programs/enough-enough-combating-sexual-assault-college-campuses>  
 5. <https://www.aascu.org/policy/publications/policy-matters/campussexualassault.pdf>  
 6. <http://www.changingourcampus.org/prevention/bystander-intervention>  
 7. [https://www.whitehouse.gov/sites/default/files/docs/white\\_house\\_task\\_force\\_law\\_enforce-](https://www.whitehouse.gov/sites/default/files/docs/white_house_task_force_law_enforce-)