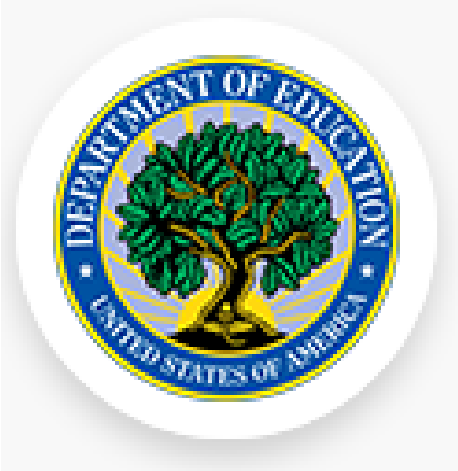
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Summary of Proposed Title IX Regulations

Regulatory Update

- On June 23, 2022, the Department of Education released its Title IX Notice of Proposed Rulemaking
- 700-plus pages, responds to changes in Title IX regulations imposed in August 2020
- 60 days for public comments (September 12, 2022?)
- **When effective?**



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MEMORY LANE

Obama Administration OCR

- Issued 2011 Dear Colleague Letter
- Ramped up Title IX program compliance reviews
- Created “list of shame”
- Was not deferential
- As a result, schools for first time in Title IX’s history took extraordinary steps to comply and ceased handling cases informally
- Disciplined students begin aggressively challenging institutions -- backlash



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The New York Times

DeVos's Rules Bolster Rights of Students Accused of Sexual Misconduct

Education Secretary Betsy DeVos released final regulations for schools dealing with sexual misconduct, giving them the force of law for the first time and bolstering due-process rights.



The rules preserve Education Secretary Betsy DeVos's broad goals in overhauling Title IX. Anna Moneymaker/The New York Times

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EDUCATION

Biden's Title IX reforms would roll back Trump-era rules, expand victim protections

Updated June 23, 2022 · 2:40 PM ET

DUSTIN JONES



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Overview of Proposed Regulations

1. Mix of provisions from the 2011 OCR Dear Colleague Letter, the 2020 Title IX regulations (currently in place) and some new provisions.
2. Not a return to 2011 – attempt to balance complainants' rights and the rights of those who are accused.
3. Modest return to long history of institutional discretion with process (from elimination of virtually all administrative discretion to discretion with guardrails)
4. With discretion comes challenging choices

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Texas Law Reminder

Institutional policy on sexual harassment, sexual assault, dating violence, and stalking must (1) "be approved by the **institution's governing board** before final adoption by the institution" and (2) be reviewed at least "each biennium" and, "with approval of the institution's governing board, revise the policy as necessary." §51.282(c).

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Coordinator Responsibility Under Proposed Regs

"A recipient must:

(1)Require its Title IX Coordinator to monitor the recipient's education program or activity for **barriers to reporting information** about conduct that may constitute sex discrimination under Title IX; and

(2)Take steps reasonably calculated to address such barriers."

Be sure to document your efforts in this regard.

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Scope of Proposed Regs Coverage

- Applies to all claims of sex discrimination
- Explicitly includes as forms of sex discrimination under Title IX: discrimination based on pregnancy, **sexual orientation, gender identity**, sex stereotypes, or sex characteristics (*this will trigger a challenge)
- Proposed regulations' explicit definition of discrimination on the basis of gender identity: "different treatment or separation on the basis of sex in a way that would cause more than de minimis harm, including by adopting a policy or engaging in a practice that prevents a person from participating in an education program or activity consistent with their gender identity."
- **Athletics: Stay tuned . . .**

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Hostile Environment

- Subtly modifies the definition of hostile environment sexual harassment to align with Title VII (and Texas law).
- Unwelcome sex-based conduct that is sufficiently severe or pervasive, that, based on the totality of the circumstances and evaluated subjectively and objectively, denies or limits a person's ability to participate in or benefit from an education program or activity.
- Problematic: No guidance on potential tension between definition and institutional free speech obligations.

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Retaliation: A Broad Definition

"Retaliation means **intimidation, threats, coercion, or discrimination** against any person **by a student**, employee, person authorized by the recipient to provide aid, benefit, or service under the recipient's education program or activity, or recipient for the purpose of interfering with any right or privilege secured by Title IX . . . or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part . . . ."

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Retaliation

- "A recipient must prohibit retaliation in its education program or activity. **When a recipient receives information about conduct that may constitute retaliation**, the recipient is obligated to comply with § 106.44. A recipient must initiate its grievance procedures upon receiving a complaint alleging retaliation under § 106.45."
- "Prohibited retaliation includes but is not limited to:

    a. Initiating a disciplinary process against a person for a code of conduct violation that does not involve sex discrimination but arises out of the same facts and circumstances as a complaint or information reported about possible sex discrimination, for the purpose of interfering with the exercise of any right or privilege secured by Title IX or this part; or

    b. Peer retaliation."

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Question 1

- What are examples of peer retaliation?
- How will institution assess?

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Jurisdictional Scope

- Harassment occurring outside of an educational program or activity can nevertheless violate Title IX if such harassment contributes to a hostile environment within an educational program or activity.
- Conduct occurring within an institution's education program and activity includes conduct that occurs off-campus when the respondent represents the institution or is otherwise engaged in conduct under the institution's "disciplinary authority."
- Net effect: End of bifurcated processes?

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Reminder: Texas Law On Mandatory Reporting

- SB 212's employee reporting obligation is triggered when an "employee of a postsecondary educational institution" "**witnesses or receives information**" regarding an incident that "the employee reasonably believes constitutes **sexual harassment, sexual assault, dating violence, or stalking**" which was allegedly committed by or against "a student enrolled at or an employee of the institution at the time of the incident."
- The employee reporting obligation only exists, though, when the employee witnesses or receives information regarding sexual harassment, sexual assault, dating violence, or stalking "in the course and scope of [the employee's] employment."
- If a school determines that an employee failed to satisfy their mandatory requirement, the school would be required to terminate that employee "in accordance with the institution's disciplinary procedure."

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New Broad Mandatory Reporting Requirements

- "Any employee who is not a confidential employee **and who has authority to institute corrective measures on behalf of the recipient** to notify the Title IX Coordinator when the employee **has information about conduct that may constitute sex discrimination** under Title IX"
- "Any employee who is not a confidential employee **and who has responsibility for administrative leadership, teaching, or advising in the recipient's education program or activity** to notify the Title IX Coordinator when the employee has information about a **student** being subjected to conduct that **may constitute sex discrimination** under Title IX"

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New Mandatory Reporting Requirements

- "Any employee who is not a confidential employee and who has responsibility for administrative leadership, teaching, or advising in the recipient's education program or activity and has information about an **employee** being subjected to conduct that may constitute sex discrimination under Title IX to either:
  - Notify the Title IX Coordinator when the employee has information about an employee being subjected to conduct that may constitute sex discrimination under Title IX; or
  - Provide the contact information of the Title IX Coordinator and information about how to report sex discrimination to any person who provides the employee with the information"

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New Mandatory Reporting Requirements

"All other employees who are not confidential employees, if any, to either:

- Notify the Title IX Coordinator when the employee has information about conduct that may constitute sex discrimination under Title IX; or
- Provide the contact information of the Title IX Coordinator and information about how to report sex discrimination to any person who provides the employee with information about conduct that may constitute sex discrimination under Title IX."

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Question 2

- What are some approaches to reconcile the mandatory reporting obligations in both statutes?
- Will failure to make mandatory IX report result in termination?
- How to memorialize in policy and training?
- What will be impact on “actual knowledge” argument?

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New(ish) Mandatory Training

"**All employees** must be trained on:

i. The recipient's obligation to address sex discrimination in its education program or activity;

ii. The scope of conduct that constitutes sex discrimination under this part, including the definition of sex-based harassment; and

iii. All applicable notification and information requirements under §§ 106.40(b)(2) and106.44."

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New(ish) Mandatory Training

"**all investigators, decisionmakers, and other persons who are responsible for implementing the recipient's grievance procedures or have the authority to modify or terminate supportive measures under § 106.44(g)(4)** must be trained on the following topics to the extent related to their responsibilities:

i. The recipient's obligations under § 106.44*;

ii. The recipient's grievance procedures under § 106.45, and if applicable § 106.46;

iii. How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and

iv. The meaning and application of the term relevant in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance under §106.45, and if applicable § 106.46."

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New(ish) Mandatory Training

- "**In addition to the training requirements** in paragraph (d)(1) of this section, **all facilitators of an informal resolution process** under §106.44(k) must be trained on the rules and practices associated with the recipient's informal resolution process and on how to serve impartially, including by avoiding conflicts of interest and bias."
- "In addition to the training requirements in paragraphs (d)(1)-(3) of this section, **the Title IX Coordinator and any designees** under paragraph (a) of this section must be trained on their specific responsibilities under paragraph (a) of this section, § 106.40(b)(3), § 106.44(f), § 106.44(g), the recipient's recordkeeping system and the requirements of paragraph (f) of this section, and any other training necessary to coordinate the recipient's compliance with Title IX."

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Recordkeeping

A recipient must maintain for a period **of at least seven years**:

1. For each complaint of sex discrimination, records documenting the informal resolution process under § 106.44(k) or the grievance procedures under § 106.45, and if applicable § 106.46, and the resulting outcome.
2. For each incident of conduct that may constitute sex discrimination under Title IX of which the Title IX Coordinator was notified, records documenting the actions the recipient took to meet its obligations under § 106.44.
3. All materials used to provide training under paragraph (d) of this section. A recipient must make these training materials publicly available on its website.
4. All records documenting the actions the recipient took to meet its obligations under §§ 106.40 and 106.57.

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Pregnancy

- "A recipient must not discriminate in its education program or activity against any student **based on the student's current, potential, or past pregnancy or related conditions**. A recipient may permit a student based on pregnancy or related conditions to participate voluntarily in a separate portion of its education program or activity provided the recipient ensures that the separate portion is comparable to that offered to students who are not pregnant and do not have related conditions."
- **Another quasi-reporting obligation**: "A recipient must ensure that **when any employee** is informed of a student's pregnancy or related conditions by the student or a person who has a legal right to act on behalf of the student, the employee promptly informs that person of how the person may notify the Title IX Coordinator of the student's pregnancy or related conditions for assistance and provides contact information for the Title IX Coordinator, unless the employee reasonably believes the Title IX Coordinator has already been notified."

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More on Pregnancy

Once a student notifies the Title IX Coordinator of the student's pregnancy or related conditions, the Title IX Coordinator must promptly:

- (i) Inform the student, and if applicable the person who notified the Title IX Coordinator, of the recipient's obligations to:
- (A)Prohibit sex discrimination under this part, including sex-based harassment;
- (B)Provide the student with the option of reasonable modifications to the recipient's policies, practices, or procedures because of pregnancy or related conditions, under paragraphs (b)(3)(ii) and (b)(4) of this section;
- (C)Allow access, on a voluntary basis, to any separate and comparable portion of the recipient's education program or activity under paragraph (b)(1) of this section;
- (D)Allow a voluntary leave of absence under paragraph (b)(3)(iii) of this section; and
- (E)Ensure the availability of lactation space under paragraph (b)(3)(iv) of this section.

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More on Pregnancy

- **Allow the student a voluntary leave of absence** from the recipient's education program or activity to cover, **at minimum**, the period of time deemed medically necessary by the student's physician or other licensed healthcare provider. To the extent that a recipient maintains a leave policy for students that allows a greater period of time than the medically necessary period, the recipient must permit the student to take leave under that policy instead if the student so chooses.
- Upon the student's return to the recipient's education program or activity, the student must be reinstated to the academic status and, as practicable, to the extracurricular status that the student held when the leave began.
- Ensure the availability of a lactation space, **which must be a space other than a bathroom**, that is clean, shielded from view, free from intrusion from others, and may be used by a student for expressing breast milk or breastfeeding as needed.

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Grievance Procedures Overview

1. Proposed rules would allow educational institutions to use the "single investigator/decisionmaker" model again in many cases. **But should you?**

2. The current Title IX rules require the decisionmaker to be someone other than the investigator and Title IX Coordinator. The proposed rules would jettison that requirement, allowing the decisionmaker to be Title IX Coordinator, the investigator, or all three roles. **But should you?**

3. Another big change relates to hearings. The current rules require higher education institutions to have a hearing with live cross-examination by parties' advisors for allegations of sexual harassment. The proposed rules would allow colleges and universities to decide whether to offer a hearing unless the law in their jurisdiction requires one. A college or university that does not provide a live hearing must require its decisionmaker to question the parties in one-on-one meetings instead of having live cross-examination at a hearing. **Should you retain hearings?**

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Grievance Procedures Overview

4. Even if a higher education institution offers a hearing, it is not required to allow live cross-examination by advisors. Instead, institutions can have the decisionmaker question the parties and witnesses at the hearing. And because hearings and live-cross examinations by advisors are not required, higher education institutions would no longer be required to provide an advisor to every party, as mandated by the current rules. Only if a higher education institution chose to provide a hearing and allow cross-examination by advisors would it be required to provide a no-cost advisor to any party that does not have one. **But should you maintain live cross examination from advisors anyway?**

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Grievance Procedures Overview

5. Finally, whereas the 2020 Title IX rules require appeals to be offered for several reasons, the proposed rules require appeals only for dismissals in higher education non-sex-based harassment cases, and with no guidance for the bases for appeals. For sex-based harassment in postsecondary situations, appeals are required for dismissals and determinations that sex-discrimination occurred, but not for a determination that sex-discrimination did not occur. Like the current rules, the decisionmaker in any appeal must continue to be different from the initial decisionmaker.

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Grievance Process (All Sex Complaints)

"For purposes of addressing complaints of sex discrimination, a recipient's prompt and equitable grievance procedures must be in writing and include provisions that incorporate the requirements of this section

1. Treat complainants and respondents equitably;
2. Require that any person designated as a Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. The decisionmaker may be the same person as the Title IX Coordinator or investigator;
3. Include a presumption that the respondent is not responsible for the alleged conduct until a determination whether sex discrimination occurred is made at the conclusion of the recipient's grievance procedures for complaints of sex discrimination;

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Grievance Process (All Sex Complaints)

"For purposes of addressing complaints of sex discrimination, a recipient's prompt and equitable grievance procedures must be in writing and include provisions that incorporate the requirements of this section

4. Establish reasonably prompt timeframes for the major stages of the grievance procedures, including a process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay.

5. Take reasonable steps to protect the privacy of the parties and witnesses during the pendency of a recipient's grievance procedures, provided that the steps do not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses, subject to § 106.71; consult with a family member, confidential resource, or advisor; prepare for a hearing, if one is offered; or otherwise defend their interests;

6. Require an objective evaluation of all relevant evidence, consistent with the definition of relevant in § 106.2—including both inculpatory and exculpatory evidence—and provide that credibility determinations must not be based on a person's status as a complainant, respondent, or witness.

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Dismissal of Complaint

A recipient may dismiss a complaint of sex discrimination made through its grievance procedures under this section, and if applicable § 106.46, for any of the following reasons:

i. The recipient is unable to identify the respondent after taking reasonable steps to do so;

ii. The respondent is not participating in the recipient's education program or activity and is not employed by the recipient (**but beware Texas law**);

iii. The complainant voluntarily withdraws any or all of the allegations in the complaint and the recipient determines that without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or

iv. The recipient determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX.

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“Sex-based harassment involving student complainants or student respondents”

Everything in general process plus

1. Written notice of allegations.
2. “entitled to receive access to relevant evidence or to an investigative report that accurately summarizes this evidence.”
3. “A postsecondary institution must provide the parties with a reasonable opportunity to review and respond to the evidence . . . prior to the determination of whether sex-based harassment occurred. If a postsecondary institution conducts a live hearing as part of its grievance procedures, it must provide this opportunity to review the evidence in advance of the live hearing; it is at the postsecondary institution’s discretion whether to provide this opportunity to respond prior to the live hearing, during the live hearing, or both prior to and during the live hearing”

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Appeals

- A postsecondary institution must offer the parties an appeal from a determination that sex-based harassment occurred, and from a postsecondary institution's dismissal of a complaint or any allegations therein, on the following bases:

    i. Procedural irregularity that would change the determination of whether sex-based harassment occurred in the matter;

    ii. New evidence that would change the outcome of the matter and that was not reasonably available at the time the determination of whether sex-based harassment occurred or dismissal was made; and

    iii. The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome of the matter.

- A postsecondary institution may offer an appeal equally to the parties on additional bases, as long as the additional bases are available to all parties.

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What Now? Things to Start Considering

1. Continue with detailed notice of allegations?
2. Transparency of evidence obtained?
3. Are we comfortable with one person for everything?
4. At your institution is single investigator/hearing process/something else best approximation of what happened?
5. Detailed explanation of decision?
6. Robust appeal process for all parties?

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Case Law Update

EDUCATION

Federal judge blocks Education Department's Title IX guidance that protects transgender students

The preliminary injunction essentially ties the department's hands when it comes to protecting transgender students from discrimination in 20 states.



LGBT activists and their supporters rally in support of transgender people on the steps of New York City Hall in New York City, on October 24, 2018. | Drew Angerer/Getty Images

Cummings v. Premier Rehab Keller

- Supreme Court held that a plaintiff suing under Title VI (prohibiting race, color, and national origin discrimination), Title IX (prohibiting sex discrimination), the Rehabilitation Act (prohibiting disability discrimination), and the Patient Protection and Affordable Care Act (ACA) may not recover emotional distress damages.
- Court reasoned that the scope of available remedies under these Spending Clause statutes is limited to only those remedies generally available for breach of contract.

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Fairfax County School Board v. Jane Doe



LAW360 Employment Authority

LABOR ··· DISCRIMINATION ··· WAGE & HOUR ··· STARBUCKS TRACKER ··· MORE

High Court Seeks SG's Take On Title IX Harassment Liability

By Patrick Hoff · May 16, 2022, 7:42 PM EDT · Listen to article

The U.S. Supreme Court on Monday invited the U.S. solicitor general's office to weigh in on whether the justices should consider a Virginia school board's appeal arguing it's off the hook for an alleged sexual assault on a student because no harassment took place after its investigation.

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Hall v. Millersville, 22 F.4th 397 (3rd Cir. Jan. 11, 2022)

- Student murdered in her residence hall room by her boyfriend who was not a student
- “The record shows that Millersville knew, and intended, for its Title IX policies to apply to nonstudents. Millersville's 2014 Title IX policy, which was in place while Karlie was enrolled, defined sexual misconduct to include sexual assault and intimate partner/dating violence, and also required that incidents of sexual misconduct be reported to Millersville’s Title IX Coordinator. More importantly, as admitted by Millersville's corporate designee, this policy cover[ed] all areas of University operations, programs, sites, and include[d] the conduct of employees, students, visitors/third parties” To be liable under Title IX, the
- Liability predicated on university having “substantial control over both the harasser and the context in which the known harassment occurs.”

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Brown v. State, 23 F.4th 1173 (9th Cir. Jan. 25, 2022)

- Plaintiff, a former student at the University of Arizona, brought a complaint under Title IX after she was physically assaulted by Orlando Bradford, her boyfriend who was also a football player at the University, in his private, off-campus residence.
- In asserting deliberate indifference to her risk, plaintiff alleged that the University did not respond adequately to two prior incidents in which officials knew that Bradford had assaulted other women on campus.
- In sustaining summary judgment in favor of the University, the court held that plaintiff's assertions about officials' response to the prior incidents did not establish that the University had control over the context in which her abuse occurred. The majority also rejected the focus in the dissenting opinion on the facts that Bradford's University scholarship paid for his rent and that Bradford needed the approval of a coach to live off campus. The majority held that these facts may be relevant to the University's control of the abuser, but they do not address the separate requirement under Title IX that the University also control the context in which the harassment occurred.

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Tension Between Policy & Speech Rights

Professor who wouldn't use trans student's pronouns wins $400K settlement

Nicholas Meriwether will no longer be required to refer to students at Shawnee State University in Ohio by their preferred pronouns.



The Volokh Conspiracy

Mostly law professors | Sometimes contrarian | Often libertarian | Always independent

About The Volokh Conspiracy

FREE SPEECH

Eleventh Circuit Strikes Down Univ. of Central Florida's "Discriminatory Harassment" Speech Code

EUGENE VOLOKH | 4.21.2022 6:50 PM

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Modest Uptick in Athletics Cases

Colleges cut sports to save money amid the pandemic. Then came the Title IX lawsuits.

By Molly Hensley-Clancy

March 25, 2021 at 8:00 a.m. EDT



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Trends

1. On the whole, feels like courts are starting to rein litigation in (especially complainant litigation)
2. Onslaught of respondent litigation has slowed (Covid, Trump regs?)
3. Pivot to tort?
4. Back to the future?

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Trauma-Informed Approach

Sec. 51.288. TRAUMA-INFORMED INVESTIGATION TRAINING. Each peace officer employed by a postsecondary educational institution shall complete training on trauma-informed investigation into allegations of sexual harassment, sexual assault, dating violence, and stalking.

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ATIXA POSITION STATEMENT

TRAUMA-INFORMED TRAINING AND THE NEUROBIOLOGY OF TRAUMA

ABOUT ATIXA

Founded in 2011, ATIXA is the nation's only membership association dedicated solely to Title IX compliance and supports our over 3,000 administrator members who hold Title IX responsibilities in schools and colleges. ATIXA is the leading provider of Title IX training and certification in the U.S., having certified more than 4,000 Title IX Coordinators and more than 10,000 Title IX investigators since 2011. ATIXA releases position statements on matters of import to our members and the field, as authorized by the ATIXA Board of Advisors. For more information, visit www.atixa.org.

ATIXA has, at times, issued position statements when we see an unhealthy direction in the field in the hope that our position can offer some level of correction. With this statement, ATIXA wishes to reiterate the value of being trauma-informed in our sexual misconduct interview techniques[1], but encourages our members and the field to avoid the use of information on the neurobiology of trauma to substitute for evidence.

End Violence Against Women International (EVAWI)

Statement on Trauma-Informed Responses to Sexual Assault

Kimberly A. Lonsway, PhD
Sergeant Joanne Archambault (Ret.)

With contributions by Jim Hopper, PhD

September 2019

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Trauma-Informed

1. How brains and bodies respond to acutely stressful and traumatic events **as they are happening**
2. How these experiences of extreme stress are **encoded, stored, and potentially retrieved from memory**

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PMID: 26404712

Stress weakens prefrontal networks: molecular insults to higher cognition

Amy F T Arnsten

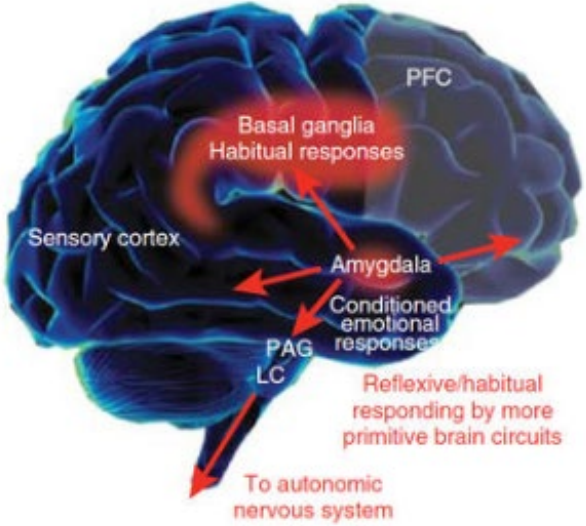
Author Ma

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Trauma: Shift to Reflexes and Habits

- “Stress tends to promote simple decision-making strategies that depend on **ingrained habits**, at the expense of **more thoughtful, goal-directed actions**”
- “Uncontrollable stress flips the brain from a more 'reflective' state, mediated by the more recently evolved PFC [prefrontal cortex], to a more ‘reflexive’ state, mediated largely by subcortical structures.”



Stress shifts brain functioning to habits and reflexes. Image from review by the world's leading researcher on the topic (see Arnsten 2015 in references).

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Ashley A 4 days ago

@ 1:07 Did he really say 'Get in the car?" after asking what he should do? Wow!

1 REPLY



Larry G 3 months ago

Wait! That was less than 2 feet of water....why did he swim? And did that reporter(out of breath) really “save” the guy? Omg

2 REPLY



Seth B 1 year ago

Face it our American people do NOT have any common since they might be book smart but dumb as a wooden fence post when it comes to common sense. I am talking about you city people ranchers and farmers would never do something like this without a tractor or horse .

2 REPLY

View 3 replies



Aaron Bills aka KillSauce 1 year ago

natural selection was at work... leave him

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Habit Responses

- **Some engage in fighting or fleeing**
- Passive ones (which can avert additional violence or retaliation)
- Tonic immobility -- fear-based state of rigid paralysis (which can render one mute as well)
- Collapsed immobility, a different survival reflex that sends heart rate and blood pressure plummeting. The brain's loss of oxygen brings on faintness or even passing out as the body goes limp. Can happen when there is extreme fear and physical restraint

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Harvard Review of Psychiatry

Fear and the Defense Cascade

Clinical Implications and Management

Kozlowska, Kasia MBBS, FRANZCP, PhD; Walker, Peter BSc Psych, MPsychol; McLean, Loyola MBBS, FRANZCP, PhD; Carrive, Pascal PhD

Harvard Review of Psychiatry: July/August 2015 - Volume 23 - Issue 4 - p 263–287
doi: 10.1097/HRP.0000000000000065
Perspectives

OPEN BDC

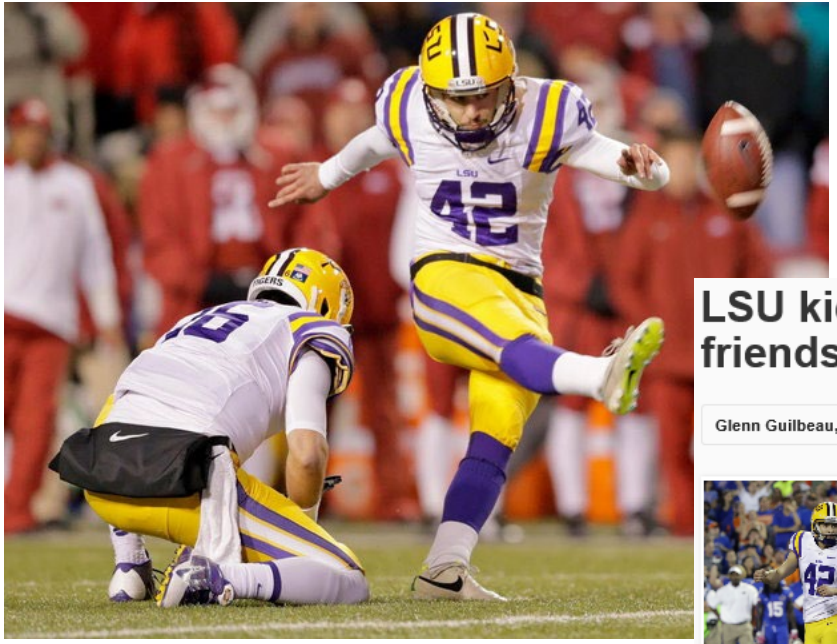
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Memory

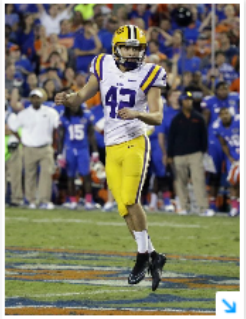
- Fragmentary memories – Considerable research shows how stress can enhance memory for details closer to the onset of stress and then impair it for details that come later.
- Many studies have shown that the “central details,” **which had the most attention and significance at the time**, can be strongly encoded and stored, while the “peripheral details” may not get into memory and, even if they do, may fade quickly or be recalled inconsistently
- Encoding sequence problems

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LSU kicker Colby Delahoussaye on final moments before friends' fatal crash

Glenn Guilbeau, USA TODAY Network *7:18 p.m. EDT August 18, 2016*



(Photo: John Raoux, AP)

BATON ROUGE — Snapshots and flashes are all LSU kicker Colby Delahoussaye remembers from just before and just after the car accident that killed two of his friends last month on rural Beaver Lake Road between Wales and Merton, Wis.

The wreck on July 23 killed former Michigan State punter Mike Sadler of Grand Rapids, Mich., who was driving, and senior Nebraska punter Sam Foltz of Grand Island, Neb., who was in the passenger seat.

Delahoussaye, an LSU senior from New Iberia, La., happened to sit in the two-door Mercedes coupe's back seat, an arbitrary fact that saved his life. That and the burning sensation he felt on his upper left leg after impact.

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- “We were talking and all joking around. After we got in the car, Mike started playing some Justin Bieber, and me and Sam kind of looked at each other. And Mike said, ‘I hope you guys don’t mind. His new album (Purpose) is awesome.’ That’s what Mike told us. We were just having fun. Mike was always a humorous guy – just smiling, having a good time. And I remember that it was a really dark road, a back road.”
- “There were no lights or anything. I remember, on the GPS, I could see a curve coming up. But as soon as I told Mike, I said, ‘Hey, Mike, there’s a curve,’ I mean, as soon as I said that, the curve was right there. And you couldn’t see anything. The only thing you could see is what the headlights showed you because there were no lights around. Next thing I remember is he tried to turn, but it was raining, the roads were wet, and I remember us going down the hill. I remember seeing some trees and all that.”

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- “The next thing I remember — I remember my leg burning, And I remember waking up, and I was hanging upside down. I had my seatbelt on. The car was upside down. I remember seeing the fire. I remember trying to get out of my seatbelt.”
- **“I don’t remember how I got out of my seatbelt. I don’t even remember how I got out of the car.”**
- “I remember being on my hands and knees in the mud in the woods, and running up and calling 911,” he said. “And my phone was shattered. **I don’t know how I called on that either.** But God was definitely right there with me because there’s no explanation why I’m here talking with you guys right now. Whenever people talk of miracles, that’s it. There are miracles. That was a 100 percent miracle. **I have no idea where my phone was before I called.**”

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Review Article

The Temporal Dynamics Model of Emotional Memory Processing: A Synthesis on the Neurobiological Basis of Stress-Induced Amnesia, Flashbulb and Traumatic Memories, and the Yerkes-Dodson Law

David M. Diamond,[1,2,3] Adam M. Campbell,[1,2] Collin R. Park,[1,2] Joshua Halonen,[1,2] and Phillip R. Zoladz[1,2]

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Received 28 July 2006; Revised 18 December 2006; Accepted 20 December 2006

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The Revolt of the Feminist Law Profs

Jeannie Suk Gersen and the fight to save Title IX from itself.

"It was likely, for instance, to promote the practice of so-called 'trauma-informed' investigation, which proceeds on the assumption that inconsistent or confused victim recollections reflect the traumatic effects of assault **and are themselves evidence of the truth of the accusation**."

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The Bad Science Behind Campus Response to Sexual Assault

Assertions about how trauma physiologically impedes the ability to resist or coherently remember assault have greatly undermined defense against assault allegations. But science offers little support for these claims.

EMILY YOFFE | SEP 8, 2017 | EDUCATION

"As a result, those adjudicating sexual-assault allegations are told, the absence of verbal or physical resistance, the inability to recall crucial parts of an alleged assault, a changing story—none of these factors should raise questions or doubt about a claim. **Indeed, all of these behaviors can be considered evidence that an assault occurred**."

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Psychology Today

Find a Therapist | Get Help | Magazine | Today



Jim Hopper, Ph.D.
Sexual Assault and the Brain

Sexual Assault and Neuroscience: Alarmist Claims vs. Facts

The science is strong, a solid foundation for trainings and fair investigations.

Posted Jan 22, 2018

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Power of 1st Impressions – Thin Slicing

- People quickly reach "macro" conclusions (pleasant, kind, hostile, creepy, competent) based on "micro" traits (smiling, eye contact, open-handed gestures, fidgeting, stiff posture, facing another direction)
- What is macro impression we are trying to communicate and what are nonverbal micro cues that can get us there?

Acting on impulse

Ever felt that people are a bit quick to judge? That's because we are. Research shows we make up our minds about someone in a matter of seconds – and what's more, we're surprisingly good at it. Rosie Ifould explores the consequences of our snap decision-making



Finding out you share the same name can create a sense of affection Photograph: Guardian

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Solid Ground

1. Basic initial interview/question approach with complainants and respondents is the same
2. Interviewing/questioning for clarification
3. This is about how some people respond to trauma
4. Gender-neutral

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Academic Medical Centers & Health-Related Environments

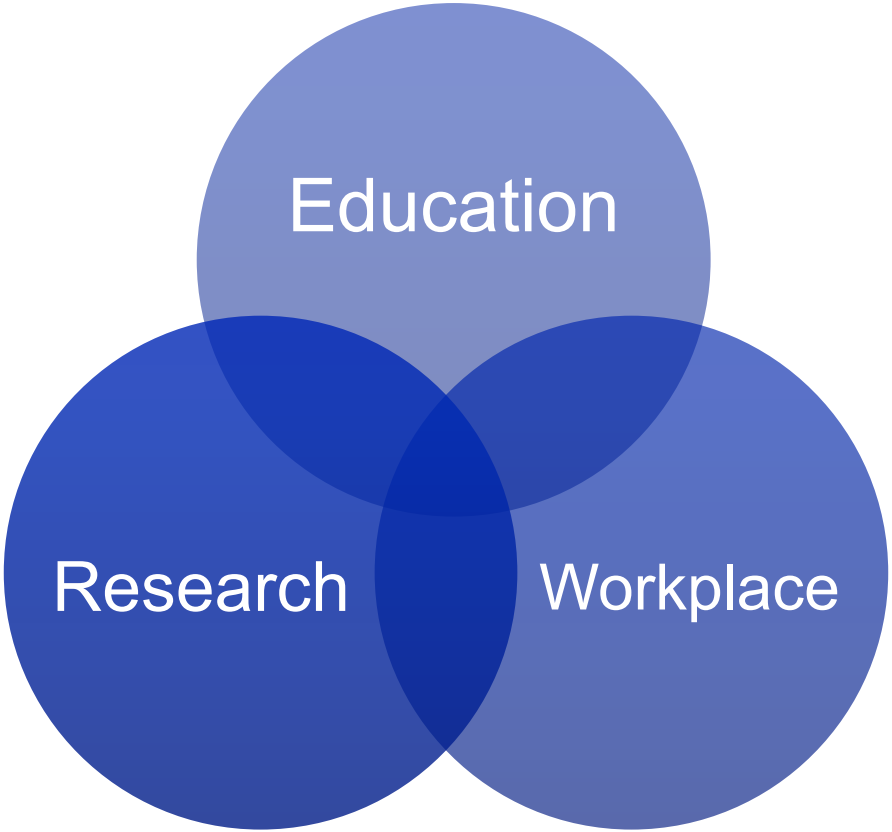
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Regulatory Bodies

- U.S. Department of Education regulations effective August 2020
  - Apply to recipients of U.S. Department of Education funds
  - Add live hearing & cross-exam requirement
  - Will be amended after 2022 regulations become final
- U.S. Department of Health and Human Services
  - HHS Office for Civil Rights
- National Institute of Health
  - NIH policy/notification requirements

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Application at Academic Medical Centers

- All educational institutions receiving federal financial assistance:
  - All operations
- Educational programs and activities at federally funded hospitals

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UT Educational programs/ activities

- All Graduate School programs and activities
- Undergraduate and graduate educational programs and activities
- Post-doctoral scholar and clinical fellow programs and activities
- Medical and nursing rotations, residencies and internships, and academic clinical placements

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Research & Employment

- As educational program/activity
- Granting agencies
  - E.g.:
    - NIH
    - NSF
  - Grant agreements
- Employment related to educational program/activity



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Example – Education Program or Activity ?



A Graduate School Master's Program student has partnered with a colleague at an outside hospital to complete a thesis research project. The colleague has privileges at a UT AMC. The colleague sexually harasses the student when the two are working in a laboratory at the outside hospital.

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Example – Education Program or Activity ?



Two Post-Doc Scholars are at a conference in another state. One alleges that the other sexually assaulted the other in their conference hotel room.

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Civil Liability



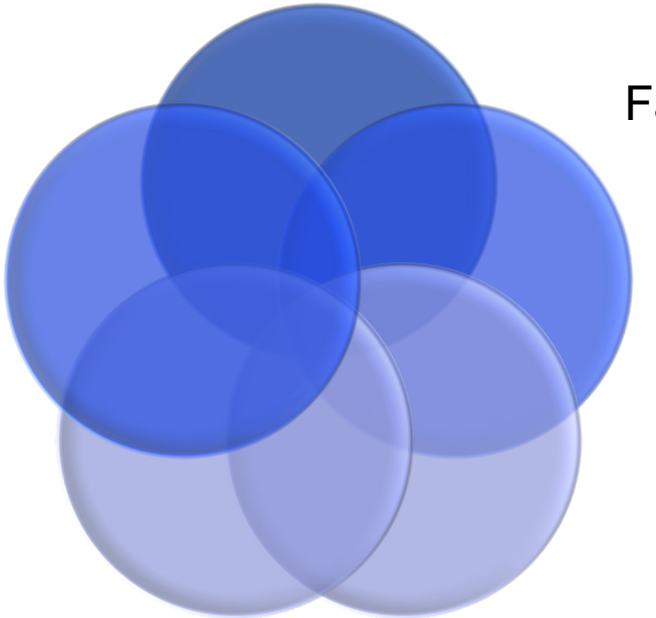
- Title IX
  - Actual knowledge
  - Deliberate indifference
  - Resulting in severe, pervasive, objectively offensive discrimination
- Title VII (workplace)
  - Essentially, failure to act reasonably
    - Exception: Tangible action by supervisor
- Tort Liability (negligent hiring, etc.)

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Policies

Sexual Harassment in Educational Programs or Activities (Title IX)

Contracts (e.g., affiliation agreements, funding agreements)



Faculty, staff, and student conduct policies

Non-Discrimination and Non-Retaliation Policies

Personal relationship policies

Consensual Relationships

Conflicts of Interest

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How do Title IX and Title VII standards compare?

"Neither Federal non-sex discrimination civil rights law represents a 'zero-tolerance' policy banning all sexual harassment." – Preamble to 2020 Title IX Regulations

Title VII Sexual Harassment		Title IX Sexual Harassment		
Quid pro quo	Sufficiently severe or pervasive	Any quid pro quo by employee	Unwelcome and Sufficiently severe and pervasive and objectively offensive	Any sexual assault/DV /stalking

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Title VII of the Civil Rights Act of 1964

- Prohibits discrimination in employment (private and public) based on:
  - Race
  - Color
  - Religion
  - National Origin
  - Sex



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Title VII Sexual Harassment Standard

Hostile environment

- Unwelcome subjectively and objectively
- "severe OR pervasive"

Similar conduct at issue under Title IX

- *Quid Pro Quo*
- Sexual Violence (e.g. assault)

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Example of typical "Title VII" process



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Comparison

Common Title VII Response	Title IX Regs Requirements
Resolution by internal investigation	Discipline requires regimented investigation & hearing process
Formal or informal complaint	Formal complaint only
Advisor silent supporter	Advisor entitled to participate
Resolution does not require active complainant	Need participating complainant
May or may not result in formal report	Requires formal report & other documentation

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What triggers an employer's liability for sexual harassment under Title VII?

- ☑ An employer, its agent, or its supervisor
- ☑ Knew or should have known
- ☑ About severe **OR** pervasive sexual harassment
- ☑ That a reasonable person would consider intimidating, hostile, or abusive
- ☑ By an employee or non-employee over which it has control and
- ☑ Failed to take appropriate corrective action

- U.S. Equal Employment Opportunity Commission, *Harassment (*https://www.eeoc.gov/harassment)

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What triggers obligations for VII vs. IX?



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Categories

1. VII obligations but no IX obligations (no need to follow IX policies)
   - Should have known of discrimination but no formal complaint
   - Discrimination does not meet IX definition of SH
   - Complainant no longer employed or a student
2. Twin VII and IX obligations
   - Quid pro quo, “severe and pervasive,” VAWA crimes
   - ***Complainant currently employed or a student***
   - Formal complaint

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Example: Overlapping Policies

- Resident claims Attending Physician Supervisor is subjecting employee to pervasive and severe racial and sex harassment
- Other resident corroborates the claim
- How should institution respond in satisfying obligations under Titles VII and IX?



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Example: *Brock v. Mich. State Univ.* (2022)

- Two female employees in Neuro Clinic at MSU brought tort claims against MSU after a med student in the clinic allegedly sexually harassed and abused them. The med student had previously been found responsible for harassing another student, pleading guilty to criminal sexual conduct and using a computer to commit a crime. The court dismissed certain claims, but some claims remain pending, including: negligent hiring, retention, and supervision against the COM Dean; and failure to investigate against the clinic supervisor.



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Example: *Castro v. Yale Univ.* (2021)

- Six physicians brought claims of alleged sex discrimination and retaliation under Title IX alleging that their superior at Yale New Haven Hospital sexually harassed them, and that both the hospital and university ignored their complaints. The Court held that Title IX applies to academic medical centers when certain criteria are met.



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Questions

?



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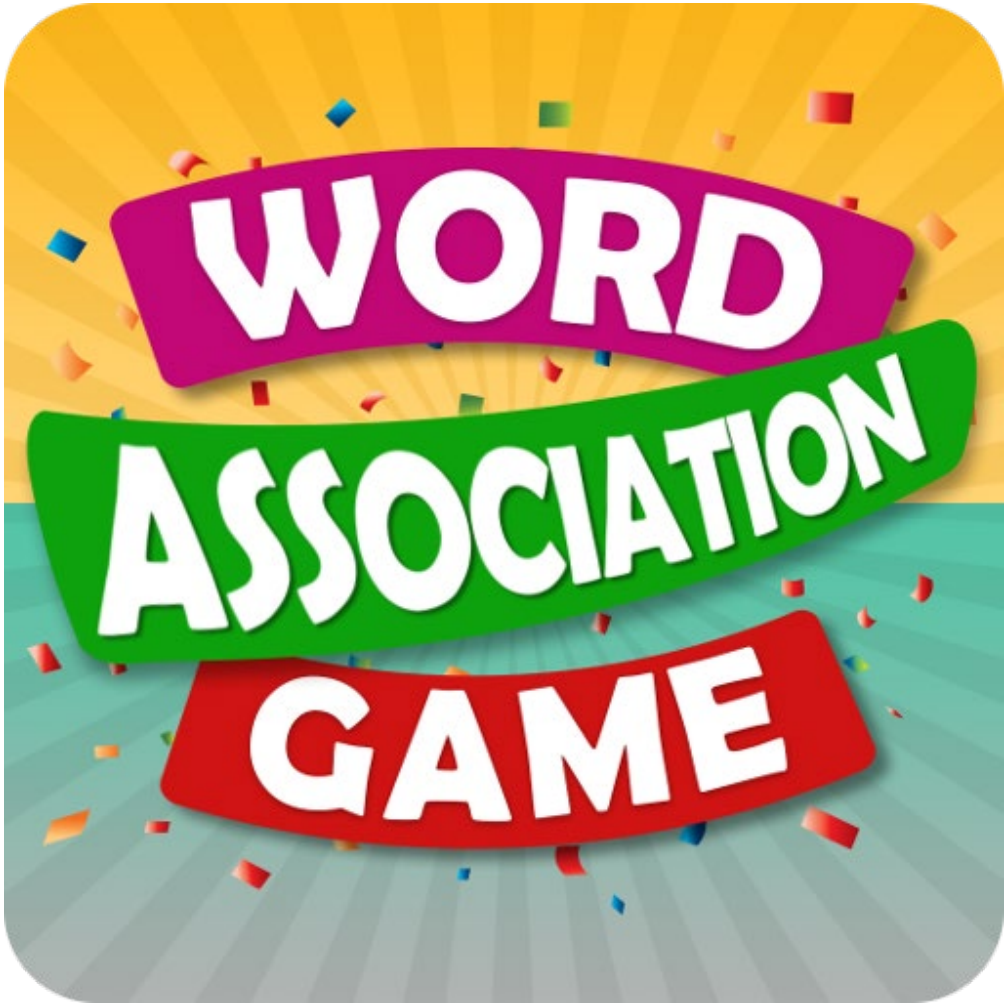
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Hearings & Sanctioning

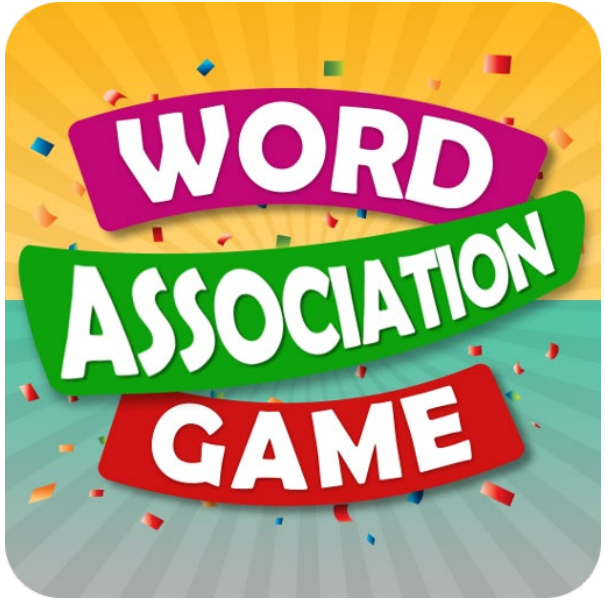
Lessons Learned



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Subjects

- Pre-hearing conference
- Remote or in-person
- Facilitating questions
- Managing time
- Decision writing
- Sanctioning matrix
- Challenges



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Prior Criminal & Disciplinary History

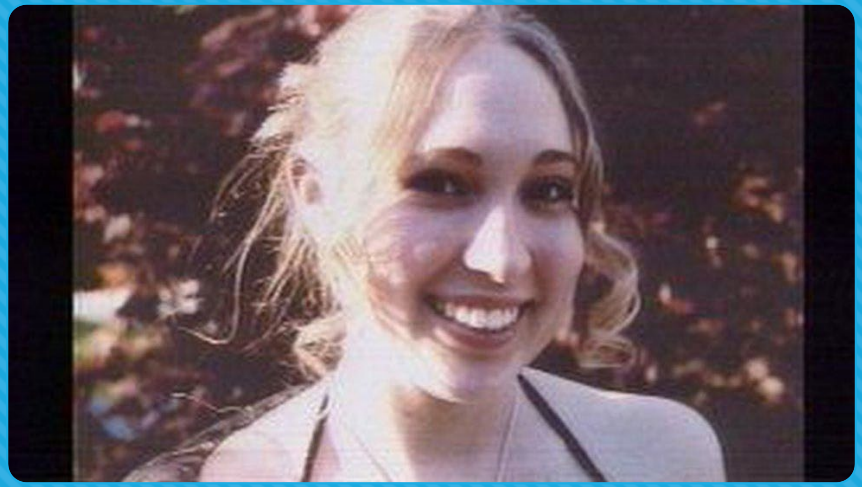
The New York Times

He Committed Murder. Then He Graduated From an Elite Law School. Would You Hire Him as Your Attorney?

Give this article









THE BIG PICTURE IN TWO PICTURES

Common App removes School Discipline question on the application

By Emma Steele
September 30, 2020



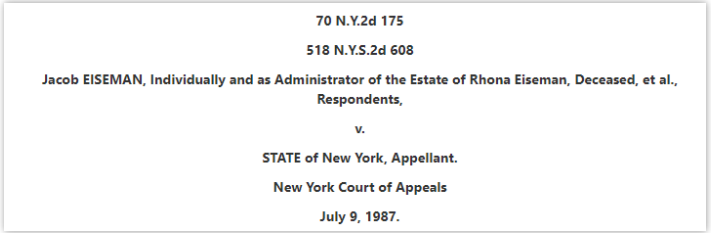
Common App Drops Criminal History Question

Decision reverses one made a year ago to keep the question. Individual colleges may still ask it. Disciplinary records question remains.

By Scott Jaschik // August 13, 2018

The Common Application announced Tuesday that it is dropping the question it has been asking since 2006 about applicants' criminal histories.

Many educators and civil rights activities have been pushing the Common App for years to drop the question. For the organization, Tuesday's announcement is a major shift. In March 2017, after its last review of the issue, the organization announced that it was keeping the question. Individual colleges maintain the right to ask the question on their supplements to the Common Application, just as they have had the ability to not consider the information provided to date. But advocates for "banning the box," as the movement to end the question has been known, have said that including or dropping the question from the main application would have a major impact.



70 N.Y.2d 175

518 N.Y.S.2d 608

Jacob EISEMAN, Individually and as Administrator of the Estate of Rhona Eiseman, Deceased, et al., Respondents,

v.

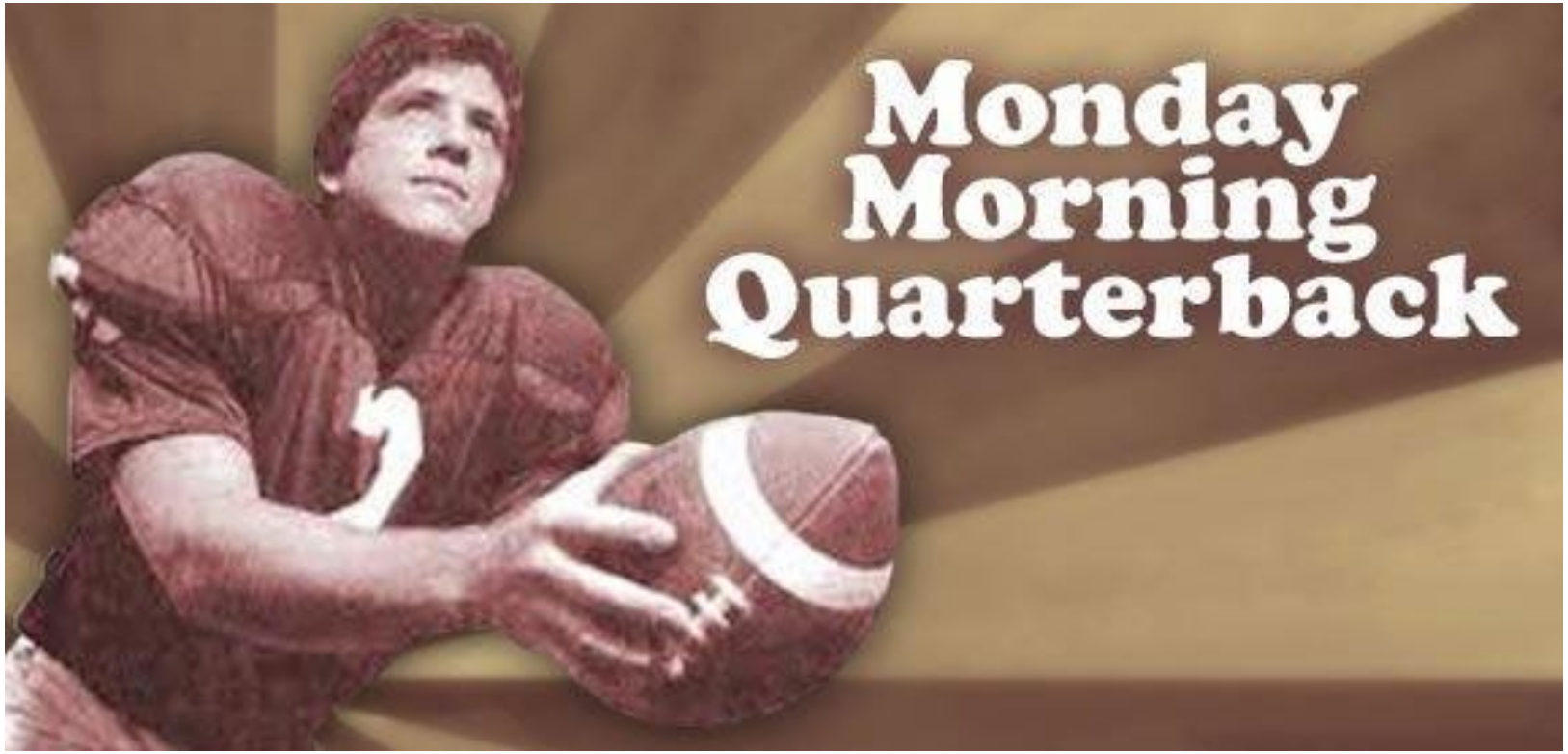
STATE of New York, Appellant.

New York Court of Appeals

July 9, 1987.

A BYGONE ERA?

"His release and return to society at the age of 33 — presumably with a long life still ahead of him — were mandated by law as well as by public policy, which have as their objectives rehabilitating and reintegrating former inmates in the hope that they will spend their future years productively instead of returning to crime. To this end, the value of education — both as an escape from society's underclass, and as a benefit to the public generally — is apparent."


Monday
Morning
Quarterback

To ask or not ask?

- Three national surveys of institutional admissions practices, conducted in 2009, 2010, and 2014 by separate research teams, indicate that 60 to 80 percent of private institutions and 55 percent of public institutions require undergraduate applicants to answer criminal history questions as part of the admissions process.
- Unclear stats on prior disciplinary history


IF EVERYONE ELSE JUMPED
OFF A CLIFF, WOULD YOU JUMP, TOO?
imgflip.com

WHAT TO ASK?

- Be specific about what must (and should not) be disclosed
- Time limits?
- Not arrests
- Juvenile records?


WHAT
NOW?

CRIMINAL AND DISCIPLINARY HISTORY IN COLLEGE ADMISSIONS

Released: December 17, 2019



AACRAO

www.aacrao.org

1108 16th Street NW Ste 400
Washington, DC 20036

U.S. Department of Education

Student Loans | Grants | Laws

404 - Page not found

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Many of the pages on the site moved to new URLs during our recent redesign. If you reached this page by using a bookmark or a link from another site, please search for the updated url using our **Bookmark Search** below.

If you arrived at this page by following a link within this site, please help us correct the problem by going to our Report Technical Issues form and logging the problem.

Otherwise, please ensure that you typed the URL correctly, and note that our server is case-sensitive.

You can also search for the page content by using our Advanced Search page or contact site administrators via webmaster@ed.gov with any further technical questions.

IF YOU ASK, THEN WHAT?

1. Whatever process you come up, be sure you can (and do) follow it (the curse of assumed duties)
2. Establish forms and rocess for securing additional information
3. Not for amateurs: Bit team/threat assessment matrix (appropriate training)
4. Does not have to be yes or no/Can we develop risk mitigation plans?
5. Appeal process
6. Periodic review for disparate impact

NCAA Policy – Where we are going (Expectations)

NCAA Sexual Violence Policy

The Policy requires member college and university chancellors or presidents, directors of athletics, and campus Title IX coordinators to annually attest that:

1. The athletics department is informed, integrated, and compliant with the following:
   - Institutional policies and processes regarding sexual violence prevention; and
   - Proper adjudication and resolution of sexual violence and interpersonal violence.

NCAA Sexual Violence Policy

2. Policies and processes are readily available within the department and provided to student-athletes, including:

- Institutional policies and processes on violence prevention and adjudication; and
- The name and contact information of the campus Title IX coordinator.

3. All student-athletes, coaches, and staff are educated on sexual violence prevention, intervention, and response each year.

The New Requirements

4. Collect annual disclosures from all incoming, continuing, and transferring student-athletes related to their conduct that resulted in discipline through a Title IX proceeding or a criminal conviction for sexual, interpersonal, or other acts of violence, and collect the same from transfer student-athletes if a Title IX proceeding related to their conduct is ongoing;
5. Take reasonable steps to confirm whether such student-athletes have been disciplined or criminally convicted of sexual, interpersonal, or other acts of violence; and
6. If recruiting incoming or accepting transfer student-athletes, have a written procedure that directs its staff to gather information from a former institution about any discipline or criminal conviction relating to any sexual, interpersonal, or other act of violence.

Pregnancy & Parenting

Title IX Issues

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Legal Requirements

- Applicable Laws:
  - Title IX
  - Pregnancy Discrimination Act
  - ADA/Section 504
  - State and local civil rights laws



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Pregnancy Discrimination Act

Title VII, as amended by the PDA, prohibits *employment* discrimination based on:

- Current pregnancy
- Past pregnancy
- Potential or intended pregnancy
- Medical conditions related to pregnancy or childbirth

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ADA / Section 504

- Federal laws that prohibit disability discrimination and require institutions to make reasonable accommodations to qualified individuals with a disability.
- Disability = A physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.
- Pregnancy itself is not a disability, but complications from pregnancy or childbirth may qualify.

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Title IX Regulations: Gender-Neutral Rules



A recipient shall not apply any rule concerning a student's actual or potential parental, family, or marital status which treats students differently on the basis of sex.

34 CFR § 106.40(a)

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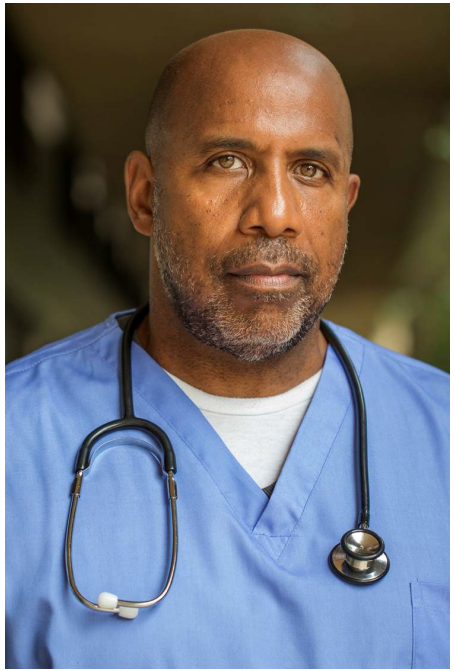
Title IX Regulations: Equal Participation

A recipient shall not discriminate against any student or exclude any student from its education program or activity, including any class or extracurricular activity, on the basis of such student's pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom, unless the student requests voluntarily to participate in a separate portion of the program or activity of the recipient. 34 CFR § 106.40(b)(1)



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Title IX Regulations: Medical Certification



A recipient may require such a student to obtain the certification of a physician that the student is physically and emotionally able to continue participation so long as such a certification is required of all students for other physical or emotional conditions requiring the attention of a physician.

34 CFR § 106.40(b)(2)

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Title IX Regulations: Separate Programs

A recipient which operates a portion of its education program or activity separately for pregnant students, admittance to which is completely voluntary on the part of the student as provided in paragraph (b)(1) of this section shall ensure that the separate portion is comparable to that offered to non-pregnant students.

34 CFR § 106.40(b)(3)

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Title IX Regulations: Temporary Disability Policies

A recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom in the same manner and under the same policies as any other temporary disability with respect to any medical or hospital benefit, service, plan or policy which such recipient administers, operates, offers, or participates in with respect to students admitted to the recipient's educational program or activity.

34 CFR § 106.40(b)(4)

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Title IX Regulations: Leaves of Absence

In the case of a recipient which does not maintain a leave policy for its students, or in the case of a student who does not otherwise qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as a justification for a leave of absence for so long a period of time as is deemed medically necessary by the student's physician, at the conclusion of which the student shall be reinstated to the status which she held when the leave began.

34 CFR § 106.40(b)(5)

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OCR Guidance: Administrative Measures

Schools **MUST**

- Protect students from harassment based on pregnancy or related conditions.
- Possess and distribute a policy against sex discrimination. OCR recommends the policy make clear that sex discrimination covers discrimination against pregnant and parenting students too.



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OCR Guidance: Administrative Measures

Schools **MUST**

- Adopt and publish grievance procedures for students to file complaints of sex discrimination, including discrimination related to pregnancy or parenting.
- Identify at least one employee to carry out Title IX responsibilities.



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OCR Guidance: Day-to-Day

Schools **MUST**

- Allow pregnant students to continue participating in classes and extracurricular activities.
- Allow pregnant students to choose if they want to participate in special programs or classes for pregnant students. Schools may not pressure students to participate in these types of programs.
- Provide reasonable adjustments such as a larger desk or elevator access.



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OCR Guidance: Day-to-Day

Schools **MUST**

- Allow pregnant students to return to the same academic and extracurricular status as before medical leave, including the opportunity to make up missed work.
- Ensure that teachers understand the Title IX requirements. Teachers may not prohibit students from submitting work after a deadline missed due to pregnancy or childbirth. Students should be permitted to make up missed participation and attendance credits.

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OCR Guidance: Medical Accommodations

Schools **MUST**

- Excuse absences due to pregnancy or childbirth for as long as medically necessary.
- Provide pregnant students with the same special services they provides to individuals with temporary medical conditions, including remote instruction, tutoring, and/or independent study.



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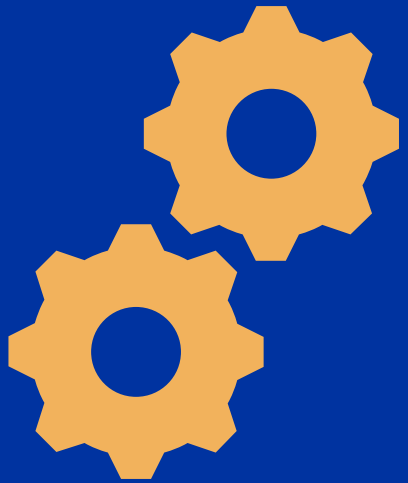
OCR Guidance: Medical Accommodations



- Schools may only require pregnant students to submit a doctor's note if the school also requires a doctor's note from all students who have a physical or emotional condition requiring treatment by a doctor.

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Hypothetical



Amy is enrolled in an accelerated program at Husch College of Nursing. Two months into the eight-month program, she notifies the nursing director that she is pregnant and is due in February. The nursing director reminds Amy that the college has a zero-absence policy and if she misses more than two consecutive days of class or clinical, she will be dismissed from the program. When Amy delivers her baby, she misses two days of class, including one pop quiz, and three days of clinical. She receives a zero for the absences in accordance with the college policy, which is applied consistently to all students regardless of the reason for the absence. Amy files a complaint alleging that she should have been allowed to make up the missed quiz and clinicals.

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Salt Lake Community College
June 2022 OCR Decision

- A student at SLCC found out she was pregnant after the semester began. She told her professor she was pregnant and struggling with morning sickness, which caused her to miss or be late to the professor's classes.
- The student requested academic adjustments from the professor to allow for additional absences and allow her to turn in assignments late.

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SLCC: Background

- The professor told the student that she was concerned the student decided to continue with the class and that she had lowered final grades if missed days were excessive. The professor also told her a late submission penalty would apply to late assignments and advised the student to drop the class because “health is more important than a class.”
- The student contacted the Disability Resource Center on her own to seek formal academic adjustments and provided a note from her treating physician. An Advisor spoke with the student and referred the student to the Title IX Coordinator to discuss her adjustments.
- The Title IX Coordinator determined the student’s requested academic adjustments constituted a fundamental alteration to the courses.

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SLCC: OCR Findings

- The professor's alleged comments encouraging the student to drop the class could constitute pregnancy discrimination and therefore merited a prompt and equitable resolution under Title IX grievance procedures (which SLCC did not conduct).
- The Title IX Coordinator did not create an investigatory file, obtain written statements, take notes of his conversations, or issue a notice of the investigation's outcome to the student.

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SLCC: OCR Findings

- The Title IX Coordinator did not respond to the student's allegation the professor encouraged her to drop the class because of her pregnancy, which she viewed as discriminatory.
- SLCC did not engage in the interactive process with the student to determine appropriate academic adjustments in light of her pregnancy.

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SLCC: OCR Findings

- To the extent SLCC determined the student's requested adjustments would have constituted a fundamental alteration, SLCC did not engage in a proper deliberative process in making such determination.
- SLCC did not consider whether the student's pregnancy caused a temporary disability or engage in the interactive process under Section 504.

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SLCC: OCR Findings

- SLCC's failed to excuse the student's absences and tardies caused by her pregnancy in violation of Title IX.
- SLCC's website does not contain information on how a student may file a complaint alleging pregnancy discrimination, nor does SLCC mention pregnancy discrimination in their Student Code.

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SLCC: Voluntary Resolution Agreement

- Revise its Nondiscrimination Statement to include reference to actual or potential parental, family, or marital status, including pregnancy and related conditions.
- Revise its grievance procedures to include information regarding students' opportunity to file a grievance based on alleged pregnancy discrimination, including grievances related to different treatment based on pregnancy, exclusion from the College's programs or activities based on pregnancy, or the College's failure to excuse pregnancy-related absences or provide appropriate academic adjustments in the same manner as it provides academic adjustments to students with temporary disabilities.

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SLCC: Voluntary Resolution Agreement

- The College will provide information on its Title IX and Disability Resource Center webpages that describes the process under which pregnant students can seek academic adjustments, including:
  - the rights of pregnant students under Title IX;
  - how to request academic adjustments, special services, excused absences, or leaves of absence;
  - the process the College follows to determine appropriate academic adjustments and special services;
  - the process available to students if the College denies requested academic adjustments or special services; and
  - the process the College uses to determine when a requested academic adjustment constitutes a fundamental alteration of a program or activity.

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SLCC: Voluntary Resolution Agreement

- Training for the professor, all staff in the DRC, and all staff in the Title IX office
- Conduct investigation into student's allegations of discrimination
- Promptly take any necessary steps to remedy any discrimination that is found

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Title IX Proposed Regulations

- Include explicit protections for students and employees based on pregnancy or related conditions, including childbirth, termination of pregnancy, or lactation.
- Institutions would be required to provide reasonable modifications for students, reasonable break time for employees for lactation, and lactation space for students and employees.

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Title IX Proposed Regulations

- The proposed regulations would expand the scope of protections for pregnancy or related conditions by prohibiting institutions from discriminating against a student or employee based on current, potential, or past pregnancy or related conditions.

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Title IX Proposed Regulations

- When a student tells an institution's employee about the student's pregnancy or related conditions, the employee must provide the student with the Title IX Coordinator's contact information.
- The Title IX Coordinator must inform the student of the institution's obligations to prohibit sex discrimination and also to provide the student with options for reasonable modifications, access to separate and comparable portions of education programs or activities, allow for a voluntary leave of absence, and ensure there is available lactation space that is clean and private.

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Title IX Proposed Regulations

- Reasonable modifications for pregnancy or related conditions would be required to be provided to students based on their individualized needs.
- Such modifications may include breaks during class to attend to related health needs, breastfeeding, or expressing breast milk; intermittent absences to attend medical appointments; access to online or other homebound education; changes in schedule or course sequence; time extensions for coursework and rescheduling of tests; counseling; changes in physical space or supplies; elevator access; or other appropriate changes to policies, practices, or procedures.

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Common Policy & Practice Problems

- Zero absence attendance policies.
- Targeted medical documentation requirements.
- Requirements to restart programs from the beginning rather than status at the time a leave began.
- Deference to discriminatory clinical site policies.

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Practical Guidance: Inclusive Language and Policies



- Much of the statutory language surrounding pregnancy is not gendered.
- Students of many genders, including cisgender women, non-binary people, and transgender men, might be pregnant.
- Regardless of a student's gender-identity, they are protected through their status as a pregnant person.

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Practical Guidance: Faculty and Staff Training

- Many pregnancy discrimination investigations share a common theme: students reach out to faculty and staff members who are not familiar with the rights of pregnant students.
- **Solution: Inform all faculty and staff of the rights of pregnant students under Title IX.**

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Practical Guidance: Review Institutional Policies

- Another common problem OCR identifies is school Title IX policies which do not specifically address pregnancy.
- Clear, written guidelines will allow faculty and staff to understand their obligations towards pregnant students, as well as provide pregnant students with clear expectations for available support.
- **Solution: Review institutional policies to ensure pregnancy discrimination is explicitly addressed.**

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Practical Guidance: Review Institutional Procedures

- A common challenge OCR often finds in pregnancy discrimination cases is a lack of prompt responses to student Title IX grievances.
- Individuals who express concerns about any type of discrimination, including pregnancy discrimination, should receive prompt responses to those concerns.
- **Solution: Evaluate your school's grievance procedures. Does every student receive a response to a report of discrimination? Is that response timely?**

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Questions

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IPV Cases

The Beginning

- John Doe and Jane Roe attend Texas University where, after meeting during the fall of their freshman year, they began a steady, and steadily volatile, relationship.
- A mutual professor reported to the Title IX Coordinator that he was aware that arguments, sometimes violent, were common. During their first summer vacation, for example, Roe purportedly scratched and grabbed Doe's arm while traveling with Doe's family.
- Additionally, the professor reported to the University, the couple's penchant for physical altercations extended to intimacy, including “consensual choking” in Doe’s residence hall.

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Question 1

- How do you respond to this report?
- Obligations under federal or state law?

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Things Deteriorate

- Roe informed Doe she was dating others, and Doe called the relationship off.
- Except, it turned out, Doe had also been unfaithful. A revelation that did not sit well with Roe, which purportedly prompted Roe to spread rumors about Doe on campus.
- One such accusation: that Roe ended the relationship because Doe was physically abusive. And she threatened Doe directly via text: “take a year off and nothing will happen to you.”

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Question 2

- Concerned, Doe went to TU's Director of Student Life.
- In an email, Doe complained that he was being harassed by his ex-girlfriend, who was "spreading false information."
- Doe explained in the email that he "simply" did not "feel safe."
- Q: How should Director of Student Life respond?

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Question 3

- Dean of Student Life recommended that Doe seek mental health services. He did not recommend that Doe file a Title IX complaint and did not make his own report.
- Concerns?

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Roe Reports

- Meanwhile, Roe met with TU's Director of Gender Equity and Title IX Administration. Roe told the Director that she was a victim of “Intimate Relationship Violence” under University policy and described certain incidents of abuse by Doe.
- Roe explained that she was not interested in pursuing further action.
- How should Director respond?

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No Contact Order

- Soon after, when Doe began a new relationship, Roe requested an order prohibiting Doe and Roe from any contact.
- Question: How do you respond?
- On the day the mutual order issued, Roe approached Doe on a campus running trail, attempting to apologize.
- Doe notified the University of the incident.
- How should University respond?
- Assume TU told Roe not to let it happen again.

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A Change in Plans

- A few months later, Roe notified the Director that she would cooperate with a Title IX investigation.
- A formal notice was issued, and Texas University barred Doe—but not Roe—from campus during the investigation.
- Concerns?
- Then, several months later, Doe accidentally “liked” one of Roe's social media posts, in violation of the Order. Doe immediately self-reported the mistake but, TU launched another disciplinary process that resulted in a reprimand and a written warning from a dean.
- Concerns?

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The Hearing

- TU appointed a three-person panel to investigate Roe's allegations against Doe, review the evidence they gathered, weigh the testimony they allowed and then decide whether the facts they found violated the TU Policy.
- At one of Doe's meetings with the Panel, he mentioned an interest in pursuing counterclaims against Roe.
- How should University respond?

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Decision

- The Panel's investigation culminated in a “Report” finding evidence to support the incidents of physical abuse alleged by Roe.
- Doe received a letter with the Panel's punishment: expulsion.
- Vindicated, Roe tweeted “my life is good again ... worked out boy problems that were never real problems just things I created.”

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What Happens Next?

- Lawsuit
- What claims?

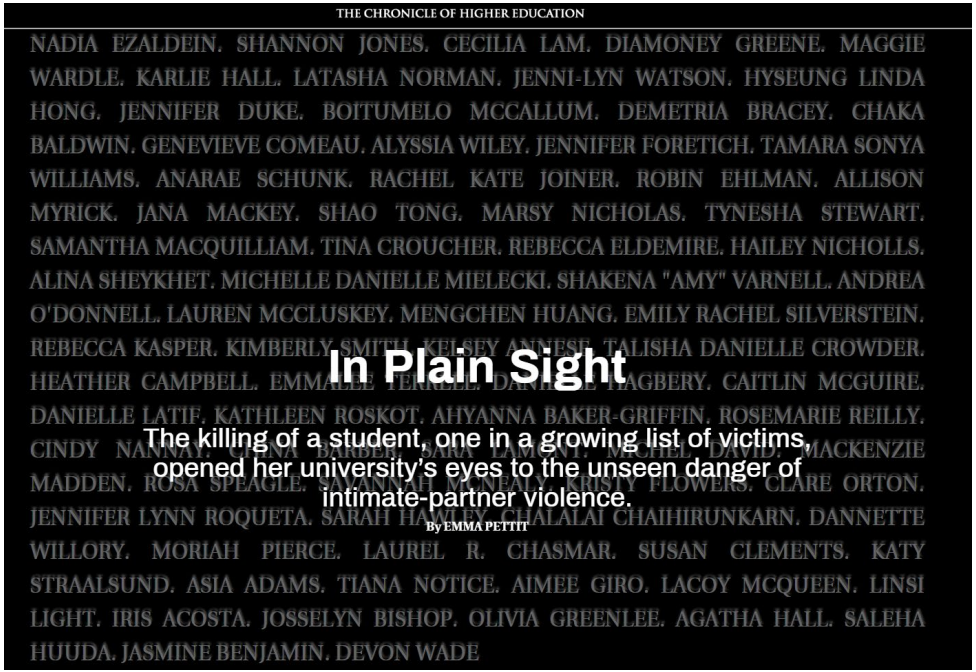
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Doe v. Princeton Univ., 30 F.4th 335 (3rd Cir. Mar. 31, 2022)

- 3rd Circuit found that plaintiff's factual assertions regarding the University's different handling of his and his accuser's misconduct reports and order violations, together with his assertion that the Department of Education's 2011 Dear Colleague Letter created external pressure to which the University had yielded, were sufficient to permit his Title IX discrimination claim to proceed.
- 3rd Circuit also found plaintiff's factual allegations sufficient to permit his breach of contract and breach of implied covenant of good faith and fair dealing claims to proceed.

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A Reminder Though . . .



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Big Picture Takeaways

1. Involve campus or external experts in IPV cases (experts **trained** to recognize the full array of domestic-violence signifiers).
2. Significance of **face-to-face meeting**.
3. Resources for students.
4. **Importance of coordinated, working institutional relationship**.
5. Report to **BIT**.
6. Lethality Assessment

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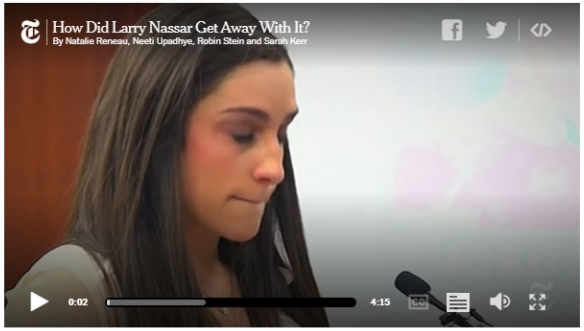
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Avoiding System Failure

Michigan State's $500 Million for Nassar Victims Dwarfs Other Settlements

Give this article 183



Lawrence G. Nassar, the sports doctor accused of sexually abusing hundreds of young women, committed his crimes with impunity for decades. Here's how.
Matthew Dae Smith/Lansing State Journal, via Associated Press

Settlements in UCLA sex abuse cases reach nearly $700 million

New $374.4 million payout announced Tuesday to resolve claims related to former UCLA gynecologist James Heaps

By Nick Anderson and Susan Svrluga
May 24, 2022 at 9:06 p.m. EDT



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After Michigan State: 'Could We Be Next?'

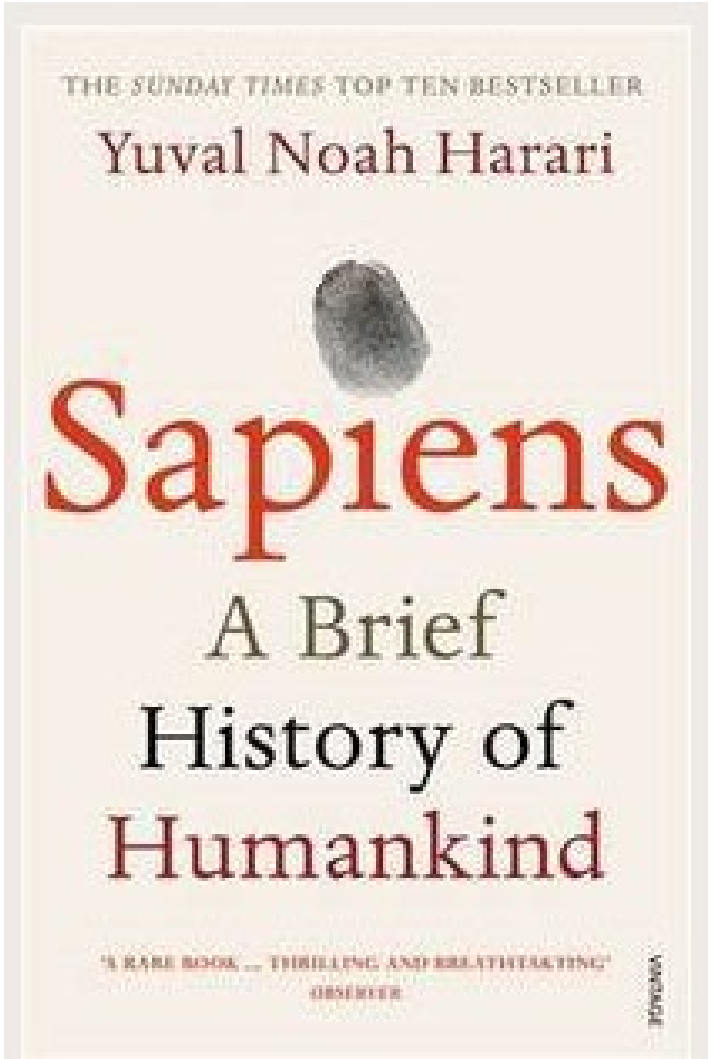


Randy Lyhus for The Chronicle



By Donald E. Heller | JANUARY 28, 2018

- “Are we as college leaders prepared to respond appropriately should evidence of wrongdoing appear on our campus?”
- “Will we be willing to stand up for what is morally right to protect potential victims of maltreatment, rather than reflexively reacting in a way that maximizes the interests of our institutions?”
- “These are questions that should be asked by all of us in leadership positions: presidents, provosts, board members, athletic directors, and university lawyers. None of us should be so naïve as to think that what happened at Penn State and Michigan State could not happen again.”


THE SUNDAY TIMES TOP TEN BESTSELLER
Yuval Noah Harari
Sapiens
A Brief History of Humankind
'A RARE BOOK ... THRILLING AND BREATHTAKING'
OBSERVER



1. Are individual institutional players motivated to "maximize the interests of their institutions" or are they motivated to maximize their own personal interests within a large organization?
2. Does this ring true to you: that [fill in the name here] is willing to cover for a known pedophile to advance institutional or personal interests?
3. Reframe: why do well-intentioned, smart, skilled people who are willing to "stand up for what is morally right" occasionally reach the clearly wrong conclusion or do the clearly wrong thing.

IMHO, this requires a serious conversation about the common human frailties which impact all of us.





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Harvard Women's Health Watch

Pelvic physical therapy: Another potential treatment option

This treatment approach may help provide relief for many women with chronic pelvic pain and urinary symptoms.

Published: June, 2018



The exact cause of pelvic pain for many women can be elusive, despite lots of tests and scans. In some cases, the symptoms are related to a problem that is often overlooked, says Dr. Eman Elkadry, an instructor in obstetrics, gynecology, and reproductive biology at Harvard Medical School. Pelvic pain may stem from a pelvic floor muscle problem that can be helped by a specialized form of physical therapy known as pelvic physical therapy.

"Although pelvic physical therapy may not work for everyone, it can be quite effective for certain individuals," says Dr. Hye-Chun Hur, director of the Division of Minimally Invasive Gynecologic Surgery at Harvard-affiliated Beth Israel Deaconess Medical Center and associate faculty editor of *Harvard Women's Health Watch*. She stresses that pelvic





Why Did the Investigator Get It Wrong?

"We cannot find that the conduct was of a sexual nature. Thus, it did not violate the Sexual Harassment Policy. However, we find the claim helpful in that it allows us to examine certain practices at the MSU Sports Medicine Clinic."

And Nassar's copy:

"We cannot find that the conduct was of a sexual nature. Thus, it did not violate the Sexual Harassment Policy. However, we find the claim helpful in that it brought to light some significant problems that the practice will want to address.

Larry Nassar: 2014 police report sheds light on how he avoided criminal charges

Police report shows how Larry Nassar avoided charges

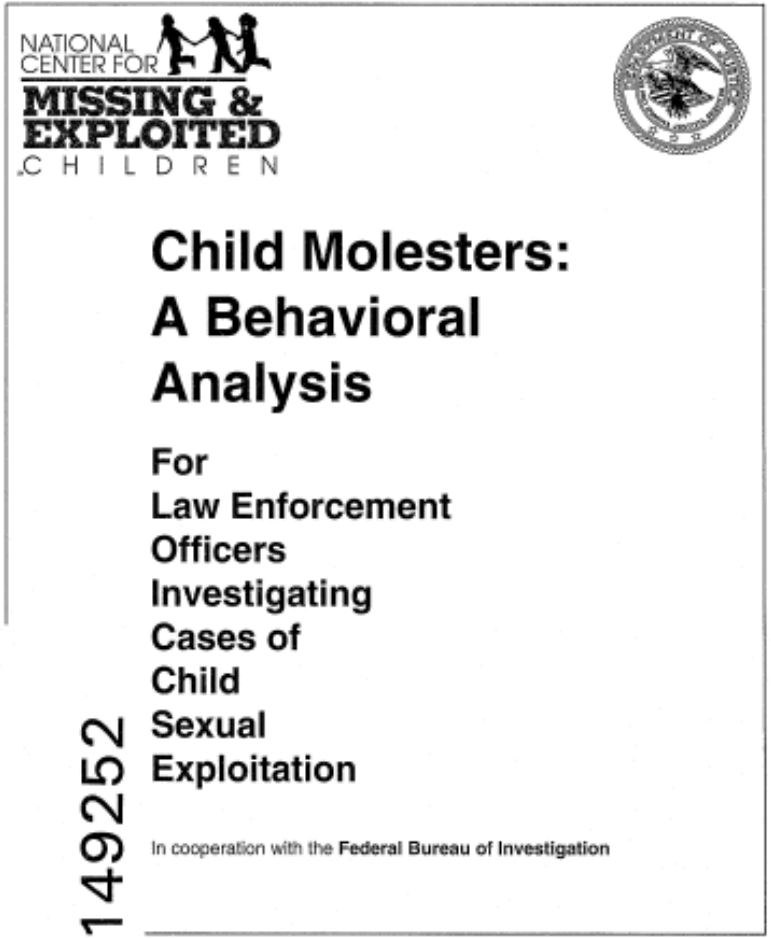


- "Nassar stated he is not saying he did not touch (Thomashow)," Capt. Valerie O'Brien, who at the time was a detective, wrote in the report. "Nassar stated he purposely touched her there. Nassar stated he has been doing this since 1997. 'What now, what happened?' “
- Nassar began sending O'Brien emails, videos and references to other doctors who performed similar procedures.
- University police submitted a warrant request for a 4th-degree criminal sexual conduct charge, a misdemeanor. Prosecutors denied the charges and said what Nassar did appeared to be "a very innovative and helpful manipulation.”



Hey there!

Why don't you have a seat?



- "In view of the fact that many people still believe in the myth that child molesters are 'strangers' or misfits of society, this tactic can unfortunately be effective."

- 10% of children were abused by a total stranger
- 30% of children were abused by a family member
- 60% were abused by an adult they knew who was not a family member




CARING for DREAMS

Profiling Serial Child Sex Abusers

- Male and over 30 years of age
- Single or with few friends in age group
- Works in jobs with access to children
- Engages in activities with children, often excluding other adults
- Seduces with attention, affection, and gifts
- Has hobbies and interests appealing to children
- Popular with both children and adults
- Appears to be trustworthy and respectable -- has good standing in the community.
- Almost always collects child pornography or child erotica

Confronted: How Do Serial Abusers Respond?

1. **Denial.** "The offender may act shocked, surprised, or even indignant about an allegation of sexual activity with children . . . He might admit to an act but deny the intent was sexual gratification: 'Is it a crime to hug a child?' He may imply that his actions were misunderstood, and a mistake has been made. His denial may be aided by relatives, friends, neighbors, and coworkers. These associates may be uncooperative and may even hinder police investigation of the offender."
2. **Minimization.** "If the evidence against him rules out total denial, the offender may attempt to minimize what he has done, both in quantity and quality. He might claim that it happened on one or two isolated occasions or that he only touched or caressed the victim. He might admit certain acts, but deny they were engaged in for sexual gratification."

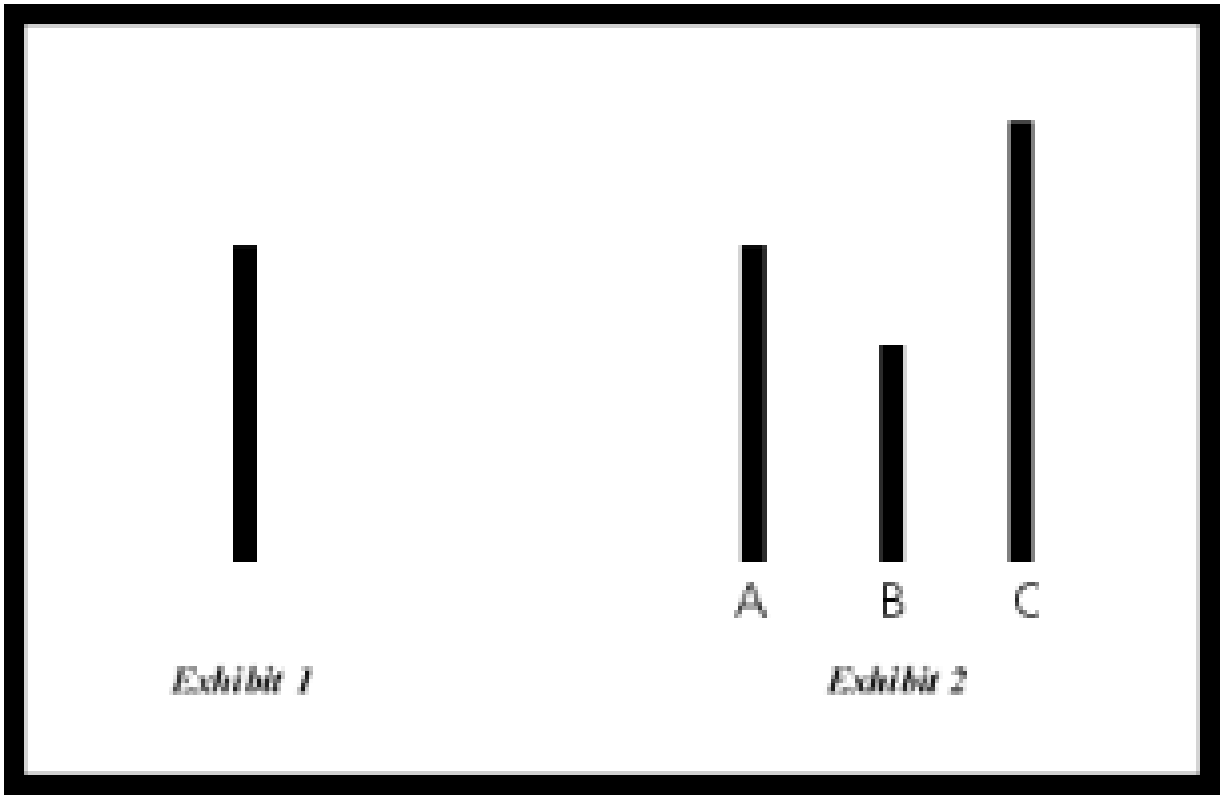
Confronted: How Do Serial Abusers Respond?

3. **Fabrication.** "Some of the more clever child molesters come up with ingenious stories to explain their behavior. One offender, a doctor, claimed he was doing research on male youth prostitution. A professor claimed he was doing research on pedophilia and collecting and distributing child pornography for scientific research. A teacher said that his students had such a desperate need for attention and affection that they practically threw themselves at him and misunderstood his affection and response as sexual advances . . . In another case, a nursery school operator, who had taken and collected thousands of photographs of young, nude or seminude children in his care, claimed they were not for sexual purposes; he simply admired the anatomy of children."

Confronted: How Do Serial Abusers Respond?

4. **Sympathy.** "Pedophiles may resort to a 'nice guy defense.' In this defense, the offender expresses deep regret and attempts to show he is a pillar of the community, a devoted family man, a military veteran, a church leader, nonviolent, without prior arrests, and a victim of many personal problems. In view of the fact that many people still believe in the myth that child molesters are 'strangers' or misfits of society, this tactic can unfortunately be effective. Many traits introduced by the offender as evidence of his good character (*i.e.*, dedication to children, volunteer work, etc.) in fact contribute to his ability to access and seduce children."

Solomon Asch: Social Proof







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Social Proof

- People will conform to the actions of others under the assumption that those actions are reflective of the correct behavior.
- It is especially prevalent in ambiguous situations and when there are other people who are perceived to be particularly knowledgeable about a situation.
- **Social proof works through our very human need to belong, to be respected by others and to avoid social punishment such as ridicule or ostracism for taking a position apart from the herd.**



Apathy at Stabbing of Queens Woman Shocks Inspector

By MARTIN GANSBERG

For more than half an hour 38 respectable, law-abiding citizens in Queens watched a killer stalk and stab a woman in three separate attacks in Kew Gardens.

Twice the sound of their voices

Minimum Qualifications: Master's degree in student affairs, higher education, social work, counseling, criminal justice or related field. Requisite knowledge, training and experience related to Title IX, VAWA, and conducting investigations necessary for a candidate to be considered. The candidate must have excellent problem solving and conflict resolution skills, strong organizational and administrative skills, strong interpersonal communication skills, excellent written and verbal communication skills, team building skills, the ability to build positive and effective relationships across the campus and community, a strong commitment to diversity, ability to work independently with minimal supervision, ability to manage multiple tasks, ability to work evenings and weekends as needed, knowledge of legal issues in higher education, and ability to provide exemplary customer service. The candidate must have experience interacting with the public, attorneys, parents, students, staff and faculty.

Civil Rights Investigators Cannot Be "People Pleasers"

- Who gets promoted and why?
- Role of Title IX investigator: "voice of institutional cognitive independence." ~ legal ethicist Donald Langevoort.
- **You are a bearer of bad news**.
- Be mindful of normative influences (like social proof) and nevertheless reach unpopular decisions based on your own personal knowledge, your own rigorous analysis, and a thorough gathering of valid and factual information.
- Institutions must reflect on whether prioritizing things like collegiality over cognitive independence (and the attendant upset that occasionally comes with it) in evaluating performance creates environments where people avoid reaching difficult conclusions which could rock the proverbial boat.

Selective

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Selective Attention

- Attention is a limited resource, and what has been dubbed “selective attention” allows us to tune out details that we think are unimportant and focus on what really matters.
- The more that is going on, the more likely it is that busy people are missing the significant gorilla dancing in the room.
- Reasonable caseloads are not only a quality-of-life issue – they are a quality-of-investigation issue.

Lessons

- We can continue to frame this as a battle of good versus evil and I suspect we will continue to make the same mistake
- Reaching the correct conclusion requires us to know what we are looking for, know how to meaningfully investigate in this space, and to recognize the human frailties that afflict us all and sometimes present us from reaching the correct conclusion

Academic Safety Planning: Advocacy Goes to Campus

Leila Wood, University of Texas Medical Branch
Rachel Voth Schrag, University of Texas at Arlington
Cynthia Jones, University of Texas Rio Grande Valley

Agenda

Part 1:

- Context and the Academic Impacts of Dating and Sexual Violence

Part 2:

- Overview of Academic Safety Planning
- Specific Tasks and Skills

Part 3:

- Case Studies
- Discussion
- Q & A

The Revised Campus-based Advocacy Toolkit



utmb Health
Center for Violence Prevention

UTRGV™

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THE UNIVERSITY OF TEXAS AT ARLINGTON

https://www.utmb.edu/cvp/divisions/evaluation/campus-based-advocacy-evaluation-toolkit

The toolkit is divided into six sections:

Section 1	Overview of advocacy services for survivors of violence in the community and on college-campuses.
Section 2	Skills and strategies for implementing advocacy services on campuses and details the Campus-based Advocacy Logic Model.
Section 3	Suggestions for potential adaptations of campus-based advocacy for diverse university settings.
Section 4	Overview of the impact of campus-based advocacy services based on our evaluation of seven programs.
Section 5	Evaluation guidance for campus-based advocacy programs.
Section 6	Additional resources for programs, services, and evaluation.

Giving you the Tools

We will be addressing common themes in campus advocacy. We will not be talking about specific policy, process, and laws, as they can differ from school to school.

Considerations when working with a campus:

What is their Title IX policy? Who is required to report disclosures? • Who is providing supportive services?	Texas state laws- how has the trainings and requirements been implemented?	What resources are available to students, faculty, and staff?	Which resources are considered confidential?

Part One:

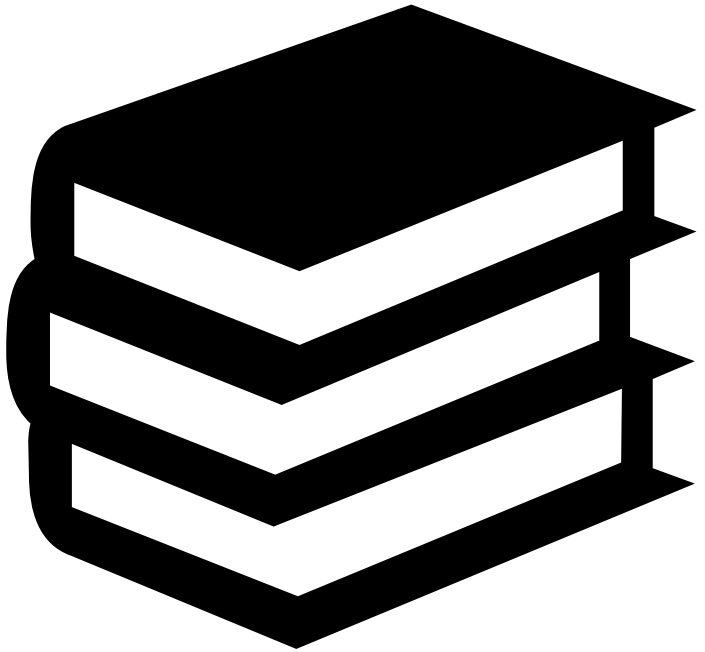
Context and the Academic Impacts of Dating and Sexual Violence

Prevalence of Violence in College



Impacts of Dating & Sexual Violence on Students

Physical	• Short and long term injuries, chronic health conditions
Psychological	• Stress, depression, anxiety, social withdrawal, PTSD
Economic	• Loss of work, income, student loan debt
Academic	• learning disruption, missed school, reduced GPA



I think in almost every case I've worked with, one of the biggest impacts is either on the academic side or within the friend group or the social group.

- Campus Advocate

Need for Support

College Services

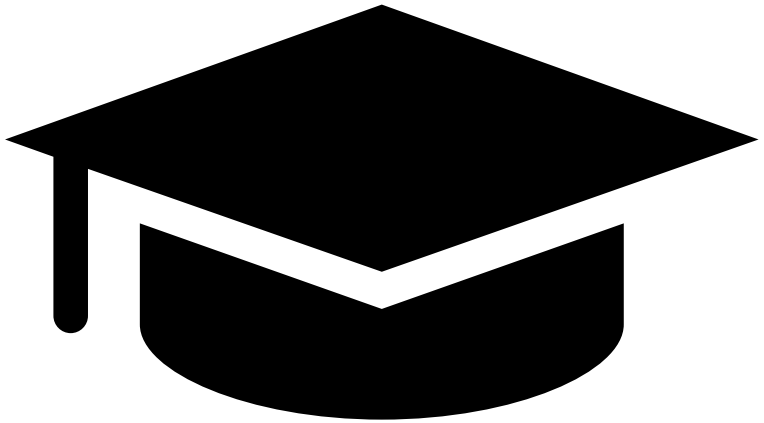
- Many colleges have implemented service models to address needs of students experiencing IPV and SA.
  - However, student accessing those services remains low.
- Risk for institutional betrayal.
- Students employ various routes to find support, both formal and informal, in the wake of a sexual assault.
  - However, they are more likely to report to their informal network.

Students at higher risk* include:

- Undergraduate females
- Latinx students
- Non-Latinx students of color
- International students
- Queer-identifying and/or LGBTQ+ students

**Within UT System Institutions*

Interpersonal Violence and Academics



Academic Impacts of IPV

Experiences of interpersonal violence can result in lasting impacts to physical, social, and emotional well-being, and survivors who are college students may face challenges, including:

- Disruption to housing
- Issues socializing with peers
- Academic disengagement
  - Coming late to class
  - Coming to class drunk/high
  - Not completing assignments
  - Problems focusing
- Reduced GPA
- Not finishing a degree
- Unenrollment/Dropping Out

Recognizing Tactics of School Sabotage



Destruction of Books, Homework or Laptop



Stealing or Controlling Access to Educational Loans or Financial Aid



Sabotaging Childcare or Transportation Arrangements to Undermine Educational Efforts



Harassing or Belittling the Student's Efforts and Educational Goals

Unique Survivor Needs

Students Living On Campus	Undocumented Students	Students Living Off Campus	Students of color	LGBTQ+ students	"Non-Traditional" students	Graduate Students
• Reliance on the campus community and resources	• Risk of engagement with other systems • Risk to future status or access	• Safety needs both on and off campus • Risk of homelessness • Food access	• Lack of support or resources that reflect their identity • Larger impact to their community or support system	• Stigma and added barriers in policy and investigation processes	• International students: cultural differences • Older students, veterans- other life dynamics and issues to address.	• Having a job at the institution • Differing relationships with faculty and staff

The Campus Community: Who is Involved (or Should Be?)

- Title IX
- Campus Law Enforcement
- Academic Affairs
- Campus Housing
- Financial Aid
- Human Resources
- Community Agencies
- Campus Health Services
- Student Affairs
- Office of International Students
- Student Disability Services

Core Values of Survivor Support



Goals of Campus-Based Advocacy Services

- Goal 1: Secondary Prevention of Violence and Harm
- Goal 2: Provide Choices to Promote Agency
- Goal 3: Reduce Mental and Physical Health Consequences of Violence/Harm and the Intersection with Other Forms of Oppression
- Goal 4: Resource/Information Access
- Goal 5: Institutional and Social Support
- Goal 6: Academic Support
- Goal 7: Enhance Collaboration and Survivor Experience Across Campus and in the Community

Part Two:

Academic Safety Planning: Steps and Skills

Goal 6: Academic Support

Campus-based advocates help survivors with academic safety planning and support to address the education consequences and impact of experiencing violence victimization.

Skills for Goal 6

- Collaborate to provide academic accommodations
- Provide academic safety planning
- Connect professors and students
- Broker safety needs on campus

What is a safety plan?

SAFETY		
No Violence	Basic Human Needs Met	Social and Emotional Well-Being
SAFER		
Less Violence	Economic Stability Increased	Well-Being Strengthened
• Reduced Violence • Less Frequent • Less Control	• Fewer gaps in meeting basic human needs • More financial and material resources	• More resilience to effects of violence • Emotional healing • Increased social supports • Reinforced cultural strengths

A safety plan is a personalized, practical plan that includes ways to remain safe [while in a relationship, planning to leave, or after you leave]. Safety planning involves how to cope with emotions, tell friends and family about the abuse, take legal action and more. (NDVH)

Safety Planning

- A dynamic process that takes into consideration the client's current situation, resources, risks, limitations, and systemic barriers.
- It is inclusive of physical, emotional, and social safety.
- It is inclusive of the survivor, their children, their pets, and others important to them.
- It is developed in alliance with the survivor and tailored to her risk analysis and goals.
- It respects that the survivor holds the most important knowledge about the perpetrator and their likely reactions.



Academic safety planning and accommodation

An Academic Safety Plan (ASP) is a "*personalized, practical plan that can help survivors to: 1). avoid and respond to physically and/or emotionally dangerous situations that may impact their academic achievement; 2). disclose violence to academic representatives and engage in academic and institutional processes related to accommodations, if they choose to do so; and 3).build or rebuild connections on campus*" (Voth Schrag, et al., 2020).

The development and implementation of academic safety plans with survivors of violence is a central task of campus-based advocacy.

Academic Safety Planning: Background and Key Considerations

- Safety planning is adapted for the college environment and the shifting risks in a small community. It is an on going and evolving process rather than a one-time intervention.
- Advocates recognize the developmental stage that students may be in, and differences between students in needs based on developmental stages and community engagement.
- Advocates focus on academic and social goals – keeping the reasons students choose to attend college in mind as they navigate shorter term safety needs.
- Safety is defined beyond physical and emotional needs to include long-term academic, economic, and developmental impacts of violence.
- If applicable: Advocates keep in mind their role as employees of a university, with aims for students that reflect this setting.

Academic safety planning and accommodation

Safety planning for campus-based advocacy focus on:

- ❑Assessing and addressing students physical and mental safety on campus
- ❑Advocating for academic accommodations
- ❑(Re)building trust between the survivor and the institution or peer group

> *"I wouldn't have known about that if I hadn't gone [to advocacy services]. I feel like it's gotten a lot better.* ***This semester, I haven't been as overwhelmed.*** *Even with the next semester, like, I'll be taking 18 hours, but I feel like it's actually doable because I have, like, support system, and ways to, like, get around that, and have the accommodations I need to, like, do well.... When I did that with my counselor, that's when they introduced the accommodations to me."*
> Campus-based advocacy service user

Building Relationships Across Campus

- Multi-cultural offices
- Office of international students
- Student disability services
- Student organizations
- Academic advisors
- Deans of Colleges

Providing Safer Passage- Physical Locations

- Navigating spaces shared with the abuser
- No contact orders or stay away orders
- Changes in living situations
- Police escorts to and from vehicles
- Working with professors to ensure separation

Accommodations can be dependent on a TIX or campus police report

**keep in mind for the rest of the presentation*

Emotional Safety on Campus

Supporting students to manage the impact of trauma triggers on academics.

Psychoeducation regarding trauma and memory

Plan safety accommodations the student can do for the classroom

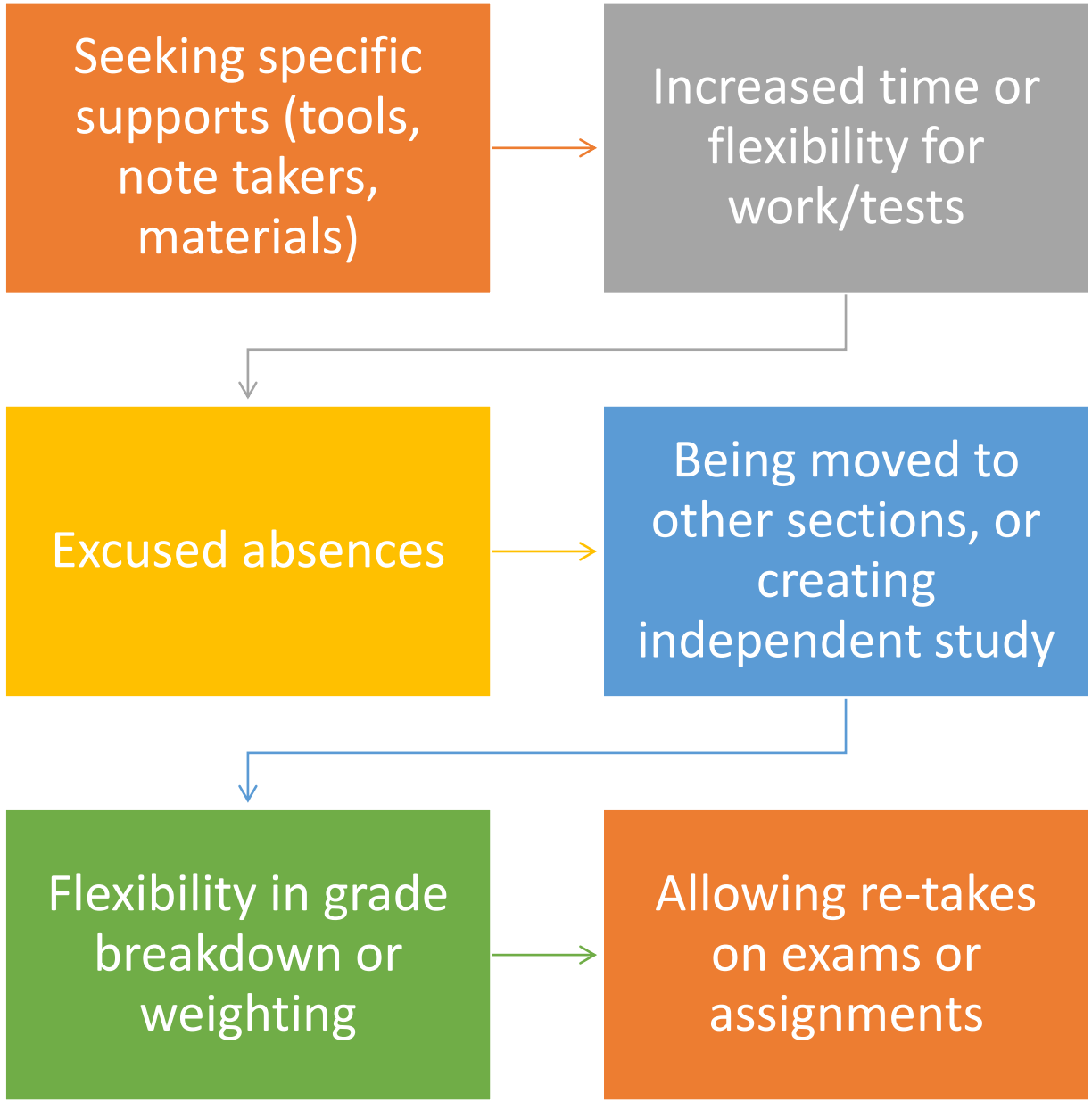
- Join late/leave early
- Review course work for triggering content

Provide referrals to mental health services

Skill Highlight: Collaborate to provide academic accommodations

- Help survivors identify whether they would like academic accommodations and support what survivors believe would be helpful.
- In some cases, it may be helpful to discuss common or frequently used accommodations that are available to them.
- Identify the process needed to secure survivor-identified accommodations.
- Work with survivors through the complex decisions related to school/academic life and their long-term educational goals.
- Work with other campus collaborators to request identified accommodations with or on behalf of survivors (based on what survivors prefer).

Academic Accommodations



How To Advocate: Balancing Privacy and Disclosure

Do not share or contact anyone without the students' consent.

Discuss with students what, when and how to disclose to faculty and other program staff when asking for accommodations.

Create generic emails or forms for faculty and staff to inform them about your office/role and ask for specific accommodations.

Differing accommodations may require more disclosure or reporting- work with the student to understand the pros and cons of that disclosure and let them decide.

Ensure you, the student, and faculty all understand how your role intersects with Title IX reporting duties

Goal 6: Academic support

Short-term outcomes:

- Increased knowledge of campus resources
- Engaged in in learning opportunities
- Increased knowledge of rights and available supportive measures/accommodations
- Increased feelings of support from faculty and staff
- Increased safety in academic settings
- Reduced mental health symptoms negatively impacting academic work

Short-term outcomes for Goal 6

- Advocating for survivors in campus spaces facilitates others in the community being aware of and supportive of survivor needs. In the initial impact survey, **over 40% of students reported** having received support from faculty or teaching assistants along with other campus resources.

> *"These advocates, what they're advocating on behalf of is an issue that is underrepresented, and so by having all these different resources that are relatively accessible, I think that makes it more—some things more accessible than people are gonna be getting—accessing it, they're going to be talking about it, so it's just raising awareness of an issue that's already always been there."*
> Campus-based advocacy service user

Long-term outcomes

➢ *Met academic goals*

While participants in the initial impact survey reported strong short-term GPAs after their engagement with services, this was increased in the 6-month follow up survey, with the percentage of participants with an "A" GPA going from 56.5% to 64.2%. Similarly, from initial impact surveys to 6-month follow up surveys, **there were significant reductions in academic disengagement behaviors**, such as students skipping class, missing exams, and dropping or failing a class. Impact interviews found similar results.

> *"I thought that because of personal trauma, I would have to experience loss and in all other aspects of my life. And I think through advocacy services, that loss was greatly reduced. I didn't lose my academic standing*." –Campus-based advocacy service user

Working with Faculty

- Brainstorm accommodations with student first
- Explain the impact of trauma and why accommodations are necessary
- Work with the disability office to receive documentation for accommodations, also helpful for long term support.
- Balance privacy and disclosure
- Support the student and faculty in continuing the conversation throughout the semester.
- Support faculty in providing trauma-informed response to students

"We're really trying to personalize and tell the professors, 'Hey, this is going to be a conversation and it's not just going to be like, 'Oh, you're going to do this one thing and everything's okay.' This is going to be a continuous conversation to get them through the semester."

- Campus Advocate

Rebuilding Connection & Institutional Trust



Help students understand that the University is not a monolith



Help students recognize the disconnect and identify where advocacy is needed



Build relationships with main offices to create quick and easy referrals



Discuss expectations and possible outcomes of requested advocacy



Rebuilding connection in their campus community after betrayal

Academic Safety Planning:

Advocacy Goes to Campus

Case Studies

Potential Tools for your ToolKit

Support and advocate for physical and mental safety

- Assess physical safety from perpetrator
- Assess for school sabotage (tactics to intervene with academic progress
- Create plan for and facilitate safety traveling to, from, and around campus
- Assess physical safety of locations around campus
- Provide psychoeducation on the impacts of trauma
- Provide connections to mental healthcare
- Help identify trauma triggers
- Identify resources for any financial or property loss

Support and advocate for access to academic accommodations

- Contact professors for accommodations for specific support on missed classes or extensions on assignments and tests
- Allow survivor to move class sections to reduce exposure to trauma triggers
- Support decision to withdraw and to ensure opportunity to re-enroll
- Work with other services and departments (like campus police and disability services) to access accommodations

Build trust between student-survivor and the school

- Support student's decision to withdraw and support process to ease ability to re-enroll
- Connect student with student-led networks
- Accompany student through institutional processes including Title IX processes

Case Study : Li

Li is a female identified undergrad track athlete, and an international student from a country where females have fewer rights. She is a survivor of grooming and sexual coercion by a track coach. This was discovered by an athletic director, who initiated at Title IX report without Li's knowledge. The track coach was let go, and Li has been ostracized by her teammates because they all loved him. Li is currently living on campus and going through the Title IX process.

Questions:

- What do you not know, what questions do you need to have answered as you engage with Li?
- What academic and life/systemic risks might Li be facing?
- What ASP strategies might be part of your conversation with Li?
- Which community & campus partners might need to be engaged?

Case Study: Alex

Alex is a graduate student who is living off campus with their partner. They approached you via private chat after an online outreach event and disclosed that they are experiencing physical violence and school sabotage by their partner. They are a Dreamer, and have expressed mistrust of institutions and authorities, including the University's systems. They DO NOT WANT Title IX or their faculty to know what is going on. Alex's partner is not a member of the University community, and is using many tactics of school sabotage, including destroying their homework and emotional manipulation.

<u>Questions:</u>

- What do you not know, what questions do you need to have answered as you engage with Alex?
- What academic and life/systemic risks might Alex be facing?
- What ASP strategies might be part of your conversation with Alex?
- Which community & campus partners might need to be engaged?

In Your Role…


Be aware of campus resources and reporting requirements
Build relationships and advocate for survivor support in spaces.
What safety planning pieces can you incorporate into your work?
Create connections between campus and community resources

Toolkit Resources Online

- At the Center for Violence Prevention web page, find:
- https://www.utmb.edu/cvp/divisions/evaluation/campus-based-advocacy-evaluation-toolkit

➢The Toolkit

➢The Campus-based Advocacy Logic Model

➢Three summary briefs

1. Academic Safety Planning
2. Digital Services
3. Trauma-informed and Social Justice-Oriented Approaches

➢Survey tools

Check out our "What is Advocacy" videos for students on YouTube!

https://www.youtube.com/channel/UCsFPPL5LGcRct6Sv8NwuWZw

ASP Brief



SUPPORTING THE SAFETY OF SURVIVORS ON CAMPUS

WHAT IS ACADEMIC SAFETY PLANNING?

Safety planning is a collaborative process with survivors of sexual assault (SA) and intimate partner violence (IPV) to establish practical steps to reduce risks for current and future experiences of violence. The goal of safety planning is to identify potentially harmful situations, create plans to avoid or respond to those situations, and increase the overall safety of the survivor. These plans are individual, specific, and adaptable. Safety planning can happen while a survivor is in a violent relationship or planning to leave and can change over time as the survivor's circumstances and sense of well-being changes. In a campus setting the safety plan may respond to the academic harms and needs potentially experienced by student survivors. An **Academic Safety Plan (ASP)** is a "personalized, practical plan that can help student-survivors to: avoid and respond to physically and emotionally dangerous situations that may impact their academic achievement; disclose violence to academic representatives and engage in academic and institutional processes related to accommodations, if they choose to do so; and build or rebuild connections on campus" (Voth Schrag, et al., 2020).

ACADEMIC IMPACTS OF INTERPERSONAL VIOLENCE

Experiences of interpersonal violence can result in lasting impacts to physical, social, and emotional well-being, and survivors who are college students may face particular challenges impacting academics and future career. Potential impacts include:

- Disruption to housing
- Issues socializing with peers
- Academic disengagement
  - Coming to class late or intoxicated
  - Failure to complete assignments
  - Problems focusing
- Reduced GPA
- Failure to complete a degree
- Unenrollment or dropping out
- Mental health symptoms that limit school participation

THANK YOU!

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