Title IX: Should Colleges Be Judging Sexual Assault Complaints?

Innovate, Collaborate, Motivate . . . Solutions that Work
Road Map

• Sexual Assault in the College Setting
  – Community College Experience
• Title IX Compliance
  – Legal Framework
  – Key Questions
• The End Game
Sexual Assault in the College Setting
What Problem Are We Trying to Solve?

• “Confronting Campus Sexual Assault,” UE Claims Study, 2015
  – Involved a student victim
  – Alleged sexual assault
  – Occurred at a higher education institution
  – 305 claims from 104 institutions
Figure 1
Claims Reported
2010-2013

<table>
<thead>
<tr>
<th>Year</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>Value</td>
<td>89</td>
<td>78</td>
<td>73</td>
<td>154</td>
</tr>
</tbody>
</table>

DCL Released April, 2011
Perpetrator Characteristics

Figure 2
Perpetrator Profile for Sexual Assault

- **Student perpetrator**: 84%
- **Stranger**: 10%
- **Visitor**: 5%
- **Other**: 1%
- **Non-Student Perpetrator**: 16%

**Strangers**: Perpetrators that were unseen or the victim did not recognize.

**Visitors**: Nonstudents visiting the campus who were acquaintances of the victim or other student.

**Other**: Family members and nonstudent acquaintances; these off-campus incidents were reported to the institution because the victim wanted protection from the perpetrator coming to campus.
High Profile Student Groups

- Athletes and fraternity member perpetrators not over-represented
  - Athletes were 15% of the study’s perpetrators
  - Fraternities were 10% of the study’s perpetrators
- Comprised disproportionate share of reports involving “serial perpetrators” and “multiple perpetrators”
Victim Characteristics

• First and second-year students comprised the majority of victims
Reporting Delays

40% of Victims Delayed Reporting

Average Delay: 11.3 Months
Alcohol Use

78% of Sexual Assaults Involved Alcohol
Investigations

• Investigations and findings of responsibility were common
• 77% of claims were investigated by the institution
Sanctions

Figure 10

Sanctions

82% Separation Sanctions

<table>
<thead>
<tr>
<th></th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expulsion</td>
<td>43%</td>
</tr>
<tr>
<td>Suspension</td>
<td>25% &lt; 1 year</td>
</tr>
<tr>
<td></td>
<td>12% &gt; 1 year</td>
</tr>
<tr>
<td></td>
<td>2% Unknown</td>
</tr>
<tr>
<td>Limited access to campus</td>
<td>9%</td>
</tr>
<tr>
<td>Disciplinary probation</td>
<td>6%</td>
</tr>
<tr>
<td>Counseling or training</td>
<td>3%</td>
</tr>
</tbody>
</table>

Non-separation sanctions
Community College Claims Experience

- Pre- and post-DCL 2011
- Victims and perpetrators
- Locations
- Use of alcohol and drugs
Title IX Compliance
Legal Framework

• Existing Law
  – Title IX
  – Clery Act
  – Violence Against Women Act
    • Campus SaVE Act (Sec. 304 of VAWA)
Legal Framework

• Regulations and Guidance
  – Dear Colleague Letter, OCR, April 2011
  – Questions & Answers on Title IX and Sexual Violence, OCR, April 2014
  – Campus SaVE Act regulations, October 2014 (eff. July 2015)
  – Dear Colleague Letter, OCR, April 2015
Building the Foundation for Compliance

- Title IX Coordinator
- Nondiscrimination Policy
- Sexual Misconduct Grievance Procedures
- Training
Title IX Coordinator

• Has your institution designated a Title IX coordinator?
• Is the coordinator’s role and contact information well publicized throughout the institution?
Nondiscrimination Policy

• When was the institution’s policy last revised?

• Does the policy make clear that sexual harassment and violence are forms of sex discrimination?

• Is the policy well-publicized and clearly state that questions can be directed to the Title IX coordinator?
Sexual Misconduct
Grievance Procedures

• When were the institution’s grievance procedures last revised?
• Do the procedures include definitions of prohibited sexual offenses and a definition of consent?
• Is the “preponderance of the evidence” standard used when processing complaints?
• Do the procedures attempt to process complaints within a “reasonably prompt” 60 day timeframe?
Training

• Does the institution provide training on sexual violence to all incoming and current students?
• Does the institution train all employees on how to report incidents of sexual violence?
• Does the institution train “responsible employees,” employees involved in grievance proceedings, and campus counselors and advocates?
The End Game
What Are We Trying to Accomplish?

- Compliance
- Increased Reporting
- Improved Response
- New Expectations
- Culture Change
Role of the Risk Manager

• Learn and understand
• Know the campus players
• Ask questions
• Identify risks
• Report incidents