


# FINAL REPORT

## 2017-2019 Sexual Misconduct & Violence Prevention Task Force

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3-Year  
Strategic Plan  
July 19, 2019

WEST CHESTER UNIVERSITY OF PENNSYLVANIA



Office for Diversity, Equity and Inclusion  
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**I. Executive Summary**

West Chester University of Pennsylvania (WCUPA) is committed to creating and maintaining a campus environment where safety, health and well-being are priorities for all. Sexual misconduct includes a variety of acts that are perpetrated against another without consent. Accordingly, the University actively works to prevent and address any form of sexual misconduct, including sexual assault, sexual harassment, sexual exploitation, dating violence, domestic violence, and stalking. In Fall 2016, the Office of the President requested that a Task Force be assembled to create and present a three-year sexual misconduct and violence prevention strategic plan addressing the components of policy, protocol, procedures and prevention.

Reporting of sexual misconduct reports at West Chester University has increased by almost 300% over the last five years (see table below). This report and recommendations address staffing, assessment, coordination of efforts, and ongoing engagement of key stakeholders.

ACADEMIC YEAR	NUMBER OF WCUPA SEXUAL MISCONDUCT REPORTS TO THE TITLE IX COORDINATOR
2014	48
2015	72
2016	121
2017	170
2018	185 (285% growth)

**STAFFING:** It is important to note that some staffing resources were added and lost for 2018-19, however there will be a net-gain of staffing resources for 2019-2020 and beyond. For example, to address the growing number of reports, the position of Compliance Database Coordinator was added to the Office for Diversity, Equity and Inclusion in August 2018. This position was filled and is a central point of contact to immediately respond to complainants, manage reports, and ensure any required follow-up. The Assistant Director for Equal Opportunity and Title IX Investigator position was vacant for 2018-19, while a national search was conducted to fill that role. The new Assistant Director began in mid-May 2019. Spring 2019, the

Chief Diversity and Inclusion Officer (CDIO) requested a second Assistant Director for Equal Opportunity and Title IX Investigator position, which is anticipated for the 2019-2020 academic year and is being advertised as a temporary 13-month position until permanent funding is acquired. An expanded model of Title IX Coordination is planned for the 2019-2020 academic year that will establish Deputy Title IX positions in key areas, ideally, but not limited to: Athletics, Student Affairs, Human Resources, Academic Affairs and International Programs. These are not new or standalone positions. They are roles that will be assumed as part of the natural functions of key roles in units that lend themselves to education and response related to Title IX. The expanded model will especially address expanding education resources on Title IX as it relates to students, faculty and staff. Finally, the role of the single sexual misconduct advocate for students at WCU (serving complainants only) was eliminated just prior to the Fall 2018 semester. As a result, the Division of Student Affairs (DOSA) established Process and Policy Advisors in Spring 2019 to serve the needs of both student complainant and respondents, which significantly expands student resources.

This taskforce report shares **eighteen** recommendations of the 2017-2019 Sexual Misconduct and Violence Prevention Task Force and CDIO under four headings: **Policy, Protocol, Procedure and Prevention.**

Each recommendation includes the semester of implementation as goals beginning Summer 2019 through Fall 2022, with ongoing review.

Key recommendations include ongoing assessment, maintenance of the current Sexual Misconduct Response Team (SMRT), as well as creation of a Title IX Advisory Board, Title IX Coordinating Committee and a Prevention Team as defined below:

**The Title IX Advisory Board** ensures that university policy is broadly disseminated across the University, monitors the 3-year strategic plan and reviews established standards of best practices to assess the University's position and share recommendations for continual progress and improvement.

**Title IX Coordinating Committee** is best described as the "boots on the ground" employee personnel including Deputy Title IX Coordinators and members of the SMRT team. The Title IX Coordinating Committee

will meet monthly during its first year for regular coordination and communication as it relates to education, prevention and response to address campus needs.

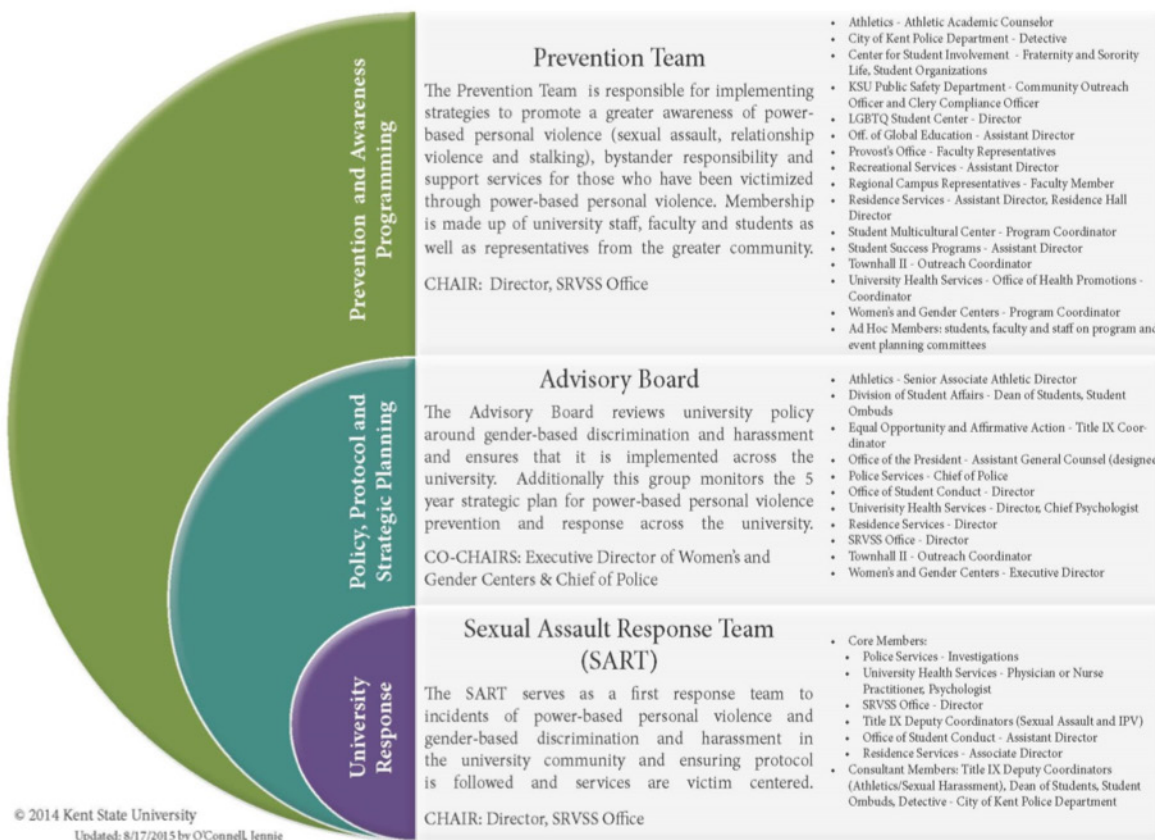
**Prevention Team:** The Prevention Team is responsible for implementing strategies to promote a greater awareness of power based personal violence (sexual assault, sexual harassment, relationship violence and stalking), bystander responsibilities and support services.

**Sexual Misconduct Response Team (SMRT):** is convened weekly by the Title IX Coordinator to strategize on a coordinated response to reports. The purpose of the meeting is to share information and coordinate support systems. Reports of sexual misconduct vary widely in the nature of the misconduct, the amount of information received, and how complainants wish to proceed. It is important for each of the University

representatives who have a role in the process to participate in the decision as to how best to proceed to assist and protect the complainant while also providing for a safe campus community. In addition, the SMRT convenes to review changes in the legal landscape and update policies and procedures and to assist with information for the Clery Annual Campus Safety Reports. SMRT is comprised of:

- Title IX Coordinator/Director for Equity and Compliance
- Chief of Public Safety and a Public Safety detective
- Assistant Dean of Students/ Director of Student Conduct
- Assistant Vice President for Identity, Health and Wellness
- Compliance and Database Coordinator

**Coordinated Community Response Team**  
Kent State University



Above is a 2014 model of community coordination to Sexual Misconduct Prevention at Kent State University that was reviewed by WCU Task Force Committee members.

## II. Introduction

West Chester University is committed to creating and maintaining a campus environment where safety, health, and well-being are priorities for all. Sexual misconduct includes a variety of acts that are perpetrated against another without consent or when an individual is unable to freely give consent. Accordingly, the University will not tolerate any form of sexual misconduct, including sexual assault, sexual harassment, sexual exploitation, dating violence, domestic violence, and stalking. All forms of sexual misconduct are serious offenses with serious consequences. In addition to violating the WCU Student Code of Conduct, some forms of sexual misconduct are both criminal and civil offenses that are punishable by law. Students found responsible for sexual misconduct may face disciplinary actions up to and including expulsion. Faculty and staff found responsible for sexual misconduct may face disciplinary actions up to and including termination of employment.

### The Sexual Misconduct Policy was written to:

- educate the campus community about shared values and expectations regarding sexual behavior;
- define sexual misconduct as a range of behaviors prohibited by the Student Code of Conduct;
- describe the rights of those who experience an incident of sexual misconduct and those who are accused of violating the Sexual Misconduct Policy;
- provide guidance on what a person should do if they have been sexually assaulted or victimized;
- communicate University procedures regarding the rights of complainants and the respondents;
- ensure compliance with appropriate state and federal regulations, including Title IX and Jeanne Clery Act;
- identify campus and community resources for those who wish to report sexual misconduct and for students who have been accused of sexual misconduct.

As stated in the policy, all incidents of sexual misconduct should be reported as soon as reasonably feasible to the Title IX Coordinator/Director for Equity and Compliance, Lynn Klingensmith, 114 W. Rosedale Dr. 610-436-2433, lklingensmith@wcupa.edu. Incidents of sexual misconduct can be reported by anyone to the Title IX Coordinator/Director for Equity and Compliance. Sexual misconduct complaints are reviewed and investigated by the Office for Diversity, Equity and Inclusion. Complaints involving

students are adjudicated by the Office of Student Conduct. Complaints involving employees are adjudicated by Human Resources or Labor Relations.

The University's sexual misconduct policy and procedures are in addition to, and not a replacement for, any legal options that may be available. Any criminal process is separate from proceedings at the University level. The Office of Public Safety or local police can assist complainants in pursuing a criminal investigation in the appropriate jurisdiction. Sexual misconduct violates Title IX of the Education Amendments of 1972. This means that individuals may file a complaint with the WCU Title IX Coordinator/Director for Equity and Compliance, Lynn Klingensmith, 610-436-2433, lklingensmith@wcupa.edu, Office for Diversity, Equity and Inclusion, 13-15 University Avenue. Complaints may also be filed with the U.S. Department of Education, Office of Civil Rights by phone at 215-656-8541 or online at <https://wdcrocolp01.ed.gov/cfapps/OCR/contactus.cfm>. The University's online information and resources for filing a report include the following links:

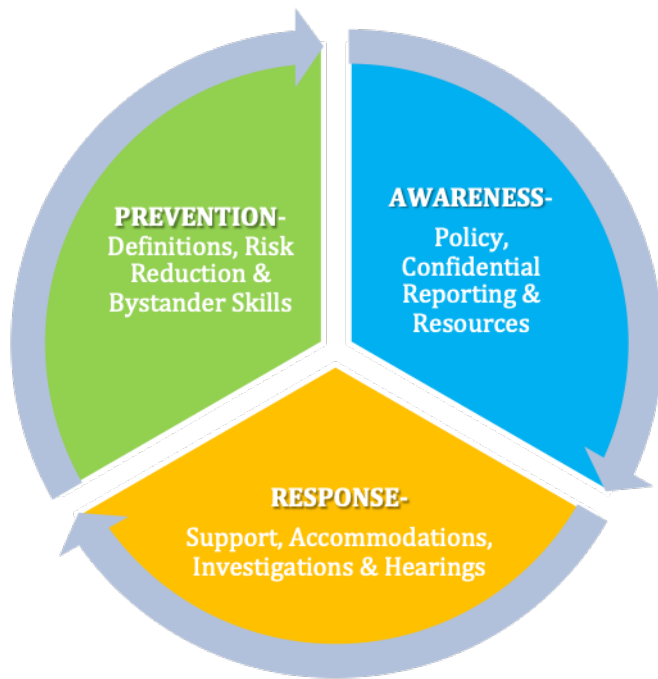
- [https://www.wcupa.edu/\\_admin/diversityEquityInclusion/sexualMisconduct/reportingOptions.aspx](https://www.wcupa.edu/_admin/diversityEquityInclusion/sexualMisconduct/reportingOptions.aspx)
- [https://www.wcupa.edu/\\_admin/diversityEquityInclusion/sexualMisconduct/wantToReport.aspx](https://www.wcupa.edu/_admin/diversityEquityInclusion/sexualMisconduct/wantToReport.aspx)

## III. Background on Title IX

"Title IX is a federal civil rights law that prohibits sex discrimination in federally funded education programs or activities, which includes all public schools, colleges and universities and most private schools as well. The ban on sex discrimination includes sexual harassment and sexual assault. Title IX applies to students, school employees or anyone present on campus regardless of sexual orientation, gender identity, immigration status or disability status" (Kaufman 2015). Title IX has banned sex discrimination in schools since 1972. While it is best known for breaking down barriers in sports for women and girls, it also protects students from bullying and sexual harassment and requires fair treatment for pregnant and parenting students.

Through the 2011 *Dear Colleague Letter*, the US Department of Education provided guidance on how to address Title IX to include sexual misconduct. Sexual misconduct includes sexual assault, relationship and domestic violence, sexual exploitation, sexual harassment, gender-based harassment and stalking.

**Federal Mandates for Title IX include awareness, prevention and response as outlined below:**



**AWARENESS:**

Institutions are required to provide ongoing awareness and written notification of the following to all members of the University community:

- Policy regarding gender and sexual discrimination
- Individual’s right to file a complaint with the University (and to whom to file with option for being anonymous)
- Confidential resources for counseling and support
- Option for academic and housing accommodations
- Crime reporting data for previous years

**PREVENTION:**

Institutions are required to provide primary prevention programming for incoming students, faculty and staff as well as ongoing awareness and programming for all students, faculty and staff regarding the following:

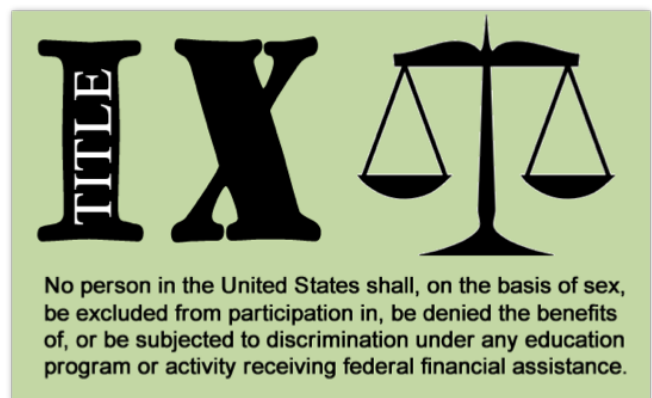
- Definitions of sexual assault, dating violence, domestic violence, stalking and consent

- Risk Reduction and warning signs
- Bystander Intervention to include:
  - Recognizing situations of potential harm
  - Understanding institutional structures and cultural conditions
  - Overcoming barriers to intervening
  - Identifying safe and effective intervention options
  - Taking action to intervene

**RESPONSE:**

Institutions are required to provide resources, accommodations and support to anyone who reports experiencing sexual assault, dating violence, stalking and/or sexual harassment. Institutions are required to have grievance procedures for investigating all notices of sexual violence and harassment. Grievance procedures must include the following:

- Use a preponderance of evidence standard vs. a clear and convincing standard
- Equal opportunity for parties to participate
- Notice of outcome and appeal process to parties as applicably by policy
- Investigation independent of any criminal investigation
- Interim action to remedy the effects
- Investigator and hearing officers who are trained regarding sexual misconduct.



Source of Image: A Review of Literature on Title IX, Policy Matters Journal

#### IV. Background on Title VII

Sexual harassment is a form of sex discrimination that violates **Title VII of the Civil Rights Act of 1964**. Title VII applies to employers with 15 or more employees, including state and local governments. It also applies to employment agencies and to labor organizations, as well as to the federal government.

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment.

**Sexual harassment can occur in a variety of circumstances, including but not limited to the following:**

- The harasser may be a woman, man, or person that identifies as non-binary. The person being harassed does not have to be of the opposite sex.
- The harasser can be the person's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee.
- The complainant could be anyone affected by the offensive conduct.
- Unlawful sexual harassment may occur without economic injury to or discharge of the complainant.
- The conduct must be unwelcome.

#### V. Key terms/definitions:

According to Title IX, a **"responsible employee"** is an employee:

- Who has the authority to take action to redress sexual harassment/violence, or
- Who has been given the duty of reporting incidents of sexual harassment/violence or any other misconduct by students to the Title IX Coordinator or other appropriate school designee, or
- That a student/employee could reasonably believe has either the authority or the duty listed above.

All faculty and staff of West Chester University are considered **"responsible employees"** (with the exception of those that serve as confidential reporters as

noted below). **Note, there is one exception to faculty reporting as outlined here:**

- The Office of Civil Rights (OCR) has opined that the disclosure of sexual violence through the context of a required writing assignment, classroom discussion or via a University-approved research project does not need to be reported. However, the disclosure of sexual violence against a child (under 18 years old at the time of the incident) is **NOT EXEMPT** from the employee's reporting obligations.

**Confidential Reporters-** At West Chester University, the following offices served as confidential reporters:

- Department of Counseling and Psychological Services: Lawrence Center, 610-436-2301
- Student Health Services: Commonwealth Hall, 610-436-2509
- WCU Community Mental Health Services (CMHS) Clinic, 610-436-2510

Employees of the Counseling Center, as well as Doctoral students and their supervising faculty in the WCU Community Mental Health Services Clinic are completely confidential employees and are exempt from having to provide the name of any other identifiable information of a student involved in sexual misconduct to the Title IX Coordinator. The WCU Community Mental Health Services Clinic provides a wide range of psychological services, as well as specializations in trauma-related events. Student Health Services employees are also confidential, but are required to report statistical information of the incident, including the location, date and description of the incident to be compiled for the Annual Security Report in compliance with the Jeanne Clery Act. Student Health Services employees are not required to report any identifiable information to the Title IX Coordinator.

**Sexual Misconduct** — The Sexual Misconduct Policy at West Chester University covers a variety of acts that are perpetrated against another without consent or when an individual is unable to give consent. Please refer to the Sexual Misconduct Policy for additional definitional requirements and examples. Violations of the policy include;

- a. Sexual Harassment** is defined as unwelcome sexual advances, requests for sexual favors and other harassing conduct of a sexual nature. For the purposes

of this definition, the harassment is evaluated to determine whether or not the conduct is sufficiently severe or pervasive as to deny or limit a person's ability to participate in or benefit from the University's resources and opportunities.

**b. Gender or Sex Based Harassment** is harassment based on an individual's gender or sex or stereotyping of either. For the purposes of this definition, the harassment is evaluated to determine whether or not the conduct is sufficiently severe or pervasive as to deny or limit a person's ability to participate in or benefit from the University's resources and opportunities.

**c. Non-Consensual Sexual Contact** is the touching, however slight, of any clothing or body parts for the purpose of sexual gratification without consent.

**d. Sexual Assault** is the penetration, no matter how slight of the vagina or anus with any body part or object or oral penetration by a sex organ of another person, without consent.

**e. Sexual Exploitation** is the act or acts committed through non-consensual use of another person's sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage, or any other non-legitimate purpose.

**f. Stalking** is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or suffer substantial emotional distress. For the purposes of this definition— (i) Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. (ii) Reasonable person means a reasonable person under similar circumstances and with similar identities to the complainant. (iii) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

**g. Dating violence** includes but is not limited to, sexual or physical abuse or the threat of such abuse committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship

shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

**h. Domestic Violence** is a felony or misdemeanor crime of violence committed— by a current or former spouse or intimate partner of the victim; by a person with whom the victim shares a child in common; by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

**i. Other Relationship Abuse** includes a course of conduct involving controlling behavior or psychological abuse, which does not fall within the foregoing categories, between or among persons engaged in a social relationship of a romantic or intimate nature. Controlling behavior is the exercise of influence and authority over another person's behavior including but not limited to psychological manipulation in the form of promises and threats, or the use of other techniques or methods to instill fear. Controlling behavior may also include use of drugs, hypnosis, isolation, and interrogation.

**Consent:** a voluntary decision to engage in specific types of sexual activity communicated through clear actions or words.

**Sexual Misconduct Advocate:** a position in place at West Chester University until the Fall 2018 semester. The campus maintained one Sexual Misconduct Advocate who also served as the Director of Wellness Promotion. That person served as a confidential reporting resource for students. They could provide immediate support to victims and complainants, as well as make referrals for on and off campus resources. They were available to students on a drop-in basis or by appointment.

**(New) Process and Policy Advisors:** serve as key resources to students who find themselves navigating individual or group investigations or discipline processes including, but not limited to the sexual



misconduct policy (either the complainant or the respondent). In cases of sexual misconduct, the **Process and Policy Advisors** will provide information to help students navigate University policies, the associated processes, as well as understanding support services that are available to them. University employees that serve as Process and Policy Advisors are identified through the Vice President of Student Affairs and receive training to ensure that they are familiar with University policies and processes, can address frequently asked questions by students and their families, and understand their range of options as applicable. DOSA contributes no fewer than twelve Policy & Process Advisors annually. Twenty-one staff have been identified to serve beginning Fall 2019. Process & Policy Advisors are not confidential reporters, which should be broadly articulated.

### **INTERIM AND SUPPORTIVE MEASURES-**

Once a report is received, interim and/or supportive measures may be provided to ensure the safety of both parties. Many times, supportive measures are ongoing, as they may be needed well beyond the investigative or adjudication processes. Interim/supportive measures can include the following:

- housing reassignment to ensure that the complainant(s) and respondent(s) are not in close proximity
- limitations on contact between parties (referred to as a “No Contact Directive”)
- an escort to ensure the complainant’s safety
- reassignment of classes to ensure that the complainant(s) and respondent(s) are not attending the same class
- academic support such as tutoring
- to withdraw from a class without penalty
- adjustments to on-campus transportation, parking, or work
- other remedies and/or measures not listed can be considered to ensure the safety of all involved parties in the case and the campus community

In all cases when interim measures are established, written notice is provided. For “no contact directives” written notice is provided to both complainants and respondents.

**Retaliation:** West Chester University prohibits retaliation against any person for reporting incidents of sexual misconduct, or for pursuing a complaint, testifying, assisting or participating in any investigation or proceeding involving allegations of sexual harassment or misconduct. Any retaliatory behavior should be reported to the Title IX Coordinator/ Director for Equity, Compliance or the Director of Student Conduct. Any person, including third parties, who violates this retaliation policy, will be subject to discipline, up to and including termination if they are an employee, and/or expulsion if they are a student.

### **VI. Purpose of the Task Force & Members:**

The task force was initially co-chaired by Dr. Kimberly Chestnut-Steich, Assistant Dean of Students and Lynn Klingensmith, Director for Equity and Compliance and Title IX Coordinator. The objective of the Task Force was to create and present a three-year sexual misconduct and violence prevention strategic plan addressing the components of policy, protocol, procedures and prevention. The original timeline for the task force to conclude their work was three months or by April 28, 2017. Members of the task force were identified by the co-chairs and included faculty, staff and students.

The task force began meeting on December 9, 2016. Bi-weekly meetings were held during the spring 2017 semester. At the initial meeting, each member of the task force received a binder of materials that included the following:

- Creating Change around Sexual Violence: The Five Steps of the Strategic Prevention Framework.
- 2015 Campus Climate Survey results & WCU Title IX Annual Report to PASSHE
- A listing of Title IX/Sexual Misconduct Trainings provided by the Office of Social Equity (renamed ODEI) for 2015-16
- Healthy Sexuality & Violence Prevention Strategic Plan
- A checklist of content categories to be reviewed through the Sexual Misconduct and Violence Prevention Task Force under the headings of Policy, Protocol, Procedure and Prevention.
- Prevention of Sexual Violence on Campus: An Assessment Tool

Tracey Ray began in the role of Chief Diversity and Inclusion Officer on May 29, 2018. In November 2018, she reconvened members to complete the final report.

#### Taskforce members included the following:

1. *Dr. Kimberly Chestnut-Steich, Assistant Dean of Students, co-chair*
2. *Ms. Lynn Klingensmith, Esq.\*, Director for Equity & Compliance and Title IX Coordinator, co-chair\**
3. *Dr. Erin Hurt\*, Associate Professor, English*
4. *Ms. Libby Thorson, Coordinator, Healthy Masculinity and Violence Prevention Programs*
5. *Ms. Alina Torres-Zickler, Assistant Director for Social Equity*
6. *Ms. Sherry Mendez, Director, Wellness Promotion*
7. *Ms. Christina Brenner\*, Assistant Dean, Student Conduct*
8. *Dr. Rachel Posner LeMay, Psy.D., Licensed Psychologist, Department of Counseling & Psychological Services*
9. *Dr. Amber Holbrook\*, Associate Professor, Graduate Social Work*
10. *Ms. Patricia Seningen\*, Director for Labor Relations*
11. *Detective James Kalavick, Public Safety*
12. *Ms. Emily Sheehan\*, Coordinator, Healthy Masculinity and Violence Prevention Programs*
13. *Ms. Alicia Hahn Murphy\*, Director, Center for Women and Gender Equity*
14. *Alima Balogun, Peer Educator, Office of Wellness Promotion*

\* indicates members that reconvened in November 2018 to review and complete the final Task Force Recommendations.

**VII. Recommendations:** The following directives are recommendations for strategic implementation over the next 3 years at West Chester University (2019-2021):

#### POLICY

**Recommendation #1** of the Task Force is to develop a **Title IX Advisory Board** to conduct review of policy, definitions and processes every two years (bi-annual). The Title IX Advisory Board will also review assessment data on an annual basis. The Advisory Board will be convened by the CDIO and/or Title IX Coordinator at least twice on an annual basis. Some key constituents to include in the membership of the Advisory Board include, but are not limited to the following: Center for Women & Gender Equity, Counseling Center, Collective Bargaining Units, Faculty Senate and Student Government. *(To be initiated by ODEI beginning Fall 2020)*

The initial guiding document for the Advisory Board to complete collectively is the **Assessment Tool for Prevention of Sexual Violence on Campus**. The advisory board will begin their work by

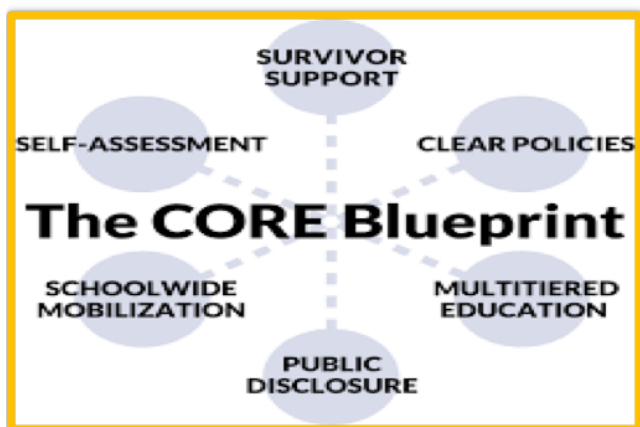
1. reviewing the University policy statement on Title IX and Title VII, Notice of Non-Discrimination Policies to be issued by the President.
2. reassess each item listed in the Assessment Tool for Prevention of Sexual Violence on Campus and prioritize their suggestions on next steps.
3. providing input on policy or process changes at WCUPA (ongoing basis) in consultation with University legal counsel, SMR, any new OCR guidance, state law changes, etc.
4. reviewing and providing input for edits to the University's sexual misconduct and sexual harassment policies for students and employees every 2 years. Input will also be generated as it relates to definitions associated with the respective policies.
5. reviewing and making recommendations for a campus climate survey on sexual assault and misconduct to be administered at WCU within the next 3 years. National models such as that of the Association of American Universities (AAU) or Higher Education Data Sharing Consortium (HEDS) should be consulted in this effort.

# Culture of Respect

## Ending Campus Sexual Violence

A NASPA Initiative

Members of the Task Force reviewed and discussed *The Culture of Respect CORE Blueprint: A Strategic Roadmap for Addressing Campus Sexual Violence (2nd Edition) (2017)*, published by the National Association of Student Personnel Administrators (NASPA).



Recommendation #2 of the Task Force is to develop a Title IX Coordinating Committee. The Title IX Coordinating Committee is best described as the “boots on the ground” employee personnel including deputy Title IX Coordinators and members of the SMRT team. The Title IX Coordinating Committee will meet monthly for regular coordination and communication as it relates to education, prevention and response to address campus needs. *(To be initiated by ODEI beginning Fall 2019)*

Recommendation #3 of the Task Force is to annually seek ways to clarify the processes for students and employees to file complaints and understand what happens next (in print, video and on websites). This work can be accomplished through input from both the Title IX Advisory Board and the Title IX Coordinating Committee. *(This is an ongoing initiative with strategic scheduled review of the process and its marketing/ publication strategy annually. Further efforts to be initiated by ODEI beginning Fall 2019).*

### PROTOCOL

Recommendation #4 of the Chief Diversity and Inclusion Officer is to develop an expanded model of Title IX Coordination to include the designation of 3-5 Deputy Title IX Coordinator positions in key areas including but not

limited to Student Affairs, Athletics, Academic Affairs, International Programs and Human Resources. Deputy Title IX Coordinators assist the University’s Title IX Coordinator with various Title IX implementation activities that involve faculty, staff and students. They also serve as key resources for the campus to answer questions about policies, procedures and resources. In some cases, Deputy Title IX Coordinators may also serve as a co-investigator for complaints of sexual misconduct. *(To be initiated by ODEI beginning Fall 2019)*

Recommendation #5 of the Task Force is to hire a second Assistant Director for Equal Opportunity and Title IX Investigator at West Chester University. WCU has been limited to one Assistant Director that leads investigations. The University’s student body, faculty, staff and regional campuses, as well as sexual misconduct reports have grown significantly over the last 5 years. However, staffing for Title IX investigations has not grown at an equal rate. Growing internal investigation resources at WCU that are experienced in handling sexual misconduct and civil investigations is key to responding in a timely fashion to reports of sexual misconduct. The Task Force recommends that the University utilize *Trauma Informed Investigative approaches* in their work. The University currently uses external investigation resources that contract with the Office for Diversity, Equity and Inclusion. As a necessary resource for managing their current case load and taking on large investigations or those that are best resolved through an external lens, the Task Force recommends that these **external investigation resources be maintained.** *(To be initiated by ODEI beginning late Summer/early Fall 2019)*

Recommendation #6 of the Task Force is continued use of the **Sexual Misconduct Response Team (SMRT)**. *(Ongoing with assessment through the Title IX Advisory Board)* WCU’s SMRT meets weekly to strategize on a coordinated response to reports. The purpose of the meeting is to share information and coordinate the University support systems. Reports of sexual misconduct vary widely in the nature of the misconduct, the amount of information received, and how complainants wish to proceed. It is important for each of the University representatives who have a role in the process to participate in the decision as to how best to proceed to assist and protect the complainant while also providing for a safe campus community. In addition, the SMRT convenes to review changes in the legal landscape and update policies and procedures and to assist with information for the Clery Annual Campus Safety Reports. SMRT is comprised of:

- Title IX Coordinator/Director for Equity and Compliance
- Chief of Public Safety and a Public Safety detective
- Assistant Dean of Students/ Director of Student Conduct
- Assistant Vice President for Identity, Health and Wellness
- Compliance and Database Coordinator

**Recommendation #7** On a periodic basis, the SMRT should review the use of interim and supportive measures. If possible, it is suggested that a rubric be developed and adopted for formal use. Issues of equity should also be considered as it relates to the use of interim measures. An example of an equity issue would include placement in University Student Housing (USH) vs. Traditional campus housing and ensuring that complainants and respondents don't bear any undue financial burden as the result of a report that is still in process. *(In progress and Ongoing)*

**Recommendation #8** of the Task Force is to clarify and communicate reporting obligations when students are on field work, internships, student teaching, study abroad, etc. This will be done in partnership between the Office for Diversity, Equity and Inclusion and input from the Title IX Advisory Council, the Title IX Coordinating Committee, the International Incident Consultation and Emergency Response Team (ICERT), and select academic programs (where applicable). Staffing, best practices and protocol development should be aligned. *(Some of this work has already begun. To be formally initiated by ODEI beginning Fall 2020)*

## PROCEDURE

**Recommendation #9** of the Task Force is to ensure that WCU have and maintain Memorandum of Understanding (MOUs) with local police departments. *(Ongoing)*

**Recommendation #10** of the Task Force is to create a trained pool of staff resources that both complainants and respondents can select from to assist them in navigating University policy, procedure and available options. (Policy and Process Advisors). *(Beginning June 2019/ with additional training provided each semester)*

**Recommendation #11** of the Task Force is to provide training for student conduct boards that includes use of a rubric for determination of responsibility and sanctions. *(Some work is in progress. Further efforts to be initiated by the Office of Student Conduct beginning Fall 2019)*

**Recommendation #12** of the Task Force is to consider the use of impact statements from complainants. *(This is already in place. A review of this will be conducted in partnership with the Title IX Advisory board beginning Fall 2020-Spring 2021)*

**Recommendation #13** of the Task Force is to provide more visual educational materials that articulate the procedure for complainants and respondents as follows: *(To be initiated by ODEI beginning Fall 2019 with the Title IX Coordinating Committee (Spring 2020) and Title IX Advisory Board (Fall 2020)*

- Outline next steps of notification when the evidence fails to meet preponderance of evidence standard. What, if any actions might follow?
- Outline next steps of notification when the evidence meets the preponderance of evidence standard.
- Outline next steps of process when a complainant wants to remain anonymous.

## PREVENTION

**Recommendation #14** of the Task Force is to develop a to develop an **Ongoing Prevention Team**. The Prevention Team serves as a strategic coordination effort between Students Affairs, the Office for Diversity, Equity and Inclusion and Human Resources. The Prevention Team should provide strategic oversight and deployment of prevention activities for students, faculty, and staff. This includes, but is not limited to distinct Title IX training for students, faculty and staff and tailored Title VII training on sexual harassment in the workplace for all employees that serve as supervisors. Training of Department Chairs and Assistant Chairs, in addition to College Deans, Vice Presidents, Vice Provosts, Senior Directors, and other University administrators is required. A general training on sexual harassment in the workplace is also suggested. Additional strategies for prevention include "It's On Us" Initiatives, Green Dot bystander intervention training (ODEI) and efforts led by staff through the Center for Women and Gender Equity annually. The Prevention Team should also consider strategic approaches to working with the needs of first year students, commuter students, males, fraternities, sororities and athletic teams. *(Some work is in progress. To be further initiated by ODEI in partnership with the Center for Women & Gender Equity beginning Spring 2020)*

**Recommendation #15** of the Task Force is for the Prevention Team to work strategically to expand the Green Dot

Education team and enhance prevention work across the University through internal and external funding opportunities. An example of the expansion of efforts might be the University instituting a One Book/Common Reading program. Examples of funding opportunities include but are not limited to the Governor of Pennsylvania’s annual It’s On Us Grant funding, the Office on Violence Against Women (OVW) Grant Programs, National Alliance to End Sexual Violence. *(Some work is in progress; To be more formally initiated by ODEI beginning Spring 2021)*

**Recommendation #16** of the Task Force is that the University President issue an annual statement to the campus community addressing sexual misconduct in all of its forms and the University’s commitment to reducing its occurrence on campus. *(In progress and Ongoing)*

**Recommendation #17** of the Task Force is that the Title IX Advisory Board understand the University’s process

on when the campus community is informed through “timely warnings” and what does and does not constitute a “timely warning notification.” *(To be initiated by the Office for Diversity, Equity and Inclusion through the Title IX Coordinating Committee and the Title IX Advisory Board Fall 2020)*

**Recommendation #18** of the Task Force is to institute trauma informed training for first responders, including but not limited to Public Safety, Office for Diversity, Equity and Inclusion staff, Center for Women and Gender Equity staff, Resident Assistants and University Housing staff, Student Health Services staff, Counseling Center faculty & staff, Wellness Center Staff and others as designated. [Thomas Tremblay Consulting & Training is one of many resources that can be utilized to provide Trauma Informed Training to staff. *(Some work is in progress. Final efforts to be initiated by the Office for Diversity, Equity and Inclusion Spring 2021)*

TIMELINE AT A GLANCE OF RECOMMENDATIONS

TIMELINE TO IMPLEMENT	RECOMMENDATION #
In progress & Ongoing	#9: Maintain MOUs with local police departments
In progress & Ongoing	#16: Annual statement from University President
In progress & Ongoing	#3: Clarify process
In progress & Ongoing	#6: Continue SMRT team
In progress & Ongoing	#7: Review Interim measures
Summer 2019	#10: Train DOSA Policy and Process Advisors
Summer 2019	#8: Study Abroad
Summer/Fall 2019	#5: Hire a second Assistant Director for Equal Opportunity and Title IX Investigator
Fall 2019	#4: Create an expanded model of Title IX Coordination
Fall 2019	#2: Develop a Title IX Coordinating Committee
Fall 2019	#13: Clarify procedure for complainants & respondents
In progress & Fall 2019	#11: Student Conduct board training
Spring 2020	#13: Clarify procedure for complainants & respondents
Spring 2020	#14: Create Prevention Team
In progress & Spring 2020	#18: Provide Trauma Informed Training
Fall 2020	#1: Creation of Title IX Advisory Board
Fall 2020	#17: Review timely warning notification
Spring 2021	#8: Field work, internships, and student teaching
Fall 2019	#11: Student Conduct Rubric
Spring 2021	#12: Explore Use of Impact Statements (pros & cons)
In progress & Spring 2021 & Fall 2022	#15: Expand Green Dot Education Team

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## Appendix/Supplemental Resources:

**Appendix A:** Task Force Member Appointment Announcement from President Fiorentino

**Appendix B:** American College Health Association's Prevention of Sexual Violence on Campus: An Assessment Tool

**Appendix C:** Healthy Sexuality & Violence Prevention Strategic Plan- A checklist of content categories to be reviewed through the Sexual Misconduct and Violence Prevention Task Force under the headings of Policy, Protocol, Procedure and Prevention.

**Appendix D:** Fall 2018 Its On Us- Reporting Sexual Misconduct Poster of Myths vs. Facts

**Appendix E:** Chronicle of Higher Education, Sexual Assault on Campus: 9 Views on What Will Signal Progress

Dear <Insert Task Force Members Name>–

As you know, sexual assault and violence prevention is a serious matter for me and for our campus. As a result, I have asked Dr. Kimberly Chestnut, Assistant Dean of Students, and Ms. Lynn Klingensmith, Director of Social Equity and Title IX Coordinator to co-chair a Task Force on Sexual Misconduct and Violence Prevention. The purpose of this Task Force is to create and present a three-year sexual misconduct and violence prevention strategic plan addressing the components of policy, protocol, procedures and prevention by March 31, 2017.

As a member of our WCU community who has demonstrated a commitment to this important issue, I would like to invite you to be a member on this on this Task Force. I am confident that your expertise and experience will be a valuable contribution to the dialogue and the outcome. You will receive additional information from Dr. Chestnut and Ms. Klingensmith on an initial meeting date. It is my expectation that the Task Force will begin work soon and will provide a working document by March, 2017.

I would appreciate your RSVP sent directly ASAP to Dr. Kimberly Chestnut and Ms. Lynn Klingensmith regarding your availability to join the Task Force.

Thank you,

Chris Fiorentino, Ph.D.  
Interim President

## Prevention of Sexual Violence on Campus: An Assessment Tool

ACHA’s “Position Statement on Preventing Sexual Violence on College and University Campuses” recommends the following 15 actions be taken to address policy, prevention, and intervention as it pertains to sexual violence. College health professionals, who are in a powerful position to prevent campus sexual violence, are encouraged to use the assessment tool below periodically to note your institution’s level of completion of each action. Once the assessment is completed, the information should be shared with administrators, faculty, staff, and students. This simple tool can also guide your campus efforts at primary prevention of sexual violence.

	Action yet to be addressed			Completed	
	1	2	3	4	5
1. Develop a policy statement and directive from the president/chancellor of the institution that demonstrates recognition of sexual violence as a problem, a commitment to reduce its occurrence, and action steps for the campus community.	1	2	3	4	5
2. Develop a multidisciplinary taskforce on campus to address sexual violence prevention and response services that includes high-level campus administration, academic leaders, student leaders, and community partners.	1	2	3	4	5
3. Create policies that reflect an expectation of civility, honor, respect, and nonviolence for all members of the community and encourage behaviors that build a sense of community.	1	2	3	4	5
4. Revise, enforce, and widely distribute disciplinary regulations in the student code that demonstrate an intolerance of all forms of sexual violence and implement sanctions for violations by faculty, staff, and students.	1	2	3	4	5
5. Educate disciplinary boards on non-stranger assaults, perpetrator patterns, and possible victim responses and patterns.	1	2	3	4	5
6. Provide comprehensive training on all aspects of sexual violence for campus administrators; campus law enforcement; health and counseling services staff; faculty; staff; and student leaders that includes the dynamics of sexual violence, access to care, victim response, and federal/state statutes.	1	2	3	4	5
7. Develop a coordinated, seamless, victim-centered response service between campus and community resources that offers the options of:	1	2	3	4	5
• Anonymous reporting	1	2	3	4	5
• Law enforcement involvement	1	2	3	4	5
• Judicial/disciplinary board actions	1	2	3	4	5
• Medical care/forensic examination	1	2	3	4	5
• Emergency contraception	1	2	3	4	5
• Academic/housing accommodations	1	2	3	4	5
• Follow-up counseling, support, and advocacy	1	2	3	4	5



8. Integrate screening for sexual violence into patient history protocols.	1	2	3	4	5
9. Adhere to federal, state, and local statutes and reporting requirements.	1	2	3	4	5
10. Integrate sexual violence prevention education into curricular and non-curricular activities.	1	2	3	4	5
11. Offer residence hall and extra-curricular activities that are alcohol free.	1	2	3	4	5
12. Develop educational/outreach programming that:					
• Recognizes that sexual violence is a learned behavior	1	2	3	4	5
• Teaches bystander intervention techniques	1	2	3	4	5
• Addresses the role of consent in sexual relationships	1	2	3	4	5
• Encourages the involvement of men	1	2	3	4	5
• Addresses alcohol and other drugs issues and the connection with sexual violence	1	2	3	4	5
• Provides concepts that encourage healthy, consensual sexual relationships	1	2	3	4	5
• Addresses non-stranger sexual violence and dispels traditional beliefs	1	2	3	4	5
• Encourages positive role modeling and mentoring for men and women	1	2	3	4	5
13. Create and codify amnesty policies for underage drinking for victims who report sexual assault.	1	2	3	4	5
14. Invest men in the prevention of sexual violence, including those actions that dehumanize and objectify women.	1	2	3	4	5
15. Publish and announce the availability of protocols on campus websites for all campus members to access resources, referrals, and helping strategies for victims of sexual violence.	1	2	3	4	5

**Policy Institute Menu:  
Prioritize Your Learning Outcomes**



Please select your top 4 topics of interest in each category. This menu will be collected at the start of the day.

<p><b>Policy</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Title IX</li> <li><input type="checkbox"/> Sexual misconduct vs. sexual assault vs. sexual exploitation</li> <li><input type="checkbox"/> Defining consent</li> <li><input type="checkbox"/> Jurisdiction</li> <li><input type="checkbox"/> Cyber-misconduct and overlap with sexual misconduct</li> <li><input type="checkbox"/> Federal vs. state vs. school definitions, laws, rules, and expectations</li> <li><input type="checkbox"/> Student to student sexual misconduct</li> <li><input type="checkbox"/> Adult to student sexual misconduct</li> <li><input type="checkbox"/> Adult to adult sexual misconduct</li> </ul>	<p><b>Protocol</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Methods of notification</li> <li><input type="checkbox"/> Duty to report</li> <li><input type="checkbox"/> Response teams</li> <li><input type="checkbox"/> Response for minors—when to involve parents</li> <li><input type="checkbox"/> Proper terminology for response process</li> <li><input type="checkbox"/> Medical options to provide</li> <li><input type="checkbox"/> Legal options to provide</li> <li><input type="checkbox"/> Emotional support options to provide</li> <li><input type="checkbox"/> Eliminating bias in the system</li> <li><input type="checkbox"/> Eliminating personal bias</li> </ul>
<p><b>Procedure</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Interim actions and the Bill of Rights</li> <li><input type="checkbox"/> Investigation strategies</li> <li><input type="checkbox"/> Alternative Dispute Resolution</li> <li><input type="checkbox"/> Who should be present at hearings</li> <li><input type="checkbox"/> Documentation options for hearings</li> <li><input type="checkbox"/> Deliberation strategies</li> <li><input type="checkbox"/> Due process</li> <li><input type="checkbox"/> Burden of proof</li> <li><input type="checkbox"/> Standards of proof</li> <li><input type="checkbox"/> Multiple charges</li> <li><input type="checkbox"/> Notification of hearing results</li> <li><input type="checkbox"/> Sanctions</li> <li><input type="checkbox"/> Appeals</li> </ul>	<p><b>Prevention</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Prevention programs in place at other schools</li> <li><input type="checkbox"/> Recommended strategies by Policy Institute faculty</li> <li><input type="checkbox"/> Strategies for year-long, integrated prevention programs</li> <li><input type="checkbox"/> <del>Developmentally appropriate programs for K-12 schools</del></li> <li><input type="checkbox"/> Developmentally appropriate programs for colleges</li> <li><input type="checkbox"/> Bystander empowerment programs</li> <li><input type="checkbox"/> Peer leadership programs</li> <li><input type="checkbox"/> Orientation programs</li> <li><input type="checkbox"/> Reaching men</li> <li><input type="checkbox"/> Reaching adult members of the community</li> </ul>

Other topic(s): \_\_\_\_\_

I prefer to have a break every:  60 min.  90 min.  2 hours

I would like to spend time in small groups doing Case Studies:  Yes  No

Name: \_\_\_\_\_ Title: \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Organization: \_\_\_\_\_

# REPORTING SEXUAL MISCONDUCT



## MYTH

**If you report an act of sexual misconduct, a "timely warning" will be sent out.**

## FACT

Timely Warnings are part of the Clery Act. This act mandates that institutions notify their campus when other individuals may be at risk. As a result, timely warnings are sent out on a case by case basis, and only when there is imminent risk to others.

**You have to file a police report and start the student conduct process if you file a sexual misconduct report.**

Filing a sexual misconduct report simply means you are letting WCU know something happened. This does not mean you need to go through a formal process. Filing a report opens up communication lines so you can get connected with support systems and resources for yourself or the person for whom you are reporting.

**If you report a sexual assault, the other person will have to know you reported.**

Under most circumstances, you can work with the Title IX Coordinator to receive accommodations if you do not want to pursue conduct charges. This means the respondent will not need to be notified unless the accommodations include moving that person from a residence hall or class.

**If I report an incident of sexual misconduct, a lot of people will find out I filed a report.**

Sexual misconduct reports are protected by federal law and only those responsible for responding to allegations will have access to the information. The Sexual Misconduct Response Team receives the initial report. Once the report is received, the Title IX Coordinator will reach out to you to check-in and offer resources. From there, you control who else would know.

# Sexual Assault on Campus: 9 Views on What Will Signal Progress

*By Robin Wilson*

When the Student Culture Changes

Laura Bennett

President of the Association for Student Conduct Administration.

Colleges have to deal with the problem of sexual assault not just after it happens, but as each student walks onto the campus. The easy answer is that progress equals fewer incidents. The reality is that progress is much harder — both to achieve and to measure. The following would demonstrate institutional and systemic progress to me:

First, there is adequate staffing for prevention and response, ample funding, and ongoing training. Every institution's strategic plan includes sexual-assault prevention, and it is part of the academic accreditation process. Title IX coordinators, student-conduct administrators, and campus law enforcement are empowered by presidents and attorneys to make relevant policy decisions.

Second, faculty discuss consent and healthy and unhealthy relationships in every course, and these conversations are congruent with those that students have after hours, in student-only spaces. Students confront misogynistic and homophobic behaviors and statements. Students become better at asking for sexual activity and communicating consent or nonconsent.

Third, everyone on campus should be able to articulate what is prohibited, how to report an incident, and what happens after reporting. Both the victims and the accused feel respected and heard during the process, even if they disagree with the outcome. There is no more confusion about the role of the campus disciplinary process and the criminal-justice system.

Fourth, comprehensive best practices (including transcript notations and admissions review processes) are used by all institutions, resulting in increased trust in the process and reducing the need for federal and state mandates. The student party culture changes as a result of healthier concepts of masculinity and multiple positive identities for all genders and orientations. Alcohol isn't needed to pursue intimacy. Finally, colleges become rape myth busters instead of perpetrators.

When Compliance Is Not Just on Paper

Annie Clark and Andrea Pino

Co-founders of End Rape on Campus

Three years ago, having barely entered our 20s, we searched through the library shelves at the University of North Carolina, looking for how women who have been sexually assaulted on campus could find justice. This was a problem that seemingly had no answer, particularly because it appeared to be unaccounted for, undocumented, and unfixable. In 2015 there are hundreds of victims who have taken on the same seemingly unfixable problem of sexual assault, and much as we did, they are taking it on single-handedly. That is precisely what needs to change.

After founding End Rape on Campus, an organization that directly supports survivors seeking to change the climate on their campuses, we have encountered the same pattern of response from university administrators: "We take these allegations very seriously." "We have convened a task force." "We are in compliance." Those may not be malicious responses, but to students they sent a clear message: You are alone in this battle.

Never in our travels has a single college president given the response that students deserve: "We will not tolerate sexual assault on this campus." Rape is a violent crime, and compliance with Title IX does not do enough to fix the problem. Blue lights, rape whistles, and task forces do not help the sexual-assault survivor who must see her perpetrator until she graduates — if she even does graduate.

An indication of change starts with acceptance and admitting a very real problem. A true testament to the seriousness of a university's response is a thorough commitment to creating a deterrence to sexual violence, and a commitment to safety, not just compliance on paper.

Higher education continues to be reactive to these systemic problems. Change will come only when colleges lead it, rather than follow the efforts of the students who expect their guidance.

### When We All Protect One Another

Royce Engstrom

President of the University of Montana

Almost two years ago, we announced the resolution of the federal government's investigations into the University of Montana's handling of sexual-assault and harassment complaints. Today there's another story to tell about our campus and about the community of Missoula. Because of the hard work of many people, UM and Missoula have made important and lasting changes.

But there is still work to be done here and across the country. I will view lasting progress as having been achieved when we can keep sexual assault from happening in the first place. As we work toward that, we view substantial and real progress when:

- Students know that their role as part of the college community is to help a friend out of a potentially unsafe situation. Progress is when we all step up for, defend, and protect one another.
- All students know where to go on campus and in town for help, they know whom to report to, they know why there are campus administrative processes to

stop, prevent, and effectively deal with sex-based discrimination and violence, and they feel they can safely be heard.

- The continuation and strengthening of collaboration among the university, law enforcement, advocates, health-care providers, and all sectors of the community serve as models of success for other communities across the nation.
- All students feel safe on the campus and in the community.

## When We Move Beyond the Moral Panic

Samantha Harris

Director of Policy Research at the Foundation for Individual Rights in Education.

Real progress against sexual assault on campus will require colleges to respond in a way that is rational and respects the rights of all involved. The climate of fear fueled by articles like the now-discredited *Rolling Stone* feature and movies like *The Hunting Ground*, together with intense governmental pressure, have created an environment in which rational discussion is virtually impossible.

If we have learned anything over the past four years, it is that colleges are terribly out of their depth when it comes to handling allegations of serious criminal wrongdoing. Rather than take matters out of colleges' hands, however, the federal government has doubled down on a broken system, issuing complex and rigid guidance as to how institutions must handle such claims if they want to keep their federal funding.

In this high-pressure environment, an increasing number of colleges have adopted single-investigator systems, in which one individual serves as detective, prosecutor, judge, and jury in internal sexual-misconduct proceedings. This often leads to life-altering decisions rendered after limited investigation and without the parties ever having the opportunity to challenge or even see one another's statements.

Even worse, because data suggest that most perpetrators of campus sexual assault are repeat offenders, overreliance on internal proceedings means that actual, dangerous offenders are being expelled and left free to continue preying on society at large.

Unfortunately, in the current climate, too many serious proposals for reform, such as calls for greater due-process protections or arguments in favor of mandatory reporting to law enforcement, are dismissed as insensitive or even sexist. Only when we move beyond the moral panic that informs almost every conversation about this issue can we begin to talk productively about how to create policies that adequately protect students and yield the fairest and most accurate outcomes.

## When Victims Have the Tools to Recover

Nancy Hogshead-Makar

CEO, Champion Women

Colleges and universities will be congratulated for making real progress when they do the following:

First, give all victims the tools to recover. I have provided legal services in cases in

which a university has not allowed a victim to withdraw from some classes, has placed additional tutoring, health-care, and counseling appointments on the student's schedule, and has expected full compliance with police and administrative investigations, all while threatening the student's scholarship if any of those burdens should be dropped.

If all universities provided the accommodation to victims that Title IX requires, sexual violence would not disrupt the trajectory of a woman's life so tragically. Rape would still be traumatic, but the expectation would be that the woman would pull through it, as we do most other painful experiences.

Second, give victims the ability to remove perpetrators from campus when the two are known to each other, much the same way that an employer would be expected to remove a harassing colleague. This should be done with processes that are fair to both parties.

Third, research has shown that rapists are most often predatory offenders, not bumbling men who fail to read the cues. As a result, to stop sexual assault, colleges should focus on identifying male perpetrators on campus rather than on constraining women's behavior.

#### When Colleges Strictly Comply With Title IX

Wendy Murphy

Adjunct Professor at the New England School of Law

The handling of violence against women is worse than ever because of the Campus Sexual Violence Elimination Act, known as the SaVE Act.

When SaVE was proposed, in April 2011, supporters said it would "codify" the excellent "Dear Colleague" letter, issued days earlier, in which the Department of Education emphasized that violence against women must be dealt with under Title IX's "equitable" standards — on par with those employed in the redress of violence on the basis of race, national origin, etc.

In fact, the SaVE Act was intended to destroy the "Dear Colleague" letter and enable colleges to respond to violence against women under worse standards compared with those of other protected classes. That became more apparent as SaVE made its way through Congress, where a few good provisions were replaced with bad ones. A mandatory "preponderance of evidence" rule was removed, allowing colleges to declare victimized women inherently less credible than their attackers. SaVE also replaced Title IX's mandate of "equitable" treatment for women with a weaker promise of "fair" treatment.

On the eve of SaVE's effective date, in 2014, I filed suit to stop it on the grounds that it violated women's constitutional rights. A federal court ruled in March 2015 that SaVE can have "no effect" on Title IX, and yet the act has already caused tremendous harm to Title IX. Contrast the recent decisive and effective civil-rights response to students chanting racist words with the refusal of most colleges to process any sexual assault as a civil-rights violation anymore.

SaVE not only subjugates women but also requires tremendous resources. Strict compliance with Title IX is simpler and minimizes the risk of litigation. Better yet, it ensures that sexist violence is understood as a civil-rights injury that harms the entire community. When all students feel injured, all students become invested in solutions, and the number of incidents goes down.

### When 'Sexual Assault' Is Clearly Defined

Geoffrey Stone

Professor of Law at the University of Chicago

I would like to see progress on four fronts.

First, and most obviously, sexual assault is a serious offense. Colleges should take seriously their obligation to protect students against such behavior and to reduce the incidence of such conduct.

Second, to achieve that goal, colleges need a clear, coherent, reasonable, and workable definition of what they mean by "sexual assault." In the absence of such a definition, no one knows what is expected. The concept of sexual assault has been so confused that it is difficult for students and adjudicators to understand the "rules." A good starting point would be to make clear that it is sexual assault for X to have sex with Y unless X reasonably believes, in all the circumstances, that Y has voluntarily consented to the sexual conduct.

Third, colleges must commit to a set of fair procedures. Because a finding that one has committed sexual assault carries potentially grave consequences, colleges should employ procedures that fully respect the demands of due process. These include a right to a fair and impartial decision maker, a right to the assistance of counsel, a right to confront the witnesses, a right to present evidence, a right to appeal, and a right not to be found guilty in the absence of clear and convincing evidence.

Fourth, much of the problem stems from a lack of good judgment on the part of students. Although colleges should be reluctant to play the role of parents, in this realm colleges should do a better job of educating and informing students about appropriate behavior. It is unfortunate that students entering college have not already figured this out, but to the extent they haven't, colleges should take the initiative to engage students in thinking responsibly about these issues.

### When Students Develop Relationship Skills

Holly Rider-Milkovich

Director of Sexual Assault Prevention at the University of Michigan

With the reauthorizing of the Violence Against Women Act in 2013, nearly every college student in the United States receives training in developing relationship skills that promote respect, nonviolent resolution of conflict, and healthy sexuality.

In 10 years, an entire generation of college students will have received some form of education on this issue. This accomplishment alone constitutes a major advance



toward the goal of changing our cultural norms to further embrace gender equality and reject gender-based violence in all its forms.

However, campus training is often delivered too late. National studies indicate that by the time students arrive at college, many have already experienced some form of dating or relationship violence, or have committed sexual or dating violence against a peer.

Researchers and youth advocates agree that students should develop these skills in early adolescence, when they are forming their beliefs about how to engage in sexual and intimate relationships, and expressing those beliefs through dating or casual sexual encounters. Real progress will be made when the prevention education we provide in college builds on a foundation of knowledge and skills about healthy relationships that students learn in middle school and high school.

To achieve this progress, communities must invest in age-appropriate, evidence-based training on respectful relationships and healthy sexuality education before students graduate from high school.

Universities must do more as well. It is insufficient to talk about healthy relationships with students only at the beginning of their freshman year. We must continue to develop students' relationship skills as they continue toward a degree. Real progress will be students graduating from college ready to be successful in their relationships with others as well as in their careers.

#### When Accusations Do Not Equal Guilt

Sherry Warner Seefeld

President of Families Advocating for Campus Equality

An indication of progress in the handling of sexual assault on college campuses will be when young people of both genders feel valued and receive the full support and resources of their colleges, whether claimants of wrongdoing or respondents. Campuses will be practitioners of constitutional principles, teaching and modeling appropriate civic behavior; they will be governed by administrators using calm and focused strategies to solve this serious issue.

Criminal activity will not be tolerated on campus. Those who believe they have been victims of a crime will be supported and given the aid necessary to make a report to authorities. Campus services will support this person throughout the process. The same will be true for any student who stands accused, but accusations should not equal guilt, because labels do last a lifetime.

It is imperative that we strive to achieve justice for everyone on our campuses. Colleges will model our American belief in "innocent until proven guilty." After the criminal-justice process has concluded, a campus discipline hearing may be held.

If an accusation made by a student is not criminal, the matter will become part of the college disciplinary-hearing process, a procedure meant to be an educational experience. The restorative-justice model has great potential.

Restorative justice brings together respondents, claimants, and their respective supporters to voluntarily participate in a range of processes, including dialogue, for which they are prepared and during which they are supported by professionals. The focus of this dialogue is to understand the harm caused and to seek resolution by giving all parties a voice so they can be heard and understood. Restorative justice aims to build stronger, safer, more inclusive and caring communities.