



ASCA 2014 White Paper:
Student Conduct Administration & Title IX: Gold Standard Practices for Resolution of Allegations of Sexual Misconduct on College Campuses

Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) requires that institutions of higher education address issues of sexual discrimination, which include sexual assault, affecting their students. The White House, Congress, the U.S. Department of Education's Office of Civil Rights (OCR), the media, students, and parents are demanding effective and fair resolution procedures. Campuses are left searching for how to resolve these cases and are being questioned as to whether they can adequately address crimes of sexual violence that may come before them. In response, the chief leadership of the Association for Student Conduct Administration (ASCA) has compiled a summary of "gold standard" practices for resolving these cases through student conduct procedures. As the experts in student conduct administration, ASCA is the national association for student conduct professionals and currently has more than 3,100 members from more than 1,500 institutions.

There is no one-size-fits-all model for addressing incidents of sexual misconduct. With different missions, resources, staffing models, funding sources, system policies, and especially campus cultures and student populations at postsecondary institutions across the United States, each college or university must develop its own policies and procedures. This report (a) identifies the guiding principles that should underlie all student conduct policies and procedures, as well as the recommended practices that are required for an institution to be a "gold standard" in responding to allegations of sexual misconduct, (b) outlines differences among various types of resolution methods (i.e., single-investigator, hearing board, or hybrid model), and (c) provides guiding questions for institutions to consider as they determine the most effective resolution method(s) for their unique campus environments.

First and foremost, it is important to understand that a learning-centered, fundamentally fair student conduct process should occur on all campuses. Institutions must remember that they have an obligation to all students, including students who may have been harmed, students who are accused of causing harm, and the rest of the student body. All students (including victims, complainants, respondents, and witnesses) involved in the student conduct process should be treated with care, concern, honor, and dignity.

Campuses are not meant to be courtrooms, and the courts support this distinction. While television shows such as *Law and Order* might be the only frame of reference that parents, students, and others may have, we must teach them that campus proceedings are educational and focus on students' relationships to the institution. The field of student conduct is rooted in ensuring that individual students' rights are upheld as they engage in an educational process about the behavioral (and sometimes academic) standards of the campus community. This involves a reasonable process for the institution to determine whether behaviors have violated campus policies and to impose appropriate consequences if necessary. For behaviors that may violate college policies and the law, victims are encouraged to pursue criminal procedures if they seek outcomes beyond the jurisdiction of what the campus can offer or impose.

There are five stages of student conduct resolution procedures: policy, initial interactions, investigation, adjudication, and institutional response. Within each of these are recommended practices that can help an institution to address and resolve incidents of sexual violence effectively. This report is supplemented by appendices containing guiding documents that institutions can use to improve their student conduct resolution procedures.

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Recommended practices include but are not limited to the following:

- All employees should be trained on the basics of the campus policy, resolution process, and how to provide information to students about their options for support.
- Mandated reporting, mandated sanctions, or other such requirements should be carefully considered, as they may discourage reporting.
- A victim's request for confidentiality should be honored when possible, but the request must be weighed against the institution's obligation to all students.
- Legalistic language (e.g., rape, judicial, justices, prosecutor, defense, guilty) should be removed from policies and procedures. ASCA recommends use of "student conduct" instead of "disciplinary" or "judicial" to reflect the spectrum of student conduct practices.
- Consider what students find reasonable when determining and writing policies and procedures; communicate procedures widely and follow them.
- Ensure that behavioral standards for employees, students, and community members are compliant with Title IX. If there are distinct resolution processes depending on whether the accused is an employee or a student, ensure that both operate effectively and are communicated clearly to students.
- Effective interim actions, including multiple forms of remedies for the victim and actions restricting the accused, should be offered and used while cases are being resolved, as well as without a formal complaint.
- Select a resolution method that fits the institutional culture and promotes the best resolution process for students. It should contribute to creating a culture of reporting; it should not mirror the criminal process.
- Use the preponderance of evidence (more likely than not) standard to resolve all allegations of sexual misconduct
- The proceedings should be equitable and sensitive; there should be no direct questioning of respondents and victims by each other, and the parties need not be in the same room.
- Both complainants and respondents may consult with an advisor of choice, but institutions should impose guidelines limiting advisors' participation in student conduct proceedings.
- Training campus experts should include the Title IX team/coordinators, investigators, adjudicators, appeals board members, and so forth. Trust in them to revise policy and procedure annually as needed.
- Devote adequate staff, resources, and funding to manage cases. Investigators must be able to set aside other responsibilities to ensure that investigations are prompt and thorough.
- A Title IX team should be developed to review and revise policy, assess campus climate, lead prevention efforts, and assist the Title IX Coordinator

Given the importance of expanding understanding of the role of campus conduct processes in resolving the societal issue of sexual violence, the full report is available free to the public at <http://theasca.org>. This report will also be disseminated to the White House, the Department of Education's OCR, higher education associations, legislators engaged in discussions about pertinent federal or state mandates, and other relevant entities.

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