

Responding to Sexual Assault on Campus: A national assessment and systematic classification of the scope and challenges for Investigation and Adjudication

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The Problem of Campus Sexual Assault

Widespread

- One in 4 or 5 college women and one in 16 college men experiences an attempted or completed sexual assault during their college career. 19% of students experience sexual harassment, 10% non-sexual intimate partner violence and 6% stalking.^{1,2,3}
- Rates of campus sexual assault have been high as far back as at least the 1980s.⁴

Harms Associated with Sexual Assault– college students

- Mental health issues, higher levels of PTSD and depressive symptoms.^{5,6,7}
- Negative impact on academic achievement – survivors feel more stress related to classes and are less committed to staying in college, and more likely to withdraw from classes and earn lower GPAs.^{8,9}

Why do schools handle sexual assault?

- Sexual assault is a crime, and students who report to their schools may also report to the police. However, rape and other forms of sexual assault can make it difficult to show up to class and learn, and [federal antidiscrimination law](#) recognizes that.
- To make sure that all students, regardless of their gender, have equal access to education, schools are required to prevent and respond to reports of sexual violence.
- This isn't a replacement for reporting to the police, it's a separate option for survivors based in civil rights—rather than criminal—law.

Title IX

- No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” - *U.S. Department of Education, Office for Civil Rights*
- **Prohibits Sex Discrimination**
- Applies to all schools that receive federal funding
- Supreme Court decisions and guidance from the U.S. DOE have given it a broad scope covering sexual harassment and sexual violence.
- Under Title IX, schools are legally required to respond and remedy hostile educational environments and failure to do so is a violation that means a school could risk losing its federal funding.

Context for this research, funded by National Institute of Justice

- Given changes in federal guidelines and state laws and the requirement that colleges and universities develop policies and practices that meet the needs of victims and of those accused of sexual assault, our research was designed to better understand how institutions of higher education (IHEs) coordinate campus approaches to investigation, adjudication, and sanctioning of sexual assaults.
- In January 2016, our research team began an examination of the range and scope of policies and practices at four-year IHEs in the U.S.
- We documented and classified the current landscape (the breadth and differences) of campus responses.

Final Summary Report [Responding to Sexual Assault on Campus](https://www.ncjrs.gov/pdffiles1/nij/grants/254671.pdf)
<https://www.ncjrs.gov/pdffiles1/nij/grants/254671.pdf>

Two aspects of the mixed-methods research

Webscan

- Systematic broad-based environmental scan of IHE websites (content analysis).
- Examine policies and practices made available to students and the public.
- Definitions, reporting, investigation, adjudication, sanctions, & prevention.
- Random sample of four year colleges & universities.

Title IX Interviews

- Confidential phone interviews.
- Participants from IHEs included in the webscan.
- Ask about their approach & responses to student-on-student sexual assault:
 - barriers
 - challenges
 - successes

Webscan Methods

- Webscan data collected by trained undergrad student researchers.
- Examined the websites of a randomly selected representative sample of 1019 four-year colleges and universities. (Source: Integrated Post Secondary Education Data Center -- IPEDS)
- Institutional characteristics included in stratified sample:
 - Size of student body
 - Public or Private Institution
 - Religious Affiliation (No/Yes)
 - Geographic Location
 - Region of the U.S.
 - Urban/Rural/Suburban

Webscan Survey Items

Informed by a victim/ student-centered approach: What would students find on their schools' websites (2016)?

- Is what happened (to me) a sexual assault? To whom should I report? Who will find out? What about medical care or counseling? Will I get in trouble for alcohol use?

151 survey questions:

- Information and Reporting (Sexual Assault Definition, Title IX office info, reporting options).
- Investigation (who is involved in investigations, hearings, panels; training received; interim measures available).
- Adjudication (who determines responsibility, sanctions, appeals, advisors).
- Campus Climate Information and Support Resources available.

Webscan IHE Sample Details

FROM A SAMPLE OF 1019 SCHOOLS

50 were eliminated due to

- 25 had no internal search box
- 7 merged with another school or closed
- 9 had no undergrad program
- 9 had primarily an on-line curriculum

OF 969 WEBSkans COMPLETED

- 33 had no information on sexual assault definition, reporting, and Title IX and thus were eliminated from further analyses

Final sample: 936 schools with data analyzed

WHAT ARE THE KEY FINDINGS?

Findings from the Webscan*

Key finding: detailed information was missing in many areas, especially troubling because students consult IHE websites as a part of their decision making process on whether or not to report a sexual assault.

- 969 websites were scanned, on 33 (3%) we found no information about sexual assault. Thus these websites lacked even basic details on the definition of sexual assault, how to report sexual assault, the Title IX office, or investigation or adjudication policies.
- Beyond the 33 IHEs with no discernable information on sexual assault, missing information on many items re: investigation and adjudication generally raises questions about the extent to which IHEs effectively provide information for students concerned about sexual assault.

*The tables on pages 30-26 of the final summary report provide findings from the webscan

Webscan Findings: Policy Models

- When information on reporting, investigation and adjudication was available, we found a range of approaches at each level - investigations, adjudications, and sanctioning.
- Applied latent cluster analysis to discern any investigative and adjudicatory policy models based off webscan data
 - Statistical approach that groups cases together on patterns of shared characteristics
 - Not every case assigned to a cluster will share all of the characteristics that define the cluster
- Three policy models for investigatory policy and three policy models for adjudicatory policy

Webscan Findings: Investigation Policy Models

Single Investigator (42% of IHEs)

- *Investigation by single Title IX staff*
- *Low law enforcement involvement (campus & local)*
- *Advisors not lawyers*
- *Lower training*
- *Most likely to be missing information*

Quasi-Criminal Justice Investigation (40% of IHEs)

- *Investigation by Title IX staff & campus law enforcement*
- *Separate formal relationship with local law enforcement*
- *Advisors can be lawyers*

Collaborative Investigation (18% of IHEs)

- *Investigation by multiplayer teams*
- *Integrated formal relationship with local law enforcement*
- *Advisors not lawyers*

Webscan Findings: Adjudication & Sanctioning Policy Models

Basic Due Process (57% of IHEs)

- *Broad mix of adjudication decision-making bodies or individuals*
- *Investigators present evidence to decision-making body or individual*
- *Less likely to require victim participation*

Criminal Justice Based Due Process (24% of IHEs)

- *Adjudication by panels (sexual misconduct board, administrative panel, general conduct board)*
- *More likely to require victim participation*
- *Only group to include beyond a reasonable doubt**

Limited Information (18% of IHEs)

- *Limited mix of adjudication decision-making (general conduct board, sexual misconduct board, sole administrator)*
- *Likely to be missing detailed information*

72% overall stated preponderance of the evidence standard; 20% missing

Webscan Findings: Policy Models

Considerable amounts of missing information

- The further along in the process, the more likely information was to be missing
- Reporting ⇒ Investigation ⇒ Adjudication ⇒ Sanctions

Multiple approaches to handling campus sexual assault cases

- No dominant model at any stage or overall
- Investigations involved sole investigators, teams or panels
- Adjudication and sanctioning involved general panels, sexual misconduct specific panels, administrative panels, and sole campus administrators, with some determinations of responsibility made by a sole investigator
- Mix-and-match approach between investigations model and adjudication & sanctioning model means that some models treated these stages as a vertical processes handled all by one person, team or panel vs. horizontal approaches with different stages handled by different people or groups

Title IX Coordinator Interviews

- Interviews were designed to help to better understand models and approaches and to assist in identifying and assessing successes and challenges associated with IHE responses to reporting, investigation, adjudication, and sanctioning of sexual assault.
- Interview protocol was modified to accommodate the changes in the Title IX guidance that was being rolled out by the U.S. Department of Education commencing in 2017.
- In 2018-2019, we recruited participants and conducted interviews with 47 Title IX coordinators.

Interview sample

- Recruited Title IX coordinators from the sample of 936 IHEs
- Recruitment revealed some initial findings of:
 - high turnover of Title IX staff (10%)
 - school closures (18 IHEs)
 - ongoing OCR investigations (49 IHEs excluded).
 - 4% IHEs no longer provided information that permitted us to identify a Title IX coordinator by name.
- The interviewees represented each type of institution (public, private not religiously affiliated, and private-religiously affiliated) and institution size.

Interviewee Feedback on Investigatory and Adjudication Models

- In accord with the webscan findings, protocols for investigation and adjudication at many IHEs involved a “smorgasbord” approach.
- Roles and responsibilities of the Title IX coordinators widely varied

Investigatory Models:

- Most Title IX coordinators did not conduct the investigations
- On the other hand, some conducted all the investigations of all/most complaints
- Often relied on trained internal staff (singly or in teams of two or three) to conduct the investigations
- In a few cases the investigation was also carried out by a board

Adjudicatory models

The Title IX coordinators described a very wide variety of adjudicatory approaches, more varied than our cluster analysis of webscan data revealed.

Sole Investigator and Sole Adjudicator Model

- About one-fourth of the interviewees reported that the adjudication decision (which was almost always reported to be made based on the preponderance of evidence) could be made by the investigators, or by the investigators in consultation with the Title IX coordinator or other senior administrator.

Adjudicatory Panel

- Reviews the evidence gathered by others

Adjudicatory Hearing Model

- More than one-half of the interviewees stated that the IHE generally relies on an adjudicatory hearing. At times this hearing board may serve an investigatory and an adjudicatory function.

Themes Identified

- A strong theme across Title IX coordinator interviews was that of caring about protecting victims, assuring a fair response to victims and accused students.
- Saw this focus as part of an educational process, in keeping with the main mission of IHEs

Themes Identified: Challenges

1. Lack of capacity to respond to increasing numbers of complaints and reports of sexual assault.
2. Need more well-trained investigators, whether these are from within the IHE community, public safety, or external sources.
3. Building a network of connections for Title IX staff on campus.
4. Building trust of the Title IX office in the community among students, faculty, and staff.
5. Garnering support from institutional leadership.

Themes Identified: Challenges

Support including:

1. Resources;
2. Visibility of the office (not isolated or siloed away from campus community);
3. Legitimation of Title IX activities (reporting, investigation, and adjudication, as well as, prevention);
4. Institutional commitment to prevent and respond to campus sexual assault;
5. Lowering barriers to reporting by students, faculty and staff;
6. Providing a culture in which sexual harassment and assault are understood and not tolerated.

Concerns voiced by Title IX Coordinators

Trepidation and concern over coming potential changes

- State legislation
- Title IX changes anticipated / now implemented
- Including concern that requirement for hearings and cross-examination will put a damper on reporting

Need to further professionalize response

Balancing Federal guidance/ rules, state laws and federal circuit court decisions

Where are we going now?

HOPES

Systematic research to inform effective policy

Changes designed to improve campus practices

Continued and expanded support for survivor voices

CONCERNS

Push toward more legalistic approach

Push to the criminal justice system

Litigious/ Adversarial process will have chilling effect on reporting and help-seeking

Recommendation: Website checklist

- The institutional website is a critical part of providing a transparent, fair, and equitable response to campus sexual violence.
- It provides victims, those accused, and those working to support them with needed information to make decisions about reporting, self-care, and participation in any investigative or adjudicatory processes.
- We developed a checklist* to aid institutions in designing and maintaining user-friendly website content related to the prevention and response to sexual violence.

*The checklist is included in our final report: <https://www.ncjrs.gov/pdffiles1/nij/grants/254671.pdf>

Tips and Website Checklist

- Link to sexual assault resources on the main institution web page
- Gather all information on one main sexual assault resources web page with public access
- Have information available on the webpage, not as part of a pdf. (If pdfs are necessary ensure the pdf is searchable.)
- Use a google powered search box for searching the institution website as it better accommodates misspellings and non-exact search terms
- Ensure web content is viewable across different platforms and browsers
- Designate someone, preferably a student, to review the website related to sexual violence before every semester

How can we assist Educational Institutions in responding to sexual assault?

- Continue to support research to inform social change to end gender-based violence and systematic evaluations of case processing and policy changes
- Continue to support educational institutions placing an emphasis on responding to campus sexual assault (leadership and \$\$\$ are both important)
- Remember that sometimes a good response can lead to an increase in reporting
- Understand and pay attention to the importance of State, Judicial Circuit and Federal guidelines, rulings and laws.

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For More Information

<http://www.wcwonline.org/jgbvr>

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