

## Background Brief

### Title IX & Sexual Assault Prevention and Response

Title IX<sup>1</sup>, the federal civil rights law pertaining to sex discrimination in education, is part of the Educational Amendments of 1972 to the Civil Rights Act of 1964. Under the Obama administration, college and university responsibilities for prevention and response to sexual assault incidents on campus were clarified, clearly outlining adjudication of sexual assault incidents as falling within the bounds of Title IX protections and requiring institutions to take action. Our national conversation around campus sexual assault has evolved greatly since the Obama administration directly addressed the culture of under-reporting on college campuses. Secretary of Education Betsy DeVos and her staff in the Department of Education (ED) Office of Civil Rights (OCR), most notably then-Acting Assistant Secretary for Civil Rights Candice Jackson, nonetheless walked back many of the provisions established under the previous administration in apparent response to concerns having to do with the processes and protections for respondents, to the detriment of accused students. NASPA stands by the student affairs professionals and advocates who work on behalf of students – both survivors and accused – every day and who have spent countless hours in extensive training to ensure that campuses are handling these cases appropriately. It is the role of OCR to address the exceptions where a process or proceeding errs too far in favoring one side or the other. To imply that such missteps are the norm on all campuses is a misrepresentation of the many professionals who have dedicated their careers to ensuring fair and equitable campus conduct proceedings.

The past seven years have seen significant work on campuses across the country in developing fair and equitable processes to resolve Title IX cases; a significant increase in education and prevention efforts; and an increase in services and supports for victims of sexual violence. Campuses and the professionals who work to adjudicate sexual misconduct cases have the best interests of all students in mind. As Kenneth Marcus, recently confirmed by the Senate to lead ED's OCR, takes up responsibility for Title IX oversight, NASPA will continue to work alongside campus professionals to advocate for the protection of students who have experienced harm through fair, prompt and equitable campus adjudication processes. This brief will provide a short review of the history of Title IX regulatory guidance and identify some of the current issues campuses are facing in the area of sexual assault prevention and response<sup>2</sup>.

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<sup>1</sup> Title IX of the Educational Amendments of 1972: <https://www.justice.gov/crt/title-ix-education-amendments-1972>

<sup>2</sup> Title IX is also the primary vehicle for protection of trans student rights on college campuses; a separate background brief is available covering changes in trans student protections for those interested in recent developments.

## Title IX: A History of Regulatory Guidance

Title IX as it pertains to institutional responsibilities to respond to and address sexual misconduct has undergone a number of interpretations which have expanded the protections it provides for students over time. The first major reinterpretation of Title IX occurred in 1992 in *Franklin v. Gwinnet County Public Schools*<sup>3</sup> when the Supreme Court expanded Title IX protections to include sexual assault, and specifically rape as a form of sex discrimination. The case brought an increased focus on campus sexual assault prevention from advocacy groups, policymakers and the media nationwide. In 2001, the Office for Civil Rights (OCR), an administrative office under ED, released guidance<sup>4</sup> on what constitutes sexual harassment under the law and specified how the Department expects institutions to respond.

The Obama Administration, under the direction of Vice President Joe Biden, further expanded guidance on Title IX to address institutional responsibilities to respond to accusations of sexual assault or harassment<sup>5</sup>. “We are the first administration to make it clear that sexual assault is not just a crime, it can be a violation of [an individual’s] rights,” Biden stated upon the release of the 2011 Dear Colleague Letter<sup>6</sup> (DCL) which included sexual violence in the definition of sexual harassment under Title IX. OCR also created a detailed Question and Answer document<sup>7</sup> (Q&A) in 2014 to more clearly explain institutional responsibilities under Title IX in adjudicating instances of alleged sexual misconduct. The expanded Title IX guidance, along with the update to the Jeanne Clery Disclosure of Campus Safety Policy and Campus Crimes Statistics Act<sup>8</sup> (Clery Act) and the corresponding administrative push<sup>9</sup> for campus sexual violence awareness, resulted in tangible changes<sup>10</sup> in higher education institutional policies across the country.

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<sup>3</sup> *Franklin v. Gwinnett County Public Schools*, 502 U.S. 60 (1992):

<https://supreme.justia.com/cases/federal/us/503/60/case.html>

<sup>4</sup> Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties (January 2001): <https://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>

<sup>5</sup> The Obama Administration Remade Sexual Assault Enforcement on Campus. Could Trump Unmake it?:

<http://www.wbur.org/edify/2016/11/25/title-ix-obama-trump>

<sup>6</sup> ED OCR Dear Colleague Letter (April 4, 2011):

<https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.html>

<sup>7</sup> ED OCR Question and Answers (2014): <https://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>

<sup>8</sup> Jeanne Clery Disclosure of Campus Safety Policy and Campus Crimes Statistics Act:

<https://www.knowyourix.org/college-resources/clery-act/>

<sup>9</sup> President Obama Launches It’s on Us Campaign (2014):

<https://obamawhitehouse.archives.gov/blog/2014/09/19/president-obama-launches-its-us-campaign-end-sexual-assault-campus>

<sup>10</sup> Sexual Assault Prevention and Reporting on College Campuses in the US: A Review of Policies and Recommendations by Tara K. Streng and Akiko Kamimura (2015):

<https://files.eric.ed.gov/fulltext/EJ1083737.pdf>



The legal requirements of the 2011 DCL and Clery Act made institutions responsible for playing multiple roles regarding campus sexual violence, from prevention efforts to investigation and adjudication of alleged incidents of sexual misconduct. In her 2014 essay “Only Yes Means Yes: An Essay on University Policies regarding Sexual Violence and Sexual Assault<sup>11</sup>,” President of the University of California System, Janet Napolitano, explained some of the hurdles institutions faced at the time. She noted that while the guidance emphasized the rights of survivors, certain provisions seemed to simultaneously undermine survivors’ rights; that the shift to a preponderance of evidence standard of proof created concerns regarding respondent rights; and that campus investigators may struggle with a lack of resources and tools to meet regulatory guidance.

### Fall 2017 Interim Guidance Dear Colleague Letter

When the Trump administration began, Secretary of Education, Betsy DeVos indicated that OCR would rectify some of these concerns. In September 2017, Secretary DeVos rescinded<sup>12</sup> the 2011 and 2014 guidance, and released a new Q&A<sup>13</sup> which is designed to serve as interim guidance. This interim guidance removed the requirement for institutions to use the preponderance of evidence standard as the appropriate standard of proof for investigating allegations of sexual violence; eliminated the 60-day timeframe from Title IX investigation proceedings; allowed an appeals process initiated either by both parties or solely by accused students; and created an informal resolution option. In removing requirements previously in place that were more restrictive, the interim guidance gave institutions more flexibility in how to conduct their Title IX proceedings, however many of the changes lack guidance for implementation and raise concerns that survivors’ rights may be undermined. The interim guidance does not address concerns involving survivors’ rights or campus resources, including the role of law enforcement, and does not provide details on how institutions should operationalize any policy changes they choose to make.

While many campuses raised significant concerns with respect to the changes announced by Secretary DeVos in a Dear Colleague Letter in September 2017, it should be noted that the letter does not require campuses to alter the basic policies and principles they were using to resolve sexual misconduct cases. For example, the guidance does *remove* the *obligation* to use

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<sup>11</sup> Only Yes Means Yes: An Essay on University Policies Regarding Sexual Violence and Sexual Assault by Janet Napolitano (2014):

<http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1684&context=ylpr>

<sup>12</sup> ED OCR Dear Colleague Letter (September 22, 2017):

<https://www2.ed.gov/about/offices/list/ocr/letters/colleague-title-ix-201709.pdf>

<sup>13</sup> ED OCR Q&A on Campus Sexual Misconduct (September 2017):

<https://www2.ed.gov/about/offices/list/ocr/docs/qa-title-ix-201709.pdf>



“preponderance of the evidence” as the evidentiary standard used to adjudicate cases, but it does not require campuses to use a stricter standard. Campuses were and are under no requirement to change their current standard of evidence, and given the interim nature of the guidance, and the promise of future regulation on Title IX, it would be least disruptive to campuses processes not to alter the standard. Perhaps more concerning, however, was the removal in the interim guidance of any timeline for case resolution. Under the Obama-era guidance, campuses were expected to resolve cases with 60-days, which may have been too short for cases with complex or extenuating circumstances. The absence of any timeline, unfortunately, creates new challenges and risks leaving both survivors and accused in perpetual states of limbo awaiting resolution.

The initial response<sup>14</sup> to the interim guidance by campus administrators was largely to keep their current policies and practices in place and to carefully review current policy<sup>15</sup> rather than make changes as the interim guidance allowed pending the release of an expected proposed final rule this year. Secretary DeVos indicated that a full Notice of Proposed Rulemaking (NPRM), including a period of public comment, would be forthcoming in 2018. While early indications were that the NPRM would be released in spring, recent information lists September as the expected release date.

### **Notice of Proposed Rulemaking and Comment Period: What it is and Why Student Affairs Professionals Should Participate**

When the September 2017 interim guidance was released, ED indicated a full NPRM<sup>16</sup> on a final proposed rule related to Title IX would be forthcoming; we are quickly approaching the first step in that process, the notice and comment period. Administrative agencies, like ED, are responsible for releasing guidance and interpretation on how legislation will be implemented. Agencies are able to establish guidance through rulemaking and enforce compliance through the adjudication of those found to be out of compliance with current guidance. Rules and regulations issued by Executive agencies have the effect of law and are released as federal regulatory and sub-regulatory guidance. Sub-regulatory guidance, like the 2011 DCL and September 2017 interim guidance on Title IX, are not subject to the public comment process

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<sup>14</sup> New Instructions on Title IX: <https://www.insidehighered.com/news/2017/09/25/education-department-releases-interim-directions-title-ix-compliance>

<sup>15</sup> What Does the End of Obama’s Title IX Guidance Mean for Colleges: <https://www.chronicle.com/article/What-Does-the-End-of-Obama-s/241281>

<sup>16</sup> For more information on the regulatory process and how it works, please review The Rule Making Process: Differences in Federal Regulatory and Sub-Regulatory Guidance: <https://www.naspa.org/rpi/posts/the-rule-making-process-differences-in-federal-regulatory-and-sub-regulator>



that full federal regulatory guidance is held to. Therefore, these documents did not undergo an open call for comment for the general public to weigh in.

Both the rescinded 2011 DCL and the interim guidance fall under part 106<sup>17</sup> of the Code of Federal Regulations (CFR) under Title IX, which governs nondiscrimination on the basis of sex in educational programs. This umbrella regulation has not seen significant regulatory reform in a while, and given the change in campus climate and approach to these matters, it's important for NASPA members, including those who are responsible for supporting students and administering sexual misconduct prevention and response programming, to take part in providing comments in response to the upcoming NPRM.

The rule-making process will begin when ED issues a proposed rule (the NRPM), which will be made available to the public through the Federal Register<sup>18</sup> and regulations.gov<sup>19</sup>. The issuing of the rule will correspond with a call for comment, in which individuals, government officials, organizations, and associations can send comments for a given period of time, usually between 30 and 90 days. Once the comment period has concluded, ED will review all comments they receive before publishing a final rule along with responses to any comments of significance and outlining any substantial revisions that have been made to the rule as a result of comments submitted. Once the final rule is released it will not be enforceable until its effective date, which will be listed publicly, to allow room for institutions to make any necessary changes to ensure compliance.

Since ED is obligated to respond to comments of significance, it's especially important to consider the unique ways in which various sectors of the higher education community will be impacted when submitting comments to the NPRM. Detailed comments, including, de-identified case examples from institutions, data and evidence of programmatic impact, and alternative solutions, will help illustrate the ways in which institutions are likely to be affected by the new guidance, and shape revisions in support of the student affairs perspective. Student affairs professionals represent all facets of Title IX on campus. As mentioned above, If ED decides not to make substantive revisions as suggested, the Department is required to explain why.

Comments from individuals and institutions are very important to help ED understand the breadth and depth of institutional programming and consideration of sexual misconduct, as well as to more fully paint the picture of the diversity of our students and campus settings and how those factors influence sexual misconduct proceedings. This call for comment period is a crucial chance for both NASPA as an association, and individual members to consider policy impacts

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<sup>17</sup> Part 106 Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance: <https://www2.ed.gov/policy/rights/reg/ocr/edlite-34cfr106.html>

<sup>18</sup> Federal Register website: <http://www.federalregister.gov>

<sup>19</sup> Regulations.gov: Your Voice in Federal Decision-making: <https://www.regulations.gov/>



from both an administrative and a student-centered approach and relay this important information to ED. NASPA held a series of listening sessions in April (when the NPRM was originally expected to be released) to collect feedback and information from our members to inform any comments NASPA submits in response to the NPRM. NASPA will help connect student affairs professionals to the NPRM upon its release so that individuals are able to consider the proposed rule and submit individual comments.

## **NASPA Position on Title IX Regulatory Reform**

NASPA and the higher education community welcome the opportunity for a review and comment process and subsequent negotiated rulemaking as ED develops new guidance. This will ensure that any new guidance reflects important perspectives from campus-based student affairs professionals and Title IX staff who engage in this work every day. It would also allow for input from the victim advocate community, whose work provides systems to support victims of sexual assault.

We also would welcome a more collaborative relationship between OCR and colleges and universities. Colleges and universities have a vested interest in supporting all their students and they do so by creating fair and equitable processes related to sexual violence. While there are examples of egregious behavior around sexual assault that exist, often involving high-profile college athletic teams, the vast majority of campuses work hard every day to get it right. The role of OCR should be to work with campuses to improve and clarify guidance and to provide oversight to catch and respond to those few egregious incidents.

Prior to 2011, when the Obama administration formalized guidance requiring it, most campuses were already utilizing the preponderance standard, which is the standard recommended by the Association for Student Conduct Administration (ASCA) for all student conduct proceedings<sup>20</sup>. Singling out sexual assault incidents as requiring a higher burden of proof than other campus adjudication processes make it – by definition – harder for one party in a complaint than the other to reach the standard of proof. Rather than leveling the field for survivors and respondents, setting a standard higher than preponderance of the evidence tilts proceedings to unfairly benefit respondents.

As we move forward in future guidance, let us also not forget the broader culture around reporting sexual assault (see below for more on the #MeToo movement). Many survivors have to overcome social, physical, or emotional, and in some cases, procedural barriers to report an incident. In previous statements, ED OCR then-Acting Assistant Secretary for Civil Rights Candice Jackson has appeared to conflate the trauma experienced by survivors with the stress of a

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<sup>20</sup> The Preponderance of Evidence Standard: Use in Higher Education Campus Conduct Processes: <https://www.theasca.org/files/The%20Preponderance%20of%20Evidence%20Standard.pdf>



respondent who has been accused. Survivor trauma and respondent stress, while both very real, are not the same. Data indicate that survivor reports of sexual assault and false accusations against student respondents do not occur at the same rate; between 75 - 95% of survivors do not report their experiences to the campus<sup>21</sup>, while only between 2% and 10% of sexual assault reports are false<sup>22</sup>. These data make a clear point: respondents are not being falsely accused at rates even approaching the underreporting of sexual assault incidents. The context of these data and the information gathered from the field should be integral as ED considers new guidance to campuses that accounts for both the accused and victims.

## #MeToo, Larry Nassar, and Mandatory Reporting

Though it has existed for years as a social media movement founded by Tarana Burke to empower underprivileged women of color effected by sexual abuse<sup>23</sup>, the #MeToo movement launched into national prominence in 2017 when Hollywood actors began sharing their stories of sexual assault in the industry following widespread accusations of producer Harvey Weinstein<sup>24</sup>. Campuses have also been grappling with the #MeToo movement<sup>25</sup> and how to handle lists of alleged perpetrators made public by student survivors and activists. But perhaps the most talked-about series of events to grip higher education in 2018 has been the fallout from the conviction and sentencing of Larry Nassar<sup>26</sup>, the former Michigan State University and USA Gymnastics doctor who sexually assaulted hundreds of his former patients. The case brought about the resignation of Michigan State University President Lou Anna Simon<sup>27</sup>,

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<sup>21</sup> Report on the AAU Campus Climate Survey on Sexual Assault and Sexual Misconduct:

<https://www.aau.edu/sites/default/files/AAU-Files/Key-Issues/Campus-Safety/AAU-Campus-Climate-Survey-FINAL-10-20-17.pdf>

<sup>22</sup> Lisak, David, et al. "False allegations of sexual assault: An analysis of ten years of reported cases." *Violence Against Women* 16.12 (2010): 1318-1334.

<sup>23</sup> <https://www.ajc.com/news/world/who-tarana-burke-meet-the-woman-who-started-the-too-movement-decade-ago/i8NEiuFHKalvBh9ucukidK/>

<sup>24</sup> <http://time.com/5189945/whats-the-difference-between-the-metoo-and-times-up-movements/>

<sup>25</sup> A College's List of Alleged Rapists: <https://www.insidehighered.com/news/2018/01/30/metoo-movement-inspires-similar-campaigns-among-colleges>

<sup>26</sup> Larry Nassar's criminal cases end with Eaton County sentence of 40 to 125 years:

<https://www.lansingstatejournal.com/story/news/local/2018/02/05/larry-nassar-sentenced-40-125-years-eaton-county/306237002/>

<sup>27</sup> Michigan State President Lou Anna Simon Resigns Amid Nassar Fallout:

<https://www.nytimes.com/2018/01/24/sports/olympics/michigan-state-president-resigns-lou-anna-simon.html>



and calls for the ouster of the board of regents<sup>28</sup>. The university is now being investigated by the NCAA<sup>29</sup> and the Michigan Attorney General<sup>30</sup>.

The fallout from this tragic case isn't localized to Michigan State, however. The question "could this have happened here" is echoing at campuses throughout the country. The conviction and the nonstop media attention to this case has many institutions of higher education rethinking their sexual assault policies and procedures. Presidents are directing their Vice Presidents, Title IX Coordinators, and other sexual assault experts on campus to identify weak areas of training or response that could leave their institutions vulnerable. For other campuses, the directive is coming from outside of campus. Ohio Governor John Kasich has asked for a review of campus sexual assault enforcement and Congress is weighing in with legislation<sup>31</sup> as well.

There are many solutions that might be offered to assuage the fears of campus presidents and legal counsel regarding an institution's response protocols and policies. These include better training for employees who learn about incidents of sexual assault, more comprehensive education for students, faculty and staff who are impacted by sexual violence, and stronger mandatory reporting policies, among others. The problem, however, is that stronger mandatory reporting policies might actually have a contravening effect on sexual violence efforts on campus.

A new study by Holland, Cortina and Freyd (2018)<sup>32</sup>, argues that mandatory reporting policies, or compelled disclosure policies as they term them, are not evidence-based. Despite this lack of evidence, in a random sample of 150 campuses, 97% of institutions had a policy "mandating that some employees report any possible sexual assault disclosed to them by a student" while 69% had policies that identified all employees as mandatory reporters of sexual assault (Holland, et al., 8). The authors of the study make a compelling argument for why compelled disclosure policies aren't the panacea that campus administrators might hope.

Specifically, the authors reference data indicating that other, similar policies requiring campuses to notify law enforcement about sexual assault reports would result in fewer disclosures of

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<sup>28</sup> Trustees Take Heat: <https://www.insidehighered.com/news/2018/01/29/trustees-face-pressure-resign-michigan-state-its-hard-force-out-boards>

<sup>29</sup> NCAA begins investigation into Michigan State's handling of Larry Nassar: [http://www.espn.com/college-sports/story/\\_/id/22193196/ncaa-begins-investigation-michigan-state-handling-larry-nassar](http://www.espn.com/college-sports/story/_/id/22193196/ncaa-begins-investigation-michigan-state-handling-larry-nassar)

<sup>30</sup> After Nassar Conviction, Michigan State Goes on Trial: <https://www.chronicle.com/article/After-Nassar-Conviction/242417>

<sup>31</sup> Congress sends sexual abuse reporting law to President Trump: [http://www.espn.com/college-sports/story/\\_/id/22258840/congress-sends-sexual-abuse-reporting-law-president-trump](http://www.espn.com/college-sports/story/_/id/22258840/congress-sends-sexual-abuse-reporting-law-president-trump)

<sup>32</sup> Holland, K. J., Cortina, L. M., and Freyd, J. J. (2018). Compelled Disclosure of College Sexual Assault: <http://dynamic.uoregon.edu/jjf/articles/hcfaccepted2017.pdf>



sexual violence by survivors. While 88% of survivors indicated that mandatory law enforcement reporting would lead to fewer disclosures, another 21% indicated that they would be “extremely likely” to report if there was a policy “requiring employees to respect students’ decisions about reporting,” (Holland et al., 11). The authors also warn that there is no evidence to support the notion that compelled disclosures to campus authorities result in more – or more successful – investigation and adjudication of sexual assaults.

Compelled disclosure policies are opposed by national medical associations such as the American Medical Association<sup>33</sup>, the World Health Organization<sup>34</sup> and victims’ rights groups<sup>35</sup> alike because they take the choice about reporting away from an adult whose very recovery depends on being able to regain control over their own lives. Compelled disclosure policies can also sometimes serve to send survivors underground, resulting in their choice to “forego treatment and support, rather than sacrifice their privacy and control under compelled disclosure,” (Ibid, 14).

This isn’t to say that what happened in the Nassar case isn’t an example of what happens when independent adults do come forward and want to make an official report to either the campus or to law enforcement. Clearly, the victims in this case did want to report and they simply weren’t believed. Better training for employees who may receive a report of sexual violence is a laudable goal, but the study’s authors also argue that many campuses are falling short of that goal. Instead, Holland, et al., outline several survivor-centered reforms, including policies that respect survivors’ wishes, creating restricted reporting options for survivors while they decide what they ultimately wish to do, and providing confidential advocates on campus with whom survivors can discuss their options while accessing accommodations. There is also hope that some state legislatures are hoping to require campuses to do just that. The Illinois Preventing Sexual Violence in Higher Education Act<sup>36</sup> already requires campuses to have confidential

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<sup>33</sup> Sachs, C. J. (2007). Mandatory reporting of injuries inflicted by intimate partner violence. *AMA Journal of Ethics*, 9(12), 842-845.

<sup>34</sup> World Health Organization (2013). Responding to intimate partner violence and sexual violence against women: WHO clinical and policy guidelines. Retrieved (1/19/2017) from <http://www.who.int/reproductivehealth/publications/violence/9789241548595/en/>

<sup>35</sup> National Alliance to End Sexual Assault (2015, March 10). NAESV opposes mandatory referral legislation. Retrieved from <http://endsexualviolence.org/files/NAESVMandatoryReferralPositionStatement.pdf>

<sup>36</sup> Preventing Sexual Violence in Higher Education Act (110 ILCS 155): <http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=3672&ChapterID=18>



advisors for survivors, and Nebraska is currently considering legislation<sup>37</sup> that would require campuses to designate confidential advisors for survivors who disclose sexual violence.

Student affairs practitioners in many ways already know the potential negative impact of compelled disclosure policies. The work of supporting survivors, investigating cases, and adjudicating policy violations rests primarily within the purview of student affairs. It is equally important that the voices and expertise of student affairs professionals and sexual assault survivors are heard during the difficult conversations on campus in follow up to this devastating case. Policies about compelled disclosure should be developed with a clear understanding of the impact on those whom they are designed to protect, and not with institutional liability in mind. If we really want more survivors to come forward, perhaps considering more survivor-centered, evidence-based, and effective reforms is the better way.

### **Evidence from Campus Practice: NASPA's Culture of Respect Initiative**

Culture of Respect<sup>38</sup>, a NASPA initiative dedicated to working with colleges and universities to strengthen sexual violence prevention and response, is proud to stand alongside many of the leaders who work tirelessly to improve student safety on campus. Culture of Respect's report Institutional Responses to Sexual Violence<sup>39</sup> provides a snapshot of what campuses across the country are doing to address violence. With self-reported survey data collected from 35 institutions participating in the Culture of Respect Collective<sup>40</sup>, a campus mobilization program that guides institutional stakeholders through a step-by-step program to improve their efforts to address campus sexual violence, the report chronicles areas of strength and opportunity in campus sexual violence prevention and response.

As college presidents, administrators and activists look towards next steps in building off the work of the past years, this Culture of Respect report provides some reminders of what we know about the movement to end sexual violence on campus:

***College and universities have made great strides.*** The totality of what Collective institutions<sup>41</sup> have done to address violence is truly impressive: implementing multidose prevention for incoming students; conducting climate surveys and sharing the data widely; employing staff with diverse skill sets to provide trauma-informed response to survivors; and

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<sup>37</sup> Nebraska colleges worry bill to help sexual violence victims would conflict with federal rules: [https://journalstar.com/legislature/nebraska-colleges-worry-bill-to-help-sexual-violence-victims-would/article\\_1943ada6-16a8-5cbf-ba33-4cd3332de548.html](https://journalstar.com/legislature/nebraska-colleges-worry-bill-to-help-sexual-violence-victims-would/article_1943ada6-16a8-5cbf-ba33-4cd3332de548.html)

<sup>38</sup> Culture of Respect: <http://cultureofrespect.org/>

<sup>39</sup> Institutional Responses to Sexual Violence: <https://www.naspa.org/images/uploads/main/CultureofRespectLandscapeReportFINAL.pdf>

<sup>40</sup> Culture of Respect Collective: <http://cultureofrespect.org/culture-of-respect-collective/>

<sup>41</sup> Culture of Respect Collective Cohort 1 institutions list: <http://archive.naspa.org/files/2017Cohort1.pdf>



much more. This commitment and effort demonstrated by the responding institutions tell us “yes, it can be done.”

***There is still more to be done.*** This work is an ongoing process – we can be never finished preventing violence. The areas of opportunity identified in this report can be helpful for institutions across the country as they consider next steps in their efforts to support survivors and engage in strategic prevention initiatives.

***This movement is powerful.*** It is not just the accomplishments detailed in the report itself that are impactful, but the commitment of institutions who dedicated their time, money, person-power, and institutional data to this project. Their willingness to engage in self-assessment and self-improvement is in no short order due to the steadfast work of activists who have carried this movement forward.

The remarkable achievements in the campus-based movement to address sexual violence are long-overdue and should be celebrated. Still, there is much more to be done. This momentum cannot be limited to higher education. While sexual violence at colleges and universities has been a hotbed of activism<sup>42</sup>, media attention<sup>43</sup>, and federal<sup>44</sup> and state<sup>45</sup> legislation, it is far from the only place where harassment, assault, abuse and intimate partner violence occur. Sexual violence is a problem that plagues people of all ages at public schools<sup>46</sup>, private schools<sup>47</sup>, workplaces<sup>48</sup> and in our streets<sup>49</sup>. As with many important social movements, institutions of higher education have an opportunity to use their influence to transform society at large.

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<sup>42</sup> From margins to mainstream: Social media as a tool for campus sexual violence activism: <http://psycnet.apa.org/journals/dhe/9/3/231/>

<sup>43</sup> There’s been a big change in how the news media cover sexual assault: [https://www.washingtonpost.com/news/monkey-cage/wp/2017/05/11/theres-been-a-big-change-in-how-the-news-media-cover-sexual-assault/?utm\\_term=.cc67ba662162](https://www.washingtonpost.com/news/monkey-cage/wp/2017/05/11/theres-been-a-big-change-in-how-the-news-media-cover-sexual-assault/?utm_term=.cc67ba662162)

<sup>44</sup> RAINN Sexual Assault Laws and Court Decisions: <https://www.rainn.org/sexual-assault-laws-and-court-decisions>

<sup>45</sup> AASCU State Policy Proposals to Combat Campus Sexual Assault (2015): <https://www.aascu.org/policy/publications/policy-matters/campussexualassault.pdf>

<sup>46</sup> Hidden horror of school sex assaults revealed by AP: <https://apnews.com/1b74feef88df4475b377dcdd6406ebb7/AP-reveals-hidden-horror-of-sex-assaults-by-K-12-students>

<sup>47</sup> St. Paul’s School Acknowledges Decades of Sexual Misconduct: <https://www.nytimes.com/2017/05/22/us/st-pauls-school-acknowledges-decades-of-sexual-misconduct.html? r=1>

<sup>48</sup> Combating Sexual Harassment in the Tech Industry: [http://www.huffingtonpost.com/entry/combating-sexual-harassment-in-the-tech-industry\\_us\\_58c1701de4b0a797c1d399bd](http://www.huffingtonpost.com/entry/combating-sexual-harassment-in-the-tech-industry_us_58c1701de4b0a797c1d399bd)

<sup>49</sup> How two Philly feminist groups are combatting street harassment: <http://generocity.org/philly/2017/05/17/feminist-public-works-pussy-division-street-harassment/>



## Promising Practices for Tumultuous Times

While campuses get better at condemning violence<sup>50</sup>, responding to poor behavior<sup>51</sup>, and supporting survivors<sup>52</sup>, it is imperative they start to think how to expand the impact beyond student centers and residence halls. Below are five ways colleges and universities can focus their resources and energy to ensure campus efforts to end violence ripple throughout our society. Legislative approaches to compel reporting or create increasingly complex and duplicative campus adjudication processes related to sexual assault incidents are unlikely to address campus and broader societal culture norms around sexual assault. Advocates are encouraged to share examples of work they are doing to proactively address the culture on their campuses with policymakers to broaden the conversation and encourage more holistic approaches to preventing sexual assault and sexual violence not just on our campuses, but in our communities.

***Develop and evaluate sexuality education curricula.*** We know students need to learn about consent and healthy relationships before they get to campus<sup>53</sup>. Providing ongoing, comprehensive sexuality education at the elementary, middle, and high school levels is the best way to make sure students are prepared for healthy romantic and sexual relationships. Yet, the CDC has identified only two programs<sup>54</sup> for secondary school students that have been effective at reducing sexual violence perpetration. We need more programs that can provide developmentally and culturally appropriate content to students of all ages. Institutions of higher education have a big role to play here: they can encourage faculty and students to develop new curricula and support researchers in conducting rigorous evaluations of these programs to ensure they are effective.

***Partner with local school districts.*** Title IX has been a focus for college campuses due to the courageous activism of student survivors, the Obama administration's push for Title IX enforcement<sup>55</sup>, and the intense pressure from local and national media outlets. Though there hasn't been the same spotlight on secondary schools, any public or private school that receives

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<sup>50</sup> Davidson president: Solutions to campus sexual assault start with culture change:

<http://www.charlotteobserver.com/opinion/op-ed/article132342879.html>

<sup>51</sup> Princeton suspends men's swim team over vulgar offensive comments:

<https://www.usatoday.com/story/sports/college/2016/12/16/princeton-suspends-mens-swim-team-vulgar-and-offensive-materials/95511472/>

<sup>52</sup> How victim advocates support student sexual assault survivors:

<http://college.usatoday.com/2017/04/03/how-victim-advocates-support-student-sexual-assault-survivors/>

<sup>53</sup> When Should Kids Start Learning About Sex and Consent?:

<https://www.theatlantic.com/education/archive/2016/04/when-should-kids-start-learning-about-sex-and-consent/480264/>

<sup>54</sup> Sexual Violence: Prevention Strategies:

<https://www.cdc.gov/violenceprevention/sexualviolence/prevention.html>

<sup>55</sup> The Chronicle of Higher Education's Title IX Tracker: <https://projects.chronicle.com/titleix/>



federal funding is held to the same Title IX standard<sup>56</sup> of ensuring access to education without discrimination. Colleges can share their Title IX expertise by partnering with local school districts to help provide guidance on training employees, setting up reporting procedures, and implementing prevention education.

***Prepare professionals to recognize and address violence.*** We cannot relegate this insidious problem into the hands of just a few. We need professionals in every field who are trained to recognize and respond to violence, and institutions of higher education are responsible for that training. It is essential that aspiring teachers are trained in the best practice standards for sexuality education<sup>57</sup>; that medical students are taught how to provide trauma-informed care<sup>58</sup>; and that media professionals start to acknowledge and shift their role in promoting rape culture<sup>59</sup>.

***Foster student activism and civic participation.*** In order to continue this essential anti-violence work, we will need capable and engaged citizens – and that is exactly the task of student affairs professionals<sup>60</sup>. Involving students in anti-violence work is not only essential to creating meaningful change on your campus, but to ensure the movement continues to be supported by politically engaged citizens. Institutions should professionalize the work that students do on campus by: compensating students who serve on Title IX committees; providing rigorous training for peer educators<sup>61</sup> (including on the very critical issue of self-care); and listening to student input to ensure they know their voices are valued. This will prepare graduates to run for school boards, vote in local elections, and establish careers in activism.

***Show us what works.*** Campuses are still struggling to figure out what works in sexual violence prevention and response. The pressure is on to get it right. If colleges can demonstrate what it takes to transform campuses into places where survivors are supported and all people are treated with respect, then we will have a roadmap for what might work within other types of institutions. That means colleges must continue their evaluation efforts, so we can see

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<sup>56</sup> Title IX and Sexual Harassment in K-12 Public Schools: Key Steps to Compliance:

<https://www.ue.org/uploadedFiles/Title IX and Sexual Harassment in K-12 Public Schools.pdf>

<sup>57</sup> National Sexuality Education Standards: Core Content and Skills, K-12:

<http://www.futureofsexed.org/documents/josh-fose-standards-web.pdf>

<sup>58</sup> Trauma-Informed Primary Care Initiative: <https://www.thenationalcouncil.org/trauma-informed-primary-care-initiative-learning-community/>

<sup>59</sup> 15 Recent Ads that Glorify Sexual Violence Against Women: <http://www.businessinsider.com/sex-violence-against-women-ads-2013-5>

<sup>60</sup> Learning Reconsidered: A Campus-wide Focus on the Student Experience (2004):

[https://www.naspa.org/images/uploads/main/Learning\\_Reconsidered\\_Report.pdf](https://www.naspa.org/images/uploads/main/Learning_Reconsidered_Report.pdf)

<sup>61</sup> Certified Peer Education (CPE) Training: <https://www.naspa.org/constituent-groups/groups/bacchus-initiatives/initiatives>



prevalence decline and evidence of culture change through regular campus climate surveys<sup>62</sup>, ongoing program evaluation<sup>63</sup>, and sustained funding for evaluation efforts.

## About NASPA

NASPA – Student Affairs Administrators in Higher Education is the leading association for the advancement, health, and sustainability of the student affairs profession. Student affairs is a critical component of the higher education experience, collaborating with colleagues across institutions of higher education to offer students valuable learning opportunities, meaningful social engagements, and safe and inclusive environments. NASPA’s Public Policy Agenda is grounded in a commitment to ensuring opportunity for all institutional members’ students and a belief that higher education is a great benefit to both individuals and society.<sup>64</sup>

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<sup>62</sup> Administrator Researcher Campus Climate Collaborative (ARC3) Campus Climate Survey:

<http://campusclimate.gsu.edu/>

<sup>63</sup> CDC Program Performance and Evaluation Office: <https://www.cdc.gov/eval/index.htm>

<sup>64</sup> For more information on the National Student Affairs Day of Action, please visit:

<https://www.naspa.org/focus-areas/civic-learning-and-democratic-engagement/national-student-affairs-day-of-action>

