

Student Affairs Today

Best Practices and Strategies for Student Affairs Professionals

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LEADERS & INNOVATORS

Julie Bryant, assistant vice president of retention solutions at Ruffalo Noel Levitz, explains the critical role of communication in boosting student success rates. **Page 12**



Compliance

Ensure compliance with VAWA updates

By Halley Sutton

Student affairs professionals need to become familiar with the student-focused training initiatives your campus community should undertake to remain in compliance with the Violence Against Women Act and to avoid costly fines for not following through on updates that went into effect on July 1.

Amy Murphy, Ph.D., dean of students and managing director of the Center for Campus Life at Texas Tech University; and Brian Van Brunt, Ed.D., senior vice president for professional development at the National Center for Higher Education Risk Management Group, have highlighted the updates to VAWA that you need to know now. They said you should focus on the following areas when planning programming for your campus:

- Primary prevention programs.
- Awareness programs.

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Crisis Management

Understand legal requirements for releasing, protecting information in a crisis

By Daniel I. Prywes, Esq., and Scott Sobel

Managing the legal and public relations dimensions of a crisis is an art, not a science. Legal restrictions on university speech must be understood and harmonized with the requirements of an effective public relations strategy.

If your college's response is poor, its reputation could be seriously damaged. But if handled well, a crisis can be an opportunity for a college to demonstrate in practice and publicly its adherence to the high values that make it great.

In our first installment of this series, we explained general principles for responding to a crisis and their limitations. We also provided tips for choosing a spokesperson to represent your college or university to the media during the crisis.

You also need to understand what information you can't disclose — and what you're compelled to disclose — under the law.

Continued on page 6.

Support vets with best practices toolkit

The Toolkit for Veteran Friendly Institutions is an online resource from the American Council on Education that standardizes best practices for supporting veterans in higher education.

The toolkit offers guidance in areas such as admissions, financial aid, academic and student services, and campus life. Find suggestions on how to retain vets by offering personalized academic support, veteran-specific courses, comprehensive mental and physical health services, and dedicated campus spaces.

Access the Toolkit at <https://vetfriendlytoolkit.acenet.edu/Pages/default.aspx>. ■

Reach wider audience with social-media tips

You can learn more about the techniques used by the most social-media-savvy institutions to attract and retain students by reviewing a report by *College Atlas.org*.

The report outlines best practices for specific platforms and explores the methodology behind successful social media at univer-

sities such as Harvard University, the University of Michigan, and Texas A&M University.

Learn more about the study at <http://www.collegeatlas.org/social-media-in-higher-education-study-abstract.html>. ■

Learn best practices for Hispanic student retention

Hispanic student enrollment in universities across the country is increasing, but many colleges struggle to help this group of students succeed and graduate.

Texas and California universi-

ties worked together to collect and study data on the performance of Hispanic students to improve graduation rates, according to a report from the New America Foundation. Researchers identified five goals for schools aiming to better assist Hispanic students, including tracking trajectories of nontraditional students and allowing students to earn college credit in high school.

Check out *"Beyond Access: How Texas and California Are Accommodating Increased Hispanic College Enrollment"* at <https://www.newamerica.org/education-policy/beyond-access>. ■

ASSESSMENT ADVICE

Start all assessment projects with end use in mind

Q How can our assessment team come up with the most effective, concrete ways to use our assessment results?

A Begin assessment activity with the end use in mind. Consider the expectations and practical questions of greatest interest to potential partners (faculty, administrators, staff) and internal/external end users and how they might use the results.

Adapted from *Using Evidence of Student Learning to Improve Higher Education*, by George D. Kuh, et al., and published by Jossey-Bass, A Wiley Brand. For more information, go to <http://josseybass.com/highereducation>.

Assessment Advice is a monthly Q&A column that offers tips to help you evaluate your programs and services. Do you have a question and/or answer to submit? Email the editor at cmccarthy@wiley.com. ■

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Review legal guidance on preventing, addressing sexual harassment, assault

By Claudine McCarthy, Editor

Failure to adequately prevent and address sexual harassment and sexual assault can have significant, long-term negative impact on your college's image and finances, your personal reputation and career, and employees' and students' morale and well-being.

And no college should consider itself immune to the problems. In fact, the issue impacts all types and sizes of public and private colleges, according to Keith Hammond, an attorney at Jackson Lewis, P.C.

"We have seen an explosion of Title IX investigations by OCR, as well as litigations," Hammond said. Colleges can be found civilly liable and end up having to pay out an average of \$170,000 per claim, he said. And now in addition to Office for Civil Rights investigation and court litigation, the Department of Justice investigates some cases, he added.

Typically, lawsuits arise when colleges failed to promptly respond to allegations, didn't act to prevent or resolve a hostile educational environment, or deliberately concealed the allegations, Hammond said.

"A timely, thorough investigation, accompanied by prompt and appropriate remedial action, will generally provide a university with an effective defense to any potential lawsuit," Hammond said.

To help ensure compliance with Title IX and reduce the likelihood of lawsuits and OCR investigations, consider following Hammond's advice for each step of the process:

1. Receiving a report of sexual harassment or assault:

- Ensure follow-up occurs every single time. Even if a complaint is received via anonymous email, whenever you become aware of a possible violation, you must report it. It's up to the investigation, not your gut instinct, to determine whether it's fabricated.
- Direct all allegations to the Title IX coordinator and student conduct office. They're also the ones who should handle investigations.
- Ensure immediate and appropriate steps are taken to investigate. Don't rely on police investigations or wait for court proceedings. Report your findings and be prepared to defend your decision.
- Take prompt and effective steps reasonably calculated to:
 - ✓ End the harassment or violence.
 - ✓ Eliminate any hostile environment.
 - ✓ Prevent any further harassment, violence or retaliatory action.
 - ✓ Take interim measures.

✓ Notify victims of their rights to file criminal charges.

2. Providing specific remedies to the alleged victims, such as:

- Arranging for an independent tutor.
- Arranging for the student to retake courses with a different professor.
- Reimbursing tuition when the victim withdraws from school mid-semester.
- Providing confidential victim resources, such as counseling and medical treatment.
- Offering security escorts to/from classes and extracurricular activities.
- Ensuring those involved have separate classes and residence halls.

3. Concluding the investigation. Even if investigations determine that harassment/assault didn't occur, Hammond recommended that colleges take these specific steps to help protect the entire campus community from future harassment/assault:

- Give additional training sessions to students and staff about what constitutes sexual harassment and sexual violence.
- Improve the way you publicize relevant policies and disciplinary procedures.
- Provide informational sessions explaining the damages that can result from harassment.
- Reiterate where students can go for help.
- Explain and create materials detailing ways to oppose harassment.
- Conduct periodic climate checks and assessments of school conduct.
- Require employees to report incidents of potential harassment.
- Encourage students to report incidents to college officials and law enforcement.
- Inform students that your college's primary concern is student safety and that any other violations (i.e., drugs and alcohol) will be addressed separately from the sexual violence allegation and that use of alcohol or drugs never makes the victim at fault for the violence.

Finally, if your school enters into a voluntary agreement with OCR, make sure you carefully review and understand it, Hammond said. And remember that if you don't want to accept an OCR agreement, you have the option to go to court instead, he added.

You may contact Hammond at hammondk@jacksonlewis.com. ■

Continued from page 1

- Bystander interventions.
- Ongoing prevention and awareness campaigns.
- Risk reduction.

Your campus audience is broader than you think

Van Brunt emphasized that although all students, not just incoming students, need to be targeted for ongoing sexual assault awareness, different programs can be focused on the many different types of education required. Within your entire student body, groups of both incoming and current students will need to be addressed differently.

In addition, specialized groups might be at an increased risk of sexual assault or domestic violence, or should be included in prevention and educational programming. These include: gay, lesbian and transgendered students; international students; male victims; students with disabilities; faculty and staff members; first responders; Title IX coordinators; and other employees who might be responsible for handling sexual assault allegations or victims.

For effective and ongoing programming and educational reinforcement, consider enlisting the help of these groups on campus:

- Orientation.
- Residence life or housing.
- Fraternity and sorority life.
- Student organizations/government.
- Activities boards.
- Recreational sports/fitness and wellness centers.
- Athletics.
- Counseling center.
- Women's center.
- Behavioral intervention teams.
- Conduct office.
- Police/security department.
- Special populations organizations (military, first-generation students, etc.).
- Academic units (such as women's studies programs or other related departments).

Seek funding from constituents

Consider asking the following groups for funding for extended educational programming about the Violence Against Women Act:

- Alumni.
- Student clubs and organizations.
- Bookstore.
- Community businesses.
- Newspapers.
- President's office.
- Parents' council. ■

Does your programming meet VAWA standards?

To help ensure compliance, Amy Murphy, Ph.D., and Brian Van Brunt, Ed.D., recommended checking if each piece of content contains:

1. Campus statement prohibiting domestic violence, dating violence, sexual assault and stalking.
2. Definitions of domestic violence, dating violence, sexual assault and stalking.
3. Definition of consent with regard to sexual activity.
4. Safe and positive options that a bystander can take when he witnesses potential domestic violence (<http://www.stepupprogram.org>).
5. Information about risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks.
6. Procedural notifications such as:
 - Possible sanctions and protective measures after a final determination regarding rape, domestic violence, sexual assault and stalking.
 - Procedures for victims after a sex offense.
 - Resources available to students.
 - Options for remedies regardless of willingness to report.
 - Confidentiality options and processes.
 - Prevention of retaliation. ■

- First-year experience and other seminar courses.
- University and college councils, such as gender-equity councils.
- Community agencies.

Build programming relevant for your campus

Work with any existing tools your college already uses, such as campus climate surveys, to most effectively determine programming most relevant for your institution. These can give you the best read on the problem areas or areas of concern from the mouths of your students.

"There is no one size fits all when it comes to sexual assault prevention on campus," Murphy said. "The key to developing effective prevention strategies on campus is to know what issues are most specifically relevant to your institution."

Murphy also suggested the use of focus groups to test content and see how it resonates before rolling programs out to the entire campus. Use campus experts, such as communications and media faculty or organizations, to help you design engaging content and make it applicable to the student body at large.

"If you can, find ways to engage social media to meet students where they're comfortable," Murphy suggested. She emphasized that the messaging has shifted from responsibility falling on the shoulders of young

women to take preventive measures to engaging the community because everyone has a stake in preventing sexual violence. She defined the cycle of developing and delivering required VAWA content as follows:

- ✓ Define the question.
- ✓ Establish a plan.
- ✓ Develop measures.
- ✓ Gather data.
- ✓ Evaluate data.
- ✓ Create a report.
- ✓ Reassess the question.

At this last stage, the cycle begins again. “I can’t emphasize enough: this is an ongoing, recurring process. There is no one-and-done solution,” Murphy said.

Know your implementation options

One of the first aspects student affairs professionals need to address, Murphy said, is whether to develop a homegrown sexual assault education program or bring in a third party to develop it for your campus. Both have advantages and drawbacks.

The advantages to developing a homegrown program include: complete control over the programming and content, opportunities to easily tie the program to institutional mission statement and priorities, spending less than you would if you’d hired a consultant, and easier alterations to any programming for changes in federal policies or any other reason.

Some of the drawbacks include how long it takes to develop a campus educational program and that, often, campus staff members lack the research and content expertise required to develop a comprehensive program. Murphy also pointed out that developing a homegrown program leaves the educational

content open to any biases or blind spots that an outside party might navigate more easily.

Hiring a third-party vendor to design and implement a program that meets with VAWA standards and requirements gives you access to a fully designed and tested program in a box, usually with highly customizable options for your campus. They’re usually easy to implement and often come with training sessions for staff and campus administrators.

However, it’s a costly option, with a high potential for ending up with a “one-size-fits-all” approach that may not be the best possible coverage for your campus. Finally, many vendors hired for this type of program require a multiyear contract that might have financial repercussions.

“Both options are good options to ensure a complete program for your campus,” Murphy said. “But it is important to be aware of any drawbacks before you decide what is right for you.”

Van Brunt also emphasized the importance of getting your institution’s upper-level administrators to buy into whatever programming you decide best suits your institution. To do this, he recommended framing whatever measures should be taken within the context of identifying the priorities of the on-campus decision-makers and aligning campus security measures with larger institutional goals.

“Demonstrate that the measures you’re looking to take go beyond just compliance, although being compliant with mandates is important too,” Van Brunt said. “This is about creating an ideal educational environment for our campus.”

You may contact Van Brunt at Brian@nchem.org and Murphy at amy.murphy@ttu.edu. ■

Follow these simple best practices to be VAWA-compliant

To build a campus culture that’s not only compliant with federal mandates but also effective for your institution, consider the following guidance offered by Amy Murphy, Ph.D., and Brian Van Brunt, Ed.D.:

Do:

- Create spaces for honest and open discussion about campus climate and culture, and the needs you should really be addressing.
- Build programming from the ground up, involving students and peers as key stakeholders.
- Research the effectiveness of different program measures before implementing campuswide.
- Take into account the specific needs of your campus.
- Involve the entire community — both at your institution and surrounding it.
- Realize that the most effective programs incorporate not only students, but also alumni, prospec-

tive students, faculty, administrators and community members not necessarily affiliated with your college or university.

Don’t:

- Adopt a one-size-fits-all mentality — what works for another campus might not be right for yours.
- Develop a program without fully integrating the needs and opinions of everyone on campus — a “top-down” methodology won’t lead to campuswide buy-in.
- Pass any programming to another department without proper instruction and collaboration on implementation.
- Delve into developing a program without researching thoroughly your options, your campus climate and the issues most relevant to your institution.
- View intervention and prevention education as a “one-and-done” undertaking — a one-time workshop for incoming students doesn’t cut it. ■

Continued from page 1

Learn what you can't disclose under FERPA

Universities are subject to laws that apply only to educational institutions. In particular, the federal Family Educational Rights and Privacy Act limits the information that can be disclosed about students. Colleges and universities must be mindful of this act's restrictions when confronting public controversies involving individual students.

Absent parent or student authorization, or an applicable exception, colleges and universities may disclose to the public only "directory information" about a student, which includes basic information such as the student's name, address, photograph, date and place of birth, major field of study, dates of attendance, and degrees and awards received. Each institution designates the information of these types that it considers to be directory information.

Leaks of FERPA-protected information can result in investigation and enforcement action by the U.S. Department of Education.

Although students may not themselves sue to enforce FERPA, the disclosure of student information can trigger lawsuits by aggrieved students who assert common-law privacy claims under state law.

Under FERPA, information about students may lawfully be disclosed in several important circumstances:

1. FERPA permits a college or university to disclose a student's education records to the court when a student or parent sues the university, but only to the extent that the disclosed information is relevant to the university's defense. Likewise, when a university sues a parent or student, it may disclose to the court a student's education records needed for the university to present its claim.

2. Campus police records of arrests, and complaints of criminal activity made to campus police, may be publicly disclosed under FERPA. However, records about students (aside from directory information) generated by other units of a university that come into the possession of campus police may not be disclosed without authorization from a parent or student.

3. FERPA doesn't prohibit a university from disclosing the final results of a disciplinary proceeding that determines a student committed any crime of violence (including forcible sex offenses), or a nonforcible sex offense (such as statutory rape or incest), in violation of the university's policies. In such cases, the university may disclose the name of the student,

the violation committed, and the sanction imposed by the university.

4. FERPA doesn't prohibit a university from disclosing education records in connection with a health or safety emergency if the recipient's knowledge of the information is necessary to protect the health or safety of the student or other individuals. The U.S. Department of Education's policy is "not to substitute its judgment" for that of the university if the university had a rational basis for its determination based on the information available at the time.

About the authors

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Scott Sobel is the president of Media & Communications Strategies Inc., also in Washington, D.C. See www.macstrategies.com.

Both have experience advising universities that face adverse publicity. ■

Consider options under confidentiality rules for disciplinary procedures

Colleges and universities frequently have institutional rules that provide that internal disciplinary procedures will enjoy some degree of confidentiality. However, events may overtake the goal of confidentiality when a controversy being reviewed internally is also the subject of intense media coverage in which many details are reported publicly, and not always accurately.

Colleges and universities should strive to respect their confidentiality policies. But a college or university need not gag itself when facing bad publicity on the same subject as a disciplinary proceeding.

Subject to FERPA requirements when students are involved, college and university officials may choose to follow several approaches, though all may be considered to be legally aggressive:

- When the subject of an investigation has disclosed information publicly about the substance of the disciplinary proceeding, the university may view that as a limited waiver of confidentiality with respect to the issue addressed in the disclosure. The college or university might then address the same topic in its public statements.

- College or university officials may choose to comment on a controversy on the basis of information not derived from the disciplinary proceeding.

- Officials may qualify public comments as being based on the accuracy of information disclosed by others. For example, a spokesperson might state, "If these reports are accurate, they are contrary to the university's values."

Review required disclosure under the Clery Act

The federal Clery Act requires colleges and universities to publicly report certain types of crimes (ranging from homicide to liquor-law violations) con-

sidered to be a threat to students and employees, in a manner that's timely and will aid in the prevention of similar occurrences.

Colleges and universities are also required to follow their emergency notification procedures and provide a warning to the university community if there's an immediate threat to the health or safety of students or employees.

The Clery Act requires university police departments to keep a daily log containing the nature, date, time and general location of each reported crime, as well as the disposition (if any) of any complaint.

Generally, the log entries must be open to public inspection within two business days, with updates made within two business days after new information about a log entry becomes available.

However, disclosure can be withheld in several circumstances, such as when:

- ✓ Disclosure would jeopardize the confidentiality of the victim.
- ✓ There's clear and convincing evidence that disclosure would jeopardize an ongoing criminal investigation or an individual's safety, cause a suspect to flee or evade detection, or result in the destruction of evidence.
- ✓ Disclosure is prohibited by law.

College officials shouldn't disclose such sensitive information of their own volition because that could fuel public outrage if there's even the faintest hint that the disclosures helped a criminal suspect avoid apprehension or commit additional crimes. Officials should also take caution to ensure public disclosures don't inadvertently provide criminals with a "user's guide" on how to avoid detection or apprehension for future crimes.

Grand jury witnesses are generally not prohibited from disclosing publicly what happened during their grand jury testimony. But college officials should be cautious, for the aforementioned reasons, about disclosing whatever they learn from their own employees or others about grand jury proceedings.

Public statements about law-enforcement activity should generally be left to law-enforcement authorities. College and university spokespersons may comment that officials are "cooperating" with or "assisting" law enforcement authorities.

At the same time, officials shouldn't try to suppress or hide key information (or be perceived as doing so) in a high-profile crisis because that information will almost certainly be disclosed eventually by others.

From a PR standpoint, the university may wish to maintain an arm's-length relationship with a university-affiliated witness entangled in a government investigation until the facts are sufficiently developed to establish whether the witness deserves

the university's support. Proclamations of the believed innocence of an employee should generally be avoided. This guideline may be especially difficult to follow in the case of senior university officials, but exceptions should be made sparingly.

Know your state's open records laws

Many public universities are subject to state open records laws, which permit the public (including the media) to obtain access to many types of government records. Campus police departments operated by private universities may also be subject to state open records laws.

Most states' open records laws don't require disclosure of information that would, if disclosed, violate personal privacy. Some states explicitly exempt student records from disclosure, others enumerate certain types of student records exempt from disclosure, and others contain no general exemptions for such records.

Many (but not all) states recognize that student records that may not be disclosed under FERPA may also not be disclosed in response to a state open records request.

Many states' open records laws treat at least some types of personnel records as confidential and exempt from disclosure, though there is substantial variance among the states in the types of information that are exempt from disclosure.

Most states treat criminal investigation records as exempt from disclosure, unless disclosure is determined to be in the public interest and disclosure wouldn't interfere with an ongoing investigation or reveal investigatory techniques.

The bottom line is that public universities will need to carefully and promptly determine which types of information sought by the media must be disclosed under the applicable state's laws, and which may or must be withheld.

Once it becomes apparent that negative information *must* be disclosed, the university should promptly prepare a PR strategy for addressing that information with the media. An experienced PR advisor may recommend that the university release the negative information to selected media contacts in advance of wider disclosure to influence the timing and context of the disclosure and the public reaction. ■

Next month...

Find out how to avoid defamation claims based on statements made during a crisis. Plus, get tips for using social media to safeguard your college or university's reputation. ■

Can a student force a university to take specific measures against a professor?

By Aileen Gelpi, Esq.

Yoona Ha claimed her Northwestern University professor caused her to become intoxicated and sexually assaulted her at his off-campus apartment in February 2012.

Ha reported the incident the next day, and the university's director of sexual harassment prevention conducted an investigation that concluded the professor had engaged in unwelcome sexual advances toward Ha when she was unable to offer meaningful consent.

Although Northwestern took some measures against the professor, it didn't fire him.

Ha sued the university for sexual harassment, and it responded with a motion to dismiss.

She claimed Northwestern was responsible for the alleged assault and that Northwestern had violated Title IX by allowing the professor to remain on campus, effectively depriving her of the educational opportunities and benefits provided by the university.

Ha v. Northwestern University, No. 14 C 895 (N.D. Ill. 11/13/14).

Did Ha's claims survive the university's motion to dismiss?

A. Yes. Although the university appropriately responded to the grievance, allowing the professor to remain on campus created a hostile environment for the student.

B. Yes. Title IX states universities are liable for

the actions of their employees and faculty members.

C. No. A university is liable for the actions of its employees or faculty members only if it had prior knowledge of said actions and failed to take corrective measures.

D. No. The university complied with its duty under Title IX to investigate the allegations and take measures against the person responsible for the alleged harassment, but the court couldn't second-guess the university's disciplinary decisions.

Correct answer: D.

The district judge dismissed the case, holding that the university wasn't automatically responsible for the actions of its professors. He explained Ha was required to prove that Northwestern officials had exhibited deliberate indifference to sexual harassment, which could be shown if the officials had actual notice of harassment and did nothing, or if they took insufficient actions to stop the conduct.

He ruled Northwestern wasn't liable because: (1) officials had no advance knowledge of the harassment; (2) they had taken unspecified measures against the professor; and (3) those measures were apparently effective because the harassment didn't reoccur.

The judge also ruled Title IX didn't give the victim the right to make particular remedial demands, and courts should refrain from second-guessing the disciplinary decisions made by university administrators. ■

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At a glance

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DUE PROCESS

Premature filing of lawsuit results in its dismissal

Case name: *Peloe v. University of Cincinnati, et al.*, No. 1:14-cv-404 (S.D. Ohio 02/18/15).

Ruling: The U.S. District Court, Southern District of Ohio dismissed a student's suit for an injunction against the University of Cincinnati.

What it means: A student usually must participate in the university's appeals process before he can attack a disciplinary action.

Summary: Ethan Peloe — a student at the University of Cincinnati — was accused of raping two female classmates in March 2014. He denied raping the women, and campus police took no action after its investigation.

However, the university proceeded with disciplinary charges against Peloe for a violation of its student conduct code and set a hearing date.

Before the hearing, administrator Carol Mack received copies of emails from an administrator regarding the women's requests for academic accommodations following the alleged assault. Those emails allegedly depicted the women as rape victims.

In addition, prior to the time the hearing took place, the chief of campus police allegedly was concerned that general counsel Kenya Faulkner attempted to influence the investigation in favor of the women.

At the hearing, Mack and Faulkner were on the

panel. Peloe was not allowed to present:

1. A surveillance video of himself and the two women entering a dormitory together on the night of the incident.
2. The results of the campus police investigation.
3. Text messages sent to and from the women.
4. The results of the rape kit analysis done on each woman.

The hearing panel decided that Peloe had violated the code of conduct concerning the sections on physical abuse or harm and harassment, and recommended that he be dismissed from school.

Instead of participating in the university's appeals process, Peloe sued the university, seeking an injunction prohibiting further disciplinary proceedings.

UC filed a motion to dismiss the lawsuit, arguing that the panel's recommendation hadn't been reviewed by the dean of students according to its rules, or appealed after that to the university appeals administrator and to the vice president of student affairs and services.

Peloe argued that completing the disciplinary process would be futile, citing the composition of the hearing panel.

The district judge acknowledged that the allegations about the possible bias of some members of the hearing panel were troubling but ruled that Peloe hadn't yet been injured because no sanction had been imposed. The judge also said the alleged bias wouldn't exist when the panel's recommendation was reviewed in the remaining steps of the university's appeals process because those two panel members wouldn't be participating. Finally, the judge noted that the university appeals process might result in another hearing in front of another panel.

The judge dismissed the suit, concluding that Peloe had filed it prematurely. ■

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DISABILITY

University student qualifies for ADA protection

Case name: *Bonneau v. State University of New York at Brockport, et al.*, No. 11-CV-6273 (W.D. N.Y. 03/05/14).

Ruling: The U.S. District Court, Western District of New York reversed a previous ruling and allowed a student's Americans with Disabilities Act claim to stand.

What it means: Amendments to the Americans with Disabilities Act have made it more lenient toward individuals with disabilities.

Summary: When Tina Bonneau — a student at the State University of New York at Brockport — notified university officials she was disabled in 2008, they provided extended test-taking time, short breaks during classes, and notes for missed class time.

Around that time, Bonneau disclosed to her art professor — Debra Fisher — that she had post-traumatic stress disorder. The two became friends, and Fisher became a regular reader of Bonneau's blog.

In the fall, Fisher allegedly started telling Bonneau her thoughts about — and the grades of — other students, which was a violation of the Family Educational Rights and Privacy Act.

In November, Bonneau posted negative comments about Fisher on her blog, including incidents in which she claimed students were treated harshly. According to Bonneau, Fisher read those posts.

In December, Fisher purportedly began to harass Bonneau about her mental health, saying "There must be some kind of medication you can take!" and "Therapy is not helping you."

In March 2010, Fisher emailed administrators she heard Bonneau was crazy and a "ticking time bomb."

A few days later, an assistant dean told Bonneau she had been labeled a "student of concern." Bonneau then went into a university building to speak to a professor. Fisher — who was teaching in that building at the time — allegedly closed her classroom door and implied to the class that Bonneau was a threat. After that, Bonneau stayed away from the campus and didn't complete her academic work.

Bonneau sued the university and others, asserting several theories. One of them was that it had violated the Americans with Disabilities Act by denying her reasonable accommodations for her disabilities, and by treating her less favorably than her peers. She didn't attempt to raise any FERPA violations.

SUNY Brockport filed a motion to dismiss.

The district judge originally dismissed the case, ruling Bonneau hadn't provided any details about how her disability had impaired a major life activity.

However, Bonneau filed a motion for reconsideration — or in the alternative, a motion to amend.

In response, the university conceded that the 2009 amendments to the ADA had changed the pleading requirements in favor of Bonneau.

Consequently, the judge reversed his earlier ruling, granted Bonneau's motion, and allowed her ADA claim to proceed. ■

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CAMPUS SECURITY

Routine letter from university counsel fails to offend judge

Case name: *Wagner, et al. v. Holtzapple, et al.*, No. 4:13-CV-3051 (M.D. Pa. 04/23/15).

Ruling: The U.S. District Court, Middle District of Pennsylvania dismissed a claim against Bucknell University.

What it means: A university threatened with litigation is justified in responding with a letter requesting the potential plaintiff to preserve evidence.

Summary: Several Bucknell University campus police officers discovered a small amount of drugs in a search of a fraternity house in February 2012. The house was owned by the university.

Upon receiving notification that three of the fraternity members intended to file a suit for unlawful search and seizure, university counsel wrote a letter to each of them that stated in part:

“In light of the threatened litigation, we are requesting that you refrain from destroying or altering any documents or electronic data in your possession in any way relating to the February 16, 2012 search.... This request includes all documents or data (1) regarding any student conduct or criminal charges arising prior or subsequent to that date as a result of conduct occurring on those premises; and (2) regarding conduct occurring at those

premises from July 1, 2011, to February 16, 2012, constituting a violation of the Pennsylvania Crimes Code or Bucknell University’s Code of Conduct. This preservation request includes, but is not limited to, email, social media postings, and text messages. If litigation is filed, the University will follow up, as necessary, with appropriate subpoenas for the materials.”

The plaintiffs eventually filed suit against the campus police and the university, claiming unlawful search and seizure. They also added a claim that the Bucknell letter was retaliatory and constituted a chilling effect on both free speech and access to the courts.

Bucknell filed a motion to dismiss.

The district judge refused to dismiss the unlawful search and seizure claim, stating the issue would be resolved at a later date.

However, he didn’t hesitate to dismiss the claim concerning the Bucknell letter, explaining that those were often sent prior to litigation and that the plaintiffs had overreacted to it. The judge ruled there was nothing in the letter that could chill or adversely affect free speech or access to the courts. ■

LAW & CAMPUS

This regular feature summarizes recent court or agency records of interest to student affairs administrators. Lawsuit court records are summarized by Richard H. Willits, Esq. (*You may contact him at reelrh@hotmail.com.*) FPCO and OCR rulings are summarized by Aileen Gelpi, Esq. ■

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Communication key to boosting student success, grad rates

By Halley Sutton

When Julie Bryant was hired at Ruffalo Noel Levitz in 1993, a firm that contracts with colleges and universities to offer enrollment management solutions, she quickly discovered the valuable role that communication plays in helping to improve student success rates.



JULIE BRYANT

“Communication is a powerful way to demonstrate that tuition is a worthwhile investment,” said Bryant, assistant vice president of retention solutions. Keeping the focus on clear communication between enrollment services administrators and students helped Bryant develop strategies for

colleges and universities to boost student success and graduation rates.

In 1994, Bryant launched the student satisfaction inventory, a product she still spearheads by overseeing product development, client relations, and national reporting data analysis. Overseeing the student satisfaction inventory, which has been rolled out at more than 2,700 colleges and universities and had at least

one inventory piece completed by more than 5.5 million students, campus staff members and parents, has given Bryant a unique insight into effective practices for boosting student success and graduation rates.

“Institutions that are seeing retention improvements are typically the ones that regularly survey their students, and then take action to make improvements in priority areas as well as make a point of communication with students about what has been accomplished,” Bryant said. “Most institutions we work with currently survey their students every other year, which allows them enough time to make changes to the student experience.”

Bryant reports that 62 percent of institutions that have used the student satisfaction inventory have reported increased levels of student satisfaction, leading to higher rates of retention. ■

About the author

Halley Sutton is assistant editor of *Enrollment Management Report*, also published by Jossey-Bass, A Wiley Brand. For more information on that publication, go to www.enrollmentmanagementreport.com. ■

WORD OF ADVICE

Actively promote long-term value to students to increase satisfaction

One of the most prevalent concerns for students is “the perception of the tuition being a worthwhile investment,” according to Julie Bryant, assistant vice president of retention solutions at Ruffalo Noel Levitz.

Bryant acknowledged that students need to be mindful of the debt they might take on to earn a college degree. However, student affairs professionals can proactively counter negative tuition messaging by reinforcing the value their institution has to offer.

Bryant suggested the following actions to increase student perception that college is a worthwhile investment:

- Highlight alumni achievements.
- Provide access to useful student services, like free printer and Wi-Fi access.
- Send letters from college presidents to parents of traditional-aged students listing key experiences to which the student will have access in the coming school year.
- Conduct campus climate surveys to measure student satisfaction and determine areas upon which to focus to improve campus life.
- Give early notice of tuition increases.
- Decide on a communication strategy to detail the

way your campus has improved following campus climate surveys so students know they’re being heard.

Bryant emphasized that for sustained improvements in student satisfaction and retention, colleges and universities need to reassess student satisfaction regularly.

“Gathering data from students is not a ‘once and done’ activity,” Bryant said. “Retention improvements are typically seen in universities that regularly survey their students and share the results and then take action to improve upon student suggestions.”

Finally, institutions must close the communication loop by letting students know what has been done to improve the institution. “You need to identify the most current priorities of your student body,” Bryant said, adding that they will change every few years for each new student body.

“Students need to feel welcome on campus, that campus staff are caring and helpful, and that the institution is committed to reducing ‘run-around.’ By focusing on student service and by creating a welcoming, student-centered environment, you can improve student satisfaction, and be more likely to keep students enrolled to graduation.”

Contact Bryant at Julie.Bryant@ruffalonl.com. ■