
Governor Terry McAuliffe's Task Force on Combating Campus Sexual Violence
Chair Attorney General Mark Herring

Response Subcommittee

Submitted by: Daphne Maxwell-Reid

Recommendation Summary: *Explain the legal, program and/or policy change(s) proposed.*

Ensure fair and equitable proceedings for all parties, adequate support and due process for the accused individual, and sanctions proportionate to the severity of the offense.

Responding to reports of sexual violence requires robust and transparent administrative processes that are fair, protect the rights of all parties, and ensure that all parties are “treated with care, concern, honor, and dignity” (ASCA, 2014).

Colleges and universities have student codes of conduct that uphold and advance the educational mission and purpose of the institution. Reports of possible violations of the student code of conduct must be addressed using policies, procedures, and programs that guide interactions with the individuals involved, investigations, adjudication, and institutional responses (ASCA, 2014).

Need: *Explain the problem or issue addressed by this recommendation, providing background information as necessary. Describe the anticipated results / objectives that this recommendation aims to accomplish.*

Institutional policies and procedures include processes for responding to reports of sexual violence. Institutions are obligated to support and respond fairly to all parties involved in a report of sexual violence while preserving the safety and security of the university community and educational environment. In addition, institutional policies and procedures must comply with state and federal regulations and mandates such as Title IX, the Clery Act, and the Violence Against Women Act (VAWA). Federal guidance on Title IX requires institutions to adjudicate cases of sexual misconduct, regardless of whether there is a criminal prosecution or the outcome of such prosecution. Student conduct policies and procedures focus on the relationship between the student and the institution. By design, these administrative processes, and Title IX obligations, are distinct from criminal investigation and prosecution. “The ultimate goals of student conduct processes are student growth and development and the preservation of the educational environment” (ASCA, 2014).

Recommendation: That each institution in the Commonwealth regularly review and update student sexual misconduct and related policies to ensure fairness and sensitivity, in addition to compliance with Title IX, VAWA, and any Virginia requirements. Institutions must ensure that sanctions for sexual violence offenses are proportionate to the violation and include an array of possible punishments up to and including expulsion and dismissal. In the spirit of transparency, and to comply with federal mandates, all parties should be informed at the outset of an investigation of a report of sexual violence of the possible sanctions that the institution might impose following any student conduct proceeding.

Recommendation: That institutions establish a program to train faculty, staff, and students to serve as advisors for the accused individual and a process to make such advisors available to accused individuals as needed. Title IX and VAWA regulations require that advisors be provided to the accuser and accused and that the same limitations, if any, be imposed on the advisors for all parties.

Recommendation: That each institution create and provide comprehensive on-line and printed materials designed for the accused that describe rights and available resources to include legal and other advisors, counseling, financial support, and other interim measures.

Anticipated Challenges to Implementation of Recommendation: *Explain counter-arguments to the recommendation. What are some of the obstacles in implementing the recommendation?*

Implementing these recommendations will require the direction of student affairs and other professionals responsible for the administration of student misconduct policies and procedures. Involving institution-wide participation will require collaboration across multiple institutional units and off-campus agencies and organizations.

Implementation: *Includes legislative needs, program ideas or needs, strategies, etc. What groups are likely to support this recommendation and why?*

Student Affairs professionals, Title IX coordinators, legal counsel, and university and college administrators will support the implementation of fair and transparent processes for reporting students and those who are accused.

Fiscal Impact: *Does this proposal require financial or personnel resources? Will it generate revenue? Will a Budget Amendment be necessary?*

The fiscal impact of implementation of these recommendations will include resources for on-line and printed materials; and resources to support qualified training sessions for individuals who can serve as advisors for the accused.

Association for Student Conduct Administration (ASCA), Student Conduct Administration & Title IX: Gold Standard Practices for Resolution of Allegations of Sexual Misconduct on College Campuses (2014), www.theasca.org,