

Community Colleges and Sexual Misconduct: Unique Challenges and Opportunities

In the year following the publication of the [first report](#) from the White House Task Force to Protect Students from Sexual Assault, colleges and universities have been the focus of a national dialogue about campus sexual assault. This has been driven by the activism of survivors of sexual assault, criticism from accused students, investigations and further guidance from the Office for Civil Rights (OCR), stories in the media, and an increase in state and federal legislation. While community colleges have not yet been at the center of this national dialogue, it is important to understand how sexual misconduct (including sexual assault and other forms of sexual violence) affects community colleges and the unique challenges that two-year institutions face in preventing and addressing it. Dr. Jill Biden describes community colleges as [“one of America’s best kept secrets”](#), and the role of community colleges in sexual assault prevention and response continues to be unexplored so long as the national dialogue primarily focuses on the incidents from four-year campuses that receive widespread media attention. While there is no intent to minimize those incidents, absent from this national dialogue is what sexual misconduct prevention and response looks like at institutions that do not have residence halls, NCAA athletic teams, or fraternities and sororities. This has left community college practitioners (who often have less resources and information than their counterparts at four-year institutions) struggling to comply with legislation and mandates that are designed for traditional four-year colleges and universities.

According to the American Association of Community Colleges, community colleges serve almost half of the undergraduate students in the United States, which included more than 12.8 million students during the fall 2012 academic year (American Association of Community Colleges, 2015). Approximately 39% of community college students are not credit-seeking students, and 60% are part-time students (American Association of Community Colleges, 2015). The multi-faceted missions of community colleges makes them attractive to a broad range of people who seek particular programs or opportunities of special interest, which may be one reason the average age of community college students is 29 (American Association of Community Colleges, 2015). In addition, community colleges are the gateway to postsecondary education for many minority, low income (58% of community college students receive some sort of aid), and first-generation postsecondary education students. In addition, the majority of Black and Hispanic undergraduate students in this country attend community colleges (American Association of Community Colleges, 2015). These institutions provide access to education, lifelong learning, and cultural resources as they strengthen communities across the United States. Historically, community colleges have focused on improving access to education, but now they are also striving to increase the completion rates for students once they attend the institution. Given the roles and functions of community colleges, there are a variety of factors which create unique challenges for sexual misconduct prevention and response at two-year institutions:

- **Open-access and open enrollment:** With a focus on both access and completion, institutions seek to remove barriers so students can enroll, easily attend, and graduate from an institution. This often means that a person could decide today that he/she wants to attend a community college, enroll in courses and pay online, and attend classes starting tomorrow – all without having to attend an orientation program. Community colleges serve as an entry point for a variety of student populations including high school students starting their post-secondary education and also for convicted felons and sex offenders who are looking to re-enter a community and earn an education because other options may be unavailable. As open enrollment institutions, many community colleges are hesitant to ask applicants questions about misconduct at previously attended institutions of higher education or about



prior criminal activity. Yet, courts may mandate convicted criminals to pursue education at local community colleges in order to work towards being productive members of society. Further, community colleges offer activities (such as cultural events, children’s programs, job fairs, recreation, etc.) that attract members of the community (i.e., third parties) to the campus. These and other factors create a unique conglomeration of individuals on a community college campus on a given day, resulting in a potentially high-risk setting for sexual misconduct to occur.

- **Diversity of Student Body:** According to the Community College Research Center, over 50% of students at community colleges take remedial courses (Community College Research Center, 2015). The Department of Education reports that more students with disabilities enroll at two-year institutions than at four-year colleges and universities (Raue & Lewis, 2011). Community colleges also serve many low-income, first generation, and non-native English speakers – these are individuals who may not be as likely to file complaints, seek legal action, or advocate on their own behalf if they have been victimized. They may simply stop attending class instead of accessing the resources that can help them be successful at achieving their educational goals. This leaves the institution without any notice of harassment that may have occurred. These factors place an additional challenge on community colleges to ensure their Title IX prevention programs are designed to meet the educational goals for these unique populations.
- **Nature of incidents:** Given that students are not as likely to live on campus or socialize on campus, the types of sexual misconduct incidents differ greatly than those reported at four-year institutions. Incidents of harassment, stalking, and domestic violence are more frequently reported by students at two-year institutions, although there are still occasional reports of sexual assault involving alcohol occurring at off-campus parties. Cases may often involve one or more students with disabilities and/or lower cognitive functioning, resulting in the difficult question of whether a student who cannot reasonably interpret or understand the social cues that are critical to the context of consent is qualified to be a student if he/she cannot understand this important aspect of the college’s policy on sexual misconduct. Other incidents often involve sexual violence exhibited by non-students, such as family members or intimate partners, resulting in the institution’s limited role of providing support by connecting the victimized student to local community resources and/or enforcing civil orders of protection on the campus. Even though the incidents at community colleges do not usually make local headlines, they still impact students just as much as those that occur at four-year institutions.
- **Continuing Education, Dual Enrollment, and GED Programs:** Most community colleges offer a variety of continuing education programs providing lifelong education for a diverse population of youth, senior citizens, and adults. Community colleges attract adult learners who work full-time while raising families and complete degrees by attending one or two classes a semester. Course delivery may range from online only courses to a one-day class, yet legislative and governmental guidance designed for traditional residential four-year institutions requires sweeping education for any person attending a class. In addition, legislation does not adequately address dual enrollment programs, where a high school student is also earning college credit and technically is considered a college student, but the parents of the high school student may not want the local college offering sex education program to their underage sons/daughters. Many of these dual credit courses are taught by college faculty on the student’s high school campus and the student may never step on the community college’s campus. Finally, many institutions have GED programs where students may not have received the high school equivalent of basic sex education, yet community colleges must still educate these students on consensual sexual activity. All of these may be considered “students” depending on the exact wording



of any specific legislation, leaving community colleges focused on achieving compliance but not necessarily effectiveness.

- **Lack of Primary Access to All Students:** Given the various programs (certificates, degrees, GED, etc.) offered at community colleges, the admission process may occur in multiple offices and through multiple procedures, making it challenging to determine where “primary” education should occur for new members to the campus community. Only 25% of community colleges offer on-campus housing (American Association of Community Colleges, 2015), which is a common place for institutions to provide primary and on-going education for students. Other traditional avenues to provide primary education for students such as Orientation, Freshman Year Experience courses, learning communities, or welcome weeks, are not mandated at two-year institutions. When these are offered, they are typically designed for full-time, credit-seeking new students and may not be well attended. This leaves many community college Title IX Coordinators and student affairs staff wondering how to design, offer, promote, and track completion of primary education for students.
- **Unique Employment Classifications:** Part time (adjunct) faculty members teach more than half of the courses offered at community colleges (Center for Community College Student Engagement, 2014). Many community colleges employ volunteers ranging in roles from athletic coaches to faculty. Current mandates may require institutions to develop training for these individuals who are not full-time employees, who may teach at multiple institutions and locations within a given week, who may be volunteers, who may only teach in the evenings, or who may only teach online. Even if primary education is provided, these individuals may only access the campus a few times a semester, resulting in information not being utilized regularly or retained. While the overall challenge of training faculty is not limited to community colleges, the large number of part-time employees at these institutions complicates the ability for two-year institutions to effectively ensure widespread compliance.
- **Balancing Students’ Rights and Employees’ Protections:** While Title IX does not provide protection to employees, it does apply to situations where students have been harassed or discriminated against by employees. The processes for addressing employee misconduct have not been explored very much if at all in legislation or governmental guidance, resulting in colleges wondering how to balance the procedural protections for students who raise complaints of harassment with the procedural protections afforded to employees (including faculty) who are accused of misconduct and may be protected by collective bargaining agreements. There does not yet appear to be case law resolving conflicts between collective bargaining agreements and federal guidance. Given the perceived or actual power of collective bargaining units, there is often hesitancy by campus administration regarding any attempt to update policies or procedures governing employees which results in separate procedures for employee misconduct and student misconduct. While this may not pose a problems at four-year institutions where employees and students are easily identified as being one or the other, community colleges are more likely to have individuals who either have multiple relationships to the institution or are perceived as having a different relationship than they actually do. For example, after gaining an understanding of the procedures to investigate and address student-to-student misconduct, an adult student decides to report to the Dean of Students an incident of sexual harassment she experienced from a person she believes is a fellow adult student. During the Dean’s investigation, it is learned that the accused individual is actually an adjunct faculty member. Based on the college’s policy and procedures, a different investigation and adjudication process conducted by Human Resources should occur. The Dean shares this with the complaining student who, once she learns that the employee resolution process involves union representatives and a faculty committee to review the

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situation, decides she wants to withdraw the complaint. Now the institution has notice of alleged misconduct by an employee but a harmed student who reported the situation based on a falsely informed understanding of the resolution process.

- **Mobility, Reverse Transfers, and Non-Continuous Enrollment:** Community colleges students may take only one course every summer, only one semester of courses ever, or all of their courses online. Approximately 12% of community college students have also attended at least one other institution (Phillippe, 2014), resulting in more than 1 in 10 students who will need to learn the policies and procedures of multiple institutions. As four-year institutions see increases in reporting of sexual misconduct, this is likely to correlate with an increase in the number of students who are suspended from four-year institutions for violating sexual misconduct policies. Once these students are separated from four-year institutions, they may seek to pursue their education at a community college (especially if the application does not ask information about criminal or conduct history) without having received any education designed to deter future violations. In addition, as community colleges continue to try to increase their graduation rates, they may contact students who have completed the final academic requirements for an Associate's Degree while they attend a four-year institution, resulting in a "reverse transfer" and the issuing of a degree, even after the student has stopped taking courses at the community college. During that process, there is not usually a procedure to check for student conduct violations or criminal allegations that may have occurred following the student's departure from the community college resulting in the student receiving his/her degree or certificate from a community college while a complaint of sexual violence is proceeding through a criminal or another campus's student conduct process.
- **Limited Resources:** Between 1999 and 2009, private research universities increased their per student operating expenses by almost \$14,000, while public community colleges saw an increase of only \$1 per student during that time (The Century Foundation, 2013). Although recently proposed legislation (such as the [Campus Accountability and Safety Act](#)) calls for campuses to ensure victims/survivors of sexual assault have access to support services, many two-year institutions either do not have any or have very limited offerings for on-campus mental health resources, health services, and victims' services programs. In 2000, only 42% of community colleges reported having health centers on campus and only 27% offered STD testing (Ottenritter, 2002). The American College Counseling Association reports that only 8% of community colleges offer on-site psychiatric services (compared to 58% of four-year institutions) and that 86% do not provide any on-call or after hours emergency counseling services (Edwards, 2014). Further, community colleges are also less likely to have full-time legal counsel, health educators, or robust student affairs divisions which are often critical to effective sexual misconduct prevention and response at four-year institutions. All of these factors result in community colleges trying to keep up with the expectations designed for institutions that are much better resourced.
- **Multiple Roles for Employees:** It is very rare to find positions such as dedicated investigators, Title IX Coordinators, student conduct administrators, or victims' advocates at community colleges because many positions require "other duties as assigned" as cost savings to the college and taxpayers in the surrounding community. Many community colleges use academic advising and counseling models where there are both licensed mental health professionals and non-licensed academic advisors in the same centers, or where licensed professionals do academic advising in addition to personal counseling: this leads to employees struggling with the conflicting roles of being campus security authorities as well as counselors. Developing procedures that allow for separation of investigation, adjudication, and appeals is challenging when there may not even be student conduct office on the campus. Given the

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lack of enough well-trained employees to fulfill each role in an investigation/resolution process, two-year institutions are faced with considering outsourcing, using investigation based resolution methods over traditional hearing panels, and involving human resources or other such staff in adjudicating misconduct between students. As guidance and legislation continue to place new requirements on campuses, community colleges are struggling to provide well-trained staff to fulfill the roles needed.

- **Unrecognized Need or Prioritization:** While Title IX and OCR guidance has been in existence for many years, Title IX compliance does not systemically appear to be a priority for community colleges. Two-year institutions are often several years behind their four-year counterparts regarding policies and procedures that employ best practices, comprehensive preventative education including bystander intervention, and institutional support from senior leadership. Dedicated employees and funding sources to carry out mandates (including the on-going training and development of staff and students) are rare. Community college students impacted by sexual assault are more likely to withdraw or just stop attending class rather than pursue formal complaints or file lawsuits, so the activism exhibited by survivors at four-year institutions has not yet appeared real to community colleges. Many community colleges do not systemically fund on-going training, association membership, climate surveys, or professional development at the same level as four-year institutions, resulting in a lack of understanding of compliance needs and a lack of access to best practices. When best practices are learned through conferences and trainings (or even OCR resolution agreements), they may not be as applicable to community colleges because they are often based on what works at four-year public research universities. Finally, when allocating the limited funds available at community colleges, student services and preventative education are likely to be less of an institutional priority than academic programs.

At the same time that the national dialogue about campus sexual assault is occurring, there is another conversation more familiar to community college faculty and staff known as [College Completion](#). The time has come to merge these conversations because students who have been harassed or experienced sexual misconduct may not complete their education. Despite the challenges they face, community colleges are positioned to be the catalyst for creating cultural change with regards to sexual assault prevention in our society:

- **Potential for Systemic Education:** As 46% of graduates from four-year institutions have attended a community college at some point in their undergraduate career (National Student Clearinghouse Research Center, 2015), there is an opportunity to educate nearly half of all U.S. college graduates at early stages in their education. If every student who ever attended a community college received basic education about sexual misconduct, consent, bystander intervention, and healthy sexual relationships, this would systemically change the societal landscape regarding sexual misconduct. This would mean that when these students transfer to a four-year institution they will already be prepared and the four-year institution need only re-enforce these messages. Even if a student drops out of school or has to take a couple years off to work or to raise a family, he/she will be well informed about these issues. Finally, it means that each person who obtains a certificate or an associate's degree will have some basic level of education about sexual misconduct.
- **Collaborations with Community Partners:** Given the community focused aspects of the missions of community colleges, these institutions often already have partnerships with the local community agencies and are better positioned to approach sexual assault as a social problem. Even if a student



takes a semester off, he/she is often still on the community college campus for library services or other such resources. “Town-gown” relationships that four-year institutions may dread take a different form on community college campuses such as collaborative and innovative school to work programs and K-12 curriculum pipelines. Many community colleges already engage in formal relationships with victims’ services, mental health, law enforcement and other community partners because the campuses are not positioned or funded to offer these comprehensive services around the clock while remaining cost-effective for students and local taxpayers. Finally, community colleges are often dependent on their county and district financial health and support, which vary widely. Some have few or no county hospitals, mental health facilities, or crisis centers, especially in low-income suburban and rural locations. While there appears to be apprehension from some four-year institutions regarding MOU’s with local law enforcement or community resources, community colleges have historically sought to partner with community organizations with regards to meeting students’ needs for health care, including sex education, and continue to express a desire for more community collaboration, not less (Ottenritter, 2002).

- **Education for a Diverse Student Body:** Given the diversity in the student body, community colleges already recognize that delivery of co- or extra-curricular educational programs designed for the traditional four-year large, public university doesn’t work. While many new online training modules are being developed, these are often designed for a traditional residential setting, not for the social lives of the diverse students at community colleges, including commuters, adult, GED, ESL, and other non-traditional students. Community colleges already have to adapt traditional programs to meet the needs of their campuses. For example, a student-generated event series for the national “It’s On US” campaign at one community college included panel discussions about what consent means in “black and brown communities”, how the identity of women of color impacts sexual victimization, and how sexual violence is experienced differently in LGBT communities. Given the transient nature of the campus, the week also included passive programs such playing “It’s On US” videos from other colleges in the student center and the opportunity to sign a pledge committing to action when faced with concerning behaviors.
- **Title IX Compliance as a Measure of Accreditation:** The recently updated Higher Learning Commission’s Accreditation process contains a new criterion entitled “Integrity: Ethical and Responsible Conduct” which includes components related to ethical behavior of employees and also transparency to students about policies/procedures (Higher Learning Commission, 2015). This is an excellent place to showcase and set a standard for not only compliance with Title IX and other laws, but also the inclusion of fair and equitable resolution processes and the transparency of campus policies. If institutions put the same level of comprehensive institutional effort into self-studies of Title IX compliance as they do academic program evaluation, progress towards Title IX compliance might look very differently.
- **Implementation of Best Practices:** Community colleges have already begun to develop and implement best practices. For example, one DOJ grant recipient institution offered joint training to campus conduct administrators and campus and municipal law enforcement. Many institutions have also begun to implement admissions review procedures to identify and evaluate potential risks to the campus community, given the recidivism rates for violent behavior. This is not yet a systemic process, and depends upon the student applicant being truthful in his/her application. The [Association for Student Conduct Administration](#) (ASCA) has incorporated the needs of community colleges in its resources for institutions including the [gold standard practices for sexual misconduct adjudication](#), [guidance for transcript notation practices](#) to increase communication between institutions, and the



annual training offered at the Gehring Academy. Nation-wide adoption of best practices should result in change, lessening the need for legislation to mandate that colleges utilize best practices.

- **Focus on Rehabilitation:** As the Department of Justice and FBI indicate that “only about 2% of rapists will ever serve a day in prison” (RAINN-Rape Abuse & Incest National Network, 2008-2012), it is likely that there are individuals who have engaged in sexual violence but have not been held accountable for it in all aspects of U.S. society, including college campuses. While research indicates that 12-24% of criminally convicted sex offenders will re-offend (Center for Sex Offender Management, 2008), one study reports that 63% of male university students who had committed rape had done so more than once (Lisak, 2011). A college or university may suspend or expel a student for sexual misconduct to protect its campus community, but this may simply displace the violent behavior from that institution to an open-enrollment institution. As a result, community colleges may be the best opportunity available for educating individuals who have committed sexual violence but who may not have been prosecuted or found guilty in a court of law.
- **Engage in Systemic Risk Assessment:** Community colleges are not as likely as four-year institutions to permanently expel a student, because that student might someday return as an adult for life skills classes through continuing education. Unlike residential campuses, when a community college suspends a student, he/she still lives in the surrounding community and may even still be allowed to come on the campus. For many reasons, institutions should utilize campus threat assessment and management teams to evaluate potential risks and to employ interventions when appropriate. Some community colleges have started this process for registered sex offenders or through admissions felony review committees, but it is not yet a systemic practice.
- **Beyond the Certificate, Completion means an Education:** Although some students are simply seeking a certificate or a degree, many are also seeking an education and an experience. This is why community colleges have thriving student activity programs, athletic teams, guest lecturers, and cultural events. And, “[w]hile 81.4% of students entering community college for the first time say they eventually want to transfer and earn at least a bachelor’s degree, only 11.6% of them do within six years” (The Century Foundation, 2013, pp. 4-5). One requirement for obtaining any degree or certificate could include completion of sexual harassment awareness and bystander intervention training. This would result in education of important life skills that will be useful in future employment settings as well as personal relationships, and would enrich local communities by impacting the family structure.

All of these factors – both the challenges and the opportunities – must be a part of the national dialogue about college completion and must expand beyond community college practitioners to include K-12 schools, community partners, and four-year institutions in order for systemic change to occur.

This information was compiled based on the professional experiences of the following community college practitioners and leaders from the Association of Student Conduct Administration (ASCA):

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