

# COLLEGE CAMPUSES RESPOND TO

# #MeToo

BY MARIA DOUCETTPERRY, ESQ. AND  
NANCY HARKESS-DILL, ESQ.

Title IX of the Educational Amendments of 1972 prohibits discrimination on the basis of sex in federally funded educational programs and activities. Further, Title IX addresses discrimination against pregnant and parenting students and women in STEM (science, technology, engineering and math) programs. The Clery Act amended Title IX in 1990, requiring all publicly funded colleges and universities to share information about all types of crimes on campus as well as inform the public of such crimes. Also, under Clery, schools are required to provide options to survivors of sexual misconduct and assist survivors in notifying local law enforcement in a safe and empowered manner.

While Title IX initially served as a means of ensuring equity throughout these programs, primarily seen in employment, admissions, and the creation and administration of female athletic opportunities, it has taken on a new life



PHOTO CREDIT: SHUTTERSTOCK

in recent years being championed as a means of eradicating sexual harassment and sexual violence occurring within or impacting the educational experience.

Moreover, a 1999 U.S. Supreme Court ruling held that schools could be held liable for student-to-student sexual harassment if the behavior is “so severe, pervasive, and objectionably offensive that it ... deprive[s] the victims of access to the educational opportunities or benefits provided by the school.”<sup>1</sup> From that point on, the role and expectation of schools expanded from just educator to what some might argue as protector, since this ruling and subsequent rulings indicated that a school was not only liable for the actions of its employees, but for that of everyone in its purview if it failed to act to protect individuals subjected to certain conduct. In response, schools hired Title IX coordinators, designated “responsible employees,” and implemented policies and procedures requiring mandatory reporting.

With these things in place, it appeared that while sexual harassment had not been eradicated from our schools and college campuses, it was at least “arguably” under control.

## #MeToo, an Eye-Opener

In 2017, an American actress issued a social media challenge inviting anyone who had ever been sexually assaulted or sexually harassed to post the hashtag “#MeToo” on social media. Millions responded within a matter of days. When those responses were peeled back, it became clear that this problem impacts people of all ages from virtually all walks of life. Before #MeToo, many higher-education institutions operated under the notion that they were already up to speed on these issues because of the efforts implemented under Title IX. However, since 2007, statistics have consistently shown that one in five women on college campuses experience sexual assault.<sup>2</sup> These statistics suggest that college campuses in general are not safe, and college students are at a greater risk for sexual harassment and sexual assault than their non-college peers.

Within this reality, campuses across the nation began work to create safer communities. The issue became a priority not just for college campuses, but also for the nation. A series of federal laws, including Clery, Campus SaVE and the Violence Against Women Act,<sup>3</sup> were enacted to provide the tools necessary to address this issue, and colleges implemented local policies to ensure compliance.

## Local Efforts

The University of Nevada, like all public colleges and universities in Nevada, is under the Nevada System of Higher Education (NSHE). NSHE has an extensive nondiscrimination policy designed to provide, among other things, a place of work and learning free of sexual harassment. The university followed federal guidance, adopted the procedures, implemented the necessary processes and conducted survey after survey to access campus climate. Yet, the overwhelming response of the #MeToo movement demands that another look be taken at what has been done to respond to sexual harassment.

## Lessons Learned

It may have been wrong to believe that what was happening on campus was in some way unique. Perhaps colleges and universities were having a problem with sexual assaults and sexual harassment because these issues are so prevalent in our society. Statistics released by the National

Sexual Violence Resource Center show that in the U.S., one in five women and one in 71 men will be sexually assaulted at some point in their lives. When the subject is “contact” sexual violence, which includes rape, being made to penetrate someone else, sexual coercion and/or unwanted sexual contact, these numbers increase to one in three females and one in six males.<sup>4</sup> Clearly, the issue is not limited to the sexual harassment of women. Title IX protects any person from sex-based discrimination, regardless of their real or perceived sex, gender identity and/or gender expression.

Further, this data shows this is not just a campus problem. Statistics for campus and community sexual assaults are the same: one-in-five. Therefore, the solution may not be to focus on campus customs and behaviors, but to look instead at the culture being fostered on our college campuses, as well as the culture students and campus community members have lived in and adopted before arriving on campus.

## Not Just Assault

Prior to #MeToo, college campuses operated under a “campus safety mindset” and enacted policies, procedures and practices intended to tackle the issue of sexual assault head-on, while at the same time, “meeting the students where they were.” In this vein, training was increased and there was a move to online training and reporting to ensure that students understood the prohibitions against sexual assault as well as their rights as individuals. After #MeToo, it became apparent that these efforts, while well-intentioned, were too narrowly focused to address the broader needs of the campus community. Students knew where to go if they were sexually assaulted but were unsure what to do if they encountered sexual harassment or other sexual misconduct. While policies discussed these behaviors in detail, few people actually read policy, and use of commercial online training products exasperated this reality.

Again, practices were modified, this time moving away from online platforms and toward interaction with the entire community in order to start a dialogue, including preventative training: teaching not only how to identify these behaviors, but also equipping and engaging the community, and incorporating bystander intervention and other techniques designed to address the behavior as it occurs.

## Where We Go From Here

The popularity of #MeToo demonstrated that this issue isn’t an isolated problem with a simple solution. A 2018 national study on sexual harassment and assault concluded that more than 80 percent of women and nearly 50 percent of men have encountered sexual assault or sexual harassment. A multifaceted problem requires a multifaceted solution. In order to change a culture that has persisted for generations, a proactive approach is required. On college campuses, this means going beyond policies. The curriculum and every aspect of the college experience must be impacted.

#MeToo has taught us that in a nation that prides itself on diversity, inclusion and equality, more than half of our population is regularly mistreated in almost every setting, notwithstanding numerous laws and policies prohibiting this conduct. Under the spotlight of #MeToo, a multitude of even stronger laws and consequences can be expected to flourish. **NL**



### MARIA DOUCETTPERRY

serves as the director of the Office of Equal Opportunity and Title IX at the University of Nevada, Reno. In this role, Doucett Perry oversees compliance with federal and state mandates related to equal opportunity, non-discrimination and gender equity. Doucett Perry has oversight for the administration, review and implementation of university policies that ensure all campus community members have the right to work and learn in an environment free of discriminatory behaviors.

**NANCY HARKESS-DILL'S** biography can be found on page 6.

1. *Davis v. Monroe County Board of Education*, 526 U.S. 629, 650 (1999).
2. Christopher P. Krebs, Christine H. Lindquist, Tara D. Warner, & Bonnie, 2007).
3. The Clery Act is a federal law that requires federally funded Colleges to report campus crime statistics and campus safety information. The Campus Sexual Violence Elimination (SaVE) Act and VAWA amend the Clery Act to increase transparency, require educational programming, and add specific criminal offenses such as domestic violence, dating violence and stalking, to the Clery categories.
4. Sexual Assault in the United States, 2018 National Sexual Violence Resource Center, available at <https://www.nsvrc.org/statistics>.