TITLE IX
COMMUNITY MEETING

2015 Climate Survey & Proposed Revisions to Sexual Misconduct Adjudication Process

December 1-2, 2015

Michael Dunn, JD
Director of Title IX Compliance and Training/
Title IX Coordinator
2015 SEXUAL MISCONDUCT CLIMATE SURVEY
2015 Climate Survey

- Open from March 25-April 10, 2015
- 367 students responded – 21% response rate
Outline

- Accessibility of Policy
- Clarity of Policy
- Fairness of Disciplinary Procedures
- Likelihood of Contacting Specific Resources
- Barriers to Reporting
- Timeliness and Effectiveness
- Perception of Safety
- General Comments
Accessibility of Policy

- 70% knew where to find the Policy (up from 55% in 2014)
- 46% had read the Policy (up from 33% in 2014)

- 50% knew where to find the policy on effective consent
- 37% had read the policy in effective consent
Clarity of Policy

• 68% found the Policy very or somewhat clear
  • 6% found it not clear
  • 26% did not have enough information to determine clarity

• Comments
  • 24 thought the Policy was clear and/or was common sense
  • 19 felt that the Policy or parts of it were unclear/confusing
  • 16 expressed negative feelings about the implementation of the Policy
  • 14 had not read the Policy, did not know where to find it, and/or thought it was not accessible
Fairness of Disciplinary Procedures

- 43% found the procedures very or somewhat fair
- 24% found them not fair (up from 14% in 2014)
- 32% did not have enough knowledge to make a determination of fairness

Comments
- 34 felt the Policy was unfair to victims and that perpetrators did not face consequences
- 14 did not have enough knowledge to determine fairness of procedures
- 12 felt the Policy was fair in theory but that procedures were not followed
- 8 felt the Policy was applied unfairly depending on students’ affiliations (such as athletics)
Likelihood of Contacting Specific Resources

- Survey asked students how likely they would be to contact a number of resources if they were to experience or observe sexual misconduct.
- Notable changes in the number of students “very likely to contact” the following:

<table>
<thead>
<tr>
<th>Resource</th>
<th>2015 %</th>
<th>% Point Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Friend</td>
<td>78</td>
<td>+9</td>
</tr>
<tr>
<td>Parent/Guardian</td>
<td>42</td>
<td>+9</td>
</tr>
<tr>
<td>SMART</td>
<td>35</td>
<td>-10</td>
</tr>
<tr>
<td>Local law enforcement</td>
<td>27</td>
<td>+7</td>
</tr>
<tr>
<td>Rape Crisis Center not affiliated with College</td>
<td>19</td>
<td>+7</td>
</tr>
<tr>
<td>Title IX Coordinator</td>
<td>15</td>
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</table>
Likelihood of Contacting Specific Resources

- Although most resources had relatively low numbers of students reporting “unaware of how to contact,” four resources emerged as outliers:
  - Staff Therapist/Advocate – 25%
  - On-Call Professional – 23%
  - Title IX Coordinator – 21% (down from 46% in 2014)
  - Rape Crisis Center not affiliated with the College – 17%
Barriers to Reporting

• Students were given a number of scenarios and asked how likely it would be that a given scenario would impede the reporting of sexual misconduct.
  • Numbers substantially similar to 2014

• Over 70% felt that it was very likely that an observer/victim’s general distrust of the conduct system would impede reporting

• Comments
  • 27 cited a general distrust in administration and handling of cases
  • 5 cited social factors and concerns about reputation
  • 5 cited confusion/fear when scenario involved drug and alcohol use
  • 4 cited fear of favoritism if perpetrator was an athlete
  • 3 cited social stigma surrounding victims of sexual assault
Timeliness and Effectiveness

**Effectiveness** when responding to sexual misconduct:

<table>
<thead>
<tr>
<th></th>
<th>Very or somewhat effective</th>
<th>Not effective</th>
<th>Unsure</th>
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<tr>
<td>College</td>
<td>34</td>
<td>47</td>
<td>18</td>
</tr>
<tr>
<td>Title IX Coordinator</td>
<td>28</td>
<td>25</td>
<td>47</td>
</tr>
<tr>
<td>Public Safety</td>
<td>30</td>
<td>44</td>
<td>25</td>
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**Timeliness** when responding to sexual misconduct:

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<td>27</td>
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<tr>
<td>Public Safety</td>
<td><strong>41</strong></td>
<td>27</td>
<td>32</td>
</tr>
</tbody>
</table>
Perception of Safety

• General safety
  • 93% felt very or somewhat safe on campus
  • 7% felt not safe

• Safety from sexual misconduct
  • 79% felt very or somewhat safe from sexual misconduct on campus (down 10% from 2014)
  • 17% felt not safe (up 6% from 2014)

• Comments – two common themes
  • Displeasure with how the College handled past incidents, with many believing the College cared more for its image than student safety
  • A need for more preventative measures such as educational initiatives regarding alcohol use and consent
Perception of Safety

- 65% thought Public Safety was very or somewhat **effective** in responding to crimes on campus
  - 20% thought Public Safety was not effective
  - 15% unsure

- 65% thought Public Safety was very or somewhat **timely** in responding to crimes on campus
  - 15% thought Public Safety was not timely
  - 20% unsure

- 62% thought Public Safety was very or somewhat effective in maintaining students’ **privacy** when crimes were reported
  - 7% thought Public Safety was not effective
  - 31% unsure
Perception of Safety

• Comments regarding Public Safety
  • Concerns regarding Public Safety’s general response, including timeliness, follow-up, professionalism when dealing with students, ability to respond to a large crisis without guns, maintaining students’ privacy, officers’ training, leadership, and understaffing
General comments

• Concerns regarding consent policy
  • 31 cited lack of student awareness/understanding of policy
  • 17 cited lack of enforcement or policy not being followed
  • 7 cited lack of understanding of role of alcohol

• Biggest concern regarding sexual misconduct
  • 36 cited mistrust between students and administration; concern that cases are not handled and a perception that the College is more concerned with its image than student safety
  • 21 cited perpetrators who were left on campus with no consequences
  • 19 cited barriers to reporting, such as use of alcohol, small size of campus, lack of perceived anonymity/confidentiality, and the length of the process
General comments

- Respondents were asked what the College is **doing well** regarding sexual misconduct
  - Inclusion of sexual misconduct training in orientation, other mandatory training, increased clarity around policy, the efforts of SMART, PHE, FUSE

- Respondents were asked how the College could **improve** regarding sexual misconduct
  - Harsher punishments for perpetrators, better support for victims, more listening to students, more accessible information and training, transparency, focus on safety rather than the College’s image
So, what do we do with this?

- Focus on three broad areas

  - Student trust and engagement
  - Policy education and promotion
  - Campus resources and outreach
Student trust and engagement

• Continue to…
  • Build trust and credibility among students regarding handling of sexual misconduct
  • Educate students about the Policy’s rationale and its foundation in the College’s values
  • Demonstrate that the Policy is applied fairly and consistently
  • Demonstrate the College’s paramount commitment to student safety
  • Build trust and credibility to counter perceptions or rumors about previous incidents
Policy education and promotion

- Continue to…
  - Educate students about where the Policy may be found
  - Articulate Policy definitions and procedures regarding
    - Students’ rights
    - Effective consent
    - Amnesty for drug/alcohol use
    - Bystander intervention
    - Resources
    - Opportunities for resolution
Campus resources and outreach

• Continue to...
  • Ensure that students know the roles and contact information of
    • Title IX Coordinator
    • Staff Therapist/Advocate
    • On-call professional team
  • Ensure that these offices are visible and accessible
  • Ensure that students understand difference between confidential and non-confidential resources
  • Work to build trust in Public Safety and engage students regarding their perceptions of safety on campus
2016 Campus Climate Survey

• January-February 2016
• Survey drafted by working group charged by the Maryland Higher Education Commission
• Information will be anonymous
• Respondents will be eligible to win one of five campus bookstore gift cards
SEXUAL MISCONDUCT ADJUDICATION PROCESS

Proposed Revisions to Procedures to Resolve Complaints Against a Student
## Our timeline

<table>
<thead>
<tr>
<th>Date Range</th>
<th>Description</th>
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<tbody>
<tr>
<td>Spring 2015</td>
<td>Dr. Jordan charged a working group to examine civil rights model; group recommended that the College “seriously consider” this model</td>
</tr>
<tr>
<td>September – November 2015</td>
<td>Draft policy revision based on best practices, other institutions’ policies, feedback from the community</td>
</tr>
<tr>
<td>October 2015</td>
<td>Discuss policy revision with Board of Trustees Student Affairs Committee</td>
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<tr>
<td>November 2015</td>
<td>Meet with SGA Policy Review Committee</td>
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<tr>
<td>December 2015</td>
<td>Solicit community feedback at open Title IX meetings</td>
</tr>
<tr>
<td>January 2016</td>
<td>Present update to Board of Trustees</td>
</tr>
<tr>
<td>Spring 2016</td>
<td>Discuss revisions with appropriate governance bodies; finalize proposed revisions</td>
</tr>
<tr>
<td>May 2016</td>
<td>Present final proposal to Board of Trustees</td>
</tr>
<tr>
<td>Summer 2016</td>
<td>Implement revised policy for 2016-2017 academic year</td>
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</table>
Policy Against Sexual Misconduct

- On the “Campus Rights” webpage
- [http://www.smcm.edu/campus-rights/](http://www.smcm.edu/campus-rights/)
- Requires Board approval to change
- Continually improve our policy
- Tailor it for our community
Current hearing model

- Investigator conducts investigation, prepares investigative report
- **Threshold determination** by Student Conduct Officer with Title IX Coordinator
- If so, move on to a hearing:
  - Investigator makes statement
  - Parties make opening statements and answer questions
  - Witnesses and investigator answer questions
  - Parties make closing statements
- Hearing board or external adjudicator makes determination of facts of case, whether policy was violated, recommends sanctions if necessary
- Parties may file appeal to Dean of Students or designee
Concerns about the hearing model

- May be re-traumatizing to students
- Concerns about privacy on campus
- Challenge of ensuring that pool of panelists maintains appropriate training
A comparison of two models

**Current Hearing Model**
- Investigator prepares report
- Hearing
- Hearing board determines responsibility, sanction
- Right to appeal

**Civil Rights Model**
- Investigator prepares report
- Investigator determines responsibility, sanction
- Right to appeal

**Key Point**
- Parties have the same due process rights in both models: notice and the opportunity to be heard, to submit evidence, and to identify witnesses

**Issues to consider**
- Who makes determination of responsibility?
- Who issues sanctions?
- Who hears appeals?
Resolving sexual misconduct complaints against a student (draft)
1. Formal Complaint

- Complainant submits formal complaint in writing and meets with Title IX Coordinator
- Formal complaint includes description of allegations with relevant dates, places, names of parties, statements made, documentation, and requested remedy
2. Notice of Investigation

- Title IX Coordinator sends written notice of investigation to respondent, including summary of allegations, within 5 days of receipt of formal complaint.
- Respondent is invited to submit a written response to allegations within 10 days of notice.
3. Investigation

- One or more investigators are assigned by the Title IX Coordinator; they may be College employees or external investigators
- Investigators will have specific training and experience
- Parties may notify the Title IX Coordinator of investigators’ conflicts of interest
- Investigators will receive a copy of the formal complaint and respondent’s written response
- Investigators will conduct investigation within 60 days of receipt of the initial report (speak to parties, witnesses, gather evidence, etc.)
4. Initial Investigative Report

- At end of investigation, investigators prepare initial investigative report including determination of responsibility
- The initial report is emailed to both parties
- Both parties have 5 days to review the report and provide written comments
5. Final Investigative Report

- The investigators will review the parties’ comments to the initial investigative report.
- Within 10 days of receipt of the comments, the investigators issue the final investigative report.
- Final investigative report includes:
  - Findings of fact
  - Determination of responsibility
  - Sanctions, if applicable
  - Notification of right to appeal
6. Appeals

- Either party may appeal determination and/or sanctions to appellate officer
- Appeal must be filed within 7 days of receipt of final investigative report
- If a party appeals, the other party will have 3 days to respond to the appeal in writing
- Appellate officers may be the Provost, Vice President for Business and Finance, and Vice President for Student Affairs/Dean of Students
- Appeal decisions will be rendered within 15 days from date of the submission of documents
Thoughts? Questions? Concerns?

- Formal Complaint
- Notice of Investigation
- Investigation
- Initial Investigative Report
- Final Investigative Report
- Appeals
Thank you!

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