CASE STUDY PACKET

This training manual is intended to provide assistance for achieving best practices with respect to campus sexual misconduct, but is not given and should not be taken as legal advice. Before acting on any of the ideas, opinions, or suggestions in this publication, participants should check first with a licensed attorney in their own jurisdiction.
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DISCRIMINATION
CASE STUDIES
MARIA

Potential Race/Ethnicity Discrimination
Student-on-Student

Reporting Party: Maria – Student

Maria Torres is a second-year student at your institution. She transferred to your school this year from a two-year college near her hometown in Texas. She selected your school because of the institution’s values and mission.

Maria is a first-generation college student and she is under a lot of pressure to make her family proud of her. She is working as a research assistant for a couple of professors to earn money for school and trying to become involved at the institution while keeping her grades up.

Following class last month her professor asked her if she was fluent in Spanish. Maria responded, “Si,” laughingly. Her professor said he wanted to hire a student to accompany a study abroad group from the institution to provide interpretation services for the participants and he thought she would be perfect. He told her she would have all her travel expenses paid and earn a stipend as well. Maria was thrilled.

Jason, another student in the class, overheard the conversation between Maria and her professor. He was angry because, as a Spanish major, he had hoped to be selected as the group interpreter.

Jason stopped Maria outside the classroom. He said the only reason the professor offered her the job was because she was “hot.” He said, “I’m going to start calling you the “Hot Tamale.”

Jason’s nickname for Maria caught on across campus and she would frequently hear people call out “Hey Hot Tamale.” Maria was very embarrassed, but was determined to ignore the taunts.

Then last week at the volleyball game (Maria is on the women’s team), a group of male students sat on the sidelines wearing large sombreros and holding signs. The various signs said:

1. I like it hot
2. Hot tamales are the best tamales
3. Aren’t you on the wrong side of the Rio Grande?
4. Don’t come here and take our jobs

Maria was devastated and left the floor in the middle of the game. She came to the Equity Compliance Office to make a complaint.

Discussion

- What are the issues presented?
- What policy or policies would apply for analysis?
- Who is a potential responding party?
- Does this make it past a preliminary inquiry? If no, why not? If yes, why?
- Let’s process this through the hostile environment analysis.
CAMERON

Potential Discrimination and Retaliation
Employee-on-Employee

Reporting Party: Cameron – Employee

Cameron is an employee who has come to file a complaint about David, another employee that is in the same department as Cameron. Cameron alleges that they had been in an intimate relationship over the last year. The relationship ended recently, and David is now attempting to “sabotage” Cameron’s career by talking badly about Cameron to their supervisor, Ed.

- What are the next steps?
- What interim measures (if any) might be taken?
- Is this a violation of policy?

Scenario A
Assume that David and Ed are buddies. They go out socially, their families are friends and they have known each other for a long time. Cameron knows Ed socially too, but not as long as David has. Since the split, Ed has been less than receptive to Cameron’s social invites, but is still close with David – they go to lunch together, etc.

- Is this retaliatory?
- Is this a violation of any other policy?
- What behaviors – by Ed – could make it possibly retaliatory or possibly in violation of policy?

Scenario B
Now assume that Ed and David are friends, but so are Ed and Cameron. When Cameron and David broke up, they both came to Ed (socially, not at work), to tell him. He tried to get them back together because he “thinks they are meant for each other.” It didn’t work.

Cameron then came to Ed and told him that she was worried that David was going to try to sabotage her career. Ed knew that David was telling him unkind things about Cameron, but he was ignoring it, because he “doesn’t think it is a big deal anyway.”

- What are the next steps?
- What interim measures (if any) might be taken?
- Is this a violation of policy?

Scenario C
Now assume that Ed and David are friends, but so are Ed and Cameron. When Cameron and Dave broke up, they both came to Ed to tell him. He was relieved because he knew that the relationship was unhealthy. In fact, he suspected that Cameron was physically abusive to David, but David was too ashamed to tell anyone.

Cameron then came to Ed and told him that she was worried that David was going to try to sabotage her career. She said she was worried because David was getting some opportunities that she was not. Ed shares with you that he was giving David these professional opportunities, but it was to allow him (David) the chance to get out of there and away from Cameron.
• Is this a policy violation?
• If so, which one and what are the next steps?
PROFESSOR JONES
Potential Sexual Orientation and Gender Discrimination
Faculty-on-Student

Reporting Party:  Frank – Student
Responding Party:  Professor Jones – Tenured English professor

Frank, an openly gay student, comes to you to complain that Professor Jones, his (tenured) English professor, has made comments in class that make Frank “feel unsafe.”

Specifically, he alleges that Professor Jones made the following comments:

• After the transgender letter was repealed by the Trump administration, Professor Jones brought it up in class and said, “Finally, some common sense from Washington – you are either a man or a woman. Period.”
• When a student wore a gay pride shirt to class, Professor Jones said, “I get not being ashamed of who you are having sex with, but is ‘proud’ really the word you should use?”
• He assigned all the students in class to write their persuasive essays on “trying to convince me that people should be able to use whatever bathroom they want to.”

There are about 26 students in the class, and Frank brought with him Georgina, Haley, Isaiah, Jeremy and Ken. He tells you that all the students will back him up and that he has heard that Jones is not liked in the department as well.

He also says he knows a student who is a transgender female. He says she is not comfortable even going to the English department offices because she also feels “unsafe.”

• Do Professor Jones’ statements and actions constitute a policy violation? Why or why not?
• If you start to look into the allegation(s), can Frank remain anonymous?
• What interim measures might be taken?
• Would they be different if Jones was tenure track or adjunct?

Frank requests that you assist him in withdrawing from Jones’ class, as do the other 5 students.

• What considerations come into play here?

Further, Frank shares with you that a month ago, while walking across campus with Ken, he heard another student use the word “faggot.” He cannot identify the other student, but thinks he is in student government. He also heard from Georgina that, at a recent social function, a group of students made fun of the LGBTQ group on campus. As a result of this, he says that he feels even more “unsafe.”

How would you handle the following requests?

• Frank requests that you assist him with a full withdrawal and refund.
• He wants Jones removed from the classroom and possibly fired.
• He and the other 5 students want an audience with the President and want the President to write a letter to the campus denouncing Jones.

Frank threatens to go to the media/OCR/hire a lawyer if you do not follow through.
PROFESSOR JOHNSON

Potential Sex Discrimination
Faculty-on-Student

Reporting Party:  Angela – Student
Responding Party:  Professor Johnson – Gender Studies faculty member

Professor Johnson is a gender studies faculty member. She teaches a variety of classes, including a class on sexuality and discrimination.

Angela’s Statement

I want to file a complaint against Professor Johnson for the way she treats the two boys in our class. She tends to be meaner to them than she should be. Last week, when we were going over some of the readings, she asked several of the students what they thought about the readings. When she would call on me, or any of the other girls in class, she referred to us by our names. When she called on Greg and Henry, she referred to them as "penis." She did this twice, and then they stopped answering questions.

I wouldn't be surprised if they try to drop the class. I've heard from other students that male students try not to take her classes. Something needs to be done about this because it's unfair and professors just shouldn't be allowed to treat people like that.

Professor Johnson’s Statement

NOTE: Professor Johnson may choose not to talk to you at all under the guise of academic freedom. How would you overcome this objection?

My class is on gender discrimination, and I was trying to illustrate how even just words matter. For that one class session, I did refer to the male students as "penis." I was trying to show the class how treating one gender respectfully – like using their names – while treating another gender disrespectfully was inappropriate and could be discriminatory. That's kind of the purpose of the class. I can't believe that students actually complained about this to you instead of to me.

Discussion

• What are some of the things you should do to continue a level of inquiry into potential discrimination by Professor Johnson? Or should you do nothing?
• Would you need to confirm Angela's story before calling Professor Johnson in? If so, how would you do that? How many students would need to confirm Angela's story in order to cross the threshold to begin a full investigation?
• Did Professor Johnson break any rules? Would your answer change if Greg and Henry did in fact, asked to withdraw from the class or to be transferred to a different section?
REN

Gender Identity Discrimination
K-12 Student-on-Student

Ren is a transgender female who has been using the restrooms and locker rooms consistent with her gender identity since school started in August. She has been on hormone therapy for 13 months and has recently joined the girls’ basketball team.

During her first away game, the visiting team locker room did not have any privacy facilities in the locker room so Ren changed with the rest of the team. One of the other players, Lyna, screamed when she saw Ren quickly change her underwear to put on a jockstrap before the game.

Ren was very embarrassed and Lyna became hysterical. Both students called their parents while others texted parents and friends about what happened. Video of Ren running away from the bathroom was quickly posted on social media and the Principal’s and Athletic Director’s phones began ringing off the hook.

Fox News also called seeking comment.

Discussion

• What Title IX issues do you see?
• What could have been done differently?
• What do you do now?
HARASSMENT
CASE STUDIES
REBECCA AND REESE

Potential Harassment and Stalking
Student-on-Faculty

Reporting Party: Rebecca Tate – Faculty
Responding Party: Reese Smith – Student

Rebecca Tate’s Statement

A former student of mine, Reese Smith, is harassing me and I am fearful for my safety. I have told him repeatedly to stop contacting me, but he keeps parking in front of my apartment and just watching it. He also waits for me after my classes and tries to talk to me.

Reese and I met when I took a group of students to England on a study abroad trip last year for my Shakespeare class. On these trips, the group is small (around 10 people) and we all get very close to each other after spending days and evenings together.

Reese and I became very close on the trip. It began as flirting on the flight to England and continued in my room one night. One evening Reese came to my hotel room to talk about a writing project for our course. I was winding down after a long day of touring and was enjoying a glass of wine. I offered him one and he accepted. We worked through his outline for his paper and maybe had a few more glasses of wine.

One thing led to another and we ended up having sex that night. We have continued to see each other over the past year when we could, even at my apartment when my roommates were out. There was a very strong attraction between us. He even took my Renaissance Literature class last spring so that we could see each other more often.

You need to know I have a boyfriend from home and I told Reese about it. I said we needed to keep our relationship casual. Over the summer I was approached by the head of the English Department about applying for a tenure track teaching position. I was fearful the Department would find out about Reese and it would jeopardize my chance for the position. I decided to break it off with Reese last month and told him we could not meet up any more. I thought I had made it clear this was just fun and games but he went ballistic and threatened to tell my boyfriend.

He wants an explanation but I don’t want to tell him about the job because I’m afraid he will use that to hold over my head. For the past month, he has sent me endless numbers of texts, and e-mails, drives past my apartment, sits in front of my apartment in his car, stands outside my class, and then yesterday I looked out and he was in the English Department office while I was talking with the Dean! I was so upset I couldn’t concentrate. You should also know that two tires on my car were slashed.

I don’t know what to do. Can I keep my name out of this and just have someone talk to him? I don’t want anyone else to know about it, but I want him to stop harassing me.

Reese Smith’s Statement

I met Becca last year as a participant on a study abroad trip she took to England. She struck me as different from other professors because she was really flirty and hung out with us.
During the trip, she seemed to just be one of the group. One evening I went to her room to talk about a paper I was struggling with. She was super helpful and even offered me a glass of wine. Actually, she and I finished off a couple of bottles. I was pretty loose and when she started rubbing my arm and looking in my eyes and kissed me I didn’t know what to think. I was really nervous and didn’t know what to say and I knew I should leave, but how could I do that? I was really fuzzy and dizzy.

I’m not an academically strong student but Becca assured me she would make sure I did well in college. She even suggested I take one of the classes she was teaching so she could help me. I got an “A” in it.

We hung out together this past year as much as we could. She said she had a boyfriend at home, but she said it was rocky. We even talked about a future together. Then last month, out of the blue she said she wanted to break it off. I couldn’t believe it! She won’t even tell me what’s going on. I keep trying to get her to talk to me but she just avoids me. I am so frustrated and have tried every way possible to get her to tell me what’s going on. I know she cares about me. I’m so confused.

Identify the issues presented here

Strategy Development

- What potential violations of your policy would apply?
- Is there undisputed information? Is it relevant to explore?
- Is there disputed information? Is it relevant to explore?
- Are there any key issues that aren’t policy violations?
- Who do you want to talk with (order of interviews?)
- What are your next steps?

Role Play Option – Break into small groups of 6-8 people

- One will play the role of Rebecca, one will play the role of Reese.
  - These players may not be in on the interview when the other is being interviewed.
  - Try not to “break character”.
- 1-2 Investigators:
  - Begin with questions.
- Role of the Observers:
  - Observe, do not interrupt.
  - Note verbal and non-verbal behaviors of the Investigators.
- Observers: feedback to Investigators.
- Rebecca (response to Investigators):
  - What did you feel?
  - What did you like/not like?
- Reese (response to Investigators):
  - What did you think worked?
  - What would you change?
KAREN AND DR. YORKE

Potential Sexual Harassment
Faculty-on-Student

Reporting Party: Karen – Graduate Student at Vexler University
Responding Party: Dr. Yorke – Tenured Geology Professor at Vexler University

The Title IX Coordinator at Vexler University, a large 4-year public university, recently received a call from Dr. Conway, the associate dean of the College of Arts & Sciences. Dr. Conway explained that one of his college’s academic advisors had contacted him after meeting with Karen, a graduate student in the geology department who is expected to graduate with her master’s degree at the end of the upcoming fall semester. According to Dr. Conway, the advisor said that Karen had stopped by her office unexpectedly and asked about her academic schedule for the upcoming fall semester, specifically whether she could take GEOL 6315, a course in which she was enrolled for fall semester and needed in order to graduate, with someone other than Professor Yorke, the instructor of record.

When the advisor told Karen that Professor Yorke was the only professor teaching the course that semester, Karen seemed visibly concerned. When the advisor asked Karen why she didn’t want to take Professor Yorke’s class, Karen said that she “just didn’t feel comfortable” being in his class and would not provide any further explanation. In looking at Karen’s academic transcript, the advisor noted that Karen appeared to have just finished a course taught by Professor Yorke in the second summer semester, which concluded a week prior to their meeting. Concerned by how adamantly Karen seemed to want to avoid being in a class with Professor Yorke, the advisor referred the concern up to Dr. Conway, who scheduled a meeting with Karen to see if he could help.

Dr. Conway told the Coordinator that when he met with Karen, he told her that there was likely no alternative class, but that he really wanted to understand her concerns related to Professor Yorke and would try to help as best he could. Though initially reluctant, Karen eventually said, “Well, Dr. Yorke was our professor for this summer’s field camp, the seminar class, where we camp out in the hill country for a couple weeks and do all types of hiking, mapping, and measuring. I mean, he’s a good professor, he really is, I actually had him for another class my first year in grad school and it was fine, but, I don’t know, some stuff happened during field camp and I’d just feel more comfortable taking a section taught by someone else, if that’s at all possible.”

Dr. Conway said he asked Karen if she would feel comfortable telling him more about what happened during field camp, but she was resistant. Dr. Conway said he told Karen, “It doesn’t sound like your concerns with Professor Yorke are ‘academic’ in nature,” to which he said Karen responded with a subtle shake of her head. Dr. Conway contacted the Title IX Coordinator shortly after Karen left his office.

When the Title IX Coordinator asked Dr. Conway whether he was aware of any other concerns regarding Professor Yorke, Dr. Conway said, “No, not at all. He’s been with the department for over 20 years, he’s a highly respected researcher in his field, and the students really seem to love him.” He went on to say, “I would describe Dr. Yorke as very hip, very down-to-earth. He’s the ‘cool professor’ in the department, I’d say. He can be very outspoken at times, not afraid to raise eyebrows, but I’ve not necessarily heard of him saying anything super offensive.”

The Title IX Coordinator met with Karen soon thereafter and, though initially reluctant, Karen eventually told the Coordinator about her interactions with Professor Yorke during field camp. Karen said that they just
recently returned from field camp, adding that grades had not been posted yet. Karen described field camp as an extensive, multi-week outdoor graduate course where she and 12 other graduate students in the geology department, a teaching assistant (TA), and Professor Yorke all drove out to the nearby hill country and camped for several weeks, breaking every few days to stay at a local hotel for showers and air conditioning. Karen said days were spent hiking the area, mapping the terrain, and studying various rock and geologic formations, while nights were typically spent finishing assignments and then eating, talking, and singing around the campfire. Karen said it was fairly common for Professor Yorke to break out his acoustic guitar.

Karen said that, on multiple occasions during the daily hikes, Professor Yorke would make comments or ask her questions that made her feel uncomfortable, often when the other students were scattered about taking measurements and few were within earshot. On one occasion, she said Professor Yorke told her, referencing the spaghetti-strap tank top she was wearing, “You might want to pull those straps down onto your arms so you don’t get tan lines.” On another occasion, as she and one of her female classmates were climbing up some rocks and Professor Yorke was climbing up behind them, Karen said that Professor Yorke remarked, “I’m not sure how you ladies do this in such tight shorts. Looks very constricting.” Karen said they just tried to laugh it off, but were decidedly aware of the fact that he was staring at their butts.

Karen said that on the last night of field camp, as everyone sat around the fire, Professor Yorke squeezed into a small space next to her with his guitar, despite there being other places to sit with more room. She said he began to play his guitar and kept urging her to sing with him, saying that “everyone talks about how beautiful your voice is.” Karen said that at first it seemed playful, but he persisted even after she refused several times, and it embarrassed her. Later, as other students started leaving for their respective tents, Karen said Professor Yorke turned to her and asked offhandedly if she was dating anyone. When she said no, he asked her if there was anyone in the geology department she would consider dating. Karen said she just laughed and said, “probably not.”

Karen said a few minutes later, Professor Yorke leaned in, started talking more quietly, and began telling her about his wife and how she doesn’t understand the type of work he does, and how much he enjoys talking to women who understand geology and can have engaging conversations with him about the subject matter. Karen said she just listened and didn’t say much, looking for an opportunity to head to her tent. Karen said, “Finally, Elise came to save me—she was my tent mate. I think she could tell I was uncomfortable and she kind of interrupted Professor Yorke to tell me to come to the tent. I think she made up something about it being cold and needing my body heat.”

Karen said that the following day they packed everything up and started the drive back to campus, with all the students in the van driven by the TA, and Professor Yorke following them in the Suburban carrying all the supplies. Karen said as she sat in the back of the van with a few of her classmates, she received a text message from Professor Yorke. She explained to the Coordinator that everyone had exchanged phone numbers at the start of field camp and that a group text had been the primary means of communication between Professor Yorke and the students. This text, however, was sent only to her and read, “I can’t get the thought of your face glowing in the firelight out of my mind. I really wish we could have sung together; I would have loved to hear your beautiful voice.” Karen said she did not know how respond but felt like she should say something, so she replied, “Haha, thanks Professor! Camp was a lot of fun and I definitely learned a lot.” Karen said she still has the text messages on her phone.

When they arrived back on campus, Karen said she could sense that Professor Yorke was looking in her direction as they got out of the van, but that she purposefully averted her eyes, quickly grabbed her
belongings, and went to her car and left campus without saying much to anyone. Karen said she has not
spoke to Professor Yorke since leaving campus that day and has been very reluctant to tell anyone about the
situation. Karen said she thought seriously about reporting her concerns, but feared that it would jeopardize
her grade in the class.

She said that since she is graduating soon, she didn’t want to do anything to derail that and thought, rather
than making it into a big deal, she would just try to avoid having another class with him. Karen also mentioned
that Professor Yorke has a reputation in the geology department, particularly among the graduate students, as
being somewhat flirtatious toward female students, adding that since it hadn’t been addressed before, she
wasn’t necessarily crazy about being the first person to make an issue out of it. However, after discussing the
situation with the Title IX Coordinator, Karen indicated that she would be willing to participate in an
investigation, so long as she could be assured that nothing adverse would happen to her, academically or
otherwise.

Considerations

- What types of interim measures would we consider?
- What if he were the only professor in the department that ever taught that course?
- What if Professor Yorke had been on Karen’s thesis committee?

Strategize about an Investigation

- What leads do we have and what evidence do we think exists?
- How would we gather and verify that evidence?
- How far should we go in interviewing witnesses?
- What obstacles might we encounter?

Analysis

- Assuming the behavior [more likely than not] occurred as alleged (e.g., suppose that Professor Yorke
qualifies the various instances rather than denying their occurrence, and that witness statements and
other available evidence corroborates—or at least does not conflict with—Karen’s account), is the
behavior “sufficiently severe, persistent, or pervasive, and objectively offensive?”
- If Professor Yorke is found responsible under Vexler’s sexual harassment policy, what sanctions would
be appropriate?
IVAN AND JUANITA

Potential Sexual Harassment

Student-on-Student

Reporting Party: Juanita Morales — Student
Responding Party: Ivan Petrovich — Student
Investigator: Michelle Goldberg
Employee: John Wang — Assistant director of information technology
Witness: Allen Davis — Student; president of Ivan’s fraternity

Report by: Investigator Michelle Goldberg
Reported by: Juanita Morales
Allegations: Harassment, sexual harassment, policy on computer network acceptable use, and violation of laws (copyright Infringement).

I, Michelle Goldberg, met with a female student, Juanita Morales, who was extremely upset. Apparently, Juanita received a picture, via email, that had her face attached to a body with exaggerated breasts. She received the picture while studying at her sorority house. Many sorority members also saw the picture. Juanita was very worried that the picture had been distributed campus wide. Juanita stated that she thought that another student, Ivan Petrovich, was responsible.

I contacted John Wang, the assistant director of information technology, to investigate how the picture originated. We supplied Mr. Wang with the IP address from the originating email. Mr. Wang determined that the picture was sent from the community recreation room of the Lambda Lambda Lambda fraternity house, from on a desktop permanently installed there. However, he could not positively identify who actually sent the picture. The email account was assigned generically by the university (TriLambda@university.edu), as with all Greek Letter organizations, to be used for official organization business, and could be accessed by the fraternity’s executives, who have shared the password broadly within the fraternity. The email was sent at 10:24 a.m. on October 11, when Petrovich was in class, to the sorority’s generic email address. Once received, it was forwarded by sorority members within the sorority, and then externally, to hundreds, if not thousands, of recipients.

Petrovich learned the file had been shared only when he received it via email later on the 11th, and believes that it was stolen from the laptop in his room, where he stored it after copying it off a class shared drive, where he was working on it for an assignment. Petrovich noted that when he attempted to submit the picture for the class assignment, his professor refused to accept it. Ivan then transferred the image to a flash drive so that he could finish it at home on his own laptop. Petrovich noted that he usually signs out of his laptop when he is not using it, but does leave it unguarded while signed in occasionally to go down the hall to use the bathroom or to get some food.

Subsequently, statements were collected from Juanita Morales, Ivan Petrovich, Allen Davis (the Lambda Lambda Lambda fraternity president), and John Wang, the assistant director of information technology.

Reporting Party’s Statement: Juanita Morales
On the morning of October 11, I was sitting in the common room of the sorority house studying for a quiz with my Big Sis Alice. Another sister came into the room, sat down on the couch, and began checking her email on her laptop. All of a sudden, she started to yell for all of us to come over to her computer and look at what was sent to her from the fraternity next door, Lambda, Lambda, Lambda. The email said, “Greetings new freshman, meet the girl next
Everyone in the room walked over to the computer as she opened the picture. When I looked at the screen, I was horrified! It was a picture of me and I was totally naked, except it really wasn’t me. I mean, it looked like me; it was my face pasted on this body that had these really huge breasts. It was amazing how everyone in the room knew it wasn’t me, but they were all laughing at the picture. I was so embarrassed that I ran out of the room in tears. All I could think about was that everyone on campus was going to see this picture and think it was really me, and that I posed for a picture naked. I called this boy named Ivan, because I just knew that the email came from him. At first, he said that it was only a joke, and that I couldn’t take a joke, and then he said that he didn’t send it.

The next day, as I walked out the front door on my way to a class, several of the brothers from Tri Lambda were standing outside their house and started pointing at me and laughing. I just started crying and ran back to my room. As a result of this incident and quite a number of others, I stopped going to classes and withdrew from one with a lot of TriLams in it. My grades suffered and I stopped going out, because everywhere I went, people would ridicule me. As a result, I contacted the university to file this complaint. I am so upset about this whole thing.

Earlier this semester, Ivan asked me out several times, but I didn’t want to go out with him. I know that I wasn’t very nice, calling him a total loser in front of his friends, but he was really annoying and he wouldn’t stop bothering me. I never really considered him to be my friend, but I can’t imagine why he would hurt me or embarrass me like that when he doesn’t even know me that well.

Signed: Juanita Morales

Responding Party’s Statement: Ivan Petrovich
Juanita is totally blowing this out of proportion! I have never harassed her. Earlier this year, I asked her out a few times and she told me no. Actually, she called me a loser, but hey, I was cool with that. I told her that she didn’t know what she was missing, but as far as I know, that is not harassment. I moved on and left her alone.

I still can’t believe that she went to the university with this. When she was at parties at our house and when she was drinking, she always used to tell me and everyone in the room that she wanted to get a boob job. I just helped her out a little bit. I had this project to do for my media design class, where you had to morph two objects together that did not belong together. I figured that this was the perfect opportunity to give her the boob job she wanted. Besides, she has flashed her boobs in public to many of the brothers when she was drinking. It was only meant to be a joke. I never put her name on it, so what’s the big deal? This is a work of art that I created for my class, not a porn picture or anything.

I only showed my artwork, which by the way is protected by the First Amendment, to a few of my brothers. I know my rights very well, since I am a criminal justice major. In fact, the First Amendment states that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.”

I never sent that picture out to anyone, and I have no idea who did. It wasn’t meant to hurt anyone, and besides, it’s my property and my artwork.

Signed: Ivan Petrovich
Statement of: John Wang, assistant director of information technology
At the request of the Title IX coordinator, I initiated an investigation to determine, if possible, who sent a picture via computer of Juanita Morales, a student at the university, to several members of the Delta Pi Epsilon Sorority. I started the investigation by reviewing the computer use records of Ivan Petrovich. I was able to confirm that someone using the computer port in the common room of the Lambda Lambda Lambda house (a building owned by the university that has our computer network in each room) sent the picture to the Delta Pi common account. I then contacted the president of the fraternity and told him that I needed to inspect the computer in the common room (the residents of the house typically use the computer for printing to the printer in the common room). I found the picture in question had been sent at 10:24 a.m. on October 11 using the TriLam common account, with no evidence of which brother had logged in. The picture was inserted into the email via a flash drive. The image was not stored on the computer's hard drive or transmitted to it, only from it to the sorority.

I then contacted Ivan to inform him that I needed to inspect his laptop relative to my investigation. Ivan allowed me to inspect his laptop and I was able to determine that the picture was saved to his hard drive, but was not sent out via email to anyone. Ivan told me that he created the picture as a joke and part of his media design project, and that he didn’t understand what all the fuss was about. He told me that he did not send the picture out and did not allow it to be removed from his laptop. If he does not have his laptop with him, Ivan indicated that it is typically locked in his bedroom, and that he signs out. No one else knows his password.

Statement of: Allen Davis, president, Lambda Lambda Lambda Fraternity
Earlier this semester, a member of our fraternity, Ivan Petrovich, tried to date Juanita Morales, a member of our sister sorority. After she turned him down several times, he stopped asking. Ivan knew Juanita because she has attended most of the parties we've hosted this year. Ivan told me he “liked her style” because she had flashed her breasts a couple of times. What I mean is that she lifted her shirt, showing her breasts like girls do at Mardi Gras. She was showing everyone. Ivan also told me that she had talked to him about wanting to get breast enlargements. So, after she turned him down, and since he had this project due, he thought it would be funny to generate a computer picture with her head on a body with very large breasts. Ivan is pretty good on computers, so it didn’t take him long. He got a picture of her face from Facebook and found a picture to use for her body online. Once the picture was done, a few of the guys in the house looked at it and thought it was pretty funny. Everyone who looked at it knew it was a joke because everyone knows Juanita doesn’t look anything like the picture. Actually, the picture is more like an exaggerated caricature. While we were looking at the picture, someone — not Ivan but I can’t remember who — suggested that he send it to the girls in Juanita’s sorority. Since we know all the girls there, it seemed like a funny thing to do, especially since they all know Juanita looks nothing like the picture. But we didn’t send it out, we just laughed about it. The day after the picture was sent, I got a call from Juanita. She was really angry. She said that she was sure Ivan had done it, and that she was going to get Ivan for doing this. Then Ivan told me he had been charged with harassing Juanita and that I needed to come here and tell people that this was all a joke and that Juanita has blown this all out of proportion. I don’t think it’s right that she can charge Ivan for what is clearly a mistake and an art project, especially when she has flashed her breasts at our parties and talked about wanting larger breasts.

Discussion
• Is this sexual harassment?
• Is Ivan responsible for creating a hostile educational environment for Juanita?
PROFESSOR WEBER

Potential Hostile Environment Harassment
Employee-on-Employee

Responding Party: Professor Weber – Sociology faculty member

As the Title IX Coordinator at a community college, you were recently notified that a sociology faculty member, Professor Weber, had written a somewhat inflammatory memo regarding pregnancy and wage discrimination and circulated it throughout the department. Professor Weber, an older, outspoken, and staunchly conservative lifelong academic, is known for engaging his colleagues in often spirited (and sometimes public) debates on issues of race and gender-based discrimination, but this is the first time he’s ever put it in writing and attempted to reach such a broad audience.

The memo – an arguably well-written, 4-page op-ed of sorts – argues that there is extensive research demonstrating that women who decide to take a year or two off from either school or their jobs have a correlative drop in their earning potential. The memo asserts that women knowingly make the decision to have kids, accepting the temporary hold it places on their academic or professional careers, but then “whine” about wage discrimination when their male colleagues, who he emphasizes do not take such leaves, end up making more than they do.

Though conceding that malicious wage-discrimination does exist in the workforce, he argues that such incidents are “anomalous,” with the “vast majority of gender-based wage discrimination claims being propagated by women who are simply dissatisfied with the biological obligations of their sex and the corresponding vocational sacrifice associated with the decision to start a family.” Professor Weber calls the typical college campus a “bastion of liberalism,” which he argues “unwittingly encourages women to declare victim-status” rather than “being accountable for the decisions they, themselves, make,” ultimately equating the decision to have children to “any other decision with career implications, such as leaving a management position at a large corporation to work for a promising startup.”

He concludes by acknowledging his unconventional approach of sending out a seemingly unprompted internal memo to his colleagues, but remarks that, as the self-proclaimed “island of conservatism in a sea of liberalism” and given the multiple discussions he has had with his female colleagues on the topic, he is tired of feeling pressured into silence as the minority viewpoint and felt it his moral obligation to present the opposing side.

After several intra-departmental female faculty members angrily forwarded the memo to other faculty members outside of the department, the memo rapidly became the prevailing gossip on campus. Students quickly learned of the memo, many from other faculty members who mentioned it during their lectures in vents of frustration. Within a few days, social media had erupted with calls for Professor Weber’s termination – from students, faculty, and staff alike. The school newspaper ran several editorials addressing the situation and several student organizations became highly vocal as well, setting up shop in the free speech area of campus and calling for a sit-in at the president’s office.

Multiple faculty members have contacted you directly, insisting that Professor Weber’s memo “clearly created a hostile educational environment in violation of College policy.” The faculty members pointed to the palpable unrest on campus, the notable distraction the whole situation has caused, and the message it sends to the campus community if at least something is not done in response to something so clearly averse to the College’s mission. One of the faculty members, with whom you’ve partnered on several occasions for outreach and prevention initiatives, asked you point blank how this could not meet the definition of hostile environment...
sexual harassment, given that it was “objectively offensive, sex-based, written behavior that is so pervasive that you would be hard pressed to find a member of the community who didn’t know about it.”

In your initial meeting with Professor Weber, he told you that he was stunned by the community response to his memo, insisting that not only was the memo never intended for anyone outside of his department, but that he was simply offering a differing viewpoint on a topic and never intended to offend anyone. He added that it was exactly this type of thin-skinned, overreaction that he was referring to in his memo and that undermines the free exchange of ideas.

**Discussion**

- First, let’s visualize how this would play out on our own campuses. What are the politics you would likely have to manage in responding to this situation?
- How would you manage this situation? Would you investigate this, and what would that investigation look like?
- Assess the facts here against your institution’s sexual harassment policy: unwelcome verbal/written/physical conduct of a sexual nature, or that is sex- or gender-based, that is so severe, persistent, or pervasive, and objectively offensive, such that it unreasonably interferes with, denies, or limits someone’s ability to participate in or benefit from the institution’s education or employment programs. Is this a violation? Why or why not?
DARCY AND JAKE

Potential Sexual Violence, Sexual Harassment
Student-on-Student

Reporting Party:  Darcy – Student
Responding Party:  Jake – Student

Darcy’s Initial Interview

2016 starting in the spring time Jake and I shared a second class together. Sometimes he would text me about homework - regular things. His friend Dan Allen was interested in my friend Jenna Rupert at the time. Maybe once or twice on a Saturday night the four of us were in Jake’s room. The first time something weird happened was February or March. Jake and I went to McDonalds to get food and we were leaving the parking lot or were parked and he unzipped his pants and asked me to suck his dick. I told him no. He was trying to convince me saying “We’re alone, why would you come with me if you didn’t want something to happen.” I told him I didn’t want to. I don’t even think we kissed or anything. A few times after that he texted me and was clearly asking for a booty call. I deleted them.

April 2016, I was setting up for an event – it was a Friday night and Jake texted me that he was in Academic Hall taking a make-up exam and he asked me to come over and stop by and keep him company – I don’t remember his exact words. I was completely sober at this point. He asked me to bring him a drink, I brought him some Gatorade. He asked again for me to come over. I walked to the Hall and he was in a classroom on the 4th floor. He was sitting at one of the tables and he got sly and emotional with his words. I told him I was going to leave.

He asked me why I was leaving and asked what did I expect to happen by coming over there. He said he wanted to hook up with me. I told him I wasn’t interested. And he said why would you come over here dressed like that. I was just wearing what I would normally wear to go out. He said why won’t you hook up with me I know you hooked up with Joe (a mutual friend) so why wouldn’t you get with me. He just started to make me feel really guilty. I remember him kissing me and feeling my butt. I told him I didn’t want to do anything else. He started begging and whining from there.

He asked to have sex and just have it go in and out once. I said it’s never just once. He started pushing me up against the chalkboard and feeling me. And then he pushed me down on my knees and said I should suck his dick. He said I couldn’t leave now because he was hard. He made me suck his dick and then he still wanted to have sex – so he bent me down over the table and then pushed me down on the floor and had sex with me – I didn’t like it and it kind of hurt.

He didn’t wear a condom and didn’t even discuss wearing a condom. Then he wanted me to suck his dick again. He asked me if he could come on my face and I said no, and he came in my mouth without telling me. I ran out of the room and cried a little, then went back to get my shoes and I remember he hugged me. I left and went back to my room. I don’t know why I didn’t tell anyone. Jake and Dan were both still friendly and Dan even said, “I heard you and Jake hooked up and that sounded awkward,” so I knew Jake told people. Jake would say hi in class or in the hallway but we didn’t really talk.
When I first realized this was wrong – I was keeping a list of people I hooked up with and his name was never on that list. Every other person on the list was clearly consensual and I never pursued Jake – I never led him on – I never asked him to be alone with me.

June 2017 – Muriel Westin and Julia Highland and I were talking in a hotel room in Europe and we were talking about drinking on campus and whether we should be a dry campus. I asked them about their opinion about what happened with Jake and they said it was definitely sexual assault. A few days after that I told my boyfriend about it and he said I should call the police and that is what night I emailed Dean Yates. I’ve since told my mom and my dad.

I hope he will be confronted by someone with authority. I know he was reported by someone else. He is on the lacrosse team – his coach encourages racial slurs and bad behaviors. I don’t think he has a right to be here if he is doing those things and will do it again. He is going to use the power of being on the team to lure someone else. My biggest fear is that he is going to try to confront me or one of his friends will and say that I am lying and he will be able to continue as normal.

**Discussion**
- What are your initial thoughts?
- What policies are potentially implicated?
- What additional questions do you have for Darcy at this point?
- What are your next steps?

**Darcy’s 2nd Interview**

At the time of the McDonald’s incident, Jake’s friend Dan was interested in my friend Jenna. Jake and I went to get McDonald’s for everyone because the others had been drinking. In the parking lot without any asking or anything he unzipped his pants and said, “Suck my dick, we should hook up now.” I told him I wasn’t interested and I thought I made it clear that I wasn’t coming on to him. I didn’t think it would be weird to go to McDonald’s with him since I had two classes with him. But obviously he wanted something to happen – it was out of nowhere – shocking and surprising. I didn’t tell Jenna or anything. Everything was fine for the rest of the night. I left soon after getting back. This must have been February or early March.

If I remember it happened in the gym parking lot before we went to McDonalds. But it might have happened after. I think it happened before. We were in the car less than 10 minutes. I don’t think we had any real communication. When he pulled it out he made more of a statement like “Let’s do this now.” His dick was just sticking out of his pants. He was in the driver seat. And he paused, unzipped, looked over at me, looked down, and then made the statement. I remember being taken aback. I kind of made light of the situation “yeah, right, like I would do that.” I think he kinda put his head to the side and said “Really? We’re alone together, why not?” I think after a few seconds I said we just need to go to McDonald’s – and he asked when it was going to happen – and I think I said maybe later – let’s just go.

I think he started texting me after the McDonald’s incident, asking if I wanted to meet up or come over. And I remember saying I wasn’t interested. I think he only texted me a handful of times. I erased all traces of his texts because I didn’t want to see them. I know I didn’t tell him to stop texting me because – I was used to it – I thought he was probably just drunk – guys do that – I didn’t see the need to worry.
Sometime in April, I was setting up for an event – I received a text from him between 8:00 and 8:30pm. He texted that he was in a classroom doing work and asked if I could come by. I was confused as to why he would ask me to go over there while he was taking a makeup exam. I said I was busy. He texted over and over and over saying he’s been alone for hours and was bored trying to do the assignment. I had a bottle of Gatorade with me and I’m not sure if he asked me to bring it to him – or if I got it for myself. I went to Academic Hall. He said, “You know why I asked you to come over here and you dressed like that – now you want to leave – but I want to hook up – why would you come over here?” At one point, he said “Oh you gave it to Joe, why wouldn’t you want to hook up with me?”

He said I should just stay and we wouldn’t have sex we would just hook up – “We don’t have to do everything.” He came toward me and pushed me up against the blackboard and kissed me and started touching my butt. I didn’t want it to go any farther. He pulled down his pants and said I couldn’t go now because he had a boner. He asked to just put it in and out once and I said guys always say that and it wouldn’t be just that. I didn’t want to and he bent me over one of the tables and it was really uncomfortable and he wasn’t wearing protection and I said I wanted to stop and he said we could just change positions and pinned me to the floor. He said I should suck him off and he came in my mouth without telling me and I ran out of the room to the bathroom and washed my mouth out. I went back in and Jake gave me a hug and said he’d see me in class. I didn’t tell Jenna and I didn’t go back to the event.

It felt like a trap the way he set it up. He was using my past to try to guilt me into staying there and his voice would get whiny, “Oh come on, you walked all the way over here,” “You gave it to Joe.” He would belittle me and make me feel guilty. I felt off put and I wanted to get out of there – I was confused and emotionally thrown off because I never saw that behavior from him. He never tried to get to know me on any level. He was persuasive saying we wouldn’t go too far. So, I thought if we were only going to make out it would be ok. I never gave him a verbal yes.

More details...hmm... I was on the floor on my knees in the front of the classroom and he was standing with his back to the board. My shirt was still on. His shirt was on. I think his pants were a little bit down. He was doing the movement and I was just there. It felt gross and tasted gross. My hands weren’t on him. I was trying to balance myself. One of his hands was on my head pushing my head more on to him and I don’t remember where the other one was. This was only a few minutes and then he said “at least let me put it in and out once.” I said “It’s never just once” and he was whining and guilting me into it. He took off his pants and shirt completely and he took off my shirt and I don’t know if I took off my skirt or he did.

He moved me over the table desk and went for it – he didn’t ask about a condom. He put a hand on my shoulder and a hand on my back and pushed me down over the desk and he had his hands on the side of my hips and held me there. I said it hurt and I didn’t want to do this. He said “ok fine, we’ll change positions.” He got up and pulled me to the floor and he had me in his grip. He had me get on top of him. Then he said, “ok fine just suck me off then.” He was tiring my mouth out and he came in my mouth and it was so gross, so gross – and then I went to the bathroom. I was more than spitting out because the Gatorade I had also come out some. I was tearing up and I was confused as to why I was crying and why I felt so uncomfortable. I wiped my eyes before I went back in the room to get my tights and shoes. I don’t remember talking to Jake – just that he hugged me. I went back to my room but I can’t remember definitively if anyone was there.

Maybe a week or two after it happened, Dan said “I heard you guys hooked up and that it was awkward.” I don’t think anyone was around. I don’t remember if it was before class or at lunch. I know I responded, but I don’t know what I said, I think I probably brushed it off.
Freshman year Jenna and I were close and would tell each other everything about guys. I told her what happened recently and she said I didn’t tell her at the time because she would have remembered. We weren’t close in the sophomore year fall – I associated drinking and hooking up with guys with my relationship with Jenna and it took me the summertime to figure that out. Over last summer I reflected a lot about this incident – how I felt icky when I saw Jake. I connected with Jenna a few weeks ago and told her what happened.

Mid-June, Muriel, Julia, and I were together in Europe and talking about sports teams and men’s lacrosse and I asked them if I could tell them something to get their opinions on it. I told them what happened and Julia said it was sexual assault. I told my boyfriend two days later and he said I should talk to Dean Yates immediately. I wouldn’t say that Muriel and Julia are very close to me – I learned on the trip that I don’t have the same values as they do. You could speak to my boyfriend but he’s only going to report back what I’ve told him. I don’t really want to bring Muriel and Julia into it – they don’t know what happened. If you want to speak to my boyfriend you can – Zack Ryan. I think he would be the most help. Jenna and I have only texted.

**Discussion**

- What are your initial thoughts?
- Are there any different or additional policies that are potentially implicated?
- Do you see any credibility issues?
- What additional questions do you have for Darcy at this point?
- What are your next steps?

**Jake’s 1st Interview**

I met Darcy in the fall but we spent time together in Spring 2016 – we had an art class together. I saw her in class or in the studio. I saw her around a lot – out sometimes. We were more than acquaintances, we talked in class a lot. I felt like me, her, and Dan would be in the studio a lot. I was a designated driver because I was in season. I think I picked Jenna, Darcy, and Dan up from a bar one night and we were hanging out in Dan’s room. And I guess Darcy wanted to give them time alone, so she and I drove to McDonald’s. We didn’t go back to the room immediately – we went down to the parking lot and we talked there for a while – at one point we saw someone go into the gym really late and we laughed about that. We talked about kissing and hooking up at that point. I don’t know if we talked about it before then – being sexually active with each other. At one point, I put my hand on her leg – I’m not sure at what point – I remember talking about it not being the time to do this – we had to get back and Jenna didn’t want to be with Dan – she had texted Darcy that we should head back. I remember us talking about it not being the time or place. We definitely made out or something at that point.

Throughout the ride I think the mood was on the positive side of awkward. More friendly than awkward. Talked about how our friends were back there. I probably mentioned that I thought about us hooking up. Asking if there was interest. I don’t think she was jumping to say yes. She might have been awkward at the asking of it.

I know myself, I wouldn’t impose myself. I know I didn’t just lean over and kiss her. I’m trying to think of the sequence of events and I really can’t. We both had our hands on each other’s pants at some point, on top of pants. I may have touched her breast, maybe her thigh. I don’t remember pulling my penis out. I might have asked for a blow job – it might have been brought up. I feel like we didn’t get there. I feel like she didn’t want
to be that sexually active at that point. Which was okay. Then we did a quick drop off of food – we saw Dan and Jenna. Jenna and Darcy left and I stayed there with Dan and ultimately went back to my room. Later I talked to Dan about kissing her in the car but he was still drunk so I didn’t engage with him much.

Darcy and I texted after. The only text I have was April 15th 2am – which was the day of the sexual intercourse. I have Facebook from before maybe about classwork and her talking about smoking at one point. Between McDonald’s and April 15th we only hung out in class or studio.

In April...I remember texting her the night before. I definitely said some bolder stuff about hooking up. The next day I was in Academic Hall and I texted her because I wanted to see what she was up to and what she was doing later. We had just spoken about having sex and I told her where I was and I asked her if she could come help me with the test. I was joking about needing her help...she came over and sat down next to me. We started talking in Samson and I proposed hooking up there.

I remember us being against the chalkboard making out. I had my hand on her butt and she had her hand on me and was grabbing me. I asked her how she would feel about me slapping her butt – she said it would be awkward if we weren’t having sex – so I just grabbed it. This was the first time I had done anything sexual in a classroom so I was trying not to make it awkward. I proposed having sex and I think she didn’t want to have someone walk in on us. We talked about it and I said – for a short amount of time – I was definitely trying to talk her into doing that. I didn’t remember her saying no – she seemed active while we were hooking up. She ultimately said yes to having sex – I remember us being over a desk and asked to put it in. I asked to move to the floor and we did – it was quick – she sat on me – we had sex for a few minutes and then stopped and I said I needed to get back to my test.

We talked about future sexual activity before she left – and something about touching her butt. She left and that was it – I don’t think we engaged in any sexual activity after that – I had a partner for the remainder of the year after that. We said hi and talked in class after that. I’m going to send you guys all the text messages and everything I have. I was under the impression that day that she was just concerned about the room we were in and being in an academic building.

When she got to Academic Hall we started talking. I think we started talking about her butt, because we had texted about it before. I don’t remember any comments about what she was wearing. I think she was wearing jeans and a tee shirt. I remember asking separate questions for hooking up and having sex. Hooking up means making out...not oral sex – I would have asked something different. I remember I was moving to different chalkboards to prevent us from being visible – and then on the second chalkboard talking about having sex. I think we might have been standing. We left the desks. At one point, I probably turned off the lights. Maybe after that. You could still see from the hallway lights and see where each other was.

She might have been taken aback when I brought up the idea of hooking up – she may have said something about not doing it here - in that location. I think I was trying to convince her otherwise and make her feel secure there and minimize the idea of having sex in a classroom. I just wanted to be sexually active at that point – I was into her. I remember when we were trying to have sex the first time she was over the desk near that chalkboard. We agreed upon a duration of sex or something. I felt like I was like “just for a little.” “Maybe just a few”- like insertions - maybe pumps maybe. Something along the lines of just a little bit of sex. I think we went back and forth to get to that point and then she said ok. We talked about her being on the desk and me being behind her. I remember her asking if I was inside. I said it would be easier to be in the floor. It was a
weird angle – like she was too tall or something. I think she said something about it not working, that she didn’t feel anything.

Then we moved to the floor and she was on top of me and I asked her if she liked it and if it was good for her. At that point, I said “ok, ok, that’s it.” I felt like it all happened so fast.

I knew we had had the conversation about the duration of it. It was getting late – she might have mentioned needing to go. A few thrusts in I said ok we aren’t going to do this anymore. I was thinking how it would have been better if we were elsewhere. Maybe I thought about that afterwards. Maybe we weren’t talking as much and she wasn’t grabbing me as much. I feel like it wasn’t just her saying something – I may have prompted her to tell me how she was feeling. But there was an expression that she didn’t want to keep going.

We spoke about a condom at the chalkboard. I said I didn’t have a condom. I said if we were both healthy and safe would it be ok without it. And she said yes to both those questions.

We must have had oral sex at one point – but I don’t remember. I think if it did happen – I don’t know. It could have happened more than once but I don’t remember that at all. My memory is not serving me well. I do know I did not ejaculate at any point with her.

I think we worked around each other again in the studio. We didn’t have any more interactions of a sexual nature. It was probably a little awkward after – I don’t remember there being a noticeable difference from the way we interacted before. I think I told Dan about it. I didn’t mention it to anyone on my team. I think I was a little embarrassed honestly. Dan could attest to our relationship, Jenna and that’s about it.

Looking back, I feel I may have bartered…I wish I had acknowledged the fact we were having a back and forth. Looking at the texts, I was definitely trying to get us together that night before Academic Hall. My intentions weren’t malicious in any way, but I can’t recall much else.

Discussion
• What are your initial thoughts?
• Are there any different or additional policies that are potentially implicated?
• Do you see any credibility issues?
• What additional questions do you have for Jake at this point?
• What are your next steps?

Text Messages Forwarded by Jake

4/15 – 2:05 am
Jake: what are you up to?
Darcy: just got back to my room. Pjs r on
Jake: even better! Laundry room?...
Darcy: Saturday? I have class at 9:40 am tomorrow
Jake: ahhh I may be with the team
Darcy: we can do this when I’m more sober I promise. If u wanna
Darcy: 100% another night. I’m sorry
Jake: its ok I was just down tonight for sure
Darcy: it’s just v late and I gotta make it to class tomorrow, I bouta pass out im sorry
Jake: all good goodnight
Darcy: spank my booty in class and it’s a done deal
Jake: I will certainly do so but I didn’t even get a feel
Darcy: u can feel whenever u want u don’t have to be drunk to do so
Jake: Idk if its as good as it looks
Darcy: ha its great
Jake: ...don’t tempt me
Darcy: I am tempting u
Jake: I would probly have to bend you over a table after slapping it so I may have to resist
Darcy: I’m about to ko
Jake: ko?
Darcy: knock out
Jake: boo
Darcy: ill c u soon ...
Jake: Like in a few minutes. I’m coming over to fuck you in the hallway if I have to
Darcy: u can fuck me later. gotta build suspense...make ya want it
Jake: ughh. Fine

4/15 – 9:40 pm
Jake: Come to Academic Hall and help me do a test
Darcy: help you do a test?! I suck at tests
Jake: orr just keep me company...
Darcy: okok that’s next to Reeves, right?
Jake: Yes!
Darcy: such a long walk mann what room?
Jake: 4th floor
Darcy: kk
Darcy: I’m on 4th flr
Jake: room w/ lights on...

**Discussion**
- What are your initial thoughts?
- Are there any different or additional policies that are potentially implicated?
- Do you see any credibility issues?
- What additional questions do you have for Darcy at this point?
- What are your next steps?

**Discussion**
- Do the texts change your initial thoughts in any way?
- What additional questions do you have for Darcy at this point?
- What additional questions do you have for Jake at this point?
- Do you see any credibility issues with either Darcy or Jake?
- What are your next steps?
JOE

Potential Bullying, Sexual Orientation Harassment, Retaliation
K-12 Student-on-Student

Reporting Party: Joe – Student

Joe is a junior who is gay and a member of the school cheer team. A group of baseball players repeatedly ridiculed Joe about his effeminate mannerisms and clothing and threatened to harm him if they ran into him outside of school.

Joe reported the incident to the Assistant Principal, who spoke with the players and told them their conduct was inappropriate and gave them a verbal warning about bullying.

The next day, the players cornered Joe in the locker room and told him he is a “snitch,” “a little girl” and “a pussy.” They told him he is a freak and to watch his back, especially if he reports them to the school again. He is terrified.

Joe becomes very withdrawn, starts skipping cheer practice and resigns from the team. His parents find out what happened and call the school, demanding swift and harsh action.

Discussion

• Is this a Title IX issue?
• What are the possible violations?
• Who should investigate?
• What could the school have done better?
• What remedies should you provide Joe?
• Is there a retaliation issue and how do you handle it?
• Should athletics or the coach be involved?
• What other issues do you see?
BILL AND SARAH

Potential Sexual Misconduct
Student-on-Student

Reporting Party: Sarah Stone — First-year student
Responding Party: Bill Baker — First-year student
Witness: Andy Stewart — First-year student
Witness: Ted Jones — First-year student; Bill’s roommate
Witness: Amy Knight — First-year student; Ted’s girlfriend
Contacting Officer: Marshall Henry

Responding Party’s Statement: Bill Baker
It was the first week of school and the college had a bunch of activities set up for us freshmen. Thursday night, there was a concert on campus, so me and my roommate Ted, the guy down the hall, Andy, and some other kids decided to meet at Andy’s room around 8 p.m., have a few beers, and then head to the concert. I had a beer or two, and then these girls showed up. I guess it was around 9 p.m. or so, because we left right after they got there.

The nine of us walked to the concert, but when we got there it was dead, so we decided to go back to Andy’s room and hang out. I had been talking with Sarah, who I had just met that night, on the way there; we were getting along pretty good. On the way back, we were all kind of walking with different people, but the same nine of us ended up back in Andy’s room.

Some guys brought beer to the room, and I had one. Some people left the room, some stayed, and Sarah and I started flirting pretty hard with each other. At one point, we were leaning on the bed, which was up on blocks, and I knocked it over. I thought it would be funny, so I blamed Sarah for it and she was embarrassed. After a while, most people left, and it was just me, Ted, Ted’s girlfriend (Amy), Sarah, and Andy. Ted and I shared a blunt, but no one else wanted any. While we were smoking, Sarah and I would kiss occasionally. Ted and Amy left to go to her room; and me, Andy, and Sarah were watching TV when Sarah and I were starting to make out on Andy’s roommate’s bed. Andy said he was tired, so Sarah and I went down the hall to my room. I guess it was around 12:30 a.m. or 1:00 a.m.

When we got to my room, we starting kissing and undressing. I took her shirt off and mine, and then she took off her shorts and I took off mine. I put my hand down her underwear and asked her if it felt good, and she said, “yes.” We kept fooling around pretty hard, and then we started to have sex. I was on top of her at first, and she was grabbing onto the sheets and bedrail, so I could tell she was still enjoying it. At one point, she was on top of me, but then I got back on top of her. After we finished, she fell asleep pretty fast. I wasn’t tired, so I climbed up to my roommate’s bunk and watched TV on my laptop. Around 3 a.m., she woke up and asked me if I was going to climb down and sleep with her. I did. Shortly after that, I think she got up and went to the bathroom.

My alarm went off at 6 a.m. for practice, so I got up and got dressed; she got up too, and put her clothes on and left. Neither one of us really said anything. Later that day, the police showed up and took me to the station to question me.

Reporting Party’s Statement: Sarah Stone
On Thursday, my girlfriends and I met for dinner at the cafeteria, and then went back to my room for some drinks. I know we met for dinner at 6 p.m., because that is when I take my medicine, so we couldn’t have started drinking before 7 p.m. I got a text from this guy I met named Andy, asking if we wanted to go to his room and then to the concert on campus. I texted him back telling him we would after we finished our drinks. I had three drinks in my
room and then we left at around 9 p.m. to go to Andy’s. When we got there, I met Bill, who seemed pretty nice, and we started talking. We all decided to go to the concert, but when we got there, there was hardly anyone there, so we decided to go back to Andy’s.

As we were leaving the concert, I tripped on the stairs and almost fell. A security guy walked over to me and asked me if I was OK. I told him “yes,” and then he asked if I had been drinking. I told him “yes,” and he told me to go back to my room and to not have any more to drink.

We went back to Andy’s and hung out. A bunch of people went in and out of the room, but I was hanging out with Bill. We were sitting on the floor holding hands and leaning on Andy’s bed. I leaned back too far one time when Bill went to kiss me, and almost knocked the bed over. It was pretty embarrassing, and Bill made a joke about it. After a while, there were only a few of us left, and Bill and his friend Ted smoked a joint. I didn’t want any. After that, it was just me, Bill, and Andy in the room watching TV. Bill and I were kissing on Andy’s roommate’s bed. Andy asked us to leave because he was tired, so we went to Bill’s room.

When we got to Bill’s room, we started kissing and making out. At one point, Bill put his hands down my pants, and asked me if it felt good. I really didn’t know what to say, so I said, “yes.” The next thing I knew, we were on the lower bunk, naked, and he was on top of me and inside of me. The next thing I remember after that was waking up. He was on the upper bunk on his computer. I asked him why he was up there, and he jumped down and laid down next to me. I think I got up one time to use the bathroom, but I am not sure. His alarm went off around 6 a.m., and he said he had to get up to go to practice. I grabbed my clothes and cell phone, and got out of there as fast as I could. I went downstairs, and found the closest emergency phone and called the police to tell them what had happened to me.

Statement of: Andy Stewart, first-year student
I had a few kids over to my room before the concert, and we were just hanging out drinking a few beers. My friends Bill and Ted came over, and then I texted this girl I had met, Sarah, to see if she wanted to come over. She said she would after she finished her drink and then she and her friends stopped by. I guess it was close to 9 p.m. or so.

She and Bill were talking, and then we all decided to go to the concert shortly after they arrived. It sucked, so we decided to go back to my room. Some guy brought some beer because we ran out; I don’t know if Bill or Sarah had any. At some point, my bed got knocked over — I think Sarah did it.

After a while, most people left, and Ted broke out a blunt and he and Bill smoked it. Me, Ted’s girlfriend, and Sarah didn’t have any. Ted and his girl took off and left the three of us. Bill and Sarah were kissing and stuff, so I asked them to leave. I guess they went to his room. I went to bed after they left. It was around 12:30 a.m.

Statement of: Officer Marshall Henry
I was walking patrol of the freshmen week concert on Thursday on the east end of the amphitheater behind the Union. At approximately 9:40 p.m., I saw a young woman stumbling on the stairs as she was leaving the concert. I approached her and her friends, and, since she had almost fallen, I asked her if she was OK. She said she was. Since she had stumbled on the stairs, and I could smell alcohol on her breath, I asked her if she had been drinking. She indicated that she had.

As she did not appear overly intoxicated, I asked where she was going. She said “back to her dorm,” and I told her to go straight there and to not have any more to drink. Had I believed her to be too intoxicated, I would have detained her and/or had her transported. I performed no field sobriety tests.
Discussion

- Is Bill responsible for violating the policy on non-consensual sexual intercourse based on a preponderance of evidence standard of proof because Sarah was incapacitated when sexual activity occurred and he should have known this fact?
- Is Bill responsible for violating the policy on non-consensual sexual intercourse based on a preponderance of evidence standard because Sarah didn't consent to sexual activity?
DENCIE AND WILL

Potential Sexual Misconduct
Student-on-Student

Responding Party: Will Washington — Junior and a resident advisor at Tessera University
Reporting Party: Dencie Smith — Sophomore transfer student at Tessera University
Witness: Kim — Student at Tessera; Dencie’s roommate; is dating Alex
Witness: Alex — Student at Tessera; Will’s neighbor; is dating Kim

Reporting Party’s Statement: Dencie Smith
I met Will Washington in October at the campus dining hall and on November 15, he raped me in his room. I knew Will was an RA, and he seemed nice enough, so I gave him my number. He started coming over to my room, just kind of hanging out with me and my roommate Kim and some of his friends. I liked Will as a friend, but I knew I didn’t want a relationship with him. I kissed him a few times and we made out a little, but I kept telling him that was as far as it was going to go. I usually made sure there were a lot of people around, like my roommate Kim and some of his teammates. I was a little afraid of him because he is such a big guy, and I heard he has a pretty bad temper.

The last time we were together before the rape, we were in my room watching movies. It was getting late and everyone had left except Will and Kim. Will was getting pissed that Kim was still there, so I asked her if she would step out for a bit, but not to go too far or for too long. So after Kim left, Will turns out the lights and starts taking his clothes off. I kept telling him not to, but he wasn’t listening to me. He said he wasn’t going to bother me, but since it was late, he was staying over and he wanted to get comfortable. I had been sitting up in my bed when he got onto the bed and wanted me to lay down with him. I said “no,” but he began to raise his voice, so I did. I felt him reach over and try to touch me, but I kept moving away. I kept telling him not to, but he kept trying. He told me he didn’t want to have sex — that he just wanted to rub against me. I was scared to death, so I just lay there. He got on top of me, pinned me down, and started rubbing against me. Just then, Kim came back in the room. He got off me, but stayed in bed and went to sleep. The next day, he was gone when I woke up.

A couple days later, he texted to invite me to his room. I wanted to see his dorm since I wanted to live there next year. I told him nothing was going to happen between us, and he swore that he wouldn’t touch me if I didn’t want him to. I walked to his place. Because he’s an RA, he doesn’t have a roommate. He offered me a drink and gave me a pair of his boxers to change into... “to get more comfy.” His voice was raised when he told me he wanted me to change, so I did. We started to watch the movie and he was good for about an hour, but then he started to bite my neck. I told him to stop, that nothing was going to happen; he said “OK,” but kept trying. Then he penetrated me with his finger. Even though I tried, I couldn’t stop him. Eventually, he wanted to have intercourse. I said “no” many times, but he kept going. I was hitting him and saying “no,” but he kept on ‘til he was done. Then he rolled over and went to sleep. I cried a little and went to sleep too ‘cause it was too late to catch the bus.

When his alarm went off at 6:30 a.m., I woke up too. Will said he had to go meet with a study group, so I had to leave. It was cold outside, so I asked if I could stay there ‘til 8:00 a.m., but he said “no.”

He said he didn’t know me well enough to leave me in his room with his stuff. That’s also when he told me that we could never do this again because he had a serious girlfriend at home. I left when he did and walked back to my room without a coat. I went back to my room, cried a little, and took a shower. I felt so ashamed about what happened and I needed to wash this whole thing away. I called my sister the next day and she told me to call the police. I couldn’t do it then. I knew Will was an RA and was really well liked; plus, Tessera is a small school where rumors spread really quickly and everyone seems to know everyone. I was also scared about what he might do to me or my friends if I reported this.
I just wanted to forget the whole thing. Eventually I connected with the Counseling Center because everything went pretty bad for me for the rest of the term. It was only after I had been working with a counselor for a while that I got my confidence back and reported this. That’s why I am here today.

**Responding Party’s Statement:** Will Washington

I really don’t know what this case is all about. I got called into the dean’s office just as school started. The dean asked me if I knew Dencie Smith, and at first I said I didn’t. Her name didn’t mean anything to me because I date a lot of women and it had been a long time since I was with her. I didn’t realize who she was until the dean showed me her picture. Then the dean told me that she said I raped her last semester. That @#$%^ is crazy, because nothing happened between us that she didn’t want to happen. I’m telling you the truth! We had sex only one time, but it didn’t happen the way she said.

I met her at the campus dining hall and we talked and she gave me her number. The first time I went to her room, she pulled up this website of pictures of her posing. I think she was like a model or something. She was wearing lingerie in most of them, and in some of them, she was only half-dressed. I asked her for one of the pictures, and she emailed it to me. We made out and she was into it as much as I was, but we didn’t have sex that night. The next time I came over to Dencie’s room to watch movies, I stayed overnight because she asked me to. Her roommate was in the room working on her laptop, and Dencie asked her to leave, I guess so we could be alone. She was laying on her bed, so I took most of my clothes off, except for my boxers, and got into bed with her. We were fooling around, and I could tell she was into it. I started to rub up against her, and the only reason we didn’t “do it” was because her damn roommate came back into the room. She wouldn’t have sex with me with her roommate in the next bed, so I just rolled over and went to sleep.

On the night she says I raped her, she texted me and asked if she could come over to my room. It was late, but I said “OK.” I figured maybe this was her way of picking up where we left off last time without her roommate being around. She got here and I offered her a pair of my boxers to get comfortable. She changed and got onto my bed to watch a movie. We were cuddling the whole time, so when the movie was over, we started kissing; one thing led to another, and we had sex that night. I didn’t do anything to her she didn’t want me to do.

I think she’s just pissed with me because, the next morning, I told her we couldn’t do that again, because I have a girlfriend at home I’m real serious with. Also, I asked her to leave the room when I did because I had an early morning study group and I didn’t know her well enough to leave her in my room with all my stuff. I didn’t have time to drive her back across campus, so she had to walk and it was pretty cold outside. I think I saw her maybe one more time after that. I think she’s just pissed and is trying to get back at me. I have no idea why she waited so long to do this; but I’m telling you, she’s making this stuff up.

**Additional Considerations:**

- Will contends that Dencie didn’t do well in school that term because she’s not a great student. She had experienced academic difficulty before meeting him, and she trumped up this violation as a way to offer an excuse for her bad academic performance.
- Will’s neighbor Alex will testify that he did not hear any noises coming from Will’s room; also, that Will continued to hang out with Dencie for a while after the incident because she was helping him with a paper.
- Kim will testify that Dencie did ask her to leave their room, but that she didn’t seem to be upset. Kim dates Will’s neighbor, Alex, and Dencie thinks Kim is lying just to keep things cool between her and Alex.
- Dencie has brought this complaint against Will. She has asked that her counselor be present as a support person. She and Kim are no longer friends, so she does not want to have Kim contacted as a witness.
asked investigators to meet with Alex to testify regarding what he may have heard that night. Should any additional witnesses be contacted?

- What are the key issues surrounding the question of effective consent? Did Will’s behavior violate the conduct code? Did Dencie’s earlier behavior constitute consent for Will’s subsequent behavior? More importantly, did Dencie’s complaint meet the university’s preponderance of evidence standard of proof?
- Is this a case of “he said/she said,” or is there a more clear-cut set of issues here? Does Will’s treatment of Dencie in his room on “the morning after” affect the outcome of your decision-making? Should Dencie be judged negatively for making poor choices, like going to Will’s apartment?
- The campus newspaper reported a rumor that the responding party has been involved in three incidents of sexual assault. About that you know that one incident is the case at hand.
- You also know that:
  - An anonymous report was received while the respondent was a first-year student, alleging similar actions to the complaint at hand. No investigation was done, and no action was taken; and
  - The respondent was accused as a sophomore as well. The alleged victim has transferred to another school. At a campus hearing, the responding party was found not responsible on facts substantially similar to those of reporting party in the complaint at hand.

**Discussion**

- Is Will responsible for violating the policy on non-consensual sexual intercourse based on a preponderance of evidence standard of proof because he used force to gain sexual access?
- Is Will responsible for violating the policy on non-consensual sexual intercourse based on a preponderance of evidence standard because Dencie didn't consent to sexual activity?
On April 27, Amy Craft, a first-year student at Tessera, set up a time to meet with her Women and Gender Studies Professor, Julia, for later that afternoon. Upon arriving for the appointment, Julia can see that Amy is very upset and looks exhausted. Julia asks if everything is OK, and Amy asks if she can close the door. Julia gets up, closes the door, and sits back down. Amy blurts out, “I think I was raped last weekend in my dorm room by another student, a friend of a friend named Todd.” Stunned and very concerned, Julia asks what happened. What follows is Amy’s account as provided to the faculty member.

**Reporting Party’s Statement:** Amy Craft

On Friday, April 23, I went to an on-campus party. I was doing a lot of drinking and dancing and getting to know people. I had at least four drinks in the first few hours I was there. Then, I met Todd. I remember that he came up to me on the dance floor, and started to dance with me. He was really good-looking, and so was the other guy he was with, Jeff, whom I had met at a different party the week before.

We danced and had a lot of fun, and I remember drinking some more and Todd getting me some Jell-O shots, which were really strong and nasty. I wasn’t feeling well and went into the bathroom, thinking I might throw up. The bathroom was really crowded, so I went outside for some fresh air instead. I sat on the stoop, feeling nauseated. I went over to the bushes and got sick. Todd came over and helped me out. I remember walking home with him and throwing up some more in my bathroom, but nothing else.

When I woke up the next day, his name and number were scrawled on a pad by my sofa, and there was a used condom in the toilet. I got scared, and called him to find out what had happened. I remembered most of what he said about the party, but when he told me that we came back to my room and had sex, I started to cry. I didn’t remember any of it, and was afraid I might be pregnant. Todd assured me that he wore a condom, and asked me out again. I hung up and cried. I told everything to my roommate Sarah, who was sitting on the sofa when I called Todd. She suggested that I call the campus police, but I felt more comfortable talking to you. Please don’t tell anyone...

**Responding Party’s Statement:** Todd Martin

On the night of Friday, April 23, I went to an on-campus party. There was a band and a lot of alcohol. I got to the party at about 11:00 p.m. and slammed about three beers in the first hour I was there. It was very crowded, and people were dancing. A lot of people already seemed to be drunk. I hung out around the dance floor with my friend Jeff Kwik for a while, until I noticed Amy Craft dancing. She was really cute, and I had noticed her on campus a few times. I went up to her and we started talking. She seemed a little tipsy and in a pretty loose mood.

We talked for a while, and I think I got her about two or three beers over the next hour. I didn’t have anything more to drink because the three beers I slammed were doing the trick just fine.

Around 1:00 a.m., somebody started passing out Jell-O shots spiked with grain alcohol. I didn’t want to mix beer and liquor, but Amy had a few shots. We danced a lot, and then I got her a few more Jell-O shots. She went off to the
bathroom, and after that I couldn’t find her, which really bummed me out. I waited around to see if she would show up again, but she didn’t. I took off and started to walk back to my residence hall. As I left the party, I heard someone vomiting. I looked over and saw Amy in the bushes throwing up. I went over to help her, and she seemed to be in pretty bad shape. I offered to take her home, and she told me her dorm and leaned on my arm.

When we got to her dorm, I helped her inside, and was about to leave, but she asked me to come up to her room, just to make sure she got there. I took her upstairs, opened the door for her, and let her in. She asked me to get her a glass of water, and I did. I started to take off again, but she asked me not to go. When I turned around, she kissed me, hard. We kissed for a while, but she wasn’t feeling well and went into the bathroom again. When she came out, she said she felt better, but tired. She lay down and we kissed some more. I started to massage her back, and she passed out. She came to about 20 minutes later, and started to kiss me and fondle me. She took off her shirt, and all of my clothes. I started to kiss her all over, and she said she wanted to lay down again. I asked her if she was OK, and she said she was. I asked her if she had a condom, and she said she had one in her dresser. I went to get it, and when I got back to the couch, she was out again.

She woke up after about 20 minutes, and I suggested that she just go to sleep. But, she said she felt much better, and started to give me oral sex. After a while, she put the condom on me and we had sex. It was great. She was really wild, and liked to be on top. Afterward, we talked until the early morning, and I gave her my number and left. The next day, she called me to ask me why my name was on the pad by her sofa. I told her about meeting her at the party, and about our evening together. She seemed to get upset, and said she remembered meeting me at the party, but nothing else. I asked if she ever wanted to get together again, and she hung up on me.

Additional Considerations:

- Todd knew that Amy was pretty drunk, although Todd was unsure of how much alcohol Amy had consumed.
- Todd remembered that when Amy went into the bathroom in her room, she came back smelling like she had just brushed her teeth.
- Todd believes that Amy was fully alert and conscious during the sex. He had been feeling badly, but Todd thought Amy threw up a lot of the alcohol. Amy kind of passed out/went to sleep twice when they were fooling around, but after the second time, Amy seemed to be feeling much better.
- Amy initiated all the sexual contact with Todd, put the condom on him with no difficulty, and was an active participant in the sex, both physically and verbally.
- Todd had a full stomach when he got to the party.
- He did not drug Amy.
- Todd served Amy at least two beers and four Jell-O shots over the course of three hours. Amy believes she consumed four or five beers, and at least two Jell-O shots.
- Todd did not bring his own condom. He used Amy’s, which was in her dresser. She told Todd it was there.
- In Todd’s opinion, Amy was not incapacitated.
- Todd left Amy’s room at 6:00 a.m.
- Physical evidence in the form of PERK results proved sex with Todd.
- There were no signs of any illegal drugs in Amy’s system.
- Amy had a condom in her dresser and now it is gone. She does not recall telling Todd that it was there.
- Amy recalls throwing up in the bathroom, but does not recall brushing her teeth.
- Amy does not recall putting the condom on Todd, or engaging in any sexual activity with Todd, or talking with him afterward.
- Amy has been drunk before, but nothing like this has ever happened.
Amy called the police station at 1:30 p.m. Her call was referred to Lt. Discov.

Lt. Discov noted that Amy is experiencing bad dreams and eating disturbances that he believes are consistent with those of others who have experienced significant trauma.

Lt. Discov refers to Amy’s condition as “black time.” He asserts that it is possible for students to consume enough alcohol that they black out mentally, but not physically. That would explain why Amy recalls nothing, but Todd says she was an active participant.

Neither party has a criminal or disciplinary record.

Discussion

- Is Todd responsible for violating the policy on non-consensual sexual intercourse based on a preponderance of evidence standard of proof because Amy was incapacitated when the sexual activity occurred and he should have known this fact?
ANNE

Potential Sexual Misconduct
Student-on-Student

Reporting Party: Anne Chen — Student at Citron College

Anne Chen, a student at Citron College, was an ardent basketball fan. Last term, she attended a basketball game with a group of friends. At the game, she met three young men who were fraternity brothers. Anne had friendly conversations with the men, who shared a container of rum and coke with her.

The young men invited Anne and her friends back to their fraternity house for a post-game party and to talk about the “big win,” but her friends declined. Anne decided to go with the young men. The party lasted for hours, and a considerable amount of alcohol was consumed by everyone, including Anne.

Anne eventually accompanied the three men to their upper floor room for further conversation, and to listen to music. She continued to drink alcohol there, and became so intoxicated that she occasionally “passed out” for several minutes at a time. Anne contends that she was raped by the three men while she was not fully conscious.

Anne left the fraternity house early in the morning to return to her dorm. She did not call the police or seek medical attention. Ten days later, she described the incident to a friend, who convinced her to file a report with the Dean of Student’s Office at the college.

During follow-up interviews, two of the three men denied having any sexual contact with Anne. The third admitted having sex with her, but stated that it was “definitely consensual,” and that Anne was fully conscious during that time.

All three men were charged with sexual assault. A lawyer representing all three men wrote to the dean, stating that the charges by the college must be dropped because there were pending criminal charges, and that would place the men in double jeopardy.

Anne does not want to testify at the conduct hearing if it means that she will have to confront the three men, but she is willing to submit a written statement.

Discussion

- Did the three men violate the policy on non-consensual sexual intercourse by having sex with Anne while she was not fully conscious, based on a preponderance of evidence standard of proof?
CARLA AND DON

Potential Sexual Misconduct
Student-on-Student

Reporting Party: Carla — Student
Responding Party: Don — Student

First-year students Don and Carla met in honors English. They studied together and became close friends. They had a great deal in common and spent hours talking about their families, music, movies, and sports. As the weeks rolled on, their friendship grew, along with their respect and affection for each other. Don finally asked Carla out on a date of pizza and movie. After the movie, they went to the local bar and had beers while they discussed the movie. Over the course of the next few hours, they consumed two pitchers of beer.

Carla was quite tipsy, and Don wanted to make sure she arrived at her apartment safely, so he accompanied her to her door. Carla asked Don if he would like to come in to see how she had decorated. Don eagerly agreed. They sat on the couch and talked about how much fun they had that evening, and how glad they both were to get to know each other better. Carla told Don how easy it was to feel comfortable with him. Don was delighted to hear this and put his arms around Carla and kissed her. She eagerly kissed him back. They continued to kiss and touch, and Don gently pushed Carla back on the couch. Carla said, “I think things are going too fast.” Don replied, “We won’t do anything you are not comfortable with.”

The two continued kissing with increasing passion. Don, tentative at first, began to unbutton Carla’s blouse. She brushed his hand aside but continued kissing him. A short time later, he reached under her blouse and fondled her breast. Carla did not stop him. Don told Carla, “I really want to make love to you.” Carla did not respond. Don took this as consent and proceeded to remove Carla’s panties (she was fully clothed otherwise). They had intercourse. Don cuddled Carla, who cuddled back but did not say a word. Since it was getting late and Carla was so quiet, Don gave her a kiss, told her he’d call her, and left. In the following days, Carla refused to take Don’s calls and did not respond to his text messages.

Several weeks later, Carla attended a date rape seminar and felt that she had experienced the same type of behavior as described in the case study presented there. She went her advisor to ask what she should do. They called the campus police and subsequently met with a female officer. The officer reluctantly told Carla that since several weeks had passed, there would be no evidence that would support pressing criminal charges, but she encouraged Carla to file a complaint with the campus conduct officer. Carla met with the assistant dean and made a formal complaint.

Carla’s Story:
Carla, who is from a small town, was excited to break out of the mold of her older sisters and go away to college. She is the first person in her family to attend college. Carla’s mother warned her about the dangers that lurk for young women “out there.” She repeatedly told her not to be “easy,” and that a man would never respect her if she “gave in.”

Carla really liked Don. They had so much fun together, and she felt that he was a very nice person who liked and respected her. Yet, if that was the case, why didn’t he stop when she told him things were going too fast? He knew her family background and how she felt about casual sex. Yet, they still had sex. Was it her fault? Did she have too much to drink? Did she send him a wrong message? Should she have pushed him away so he wouldn’t go further? If he really liked and respected her, why didn’t he understand her silence and lack of response?
Her mother was right. All men were alike and after just one thing. She knew Don would never respect her now, and she didn’t respect herself either. Maybe by holding him accountable for his pushing forward to have sex too soon and not respecting her wishes, he would realize that you can’t treat women that way. If only she just didn’t still like him so much. She has missed a week of English class because she just can’t face him.

**Don’s Story:**

Don was so happy to meet Carla in English class. He and his long-time high school girlfriend had broken up before he came to college, and he had been lonely since arriving there. Carla was a breath of fresh air. She was from a small town and had good values, and she was so much fun to be with.

He had been really looking forward to their date and was a little nervous beforehand, but the evening seemed to go so well. They seemed compatible, and their kissing was so passionate. When Carla told him she thought they were going too fast, he even assured her that they wouldn’t do anything she didn’t want to do.

Don and his high school girlfriend had sex for the past year, and before her, there had only been one other girl, but he knew how to please a girl, and he wanted to please Carla, too. Although she brushed him aside, she didn’t push his hand away when he fondled her breasts under her blouse, so he thought for sure that it was “cool” to go forward to the next step. He took her lack of response as her not wanting to seem too eager. She even cuddled with him after they had intercourse.

So, what went wrong? Why wouldn’t she take his phone calls or respond to any of his text messages? Why hasn’t she been coming to class? And NOW THIS?! What is going on with this letter about an institutional investigation for alleged non-consensual sexual intercourse?

**Discussion**

- Is Don responsible for violating the policy on non-consensual sexual intercourse based on a preponderance of evidence standard of proof?
TIFFANY AND JASON

Potential Sexual Misconduct/Intimate Partner Violence
Student-on-Student

Reporting Party: Tiffany Lake — Tessera University student
Responding Party: Jason Best — former Tessera University student; current TU instructor
Witness: Sarah — Tiffany’s roommate
Witness: Isaiah — Tiffany’s new boyfriend

Intake Report:
Tiffany Lake met Jason Best at Tessera University when she came to campus for freshman orientation. Jason was a senior tour guide for the university. Over the remainder of the summer, they texted each other daily, and Tiffany was excited to come to campus to begin her college career and hopefully develop a stronger friendship with Jason. Jason was very good-looking and popular, a member of a campus fraternity, and captain of the ice hockey team. Tiffany was flattered when he texted her to see if she would meet him to study, and she enthusiastically agreed. She was surprised when after only an hour of studying, he wanted to go back to his fraternity house to “chill out” and have a few beers.

When they arrived at the house and went to his room, Jason rolled a joint and offered one to Tiffany. Feeling somewhat out of her element, she accepted the cigarette, although she had never smoked weed before. They ordered a pizza and Jason brought out some beers. They enjoyed the evening just relaxing and talking and drinking beer. Tiffany had an early class and told Jason that she needed to go back to her dorm. Jason said it was customary for the college women to end a lovely evening by engaging in “mutual satisfaction.” Tiffany again felt awkward and asked what he meant. Jason explained that the cool girls who date guys in his fraternity always ended the evening by providing some form of sexual gratification to their dates. She responded that although they had texted for a few months, this was the first time they had actually been together, so she didn’t feel comfortable engaging in sexual activity with him so soon. Jason laughed and told her that she really needed to get on board with being in college now, and that all the girls provided their dates with a “satisfactory ending” to the evening. Still Tiffany resisted. Jason told her that, “Clearly, he had misjudged her,” and that, “She probably wasn’t cut out to be a part of the inner crowd at his fraternity.” He offered to take her home. Tiffany noticed a significant shift in Jason’s attitude toward her, and she was very anxious to fit in with the cool people on campus. Besides, Jason told her that all the college girls did this, and what did she know about the college culture as a freshman student? Tiffany offered to give Jason oral sex, and he agreed that for a first date, that would be acceptable and would give him an opportunity to see how skilled Tiffany was in providing pleasure.

Jason walked Tiffany to her residence hall gave her a kiss goodnight, and Tiffany went to her room. She wanted to talk about the evening with her roommate, but she had just met her and felt that it may be too soon to share these types of details. She decided to pay attention and listen carefully to what other girls were saying so that she could learn more about the college culture. Tiffany was desperate to fit in and really had a crush on Jason.

She shared that she didn’t want to appear to be the small-town girl who was the prude in the college environment.

Jason didn’t call Tiffany for over a week, and she worried during that time that her lack of sophistication and hesitation to pleasure him on their first date turned him off, and that he wouldn’t want to go out with her again. She was so excited when he finally called and invited her to a party at the fraternity house the coming weekend. As the weekend approached, she worried about what she would wear and what she could do to show Jason a good time so that he would think she was cool and want to go out with her again. After they arrived at the party, Jason handed her a glass of some kind of punch. Tiffany assumed it contained alcohol.
Over the course of the next two hours, he filled her glass several times. They danced and kissed, and Tiffany commented that she was feeling really relaxed but a little dizzy. Jason offered to take her to the “secret room,” where she could lay down and they could cuddle for a while. He led her to a basement room, and when they entered, she realized it was very dark, but there were many mattresses on the floor, mostly occupied by couples. Jason led her to a mattress, and they lay down. He put his arms around her. She shared that she felt so safe and close to Jason, but she was concerned by some of the sounds that she was hearing, which sounded like some of the women in the room were not enjoying their time there. She asked Jason about it and he replied that some of the couples liked to role-play and play “fake rape” just as a turn on. He said the girls who were there were the most popular ones on campus, and that Tiffany should get to know them because those were the type of girls to whom his fraternity would give the honor of being “little sisters” of the fraternity.

Tiffany was anxious to be a part of this group, so she unbuttoned Jason’s shirt and began kissing his chest. Then she unzipped his pants and began fondling him. Jason responded by taking off her shirt and bra and slipping down her pants. Jason produced a condom from beside the mattress and asked Tiffany to put it on him. She hesitated, silently asking herself, “What was she thinking?” She had never gone this far with a guy. Yet here she was naked with a guy asking her to put a condom on him. She shared her hesitation with Jason. He laughed and told her that she had a lot of learning to do if she was going to be a part of the in crowd at the college for the next four years, and that she needed to get with the culture.

Reluctantly, she agreed and they had sexual intercourse. During sex, Tiffany felt so scared that she just froze and stopped touching Jason and responding. Jason didn’t seem to notice and continued until he climaxed. Afterward, Jason took her back to her dorm and kissed her goodnight. Tiffany went to her room and again wanted to talk about what she had just experienced, but didn’t know who to talk to. Who would understand? Was this really what college was all about? If she told someone, would Jason get in trouble? What about the girl in the secret room, who sounded like she was not consenting? If she told someone, would she get in trouble for drinking the punch, since she was under age? Would they tell her parents? Would they send her home? Would she have to talk about it a lot? She said that she was scared and confused.

Over the next year, Jason called Tiffany from time to time, and every time they were together, the evening ended in some form of sexual activity. But even though Tiffany didn’t see Jason all the time, he referred to her, when they talked, as his girlfriend or his special person. She felt special and included. Jason graduated at the end of Tiffany’s freshman year and told her that he had accepted a graduate assistant position in the English department for the coming two years. They talked about what fun it would be if Tiffany took a course that he was teaching. She was flattered at the suggestion, because it meant that he wanted to see her more often.

Over the summer, Jason and Tiffany texted frequently, although they did not visit each other. It seemed like Jason always had to work or go away with his family when she was available. Tiffany found out what courses Jason was teaching and arranged to enroll in one of them for the fall term. It was great fun being able to see Jason several times a week in class and occasionally on the weekends during the term, although she became jealous of the attention he paid to two of the women in the class. He reassured her there was no reason to be jealous, since she was the most special. He also told her that the more she demonstrated to him how much she liked him and enjoyed being with him, the better she would do in his class. Tiffany heard rumors about Jason dating some of his students, but she knew it was not true. All the girls had a crush on him and wanted to be his girlfriend, but Tiffany knew she was the one.

During the next two years, as Tiffany finished her sophomore and junior years, she continued to see Jason. In fact, he knew her schedule, would call or text her many times a day, and would often accuse her of cheating on him. He wanted
to know where she was every minute of the day. This led to many fights, some of which got very heated. A couple of times, she slapped him and he pushed her around. In the end, they always made up, and even though his sexual demands became more bizarre over time, he explained that granting those demands should be her way of proving her love for him.

During her senior year, Tiffany moved into an apartment with seven other women who were high school friends of her junior-year roommate. One evening, she went into one of the girl’s rooms, Sarah, with whom she had become close friends. As they were chatting over a glass of wine, Tiffany shared with Sarah details about her relationship with Jason and about his temper, which seemed to be getting increasingly threatening. Sarah told her that she should talk with someone, and they tried to find out whom she could talk to at the university who would keep the information confidential. They found some information stating, “If you or someone you know has been a victim of sexual assault, get medical attention or call this office.” Tiffany and Sarah decided that that didn’t apply to Tiffany’s situation, so they would need to find someone in the town. But they became increasingly busy over the course of the semester, and they didn’t have time to find a resource that Tiffany could go to, so the two girls continued to share her concerns just between them.

One night, Tiffany came to Sarah’s room crying. She had bruises on her arm and a red cheek. She told Sarah that she and Jason, who had been appointed an instructor after finishing his master’s degree, had gotten into a huge fight. Tiffany had heard so many rumors about Jason seeing students in his class or flirting with them and she was sick and tired of it. When she confronted Jason about the rumors, he became enraged and threatened to break up with her if she told anyone about those rumors. Tiffany tried to leave his apartment, but he grabbed her by one arm and pulled her back in. She pushed him with her free hand to try to leave, and he hit her across the cheek. She told him they were through and ran out. Sarah told her to stay away from him and to be careful.

The next day, Sarah went to her former RA to ask her for advice and told her about Tiffany and Jason. The RA gave her some resource information, but also told her that she was required to report this. The RA reported the information to her hall director, and the hall director told the deputy Title IX coordinator for students. The Title IX deputy contacted Tiffany and asked if she would be willing to talk to her about it, and explained that the university could provide her with assistance and support. Tiffany told her that Sarah had inaccurate information and that Jason did not harm her in any way. The Title IX deputy reported this to the Title IX coordinator, who decided to contact Jason, since he was a university employee. Jason denied harming Tiffany in any way. In fact, he denied having dated her since the time when they were undergraduates. The university did not pursue this any further, since both parties denied it happening.

Tiffany moved on with her life, and that winter term, she met a guy she really liked named Isaiah. Tiffany noticed that it seemed like every time she and Isaiah went out to dinner or to a movie, they ran into Jason. She tried to consider this to be a coincidence, but the frequency with which it happened was troubling. Then one evening, Isaiah mentioned that he had been getting weird messages on his school email address. Those messages threatened him about seeing Tiffany, stating that Tiffany was “trouble,” and that she was cheating on Isaiah. Both Tiffany and Isaiah were concerned but decided that it was probably one of Isaiah’s friends playing tricks. After all, who would know Isaiah’s university e-mail?

When the spring term began, Isaiah returned to campus and realized that he had been dropped from all his classes. He thought it might be the result of an error by the registrar’s office, so he went to that office to resolve the problem. The registrar told him that a university official had canceled his classes because it was done internally in the system. This began an investigation process with the IT Department and Campus Police. They were able to trace the action
to Jason’s academic department. When questioned, Jason denied knowing anything about it and stated that the office staff all had access to the same account.

When Tiffany found out about the connection between Isaiah’s courses being dropped and Jason’s department, she became alarmed. She then began to believe that Jason had used his campus access to track Isaiah (and perhaps her too?) and that maybe he was also the person who had been sending Isaiah weird emails. Tiffany then went to Sarah’s RA friend and told her this story.

This account has now been passed along to you to address.

Discussion

- Did Jason violate policies on sexual misconduct based on a preponderance of evidence standard of proof?
- Did Jason violate policies on stalking based on a preponderance of evidence standard of proof?
- Did Jason violate policies on intimate partner violence based on a preponderance of evidence standard of proof?
LIZ AND NEVEAH

Potential Sexual Misconduct
Student-on-Student

Reporting Party: Liz Tailor — First-year student
Responding Party: Neveah Strunk — First-year student
Witness: Burke Stewart — Second-year student, hallmate
Contacting Officer: Jane Jones

Intake Report

Liz and Neveah are roommates on your campus. Liz is a virgin and identifies as straight. Neveah identifies as sexually fluid, and is very sexually experienced compared to Liz. One night after they have gone to bed, Liz heard Neveah masturbating along with the sound of a vibrator. The next day, Liz asked Neveah about it, and Neveah was very open with her, explaining that she has a “Bunny” which she described as a vibrator designed to allow her to penetrate herself while simultaneously stimulating her clitoris to climax. She was not apologetic or embarrassed that Liz overheard her masturbating, and asked Liz if she masturbates. Liz shyly said no and Neveah offered to teach her how if she is interested. She asked if Liz wants to see the Bunny. Liz seemed curious, so Neveah took it out and showed it to Liz. Liz immediately said she could never use it because she was diagnosed with vaginal hypoplasia, meaning a very narrow vaginal canal, and that the Bunny would never fit.

Neveah, sensing Liz’s growing interest, told her that she can use the Bunny on Liz if Liz would like, and go very gently with it to ensure that it doesn’t hurt. Alternately, she told Liz she can just use the Bunny’s “ears” on Liz, without penetrating her, if it’s too tight. Liz said she’ll think about it, and Neveah could see the flush on Liz’s face and how excited she was. Later that night, Neveah was more open about her masturbation and started to use the Bunny on herself while Liz was watching from across the room. She then asked Liz if Liz wants to try it. Liz agreed, but asked Neveah to show her how to do it, the first time. Neveah cleaned the Bunny, lubricated it, and slowly penetrated Liz with it. She asked Liz to tell her if it is painful at any point. Neveah began to use the Bunny on Liz, and Liz flinched in pain, telling Neveah to go slower. Neveah slowed down, and soon Liz was uncomfortable again. Neveah shifted the position of the Bunny and Liz became more comfortable. Neveah used the Bunny on Liz until she climaxed. Neveah tells Liz, “if you liked that, you should feel my tongue on you next time.” Liz smiled, and they go to bed.

The next night, Neveah again offers to use the Bunny on Liz. Liz agrees, but is immediately uncomfortable with the sensation of penetration by the vibrator. Neveah repositions it several times, but can’t find a comfortable position for Liz. Liz tells Neveah to stop because she is sore from the night before. Neveah stops penetrating Liz, and uses the “ears” of the Bunny to stimulate Liz without penetrating her. While doing so, Neveah also uses her tongue to bring Liz to climax, and Liz presses her hands against Neveah’s head as she does this. Afterward, Neveah asked Liz to use the Bunny on her, which Liz did. The women kissed and spent the night in the same bed.

The next night, Neveah climbed into bed with Liz, and began to perform oral sex on her. She told Liz she had lubed the Bunny and it was ready for her. Liz agreed and then allowed herself to be penetrated by the Bunny, and while it was still uncomfortable, it was less so than the night before. At one point, Liz cried out in pain, and Neveah repositioned the Bunny for greater comfort. Liz then seemed to get more into it, was arching her back and moaning with pleasure, and Neveah continued. Neveah also slapped Liz on the buttocks several times as they engaged in sexual contact. As Neveah continued with the Bunny, Liz called out in pain again, saying, “No. Stop.” Neveah withdrew the Bunny slightly and eased up on the speed settings of the vibrator. She repositioned the Bunny again
to ensure Liz’s comfort, and penetrated her gently once again, but Liz pushed her hand away, making her stop, crying that she was just too tight for it. They went to bed.

The next day, Liz was talking with Burke, a woman on the hall who identifies as lesbian. Burke asked Liz if Neveah had turned her into a “lez” yet. Liz pretended not to understand, and Burke said, “She’ll groom you and the next thing you know, she’ll turn you into one of us.” Liz suddenly realized that it was Neveah’s plan to seduce her all along. She became very uncomfortable with Neveah as a roommate, someone she thought was trying to help her become more sexually comfortable as a friend, but who was really coming on to her as a girlfriend. Liz went back to her room and told Neveah how uncomfortable she was, and that all sexual contact needed to end. Neveah, who had perceived her encounters with Liz as a budding romance, was shocked, but agreed to keep things platonic.

The more Liz thought about it, the more upset she became. She felt betrayed by her roommate. Three days later, she went to the Title IX office and reported what happened. Neveah was notified of three alleged offenses: Non-Consensual Sexual Contact for performing cunnilingus on Liz without consent during the second encounter; Non-Consensual Sexual Intercourse for continuing to penetrate Liz with the Bunny during the third encounter after Liz said, “No. Stop”; and intimate partner violence, for slapping Liz on the buttocks during sex without consent.

**Discussion:**
Does your gut tell you that each of these behaviors does, technically, violate your consent policy? Many people would say so. But, take a step back and look at the totality of their interactions. Answer these questions:

- Does the totality of the evidence suggest an abusive series of encounters?
- Do you have evidence that Neveah was trying to groom Liz or sway her sexual orientation?
- Do you have evidence that Neveah intended to discriminate against Liz or cause her a hostile environment on the basis of sex?
- What assumptions did you make about Liz’s allegations?
- Do you have evidence that Neveah meant to transgress Liz’s sexual boundaries?
- What do you think Neveah’s responses to these allegations would be?

Neveah was shocked by the allegations. She realized that Burke might be interested in Liz, and was poisoning their budding relationship. She insisted that she had been incredibly respectful of Liz, not abusive. Neveah said that she constantly checked in with Liz during sex, repositioned the Bunny to ensure Liz’s comfort, and stopped when asked. She said she did not realize that Liz wanted her to stop that last time, thinking that like previous times, Liz meant she just needed to adjust the Bunny. Once she realized that Liz really meant stop, she stopped right away, and had only penetrated her once after she said to stop, to adjust the vibrator. So, is this a misunderstanding or a sex offense?

If you determined that this is sexual misconduct, you’re confusing Liz’s discomfort about her own sexual experimentation with a non-consensual sexual experience. Please understand that it is the unanimous consensus of all eight authors that Neveah should be found not in violation of the sexual misconduct policy. Maybe Neveah did seduce Liz. That’s not against policy. Maybe Neveah did want Liz to explore her sexuality or sexual orientation. That’s not uncommon in college, and as long as it isn’t coercive, that isn’t sexual misconduct. But, you might be thinking, don’t Neveah’s behaviors meet the definitions of sexual misconduct and intimate partner violence? Don’t you have to stop when someone tells you to stop in the middle of sexual intercourse? Don’t we teach our students that? Don’t we tell them you can’t touch someone sexually without getting permission first? We don’t want our students slapping each other during sex, do we?
Becoming the sex police can be a little insidious, creeping up on us without our even realizing we are propagating an orthodoxy of sexual correctness. It’s true that Liz told Neveah to stop during the third interaction, and that Neveah did not stop. If a male student kept thrusting when his female partner told him to stop, would we look at this differently? The ATIXA model policy says that if your partner withdraws consent, you must stop in a reasonably immediate time. That is what Neveah did. One additional thrust of the vibrator was not meant to be abusive, but to try to make Liz more comfortable, and she stopped within several seconds of understanding what Liz really wanted. Thus, the context is what matters here. At first, Neveah was not clear whether Liz was telling Neveah to stop, or communicating that she was uncomfortable with the position of the Bunny. Liz is saying now that she wanted Neveah to stop, and maybe that is true, but Neveah was thinking about the second sexual interaction, and how she had to position the Bunny carefully so that it did not hurt Liz, just as she had done earlier in the third sexual interaction as well. She thought she could reposition it similarly during the third interaction when Liz said stop, to increase Liz’s comfort and make sure it hurt less. Was this a reasonable interpretation by Neveah? Yes, Neveah’s interpretation was reasonable when considered in the context of the totality of the circumstances surrounding their interactions.

Did she have reason to believe that Liz really wanted her to stop penetrating her entirely, or that she just wanted Neveah to be more gentle or to reposition the vibrator? If Neveah moved the Bunny and was then more gentle with it as the result of Liz’s objection, wasn’t she trying to make her partner more comfortable? How is that discriminatory? Doesn’t no mean no, though? Well, during the second encounter, when Liz said stop, it meant a need to reposition. Isn’t it reasonable to think the same context applied to the third encounter? After all, Neveah was clear that, after she tried to reposition the Bunny during the third encounter and Liz was still in pain, she needed to stop and she did. We can’t chalk this up to a miscommunication about what Liz wanted, but Neveah’s interpretation of the situation is reasonable given the totality of the circumstances.

Yes, but what about the oral sex during the second encounter? Taken together with what happened in the third encounter, doesn’t the totality of the evidence show that Neveah was pushing Liz past her boundaries? I hope we can agree that when Neveah was using the Bunny’s ears on Liz, and then began to use her tongue, Neveah did not have Liz’s clear permission to do so. That was not consent, and most people can respect the distinction between agreeing to stimulation by an object and the use of someone’s tongue. Permission for one does not imply permission for the other. To understand why this isn’t sexual misconduct, you need to understand the concept of ratification, which means retroactive consent demonstrated after the fact. This happens in sex ALL THE TIME, though we don’t account for it in our policies. Liz continued to have sexual interactions and want sexual interactions with Neveah after the oral sex. They had oral sex a second time. Liz pressed Neveah’s head toward her as Neveah performed cunnilingus. That ratifies it after the fact, even if Neveah didn’t strictly ask for consent when she first did it.

Not objecting to something is not the same thing as ratification, so be careful not to confuse those two things. While it’s entirely possible that Liz was comfortable with a friend teaching her how to use a sex toy, but wholly uncomfortable with engaging in sexual activity directly with another female without the sex toy as a buffer, that’s not the evidence we have here. Should Neveah have asked first? Sure. But, is it a sex offense that she didn’t? Not in this context. Failing to object is passive. Ratification is an active participation subsequent to an encounter that began without clear consent.

Well, what about the butt slapping, then? Fifty Shades of Grey was a movie that made more than half a billion dollars at the box office in 2015. Light bondage and practices drawn from the Bondage and Discipline, Dominance and Submission, or Sadism and Masochism (BDSM) world have gone mainstream. Again, context is
everything. Was Neveah trying to abuse her partner? No. Should she have asked first? Sure, but to call a few slaps on the butt during sex a form of intimate partner violence is to water down what intimate partner violence is to the point of meaninglessness. **If everything is discrimination, then discrimination means nothing.** Many of our students are influenced by mainstream erotic and even hardcore pornography. You can’t assume you can treat your partner the way it is depicted on screen, but we need to take into account that for many of our students, if they have learned their sexual mores from pornography, this is an opportunity to re-socialize them, educationally, in respectful sexual patterns. What they think is normative is potentially going to be different than our sexual norms.

A second case study will challenge us to apply the reasonable person lens.
WES AND TAMEKA

Potential Sexual Misconduct
Student-on-Student

Reporting Party: Tameka Gordon — First-year student
Responding Party: Wes Harris — First-year student
Contacting Officer: Jones McBrown

Intake Report

Tameka was flirting with Harris at the party. She told him if he agreed to date her, she would hook up with him that night. He told her he wasn’t the dating type. Later, friends saw Tameka flirting with another student, Wes. The friends also testified that they saw Tameka and Wes walking hand-in-hand away from the party toward her residence hall. Surveillance video from the hall cameras shows that the two entered her residence hall at 11:14pm and proceeded to the common lounge, which was empty. While there is no audio, the video showed the two kissing, and then showed Tameka on top of Wes while he was lying on the couch. The video showed that she was grinding on him as he fondled her breasts, first over and then under her shirt. At one point, her breasts were clearly exposed on camera. They were on the couch for 23 minutes. The video then shows them getting up, and Tameka leading Wes down the hall by the hand. Their stories diverge at this point.

Tameka stated that she was going to see Wes out, but had to go to the bathroom. She stopped at her room on the way out. She let him into her room to wait and asked him to be quiet because her roommate was sleeping. She went into the bathroom and said that after she used the bathroom, he pushed his way inside the door and closed it behind him, before she had a chance to put her pants back on. She said that he then told her she couldn’t leave him hanging, referring to their activity in the common lounge. He asked her for a handjob, and she agreed. He took off his shorts. She proceeded to rub his penis with her hand. He then asked her for a blowjob, but she said no, and continued with the handjob. As she gave him the handjob, he fondled her breasts and they kissed. He then began to rub between her legs and she continued the handjob. Wes said that while on the couch in the common room, he suggested they go to her room and continue things more privately. She told him that her roommate was there and would be asleep at that hour. She then suggested they could go in her bathroom. They agreed, got up from the couch and she led him by the hand to her room, reminding him they needed to be quiet because her roommate would be asleep. They entered the room, and then went into the adjoining bathroom. There, she took off his shorts and hers and began to give him a handjob. He asked for a blowjob, but she said no and continued to rub his penis. During the handjob, they kissed and he fondled her breasts. He then began to rub her between her legs and she continued the handjob and was making moaning sounds. He teased her that she needed to be quiet or she’d wake her roommate. He then penetrated her vagina with his finger, and she immediately moved his hand away from her. She continued the handjob until he climaxed. Video shows that she escorted him from the residence hall at 12:24am, shows that she held the door open for him as he exited, and that they kissed as he left.

At 10:04am the next day, Tameka texted Wes, asking him how she should refer to their “couple status” when she told her roommate about the night before. At 10:18am, Wes texted her that he felt really guilty about what they did the night before because he had a girlfriend. He told Tameka that she was really nice, but that she needed to stay in the friend zone and that he hoped he hadn’t led her on. When she got the text, she immediately removed him from her contacts and blocked him on social media. She told her roommate that she needed to find someone who was
ready for a serious relationship, and that the night before with Wes had been a mistake. Wes told his roommate that he felt bad that he had led her on.

By that evening, rumors were circulating that Wes had assaulted Tameka. He heard the rumors from a friend and decided he needed to address them. He texted Tameka at 8:40pm, “Please tell people I didn’t rape you. Some people are spreading a rumor.” She texted back at 8:42pm, “but u did rape me. Don’t contact me again.” The next morning, Wes went to the dean to address these rumors because he wanted to be clear that he had not raped Tameka. When he recounted to the dean what had happened, and concluded that they hadn’t even had sex, so he couldn’t have raped her, the dean informed him that it sounded from the story like he might have raped her. Wes was placed on interim suspension and an investigation was initiated. Wes tried to file a counter-claim that the handjob was not consensual, but the Title IX Coordinator decided it was retaliatory and did not take it forward.

Discussion:
Do you agree with this dean? Is she a steadfast protector of student welfare, or a card-carrying member of the sex police? If you consider the totality of the circumstances, there is a clear subtext to the allegations, right? Tameka was looking for a relationship. She rejected Harris when all he wanted was a hookup. She then attempted a relationship with Wes, but wound up being used by him and feeling rejected. That rejection could have been motivation to tell people that Wes assaulted her (she later filed a formal allegation and participated in the investigation), but that only addresses her motivation to report, and not the underlying question of whether what she was reporting was a violation policy. Are we troubled by the fact that she did not consider it sexual misconduct that morning, and came out of the interaction thinking that they were dating? Sure. It goes to her credibility. For some people, though, the reality of victimization takes a while to dawn on them, whether out of shock, denial, or a failure to self-identify. When that is the reason for delay, it is not a credibility concern.

You might think that Wes described a situation to the dean that is arguably sexual misconduct, regardless of Tameka’s motivation to report it, right? Let’s break it down. Wes and Tameka agreed that the sexual activity on the couch was consensual. But, what about the sexual activity in the bathroom? She performed the handjob voluntarily. It wasn’t coerced or forced. Thus, she consented to it. Whether he consented to being touched is a question we will address shortly. Their kissing was mutual, according to both of them, and she did not raise the fondling of her breasts as an issue. However, if you are a literalist about consent, he did fondle her breasts without consent. You can make a ratification argument here, though, because he didn’t ask to fondle her breasts in the common room, either, but she participated when he did. There is an interesting question, too, about whether her consent to fondling her breasts earlier in the common room remained valid ten minutes later in the bathroom. We would say it did. And, we would argue that he had consent to touching her vulva and fondling her genital area by ratification.

In the course of a sexual transaction, she permitted him to touch her, and continued to touch him as she did so, without objection. That’s ratification. So, the only remaining question is whether his act to penetrate her with his finger was without consent. We believe a reasonable person would believe that act was consensual. How can this be? He penetrated her without asking, and her response clearly shows she did not welcome his penetration.

The construct of consent in sexual interactions is governed by policies, but as we noted above, it is not a perfect construct, in the sense that theory and practice do not fully align. Policies require clear actions or words indicating permission. So, if you think about it, there is no way to kiss someone without asking first, if
you take the concept of consent literally. If I move in to kiss someone, I cannot know the conduct is agreed to 
unless I ask, because even if they move in to kiss me, they cannot know I am consenting unless they ask. So, 
rather than strictly adhering to such rigidity, we allow some nonverbal, unspoken rules to govern our sexual 
interactions. Many of us move in for a kiss, mutually, on the basis of context, without asking. And, in certain 
circumstances, consent can be assumed; for example, if you kiss me, I can kiss you back. I don’t have to ask or 
clarify that. I am not expected to simply passively receive the kiss. The “clear words or action” part of the 
policy takes over from there. We can kiss, but what happens next has to be the result of agreement by word 
or conduct, if the interaction is to escalate sexually. Think of it as being akin to levelling up in a video game. 
Once you unlock a level, you are free to explore that level, but you can’t move on to the next level until you 
unlock the achievement for that level (in this case, by having clear consent).

If a female student is voluntarily stroking a male student’s penis, he is within the bounds of consent to 
reciprocate by touching her vulva and using his fingers to penetrate her vagina. This is really no different – in 
terms of reciprocity – than if a woman begins to stroke a man’s chest, and he responds by fondling her 
brasts. It is artificial in the extreme to expect verbal requests in such a context, “I see that you are touching 
my pecs...does that mean I can caress your breast? If so, left, right, or both? And, is that your left or my left?” 
That’s not how sexual communication works, as noted in describing the kiss, above. Consent is designed to 
allow such reciprocation without resorting to asking, but clarifying communication is required if one or both of 
the partners wish to elevate or progress the level of sexual interaction. If the partners are now caressing each 
others’ chests, and one wants to touch the genitals of the other, that cannot be assumed to be okay, based on 
the sexual activity already taking place. To move to genital contact, there again must be communication that 
establishes consent. Consent theory supports this. Some acts are mutual, others require additional 
communication and clarification.

When a female student is voluntarily giving a male student a handjob, and he reciprocates by touching and 
fingering her vulva and vagina, if she denies having consented to being touched/ penetrated solely because he 
didn’t ask, we would say that a preponderance of evidence shows that they engaged in mutually consensual 
fondling of each other’s genitals. To conclude otherwise would require that the male partner to say something 
like, “I see your hand is on my penis, may I now place my hand between your legs?”

That is not how sexual communication occurs, and it is not how consent policies were intended to function. To 
see the logic of this, take it to its extreme. Imagine that sexual intercourse is taking place. The female partner 
rises her hips on her male partner’s penis. When she does, he hesitates, and says, “May I thrust my penis in 
response?” If the female partner says “yes,” he may thrust back. How many times? Once? Many times? Does 
he need to clarify that, or is it assumed once they are having intercourse that thrusting is going to occur, 
positions may be changed, and there will likely be an ejaculation as a result? It is assumed, but according to 
policy, it’s really not explicitly agreed to, is it?

Some of you will make a distinction with Wes and Tameka out of the fact that the sex acts weren’t really 
mutual. They fondled each other’s genitals, but she was penetrated and he was not. To that, we say that is a 
distinction that arises solely from anatomy, but it is no more invasive to a man to have a non-consensual 
handjob than it is to a woman to be fingered without consent. A man can be subject to sexual misconduct 
without being penetrated, so we need to stay focused on the video game metaphor. What Tameka did to Wes 
and what Wes did to Tameka each occurred on the same level of the game. No one upped the level without 
asking, and Wes respected her instruction to stop when he did something that went beyond her boundaries. 
This does not make him in violation of policy. That’s what a reasonable person would say.
I can fondle you if you are fondling me; I don’t have to ask you. For anyone who wishes to insist that he is in violation of policy, we require you to be consistent. If your purist approach to consent demands that you find him in violation of policy for penetrating her, then you must also be willing to find her in violation for giving him a handjob without his consent. If that is your preferred approach, we think you are being absurd, but at least you will keep the legal profession gainfully employed for many years to come.

As you can now see, a consent policy is viable in theory, but can become absurd in practice if taken to an extreme. You are the guardians of applying the reasonable person standard to these interactions. We know this challenges an orthodoxy that may be widely accepted in the field, but the question is whether we are trying to govern every nuance of sex as if we are the sex police, or whether we are trying to establish reasonable rules to regulate inherently ambiguous human behavior in a way that minimizes the risk of harm to those involved? If you need a litmus test for whether you have become the sex police, ask yourself whether the college-age version of you would hate what you have become. If so, let’s recalibrate. One way to do so is to refocus and rededicate ourselves to due process and protecting the rights of ALL students.
SEXUAL VIOLENCE TOPICS
CASE STUDIES
SKYLER

Potential Sexual Violence, Incapacity, Consent
Student-on-Student

Reporting Party: Skyler Everett – Student

Skyler Everett met with the Title IX Coordinator on May 23 and shared the following narrative:

The assault happened last Friday night. A group of us got together at Carmen’s place after final exams to celebrate together before we went home. I was having a great time. I started off with some beers and then moved to doing tequila shots – in fact Dakota, my best friend, and I had a competition to see who could do the “salt-slam-sip” thing the quickest. We had a whole group of people gathering around us and cheering us on. I may have had some other drinks too – I can’t remember, but people were passing around Jello shots and test tubes with stuff in them. I may have had some of that. The music was loud and thumping and we were all dancing. There was lots of pot smoking going on and I had a few joints. At some point people started taking off their shirts and I joined in and we were feeling great, then several people got totally naked. I kept on my underwear but no one seemed to be uncomfortable with how much or how little clothing people had on.

Sometime during the evening, it was probably around midnight or so, some guys were playing pool and asked me to join in. I don’t remember if it was three guys or more. At one point, I was leaning over to make my shot and one of the guys pulled down my underpants. I didn’t know what to do so I just laughed and kicked them off, but I was really uncomfortable. I think we played pool for a while and maybe some other people came in. The next thing I knew another guy came up behind me and put his arms around me from behind. He put his penis between my legs and asked me if that was OK. I just froze – I couldn’t speak. He proceeded to insert his penis inside me – it hurt but I didn’t say anything. The other guys were laughing and saying they wanted in on the action. The next thing I knew I was performing oral sex on several of them. Eventually we all got cleaned up and rejoined the party.

Dakota asked me where I had gone and I just said, “Playing pool for awhile.” I didn’t want to say what happened – I needed to figure it out. I don’t know why I didn’t leave, no one made me stay, I liked all the guys and always felt like I was part of the group and now I don’t know what’s going on. I just feel so guilty, I drank a ton, got naked and acted like I was “into” it – at least I didn’t specifically say “no” or leave or push anyone away. I’m so confused. It didn’t seem right, but I don’t know. I’m just embarrassed and scared and confused.

Discussion

• Do you feel, based on the information provided that Skyler is experiencing sexual based trauma? Why? Why not?
• What else do you want to know from Skyler?
• Would knowing Skyler’s gender identity change the questions you have or how you need to ask them?
• What do you want to ask Skyler?
• Discuss how you will phrase the questions you have.
GRANT AND OWEN

Potential Sexual Violence, Consent, Incapacity
Student-on-Student

Reporting Party:  Grant – Student  
Responding Party: Owen – Student

Grant’s 1st Interview

Today I’m here to give my side of two situations between me and Owen. I feel I was sexually assaulted. The first incident was June 2015, before coming to college. We lived in the same city but went to different schools. We knew each other from Facebook – we were both in an accepted students group. Before this occasion in June, we had hooked up, but there was no sex. After that hookup, I told him I wasn’t ready for a relationship, and he was upset.

The first incident happened the night of his graduation party at his friend’s house. I went to the party with Owen, and in the car going to the party we kissed, 2 or 3 times. As the night went on, I tried to leave the party but didn’t have enough money to get home and was kind of drunk so stayed the night even though I knew it was a bad idea. I was going to sleep on the couch in the living room. Owen came over to the couch, and we started talking and kissing. I know we went to the bathroom for some privacy, but I don’t really remember the conversation leading up to going to the bathroom.

So we’re in the bathroom, we were kissing, pants came off. I found myself pinned to the sink and Owen said he wanted me – he wanted to fuck me. I told him no, not raw, but he tried anyway. I said no again, because it hurt. Owen said, “This is my graduation night; aren’t you here to celebrate?” and tried again. I was able to turn around and tell him to stop, and his response was “Okay, then at least you can blow me.” So, in an effort to placate him, that is what I did. It was rough and not enjoyable. He finished. I remember waking up with a hangover, and Owen was sleeping next to me on the couch with his pants off.

The second incident was this past Saturday. I was very drunk – way too drunk to consent to anything – and was at a friend’s house party. People were dancing; Owen came up to me, and we started talking. He confronted me about a rumor he had heard (involving me, but I don’t really want to talk about it), and I told him he couldn’t make me feel shitty when he had assaulted me the summer before coming to school. He seemed confused. He said he apologized if that was my experience, but he didn’t remember that night. I got emotional and we walked outside. I told him that what he had heard (the rumor) was true, but at that point people were walking by so I said we should have the conversation somewhere private.

He grabbed my hand and led me to his residence hall. I didn’t let go of his hand but wasn’t too thrilled he was holding my hand either. When we got to his room, we talked for about twenty minutes, and then we were kissing. It quickly went to our clothes being off and things happening. I don’t remember how that happened. At some point he said he wanted to have sex, but he didn’t have a condom or lube – I didn’t want to do that anyway; penetration is a big deal for me. Owen suggested going to my room, but I didn’t want to do that. I told him “I don’t want to get dressed” and kissed him to distract him from getting dressed and going to my room. That didn’t work though, and soon we were dressed and walking over to my room.

We got to my room. Very quickly the clothes were off, and we were fooling around again. I leave the condoms and lube in the drawer because I didn’t want to do anything with them. So, we were naked and fooling around, and he was in a position where he could theoretically have sex with me, and he said something like “I
want to fuck you,” and I said no, and he inserted himself anyway – it hurt like crazy, and I pushed him back and moved to the edge of the bed. Eventually it stopped hurting. Like the first time, I tried to make him happy and finish the interaction. He went to reciprocate, and I said no. I don’t remember him cuddling me, but, when I woke up the next morning, he was in my bed with his arms around me. I remember waking up and feeling trapped and tried to move his arm off me. I fell back asleep at 7:30 and woke up again around 10:15. I tried to be casual and get out of bed, but he pulled me back – that happened twice. We stayed that way for another fifteen minutes before I could get out bed and get my clothes on, which he finally took as a cue to leave.

The only other thing I think you should know is that, while sober, I have denied him 4-5 times in the past six months, and I have text messages supporting this.

Discussion
- What are your initial thoughts?
- What policies are potentially implicated?
- Does (or should) the university have jurisdiction over interactions that happened before the start of their first semester on campus?
- What additional questions do you have for either party?
- What are your next steps?

Grant’s 2nd Interview

Owen and I met in the accepted students Facebook page before we started college. I commented on a picture of him, and he messaged me, and we started talking and flirting, but I had a boyfriend at that time, and he knew that. We hung out and went to a movie, and at the end, he tried to kiss me. After that, I broke up with my boyfriend for unrelated reasons, and maybe three weeks after that, Owen and I hooked up (there was no penetration but we both did oral). A few days later, I told Owen I might still be in love with my ex-boyfriend. Owen was upset; I felt bad, but I didn’t want to lie.

The night of his graduation party was two weeks later. Things with my ex were definitely over at that point. Owen and his friends picked me up in the car and drove to one of his friend’s houses. In the car, Owen and I were in the back. He told me he’s happy I came, leaned in to kiss me, and we kissed a little bit. He reached for my pants and felt I have an erection. I don’t remember, I might have reciprocated. We get to the house, and at some point, his friends took out the alcohol. There was a slim can of alcohol – some pre-mixed vodka drink that was pretty strong. We also had Hennessy. Other than some chips, I didn’t have anything to eat at the party.

Owen and I were flirting all night, but nothing really happened until after most people went home. I realized I didn’t have money to get home, and it was really late, and Owen suggested I just stay on the couch. So, I start to take my shoes off, and Owen, who was on the side of the couch, leaned close to me, and we started kissing. After a while, we walked to the bathroom for some privacy – there were still a few of his friends around.

There was some kissing, pants came off, I don’t remember how, and we both did some oral on each other. Somehow, I was up against the sink, and he was behind me. He said he wanted me, he wanted to fuck me. I told him no, not raw. He was rubbing his penis against my asshole and said, “Come on, we’re here to celebrate” and inserted himself in me. I say “No,” “Ouch,” and “That hurts,” and was able to get out from between him and the sink. He told me to blow him. I didn’t want to, but I wanted the situation to be over, so I blew him, and he finished. Then he reciprocated, and I finished. I don’t remember going back to the couch, but
I woke up super hungover the next morning, and Owen’s penis was out in the open. I redid his pants so his penis wasn’t hanging out.

This year, in the fall semester, there was a pattern – Owen would text, asking me to hang out (what he really meant was hook up) late at night, and I kept making excuses or just telling him I didn’t want to. He was texting quite a bit, and I have those texts. Between the first incident and the second incident, we hooked up, while on campus (everything but intercourse – never intercourse) one or maybe two times.

After I came back to school for spring semester, a mutual friend of ours, Kylie, had a party at her house. I was drinking at her house with my friend Emma. I had four shots of vodka, a double shot of Jägermeister, a Malibu shot, and then two beers, all within maybe three hours. When I started my third beer, I knew I was going to throw up, so I handed the beer to Emma. Emma can tell you how drunk I was. I know I was stumbling around and really out of it – I’m not the biggest guy, so all that drinking had an impact. I remember that Emma and I then went to the Court to get some mozzarella sticks. I don’t remember going back, but I know we were back at the house, and people had started dancing. Emma and I danced for a while, and after a little bit, Owen came up to me and we started dancing.

I hadn’t seen him at the party before this point. Owen started asking about a rumor that I had been with some guy that he knew somehow – I don’t know all the particulars. First, I denied it and told him he couldn’t make me feel bad given what he had done to me before we got to school. He was surprised. He basically said, “I’m sorry that’s how you felt. I don’t remember that night.” I got emotional, and he and I left the house and talked outside for a little bit. I finally told him that the rumor he heard was true, but that we should talk somewhere private – more people were leaving the house at that point, and I didn’t want anyone to overhear the conversation because we were using names. I didn’t have a place in mind.

He took my hand and we went to his room. At first, we are sitting on his bed, talking about the rumor. I don’t remember much here. I know he started kissing me, and then he was on top of me, we’re both on the bed, then he pulled me off the bed. He undressed me, and he undressed himself. We are both naked, although I don’t remember if I had socks on. We were kissing. I don’t want to do this, but I felt like I couldn’t say no. There was some oral that happened, both ways, some neck kissing. He ate me out a little bit, so I did it back. During all of this, he said he wanted to fuck me, but he has no condoms or lube. I didn’t want to do that anyway, and I told him that, multiple times. He wanted me to get dressed and said we should go to my room. I didn’t want to and tried to distract him by kissing him, but we eventually got dressed and walked to my room. I can’t remember the walk to my room.

I remember getting to my room. In the beginning, we were standing up and kissing, and I picked him up for about five seconds and kissed, and we slammed against my closet. Then we were on the bed. He was on top a couple of times, and I was on top, too. There was a little more oral sex, both ways, I think. He gave me a hickey on my chest that I saw later. So, we were on my bed and my legs were up, kind of wrapped around him, and he was in the position where we could fuck, and then he started to thrust himself inside of me. I say “No, not raw,” but he thrusted again. I say “Ouch, Jesus,” and he said, “Sorry, it was an accident; calm down.” I told him to stop, and he finally did. At this point, I was limp, and he was really hard, and it feels just like the other time when I wanted things to be over. I was jagging him a little, he was jagging himself, and then, without asking, he finished on me, on my torso. I cleaned myself off. He tried to blow me, and I told him to stop. I don’t remember falling asleep, but I must have. I didn’t ask him to stay over.
The next morning, I woke up and felt trapped in his arms. I was frustrated, and felt really gross. I didn’t want any of that to happen. I was definitely too drunk to consent. In the grand scheme of things, if I woke up in the morning and made out with someone, it would not have been as bad. Anything with clothes off is not okay if I am too drunk and too out of it to understand what’s going on.

Around 7:30am I tried to push him off and get up, but it was really awkward. I guess I fell back asleep because I woke up again around 10 a.m. and tried to get out of bed. He pulled me back twice, and I know he wanted a kiss but I wasn’t going for it. Finally, I got out of bed, got ready, and we went about my day. He texted me on Sunday asking about an event I had earlier that day. I didn’t answer. I talked to Adam about it on Sunday night, I think you should speak to him. My relationship with Adam – we are pretty close, not romantic, just friends.

Discussion

- What are your initial thoughts?
- Are any other/different policies implicated?
- Do you see any credibility issues?
- Does any information from the second interview change your investigation approach?
- What additional questions do you have for Grant?
- What are your next steps?

Owen’s 1st Interview

After learning the general information about the two incidents in the initial report: I don’t know why the incident prior to coming to campus is being addressed here? I don’t think it should be addressed, and I’m not going to talk about it.

Grant and I both got accepted, and I could see other accepted students in the Facebook group. Grant was one of two people I friended who were from the city. I think he first commented on a picture of mine when I changed my Facebook profile picture. We developed a friendship online, then talked on the phone and texted a lot, too. I met up with Grant in person in the spring of our high school senior year; we went to the movies.

After the movies, we walked around downtown, talking, holding hands. We talked about his ex-boyfriend, my ex-boyfriend, and how we were excited to start school. I know he got back with his ex for a little while, and then broke up with him again. After that, we hung out once, and I met his family – I think it was that day that we kissed for the first time. At the end of hanging out, he told me he still had feelings for his ex, which was upsetting. We didn’t talk for a while after that because he made me feel like complete crap. After a few weeks, we talked about it and decided to put everything behind us and just be friends.

When we got to school, our relationship had lots of ups and downs, like any normal relationship – we always checked in with each other, though, to show we cared. Sometimes we lost contact – we were doing our own thing – and then found our way back to one another. We care deeply about each other. There were a few nights when we had some sexual interactions – we were just figuring life out at college and meeting new people and finding our friend groups.

This past Saturday, my friend Lacy called me to see if I was going out. This was around 10 p.m. I told her I wasn’t sure, and she came over to my room with some Malibu and a shot glass. We each took a shot. I took a shower and then took two more shots of her Malibu as I got dressed. We got to Kylie’s house around 11:30 p.m. I saw Grant dancing with some people and went up to dance with him and talk. I brought up a rumor I
had heard about him with someone we both know – someone who is not a good person – that had hurt my feelings. He immediately denied it and insisted I tell him who told me.

Grant then said that I couldn’t make him feel bad about that. When I asked him why not, he said that I had sexually assaulted him at my friend’s house the night of my graduation party, prior to coming to school. I was totally stunned and asked him what he was talking about. I remember we made out, gave each other head, and I remember saying I wanted to have sex with him, but he said “No” and we stopped and went to sleep on the couch. Grant said that was not all that happened, that we should go outside to talk, so we did. We talked some more outside – Grant said “You tried to have sex with me after I said no.” I told him that didn’t happen, and he told me I was pissy that night. We went back and forth a couple of times until I said something like, “I’m sorry that is how you remember that night, that is not how I remember that night; that is not what happened.” We talked a little more, and Grant said he forgave me. He then told me that the rumor I had confronted him with was true and we should talk somewhere more private.

There was a large group of people outside the house, smoking and talking. We walked away, not going anywhere in particular, talking about the rumor. I was upset and I asked him why he had lied. We also just talked in general about how we were doing. When we started walking, things were tense, but as we talked, we both loosened up a bit and laughed. I reached for his hand partly because it was cold that night, partly to get rid of the tension – he didn’t pull away or show any sign of discomfort. We held hands until we ended up outside my room, which was closer than his.

Once we got into my room, we sat pretty close to each other on my bed; he positioned himself as leaning against me, and we continued to talk for a while. At one point, he lay completely down on the bed, opened his arms to me, and pulled me toward him. We were facing each other and very close…we embraced. I told him I have and always will care about him. He leaned his head toward mine and kissed me. Then we began making out. He lowered his hands to my butt, over my jeans, then used both hands to lift my shirt. I took this as he wanted me to take my shirt off, so I did; then he lifted his arms, and I took his shirt off. I stopped kissing him, got off the bed, and reached for him to follow.

We were standing, kissing. I undid his pants, took his pants and underwear off and performed oral sex on him. I was watching him, looking for cues. I kept going because I saw no discomfort and he never told me to stop. He was moaning in a good way. After a few minutes, he lifted me up, took off my pants, and went down on me. Neither of us came. He turned me around to get on my knees. I did this willingly, and he started to rim me from behind. After a while, I turned and lay on my back on the carpet, and he got on top of me and kissed me. After a few minutes, I wasn’t comfortable, so I went to the bed and held out my hand so he would go with me. I decided to reciprocate rimming – he turned willingly so I could rim him, and then we continued kissing, rimming, and doing oral on each other. Grant asked if I had any condoms or lube. I said no, that I had run out, and we joked about that. I told him I wasn’t expecting this to happen. I asked if he had any in his room – he said he did, and I asked him if we could go there. He agreed.

We continued to kiss; we were both moaning, in a good way, and then we slowly got dressed, teasing each other with kisses and fondling as we got dressed. I stopped and said we are wasting time, so we finished getting dressed, left my room, and walked to his. I talked about the cold weather, and he commented on it, too; then said he couldn’t believe what was happening. I asked if this was bad and he said “No.” I wanted to check in to see where he was with things. He said Adam was right – because Adam, a mutual friend, had said Grant and I would hook up again. Adam knows us really well – he knows how we feel about each other. We
kept walking, and I said, “Whatever happens, happens,” and Grant repeated this, and then stopped and kissed me.

We get to his hall, and I went in first. When we got to his room, we quickly started making out again and clothes came off. He got on his back on the bed; I was on top, holding his legs, rimming him, and he was moaning my name. I asked him if he liked it, and he said yes. I tried to ask him another question, but he told me to stop talking and lowered my head to his penis. I gave him oral sex for a few minutes. We took turns giving each other oral sex and rimming each other and kissing and then embracing and completely fell asleep in each other’s arms. There was never a climax ever – neither one of us – that night. There was never any penetration or attempt at penetration.

I remember waking up to him slightly snoring, and I knew he was asleep. The next morning, he woke me up to check the time on his watch, which was right by the bed – he was against the wall, and I was on the edge. He said it was 7:30 a.m., too early to be awake. I tried to go back to sleep, but I couldn’t. I think he may have fallen asleep, though. We were spooning each other, and it felt really good. I don’t know how much time went by, but later, Grant said he needed to start the day. I saw him grab his towel and put it around his waist, so I put on my clothes. I had a lot to do that day, so I told him I was leaving. He said “Okay,” and I told him have a good day. He said, “You too,” and I left and went back to my room. When I left the room, I was happy. I had enjoyed myself, and although we have had our ups and downs, I care for him deeply. When I went to get lunch, I ran into Adam, and we ate lunch together. I told him I had hooked up with someone. His second guess was Grant. I told him that I really enjoyed myself and was surprised at how strong my feelings were for Grant. Adam knows more about how that night made me feel, and he helped give me some perspective about my feelings. He told me to take a few days to reflect on things – he knows I’m impulsive—and to think about if I wanted to pursue an actual relationship with Grant.

**Discussion**

- What are your initial thoughts?
- What policies are potentially implicated?
- Does (or should) the University have jurisdiction over interactions that happened before the start of their first semester on campus?
- What additional questions do you have for either party?
- What are your next steps?

**Owen’s 2nd Interview**

Grant never said “Ouch” to any of the sexual contact – he never said “Ouch” at all that night. I also don’t remember Grant picking me up or us slamming against the closet when we got to Grant’s room.

I’ve been thinking, and there is something you need to know. The rumor that I asked Grant about was whether Grant had hooked up with J.R. Before Grant hooked up with J.R., I had reported J.R. to the Title IX office for an incident when J.R. had sexually assaulted me. There was a finding of “responsible”. People knew about it because lots of people were talking about what happened. I was really upset that Grant hooked up with him. Also, because I was sexually assaulted by J.R., there is no way I could have sexually assaulted Grant. It’s just not possible.
I was not drunk that night. Also, I am an R.A. and am trained in detecting when someone is intoxicated. Grant was maybe a little happy. I had assumed he had been drinking – it is the culture here to drink. But I didn’t smell anything, his balance was okay, he wasn’t dizzy, he wasn’t stumbling, he wasn’t going to vomit.

There were hickeys given both ways. When I started to give one to Grant, Grant didn’t want one, so I stopped. He gave me two hickeys, although I never asked for them. I have pictures, I’ll send them over.

Discussion

- What are your initial thoughts?
- Are any other/different policies implicated?
- Do you see any credibility issues?
- Does any information from the second interview change your investigation approach?
- What additional questions do you have for Owen?
- What are your next steps?
**KYLE AND BOB**

*Potential Sexual Violence, Incapacity*

*Student-on-Student*

**Reporting Party:** Kyle O’Neil – First year student  
**Responding Party:** Bob Thompson – Second year student

**Bob Thompson’s Statement**

On the night of Friday, September 13th, I went to an off-campus party. There was a band, and a lot of alcohol. I got to the party at about 11:00 pm, and slammed about three beers in the first hour I was there. It was very crowded, and people were dancing. A lot of people already seemed to be drunk. I hung out around the dance floor with my friend Jami Warren for a while, until I noticed Kyle O’Neil dancing. He was really hot, and I had noticed him on campus a few times. I didn’t know if he was into guys but I was willing to find out. I went up to him and we started talking.

He seemed a little tipsy and in a pretty loose mood. We talked for a while, and he asked me to get us some more drinks. I think I got him about two or three beers over the next hour.

I didn’t have anything more to drink because the three beers I slammed were doing the trick just fine. Around 1:00 am, somebody started passing out Jell-O shots spiked with grain alcohol. I didn’t want to mix beer and liquor, but Kyle had a few shots.

We danced a lot, and he had a few more Jell-O shots. He went off to the bathroom, and after that I couldn’t find him, and that really bummed me out. I waited around to see if he would show up again, but he didn’t. I took off and started to walk back to my residence hall.

As I left the party, I heard someone vomiting. I looked over and saw Kyle in the bushes, throwing up. I went over to help him, and he seemed to be in pretty bad shape. I offered to take him home, and he told me where his room was and leaned on my arm. When we got to his hall, I helped him inside, and was about to leave, but he asked me to come up to his room, just to make sure he got there. I took him upstairs, opened the door for him, and let him in.

He asked me to get him a glass of water, and I did. I started to take off again, but he asked me not to go. When I turned around, he hugged me. We hugged for a while, but he wasn’t feeling well, and went into the bathroom. When he came out, he said he felt better, but tired.

We crashed on the couch and then started kissing. I started to massage his back, and he fell asleep. He woke up about 20 minutes later, and started to kiss me, and fondle me. He took off my shirt, and I took off his, eventually we were both naked. I started to give him oral sex, and he said he needed some rest. I asked him if this was OK and if he was OK, and he said he was, he just needed to rest some more. I asked him if he had a condom, and he said he had one in his dresser. I went to get it, and when I got back to the couch, he was asleep again. He woke up after about 20-30 minutes, and I suggested that he just go to sleep. But, he said he felt much better, and started to give me oral sex.

After a while, he put the condom on and we had sex. It was great. Afterward I gave him my number and left. The next day, he called me to ask me why my name and number was on the pad by his sofa. I told him about meeting him at the party, and about our evening together. He seemed to get upset, and said he...
remembered meeting me at the party, and me helping him back to his room but almost nothing else. I asked if he wanted to go out sometime, and he said, “I’m not gay” and hung up on me. Two days later, I was notified by the Dean that Kyle filed a complaint against me, and here I am.

**Kyle O’Neil’s Statement**

It was Friday night and man it had been a long week. I was invited to an off-campus party and was ready to blow off steam. My adjustment to college has been a challenging one. Frankly, I’m struggling with feelings that I had not recognized before and it’s scaring me. I just wanted to forget all the stress of school and my personal life and have a good time.

I was dancing and doing some drinking and a guy came up to me and started dancing. I’d seen him on campus and thought he was really good looking. No one seemed to be pairing off so it didn’t feel awkward.

Over the next couple hours, I had a blast, Bob got me some more beers and then they started passing out Jello shots. I’d never had them before and they were great. I think I had a bunch.

I started feeling really nauseous and hit the can, cause I knew I was going to be sick. I got sick and decided it was time to head home. I only made it as far as the outside door and got sick again, right there in the bushes. I didn’t realize anyone was around, but Bob came up to me and asked if I needed help. I was so glad for someone to help me get back to my room.

I remember us coming in my room and I remember hugging Bob (I don’t know why – I think I was just so glad to be back). Then I got sick again. Bob was still there when I came back from the bathroom and he encouraged me to lay down. I must have. The rest of the night is a blur. I remember someone rubbing my back, it must have been Bob.

When I woke up I was naked and had a terrible hangover and then I saw a note from Bob. I didn’t realize he left me one. I also saw a used condom in the trash. I was so confused and didn’t know what had happened. I called him to find out just what went on last night and he asked me out! I’m so upset! What did I do? What did he do? I don’t know if I want to find out. He did this to me and I want him held responsible. This whole thing is messing with my mind.

**Discussion**

- What issues do you see here?
- What do you want to ask Kyle?
- What do you want to ask Bob?
- Who else do you want to talk to?
- What other information should you look for?
VICTORIA AND PETER

Potential Sexual Violence, Incapacity
Student-on-Student

Reporting Party: Victoria – Freshman at Vexer College
Responding Party: Peter – Freshman at Vexer College
Witness: Hannah – Resident Assistant (RA) at Vexer College
Witness: Alice – Freshman at Vexer College, Victoria’s friend

Around 11:30am on Saturday, December 13th, the Title IX Office at Vexer College received an online report from Hannah, an RA on the 3rd floor of Hendrix Residence Hall. Hannah’s report stated that Victoria, a freshman resident on Hannah’s floor in Hendrix, had disclosed that she was sexually assaulted the night before, December 12th, by Peter, a fellow freshman who lived in Bachman Residence Hall, directly adjacent to Hendrix. The Title IX Coordinator scheduled a meeting with Hannah for 8:00am the following Monday to gather more information.

Hannah’s Statement

Hannah said she received a phone call around 10:00am from Jason, a fellow RA in Hendrix who had worked the late shift at the front desk of the residence hall the prior night. Jason informed Hannah that, at around 1:00am on Friday night (early Saturday morning), he saw Victoria walk in the front door of Hendrix appearing visibly intoxicated and looking “misty-eyed,” as though she had been crying. As she walked by the front desk toward the elevators, Jason said he asked her if she was okay, to which she said, “Yeah, I’m fine, long night,” before quickly turning the corner. Jason said he thought Hannah should check on Victoria, which Hannah agreed to do.

Hannah said she knocked on Victoria’s door around 11:00am Saturday morning and that Victoria answered the door “looking rough.” Hannah asked if she would mind coming down to her room to talk for a bit, to which Victoria reluctantly agreed. Hannah said she had planned on having the typical alcohol talk and possibly referring the situation to student conduct, but was surprised by the direction the conversation took.

When Hannah asked Victoria to tell her about the prior night, Victoria said she hung out with some friends in Bachman Residence Hall then came back to her room. When Hannah asked if Victoria consumed any alcohol, Victoria said she didn’t remember. When asked how she got back to Hendrix, Victoria said, “I honestly don’t have much memory of last night.” Hannah then explained Vexer’s alcohol policy and shared that Jason had observed her from the front desk entering Hendrix late the prior night, apparently intoxicated. Victoria did not respond, instead sitting silently looking down at her hands. Hannah added that Jason also mentioned that Victoria looked upset and asked if something had happened that night.

Hannah said she could see tears welling up in Victoria’s eyes and that Victoria took a deep breath and said, “I did drink last night, but it wasn’t my alcohol, it was Peter’s. Our friend group was all over at his room in Bachman, then everyone gradually left, and Peter asked if I’d hang around to talk. He was having relationship problems or something. And, I don’t know if there was something in the drinks or what, but I just remember getting really drunk really fast, then everything started to get fuzzy and my memory of the night kind-of goes in and out. The last thing I really remember was sitting on Peter’s bed, in his room, and we were talking about his ex-girlfriend or whatever, and then he just started kissing me out of nowhere. I think I tried to pull away, but he just kept going. Then I just have a flash of memory where he’s on top of me. Then I just remember waking up in my room this morning with a really bad headache.”
Hannah said she tried not to ask too many questions, but did ask Victoria what she meant by “on top of me,” to which Victoria replied, “I guess he was having sex with me, but I just don’t really remember a lot.” Hannah said she told Victoria that she would need to refer this information to Vexer’s Title IX Office, and that when Victoria asked why, Hannah said she told her it sounded like she had been sexually assaulted. Hannah said she explained Vexer’s policies on consent and incapacitation, adding that it sounded to her like Victoria did not have the capacity to consent. Hannah said she suggested that Victoria go to the student counseling center and to the hospital for a SANE exam, but that Victoria told her she didn’t want to do either. Hannah said Victoria was still worried about getting in trouble for having consumed alcohol, but that she explained how Vexer’s amnesty policy applies to reported incidents of sexual assault. Hannah said after Victoria left her room, she immediately filed the online report to the Title IX Office, as she had been trained to do.

**Victoria’s Statement**

The Title IX Coordinator contacted Victoria later that Monday afternoon, scheduling a meeting for the following morning to gather some preliminary information and to determine whether Victoria wanted to initiate a formal investigation. At that meeting, Victoria explained that she and Peter are part of the same friend group, and that they and about five other friends had met up in Peter’s room in Bachman around 10:00pm that Friday night. When asked about her relationship with Peter, Victoria said, “I guess I’d would’ve called him a friend; I mean, we hung out a lot because we were part of the same friend group, but we weren’t like close or anything, he’s always kind of preoccupied with other girls. He’s known for being a player.”

Victoria said Peter had a couple bottles of vodka waiting when they got there and had purchased bottles of Gatorade from the food court downstairs with which to mix it. She said, “I don’t remember who was mixing drinks, I’m assuming it was Peter, but I just remember someone handing me a red solo cup with a mixture of vodka and Gatorade.” Victoria said she remembered finishing one cup and drinking from a second, but couldn’t remember if she finished it or not.

Victoria said, “I just remember snippets of what happened. I think we’d been there for a several hours, probably, then everyone started to head back to their room, and I remember Peter kinda whispering to me that he wanted me to stay after because he wanted to get my thoughts on his girlfriend situation, or something. Like I told Hannah, I don’t know if Peter put something in my drink or what, but it definitely hit me fast, just out of nowhere, I was out of it. I remember stumbling and slurring my words, and then just having a lot of difficulty concentrating while he was talking to me. Then I must have blacked out because I have this flash of being in his bedroom, sitting on his bed, and he’s going on-and-on about this girl. Then I have another flash of him abruptly kissing me, and then I like, push him off, I think, and then I have another flash, I guess sometime later, where I’m on my back, I think still on his bed, and he’s on top of me, raping me.”

Victoria said she had no recollection of leaving his room or of how she got back to Hendrix, explaining that the next thing she remembered was waking up in her room on Saturday morning feeling awful. Victoria told the Title IX Coordinator that Hannah came to her room later that morning and that Hannah had informed her that another RA apparently saw her walking through the front doors of Hendrix late that night appearing drunk and upset, adding that she thought this was further proof of how intoxicated she was that night. The Coordinator informed Victoria that there are interior surveillance cameras observing the entrances of all the residence halls on campus, and that they would acquire and review that footage. Victoria said that, after talking with Hannah, she felt like what happened was not okay and wanted to pursue a formal investigation.

**Peter’s Statement**
Peter met with the Title IX Coordinator the following Thursday and the Coordinator informed him that the College was looking into a situation involving Victoria that occurred on the night of Friday, December 12th. Peter explained that Victoria was a good friend of his who he had met during freshman orientation, along with many of the others in their friend group. Peter said that he always thought Victoria had a crush on him, adding that her close friend Alice—who is part of their friend group and who was at the party in his room that night—had told him a few months prior that Victoria was interested in him, but that she considered him “emotionally unavailable” because of his on-again-off-again relationship with his now ex-girlfriend, Krista.

Peter explained that one of his older fraternity brothers had given him two bottles of vodka so that he could host his friends that night, and that he bought approximately 10 bottles of blue Gatorade as a mixer. He said everyone arrived around 9:00 or 9:30pm and that they “just hung out playing drinking games with a deck of cards” in the common area of his suite-style dorm room. Peter said he had also purchased a stack of red solo cups and that everyone mixed their own drinks throughout the night. Peter admittedly said that he got very drunk that night, adding that he thought everyone was pretty drunk by the end of the night, Victoria included.

Peter said everyone started leaving his room shortly after midnight, but that Victoria stuck around. Peter said he went to his room to lie down because “the room was starting to spin,” and that Victoria came with him and began asking him questions about his relationship with Krista while sitting on the edge of his bed. Peter added that he and Victoria had talked about Krista on a few prior occasions, and that he “always liked getting a girl’s perspective on all of it.” Peter said they talked about his relationship issues for about 5-10 minutes and that, at one point, Victoria made the comment, “I don’t know why you put up with her shit, I know I would treat you much better than that if I were your girlfriend.” Peter said that, as she said this, she moved her hand to his genital area and began caressing his penis over his sweatpants. Peter explained that he did not have any romantic interest in Victoria, but that he “didn’t necessarily have an issue with her wanting to get frisky.” Peter said Victoria then lowered his waistband, pulled his penis out, and began performing oral sex on him. Peter said while she did this, he tried to reciprocate by putting his hand down her pants and fingering her.

Peter said this continued for about 5-10 minutes, at which point Victoria stopped and asked what was wrong, referencing the fact that he had still not achieved an erection. Peter said he “probably said something like, ‘Sorry, whiskey dick.’” Peter said Victoria seemed to get upset and asked tearfully, “Is it me?” Peter said he “tried to let her down gently,” but that she kept pressing, so he finally said something like, “I’ve just never had feelings for you like that. I can’t help it if I’m not turned on.”

Peter said Victoria got really upset and that he had to “go into damage control” for 10-15 minutes, but was eventually able to talk her down, adding that he “figured she was just drunk and being emotional.” Peter said he thought Victoria left his room sometime around 1:00am, after which he made himself a sandwich, grabbed his computer, and started watching Netflix while lying in bed. Peter said that about an hour later, he got a text message from Victoria that read, “I’m still so drunk,” to which he responded, “Yeah, me too.” She replied, “Talk tomorrow?” to which he responded, “Of course.” When the Coordinator asked to see the text messages, Peter willingly provided his phone. The Coordinator noted the timestamps on the text messages as being: 2:14am, 2:15am, 2:21am, and 2:21am, respectively.

Alice’s Statement

Alice met with the Title IX Coordinator the following week and said that she was confused by the Coordinator’s email, adding that she had no idea why she had been asked to meet. When the Coordinator told Alice that the
College was looking into a situation that occurred on Friday, December 12th, Alice said she wasn’t aware of anything that happened that night. When the Coordinator said that it involved Victoria and Peter, Alice said, “No way am I getting in the middle of their drama.” When the Coordinator asked Alice to elaborate, Alice asked if she had to answer the Coordinator’s questions. After some back-and-forth, Alice ultimately refused to answer any questions or to provide any additional information, and expressed her desire not to have any involvement in an investigation.

**Video Surveillance Footage**

The Title IX Coordinator retrieved and reviewed the surveillance footage from cameras observing the entryways of both Bachman and Hendrix Residence Halls, which showed Victoria leaving Bachman at 1:07am and entering Hendrix at 1:21am. In both videos, Victoria appears to sway slightly as she walks and does not walk in a straight line. The details of her face are difficult to make out due to the cameras’ low resolution.

**Discussion**

- What policies are implicated by this report? What are the key issues?
- Identify and evaluate the parties’ initial statements and the available evidence. What other evidence may be available? What additional questions should be asked of the parties? Are there other witnesses who should be interviewed?
- What are our options with regard to Alice? How important is her testimony? What strategies might we employ?
- What are the implications of the text messages?
- Are there credibility considerations for Victoria and Peter?
- Based only on the information provided here, is there sufficient evidence to find a violation? Is there sufficient evidence to move beyond a preliminary inquiry?
AMY AND BILLY

Potential Sexual Violence, Consent
Student-on-Student

Reporting Party: Amy – Student
Responding Party: Billy – Student

Amy and Billy are both students. Amy has filed a complaint about Billy for touching her sexually both in and out of class. Specifically:

• He grabbed her on the butt in the hallway and in class as she was sitting down.
• He has given her “shoulder massages” in class (he sits behind her).
• While they were out with a group, he repeatedly touched her on the buttocks.
• While out with groups at parties, he will come up behind her and press himself against her and/or put his arms around her and hug her from behind without consent.
• When they were alone, he kissed her without consent, and touched her repeatedly on her breasts without her consent. This has happened twice.

They have a mutual group of friends that they spend a lot of time with.

• If what she says is true, is this a policy violation?
  o Explain why.
  o What, if discovered, might NOT make it a policy violation?
• What interim measures might be implemented?
  o By whom?
• What if Amy does not want a no contact order because they have so many mutual friends?
  o But she wants you to tell him to cut it out (while you investigate).
• Let’s work through the potential class issues:
  o What if there is no other section of the class?
  o How big is the class?
  o What type of class is it?

Amy shares with you that she told Professor Smith about these behaviors in October (it is now December), and that Professor Smith had been “working with her and Billy to mediate this” but the behaviors had not changed and now she is fed up.

Should you contact Professor Smith? Let’s walk through the different options based on what Professor Smith might have to say.

• Situation A: Professor Smith without all of the information
• Situation B: Professor Smith who knows a lot about them and their history
• Situation C: Professor Smith who told her department chair, and was told she should “help them out.”

What about Smith’s and/or the Chair’s reporting requirements?

Once you begin the investigation, you learn that some of Amy’s and Billy’s friends no longer talk to or hang out with Amy.

• Is this retaliatory? Why or why not?
• What if:
  o Some of them unfriended her on Facebook
  o Some said mean things about her on their social media:
    ▪ About her “making a big deal out of this”
    ▪ About her “making all this up”
    ▪ About her “trying to ruin his life”
• Would this change if they posted it on her social media?

Amy reports that these former friends are “looking at her mean” in the cafeteria/food court, as well as in the hallways and in her other classes. She wants to be reassigned into other sections in 2 other classes. Assuming there are other sections of these classes with availability:
  • Can she do this?
  • What factors come into play?
  • Who would do this for her?
  • What if she wanted the other “ex-friends” to be reassigned?

As a result of all of this social ostracizing, Amy is now seeing a therapist and engaging in self injurious behaviors: self-medicating, early stage disordered eating behaviors.

She now asks if she can have extra time on an assignment for one of the classes she transferred into.
  • Can she get this?
    o Who would ask for this for her?
    o What if the professor says no?
      ▪ What reasons might the professor have for saying no?
      ▪ What would happen at that point?
ANNIE AND BOBBY

Potential Sexual Violence, Consent
Student-on-Student

Reporting Party: Annie – Second year student
Responding Party: Bobby – Second year student

Statement of Annie, a 2nd year student

I met Bobby the first week I was here. We had a couple of classes together and he helped coordinate a study group with several other people. The first summer study group got together, it was me, Charlie, David, Edward, and Fran; we all exchanged information and talked about times we could all get together to study and go over material. Bobby really took over and coordinated the whole thing.

We tend to get together in the evenings, and one of us would host at either an apartment or our room. The first study session I made a comment that I was really feeling tense and stressed out about school, life, just everything. We took a break, I went outside and Bobby followed me. He and I talked a little bit about the stresses of school, work, and everything. He put his hand on my shoulder and mentioned how tense I felt. He asked if I wanted him to rub my shoulders a little bit and I said yes.

We exchanged texts and talked to each other several times over the next month. I felt like we had a really good friendship and I felt pretty close to him. He sits behind me in class, and a couple of times he would come in the class, lean forward, and rub my shoulders. Before he would do that, he would say something like "you seem really tense."

Last month, at a party, he came up behind me, rubbed my back with his hand, and moved it down to my butt. He gave a little pat, made eye contact with me, and said "I'm going to get a drink, do you want anything?" I told him no but didn't say anything else about him touching my butt. Later that same party, he came up behind me and wrapped his arms around me. There were other people around, and I didn't say anything, but I felt really uncomfortable. As he did it, I'm not sure if he realized that his hands and arms were touching my breasts, but I think he knew it. I kind of literally shrugged it off and made some comment like, "stop it, people think we're together."

Shortly after that in class, when I went to sit down he slid his hand into my chair so that I ended up sitting on his hand. I jumped back up and turned around and looked at him and said, "What are you doing!" He said, "Sorry, I was just messing around." I said, "Please don't do that again"

The next time we were together at study group, we took a break and he and I agreed to go get some beer together for the group to drink after we were done studying. On the ride to the store, he shared with me that he felt really comfortable with me and I told him I felt really comfortable with him too. We got the beer and went back to Charlie's apartment. We were done studying, all of us decided to have a couple drinks. I don't really like beer and Charlie had some wine so I drank that. I had a couple of glasses, and went outside on Charlie's balcony. Bobby followed me and he and I were outside alone. We were talking about school and life and he leaned in and kissed me. I pulled back and looked at him and said, "I'm not sure we should be doing this, I think this might make things confusing." He said, "I'm sorry I thought we liked each other." I told him that I did like him but I just thought things would be confusing if we moved our relationship in a different direction.
About a week after this at a party, he came up behind me again, hugged me from behind again, his hands again touching my breasts, but this time he also kissed my neck. I shrugged it off again literally and then after the party we were walking out together and I turned to him to tell him that I was uncomfortable but when I did he put his arms around my waist, pulled me to him and he kissed me. It was an open mouth kiss and I tried to pull away but he was holding me very closely and tightly. He’s much bigger than I am so with his arms around my waist and back I know his hands could feel my breasts. I pulled away as soon as I could and told him that I needed to go.

At this point I feel like I’ve done everything I can do to let him know that this is inappropriate. But his repeated touching, hugging, kissing, etc. and his in-class back rubs and other behaviors are making it difficult for me to be in study group and in class. I want to file a complaint and I want him removed from class immediately. At the very least want him removed from my study group. We only have two classes together, but we’re in the same major so I know we will have other classes together in the future.

I also told Prof. Smith about these behaviors (the back rubs in class) and Prof. Smith told me that he would talk to Bobby about this. I don’t know if he has or not. (Note: This complaint came in November or December. The behaviors occurred during September and October.)

Statement of Bobby, 2nd year student

I met Annie earlier in the semester when we realized that we had multiple classes together. I offered to coordinate a study group for all of us, and got Charlie, David, Edward, and Fran to agree to be in a study group together. We all agreed to take turns hosting it, initially making some jokes about getting beer or drinks after we would study. This actually turned out to be true, and we would get some drinks or beer either at a bar or somebody would bring them over.

We also went to some of the parties that some of the students would host to let steam off. The first time we met as a study group, Annie and I hit it off. We’re both stressed out about trying to balance our lives, work, and school. In fact, the very first study group we had, she asked if I would give her back rub because she was feeling so tense. I rubbed her upper shoulders out of the balcony at Ed’s house, she thanked me afterward.

We talked and texted quite a bit and not just about school. I never really asked her out, because we always ended up in the same places anyway. I have a lot of our texts if you would like to see them. We always ended up at the same parties, too.

At one of the parties, she and I stood together, and she was leaning on me occasionally and she would put her hand on my shoulder and on my back occasionally. I went to get a drink once and asked if she wanted anything. She said yes, and when I brought back a drink, I came up from behind her, reached around her, and gave her her drink while kind of giving her a half hug. She took the drink, and never said anything to me about the hug. I think I actually took her home that night as well. By that I mean, I gave her a ride. At another party, I gave her a ride to the party, and while we were there we are pretty much inseparable. It almost felt like a date. At one point, I put my arms around her from behind kind of over her shoulders, like a hug. She did shrug it off, and later on we talked about it. She told me she was worried that if we started dating it might mess up our study relationship. I told her I didn’t think that would happen, but we could talk about it more.
At one of our study periods, I think it was at Charlie's, we took a break to go buy some beer and wine. On the way to the store we talked about how we were getting along and she did mention that she was kinda concerned that people might think we were together and that that might confuse our study group relationship. I told her not to worry about it, and that nobody had said anything to me about it. Later, after we were done studying, we went out onto the balcony, and we were talking. She was sharing that she felt like that the study group was really helping her adjust to school. We were standing really close to each other and our faces were really close to each other, and I leaned in and kissed her. We kissed for a minute, and then when we pulled back, she said she wasn't sure we should be doing this. I told her that I didn't think the people in the study group could see us. But then I went ahead and did not do anything else.

At the next party, after that study group time, she still would stand next to me and kind of lean on me, but she wasn't as "handsy" with me as she had been in the past. I asked her what was wrong when we were alone later and she said "nothing". As we were leaving, we ended up walking out together, and I asked her she needed a ride. She said no, that she had driven. I asked if she wanted me to walk her to her car, and she said "sure." We walked to her car, as we got to the car, she turned to me and we are facing each other just like we were in Charlie's balcony. I leaned in, put my hand around her waist and we kissed each other. When the kiss ended, she said "I need to go." She got in her car, and left.

We texted a few times since then, mostly about school and life. She has not made it to study group the last two times. She said she had conflicts with work. I texted her once and asked her if we were cool, and she said yes.

Then I got this letter from your office, and I'm not really sure what is going on. I think you should talk to the other people in our study group and anybody who was at those parties and they can tell you that there was nothing weird going on.

I'm not even sure why I'm here.

*When asked whether Professor Smith said anything to him:*
Professor Smith told me after class one day I need to stay focused on class and not on my classmates. He never mentioned anything about Annie.

**VARIATIONS:**

1. What if Bobby and Annie are medical students? And Bobby is a resident and Annie is an intern?
2. What if you change the ages of Bobby and Annie and make one significantly older than the other or you make them both significantly older (e.g. 35)?
3. What if you contact Professor Smith and he confirms what he told Bobby?
   a. What if Professor Smith says that he was very specific with Bobby and told him not to touch Annie any longer?
4. What if Professor Smith – and Annie and Bobby both confirmed this – met with them and attempted to mediate the situation regarding:
   a. The classroom behaviors, and/or
   b. Their relationship.
5. What if after this investigation ensues, and you talk to Charlie, David, Fran, etc., Annie or Bobby begins to complain that the study group members being to ostracize them?
MADISON AND JOSEPH

Potential Sexual Violence, Consent
Student-on-Student

Reporting Party: Madison Young – Student
Responding Party: Joseph Gates – Student
Witness: Sgt. Steel – College Police
Witness: Neenah Chadha – Madison’s roommate
Witness: Gabriela Suarez – Madison’s friend

Madison alleges the following occurred late on February 20th or during the early morning hours of February 21st.

Notes from Madison Young’s Interview

- Madison had just finished working out and Joseph texted her around 10pm.
- Joseph Gates “came over before I showered. I told him we were not doing anything. I said it to his face. My roommate, Neena, was there and could have heard me say this.”
- They got into the shower and “he tried to have sex again.” Madison said, “I needed a shower so I was washing my hair, and he was kissing me” on her neck, face and lips and fondling her breasts and body.
- When asked whether Joseph touching her breasts and buttocks during the shower was consensual, Madison said “There was never an ask, but I never told him he couldn’t.”
- She said she did not overtly consent, but touching her breasts and buttocks “wasn’t something I was going to stop him from doing” in the shower.
- At one point, Joseph “tried to finger me” and he was successful in inserting his fingers into Madison’s vagina.
- Madison had told him on the 19th that she did not like having someone’s fingers in her vagina and so he knew that was not something she would have consented to. “I told him the first night, I don’t like it.” She did not consent and she tried to stop him by turning away and moving.
- Joseph then “tried to put his penis in, but I kept avoiding his advances.” He tried from behind and from the front. “I wasn’t changing my mind about having sex. I pushed him away, moved to the side. I said, you know I don’t want to have sex.”
  - When asked about whether his penis made contact with her vulva during any of these attempts, Madison said no.
- He said something like “we’re in the shower, you can’t blame me for trying.”
- She alleges that everything but kissing was non-consensual. She didn’t push away during breast fondling, but she says it was not something she consented to.

***Stop reading here and answer the following questions***

1. What are the possible policy violations? List them specifically.
2. What are the key issues?
3. What else do you want to know at this stage?
4. What else should you have asked in your interview?

***Resume Reading***
Information from College Police Sgt. Steel’s Report and Interview

- “Young went to the gym and returned to her room in Zion Hall. The two conversed via text message and that Gates could come over but she had to shower first and that she would not be having sex with him. Gates arrived and was signed in as a guest.”
- “The two then proceeded to take a shower in the women’s bathroom on the third floor of Zion Hall at about 0000 hours (Midnight) on 02/21/2017.”
- “Young stated the two were consensually kissing and that Gates placed his hands on her breasts and buttocks while her hands remained on his upper torso.”
- “Young stated she neither gave nor denied consent for the touching and Gates’s penis was erect during this time.”
- “Gates then tried to insert his penis in Young’s vagina and she pushed him away.”
- “Gates stated ‘we’re in the shower of course I’m gonna try.’”
- “Gates then made between seven and [sic] ten attempts at the same all being refused by Young.”
- “She would push him away any time he tried” to penetrate her.
- “He also touched her vagina with his fingers and may have penetrated her vagina slightly with his fingers on his right hand.”
- “She said basically everything except penetration was consensual.” Sgt. Steel said that it was clear from her statements that while she did not overtly say Joseph could touch her breasts or buttocks in the shower, that Sgt. Steel was under the impression that she consented to everything except the attempted and actual penetration.
- “The two remained in the shower before toweling off, dressing and returning to her room in Zion Hall where kissing continued until 0300 hours.”

Notes from Joseph Gates’s Interview

- Joseph came over and they took a shower together
  - “I texted her and she said she just finished working out, and she wanted to take a shower. I asked if I could come over and she said ‘yes.’”
  - “I asked if she wanted to have sex tonight and she said ‘maybe.’”
  - Joseph arrived at her residence hall room, knocked and Madison’s roommate, Neena, opened the door.
  - “We hung out for a few minutes in her dorm and then she got her stuff and we went to the bathroom together to shower. She said I could take a shower with her.”
  - “We undressed each other, kissed and started showering...during the shower, I was kissing on her and her breasts while she washed her hair and her body...I was pretty hard and she held my penis at one point”
  - “We didn’t talk much” while in the shower.
  - He said the shower was not very big and only had a curtain. There were three other separate showers and he remembers hearing at least two other people take showers while they were showering. Their shower lasted about 15 minutes.
  - When asked about inserting his fingers, Joseph said “I don’t remember if there was digital penetration in the shower. I know I tried to have sex with her in the shower from behind. I went to put it in, but she said no and so we just kept showering.”
  - He said that in the shower with someone, trying to have sex is a natural and normal thing to do.
• Joseph said he does not remember much else about that night because it was about 8 weeks ago.

Notes from Neena Chadha’s Interview

• Madison told Neena that she and Joseph “took a shower together,” but Madison said they did not do anything in the showers.
• Neena was in the room before they went to take a shower and Neena remembers making a joke about Madison saying she did not want anything to happen in the shower.
• “I do remember the shower – I was in the room when they went to go take a shower together and then they came back.”
• Madison had just returned from the gym. Neena said, “I made a joke about them going to the shower and not doing anything.”
• When discussing the shower incident later, “Madison said that Joseph tried to have sex in the shower and that he was fondling her in the shower.” Neena was not sure if penetration occurred in the shower.
• “[Madison] said that he kept trying to put it in and she kept saying no, I don’t want to have sex, that’s not what I want right now. He felt that because they took a shower, that was consent. He kept trying to put it in and she kept saying no.”
• “When they came back [from the shower], they seemed in a good mood. Nothing was really off about the situation, that I would have thought to ask her whether everything is ok. I didn’t believe that she really didn’t do anything in the shower – that seemed weird. But if she said she didn’t want anything, then I will believe her.” Madison said they didn’t do anything in the showers (meaning they did not have sex).

Madison’s Text Message to a friend, Gabriela Suarez

• “The next night he came over again and we showered and I still told him no and he still kept trying to put it in and I wouldn’t let him. That night we slept fully clothed.”

Discussion

• Does your list of possible policy violations change after receipt of all the information above? If so, how and why?
• Where do you see possible credibility issues for Joseph? What about for Madison?
• Analyze consent for each specific allegation.
• Make findings and determine an appropriate sanction (if appropriate).
TIM AND ELIZABETH

Potential Sexual Violence, Intimate Partner Violence, Coercion
Student-on-Student

Reporting Party: Tim Lane – Student
Responding Party: Elizabeth Williamson – Student

Interview with Tim Lane, reporting party

- “Elizabeth emotionally and sexually abused me for two straight years.”
- Williamson was interested in BDSM and made Lane play out rape fantasies and Lane wasn’t comfortable with that.
- Williamson would pressure Lane to act “hyper-masculine” and Lane was “pressured and shamed...to act a certain way or else [Lane] wasn’t seen as attractive.”
- “I was manipulated into being certain ways for 2 straight years - affected academics, personal relationships, mental state. It causes problems in my current relationships. I am traumatized by it.”
- “Elizabeth wanted me to be this hyper aggressive and hyper sexual male ideal. Before I met Elizabeth I was identifying as asexual, gender-neutral - but in the relationship, I was told I couldn’t do that and needed to go by he/him pronouns. I am back to they/them.”
- “She told me I was weak and to fix it. I would ‘dom’ myself out of acting a certain way. She gave it a pet name when I was like that “tiger-Tim.” I hated that. She would eventually be able to bring me back into that state she wanted with relative ease because she trained it with positive reinforcement.”
- “Since deciding to go through with this process I haven’t kept up with my academics – I wake up tired. I’m exhausted, I have nightmares – that’s part of my PTSD. If I have a stressful day, that sets off nightmares – so now if I have a stressful day I won’t go to sleep. There was a time [I] scratched myself up all over my body because of self-hate because I couldn’t deal with the memories. I have had suicidal thoughts and none of this happened before Elizabeth.”
- When asked about their gender identity prior to starting the relationship with Williamson, Lane said: “Either a-gender or gender fluid. I wasn’t comfortable insisting on pronouns at that point but did tell people and was very open about being a-gendered...Everyone used he/him then because I wasn’t good at advocating for myself and people weren’t used to it since it is a relatively new thing.”
- “I felt pressure about a month and a half into the relationship to act out the gender role of hyper masculine man. At that point Elizabeth wanted me to act out and identify internally in that role as male.”
- When asked what was said about this, Lane stated: “Essentially just that if I was going to continue to be Elizabeth’s partner – what Elizabeth found attractive was this hyper male standard and if I wanted to continue to be attractive that I would need to play out that role. I wanted to be a good partner so I would keep trying to meet the standard.”
- “I was a-gendered in the beginning but the more I was pressured the more I changed internally. I still had a dissonance – it didn’t feel like me – but I did present differently. When I felt maximally

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1 Dominate.
dissonant was when I started to think I needed to get out of it. I never felt like who I actually was was appreciated because I didn’t show my actual self.”

- “She would say – the way you are acting is weak. Weak people do this. At the time I thought this person knows better than I do and I should act the way they want – classic gaslight response. Looking back on it I feel like any way I would act would have been received poorly.”

- Regarding the enactment of the rape scene, Lane said they did that “several times, not without coercion. I would go ahead and do it even though I wasn’t comfortable with it. She said she had rape fantasies. She wanted that kind of sex…. [E]ither her or me [sic] would be sexually aroused or horny and if I tried to engage with that – one of the ways she would indicate she wanted that kind of treatment was that she would actively resist – early on I would get visibly uncomfortable with that – then she would tell me I should go ahead anyway – then I learned that when she acted like that she wanted me to proceed anyway.”

- Regarding the dom/sub dynamic: “I was ok with toys and bed restraints but not with the power dynamic. The social hierarchy was what I wasn’t ok with.”

- When asked about details regarding how Williamson pressured Lane, “Basically the entire [sexual] situation. When the situation is supposed to start with aggression and power and force I didn’t – who I am – I didn’t want to do it at all. I tried to push through that discomfort to try to do what she wanted but that’s not me. Sometimes I felt unreal for hours afterward. I felt like I couldn’t advocate for my own desires.”

- When asked what led Lane to make the decision to report, Lane stated that it “[t]ook me a long time to acknowledge that what happened was abusive and messed up. Felt like I couldn’t keep quiet about it any longer and I don’t like the idea of this happening to anyone else. It got so hard being around campus and seeing this person not having to deal with the consequences. I wasn’t able to stay quiet about it any longer and I had to advocate for myself to prove I can and take some agency back and regain control.”

- When asked if Lane derived sexual pleasure from their interactions, they stated: “It depends on what you mean by that. My body responded to it – but there was cognitive dissonance with my mind. I am not interested in engaging in any of those actions – they are the opposite of attractive to me – they are disgusting.”

- “During between fifty and sixty percent of the sexual interactions with Williamson, I did not want to do those behaviors. I was unduly pressured to be hyper masculine and violent.”

For Discussion
- What are your initial thoughts?
- What policies are potentially implicated?
- What additional questions do you have for Tim?
- What are your next steps?

Interview with Elizabeth Williamson

- “In 2015 Tim and I started BDSM in the relationship – it was experimental and consensual – we set up safe words and boundaries and I had no reason to believe anything was wrong. They were very clear in saying they wanted to experiment with it. They operated predominantly as the dominant and I was the submissive. Safe words – and clear communication about what was permissible and what was not.”

- “Then Tim started to isolate me from my family – listen in on my phone calls with my mother. Summer of 2015 I came to the conclusion that the relationship with my parents was abusive and cut off all ties at Tim’s urging.”
• “Tim did assume the position of dominant more and brought the dynamic outside of the bedroom more. [Lane] tried to separate me more from my parents. I felt uncomfortable leaving my room without him. I had a lot of anxiety at the time that I believe was brought on by the relationship. [Lane] demanded I appear more feminine – how I dressed, exercising – what I ate. We broke up because I wanted to experiment with my gender and I had no idea Tim wanted to do the same.”

• “For the whole relationship Tim used he/him. At the beginning, they said they didn’t have any close relation to any gender identity. But throughout the course of the relationship Tim used he/him and then strongly identified as he/him. There were several conversations about gender at the beginning of the relationship. Being in college we explore these issues.”

• When asked if she communicated a preference to Lane about Lane’s gender identity, Williamson said: “I personally am straight. Rather I am bi leaning toward straight. I communicated about that.” Investigators asked again if she had a preference for how Lane identified, to which Williamson stated: “There was talk about the fact that I personally would prefer to date someone who identifies as male. But not in the context of my demanding [Lane] present a certain way.”

• When asked about Lane’s reaction to that, Williamson said: “Nothing in particular – there was a slow process that Tim identified more strongly with he.”

• When asked how often Williamson communicated her preference to Lane, she stated: “I imagine a handful of times. In college, we talk about gender identity a lot. I always said I would support no matter what.”

• Lane’s friends referred to Lane “[a]s he. Tim openly and publicly identified as he. I haven’t had much contact since but I heard they were going by something non-binary. That wasn’t something I would have clearly expected given our relationship.”

• When asked how the dom/sub dynamic was initially discussed, Williamson stated: “I initially said I was interested in trying this in the bedroom and Tim agreed.”

• When asked if Williamson communicated that she wanted Lane to be more dominant, she stated: “In the bedroom certainly” but Lane never discussed discomfort about the dominant role.

• When asked about discussion about her rape fantasy, Lane said “No. That is one of my hard lines. I like rough sex but not simulation.”

• When asked if she remembered asking Lane to “dom his way” out of certain behaviors, she stated: “It’s a possibility I used that term. I remember [them] having troubles in situations and telling [them they] could overcome that. A potential conversation might be something like if school was getting the better of [them] – had a lot of work to do – I would say something like – you are dominant and can take control of the situation. [They were] usually receptive and would say I was right and would take charge and control the situation.”

• “There was communication about asking Tim to be more aggressive in certain scenes – but it was all consensual. I would say – I like it when you do this – Tim would ask if I would like [them] to do it more and I would say yes – and then [they] would.”

• When asked about their discussion regarding safe words, Williamson stated that it occurred “[v]ery early on. Green is go ahead – red is stop – and yellow is pause and discuss...We never really had to use them. We did a lot of stopping and discussing throughout the relationship.”

• When asked if it was clear they both had access to safe words, Williamson said “I tried to make it as clear as possible. The conversation was that we should both have safe words. Tim said that was a good idea. Tim was not comfortable with anal play on [themselves] and that was the only clear boundary I got from [them].”

• When asked if Williamson had communicated to Lane that she enjoyed the dom/sub dynamic outside of their sexual interactions, she said: “Yes, originally. But then the dynamics went out of the bedroom. The most specific examples are the ones that make me uncomfortable. January and beyond 2016 –
controlling what I wore, what I ate – defensive of me around my family. The later portion of it was when I started to become really uncomfortable and things made me upset. I felt that when I brought up having problems with the dynamic Tim would brush it off – say that it was confirmation bias and that the problem didn’t exist. That made it difficult to communicate any discomfort. This was with make-up and all the things listed – but also normal relationship things – like you don’t trust me – we didn’t discuss that – but those types of things.”

- “In January 2016, Tim began controlling my appearance and affecting my self-image and degree of attractiveness. [Lane] would tell me that [they] thought I was unattractive and had been gaining weight. [Lane] told me to start wearing makeup more in order to look more attractive and began telling me what to wear and what to eat. [Lane] also told me to start exercising to make myself look more feminine. [Lane’s] demands escalated to the point where I would have to ask permission to eat certain foods. During multiple instances, [Lane] would not allow me to eat dessert. When asked whether she communicated her discomfort around Lane’s control of her appearance, she stated: “Yes, I said I wasn’t comfortable – that I wanted to wear what I wanted to wear. Tim never changed [their] behavior based on my communicated discomfort.”

- “There was a period of time that I wanted [them] to monitor my eating – but then I became uncomfortable with that and with the things [they] would say like ‘I’m not attracted to you when you do those things.’”

- Williamson denied calling Lane “weak.”

- When asked if Williamson told Lane that she wasn’t attracted to them if they acted certain ways, she stated: “There may have been times that I said behaviors made me uncomfortable and I didn’t know how to handle them and that [they weren’t] as attractive to me – but it wasn’t meant with any harm. There was a time [they] drank too much and started throwing up and I might have said I wasn’t comfortable with that.

- When asked if Williamson put pressure on Lane to act more masculine, she said: “Possibly. Never to harm though. I would say I liked certain things – and ask if [they] were comfortable doing them. [They] would say yes. [They] would continue. These were things in the bedroom.”

- Williamson stated that Lane did seem to derive pleasure from their sexual interactions.

- When asked about the “Tiger-Tim” state, Williamson said: “Yes, that was generally during sex when [Lane] got more forceful. Generally, it started in the bedroom and [they] would get more forceful at times. It was just a response as how things play out - you start having sex and things get heated...it wasn’t really an altered state – just more forceful...[it ended] when sex ended.”

- When asked if Lane ever acted unlike their normal self, Williamson said no.

- “[They] would say [they] felt a bit different and that [they were] in a state that [they] wanted what [they] wanted. They enjoyed it – [they] said [they] enjoyed it. [Lane] would say after the sex was done that it was some of the best sex [they] ever had.

- When asked if Williamson communicated to Lane that she liked this state, she said “Yes, probably more than once.”

- Lane engaged in controlling behavior:
  - “My parents have a lot of expectations. I didn’t handle that well for a very long time. Tim convinced me not to talk to my parents, they would listen in when I was talking to my parents. Once I came to the conclusion that my parents were potentially abusive, Tim tried to convince me not to make up with them. Tim would get agitated and worry that my parents would do something to try to hurt me. There were several times that I wanted to discuss what I had considered problematic with my mother. Tim would immediately shut that down and convince me that was a bad idea. Tim went out of their way to not interact with my parents and convinced me to do the same.”
When asked about Lane listening in on her phone conversations with her parents, Williamson said that it started “Fall of 2014 and continued throughout the relationship. Sometimes I would have it on speaker and sometimes Tim would just be in the room. Early on that was okay with me and it became less okay as time went on and I wanted to have a relationship with my parents. They were oftentimes placing themselves as a barrier to having a relationship with my parents. Late Summer 2015 – Fall 2015 I became uncomfortable with it. At the time, I thought it was fine and looking back on it I don’t. I think it was Tim’s influence that had me seeing it that way. I really appreciate my relationship with my parents now. I went on a trip with my mom over spring break and I wouldn’t have done that with Tim there.

When asked about Lane controlling her social life, Williamson stated: “At the time a lot of it was because I felt uncomfortable going to things without Tim. That seemed fine at the time but now is quite alarming. We had a lot of the same friends, mostly [Lane’s] friends, [Lane and their friends] would often disparage my social skills and said I wasn’t good with people or social skills. It was mostly Tim and his friend Eric and it made me extraordinarily anxious in social situations, and now I know I’m quite good at those interactions. Fall 2015/Spring 2016. People calling me awkward – saying I was poor at reading people, – Tim and Eric would say these things...I took it to heart. I trusted them and their assessment of me.”

There was a time when it was okay that she and Lane went to events together but “I started to feel that Tim became upset when I would do things without them.” Williamson was unable to provide an example.

“I am queer and I wanted to go to the LGBT center, to their meetings, to theatre showings. It was inconceivable to do things without Tim at the time. It is something that is hard for me to put into words...I wasn’t okay with my own social skills.”

Lane controlled Williamson’ appearance:

I gained about 20 pounds. [Lane] wanted me to work out more, lose weight, have a tighter body. I started getting into make-up – it was fun – art for your face. [Lane] said I should wear make-up more, that it looked good – that when I wasn’t wearing make-up I wasn’t attractive – I was frumpy. There was a period of time that they chose the clothes I wore – that ended quickly. They would only comment positively on my appearance when I put in more effort than I generally do. They would disparage it otherwise.”

Lane made “comments like you’d be so much more attractive if you worked out. I want you to have a tighter body.”

When asked what her response was, Williamson said: “I felt I had to agree. Tim had already started working out at that point. I said I liked it and I liked the results.”

They liked it when I wore shorter shorts, higher heels, tighter tops.

When asked if there was a time when Williamson was okay with Lane picking out her clothes, she said: “Yeah, through manipulation. In Spring 2016, I told Tim I was going to wear what I wanted to wear. Initially I liked wearing makeup. I didn’t want to wear it as much or as heavy as they wanted me to wear it. I would say I didn’t want to wear makeup today - they would say they thought I should wear it. And I would.”

When asked what she thought would have happened if she didn’t wear makeup, Williamson stated: “They wouldn’t have been attracted to me...I don’t think any sort of control like that is healthy. You are a partner, you are supposed to be supportive and make people feel better about themselves, not worse.”

“They were pushing me to go to the gym. I’m not a gym person, so I proposed maybe I would watch what I eat to get them off my back. They agreed to that and when I would eat something
like a dessert they would say I thought you were trying to lose weight. It was me making a
series of concessions to make them less upset with me.”
• “I just wanted the comments about my appearance to stop.” When asked if she communicated
this to Lane, Williamson stated: “I wasn’t aware of what it was doing to me at the time. None of
it is okay looking back on it.”
• When asked what led to the decision to report, Williamson stated: “I realized all these things
had an effect on me. I didn’t know I could report until Tim did it.

Discussion

• What are your initial thoughts?
• What policies are potentially implicated?
• What additional questions to you have for Elizabeth?
• What additional questions do you have for Tim?
• Do you have credibility concerns about either party?
• What are your next steps?
Potential Sexual Violence
K-12 Student-on-Student

Che, a female student in 7th grade, was failing history. She was doing a group project with three other history students, Jack, Franco, and Serge.

In a Snap Chat, the boys told Che they were going to their teacher to have her removed from the group because she was going to drag down the group grade. Che begged the boys not to drop her, because she needed them to help her pass the class.

Jack snapped, “Send us a panty pic and you can stay.”

Che sent a picture of herself in her underwear, from the waist down.
Franco snapped back, “Full body pic.”

Che sent a picture of her full body, with her shirt on and showing her underwear.

Serge snapped back, “Boobs too. We see boobs or you are out.”
Che removed her shirt and bra and snapped a pic to the boys.

They completed the history project together as a group. On the day the project finished, Serge snapped to the group, “Meet at theater, 11:30”
All four students met at the theater at 11:30. Though it was locked, Jack propped open a door somehow. Che entered the dark theater to find the boys there.

Serge said, “Time for a BJ.”
Che asked, “What?” , not understanding the slang.
Jack said, “A blowjob,” but Che refused.

Serge then pulled up the screenshot of Che undressed and told her that she needed to blow them or he would Snap the pictures to the whole school.

Che started to perform oral sex on Serge. As soon as this happened, Jack left. Franco stayed to guard the door and make sure no one came in.

After, Che’s behavior changed, and her parents noticed. Finally, they made her tell them what happened. When they learned, they called police. The police notified the SRO, who notified the Title IX Coordinator.

Discussion
- Is this a Title IX issue?
- What are the possible violations?
- How should you investigate?
- What could the school have done better?
- What remedies should you provide?
- What sanctions?
RELATED TITLE IX OFFENSES
CASE STUDIES
CLAIRE AND DAVID

Potential Intimate Partner Violence
Student-on-Student

Reporting Party:         Ellen – Claire’s roommate
Alleged Victim:         Claire – Student
Alleged Perpetrator:    David – Student

This situation comes to your attention because Claire's roommate, Ellen, is concerned about them. She has heard them fighting both on the phone and in Claire's room. She feels that David is possessive and abusive.

Ellen’s Statement

I've known Claire for almost 10 years. In the last couple of years since she started dating David, she has not been the strong independent woman that I've known. I've never witnessed David actually hit her, but I have noticed that after I hear them fighting she will always wear long sleeves and/or long pants. I've seen him grab her forcibly when we were out and he wanted to leave and she did not want to go. I also saw him do it when he wanted her to go with him to his apartment and she did not want to leave our apartment.

The reason I'm here is because the other night when she was out studying he came by and wanted to come in and wait for her. I wasn't comfortable having him wait for her while I was going to bed, so I asked him to leave. He told me he would just wait a little while longer and then he would lock up. I told him no, and that I wanted him to leave now. He refused, and while we were arguing about this, Claire came home. He said, "Your bitch of a roommate was about to kick me out, do you mind if I stay here tonight with you?" Claire told him that she thought it would be better if they spent the night at his house, but he insisted on staying at ours. They went into her room, and I could hear them arguing. They weren't shouting but I could tell they were arguing.

Yesterday, when I came home, David was in our house. He said he was leaving a note and a gift for Claire. I asked him how he got in, and he said Claire gave him a key. I told him I didn't believe him, and that I thought he had had a key made without Claire knowing. He told me to go ahead and ask her. I did, and Claire told me that she did not give him a key and that he must've taken it from her purse when he dropped her off at class earlier that day. She seemed to think it wasn't a big deal but I think it is.

I know that he has left marks on her that I've only seen very quickly but I'm afraid for her safety and you need to do something about this.

Claire’s Statement

Let me start by saying I know Ellen does not like David. He can be forceful, and he doesn't particularly care for her either. He has grabbed my arms, but to be fair, I have grabbed his arms too. Sometimes the stress of our relationship can get the better of both of us. When he gets angry, he tends to raise his voice, and at least once in the library and in the academic building one of the staff had to tell him to be quiet.

He did take the key out of my purse the other day without my knowing and let himself into my apartment to leave me a note and a present. I know this really pissed Ellen off, but she just needs to get over it because I live there, too.
OFFER THIS ONLY IF ASKED DIRECTLY: He did hit me one time in the back and on the arm. It left bruises, and I was a little worried, but he apologized the next day and he had been drinking, so I wrote it off. My friends said that I should take pictures of the bruises so I did. I don't feel comfortable giving them to anybody and I've only shown them to my friend, Gail, that one time. I wore long sleeves, to hide the bruises. Nobody said anything. Sometimes he will get forceful during sex and he has left marks on my arms and legs.

David’s Statement

Claire and I have a relationship that has its ups and downs like anyone else's relationship. I know her roommate Ellen doesn't care for me, and to be frank I don't care for either. She's really tightly wound and could probably stand to get a boyfriend around. To be honest, I think she's just jealous that Claire found someone and she hasn't.

I did go over to Claire's the other night to meet up with her after her study group, but she wasn't there yet. Ellen made a big deal out of wanting me to leave but then Claire showed up and everything was cool.

When I took Claire to class the other day, I snuck her keys out of her purse so that I could go to her apartment and leave her a sweet note and a small present – it was a necklace – for our anniversary. Ellen was there, and I tried to explain what was going on, but she threw a hissy fit.

OFFER THIS ONLY IN RESPONSE TO A DIRECT QUESTION ABOUT HITTING/PHYSICAL ABUSE:

One night, when Claire and I were in a big fight, I went to leave, she grabbed my arms. I shrugged her off, and swung my hand to keep her from grabbing me again and ended up hitting her on the back because she turned around. When she came back at me, I grabbed her shoulders stop her. I was pretty forceful that night, and the next day we talked about it and she apologized and I apologized. Ellen asked me about it, and I told her to mind her own fucking business.

Claire and I have engaged in some forceful sexual behavior, but we don't do it very often, and usually only after both of us have been drinking.

Discussion

At this point, Claire does not want to file a complaint or participate in an investigation.

- What would you do if you had her admissions of abuse, but not David's?
- What would you do if you had both their admissions, but Claire does not want to participate in or file a complaint?
COURTNEY AND SHAWN

Potential Intimate Partner Violence
Student-on-Student

Reporting Party: Courtney — Rising senior on women’s soccer team
Responding Party: Shawn — Rising senior on men’s baseball team
Witness: Jenna — Courtney’s roommate
First Responder: Women’s soccer coach
Investigator: Deputy Title IX coordinator

For the last three years, Shawn, a rising senior outfielder on the men’s baseball team, has been dating Courtney, also a rising senior and team captain on the women’s soccer team. Their relationship is quite serious and the two have even discussed marriage, although Courtney is hesitant to commit until Shawn controls his drinking and his behavior when he is drunk. When sober, Shawn is engaging, light-hearted, and easy-going, but when he drinks heavily, he becomes aggressive, destructive, and prone to yelling at people and getting into fights. His teammates typically keep a close watch on Shawn if he goes out or is at a party, and occasionally it takes two or three of them to keep Shawn under control. They know that Shawn cannot afford any more problems because he was suspended the previous year for his third alcohol and disruptive behavior incident. During his suspension, Shawn received some counseling, and it seems to have helped him drink less and make more mature decisions; at least until Friday night.

Three days ago (Friday), Courtney and Shawn got into a very loud and public argument at breakfast in the athletes’ dining hall. At the end of the argument, Courtney told Shawn that she was cancelling their plans for that night and that they both needed some time to calm down; Shawn agreed.

That night, Shawn and some of his teammates played X-box in Shawn’s room and began drinking a few beers (Shawn is 22 years old). One of the teammates brought whiskey, and Shawn made himself a very strong whiskey and coke. His friends left for a party, and Shawn, who told his friends that he was just going to bed, continued drinking. As he became very drunk, he began to get worried, frustrated, and angry about the state of his relationship with Courtney. He felt he really needed to talk to her.

At about 1:00 a.m., Shawn made his way over to the off-campus apartment Courtney and her roommate were renting nearby, banged on the living room window, and yelled that he wanted to talk to Courtney. Courtney refused to let him in because he was both drunk and angry. Shawn threatened to break down the door if she did not let him in. Courtney told him to go home and go to bed, and that they could talk in the morning. Shawn yelled and cursed, then started to cry, saying that he couldn’t live without Courtney and he just needed to talk. Courtney still refused to let him into the house, and Shawn became very angry, punching a window near the door and breaking it. Courtney told Shawn that he was out of control and she was going to call the police.

She pulled out her phone, but before she could dial, Shawn broke the rest of the window near the front door, reached in, unlocked the door, threw it open, and charged at Courtney, screaming at her to “put the f-ing phone down!” Courtney screamed and ran to her bedroom with Shawn chasing her. Courtney tried to close the door, but Shawn wedged himself between the door and the jam, and forced the door back open, calling her a “crazy bitch.” Courtney backed away, and they continued to yell at each other. Shawn charged at Courtney, reaching for the phone, but Courtney kept her arm extended and away from him. The two wrestled as Shawn tried to reach the phone. When he couldn’t, Shawn reached for Courtney’s neck, and put his hand around the front of it, still trying to get to the phone. The two hit and toppled onto the bed, with Shawn on top, his hand still on her neck, while he reached for the phone with his other hand. Courtney could not breathe well and slapped/punched Shawn’s face and kicked him with her legs, which seemed to bring Shawn
back to his senses. He quickly released Courtney, got off the bed, and said he was so sorry and that he did not know what came over him. He told her that a phone call to the police would end his baseball career and his time at the school. Courtney, sobbing, screamed at Shawn that he needed help and that he could not keep doing this. Shawn, also sobbing, apologized again and left.

Courtney’s roommate, Jenna, who had barricaded herself into her own bedroom when Shawn burst through the door (unfortunately her cell phone was in the kitchen), told Courtney to call the police. Courtney, however, called the person she trusted the most — her coach. Her coach rushed over and convinced Courtney that Shawn needed help. Courtney gave the coach permission to call the police.

The police arrived, took statements and photos of the damage to the house and the bruising and marks on Courtney’s body, then arrested Shawn. The next day, in a conversation with the school’s deputy Title IX coordinator/investigator, the soccer coach indicated, to the obvious surprise of the deputy coordinator, that this was the third time Shawn had done something like this; the previous two times, the coach said she simply “worked the situation out” with an assistant coach on the baseball team.

Discussion

• How does this case involve Title IX?
• What issues of jurisdiction arise?
• Given the pending criminal prosecution, how would you address this situation?
• From the perspective of an institutional response, what went wrong in this situation?
• Who should be interviewed in the course of the institution’s investigation?
• What responsibility (if any) does the institution have to investigate the first two incidents?
• As a Title IX coordinator, how do you best address the way the soccer coach and the baseball coach handled the previous two incidents?
• What interim remedies would you provide?
• What long-term remedies appear to be appropriate in this situation?
• What is the institution’s Title IX obligation pertaining to Courtney’s roommate?
• Who else at the institution do you need to inform of the situation? Given the profile of the participants, who do you keep apprised of the progress of the investigation?
SARAH, JANELLE, AND NEV

Potential Intimate Partner Violence
Employee-on-Employee

Witness: Sarah — Administrative assistant at Braeburn Community College and Janelle’s co-worker
Alleged Victim: Janelle — Employee of Braeburn Community College
Alleged Harasser: Robert — Janelle’s Partner
Reported To: Nev — Sarah’s and Janelle’s Supervisor

Sarah, an administrative assistant at Braeburn Community College, approaches her supervisor, Nev, asking if she can speak with her confidentially about one of her co-workers. Nev agrees, and they meet one-on-one in Nev’s office. Sarah starts by saying that she does not want to get anyone in trouble and that she is only trying to help. She reveals that the matter is very sensitive and involves one of her co-workers, Janelle. Nev immediately asks what is going on.

Sarah says she thinks that Janelle is being physically abused by her partner, Robert. Sarah tells Nev that Janelle seems noticeably withdrawn. Recently, Janelle came to work late, had red puffy eyes, and looked as though she had been crying. When Sarah and others asked Janelle if she was OK, she simply nodded and said she was fine, and that she was just dealing with some personal issues. Sarah shares that she saw Janelle walking with a limp last week and, when asked about it, Janelle told people that she twisted her knee after slipping on some ice in her driveway. Later that same day, Sarah overheard Janelle on the phone saying, “But I’m scared of what he would do if I tried to leave him.”

Sarah shares with Nev that a month ago, Janelle missed a few days of work and returned to work wearing a sling. Janelle claimed that she had sprained her shoulder while working in the yard. Just yesterday, Janelle showed up over an hour late to work and had some swelling around her eye and her bottom lip. When asked, Janelle said that she got up to the bathroom last night in the dark and walked right into the edge of her open closet door. Sarah says that she also heard Janelle crying in the bathroom yesterday. Sarah notes that she has hesitated to raise any concerns or suspicions previously, but she now worries that Janelle’s situation is escalating and that someone needs to step in. Nev thanks Sarah for coming in, for her candor, and her concern. Sarah returns to her desk.

Concerned, Nev pulls Janelle’s employee file. Nev knows that Janelle has been making more mistakes lately, and has missed an unusual amount of time, but feels that Janelle is a good employee who interacts well with students, faculty, and administrators. Whatever is going on, it is really beginning to impact Janelle’s attendance at work. Janelle has taken 10 sick days in the last six weeks, which is more than she used the previous six months combined. Janelle only has one sick day remaining. While normally punctual, Janelle has also been late five times in the last month.

Nev had already planned to address the tardiness issue in her one-on-one with Janelle tomorrow, but given this new information, Nev is unsure of what approach to take. She is also unsure of whether she should share Sarah’s concerns with anyone else.

Discussion

• What Title IX issues, if any, do you see?
• What should Nev do at this juncture?
• Does Nev have an obligation to investigate this matter further?
• Who at your institution do you need to inform of the situation? Would it change if Janelle admitted she is being abused?
• If Janelle’s work continues to decline and she continues to miss work, do you proceed with typical performance improvement processes?
• Would it change anything if you knew Janelle’s partner also works on campus?
CAREY AND STAN

Potential Intimate Partner Violence
Employee-on-Employee

Reporting Party: Carey — Part-time employee of Braeburn Community College and part-time student
Responding Party: Stan — Employee of Braeburn Community College and part-time student
Witness: Jenny — Carey’s roommate
First Responder: Carey’s supervisor from work
Investigator: Deputy Title IX coordinator

Stan is a full-time employee in the facilities management department at Braeburn Community College; he is also a part-time student. For the last three years, Stan has been dating Carey, a part-time receptionist in the college’s English department, as well as a part-time student at the college. Their relationship is quite serious, and the two have even discussed marriage, although Carey is hesitant to commit until Stan controls his drinking and his temper when he is intoxicated.

When sober, Stan is engaging, light-hearted, and easy-going, but when he drinks heavily, he becomes aggressive, destructive, and prone to yelling at people and getting into fights. His friends usually keep a close watch on Stan when he goes out to a party. It typically takes two or three of them to keep Stan under control when he starts to act up. Stan has had a few problems at work, primarily in response to coming in hung-over or his temper problems; last year he was placed on probation and performance improvement for yelling and cussing at his supervisor. At the prompting of his supervisor, Stan received some counseling, and it seems to have helped him drink less and has allowed him to make more mature decisions.

Three days ago (Friday), Carey and Stan get into a very loud and public argument at the campus’s main bus stop. At the end of the argument, Carey tells Stan that their plans for that night need to be cancelled and that they should both take some time to calm down; Stan agrees. That night, some of Stan’s friends come over. They drink beer and watch some basketball. One of Stan’s friends brings whiskey, and Stan makes himself a very strong, large whiskey and coke. After his friends leave, Stan continues to drink. He begins to worry, and becomes frustrated and angry about his relationship with Carey. He can’t stop thinking about their relationship and really needs to talk.

At about 1:00 a.m., Stan makes his way to Carey’s apartment, bangs on the living room window, and yells that he wants to talk to Carey. She refuses to let him in because he is both drunk and angry. Stan threatens to break down the door. Carey tells him to go home and go to bed, and that they can talk in the morning. Stan yells and curses, then starts to cry, saying he can’t live without Carey and asking to talk. Carey still refuses to let Stan into the house, and Stan becomes very angry. He punches a window near the door, breaking it. Carey tells Stan that he is out of control and threatens to call the police. Carey pulls out a cellphone, but before Carey can dial, Stan breaks the rest of the window near the front door. He reaches in, unlocks the door, and throws it open. He charges at Carey. Stan bellows at Carey, “Put the fucking phone down!” Carey screams and runs to the bedroom.

Stan chases Carey, who tries to close the door between them, but Stan wedges himself between the door and the doorframe. Stan tries to force the door open while yelling, “Open the door, you crazy bitch!” Carey lets the door open and they continue to yell at each other. Carey threatens again to call the police. Stan charges at Carey, grabbing for the phone. Carey keeps her arm extended and tries to back away from Stan. They wrestle as Stan tries to grab the phone. When he can’t reach it, Stan grabs Carey’s neck. He puts his hand around the front of it, still trying to get to the phone. The two fall onto the bed, with Stan on top. His hand is still on Carey’s neck as...
he reaches for the phone with his other hand. Carey has trouble breathing and slaps Stan’s face and kicks him. This seems to bring Stan back to his senses. He releases Carey, gets off the bed, and apologizes, saying, “I don’t know what came over me.” He adds, “If you call the police, that will get me fired and thrown out of school.” Carey, sobbing, screams at Stan, “You need help! You can’t keep doing this!” Stan, also crying, apologizes again and leaves.

Carey’s roommate, Jenny, who is also a part-time student at Braeburn, barricaded herself in her own bedroom when Stan burst through the door (unfortunately her cell phone was in the kitchen). After Stan leaves, she tells Carey to call the police. Instead, Carey, calls her supervisor from work, a woman Carey sees as a mentor whom she deeply trusts. Over the phone, Carey tells the supervisor about what just happened. The supervisor rushes over and convinces Carey that Stan needs help. Carey gives permission to call the police. The police arrive and take statements from Carey and the roommate. They also take photos of the damage to the house and the bruising and marks on Carey’s body. They arrest Stan at his home. Stan tells the police, “I really only remember bits and pieces of what happened, but whatever Carey tells you, it’s the truth.”

The next day in conversation with the school’s deputy Title IX coordinator, the supervisor indicates — to the obvious surprise of the deputy coordinator — that this was the third time Stan has done something like this.

Discussion

• How does this case involve Title IX?
• What issues of jurisdiction arise?
• Given the pending criminal prosecution, how would you address this situation?
• From the perspective of an institutional response, what went wrong in this situation?
• Who should be interviewed in the course of the institution’s investigation?
• What responsibility (if any) does the institution have to investigate the first two incidents?
• How should the deputy Title IX coordinator best address the way the supervisor handled the previous two incidents?
• What interim remedies should be provided?
• What long-term remedies appear to be appropriate in this situation?
• What is the institution’s Title IX obligation pertaining to Carey’s roommate?
• Who else at the institution do you need to inform of the situation? Who do you keep apprised of the progress of the investigation?
RANKINS

Potential Bullying
K-12 Student-on-Student

Mr. and Mrs. Rankin are helicopter parents. Teachers warn each other about them when they find out which teacher will have their son, Donald Rankin, in their class the following year.

The Rankins want Donald to have every advantage, so have held him back a year and are constantly trying to get him special treatment. Donald’s start in 3rd grade was smooth, for two weeks. Then, his parents started to hover over Ms. Nancy, the 3rd grade teacher. First, the Rankins notified Ms. Nancy that their son was “slow” and that she needed to be attentive to his slower learning style. Next, the Rankins complained to the District Director of Curriculum that Ms. Nancy was discriminating against their son on the basis of disability because she was teaching to the top of the class, not the bottom. The Director of Curriculum promised to look into it. Several weeks later, the Rankins complained to Ms. Nancy that their son was being picked on by other students because he was slow. Ms. Nancy tried to explain that he was not slow, that his work was at or above grade-level, and that she was not aware of anyone picking on him. She assured them she would keep an eye out. The parents left in a huff.

They immediately called the Superintendent and the Board President, complaining that their disabled son was being bullied in class because of his learning difficulties, and that Ms. Nancy had refused to address it.

They asserted that students teased Donald for getting special treatment and called him Dull Don and Dumb Donald, and kept pretending to throw things at him while yelling, “Donald, Duck.”

They were referred to the building Principal who met with them and assured them that he would look into it. Then the Principal called you...
ANONYMOUS STUDENTS

Potential Sexual Harassment, Sexting

K-12 Student-on-Student

You have just learned that police arrested three students at the middle school, aged 12, for creating and distributing pornographic images of themselves online, via text message, and Snapchat. The images and videos are of the creators themselves (i.e.: nude selfie pictures and videos).

The local news media just picked up the story and is clamoring for a comment. Parents have also started calling the school and district offices demanding to know what is being done to protect their children.

The criminal charges are misdemeanors and felonies for child pornography creation and distribution. Police inform the school that they received reports that nude photos of students from the middle school and the high school were shown by the three students to others at the school and were distributed via text and email.

All the students involved are minors and many of the pictures and videos had the location setting on their phones activated, which means they could have allowed predators to locate the homes of those in the pictures and videos.

Discussion

- How does your investigation proceed in light of the criminal charges?
- What remedies should you provide and to whom?
- How do you address the PR issues?
- What communication should you have with parents?
- What is an appropriate sanction if the students are found responsible?
JORGE AND HAI-JIN

Potential Stalking
K-12 Student-on-Student

Reporting Party: Jorge – Student worker
Responding Party: Hai-Jin – Student

Jorge worked as a student worker in the student-run A/V/Tech lab for his high school. Hai-Jin needed some help installing software on her new laptop, and she went to the A/V/Tech lab for help. Jorge helped to install the software Hai-Jin wanted. As he was working, he asked Hai-Jin out. She turned him down, somewhat abruptly, saying that she doesn’t date outside her race.

Shortly after, Hai-Jin began to receive unwelcome email and text communications to her laptop and phone from undisclosed addresses and numbers. The messages were sexual and vaguely threatening. She told her parents about the messages, and her father took the computer to a friend who was tech-savvy. The friend blocked the messages, but could not find out who sent them.

Then, Hai-Jin started to see social media messages in her apps that came from her account, but that she did not write. Several people contacted her about the fact that she was sending them inappropriate messages. Two students contacted the Title IX Coordinator to report that they were receiving harassing messages from Hai-Jin.

Hai-Jin denied sending the messages and claimed that someone was accessing her accounts to do so. Someone left a note on the windshield of her car, “You shouldn’t have blocked me. Now I’ll destroy you.”

Jorge came forward to complain of race discrimination by Hai-Jin.

Discussion
• Is this a Title IX issue?
• What are the possible violations?
• How should you investigate?
• What remedies should you provide and to whom?
Gwen and Mark

Potential Stalking
Student-on-Student

Reporting Party: Gwen — Freshman student at Tessera University and Holly’s roommate
Responding Party: Mark — Student at Tessera University
Witness: Holly — Freshman student at Tessera University and Gwen’s roommate
Referring Party: Resident Assistant

You are an Investigator at Tessera College. It’s the second week of school and one of the resident assistants in Cedar Hall, an all-freshman residence hall, refers Gwen, a student, to meet with you. Gwen comes to your office and shares her story and recent experiences on your campus.

She is an in-state freshman who lives in Cedar Hall with her roommate, Holly. She loves Tessera College so far, but she has been having some strange things happen that she’s worried about, and she doesn’t know who to talk to. She told Campus Public Safety about her concerns, but they said they couldn’t really do anything.

The first week of school, Gwen was studying in Fleming Library on campus. She went to check out a reading that was on reserve at the front desk of the library for one of her classes, Introduction to Economics. The next day, she got an email sent to her campus email address that said: “Hey Gwen, its Mark from the library. I took Econ when I was a freshman, so if you need any help just let me know.”

Gwen was surprised to get this email, but she didn’t want to be rude, so she wrote back, “Thanks, but I think I got it so far lol!” She didn’t recognize the name on the email account, Mark Noy, but she assumed that it was the guy who worked at the library. Mark wrote back and said, “Cool. How do you like Tessera so far? One of my buddies is having a party after the game Saturday; you should come. It’ll be a blast.” They emailed back and forth a few times, and Mark sent her pictures of himself, but Gwen eventually stopped responding because she started to get a little creeped out.

One night, Gwen was at a party with a guy named Carter, whom she has been seeing for a few weeks. Gwen, remembering her evening studying in the library, noticed that Mark was at the party. Doing her best to avoid Mark, Gwen circled the party, saying “hello” to friends and catching up with acquaintances she had not seen in a while. As the evening progressed, a few people expressed concern about Mark. Friends told her that Mark went up to Carter and started asking questions about her. The next day, Gwen received a friend request from Mark on Facebook, but she hasn’t responded. She doesn’t want to be friends with him, but she doesn’t want to seem like a jerk either.

Gwen, leaving Math with her roommate Holly, saw Mark standing outside the Math building by himself, staring at her. She sort of waved but kept walking. There have been some other weird things happening, and Gwen is starting to get a little nervous. She keeps finding notes on her car, which she parks on campus; they just have hearts and arrows on them. Someone wrote, “Gwen u r so hot” on the whiteboard outside her room, and drew the same hearts and arrows she had been seeing on her car. Last week, she got a text on her cell from a blocked number that said, “Gwen I luv you.” She freaked out and wrote back “Who is this?? Leave me the fuck alone.” The person texted back, “Fuck you, you ugly bitch.”

Gwen shares with you that she doesn’t want to make a big deal about her situation. She simply wants it to stop. Although she can’t prove it, she feels like it must be Mark. She has been avoiding Fleming Library and has been having...
friends walk her to and from her car at night. Other than Public Safety, her RA is the first person to hear of these concerns.

Discussion

• Now that Gwen has shared her story, how do you proceed?
• What is your top priority in this case?
• When you consider that Gwen is scared for her safety on campus, what type of things should you do to assure her safety?
• What should you do in regards to the previous incidences? Should you report them to anyone? Should you refer Gwen to any other departments on campus?
• Knowing that follow-up with Mark will be necessary, what types of questions do you have for him?
• Are there others in this case, besides Mark and Gwen, whom you feel you should speak to?
Jeremy and Professor Sanchez

Potential Consent
Faculty-on-Student

Alleged Victim: Jeremy Costa — Senior student at Tessera University
Alleged Harasser: Antonia Sanchez — Associate professor of Spanish at Tessera University

Background:
Jeremy Costa is a senior with a dual major — one in Accounting and the other in Spanish. He is a very good student, is active in a couple of student organizations, and spends his winter and spring breaks building schools in Mexico. For the last three months, Jeremy has been in a sexual relationship with Antonia Sanchez, an associate professor specializing in Spanish literature.

Professor Antonia Sanchez is a 32-year old rising star within the department; her research is stellar and her teaching evaluations are always among the highest in the department.

Beginning February 2013:
Jeremy is struggling with some of the writings for his Spanish Literature course and seeks out Professor Sanchez during her office hours. Jeremy took a previous course from Professor Sanchez and performed well, though the current course is more difficult. After guiding Jeremy through his concerns, Professor Sanchez gets up and closes the door to her office. She then sits down next to Jeremy and proceeds to tell him about a special comparative literature project that she would like him to be part of. During their conversation, she compliments his work and places her hand over his, indicating that she really hopes he will agree to be part of the project. Pleased and a little excited, he readily agrees. Professor Sanchez tells him the project group will be meeting at her house the following evening. She also notes that he should stay after the group leaves so they can discuss his long-term goals of getting into graduate school and how she can be of help in the process.

Jeremy arrives at Professor Sanchez’s house and the group of four students and the professor meet for about an hour. Jeremy notices that Professor Sanchez makes prolonged eye contact with him, and she goes out of her way to compliment him throughout the evening. Once the other group members leave, Professor Sanchez draws close to him. She tells him that he has remarkable potential and wants to see him do well in her course, but she needs something from him in return. She leans in to kiss him. The two ultimately begin a sexual relationship.

Jeremy and Professor Sanchez meet a few times a week, typically at her house, and engage in sexual intercourse. Occasionally, they engage in sex in her office after hours as well. They spend a weekend in Miami together. With regularity, the two send each other naked pictures of themselves and involve themselves in daily sexting.

Discussion
• Is Professor Sanchez responsible for violating the policy on sexual harassment based on a preponderance of evidence standard of proof?