



COMMONWEALTH of VIRGINIA

GOVERNOR TERRY MCAULIFFE'S TASK FORCE ON
COMBATING CAMPUS SEXUAL VIOLENCE
CHAIR ATTORNEY GENERAL MARK HERRING

OCTOBER 29, 2014, 10:00 AM
SCHEV OFFICE, 9TH FLOOR CONFERENCE ROOM, JAMES MONROE BUILDING

RESPONSE SUBCOMMITTEE DRAFT MEETING MINUTES

(pending approval at the next Subcommittee meeting)

Members Present: Ellen Plummer (Subcommittee Chair), Peter Blake, Judy Castele, Daniel Dusseau, William Grace, Allen Groves, Daphne Maxwell Reid, Raychel Whyte

Members Absent: Michael Maxey, Jean Cheek

Staff Present: Melissa McMenemy, Elizabeth Griffin, Rachel Levy, Jodi Manz

Meeting Summary

Subcommittee Chair Ellen Plummer called the meeting to order at 10:07 am and asked the committee members, staff, and audience to introduce themselves. Dr. Plummer thanked the committee members for taking time to speak with her regarding campus sexual assault and their thoughts for the subcommittee. She briefly addressed the comprehensive review of policies and procedures by the Office of the Attorney General (OAG) that is being conducted separate from the work of the Task Force.

Elizabeth Griffin, Senior Assistant Attorney General, presented information on Title IX, VAWA, the Campus SaVE Act, and Clery compliance at 10:15 am. The presentation included information regarding the history and context of Title IX including guidance from the U.S. Department of Education's Office for Civil Rights (OCR) in Dear Colleague Letters and the April 2014 FAQs, in addition to regulatory requirements imposed by VAWA, the Campus SaVE Act, and the Clery Act. Policies and procedures were discussed including reporting procedures, interim measures, time frames, confidentiality, victims' rights notifications, coordination between law enforcement and Title IX investigations, resolutions, sanctions, and remedies upon case closure. The presentation generated conversation between the committee members regarding Title IX, Title IX coordinators, and investigations, confidentiality, and reporting, including:

- Conflicting interests when responding to complaints while trying to stay compliant with federal regulations and maintain ethical obligations to reporting and responding parties.
- Confidential reporting. Confidential reporting is not always possible. Faculty and staff at institutions include mandated reporters and if a report is made to a mandated reporter, they must pass that report along. Some institutions have confidential personnel who are not mandated reporters and students can make a report to those individuals. Students do not necessarily understand who is a mandated reporter and what happens once a report is made.

- If reports are not made or made confidentially, no sanctions can occur against the respondent.
- It may be difficult to balance the interests of a reporting student with the interests of the campus community.
- Timely warning notifications, if not carefully worded, may inadvertently disclose information that might conflict with maintaining confidentiality of the reporting student.
- The committee discussed the benefits and challenges of providing amnesty for reporting students who may have engaged in behavior deemed to violate other conduct codes such as alcohol use.
- Case management is important for managing the various elements associated with responding to reports of sexual violence.
- Collaboration is crucial between Title IX coordinators, student and employee support personnel, victim advocates, campus law enforcement and local law enforcement.
- Jurisdictional challenges associated with reports of sexual violence. For example, off-campus parties, school sanctioned events, students who are studying abroad, reports that occur over spring break, and that institutions no longer have jurisdiction once a student transfers, leaves the school, or graduates.

Peter Blake, Director, State Council of Higher Education for Virginia, provided an update on national conversations at 11:28 am. Mr. Blake informed committee members that conversations were occurring with the American Association of State Colleges and Universities (AASCU) which is collaborating with an organization named Culture of Respect, the State Higher Education Executive Officers (SHEEO) Association, the National Association of College and University Attorneys, the Association of Governing Boards, and Student Personnel Administrators.

Allen Groves, Dean of Students for UVa, provided an update on national conversations in the student affairs professional associations. Mr. Groves provided some of the topics that are currently being discussed at the national level. These topics include:

- Climate surveys
- Anonymous reporting and third party anonymous reporting. Institutions are looking at what to do with these reports and how best to respond to them.
- Mandated reporting, which personnel are considered responsible parties on campus, can students, such as Resident Advisors (RAs) be mandated reporters?
- Due process. How much information should be provided? Does there have to be a hearing? Can schools go towards a single investigator? Should students be involved in the hearing process?
- Appeals processes.
- Defining consent, no means no versus yes means yes.
- Should there be mandatory remedies, such as expulsion? Discussion centers on having a range of sanctions for individuals found responsible for sexual misconduct.
- Jurisdiction issues, can transcripts be withheld or include a notation if a student who was under investigation transfers to a different school?
- Where should Title IX Coordinators be located administratively within an institution? i.e. which department?
- Are advisors to student groups, including fraternities and sororities, who are not university faculty or staff, subject to the same mandated reporting as an institution's faculty and staff?
- Smaller institutions are in a tough spot regarding policies and procedures, can policies and procedures be shared between schools?
- Over 80 colleges and universities are now under investigation by OCR.

Committee members discussed the need for increased coordination in investigating sexual violence cases; there remains a problem with competing and dueling investigations between on and off-campus law enforcement and administrative entities. Collaboration between the colleges and universities and their local sexual violence programs is needed. Local police and prosecutors are not aware of Title IX and Title IX requirements. It would be helpful to have training for local prosecutors and law enforcement on Title IX and how Title IX complaints are investigated by institutions.

In response to questions from Dr. Plummer, other members of the subcommittee mentioned the following additional items of focus for the subcommittee's work:

- Burdens on institutions due to OCR compliance requirements and monitoring requirements for institutions that have resolved matters with OCR.
- Using resources available with community advocacy and crisis centers
- Addressing the mental health component for both the complainant and respondent
- Strategies to provide information to students about response to incidents other than just directing them to the college or university's website
- The subcommittee needs to hear from current and former students.
- Responsibilities and obligations to the respondent student, including due process. Should interim measures be provided to students who are respondents?

Next meeting is scheduled for Wednesday, November 19, 2014, 11:00am -1:00pm, the locations is still TBD.

Meeting adjourned at 12:05pm.