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# AN INVESTIGATION INTO TITLE IX SEXUAL ASSAULT POLICY COMPLIANCE AT LAND GRANT INSTITUTIONS

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AN INVESTIGATION INTO TITLE IX SEXUAL ASSAULT POLICY COMPLIANCE  
AT LAND GRANT INSTITUTIONS

by

Amy Beyer

A THESIS

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AN INVESTIGATION INTO TITLE IX SEXUAL ASSAULT POLICY COMPLIANCE  
AT LAND GRANT INSTITUTIONS

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University of Nebraska, 2015

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Incidents of sexual assault, and the mishandling of cases by administrators, on college campuses have been making the news recently. In 2011 the Department of Education Office of Civil Rights introduced the Dear Colleague Letter outlining policy requirements for all institutions of higher education receiving federal funding. Much of the existing literature related to sexual assault on college campuses is related to reporting numbers and education and prevention. Preventative education studies aim to determine trainings that are successful in lowering victimization rates on campuses as well as bringing attention to rape myths.

This study focuses on the Title IX policies at 25 land grant institutions to determine if these institutions have adopted the new federal regulations as well as to compare the policies to each other. Using qualitative and quantitative methods of content analysis, the researcher determined counts of themes common within the policies. The findings indicate that all the institutions are in compliance with the current federal regulations but differ when it comes to the details provided by definitions, wording surrounding filing criminal charges, the presence of amnesty policies, mentions of preventative education, and the organization of policies. The researcher provides

recommendations for future practice and research related to sexual assault on college campuses.

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## **Chapter 1**

### **Introduction**

With the passage of Title IX, federally funded institutions were barred from discriminating against people on the basis of sex. This legislation is most strongly associated with providing athletic opportunities for girls and women. The passage of Title IX saw large increases in the number of women and girls participating in school sports. The protection offered by this amendment covers more than athletic equality. Title IX protects all students, regardless of sex, from discrimination in the form of sexual violence. Sexual violence includes “physical sexual acts perpetrated against a person’s will” (Lhamon, 2014, p. 1). This includes sexual assault and rape.

Much of the existing literature on collegiate sexual assault details the outcomes of training students on rape myths in the hopes of preventing acts of sexual violence on college campuses. This study will be covering Title IX compliance by investigating Title IX policies at land grant institutions. This is an area where research has not been conducted. In 2011, the *Dear Colleague Letter* brought attention to the protections from sexual harassment and discrimination provided by Title IX (Ali). This document, as well as the follow up, *Questions and Answers on Title IX and Sexual Violence*, outlines requirements for institutional policies regarding sexual violence on campus.

### **Statement of Purpose**

The purpose of this study is to investigate existing sexual assault policies in comparison to the guidelines outlined by Title IX, the *Dear Colleague Letter*, and *Questions and Answers on Title IX and Sexual Violence*. These guidelines provide regulations for institutions to follow when it comes to responding to reports of sexual

violence on campus. These regulations outline who on campus must report a sexual assault, how a hearing should occur if one becomes necessary, and how to inform both the complainant and accused of any decisions regarding the allegations. In addition to these regulations, *Questions and Answers on Title IX and Sexual Violence* provides information and clarification on what must be included in institutional policies regarding sexual violence on campus.

Recently, many institutions of higher education have been cited for mishandling reports of sexual assault on campus. Columbia University is currently being investigated by the Office of Civil rights after 23 students filed a federal complaint alleging the institution mishandled sexual assault complaints (Iaboni, 2014). One of these students has brought attention to the problem at Columbia by carrying her mattress with her on campus as a representation of the weight she carries with her everyday as she continues to attend school with her alleged rapist. Even after this student and two others filed complaints with Columbia alleging the same man attacked all of them, the alleged attacker has not been expelled (Schonfeld, 2014). Students should not have to face environments like this on campus. Title IX compliance should help resolve issues like this one.

The University of Kansas is also being investigated for Title IX violations. This institution made news in October 2014 after deciding community service was too punitive of a punishment for a student found guilty of “nonconsensual sex” (Kingkade, 2014). The student in question had admitted to university officials that he had continued having sex with another student even after she had said “no” and asked him to stop. The student was placed on probation, made to write a reflection paper, asked to attend

counseling, and banned from university housing. The University of Kansas defended the actions taken against the student by stating that sanctions handed down by conduct officials are meant to be educational, not punitive. The victim did not feel the sanctions were appropriate and since reporting has encountered her attacker on campus causing her to have a panic attack (Kingkade, 2014). Institutions have a responsibility to protect the students studying on their campuses. When incidents like what happened at the University of Kansas occur, students may not feel that they are receiving the institutional support they deserve. These are just two examples of what victims view as the mishandling of their sexual assault allegations by college campuses. By comparing existing sexual assault policies to the regulations laid out by the Office of Civil rights, this study hopes to determine if institutional policies are meeting the expectations outlined in the Title IX guidance.

### **Significance of Study**

As of May 1, 2014 the Department of Education Office of Civil Rights had 55 open investigations into institutional Title IX violations. While both men and women can be victims of sexual assault, one in four college-aged women will be the victim of an attempted or completed sexual assault and many instances of sexual assault go unreported. This failure to report is a concern on college campuses when considering that “ninety percent of college rapes are perpetrated by repeat offenders “(Know Your IX, 2014, Basics). When incidents of sexual assault are not reported, they are not investigated and perpetrators are likely to attack again. This puts an entire campus of students in danger of being victimized. The administration at an institution cannot do anything if they are not made aware of a problem on their campus.

Students may feel discouraged to come forward and report incidents of sexual assault to campus administration after hearing stories of other students who did not feel supported after reporting. The student who reported her rape to University of Kansas officials found the reporting process to be as traumatic as her assault (Kingkade, 2014). Hearing stories like this may discourage future victims from coming forward and reporting their attacks to campus officials, allowing a cycle of violence to continue. This study will focus on the existing policies concerning sexual violence at land grant institutions. In order to comply with Title IX, institutions must include specific themes within their policies related to sexual violence. Title IX compliance also includes administrative actions. In order to be in compliance, administrators must provide supportive environments for students to disclose incidents of sexual assault. This study will investigate if existing policies outline administrative actions to provide these supportive environments and reduce the trauma associated with disclosing incidents of sexual violence.

It is vital that institutions of higher education have clear policies regarding incidents of sexual violence on campus and that administrators have a deep understanding of these policies including how to support complainants, investigating allegations, conducting hearings, and responding to appeals. Much of the current research regarding sexual assault on college campuses focuses on the results of prevention programs. While prevention is an important part of the sexual assault discussion, assaults are still happening on college campuses and this study will investigate the policies institutions have laid out regarding reports of sexual harassment and discrimination including sexual violence. It is important that institutions have steps laid out for responding to

allegations of sexual assault on campus so that victims feel comfortable coming forward to report. This study will examine what institutions have been doing in comparison to what federal regulations indicate they should be doing.

### **Research Questions**

1. Have land grant institutions changed their policies to become aligned with the Dear Colleague Letter in the ways that they respond to sexual assault allegations?
2. What similarities are there in the ways that campuses are currently implementing sexual assault policies, specifically how they respond to allegations of sexual assault?

### **Research Design**

The institutions investigated are all land grant institutions established using funding from the Morrill Act in 1862. The institutions were arranged according to student population and after determining the median the middle fifty percent of institutions were selected. Cornell University was excluded from selection because it is considered both a public land grant institution and a private Ivy League institution depending on a student's academic college (Cornell University, 2015).

Using the *Dear Colleague Letter* and *Questions and Answers on Title IX and Sexual Violence* the researcher made a worksheet outlining general Title IX regulations. Each policy was read and notes were taken on the worksheet to determine if the policy was in compliance with federal regulations. Sexual assault policies were found utilizing a keyword search on each institution's website. When a stand-alone policy was not discovered, the researcher searched the institution's student code of conduct to determine if Title IX regulations were addressed.

## **Definitions of Terms**

The following terms will be used throughout this paper and the definitions specific to this thesis are listed below.

*Sexual violence* – “physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent (e.g., due to the student’s age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent).” (Lhamon, 2014, p. 1)

*Responsible employee* – an institutional employee who is required to report incidents of sexual violence as outlined in the Dear Colleague Letter

*Title IX* – a part of the 1972 United States Education amendment prohibiting discrimination on the basis of sex. Recent guidance was issued in April 2011 stating numerous expectations the Office of Civil Rights has of educational institutions.

*Land grant* – an institutional type founded as a result of the Morrill Act in 1862, these public institutions are dedicated to educating both enrolled students and the surrounding community

*Title IX Policies* – Institutional policies outlining procedures for responding to allegations of sexual violence on campus. These policies may stand alone or be part of an institution’s student code of conduct.

## **Limitations**

There are limitations associated with this study. Chapter three will outline all methodological choices as well as the associated limitations and the steps taken to ensure trustworthiness of the data.

## **Conclusion**

Recent federal regulations have brought attention to the protections provided by Title IX for students who have been the victim of sexual violence. The purpose of this study is to determine if land grant institutions are in compliance with the federal regulations outlined in the *Dear Colleague Letter* and *Questions and Answers on Title IX and Sexual Violence*. Twenty-five policies will be read and analyzed to determine if the institutions are in compliance.

Chapter two will provide an overview of the existing relevant literature related to sexual assault and reporting. Chapter three will cover the methodological decisions made in the study. The findings from the policies will be detailed in chapter four. Finally chapter five will include suggestions for practice and future research.

## Chapter 2

### Literature Review

#### Sexual Assault

Sexual assault is happening on college campuses across the United States and there are many factors that affect how institutions of higher education are able to respond to allegations. Students who survive these incidents also respond in a variety of ways. Students may not always report incidents of sexual assault, and even if they do, students who survive sexual assault may battle feelings of loneliness and be at a higher risk for suicide (Chang, Lian, Yu, Qu, Zhang, Jia, Hu, Li, Wu, & Hirsch, 2014). The researchers found that students who experience sexual assault may experience higher levels of hopelessness, which serves as a predictor of suicide risk (Chang et al., 2014). Students who survive sexual assault may feel isolated and be unaware of where to turn for help, resulting in high suicide risk for lonely students who have experienced sexual assault. It is important that institutional administrators understand how sexual assault can lead to feelings of loneliness and possible suicide risk when helping survivors. Reporting procedures must ensure that students are not further isolated from the institution.

When it comes to reporting rape, encouragement to report can play a large role for women (Paul, Zinow, McCauley, Kilpatrick, & Resnick, 2014). Researchers found that women who are encouraged are more likely to report incidents of rape than women who are not encouraged. This study can help institutional administrators understand the importance of encouraging students on campus to report incidents of sexual assault. Even though not every woman in the study who was encouraged decided to report, there was a significantly higher percentage of women who reported their rape after being

encouraged (Paul et al., 2014). While encouraging students to report will not ensure that every incident of campus sexual assault is reported, it will help to ensure that students are aware of the resources available to them to report. Encouragement can play an important role when campuses are instituting the new federal regulations put in place by the Department of Education Office of Civil Rights.

### **Federal Regulations**

Title IX was established in 1972 to ban sex based discrimination in educational settings. This amendment affects all educational institutions receiving federal funding and covers all students. As part of this ban on discrimination, Title IX protects students from experiencing sexual violence on campus and outlines what institutions must do once they have been made aware of an act of sexual violence. In April of 2011, United States Assistant Secretary for Civil Rights, Russlynn Ali, wrote the Dear Colleague Letter (DCL) detailing how Title IX applies to acts of sexual violence and harassment. This letter was followed, in April of 2014, by a document answering common questions relating to the DCL (Lhamon, 2014). Lhamon (2014) provided institutions with clarifications so that they could better tailor their sexual violence and harassment policies to the federal guidelines stated in the Dear Colleague Letter.

Lhamon (2014) begins by providing institutions with common language and definitions from the DCL including the definition of sexual violence as “physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent” which can include “rape, sexual assault, sexual battery, sexual abuse and sexual coercion” (Lhamon, 2014, p. 1). Acts of sexual violence create “hostile environments” for students when it “is sufficiently serious to limit or deny a student’s ability to

participate in or benefit from the school's educational program" (Lhamon, 2014, p. 1). Institutions must begin an investigation into an act of sexual violence once they have been made aware that a hostile environment is present.

Title IX provides all students with protection from acts of sexual violence and in order to provide this protection institutions must follow three regulations. First, the institution must publish a notice of nondiscrimination specifically stating that it does not discriminate due to a person's sex (Lhamon, 2014). Secondly, each institution must appoint a Title IX coordinator to deal with any and all issues relating to Title IX regulations. Finally, institutions must determine a sex discrimination grievance process, which covers acts of sexual violence (Lhamon, 2014).

Lhamon (2014) outlines many guidelines that must be included as a part of each institution's grievance procedures. These include:

- (1) a statement of the school's jurisdiction over Title IX complaints;
- (2) adequate definitions of sexual harassment (which includes sexual violence) and an explanation as to when such conduct creates a hostile environment;
- (3) reporting policies and protocols, including provisions for confidential reporting;
- (4) identification of the employee or employees responsible for evaluating requests for confidentiality;
- (5) notice that Title IX prohibits retaliation;
- (6) notice of a student's right to file a criminal complaint and a Title IX complaint simultaneously;
- (7) notice of available interim measures that may be taken to protect the student in the educational setting;
- (8) the evidentiary standard that must be used (preponderance of the evidence) (i.e., more likely than not that sexual violence occurred) in resolving a complaint;

- (9) notice of potential remedies for students;
- (10) notice of potential sanctions against perpetrators; and
- (11) sources of counseling, advocacy, and support. (p. 13)

There is some flexibility within this outline, though; as the government realizes that each institution will have its own way of dealing with incidents of sexual violence on campus. All procedures must be aligned with Title IX and follow due process laws, though.

Lhamon (2014) goes on to describe what should occur during Title IX investigations and possible consequent hearings. The first step of any investigation involves determining if the alleged act of sexual violence occurred. If it is determined that an act of sexual violence has occurred, resulting in a hostile environment the institution must work to determine what would make the victim comfortable on campus again. Part of eliminating the hostile environment may involve punishing the perpetrator, but this should not be the only step taken to help the victim. Lhamon (2014) warns against just disciplining a perpetrator. “If a school uses its student disciplinary procedures to meet its Title IX obligation to resolve complaints of sexual violence promptly and equitably, it should recognize that imposing sanctions against the perpetrator, without additional remedies, likely will not be sufficient to eliminate the hostile environment and prevent recurrence as required by Title IX” (Lhamon, 2014, p. 25).

During hearings regarding acts of sexual violence, the complainant and accused perpetrator must be afforded the same representation but a complainant cannot be required to attend the entirety of the hearing. Title IX requires that hearings be conducted in a timely manner and if possible interim measures should be taken before the

conclusion of an investigation (Lhamon, 2014). These interim measures may involve having one of the students move or change classes to decrease the likelihood of the students encountering each other on campus. When making these changes, Title IX stresses the importance of disrupting the complainant's life as little as possible. If a complainant requests a move, it should be allowed but if the complaining student wants to remain where he or she is, the alleged perpetrator may be made to move. Once an investigation has concluded, a school must work to remediate the hostile environment. Again, Lhamon (2014) states that just bringing disciplinary measures against a perpetrator will likely not fulfill the institution's Title IX requirements to remove the hostile environment. Remedies must be put in place to help a complainant after the conclusion of an investigation. Like the interim measures, these remedies must not place an undue burden on the complainant. Once an investigation has been concluded, both parties must be notified in writing of the result. The complainant is provided with more information including the result, any remedies, and any sanctions brought against the perpetrator. The perpetrator, on the other hand, is only notified of the result and any sanctions.

While Title IX does not allow for mediation as a remedy to be considered when ruling cases of sexual violence, Koss, Wilgus, and Williamson (2014) provide an argument for the use of Restorative Justice (RJ) in sexual violence proceedings. "The fundamental difference between mediation and RJ is the requirement that the responsible person accepts responsibility as a precondition of participation as opposed to neutrality toward the parties" (Koss et al., 2014, p. 5). In order for RJ to work, the perpetrator must accept responsibility for what he/she has done. Being able to sit down in a controlled

environment may help the complainant get answers to questions and move on from the incident. At the same time, not all forms of RJ involve complainant and perpetrator coming face to face and talking. In the past, RJ has been utilized to help reduce recidivism rates among sex offenders by providing them with support once they have been released from prison. While some colleges are using RJ, none have set up a formal RJ program for incidents of sexual violence (Koss et al., 2014). Restorative Justice could prove to be a helpful alternative to the traditional judicial hearing method.

One of the final subjects covered by Lhamon (2014) is “Training, Education, and Prevention” (p. 38). Much of this section focuses on how employees should be trained on Title IX, sexual violence, reporting, and grievance processes. It also outlines what students should be made aware of when it comes to sexual violence. Lhamon (2014) outlines some topics that should be covered in most sexual violence trainings but leaves it up to the institutions to determine the most appropriate way to share the topics with its students. Some of these topics include explaining what sexual violence is, consent, grievance processes, and alcohol and drugs.

These federal regulations played an important role when coding. Existing sexual assault policies were coded to determine how closely they resemble what the federal government requires. The guidelines set by the *Dear Colleague Letter* and *Questions and Answers on Title IX and Sexual Violence* have been established so that institutions of higher education remain consistent in their efforts to reduce incidents of sexual assault on campus. These federal regulations were utilized by the researcher to make a worksheet that was utilized as part of the content analysis process. The two federal documents were read and any requirements were noted on the worksheet.

## **Sexual Assault Prevention**

While the main focus of the *Dear College Letter* and *Questions and Answers on Title IX and Sexual Violence* are on what to do if acts of sexual violence have been reported on campus, much of the remaining literature focuses on sexual assault prevention programs given at colleges. Rothman and Silverman (2007) investigated the effect of sexual assault prevention programming on victimization. Many studies only look at the short-term effects of prevention programs and some have found that the benefits of prevention programs decrease as time goes on. Few studies have actually looked at victimization rates to determine if prevention programs are having the effects that colleges intend them to have. This study compared two different classes of first year students and their reported levels of sexual assault victimization. The first class was not given the prevention training and the second class was. The rates of victimization were then compared to determine if victimization rates decreased during the year the program was given.

Rothman and Silverman (2007) found a significant difference in rates of sexual assault victimization rates between specific demographic groups within the two classes. In general “the comparison group has 1.74 times the odds of reporting that they were sexually assaulted during their first year of college than did the intervention group” (Rothman & Silverman, 2007, p. 286). The only demographic group within the intervention group that did not see decreased levels of victimization was students who had previously experienced an incident of sexual assault. Rothman and Silverman (2007) found that “heterosexual women are not the only beneficiaries of population-based sexual assault education programming” (p. 288).

Kress, Sheperd, Anderson, Petuch, Nolan, and Thiemke (2006) conducted an assessment of a required sexual assault prevention program with the goal of reducing the belief in rape myths for incoming first year students. Some of the rape myths studied were women ask for rape, men cannot help it, rape is exaggerated, and the average man will not rape (Kress et al., 2006). All incoming students at an institution were required to attend a prevention program during their first week on campus. Students who participated in the assessment portion were surveyed before and after the 150-minute program to determine if the program had decreased their belief in rape myths (Kress et al., 2006). The program involved an introduction by counselors, skits played by upperclassmen demonstrating common situations that can lead to sexual assault, large group discussions, and small group reactions. The researchers found a significant reduction in the belief in rape myths by all participants, regardless of sex or race (Kress et al., 2006).

Both of these studies support the importance of sexual assault prevention programs on college campuses. Many students believe rape myths and have not been provided with the appropriate training to show how these are common misconceptions when it comes to sexual assault. The results of these studies are two-fold, trainings can both change student attitudes and help to reduce the levels of sexual assault on campuses.

In order to begin determining best practices for sexual assault prevention education, Jozkowski, Peterson, Sanders, Dennis, and Reece (2014) investigated how both men and women view consent. It is important to understand where there may be a breakdown in communication when students are engaging in sexual behavior so that students can understand how to give and receive consent. Once this is understood,

students can be educated about what constitutes consent and hopefully avoid incidents of sexual assault. While there was no difference in gender when it came to the definition of consent, men and women differed when investigating communicating consent (Jozkowski et al., 2014). The researchers found that men were more likely to rely solely on body language to demonstrate consent, while the women studied would look for verbal consent (Jozkowski et al., 2014). This difference can lead to misunderstandings for heterosexual couples engaging in sex. The findings of this study indicate that sexual assault prevention education must include discussions of consent to ensure that students understand how to give and receive consent in order to reduce sexual assault on college campuses.

### **Sexual Assault Reporting**

One of the problems facing administrators working to fight sexual assault on college campuses is that it is nearly impossible to have a complete picture of the prevalence on campus. This is because students must report incidents of sexual assault to administrators in order for the institution to be aware of it. Gardella, Nichols-Hadeed, Mastrocinque, Stone, Coates, Sly and Cerulli (2015) studied the difference between reported Clery Act numbers and student responses to an anonymous survey. The researchers found that students' rates of sexual victimization were higher when students responded to the survey as compared to Clery Act statistics from that year. This difference may be accounted for by barriers students face when deciding to report, or not report incidents of sexual assault on campus. A 2006 study surveyed men and women about the perceived barriers to reporting incidents of sexual assault (Sable, Danis, Mauzy, & Gallagher). There were a variety of barriers each with different levels of importance

for men and women but the highest ranked barrier for both genders was “shame, guilt, embarrassment” (Sable et al., 2006, p. 159). Students who survive sexual assault may blame themselves for these incidents, which can lead to them not reporting. Other barriers include fear of retaliation or not being believed (Sable et al., 2006). These barriers demonstrate the need for administrators who can assure students that they will not face retaliation and provide support for the student as he or she tells his or her story.

A 2015 study by Yung investigated reporting trends for incidents of sexual assault on college campuses. With the passage of the Clery Act, institutions are required to report crimes occurring on campus to the Department of Education and the general public. The Department of Education will also conduct Clery Act audits for institutions that make reporting errors (Yung, 2015). Yung (2015) studied the reported levels of sexual assault on campuses before, during, and after Clery Act audits to determine if institutions are failing to report all sexual assaults when not undergoing an audit. Using data from 2001-2012, Yung (2015) found that the reported levels of sexual assault increased by 44% during an investigation and fell to nearly the same level it had been at before once the investigation had been completed. Greater scrutiny by the Department of Education did not cause the reporting levels of all crimes to increase, though. Yung (2015) found no change in the reporting levels of robbery, burglary, or aggravated assault during audits, supporting the hypothesis that institutions underreport sexual assaults. Yung (2015) provides some suggestions for stopping the underreporting problem including an increase in the fines for Clery Act violations, increased audit frequency, and instituting a probation system for institutions with large violations.

This research is troubling for students who are sexually assaulted on campus, as there are many variables that may be playing into the underreporting of sexual assaults. Yung (2015) included that campus administrators may believe common rape myths or think that many reports of sexual assault are actually false. Students who report their sexual assault to an administrator who believes these myths may not receive the support necessary to move forward in the reporting process. If an administrator does not believe that a sexual assault happened, it may become impossible for a student to feel supported by the institution during this time of need.

The underreporting of sexual assaults is additionally concerning because it may work to perpetuate the belief in false reporting or rape myths by campus administrators. Reporting lower numbers of sexual assaults than what is actually occurring on campus may cause administrators to believe that sexual assault is much less of a problem on campus than it actually may be. Administrators cannot adequately address a problem that they do not see or believe is a problem.

Smith and Freyd (2013) investigated the phenomenon of institutional betrayal leading to higher levels of posttraumatic stress or symptoms after students experience sexual assault. Previous studies had found that interpersonal betrayal can cause higher levels of posttraumatic symptoms (Smith & Freyd, 2013). In this study, college women were surveyed and asked to self-report any incidents of sexual assault, any institutions they felt betrayed them (including the university, a fraternity or sorority, or a non-university institution like the military), and any symptoms of the trauma. Betrayal could include creating an environment where sexual assault was prevalent, acting as if sexual assaults are not important, or covering up reports (Smith & Freyd, 2013). Smith and

Freyd (2013) found that women who reported having been sexually assaulted and betrayed by an institution were significantly more likely to report posttraumatic symptoms.

When investigated collaboratively, Smith and Freyd's (2013) research provides backing to Yung's (2015) assertion that the underreporting of sexual assaults on college campuses is a cause for concern. Administrators may not be aware of how to best support survivors when reporting. In turn, Institutions of higher education may be adding to the posttraumatic symptoms felt by survivors of sexual assault by not providing supportive environments for students to report these incidents.

### **Amnesty**

Alcohol consumption is a factor often involved in incidents of sexual assault on college campuses. Underage drinking can be a problem on campuses and sometimes the fear of being held responsible for their actions can prevent students from helping others seek medical attention for alcohol poisoning (Lewis & Marchell, 2006). Cornell University instituted a medical amnesty policy with the goal of helping students feel comfortable reporting incidents of alcohol poisoning or other alcohol related injuries. After the institution of the policy, Cornell saw an increase in the number of reports, which allowed more students to receive the medical attention they required (Lewis & Marchell, 2006). Students felt more comfortable contacting university officials knowing that they would not get the intoxicated person in trouble, but that the person would receive necessary medical attention (Lewis & Marchell, 2006). With the interconnectedness of alcohol and sexual assault, amnesty policies can impact the reporting of incidents of sexual assault.

**Conclusion**

The existing literature concerning sexual assault and rape focuses on education and prevention efforts as well as reporting. Federal regulations outline the guidelines institutions must follow in order to be in compliance with Title IX. Education and prevention programs focusing on rape myths have been found to be successful in changing attitudes regarding sexual assault and reducing the number of sexual assaults on college campuses. Investigations into sexual assault reporting have found a difference between reports made to institutions of higher education and self-report data as well as differences in institutional reports of sexual assault depending on whether or not the institution is under a Clery Act violation. The following chapter will outline the methodological decisions made during this study.

## **Chapter 3**

### **Methodology**

#### **Purpose Statement**

The purpose of this study was to investigate existing sexual assault policies in comparison to the guidelines outlined by Title IX, the Dear Colleague Letter, and Questions and Answers on Title IX and Sexual Violence. These documents provide regulations for institutions to follow when dealing with sexual assault on college campuses. These regulations outline who on campus must report a sexual assault, how a hearing should occur if one becomes necessary, and how to inform both the complainant and accused of any decisions regarding the allegations. The three documents also provide guidelines for what should be included in institutional sexual assault policies.

The sexual assault policies studied were compared to each other in order to determine if similar themes are present when it comes to sexual assault education, prevention, and response. The purpose of this was to determine if land grant institutions are taking similar steps to deal with incidents of sexual assault on their campuses.

#### **Research Questions**

The following research questions were used to guide research.

1. Have land grant institutions changed their policies to become aligned with the Dear Colleague Letter in the ways that they respond to sexual assault allegations?
2. What similarities are there in the ways that campuses are currently implementing sexual assault policies, specifically how they respond to allegations of sexual assault?

#### **Institutional Selection**

The researcher chose to compare the sexual assault policies present at land grant institutions to the federal guidelines. These institutions serve large bodies of students and also work to educate the surrounding community through extension programs. Often serving as a state's flagship institution, land grant universities have a rich history of receiving federal funding dating back to the establishment of the Morrill Act in 1862. Land grant institutions were created by the federal government with the goal of providing education focused on agriculture. The passage of this law ushered in a new era of public education being funded by the federal government and allowed for increased access to higher education (Dungy & Gordon, 2011). Today, these institutions oftentimes also serve as the state's flagship institution serving mid to large student bodies. The researcher was interested in investigating public institutions across the United States that serve mid to large student bodies based on the assumption that institutions with larger student populations would have larger numbers of sexual assaults on campus.

The researcher chose to include institutions that were established during the first wave of Morrill Act funding in 1862. A second wave of funding was distributed to southern states in 1890 establishing Historically Black Colleges and Universities to ensure equality in education during the period of racial segregation in education (Dungy & Gordon, 2011). Drawing from the institutions established during the first wave, provided the researcher with a pool of fifty institutions, one from each state, to pick from. The only institution from this list that was excluded was Cornell University in New York because in addition to being a public, land grant institution, Cornell is also a private, Ivy League institution depending on academic college within the institution (Cornell University, 2015). The remaining forty-nine institutions were ordered according to total

student population in order to determine the institution with the median student population. Once this was determined, the twelve institutions with student populations directly lower were selected as well as the twelve institutions with student populations directly above the median. The institutions around the median serve similarly sized student populations and this method left out any outliers with high or low student populations. Institutions with similar population sizes should have similar resources, both financial and administrative, available for combating incidents of sexual assault on campus. This then provided the researcher with twenty-five institutions to study. With the selection of twenty-five institutions the researcher investigated half of the available Title IX policies at land grant institutions. The researcher believed that by accounting for half of the possible policies, the variability within institutional policies should be accounted for.

The institutions included in this study were Mississippi State University, Clemson University, University of Delaware, Oklahoma State University, University of Nebraska-Lincoln, Kansas State University, Auburn, University of Arkansas (Fayetteville), University of Tennessee, University of Massachusetts Amherst, Washington State University, Utah State University, University of Kentucky, West Virginia University, Virginia Polytechnic Institution & State University (Virginia Tech), Oregon State University, Louisiana State University, University of Connecticut, Colorado State University, University of Georgia, Iowa State University, North Carolina State University, University of Missouri, University of California, Berkeley, and University of Maryland, College Park.

### **Data Analysis**

The researcher utilized content analysis to answer the research questions. This allowed her to quantify, compare, and describe the sexual assault policies. Content analysis “is a research technique for making replicable and valid inferences from texts (or other meaningful matter) to the contexts of their use” (Krippendorff, 2004, p. 18). Researchers currently disagree about whether content analysis is considered a qualitative or quantitative analysis tool. Berg (2001) argues that content analysis can be utilized in both qualitative and quantitative research. Researchers can keep tallies when utilizing content analysis for quantitative research and can explore common ideas and themes when conducting qualitative research (Berg, 2001). Tallies can include counting the number of times a word or phrase is stated in a document or documents. Themes include general ideas present in the readings that may not use the same wording in each policy.

In this study, the researcher utilized both qualitative and quantitative approaches to content analysis when analyzing the sexual assault policies. All of the policies investigated are available to the public but needed to be found on each institution’s website. The researcher used a keyword search on each website using the phrase “sexual assault policy.” In most cases the first result was the corresponding policy but in other cases the search needed to be expanded utilizing the terms “Title IX” or “sexual assault.” In the cases where a policy did not come up after searching, the institution’s student code of conduct was located and the code of conduct was searched for “sex” to ensure that the code covered the appropriate procedures.

Once all the policies were located, the researcher read through the *Dear Colleague Letter* and *Questions and Answers on Title IX and Sexual Violence* and formulated a worksheet (Appendix A) outlining the federal requirements surrounding

sexual violence. As the researcher read through the *Dear Colleague Letter* she noted each requirement on her worksheet. After completing with the DCL, she read through the *Questions and Answers on Title IX and Sexual Violence* to ensure that all federal regulations had been accounted for on the worksheet. Each policy was then read and notes were taken on the worksheet, under the section for the appropriate regulation, to determine if the institution was in compliance with federal Title IX regulations. The researcher then used the worksheets to determine tallies and common themes among the policies. When determining themes and tallies the researcher returned to the policies and conducted key word searches to determine that the tallies were accurate and no policies were placed in the incorrect category.

Tallies were counted when certain words, phrases, or ideas appeared in multiple policies. Every policy studied included some definitions to add to the reader's understanding of the prohibited actions or campus procedures that would occur after the report of a prohibited action. The researcher recorded the number of definitions present in each policy and kept tallies of the number of policies that fell into categories depending on the number of definitions: Few (1-5 definitions), Some (6-10), More (11-15), and Many (16+).

Themes were determined from ideas that were discussed in multiple policies but not necessarily utilizing the same terminology, like preventative education programs. Multiple policies mentioned the existence of education and prevention programs on their campuses but did not determine action plans for implementing these programs. The mention but lack of emphasis on preventative education efforts served as a theme when investigating these policies.

## **Reflexivity**

As a researcher, I feel that my gender, more than any other part of my identity, affects my interest in combating sexual assault. As a woman preparing to enter college I remember being told so many different ways to evade sexual assault. I was told, “Don’t wear your hair in a ponytail because someone can grab it, if someone makes you a drink watch them because they might drug you, don’t walk home alone, if you’re along with someone who makes you feel uncomfortable make eye contact with them and that might scare them off from trying to hurt you, if someone begins assaulting you try urinating on yourself to gross them out and hopefully scare them off” and the list goes on. Many years later these have all stuck with me, along with the frustrating idea that women should try not to be sexually assaulted, as if that is something women (or any sexual assault survivor) has control over.

While in college, and after, I kept up with sexual assault in the news, especially when it took place on college campuses, including my own. There were at least three reported sexual assaults within the first month of me arriving at my undergraduate institution. I remember hearing that this was a somewhat normal occurrence. New students were no longer living with their parents and things could get out of hand. I wondered why people were not outraged and I did not accept that this was normal. I do not believe that sexual assault is acceptable on a college campus and I hope that by looking at policies I will gain a better sense about whether institutions are in compliance with federal regulations.

While I have all of this in my mind as I conduct this research, my goal is to remain objective while comparing institutional polices against one another and the

federal regulations. It is important to remain neutral when conducting research so as to ensure validity in the findings. Before looking at any policies, I hope to find detailed policies for dealing with reports of sexual assault, as well as well thought out education and prevention efforts. I feel that detailed policies will help administrators working with students. While most of the education I remember receiving focused on evading sexual assault, I hope institutions have changed the focus to teaching students not to rape or assault others.

### **Limitations**

The main limitation present in this study was time. With only an academic year to complete research, the researcher had to study a sample of land grant institutions instead of possibly comparing the entire population. Land grant institutions on either end of the student population spectrum were not included in this research. It is possible that institutions with small or large student populations have different methods for fighting sex-based discrimination on campus and those will not be explored in this research.

By utilizing both qualitative and quantitative content analysis during this study, the researcher is unable to go into as much depth as she might if she were only conducting qualitative research. With additional time or the utilization of only one research method, additional themes might have been discovered within the policies.

A final limitation of this research is the lack of generalizability. By selecting the institutions for the study by student population size, the researcher did not allow for random sampling. This means that the results from this study cannot be used to draw conclusions about other land grant institutions and their Title IX policies.

### **Delimitations**

One delimitation present in this research was the researcher's choice to study Title IX compliance at land grant institutions. The scope of this research also only focuses on public institutions. Public and private institutions have different relationships with the federal government and may have different procedures in place in order to comply with Title IX. In order to fully understand Title IX compliance at private institutions, one would have to conduct similar research reading and analyzing the policies present at private institutions.

### **Trustworthiness**

Some different methods were utilized to ensure the trustworthiness of the data. In order to keep the research consistent, the researcher utilized repeated measures. The worksheet was used when analyzing all of the policies to ensure that similar notes were taken for each. Also, the policies were all analyzed more than once to ensure that all themes were accounted for. The policies were read the first time when taking notes on the worksheet and the researcher conducted a keyword search of each of the policies when determining each of the themes.

The researcher also utilized a peer reviewer. Another second year graduate student read through the policies and the findings chapter to ensure that all the written themes aligned with what had been in the policies.

### **Conclusion**

This chapter outlined the methodology for this study. The purpose of this study is to compare the existing sexual assault policies from twenty-five land grant institutions to current federal regulations and to each other. Content analysis is utilized when making comparisons, although different methods are used for comparing the policies with each

other and with the federal regulations. The following chapters present the data found utilizing this methodology as well as the implications of this data.

## Chapter 4

### Findings

This chapter discusses the findings of the study. Utilizing a worksheet outlining regulations from the DCL, the researcher determined compliance with the DCL and *Questions and Answers on Title IX and Sexual Violence*. The researcher also looked for common themes among the 25 policies. When applicable, policies were sorted into categories to determine frequencies and percentages. Utilizing frequencies is a common element in content analysis, and it allowed the researcher to view trends within the policies.

The main findings were (a) a range in the number of policy definitions, (b) few amnesty policies, (c) few policies that stated a required reporting window, (d) policies which noted the right to file criminal charges, (e) the interconnectedness of policies and (f) preventative education efforts.

### Definitions

While all policies had definitions of common words such as sexual misconduct and consent, policies with more definitions listed leave little to interpretation. Definitions added clarity to the policies being enforced at an institution. As listed in Table 1, the policies studied contained a wide range definitions with as few as three and as many as 42 definitions. The policies that provided more definitions left the reader with a greater understanding of what acts fall under the jurisdiction of the policy.

Table 1. Number of Definitions

Number of Definitions	Few (1-5)	Some (6-10)	More (11-15)	Many (16+)
Number of Policies	12	8	3	2

Percentage	48%	32%	12%	8%
Institutions	University of Massachusetts, Amherst University of Delaware Oklahoma State University Mississippi State University University of Connecticut Washington State University University of Arkansas, Fayetteville Virginia Tech University of Georgia North Carolina State University Utah State University Iowa State University	Kansas State University Clemson University Auburn University West Virginia University University of Maryland University of Kentucky Oregon State University	Louisiana State University Colorado State University University of Missouri	University of Nebraska University of Tennessee

Here are some examples of the variety among policies. The University of Nebraska, which has 42 definitions and so is in the 16+ category, stated that sexual assault “is committed when an actor subjects a person to sexual penetration” (University of Nebraska, 2014, p. 16). Later in the policy the definition of sexual penetration can be found: “sexual intercourse in its ordinary meaning, cunninlingus, fellatio, anal intercourse or any intrusion” (University of Nebraska, 2014, p. 17). By providing many definitions, the University of Nebraska left little up for interpretation by anyone reading the policy.

While the Auburn University policy only provided the reader with nine definitions, and therefore is in “some” category of Table 1, the policy also detailed examples for many of the definitions providing greater clarity for the reader. The section began by defining sex discrimination as “behaviors and actions that deny or limit a person’s ability to benefit from, and/or fully participate in, the educational programs or activities or employment opportunities because of a person’s sex” and continued with “Examples of sex discrimination under Title IX include but are not limited to sexual harassment, sexual assault, failure to provide equal opportunity in education programs” (Auburn University, 2014, p. 5). By continuing to provide examples of what sex

discrimination is, Auburn allowed the reader to gain a better understanding of what the policy does not allow.

While federal regulations did not explicitly state that institutions must provide definitions within policies, the DCL included definitions and examples. Sexual violence “refers to physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent due to the victim’s use of drugs or alcohol” (Ali, 2011, p. 1). The DCL went on to provide examples of acts that fall under the umbrella of sexual violence “including rape, sexual assault, sexual battery, and sexual coercion” (Ali, 2011, p. 1-2). By including definitions and examples the Office for Civil Rights set the example for institutions to follow. Institutions included definitions to comply with OCR expectations.

Definitions helped to provide readers with clarity when interpreting institutional policies. This can be of the utmost importance for responsible employees on campuses. Responsible employees “include any employee: who has the authority to take action to redress sexual violence; who has been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX coordinator or other appropriate school designee; or whom a student could reasonably believe has this authority or duty” (Lhamon, 2014, p. 15). Definitions can help responsible employees gain a greater understanding of which types of incidents on campus require reporting. Sexual misconduct is currently being used as an umbrella term for a broad spectrum of activities prohibited on college campuses. Use of this one overarching term can be beneficial when creating policies because it offers one term to use consistently, but using one word actually tells very little about what conduct actually may have occurred.

Providing definitions for each of the possible incidents that fall under this term helps to provide clarity for responsible employees who are responsible for reporting sexual misconduct cases. In other words, employees who are responsible employees might not be aware that touching the clothing that covers a sex-body part could be considered sexual misconduct. A set of clear definitions makes this explicit and helps responsible reporters fulfill their roles. This finding suggests that policies are in compliance with the DCL's expectations that certain types of sexual misconduct are covered by Title IX policies because institutions are including those definitions in their policies. However, the researcher's comparisons of policies suggest that some institutions may be providing more extensive definitions within their policies.

### **Amnesty**

Two of the twenty-five policies (8%) mentioned amnesty for students who are victims of sexual misconduct while under the influence of drugs or alcohol. These policies recognized that students may be afraid to come forward and report an incident if they were drinking while underage or under the influence of illegal drugs. Amnesty policies allow for students to report an incident or receive medical care without the fear of being charged with violations of the institution's alcohol policies.

There is no mention of amnesty in the Dear Colleague Letter, meaning that institutions are not required to offer this to students in order to be in compliance with the current federal regulations. This does not mean that institutions should not include amnesty in their policies, though. Federal regulations have required that institutions minimize the burden on the complainant when filing a complaint. The Office of Civil Rights recognized that the time after a sexual assault can be difficult for a student, and

institutions should work to remedy the situation without unnecessarily burdening the complainant (Ali, 2011). Institutional amnesty policies can be viewed as a remedy for students. By allowing students to fully disclose the details of their sexual assault without fear of being penalized for drinking or being under the influence of drugs, institutions may reduce the burden on complainants.

The University of Georgia is one of the institutions that provided amnesty for students by stating, “Information reported by a student during an investigation concerning use of drugs or alcohol will not be used against any student in a University disciplinary proceeding or voluntarily reported to law enforcement” (University of Georgia, 2014, J. Amnesty). By stating this within the university’s *Non-Discrimination and Anti-Harassment Policy*, the University of Georgia showed its students that it values students reporting incidents of harassment or discrimination, under which sexual assault falls, more than bringing students up on charges for consuming alcohol or taking drugs.

Another important relationship between amnesty policies and sexual assault on college campuses is that a person who is under the influence of drugs or alcohol cannot give consent to participate in sexual acts. If someone initiates sex, or a sexual act, with a person who is under the influence of alcohol or drugs this is considered nonconsensual which falls under the jurisdiction of institutional Title IX policies. Amnesty policies help students who have been in this situation report the incident without the fear of facing disciplinary charges for an alcohol violation themselves.

As reported by Gardella et al. (2015), incidents of sexual misconduct often go unreported on college campuses. Institutions cannot work to eliminate the hostile environment caused by incidents of sexual misconduct if incidents are not reported.

Amnesty policies play an important role in helping students come forward and report incidents. Students must feel supported by their institutions when coming forward to report sexual misconduct and fear of being disciplined themselves does not lead to an environment of support. Amnesty policies could contribute to this supportive environment.

### **Reporting Time**

While all institutions encouraged students to report incidents of sexual misconduct as soon as possible some instituted deadlines by which incidents must be reported if the institution is to investigate the complaint. Two institutions had a 180-day limit for students to report and a third provided students with a year to report an incident. As stated earlier, there are many barriers to reporting incidents of sexual misconduct, and these barriers may cause survivors to delay reporting, so having a reporting timeline may create an additional barrier to learning about sexual assaults on campus.

The only time limits mentioned in the DCL involve institutional timelines for completing investigations into reports of sexual misconduct. “Based on OCR experience, a typical investigation takes approximately 60 calendar days following receipt of the complaint” (Ali, 2011). This is not a strict timeline for institutions, though. More complex cases may take more than 60 days to investigate, and the Office of Civil Rights recognizes this fact (Ali, 2011). Institutional administrators must use their own discretion when determining the complexity of reports and the time to allow for investigations.

Mississippi State University is an institution that does not have a time limit for students reporting incidents of sexual misconduct but does encourage students to report as soon as possible. “There is no strict time limit for reporting Sexual Misconduct, but

individuals are strongly encouraged to report suspected Sexual Misconduct immediately” (Mississippi State University, 2011, p. 1). This policy put an emphasis on students reporting incidents as soon as they occur but does not stop students from reporting after a considerable period of time has passed. As time passes, evidence is inevitably lost tying the perpetrator to the incident. Institutions encouraged prompt reporting of sexual misconduct because this makes investigations easier to conduct. Physical evidence may no longer be useful, and witnesses may be difficult to identify if time has passed. This factor may be what has led some institutions to require students to report incidents of sexual misconduct within a certain period of time.

Kansas State University’s policy covered discrimination, harassment, sexual violence, and stalking and had different reporting deadlines depending on the incident. “Complaints must be filed within 60 (180 for sexual violence) calendar days of the alleged discrimination, harassment, or retaliation” (Kansas State University, 2014, Section .020 para. 3). This means that if a student allows six months to pass before reporting an incident of sexual violence the survivor can no longer request an institutional investigation. While an investigation may no longer be available, Kansas State will still work to accommodate students who report sexual violence no matter when the incident occurred. “With respect to alleged sexual violence, the University offers reasonably available changes to academic, living, transportation, and working situations if requested by the complainant, regardless of whether the complainant chooses to report the crime to police or the alleged act took place more than 180 days before reporting” (Kansas State University, 2014, Section .020 para. 7). This caveat shows that Kansas State is still in compliance with the DCL. By allowing students to receive accommodations no matter

when an incident is reported, Kansas State will still work to eliminate a hostile environment for a complainant.

While the DCL does not institute timelines for students to report incidents of sexual misconduct, institutions can require students to report complaints within a specific period of time and still remain in compliance with the Office of Civil Rights. Title IX requires that institutions work to eliminate hostile environments on campus. Institutions can remain in compliance with a reporting deadline in place as long as they provide students with accommodations even if an incident is reported after the policy's timeline for conducting an investigation.

### **Right to File Criminal Complaint**

Some of the prohibited actions covered by Title IX policies at educational institutions are also considered crimes punishable under the law. Any person who has been the victim of a crime has the right to report the details of the crime to the police for possible prosecution. This means that oftentimes students reporting a Title IX complaint have the right to report to police in addition to the educational institution. The 25 policies studied addressed this right with a variety of different wording as can be seen in Table 2.

Table 2. Right to File A Criminal Complaint

Policy Wording	Should File	Encouraged to File	Right to File	Not required to File	No mention of Filing
Number of Policies	1	10	8	1	5
Percentage	4%	40%	32%	4%	20%
Institutions	University of Arkansas, Fayetteville	University of Connecticut Mississippi State University Kansas State University Auburn University University of	Washington State University University of Kentucky Oregon State University	University of Tennessee	Clemson University University of Delaware West Virginia University North Carolina State

		Massachusetts, Amherst Louisiana State University University of Georgia Iowa State University University of Maryland	University of California Colorado State University University of Missouri Utah State University University of Nebraska		University Virginia Tech
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The DCL stated “A school should notify a complainant of the right to file a criminal complaint, and should not dissuade a victim from doing so either during or after the school’s internal Title IX investigation” (Ali, 2011, p. 10). Institutions can still be in compliance with the DCL without mentioning the students’ right to report crimes to the police in their policies as long as administrators notify students of their rights at some point during the investigation process. The five institutions that have no mention of filing criminal charges are still in compliance with federal regulations as long as administrators discuss the complainant’s rights with each student.

The DCL regulation served as a baseline requirement for institutions. At the bare minimum students must be notified that they have the right to file criminal charges if the Title IX policy violation is also a crime. The University of Missouri system addressed this requirement in their policy stating “Such individuals can also contact campus police if the alleged offense may also constitute a crime” (University of Missouri, 2013, section C. para. 1). By including this statement within its policy, the University of Missouri fulfilled its DCL requirement and put the onus on the complainant to contact the police and file charges. To ensure full compliance with the DCL, institutions like Missouri, which include statements in their policy about making criminal charges, must ensure that when administrators meet with complainants they do not dissuade students from doing

so.

Ten of the institutions took the DCL requirement a step further and encouraged students to file criminal charges instead of just making students aware of their rights. Iowa State University was one of these institutions. The institution's policy stated "For non-emergencies, or if criminal behavior is involved, students are *encouraged* to contact ISU Police" (Iowa State University, 2013, p. 5; emphasis added). The policy went further to describe, "Contacting ISU Police does not mean you must pursue charges. ISU Police can advise you of your options and can also preserve evidence while you consider your options" (Iowa State University, 2013, p. 5). By encouraging students to file charges, institutions can help students explore all their options when it comes to reporting crimes.

Student complainants are in a unique position because they have the option to pursue an institutional investigation, criminal charges, or both simultaneously. Title IX requires institutions make sure that students are made aware of all of their options. Institutions must also not dissuade students from filing charges with the police. None of the institutions that mentioned encouraging complainants to file criminal charges included action steps for administrators on how to encourage them. It is possible without a set of explicit steps that institutions are doing little to encourage students to file criminal charges.

### **Interconnectedness of Policies**

Institutions organized policies in a variety of different formats. Some institutions had a single student code of conduct that covered all prohibited activities on campus, grievance procedures, and students' rights. Title IX requires institutions to

create a non-hostile environment for all community members and visitors in addition to students, but students are the focus of this investigation. Other institutions had a separate policy for sexual discrimination and harassment but made references to other institutional policies when referring to grievance procedures and other institutional regulations. Finally, three policies served as stand-alone policies with no references to the student code of conduct or other regulations. The policies investigated in this study fell into three categories as illustrated in Table 3.

Table 3. Organization of Policies

Policy Organization	Single Policy	References Other Policies	No Mention of Other Policies
Number of Policies	8	14	3
Percentage	32%	56%	12%
Institutions	University of Nebraska University of Connecticut Clemson University University of Delaware University of Massachusetts, Amherst North Carolina State University University of Missouri Utah State University	Mississippi State University Oklahoma State University Auburn University University of Arkansas, Fayetteville University of Tennessee Washington State University University of Kentucky West Virginia University Oregon State University Louisiana State University Colorado State University Iowa State University University of California University of Maryland	Kansas State University Virginia Tech University of Georgia

The DCL required institutions to publish grievance procedures for resolving complaints of sexual misconduct. Institutions may use grievance procedures existing prior to the DCL to adjudicate incidents of sexual misconduct as long as “Any procedures used to adjudicate complaints of sexual harassment or sexual violence, including disciplinary procedures, however, must meet the Title IX requirement of affording a complainant a prompt and equitable resolution,” (Ali, 2011). All of the institutions studied have published grievance procedures aligning them with the DCL’s regulations.

The organization of institutional policies impacts the ease of understanding for students and administrators. By including every student-related policy within the student code of conduct, students and administrators do not have to search for institutional procedures related to accepted activities or grievances on campus. Seventeen of the institutions studied (68%) had policies specific to sexual misconduct that were separate from the student code of conduct. Fourteen of these policies included references to other institutional policies, which supplemented the procedures in the Title IX policy. The remaining three policies served as stand-alone policies with no references to other institutional policies. These institutions still had published grievance procedures but the student or administrator would need to search to find the additional policies.

### **Preventative Education Programs**

In addition to regulations, the Dear Colleague Letter also included recommendations for institutions. “OCR recommends that all schools implement preventive education programs and make victim resources, including comprehensive victim services, available,” (Ali, 2011, p. 14). While some policies had references to preventative education programs on campus, none of the institutions studied included a plan for using education programs to prevent sexual misconduct at their institution.

Making this a recommendation and not a regulation may imply that education and prevent efforts are not as important as compliance with reporting and investigative regulations. The lack of education plans in policies potentially sends the same message. While sexual misconduct is occurring on campuses and administrators must be able to appropriately adjudicate complaints, efforts must also be taken to prevent sexual

misconduct.

## **Conclusion**

This chapter outlined the themes present in the land grant Title IX policies investigated by the researcher. All policies included definitions providing the reader with additional details surrounding prohibited acts or institutional procedures. Policies with a greater number of definitions provided more clarity and left less for the reader to have to interpret. Two of the policies promise amnesty for complainants who report incidents that occurred while they were under the influence of alcohol or drugs. Amnesty helps to provide complainants with a supportive environment to report incidents of sexual violence. Reporting time cutoffs were present in three of the policies meaning that reports will not be investigated for incidents that occurred six months to a year before the report is made. Students who were the victim of a crime have the right to file criminal charges without being dissuaded by campus administrators. The policies ranged in language from stating that students should file charges to the mention that students can file charges. Some of the policies studied were stand-alone policies just focused on sexual discrimination and harassment with references to policies outlining other relevant campus procedures, while institutions included all policies and procedures within the student code of conduct. Finally, some policies mentioned preventative education efforts but no policies included specific plans for preventing sexual assault on campus. The next chapter will include recommendations for practice and future research.

## **Chapter 5**

### **Discussion**

This chapter will provide a summary of the findings from the policies studied and connect these findings to the existing literature. Recommendations will also be made for practices regarding Title IX compliance. Finally, suggestions for future research will be outlined.

#### **Summary of Findings**

The purpose of this study was to determine if institutions are meeting federal regulations related to Title IX as well as to determine any common themes present within institutional Title IX policies. The researcher determined that the institutional policies studied all appeared to be in compliance with Title IX regulations. There were a variety of themes present throughout the policies including definitions, amnesty policies, reporting time regulations, the right to file criminal charges, the interconnectedness of policies, and preventative education efforts. All of these themes helped to determine policy compliance and to compare the policies. Definitions are included in policies to help provide clarity for the reader. Providing definitions beyond what is typically included, like consent or sexual misconduct, institutions provide students and administrators with a greater picture of what is covered by the policy. Two policies detailed amnesty policies for students who were victims of sexual misconduct while under the influence of alcohol or drugs. These institutions allow for students to report incidents without fear of being disciplined themselves. This is important when considering institutional support for students disclosing incidents of sexual misconduct. All policies encouraged students to report violations of the Title IX policy as soon as

possible but three policies actually included time limits for reporting. While all the policies are aligned with the federal regulations, there was no single consistent way that the policies were organized. The majority of institutions had policies to specifically address Title IX regulations plus many of these policies referenced other institutional policies and procedures. Other institutions included all campus procedures within the student code of conduct providing students and administrators with a single document to reference for any concern. Finally, the DCL recommends that institutions take steps to educate students and administrators in the hopes of preventing incidents of sexual misconduct on campus. While some policies made mention of education or prevention efforts on campus no policies outlined plans for the institution to work to decrease incidents on campus. Including this as a recommendation rather than a requirement ensures that campuses are still in compliance but may show that the federal government and institutions value compliance over prevention education.

### **Connection to Literature**

It is clear from a review of literature and recent news that sexual misconduct, specifically sexual assault and rape, is an issue on college campuses. Institutions have recently made the news after students have made allegations that their reports of sexual assault were not handled properly including an incident at Columbia University where a student has been accused of sexual assault by multiple complainants but has been allowed to remain on campus (Schonfeld, 2014). This study focused on understanding the federal regulations recently implemented by the Office of Civil Rights and comparing existing sexual assault policies to the regulations as well as to each other. Much of the literature related to sexual misconduct on college campuses does not consider the policies present

at institutions but instead focused on reporting or education and prevention. Yung (2015) found institutions tend to underreport sexual assault numbers when not being investigated by the Department of Education in relations to the Clery Act and Gardella et al. (2015) found that the incidence of sexual assault is higher when students are asked to anonymously report in a survey compared to institutional report numbers. Rothman and Silverman (2007) found statistically significant results indicating that prevention efforts can reduce victimization rates on college campuses.

This study focused on the policies that outline how institutions must go about determining if an incident of sexual misconduct has taken place. No study has been found that documents the compliance of land-grant institutions with Title IX policies. As a result of this study, it is documented that institutions have the policies in place, and they are available to the public. These policies provide descriptions of sexual misconduct and the procedures for making a complaint. Knowing that these policies exist and are available to the public is important in the effort to encourage reporting.

Looking further at the issues of compliance with reporting, it has been suggested that schools typically underreport sexual assault numbers, which raises questions about federal compliance (Yung, 2015). Yung (2015) found that administrators might believe common rape myths meaning that they may not believe some complainants. This study suggests institutions have the correct procedures listed in their policies in order to be in compliance with federal regulations, but what is still not known is whether administrators' actions are also supporting the creation of an environment that is not hostile ensuring complete compliance. In light of Yung's findings about underreporting, there are questions about the extent to which and the context for when institutions follow

their policies. Another scenario raised by this study's findings is that some policies are explicit about encouraging reporting while others merely state that reporting is an option. Few, only 40%, explicitly encourage reporting. This suggests institutions are taking the approach of stating the option to report rather than encouraging reporting. What is still not known is whether or how administrators provide a supportive environment for complainants reporting incidents of sexual misconduct. Understanding the extent to which administrators follow their policies and support students is a significant issue because supporting student complainants to remedy their situation is a requirement of Title IX. Institutions that fail to implement their policies will not be in compliance with federal regulations. Perhaps more significantly, administrators who do not support survivor complainants may also increase posttraumatic stress for them.

Also, on the topic of reporting, this study finds that two policies have a reporting window that limits how long a survivor can wait to report and expect a full investigation. Literature is clear that there are barriers to reporting, including shame or self-blame (Sable et al., 2006). Further, no literature was found about a typical amount of time people wait to report an incident. Given the significant number of barriers to reporting and the physical and emotional trauma survivors may encounter in the wake of an assault it is unknown whether survivors will report within the reporting window (Sable et al., 2006). Failing to provide an adequate amount of time to report an incident would be failing to provide a grievance procedure that is fair to complainants, which is one of the major concerns the April 2011 DCL attempts to address.

Sexual assault prevention education efforts are also commonly researched. It has been proven that training can help to reduce student belief in rape myths which

commonly lead to misunderstandings when it comes to sex and consent (Kress et al. 2006). In addition to complying with Title IX regulations, institutions must also consider what they are doing to educate their students and employees and prevent sexual misconduct. The DCL only recommends that institutions include preventative education plans in their Title IX policies. Researchers have studied different methods of educating college students about common rape myths and measured the effects of training both immediately after trainings and after being on campus for a year. This study shows that institutions are not documenting their education prevention plans within their Title IX-related policies about grievance procedures. Administrators must be able to respond to complaints, which the policies studied all cover, but working to prevent incidents will help make campuses a more welcoming place for all students regardless of whether they personally have experienced sexual assault because not only will they be less likely to experience an assault, they will be less likely to witness one or be indirectly affected when someone they know has been hurt.

This study adds to the existing literature by providing information related to Title IX compliance for land grant institutions. Understanding Title IX in relation to underreporting, barriers faced by students, and preventative education is important because in order to effectively serve students, administrators must understand the whole picture surrounding sexual assault on college campuses. Hopefully, when it is better understood, it can be more effectively addressed, fewer people will commit sexual assaults because of prevention measures and solid reporting systems, and fewer people will be affected by sexual violence.

### **Recommendations for Practice**

**Make policies easy to locate.** The first recommendation is based on the process of doing this research rather than on the outcome. After finding that all the institutions studied appear to be in compliance with federal regulations it is important to consider if the information in the policies is making it to the correct audience. When searching for policies the researcher used a simple keyword search on institutional websites beginning with the phrase “sexual assault policy” to try to find the policy she was looking for. In most cases the first result was the policy she was looking for but in other cases it required more digging for me to find the appropriate policy. Institutions should take time to ensure that the policies listed on their websites are up to date and that when people perform a search they are directed to the appropriate results. This may require utilizing administrators or information technology professionals to perform website searches and check results to ensure that searches of the website are producing productive and helpful results. Students today have grown up with the Internet and that may be the first place they go when looking for answers. It is important that the institution has the appropriate resources available to students who may be seeking them out on the web.

**Amnesty.** Two of the policies provided complainants with amnesty when institutions for policy violations related to alcohol or drugs. Other institutions may want to consider instituting similar policies. Allowing students to disclose when they have been the victims of sexual misconduct without fear of facing disciplinary procedures should help to eliminate a barrier to reporting on campus. Medical amnesty policies have been found to increase the number of students seeking medical attention for alcohol poisoning, reducing the possibility of student injury or death (Lewis & Marchell, 2006). This trend may carry over to the reporting of sexual assaults. As assessment of the

reasons students do not report sexual assault incidents to administrators may provide information about the necessity of an amnesty policy. It could also help administrators determine what should be included in such a policy. Institutions which have these policies should make sure that students are made aware of them. For institutions which already have an amnesty policy, an assessment of its use by students may provide institutions with a better picture of how well they are aware of the policy and how likely they would be to report a sexual assault given the current policy.

**Reporting time.** Institutions should also consider if they require students to report incidents of sexual misconduct within a certain period of time. Having a time limit for reporting likely makes it easier for institutions to investigate since evidence and witnesses recollections are fresher. Institutions should also consider how much time students typically allow to pass before reporting and ensure that students are being supported by the institution when it comes to reporting. If an institution finds that reports made after a certain amount of time has passed are difficult to substantiate instituting a time limit for reporting may be necessary. In that case, though, it would be important to consider providing students with remedies to eliminate a hostile environment no matter how long after an incident is reported.

**Administrative actions.** Some of the regulations in the DCL involve administrative actions and should be considered when working with students. As mentioned previously, administrators must ensure that complainants are aware of their right to file criminal charges and cannot dissuade a complainant from filing charges. In this case an administrator must keep this regulation in mind when working with a complainant so as not to appear to the student that the administration does not support the

filing of criminal charges. Some policies wrote that the institution encourages complainants to file charges but did not provide action steps for administrators to follow. One step could include accompanying students to the local police department to file charges. Administrators must determine their own best practices for encouraging students who are considering filing criminal charges.

**Breaking the cycle.** Finally, administrators should consider whether just being in compliance with federal regulations is doing enough on their campus to break the cycle of sexual misconduct. These regulations serve as a baseline for institutions to follow but administrators must determine if just following the regulations is helping the campus culture enough. Compliance with these federal regulations focuses on what should occur after an incident has occurred on campus but there are no indications that complying with federal regulations helps to stop incidents on campus.

### **Implications for Research**

In the future researchers should consider comparing the impact of federal regulations versus recommendations of Title IX. Currently, much of what is included in the DCL serves as a requirement for institutions but there are also recommendations. For example, the DCL recommends that institutions include preventative education efforts in Title IX policies in order to determine a plan of action for the campus. Currently, many institutions only mention education in their policies but do not provide a plan for preventing sexual misconduct on campus. It is possible institutions may have plans that are not included in their policies. While searching for policies the researcher came across various webpages providing students with information regarding sexual assault prevention efforts or gender programming on campus. That indicates institutions that do

not include preventative education efforts in their policies may still be attending to these elements. Researchers should investigate the implications of not including education or prevention efforts in Title IX policies. For example, a change in administration could lead to preventative education efforts being dropped from the institution's best practices.

Another question to pursue is whether not including the education and prevention efforts in the policies is an unintentional signifier to people that they are less important. The combination of knowing the relative impact of compliance versus preventative education on the campus climate and what not including education in campus policies means to the campus community could point to a real problem if preventative education has a greater impact and yet it is viewed as less important.

Another area of research that appears to be lacking is the impact of amnesty policies on student disclosure of sexual assault or rape on college campuses. When researching, there appeared to only have been one study on the impact of medical amnesty on the reporting of alcohol poisoning at Cornell University. It would be helpful to investigate if instituting an amnesty policy related to incidents of sexual misconduct would reduce barriers to reporting leading to an increase in reports of sexual misconduct. Students are not reporting every incident and adding an amnesty policy may help reduce barriers to reporting. With fewer barriers to reporting, institutions will hopefully get a better idea of the full scope of sexual misconduct on their campus so they can work to reduce the number of incidents, making campus a more supportive environment for all students.

Additionally, institutions should consider investigating the time between when incidents occur on campus and when students decide to report incidents. In light of the

findings that some policies have a time frame for reporting incidents, having this information could help institutions determine whether timelines are best practice and if so, what timeline would best meet the needs of administrators and students. When investigating the average time taken by students before reporting, researchers can also look into the factors causing students to delay reporting this information to their institution. This is important for administrators to be aware of because it can help them provide a more supportive environment for students.

Finally, in order to truly understand if institutions are in compliance with Title IX regulations, administrator actions must also be investigated. All of the policies studied were found to be in compliance with current federal regulations but there is more to compliance than just what is written in policies. As sexual misconduct continues to be a problem on college campuses it is important to research the connection between administrator action and Title IX compliance.

## **Conclusion**

This study found twenty-five policies from land grant institutions that are in compliance with current Title IX regulations. Even with all complying with current regulations, the policies differed in details provided by definitions, organization, reporting requirements, and the availability of amnesty for complainants. When considering future practice administrators should consider making policies easy to locate, including amnesty policies, allowing for a long enough period of reporting time, considering administrative actions in addition to the policy, and working to break the cycle of sexual assault on campus. Future researchers should consider investigating Title IX regulations versus recommendations, the impact of amnesty policies, and common reporting times and

barriers. Administrators and researchers must continue working to understand Title IX regulations and how they can best be implemented on campuses across the United States in order to break the current cycle of collegiate sexual assault.

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**Appendix A**  
**Policy Compliance Worksheet**

Institution:

Policy Name:

Investigation Details:

Mention of retaliation?:

Confidentiality:

Notice of Nondiscrimination:

Title IX Coordinator:

Published Grievance Procedures:

Informal/Formal Procedures:

Right to file criminal complaint:

Hearings:

Appeals Process:

Training for those involved in grievance procedures:

Grievance procedures should specify the time frame within which:

The school will conduct a full investigation of the complaint

Both parties receive a response regarding the outcome of the complaint

The parties may file an appeal

Notification of Outcome:

Education and Prevention:

Minimize burden on complainant (remedies):