

# **Misunderstanding Law: Undergraduates' Analysis of Campus Title IX Policies**

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## **Abstract**

Colleges and universities are legally required to attempt to prevent and redress sexual violations on campus. Neo-institutional theory suggests that the implementation of law by compliance professionals rarely achieves law's goals. It is critical in claims-based systems that those who are potential claimants understand the law. This article demonstrates that: (1) intended subjects of the law (colleges and universities) interpret and frame the law in very similar ways (2) resultant policies are complex and difficult to navigate; and (3) that university undergraduates in an experimental setting are not able to comprehend the Title IX policies designed to protect them. These findings suggest that current implementations of Title IX policies leave them structurally ineffective to combat sexual assaults on campus.

Keywords: Title IX, managerialized rights, legal compliance, sexual assault

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Sexual assault on college campuses is an old problem that has gained increased media and academic attention due to new federal guidance on campus requirements (Gersen, Gertner, and Halley, 2019; Green, 2018); major demonstrations (Dastagir, 2019; Hartocollis, 2019); the HBO documentary, *The Hunting Ground* (Lady Gaga et al., 2015); high profile cases like the Brock Turner rape case on the Stanford University campus (Dastagir, 2019; Bacon, 2018; Hauser, 2018); and the formation of new social movement campaigns such as “End Rape on Campus” and “Know Your IX” ( EROC, 2020; Know Your IX, 2020). Colleges and universities that receive federal funding are required to ensure equal educational opportunity, which includes preventing and addressing sexual assault, harassment, and discrimination (Federal Register, 2018). Currently, some states are considering or have passed laws that detail how schools in their state must define consent (Know Your IX, 2018).

The relevant pieces of federal legislation about campus sexual assault are Title IX of the Civil Rights Act of 1972 and The Clery Act of 1991 (including the amendments to it in the Campus SAVE Act)(1-2). Title IX is a comprehensive federal law that prohibits discrimination on the basis of sex in any federally funded education program or activity on college and university campuses that receive federal funds. In its early days, Title IX was most known for equalizing opportunity in women’s sports programs on campuses, but it is increasingly the basis for addressing the role of colleges and universities in attempting to prevent and mitigate the harms of sexual assault. Like other civil rights laws designed to disrupt hierarchies of unearned privilege, the federal law is administered by a regulatory agency for rule-making (the Department of Education) and then interpreted and implemented by elites in organizations (lawyers, deans, and administrators). The policies derived from federal law and administrative agency guidance in the ED are then communicated to the people who are the intended

beneficiaries of the law (students) via written policies, educational online trainings, and through informal processes.

Sociolegal scholars, especially those who study law in everyday life or legal consciousness, are rightly skeptical about whether the text of these policies (the “law on the books”) matters for ordinary people in their decision-making process. And yet, we know that analyzing formal policies can be instructive for understanding organizational response to and diffusion of law, organizational signaling inside and outside an institutional field, and as artifacts of legal processes. Accordingly, there is no shortage of analysis of policies in general or of Title IX policies in particular.

Despite the analysis of Title IX policies, as of yet, there has been little research about how undergraduate students understand these policies. For funding men’s and women’s athletics undergraduates may not need to understand the full picture of finances of the college, but when it comes to sexual assault on college campuses, the policies include much information that undergraduates need to understand both for adequately (at least under the rules of their school) obtaining sexual consent and for understanding what is to happen should an undergraduate initiate a Title IX complaint. Importantly, Title IX complaints are often student initiated which requires substantial knowledge on the part of a student who wishes to initiate a complaint. This process can be made more difficult because crucial decisions like deciding to talk to a mandated reporter or saving physical evidence cannot be undone if a student did not understand the process when making such decisions.

The final reason we seek to understand whether and how undergraduates understand campus sexual assault policy comes from the larger project in which this experiment is embedded. We do not systematically present these data in this paper, but one author has completed 150 qualitative, in-depth interviews of undergraduate students on seven campuses in three states nationwide.

That research demonstrates that the vast majority of undergraduates know remarkably little about their institutions' sexual harassment and assault policies. Nevertheless, students are confident that "if anything happened" they would be able to both locate and understand the policies with a quick search of the school's website (3).

For these reasons, we seek to measure whether and how students understand these policies at all. The article describes the process of testing whether undergraduates are able to (a) locate important provisions in written Title IX policies and (b) comprehend some of the more complex concepts associated with the complaint process should an undergraduate believe they were sexually harassed or assaulted.

We find that: (1) undergraduate students reliably are able to locate important concepts in these policies but (2) the more complex comprehension of various terms and concepts is almost universally misunderstood. Finally, in an attempt to diagnose the problem of policy legibility, we performed a Lexile analysis of a sample of the policies. This analysis reveals that the average Lexile score for a Title IX policy (that a 17- or 18-year-old undergraduate might confront if they had been sexually assaulted and looked to campus resources for help) is 30.80— about Harvard Law Review level of reading ability and vocabulary.

Our analysis demonstrates that this level of difficulty is insurmountable for college undergraduates when asked to locate and comprehend basic elements of a typical Title IX policy in an online experimental study. This means that even in the most ideal conditions, conditions that certainly do not exist after a student is sexually assaulted, students cannot activate the very Title IX policy that is meant to protect them.

This article proceeds in six sections. Section II elaborates on how campus sexual assault contributes to educational inequality. It is easy to take for granted that campus sexual assault is harmful to its victims in many ways, but we include some of the research demonstrating the

magnitude of the impact of campus sexual assault on college performance. It is also instructive as we consider the capacity of victims of sexual assault and their thought processes in the wake of it. Section III provides the literature review to make the case for studying how undergraduates themselves understand these written policies. It also elaborates on our research questions. Section IV conveys our experimental design methodology. Section V analyses the results and we conclude briefly in Section VI.

### **How Campus Sexual Assault Contributes to Educational Inequality**

Sexual assault at colleges and universities has a profound impact on educational opportunity for undergraduate students. Quantifying the true impact of sexual assault on the undergraduate student population is very difficult due to substantial under-reporting of intimate partner violence broadly speaking by persons of all genders and sexualities, though scholars postulate differing patterns or reasons for non-reporting across different populations (Ling, 2011; Tuchik, Hebenstreit, and Judson, 2016). While the true scope of the problem of sexual assault on campus remains unknown, recent work has found that 6-8 percent of males and around 20 percent of females have experienced sexual abuse or sexual misconduct during their college career (Anderson, Svrluga, and Clement, 2015; Muehlenhard et al., 2017). Relatedly, there has been relatively recent recognition by higher education institutions and legislators that educational equality requires attention to student safety and in ensuring that campuses are as safe as they can be from sexual assault. And, where sexual assault does occur, that colleges and universities have adequate processes in place to deal with it.

Being sexually assaulted during college takes enormous psychological, physical, social, and academic tolls on a victim. While the trauma of sexual abuse is taken for granted in these

discussions, scholars often fail to consider exactly how being the target of sexual assault or rape in college perpetuates and magnifies gender and other forms of inequality.

A history of sexual assault is associated with an increased prevalence of a lifetime suicide attempt after controlling for sex, age, education, posttraumatic stress symptoms, and psychiatric disorder (Davidson et al., 1996; Davidson and Foa, 1993). Some 33% of rape victims report having ever thought seriously about committing suicide vs. 8% of non-victims, meaning that rape victims are 4.1 times more likely to have contemplated suicide (National Victim Center, 1992). Similarly, elevated likelihoods of PTSD and depressive episodes are reported by rape victims. “Almost one third (31%) of all rape victims developed PTSD sometime during their lifetimes, and more than one in ten rape victims (11%) still has PTSD at the present time. 30% of rape victims experience at least one major depressive episode in their lifetime and 21% experience it at the time of the rape” (National Victim Center, 1992). Worst of all, rape victims are 13 times more likely than non-crime victims to have actually made a suicide attempt (13% vs. 1%) (National Victim Center, 1992).

Given the psychological, physical, and social toll that sexual violence has on its victims, it is perhaps not surprising that academic performance suffers dramatically. To be sure, students who experience any kind of violence while at school have higher than average negative academic outcomes, but targets of sexualized violence face the most negative outcomes. When students who have been the victim of violence remain in college, those who suffered non-sexualized violence incurred, on average, a GPA decline of 0.35, whereas targets of sexual violence see something closer to a full letter grade drop (Mengo and Black, 2016). This is likely related to the fact that victims of sexual violence among college students have decreased class attendance and decreased quantity and quality of work (Smith, White, and Holland, 2003).

This decline in performance inevitably leads to leaving college altogether. Students who are victims of any kind of violence while at college have an increased risk of dropping out, but victims of sexual violence are dramatically more likely than victims of other types of violence to do so. Nationally, the average the rate of dropout for victims of violence is 24.3%, but victims of sexual violence have a dropout rate of 34.1% whereas victims of verbal or physical violence have a 12.1% dropout rate (Mengo and Black, 2016). This research is compelling evidence of a link between sexual violence and underperformance in college not just vis-à-vis the general student population, but even as compared to victims of other kinds of violence. Sexual assault is a particularly insidious way that gendered academic and social inequality is maintained and reproduced.

In partial response to this problem, Title IX requires campuses that receive federal funding to attempt to prevent sexual assault and to mitigate these damaging consequences when it occurs. In the section that follows, we place our research questions in their broader theoretical location.

### **From Law to Policy to Legal Consciousness**

A civil rights law is what gives individuals who think their rights have been violated a cause of action to sue. This is a primary tool to address the problem of unequal educational opportunity for women in colleges and universities. This litigious policy (Barnes and Burke, 2014; Epp, 2009; Kagan, 2003) places the burden for enforcing the law on an individual (Albiston 2010; Berrey, Nelson, and Nielsen, 2017; Edelman, 2016; Galanter, 1974) who must complain within the organization's structure (Bumiller, 1992; Felstiner, Abel, and Sarat, 1980). As such, it is crucial to understand the processes by which the law is transformed into organizational practices, conveyed to people the law is intended to benefit, and how those individuals understand the policies enacted by the organizations in which they may want or need to assert their rights. Next,



we describe the “law on the books” designed to incentivize colleges and universities to provide help for students who have experienced sexual assault or rape on campus. We go on to explain how the hypothesis that the study of managerialized law would lead us to grim predictions about the implementations of Title IX policies in colleges and universities. We conclude this section with our research questions.

### *Law on the Books*

As mentioned in the introduction, at the Federal level, two primary sources of law frame questions about campus sexual assault: Title IX of the Civil Rights Act of 1972 and The Clery Act of 1991 (including the amendments to it in the Campus SAVE Act) (4-5). Title IX is a comprehensive federal law that prohibits discrimination on the basis of sex in any federally funded education program or activity. The principal objective is to avoid the use of federal funds to support schools that engage in sex discrimination and to provide individuals affected by discriminatory policies a mechanism to challenge the policies and practices of these institutions. Perhaps most widely known for the provisions and litigation around equality in campus athletics, Title IX guarantees equal educational opportunity, which includes an educational environment free from -- or at least responsive to -- sexual assault. Administered by the Department of Education (ED), these federal laws are implemented differently under different administrations and are influenced by practices at the ED and quasi-legal directives.

Since 1980, courts have interpreted Title IX to include protections from sexual harassment and sexual assault (6). In 2011, the Office for Civil Rights (OCR) within the ED issued a “Dear Colleague” letter (DCL) advising universities that they must provide a learning environment free from sexual violence. A DCL does not have the status of law, but this one was determined to be a “significant guidance document” which spurred university revisions to sexual assault policies.

The Clery Act requires all colleges and universities to have comprehensive crime prevention strategies in place and to compile and publish crime data.

The Obama administration's DCL met with considerable resistance. The Harvard Law School Faculty asserted that defining sexual assault and rape was difficult and that accused students seemed to lack due process protections (Ryan, 2018). Obama-era rules instructed colleges and universities to employ the lower "preponderance of the evidence" standard for determining whether or not an incident occurred. The Trump-era rules favor the higher burden of "clear and convincing evidence" for a finding of sexual assault. The standard of proof that universities and colleges must use in a disciplinary proceeding is much debated and the lower, Obama-era standard means the threshold for finding a perpetrator responsible favors the complainant/victim. Along with other provisions, some scholars and men's rights activists critiqued the burden of proof as undervaluing due process for the accused.

The Obama-era Dear Colleague Letter has undergone substantial changes during the Trump administration. In February of 2017 The U.S. Department of Justice and U.S. Department of Education released a new letter that rescinded parts of the previous letter. This included redacting application of the Title IX guidelines to transgender students (7). In May of 2020, the Department of Education released a 2,033-page document defining a new set of regulations on how schools should manage sexual misconduct. In this document sexual misconduct is re-defined at a higher bar of "severe, pervasive, and objectively offensive that it effectively denies a person equal access" which limits the types of conduct under the purview of the Title IX office (8). The new rule also requires survivors seeking formal resolution to undergo cross-examination (Bedera, 2020). The rule also sets a new standard of 'deliberate indifference' rejecting the previous 'should have known' standard to the effect of reducing the responsibility of schools. The sum of these changes is generally considered to make it harder or less likely for survivors to

seek resolutions while loosening the responsibility of schools (Bedera, 2020; Downey, 2020). As with the previous Dear Colleague Letter, this rule constitutes a procedural floor and suggests guidelines rather than limiting the ceiling of Universities' Title IX response.

In addition to federal law, some states have taken measures to specify college and university obligations about ensuring equal educational opportunity by preventing sexual assault on campus. Most notably, California became the first state in the country to adopt a "Yes Means Yes" position on consent with SB-967, a statute that was approved by the governor and signed into law on September 28th, 2014 (9-10). Title IX hearings and investigations continue to be litigated in state courts, demonstrating the continued need for improvement to Title IX procedures. As recently as July 2021 and clarified in August 2021, a Massachusetts district court ruled to vacate a section of the DE 2020 Title IX Final Rule that prevented schools from considering statements from parties who declined to participate in cross examination at live hearings (*Victim's Rights Law Center v. Cardona*, 2021). This rule change might feasibly change the propensity of witness and victim statements to be included as evidence, and the change the way witnesses and victims are willing/able to participate. Soon after the ruling, institutions appeared to be contemplating removing relevant provisions from their own policies (Zaccheo, 2021).

State and federal law are not self-enforcing, however. The existence of and disputes over the language of these laws and directives makes the issue salient for everyone involved in higher education. Yet how these laws are understood, interpreted and presented to the students who will actually be trying to engage in consensual sex practices is under-studied. Of course, rights like those conferred by Title IX of the Civil Rights Act are not self-enforcing either. Sociolegal scholarship about law provides a number of insights into how the law, in the form of rights, will

operate in action. In what follows, we take up neoinstitutional theory, which provides us some hypotheses about how these laws will operate in practice.

*Law in Action: Managerialization/Neoinstitutional Theory*

Analyzing organizational policies about legal compliance over time and across institutions is useful for many purposes. First, it allows for the identification of multiple audiences that organizational leaders want to signal to or be in conversation with (Gould, 2005). This in turn can tell us something about an organization's prestige within a field (Armstrong et al., 2017). They can also serve as historical artifacts of legal processes (Riles, 2006). Neoinstitutional theory suggests that the interests of these various parties are orthogonal or even contradictory. Additionally, bureaucratic implementation or "managerialization" of law is likely to have its intended effects only performatively, if it has any effects at all (Barnes and Burke, 2014; Berrey, 2015; Berrey et al., 2017; Burke, 2004; Dobbin and Kalev, 2016, 2017; Edelman, 1992, 2016). These studies provide a number of hypotheses about how the managerialized version of Title IX might work, and the memetic processes that produce policies in a particular order and with a certain likeness.

This research builds on the scholarship that demonstrates that, in the United States, we use rights—often conferred as individual rights—to achieve important social goals (Burke 2004; Epp 2009). Rights are significant sources of power because we construe them to (at least formally) be available equally to everyone, neutral, and backed by the legitimate authority of the state. In courts, social actors are expected to take notice and implement changes (in this case, university administration) to achieve social change (McCann 1994; Nielsen 2004; Scheingold 1974; Williams 1991). Yet both empirical social scientists and theoretically minded critical legal scholars note many problems in relying upon rights-based litigation to effect social change:

many people whose rights have been violated do nothing to vindicate them (Berrey et al. 2017; Bumiller 1992; Engel and Munger 2003; Felstiner et al. 1980; Nielsen and Nelson 2005); rights are not self-enforcing; rights are enforced differently based on the relationships of the parties involved (Albiston, 2010; Engel, 1984; Yngvesson, 1988); and rights may inappropriately introduce politics into law (Galanter, 1974; Kairys, 1998; Miller and Sarat, 1980; Nielsen, 2004). Socio-legal models of legal compliance demonstrate the myriad factors that influence the possibility of law influencing behavior. Laws must first be established, then translated into organizational practices (Edelman, 1992), reinterpreted by courts (Edelman, 2016), taught to ordinary people (Edelman, 2016; Edelman, Abraham, and Erlanger, 1992), and then compete with other institutional, organizational, and individual factors that shape behavior (Heimer and Staffen, 1998; McElhattan, Nielsen, and Weinberg, 2017).

Civil rights that are policed and enforced by large organizations, colleges and universities, in this case, require careful attention because the interests of the person whose rights have been violated and the organization often are at odds. This phenomenon is well documented in the workplace (Berrey et al., 2017; Edelman, Fuller, and Mara-Drita, 2001) and it is easy to see how it would work in the university setting. Just as workplaces do not want to be accused of discrimination, no university wants to have large numbers of sexual assaults or rapes.

There is much to analyze in terms of how “law” is interpreted by university counsel, the field of professional consultants that advise universities on how they should enact these policies, institutional “best practices,” and what will constitute a defensible strategy should a student complain to the ED OCR or file a Title IX lawsuit.

Because rights are defined by law and shaped by the features of the bureaucratic, regulatory, and judicial systems through which rights are asserted, considerable recent research examines campus compliance with ED regulations about Title IX (Armstrong et al., 2017;

DeMatteo et al., 2015; Graham et al., 2017). It finds that elite universities—including Ivy League schools, flagship state universities, and other selective institutions—are more likely to have gone beyond simply complying with the DCL and other federal recommendations regarding campus sexual consent policies (Armstrong et al., 2017). Smaller schools, those with higher male enrollment, and private schools have more room for improvement (Graham et al., 2017). And, all campus sexual assault policies must comply with more than 400 state statutes or regulations about sexual misconduct (DeMatteo et al., 2015).

Although there are differences among policies, there is significant homogeneity in many aspects of these policies at colleges and universities likely is attributable to “compliance entrepreneurs” that produce and market sexual assault (and HR and alcohol) policies to colleges and universities in the name of legal compliance and best practices (11).

Like the employment context, we see a pattern of law intending to disrupt hierarchies of inequality by requiring institutions whose primary purpose is not civil rights enforcement to create policies and implement practices to ensure the rights of those in the organization. Those institutions turn to compliance professionals inside and outside the organization to create a set of best practices for ensuring civil rights – one of which is the written policies we analyze here.

Title IX policies and the process of managerialized rights play a particularly important role, compared to other types of crime and safety policies. When an individual is assaulted, the onus is on them to navigate the specific processes of reporting in a way that differs substantially from other forms of victimization. That is, victims are required to determine who confidential reporters are, how to save and store evidence, and what channels of authority to contact at the university. These processes are time sensitive and are also imbued with stigma that other policy protective conditions do not have. For example, consider something like theft of a laptop from the campus library. While a student would be required to initiate the complaint, they would not

be required to procure forensic evidence, produce suspects, and identify confidential reporters. Additionally, there are also specific barriers to reporting sexual assaults like shame, secrecy, concerns about confidentiality, and fear of not being believed (Sable et al., 2006). These barriers may uniquely drive students to Title IX policies before making reports, making the content of those policies uniquely essential for the victim to enact their rights.

Rarely do we analyze whether or not individuals understand the policies intended to benefit/protect them. In other words, what do the policies look like across different college campuses? Can undergraduates reliably navigate these policies to locate various aspects of these policies? Finally, can undergraduates comprehend crucial aspects of the policies?

## **Methodology**

To understand whether and how undergraduates understand written Title IX policies we developed and fielded an experiment focusing on five (5) representative campus policies drawn from a large, representative database of coded Title IX policies. In this section of the article, we describe the process of collecting and analyzing the sample of Title IX policies. We also describe the process of choosing the 5 representative policies and the design of the experiment we used to test undergraduates' ability to: (a) navigate the policy; (b) locate particular provisions of the policy; and (c) understand various aspects of the complexity of the policy.

### *Constructing the Sample of Policies*

In our attempt to understand the range of Title IX policies (the "law on the books"), we used the Carnegie classifications of U.S. colleges and universities to identify three types of schools by the highest degree offered: colleges that grant bachelor's degrees only; colleges that grant bachelor's and master's degrees; and colleges that grant bachelors, master's, and doctoral

degrees. We then randomly selected 100 schools from each category to construct a 300-school database of Title IX policies.

Like other scholars of these policies, we initially used the framework of the 2011 Dear Colleague Letter to develop a detailed coding protocol to code each policy for analysis of what we call ‘adherence to the law.’ This coding protocol included questions designed to interrogate definitions of consent, incapacitation, information about reporting sexual assault, standards of proof, resources for victims, information about the appeals process, and potential sanctions for offenders.

Our original intention was to have a large class of undergraduate students at an elite private university code these policies as part of a class exercise about doing social science research in an introductory course for legal studies majors. We trained the students in the coding procedure and multiple students coded each policy along a variety of dimensions inputting the data into a Google Form. Some of the questions were dichotomous (eg: “Does the policy specify a standard of proof for determining if the accused is subject to a hearing?” And, “Is there a 24-hour hotline listed anywhere in the policy?”). Other questions were more substantive (e.g. “What is the standard of proof used in a disciplinary hearing if a student is accused of sexual assault?” And, “Is the complainant/victim allowed a lawyer in the disciplinary hearing?”)

When we set out to analyze the data, the preliminary analysis of inter-rater reliability indicated that the data were unusable for determining what each policy actually contained (12). The undergraduate students were unable to identify the same information in the same policy, with common patterns of data coding being the inclusions of large swaths of irrelevant information and incorrect specific factual assertions. There are multiple possible explanations for why students generated such different results including: differing capacity to comprehend text; prior experience reading a sexual assault policy (or other institutionally generated legal



compliance documents); and level of computer skills (using “find” commands to locate sections of the policies). Within the elite university where this experiment began, the range of these capabilities should be relatively limited by admission to the university.

Fundamentally, however, the lack of uniformity in the errors led the authors to predict that the explanation for their disagreement may not be as simple as systematic error in training the students. This coding failure, across legally interested undergraduate students who are part of the population ostensibly protected by Title IX policies, led the researchers to conduct more rigorous coding procedures and tests of the policies themselves in an attempt to lessen the impact of possibly competing explanations.

We next attempted to code the policies with a smaller and more well-trained team of three researchers, two of whom are legally trained social scientists and the third an advanced undergraduate, all of whom are authors of this Article. The undergraduate (now graduate) worked on this Title IX research team for two years and was trained by the first two authors in legal jargon and interpretation in Title IX policies over the course of several months. Following this much more stringent procedure, we ultimately were able to analyze the national sample with very good interrater reliability, but the question raised by the preliminary coding failure continued to trouble the research team. What did it mean that undergraduates could not understand these policies? If students interested in “law and society” at an elite private university were unable to reliably understand these policies, what would that mean for students at other colleges, at universities in different programs of study, and for undergraduate students overall?

Once the team reliably rated the policies, we drew a subsample for the experiment reported here to determine if the results we saw in the undergraduate coding exercise with our undergraduates would hold up if tested.

## *Experiment Procedures*

In order to analyze whether or not undergraduate students can make sense of Title IX policies, we randomly selected five (5) undergraduate schools from the larger coded dataset to serve as the stimuli for the experiment. Before simply using them, however, we compared various aspects of the five policies to the larger dataset to ensure that the policies were representative of the sample. Of the five undergraduate degree schools they were asked to code, two (2) were religiously affiliated, two (2) were for-profit, two (2) were private, and one (1) was public. Four (4) were in the south, and one (1) was in the northeast. To ensure that the policies were representative of the larger sample, we compared these five to the larger sample and found that the selected schools ranged from including 52% - 86% of the recommended components from the Obama-era DCL which is representative of the larger sample of policies. While the policies have differences, none of them were uniquely or dramatically different despite the fact that the random draw included religious and secular schools, public and private schools, and schools across various regions of the United States.

We then recruited 200 unique undergraduate student-participants using Amazon Mechanical Turk to code each of the 5 policies. The US worker population of Amazon Mechanical Turk varies from the demographics of the general US population. Research finds that US MTurkers workers are a slight majority female (55%), are about equally likely to be single or married, have a lower income on average than the general population, and are majority white (71.8%) (Difallah, Filatova, and Ipeirotis, 2018; Levay, Freese, and Druckman, 2016). However, scholars also assert that Turk populations do not seem to vary from the general population in unmeasurable ways and advocate for use of Turk samples when precautions to ensure data quality are correctly taken (Levay, Freese, and Druckman, 2016). As such, we took a number of precautions to ensure that our sample was of high quality. First, we composed the study using a

pre-screening survey that did not indicate to potential participants that we were only looking for current undergraduate students. This helped guard against potential participants falsely indicating student status to complete the survey. We also required that all participants be located in the United States and have lifetime Turk approval ratings (given by the platform) of 95% or higher. Additionally, we included attention checks in each policy requiring participants to list the page numbers in the policies to ensure that participants were using the included downloadable policy for their coding. We manually evaluated the resultant data, carefully screening for signs of ‘botting’ or automatic question completion, usually identifiable using non-sensical. We identified and removed the only suspected incident of botting. We also timed the length of time each participant evaluated each policy to ensure that average completion times were realistic to the task. We determined that participants spent an average of 21.44 minutes per policy, which we deemed plausible for question completion.

We report some demographics of the student-participants in the appendix, but some merit mentioning here. Male student-participants far outnumbered female student-participants 66.83% versus 32.66%. We also asked student-participants what region they were from and what college or university they attend to verify such a school exists, but redact this for student privacy. Student-participants came from all across the U.S., with slightly fewer hailing from the Midwest and the non-continental United States (represented in the ‘Other’ category). We present only this very limited set of demographic variables because our focus in this study was on the policy as a unit of analysis, rather than a composed power analysis that would accurately compare sub-groups or evaluate differences in policy reading. Such a study would be extremely valuable in its own right, but would require different sampling methodology than what we use here.

Student-subjects were asked to answer 10 questions about the policy they were randomly assigned. The questions consisted of what we are calling “locating” questions and

“comprehension” questions. “Locating” questions required the student-participants to find a specific piece of information, but not to interpret or understand what it means. “Comprehension” questions required some type of meaning-making to retrieve the correct answer.

[Table 1: Locating Questions about here]

Student-subjects could answer the locating questions correctly with diligence (by counting or conducting a word search using “control-f”). For example, to know if any information about incapacitation is contained in the policy a student coder does not necessarily need to know how the policy defines incapacitation. Instead, they could use the control+f function to search for the word “incapacitation” and report that the policy does or does not include something about “incapacitation.” All the locating questions contain terms of art used in most policies and do not require any interpretation. Student-subjects were simply asked, “Does the policy include information about “incapacitation” to which the student-subject only needs to answer yes or no. The locating questions should be relatively easy to reliably answer (13).

The second block of questions (the “comprehension” questions) are more difficult but contain questions central to definitions of consent, sexual assault, and the schools’ process for managing these complaints. These questions represent crucial aspects of the schools’ disciplinary processes that should matter to someone contemplating making a report of sexual violence. For example, we asked student-participants to report the “standard of proof” for proving sexual assault in the disciplinary process. But, many policies do not use the words, “standard of proof.” Sometimes the answer is clear and something the students have heard before, like ‘beyond a reasonable doubt’. Other times the standard of proof information represents a legal standard that lay-people are less familiar with such as, ‘by a preponderance of the evidence,’ or ‘clear and

convincing evidence' (14-15). Standards of proof are also a useful example of exactly why the language in policies is so important for the enactment of managerialized rights like those protected under Title IX. In sexual assault cases, it is up to the victim of the assault to save forensic evidence relating to their victimization immediately after their assault. Therefore, if they were to read the Title Policy after being assaulted and misunderstand the standard of evidence required by their university, they may erroneously believe the evidence they have is insufficient to pursue a Title IX claim. These evidentiary standards are a source of much political debate, but they only matter if a report is made, a disciplinary process begun, and disciplinary procedures implemented. Nonetheless, the issue of standard of proof is a high-profile point of political contest (16).

[Table 2: Comprehension Questions about here]

All five of the comprehension questions require student-participants to understand what is permitted or required at a particular point in the Title IX complaint process and to make sense of legal terms and standards. We hypothesize that there will be far less inter-coder agreement for the comprehension questions.

### *Specifying "Understanding"*

To measure if and how well students understand the Title IX policies, we asked multiple students the same questions about each policy (40 student-participants coded each of the 5 policies) and then measure the student-participants' agreement on their answers to the 10 questions (5 locating and 5 comprehension). The more understandable the policy, the higher

agreement we should see among the student-participants. We choose to use inter-rater reliability scores over correct answers, because it is a more flexible measure of understanding. Inter-rater reliability scores allow us to study a larger universe of potential outcomes that clarifies the whether the problem with the document is that it is similarly misleading (generating consensus in the same wrong direction) or generally not legible (generating more varied responses with less consensus). That is, theoretically all of the students might come to the same wrong conclusion or different wrong conclusions that if graded purely on correctness would not be apparent in the results. Because we are interested in both student ability to come to consensus and to ability understand the policies as a population, we therefore employ inter-rater reliability. We use Fleiss's kappa scores to measure inter-rater reliability. Fleiss' kappa is a variation on Cohen's kappa that allows comparisons across a larger number of responders with discrete categorical questions than Cohen's kappa which only measures agreement across two responders. In this work, each question has as many as 40 answers necessitating using Fleiss' kappa (further discussion in the following section). We therefore measure "understanding" or rather "misunderstanding," as whether or not multiple undergraduate readers of the same policy give the same answers to the ten questions.

We include Tables 1 and 2 to demonstrate the kind of analysis expected of subjects with the following caveat. The answers provided in Tables 1 and 2 represent our coding of the policies used as stimuli for the subjects. In a way, our analysis of the contents of the policy is less relevant that whether or not student-respondents analyzed the questions similarly. We provide this analysis so the reader can understand the differences across policies and get a sense of the breadth of the documents student-respondents were working with. To protect the confidentiality of the school's whose policies we used, we have made subtle changes in the wording drawn from their policies without changing meaning. We also give page ranges rather than actual page

numbers and have taken other insignificant licenses to cloak identity, but these are the passages the student-respondents needed to find and code.

## Results

With this in mind, we turn to analysis of the locating and understanding questions answered by student-coders on Amazon Mechanical Turk. To measure whether or not Title IX policies are understood by student-participants, we evaluated intercoder reliability using Fleiss's kappa. The general principle is illustrated in Equation 1 (17). We employ Landis and Koch's (1977) framework for interpreting Fleiss' Kappa coefficients. The full framework appears in Table 3, but for our purposes, 0.41 – 0.60 represent moderate agreement; 0.61 – 0.80 indicates substantial agreement; and 0.81 – 1.0 represent almost perfect agreement. We would hope that multiple undergraduates reading the same policy would be able to achieve at least substantial agreement.

[Table 3: Interpreting Fleiss's Kappa Coefficients]

Table 4 shows the Fleiss kappa scores for each of the five schools' policies by locating and comprehension questions. We include the adherence score of each school for reference (18). The easier, locating questions show a relatively high level of understandability as measured by agreement among student-participants. They achieved moderate to substantial agreement on 4 of the 5 policies analyzed. In other words, for 80% of the policies analyzed, students agreed enough on the locating questions for us to conclude that the policy is moderately or substantially understandable at least regarding the locating questions.

The results are not as inspiring for the more difficult comprehension questions. For 4 of the 5 schools' policies analyzed, student-participants could not reach even slight agreement

about the comprehension questions. For the 1 school policy that student-participants could reach agreement on comprehension questions, the agreement barely reached “slight” agreement. In sum, in 4 of 5 cases student coders produced significantly similar coded results for locating questions ( $p < 0.05$ ) but in only 1 of 5 cases were student coders able to produce significantly better than random results for comprehension questions ( $p < 0.05$ ). In the case of Fleiss kappa, p values alone are not sufficient to understand the strength of agreement, only that is better than random chance.

[Table 4: Fleiss Kappa Inter-rater Reliability by School and Question Type about here]

According to this framework, students were always able to achieve moderate-substantial agreement in answering the locating questions. This implies that students are putting in effort as coders and hints at a different explanation for a lack of reliability. The extremely low coefficients in the comprehension conditions, only once rising just over the threshold of slight agreement, lend further support to the idea that certain parts of Title IX Policies are simply not understandable by the students who are meant to initiate these protective measures.

In a final attempt assess the understanding of the policies, we sought to measure the functional understandability of these policies computationally. To do so, we used a sample of 160 of the 300 coded policies to estimate the Flesch reading-ease score (FRES) of the actual text. The Flesch reading-ease test is designed to measure how difficult English sentences are to understand and is part of the textual evaluation protocol for a number of U.S. Military and state technical and legal documents (McClure, 1987; Si and Callan, 2001). A higher score indicates that a passage is easier to read, while a lower score indicates a passage that is more difficult to read. The formula for calculating FRES is given in Flesch (1979).



Equation 2: Flesch Reading-ease Scores

$$206.835 - 1.015 \left( \frac{\text{total words}}{\text{total sentences}} \right) - 84.6 \left( \frac{\text{total syllables}}{\text{total words}} \right)$$

Flesch (1979) also provides a guide for interpreting the resultant scores as follows (see Table 5) but notes that particularly arduous passages can generate negative scores.

[Table 5: Interpreting Flesch Reading Ease about here]

The 160 policies coded here (via computational software) averaged an FRES of 30.08. The policies ranged from just -0.62 to a maximum of 62.58 and are plotted in Figure 1 below (19).

[Figure 1: Flesch Reading-Ease Scores about here]

According to Flesch's (1979) scale, this confirms that Title IX policies are generally difficult or very difficult to read. For comparison, Time Magazine has a FRES of around 57, The New York Times a FRES of around 48, and the Harvard Law Review has a FRES of around 34 (Flesch, 1979; Stewart, 2017). This means that the average Title IX policy, a policy that may be used by a recently assaulted student to understand their rights in a student-initiated process, is more difficult to understand than the average Harvard Law Review Article. A more recent audit

and translation of FRES argues that scores from 20 – 40 (remember the average Title IX policy scored a 30.08) are most appropriately read and understood by lawyers and physicians. This paints a grim picture of the protective capacities of Title IX policies.

We also note that FRES is not purely a function of policy length. The correlation between FRES is modest at 0.11. Importantly, the fact that some FRES are closer to 60 suggests that it is possible to fashion Title IX policies that are substantially more readable, with Flesch's (1979) scale describing such policies as 'Plain English. Easily understood by 13-15-year-old students.'

## **Conclusions and Implications**

College and university Title IX policies serve many purposes. Most obviously, policies like the ones we analyze here would be (and are) the backbone of a defense strategy should a student make a Title IX claim to the department of education civil rights division or in federal court. But the policies also signal important messages to multiple constituencies. For prospective students and their parents, the existence of such policies shows that schools take campus sexual assault seriously. For faculty and staff, such policies demonstrate a well-ordered workplace in which one can feel (relatively) safe. For potential perpetrators of sexual assault, they may serve as a deterrent. To peer institutions, an up-to-date Title IX policy signals the school's legitimacy. These are all important functions. And yet, the research about Title IX policy – voluminous though it is – fails to empirically examine how these policies are understood by perhaps the most important consumers of them – young adults who may, tragically, need to utilize the policy because they, or a friend, have been sexually assaulted and are considering their options for reporting, seeking counselling, or even immediate medical care.

Our research demonstrates that written Title IX policies are, for the most part available and yet were inaccessible to undergraduate students in the active study. In other words, while we

anticipate that undergraduates may be able to locate the policies online, we predict that the students are only somewhat likely to be able to locate specific provisions of the policy and are unable to reliably understand the content of the policies. One reason may be, as our analysis shows, that the median Lexile score of university Title IX policies is roughly equivalent to an article appearing in the Harvard Law Review. As our experiment demonstrates, undergraduates are unable to make heads or tails of the policy even in ideal experimental conditions.

These findings reveal the troubling implications of managerialized legal process in colleges and universities. Like research on employment civil rights (Edelman et al., 2001; Berrey et al., 2017; Kelly and Dobbin, 1998; Barnes and Burke, 2006), we see a Title IX process that identifies a social problem (campus sexual assault), entitles individuals to make a claim if they think their rights have been violated, and refers law making to an agency to promulgate rules. Those rules are then interpreted by compliance entrepreneurs, lawyers, and other bureaucratic processes which ultimately produce a written text that should ostensibly help undergraduate students. And yet, in its institutionalized form, law fails undergraduates who might need to access and mobilize it. At best, these policies are important signals to important constituencies that inadvertently fail students. At worst, they represent symbolic compliance designed to protect colleges and universities from civil rights litigation initiated by victims of sexual assault on college campuses.

Our research has limitations. First, this research was conducted on Amazon Mechanical Turk with a limited set of demographic factors. While we believe the study is sufficiently rigorous for the present object of analysis, we also urge future researchers to take up the question of how different groups of students may different read and understand Title IX policies. This will allow researchers and policy makers to better understand how factors like gender demographic composition may affect the results. Second, the research examines only the written Title IX

policies. College students are oriented to campus sexual assault rules and processes in a variety of ways including orientation videos, campus events, and, in colleges with residential populations, through residential life programs. And, of course, students learn about Title IX processes and policies informally through gossip, campus news, and the like. Finally, our experiment uses typical campus policies and was tested on undergraduates from many universities. One might imagine that students are more familiar with their own university policy (although, as the analysis of these policies compared to the larger sample and as the excerpts in Tables 1 and 2 show, there is homogeneity across policies).

This research provides important insight about what institutions can do differently in drafting their Title IX policies. Institutions should use this work to motivate their own thorough adaptation and testing of the understanding of their own policies. In order to make these policies more accessible to the student constituents who must enact them, universities should take deliberate care to eliminate legal jargon and focus on reader comprehension over mitigating legal liability. If one policy cannot meet the needs of the various constituencies mentioned above, colleges and universities should develop student-friendly policies that might even be separate and apart from the voluminous policies. Such policies would need to be simple but comprehensive, refer back to the formal policy, and presented on college and university websites alongside the formal policies. These could be simple flow charts or info graphics that start with basic definitions and explanations of students' options. To be sure, many colleges and universities employ easier to read pages in different places on the website (counselling and psychological services, the "women's" center, and other related units in the school), but ensuring the connection to the more formalistic and complicated policies like the ones we analyzed.

Moreover, federal and state compliance officers who work with institutions to develop the complex policies might recommend to colleges and universities that their website include

empirically tested student accessible policy documents and websites. Consultants and attorneys that practice in this area could develop templates that would allow colleges and universities to customize policies to be consistent with their own. At the highest level, the Department of Education Office of Civil Rights could recommend (using a Dear Colleague Letter or some other mechanism) that colleges and universities have a policy that is legible for their students.

Individual rights, like the ability to have an attorney present, and institutional limits should be clearly spelled out and tested on undergraduate students to ensure they are comprehensible. State education agencies can serve as valuable intermediaries in this process, conducting testing on Title IX policies to ensure that universities are following best practices in producing actionable right-protective documents for students.

These limitations may bias our results to make it appear as though students have less of an understanding of these policies than students may actually have on the campus of which they are a part. However, our undergraduate research subjects had not been (to our knowledge) sexually assaulted just prior to participating in the study which surely would affect anyone's ability to read and comprehend a policy document the likes of which we analyze here. This bias may work the other way as well. In other words, unlike an undergraduate recently sexually assaulted consulting their university's policy for the first time, our student-participants' lack of recent sexual trauma may have allowed them more latitude to code and analyze these policies than would have been the case otherwise.

We have begun, as part of a larger project, to conduct more situationally located research about undergraduate understanding and utilization of Title IX policies that takes the limitations of this study into account. Nevertheless, this research raises troubling questions about the rights-based, managerialized legal version of these policies and the implications for victims of sexual assault.

## Endnotes

1. Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 et seq.
2. The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. § 1092(f) 1990 (and implementing regulations 34 C.F.R. 668.46).
3. For example, when asked if respondents know about their school's policy for reporting an incident, the modal responses were like these: "I'm sure we have one, but I don't know. . . I think we do, I know that there's probably a hotline for that. . . . Campus has a hotline for everything. There definitely is a phone number or something that you can call. I think public safety or something." (29:39) and "I suppose it's on the website. It should be on the website. I mean, I think it is. I remember... I remember they were talking about it. I remember they talked about it being somewhere on the website, so I'd expect it to be."
4. Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 et seq.
5. The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. § 1092(f) 1990 (and implementing regulations 34 C.F.R. 668.46).
6. *Alexander v. Yale*, 631 F.2d 178 (2nd Cir. 1980); *Franklin v. Gwinnett County Public Schools*, 503 U.S. 60 (1992); *Davis v. Monroe County Board of Education*, 526 U.S. 629 (1999); *Williams v. Board of Regents of the University System of Georgia*, 477 F.3d 1282 (11<sup>th</sup> Cir. 2007); *Simpson v. University of Colorado*, 500 F.3d 1170 (10<sup>th</sup> Cir. 2007).
7. See the "Dear Colleague Letter on Transgender Students," <http://i2.cdn.turner.com/cnn/2017/images/02/22/colleague-201605-title-ix-transgender.pdf>
8. See "Nondiscrimination on the basis of sex in education programs or activities receiving federal financial assistance" 34 CFR Part 106. RUN 1870-AA14.
9. U.S. Senate Bukk 967. Student Safety: Sexual Assault., Chapter 748. California Legislature Information ([https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201320140SB967](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201320140SB967)) Sept 28 (2014).
10. The law states that schools must implement a detailed protocol or set of policies to ensure that victims of sexual assault and violence are provided with adequate treatment and protections. It also takes the groundbreaking step of requiring schools to adopt an affirmative consent standard in order to receive state funding for student financial aid. The statute carefully defines 'affirmative consent' as follows:

Affirmative consent means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to

ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

11. See Everfi 2020 (<https://everfi.com/offerings/listing/sexual-assault-prevention-undergraduates/>), Culture of Respect (2020) (<https://cultureofrespect.org/>), National Association of College and University Attorneys (2020) (<https://www.nacua.org/program-events/online-courses/title-ix-coordinator-training/home>)
12. The data were originally set to be used to simply measure the contents of each policy as a statement of fact. However, since undergraduate interrater reliability was so poor, we had to use substantially more complex reliability methods and highly trained individuals to accomplish this task.
13. The 5 location questions are: How many pages is the policy? Does the policy mention incapacitation? Does the policy describe an appeals process? Does the policy include a contact number for a Title IX Officer? Does the policy say that consent requires consciousness?
14. The Obama Administration's recommended evidentiary burden, essentially 'more likely than not' or 51%.
15. The Trump Administrations recommended evidentiary burden, somewhere between to 'beyond a reasonable doubt' and 'by a preponderance of the evidence.'
16. The 5 comprehension questions are: What is the standard of proof for a finding of sexual assault? Does the policy mention retaining evidence? Is the victim allowed to bring an attorney to a hearing? Is there a time frame for the investigation and proceedings? Are interim measures against the accused allowed?
17. Equation 1: Foundational Kappa

$$K = \frac{\bar{P} - \bar{P}_e}{1 - \bar{P}_e}$$

Kappa ( $K$ ) ranges in value from 0 to 1, where a score below zero is worse than random chance and a value of 1 represents perfect agreement. The denominator ( $1 - \bar{P}_e$ ) calculates the level of agreement possible due to chance, while the numerator ( $\bar{P} - \bar{P}_e$ ) gives the level of agreement actually attained in the data. Fleiss's Kappa is an expansion of this principle that allows for more than two raters.

18. Interestingly, the school with the lowest adherence score did not produce a Fleiss kappa value significantly better than random chance in either the locating or understanding condition.

19. A negative score on the Flesch Reading-ease test is possible and has been noted to be substantial in different literary works. At the extreme end, a sentence in Proust's *Swann's Way* is recorded to have a Flesch Reading Ease score of -515.1 (Proust 1913). For that reason, we don't exclude the policy in this analysis that scores below zero. Indeed, upon inspection this policy was characterized by extremely long sentences with complex clauses.



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Table 1: Locating Questions

<b>Campus</b>	<b>Pages</b>	<b>Mentions Incapacitation?</b>	<b>Appeals Process?</b>	<b>Contact # for Title IX officer?</b>	<b>Does consent require consciousness?</b>
1	<20	Yes: Consent may never be obtained through the use of force, coercion, or intimidation, or if the victim is mentally or physically disabled or incapacitated, including through the use of drugs or alcohol.	No or Not mentioned	Yes: Midway through policy	Yes: Consent is not possible with a person who is incapable of consent by reason of sleep, drunkenness, stupefaction, or unconsciousness . . .
2	40 - 50	No. Closest is:  No consent is considered: where one participant is incapable of consenting to the activity;	Yes: The decision of the campus Director of Education/Dean may be appealed by petitioning the Campus President's office. . . within 20 days of receipt of the determination letter	No: Just the police	No: (word does not appear, cf) Sexual acts perpetrated against a person's will or where a person is incapable of giving consent to the victim's use of drugs or alcohol.
3	40 - 50	No. Closest is: Sexual Exploitation means any act of taking non-Consensual, unjust or abusive sexual advantage of another person by:  Causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over such person	Yes: The Complainant and/or the Respondent may appeal the Assigned Title IX Coordinator's decision in writing to the Appropriate Divisional Leader and provide a copy of the appeal to the Assigned Title IX Coordinator within ten days of receipt of the notice of closure.	Yes: Last pages of policy	Yes: Persons who are incapacitated (whether as a result of drugs, alcohol or otherwise), unconscious, asleep or otherwise physically helpless or mentally or physically unable to make informed, rational judgments.
4	30 - 40	Yes: Incapacitation due to physical condition includes the inability, temporarily or permanently, to give consent, because the individual is mentally and/or physically helpless due to drug or alcohol consumption, . .	Yes: The Respondent and Complainant may request an appeal of the decision rendered by the Adjudicator. Disagreement with the finding or corrective action is not, by itself, grounds for appeals.	Yes: Midway through policy	Yes: Consent is not present when an individual is voluntarily or involuntarily incapacitated, voluntarily or involuntarily, due to . . . lack of consciousness . . . that impairs the individual's ability to provide consent.
5	50-60	Yes: An incapacitated individual is unable to make rational, reasonable decisions . . .	Yes: A respondent or complainant has up to three business days (or by 8 a.m. on the next university business day if the deadline occurs when university offices are closed) from the date of the decision notification to submit an appeal in writing to the Office of Student Conduct.	Yes: Midway through policy	Yes: Incapacitation can occur as a result of mental disability, sleep, involuntary physical restraint, unconsciousness, voluntary (or involuntary) use of alcohol and/or drugs, or when a person is otherwise physically helpless.

Table 2: Comprehension Questions

<b>Campus</b>	<b>What is the standard of proof for a finding of sexual assault?</b>	<b>Does the policy mention retaining evidence?</b>	<b>Is the victim allowed to bring an attorney to a hearing?</b>	<b>Is there a time frame for the investigation and proceedings?</b>	<b>Are interim measures against the accused allowed?</b>
1	No: but refers to a different policy	No	No: Attorney is not specifically mentioned but accused and accuser get the same	No	Yes: Following an alleged sex offense, if so requested by the victim and if such changes are reasonably available, assistance in changing residential and/or academic situations is provided by the Dean of Students
2	No mention	Yes: This can be done by not bathing, showering, or using toothpaste or mouthwash after an incident of sexual assault. Do not wash clothing, bed sheets, pillows, or other potential evidence.	No or ambiguous: The student may be accompanied during investigation meetings and discussions by one person (family member, friend, etc.) who can act as an observer. . . and may be removed at the discretion of the Dean.	Yes: The student who made the complaint and the accused shall be informed promptly in writing when the investigation is completed, no later than 45 calendar days from the date the complaint was filed.	Yes: but only for victim once a preliminary determination is made and then applied to perpetrator as well. And, refers victim to "law enforcement" for orders of protection.

3	Yes: The Hearing Panel will confer and by majority vote determine whether the evidence establishes that it is more likely than not that the Respondent committed Actionable Sexual Misconduct.	Yes: In order to best preserve evidence for an evidence collection kit, it may be advisable to avoid showering, bathing, going to the bathroom or brushing your teeth before the kit is completed. You should also wear (or take with you in a paper – not plastic – bag) to the hospital the same clothing that you were wearing during the assault.	No: Under no circumstances may legal counsel be present at the mediation on behalf of the Complainant or the Respondent. The University, however, may seek advice from the University's in-house or outside counsel on questions of law and procedure throughout the mediation process.	Yes: Multiple and at every step 72 hours, 21 days, etc.	Yes: If at any point during the complaint, investigative or disciplinary processes, the Assigned Title IX Coordinator deems it necessary for the protection of any member of the University community . . . the University will take prompt action to limit the effects of the alleged Sexual Misconduct and to prevent its recurrence including a "no-contact" order or take other appropriate interim measures to ensure an individual's safety even in the absence of a formal proceeding.
4	Yes: If a complaint is found to be supported by a preponderance (50.1%) of the evidence, appropriate corrective action will follow, up to and including separation of the offending party from the College, consistent with College procedure.	Yes: If possible, an individual who has been sexually assaulted should not shower, bathe, douche or change clothes or bedding before going to the hospital or seeking medical attention. If the individual decides to change clothes, he or she should not wash the clothes worn during the assault and should bring them to the hospital or medical facility.	No: Each party, the accuser and the accused, may select her/his own liaison who is a member of the college faculty/staff, but not a member of the Sexual Misconduct Committee. The accuser and the accused are entitled to the same opportunities to have others present during a disciplinary proceeding.	No: Investigations will be conducted as expeditiously as possible and are usually completed within 60 days, though this may vary based on the availability of witnesses, the scope of the investigation, or unforeseen circumstances.	Yes: Additionally, the College may elect to suspend the accused during the investigation.

5	Yes: Preponderance of evidence is the required standard for determining a policy violation. Administrators . . . must be convinced based on the information provided that a policy violation was more likely to have occurred than to not have occurred in order to find a respondent responsible for violating a policy.	No	Yes: Complainants and Respondents who wish to consult with an attorney may do so at their own expense; the attorney may act as the student's advisor and accompany the student to any investigation meeting and/or student conduct hearing. An advisor may be present for any investigation or student conduct meeting.	No: The University seeks to resolve all reports within 60 calendar days of the initial report. All time frames expressed in this Policy are meant to be guidelines rather than rigid requirements.	Yes: Upon receipt of a report, the University will impose reasonable and appropriate interim measures designed to eliminate the hostile environment and protect the parties involved. . . including changing academic, living, transportation, and working situations or protective measures, if such accommodation is reasonably available.
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Table 3: Interpreting Fleiss's Kappa Coefficients

Kappa Coefficient	Interpretation
< 0	Poor agreement
0.01 – 0.20	Slight agreement
0.21 – 0.40	Fair agreement
0.41 – 0.60	Moderate agreement
0.61 – 0.80	Substantial agreement
0.81 – 1.00	Almost perfect agreement



Table 4: Fleiss Kappa Inter-rater Reliability by School and Question Type

	<u>Locating</u>	<u>Comprehension</u>	<u>Adherence Score (%)</u>
School 1	0.60* (0.18)	0.23* (0.08)	77.68
School 2	0.50 (0.22)	0.17 (0.08)	52.08
School 3	0.70* (0.22)	0.06 (0.04)	79.46
School 4	0.71* (0.21)	0.07 (0.03)	85.71
School 5	0.70* (0.22)	0.12 (0.05)	76.19

N=200, standard errors in parentheses, \*  $p < 0.05$ , \*\*  $p < 0.01$ , \*\*\*  $p < 0.001$

Table 5: Interpreting Flesch Reading Ease

<b>Score</b>	<b>School level</b>	<b>Interpretation</b>
100.00–90.00	5th grade	Very easy to read. Easily understood by an average 11-year-old student.
90.0–80.0	6th grade	Easy to read. Conversational English for consumers.
80.0–70.0	7th grade	Fairly easy to read.
70.0–60.0	8th & 9th grade	Plain English. Easily understood by 13- to 15-year-old students.
60.0–50.0	10th to 12th grade	Fairly difficult to read.
50.0–30.0	College	Difficult to read.
30.0–10.0	College graduate	Very difficult to read. Best understood by university graduates.
10.0–0.0	Professional	Extremely difficult to read. Best understood by university graduates.

Figure 1: Flesch Reading-Ease Scores

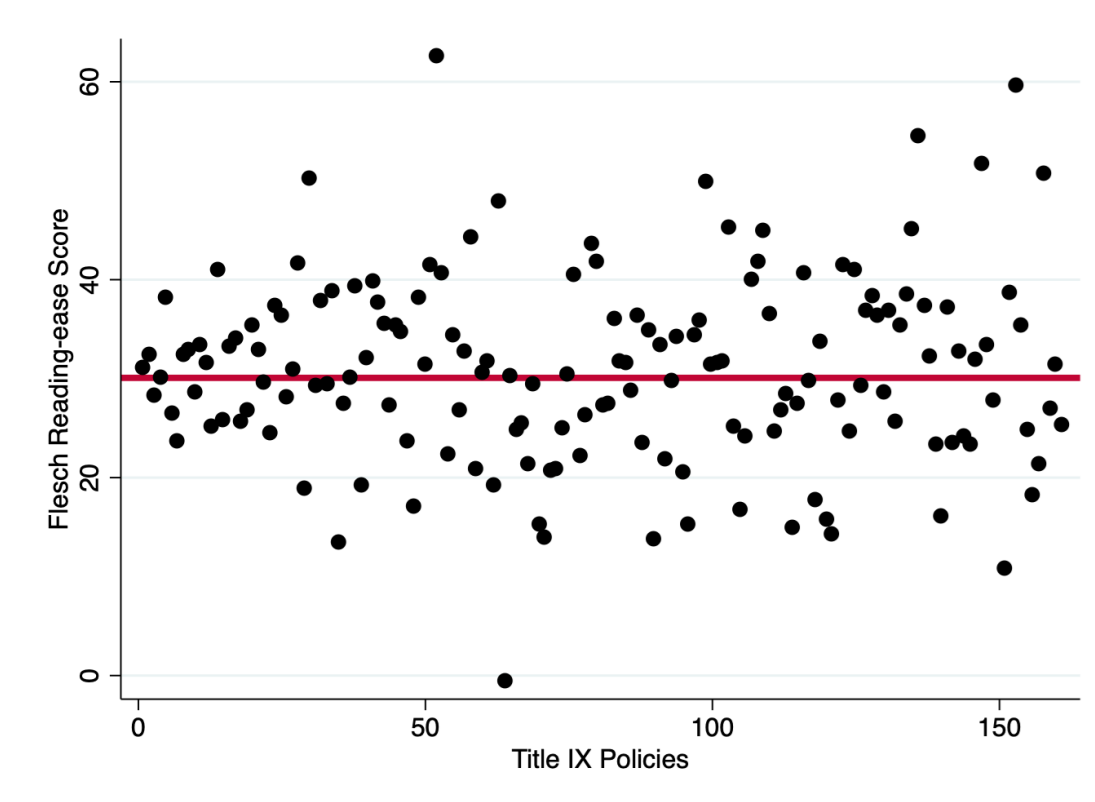


Figure 1 Caption

Notes: N=160, solid line represents the distribution average of 30.08 for Flesch Reading-Ease Scores across analyzed policies.

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Appendix: Amazon Mechanical Turk Respondent Demographics

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	Schools					Total N	Total (%)
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>		
<b>Sex</b>							
Female	10	13	12	12	17	65	32.66
Male	29	26	28	28	23	133	66.83
Other	1	0	0	0	0	1	0.50
<b>Home region</b>							
Midwest	5	11	5	4	10	35	17.59
Northeast	11	13	11	15	8	58	29.15
South	10	7	10	8	10	45	22.61
West	13	9	11	13	12	58	29.15
Other	1	0	2	0	0	3	1.51
N = 199, 1 missing							

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