

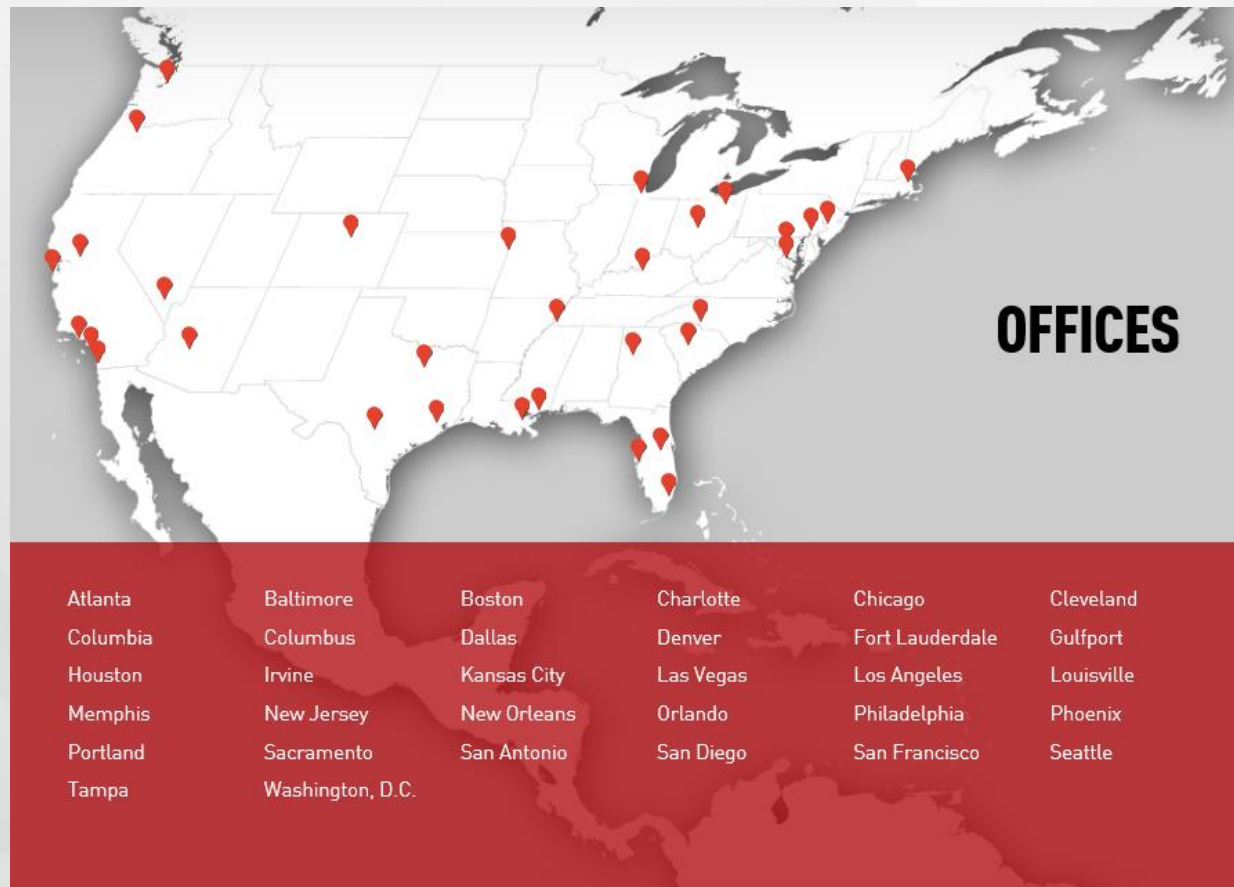
# About The Presenter: Scott Schneider

- Heads F&P Higher Education Practice Group
- Award-winning faculty member at the Tulane University Schools of Law and Business where he teaches, among other things, Title IX and higher education law
- Designs and delivers training programs on a host of education issues, including Title IX compliance obligations; legal issues in faculty hiring, promotion, and tenure revocation; and managing risk in student affairs.
- Retained by the National Center for Campus Public Safety to serve as a faculty member for its Trauma-Informed Sexual Assault Investigation and Adjudication training program for campus officials.
- Frequently requested and nationally recognized consultant, presenter, and trainer.
- Email: [sschneider@fisherphillips.com](mailto:sschneider@fisherphillips.com)



# Fisher Phillips Title IX Services

- On-campus training
- Investigation and adjudication services
- Policy/process review
- Litigation defense
- Expert witness services
- Mediation





# Developments in Respondent Litigation



# Three Critical (Largely Unresolved) Legal Issues

1. Title IX: What must a respondent plead in terms of sex-based bias to state a viable Title IX “erroneous outcome” claim (*i.e.*, “got it wrong” and “got it wrong because of sex”)?
2. For publics, what process is due students accused of sexual misconduct (and does that process conflict with 2011 DCL)?
3. For privates, how do we ensure that respondents are not treated “arbitrarily or capriciously”?





# Sufficient Pleading of Sex Bias?

- Leading recent Circuit Court of Appeals case is *Doe v. Columbia Univ.*, 831 F.3d 46 (2d Cir. 2016)
- Conclusory allegations of gender bias or those made “on information and belief”
- Public “gender-biased statements” from administrators or decision makers
- Pressure exerted by Dear Colleague Letter
- Pressure exerted by student groups
- Substantial criticism of university
- Pressure exerted by OCR
- Is pro-victim bias = anti-male bias

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 Your address here Your telephone number here  
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**Guest Laundry/Valet**

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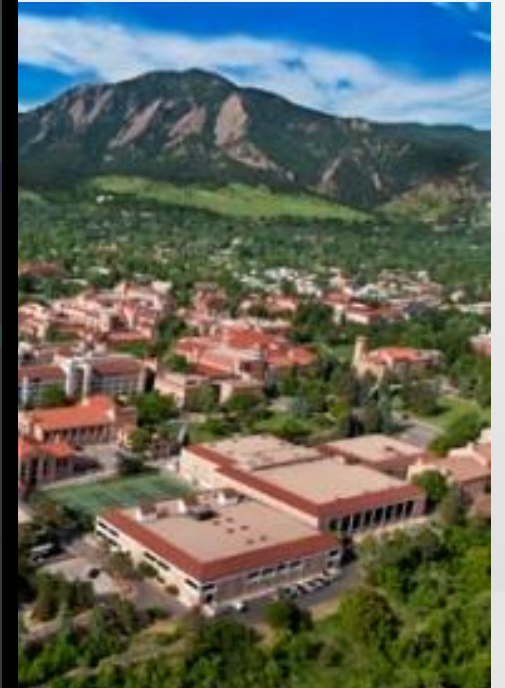
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# Doe v. Univ. of Colo. (D. Colo. May 26, 2017)

- Respondent's  
responsibility  
assault claim
- Primary Claim  
in violation of  
of his Const  
rights
- Excellent summary  
erroneous o
- Court notes  
of litigation"  
university st  
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# Respondent's Pleaded Facts of Sex Bias

1. University “employed an all-female Title IX team to investigate the accusations against Plaintiff.”
2. Investigator’s “career focus has been in the area of Women's Studies and victim advocacy, including the authorship of papers and presentations on sexual assault and how to support victims of sexual assault.”
3. University was, at the time of the allegations against plaintiff, subject to a Department of Education investigation into the University's handling of sexual violence and sexual harassment complaints which purportedly created “external pressure from the federal government [which] certainly motivated Defendants to handle the case against Plaintiff more aggressively, and to protect the reputation and financial well-being of [the University].”
4. “Respondents accused of sexual misconduct . . . are habitually male.”

Court concludes: “Considering all of this together, the Court finds no inference of gender bias that rises to the level of ‘plausible.’”



# One Caveat: A Moment on Bias in Credibility Determinations

- “In every case the Court has located, the accuser has been female and the accused has been male—and these individuals were, not surprisingly, the only potential eyewitnesses to the alleged assault. Thus, enforcement officials often must make a credibility judgment as between a male and female, which doubles the possibility of gender-specific stereotypes influencing the investigation (e.g., ‘a woman would never falsely accuse anyone of that,’ ‘men always behave opportunistically toward drunk girls’).
- “credibility determinations as between a male and a female may be the most likely circumstance in which gender bias, explicit or implicit, will have an effect.”
- Investigator’s report “thoroughly rebuts any inference Plaintiff intends to make in this regard” but . . .

# Training Points on Credibility Determinations

- Beware of the He said/She said trap
- There are (almost) always competing narratives
- Must thoughtfully assess credibility (7 Factors) when writing report
- Over-reliance on demeanor



## Detecting true lies: police officers' ability to detect suspects' lies.

Mann S<sup>1</sup>, Vrij A, Bull R.

[+ Author information](#)

### Abstract

Ninety-nine police officers, not identified in previous research as belonging to groups that are superior in lie detection, attempted to detect truths and lies told by suspects during their videotaped police interviews. Accuracy rates were higher than those typically found in deception research and reached levels similar to those obtained by specialized lie detectors in previous research. Accuracy was positively correlated with perceived experience in interviewing suspects and with mentioning cues to detecting deceit that relate to a suspect's story. Accuracy was negatively correlated with popular stereotypical cues such as gaze aversion and fidgeting. As in previous research, accuracy and confidence were not significantly correlated, but the level of confidence was dependent on whether officers judged actual truths or actual lies and on the method by which confidence was measured.

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PMID: 14769126 DOI: [10.1037/0021-9010.89.1.137](https://doi.org/10.1037/0021-9010.89.1.137)

[PubMed - indexed for MEDLINE]



## Nebraska Law Review

Volume 72 | Issue 4

Article 8

1993

# A Wipe of the Hands, A Lick of the Lips: The Validity of Demeanor Evidence in Assessing Witness Credibility

Jeremy A. Blumenthal, J.D., Ph.D.

Syracuse University College of Law, [jblument@law.syr.edu](mailto:jblument@law.syr.edu)

## FBI Law Enforcement Bulletin

Home • 2014 • June • The Truth About Lying: What Investigators Need to Know



## The Truth About Lying: What Investigators Need to Know

By Brian D. Fitch, Ph.D.



# SUSPENDED COLLEGE ATHLETE SUING U.S. OVER SEXUAL ASSAULT 'GUIDANCE'

BY **MAX KUTNER** ON 4/20/16 AT 1:52 PM



## **OUTRAGEOUS** 'His Life Was Derailed': College Student Sues After Suspension for Consensual Sex

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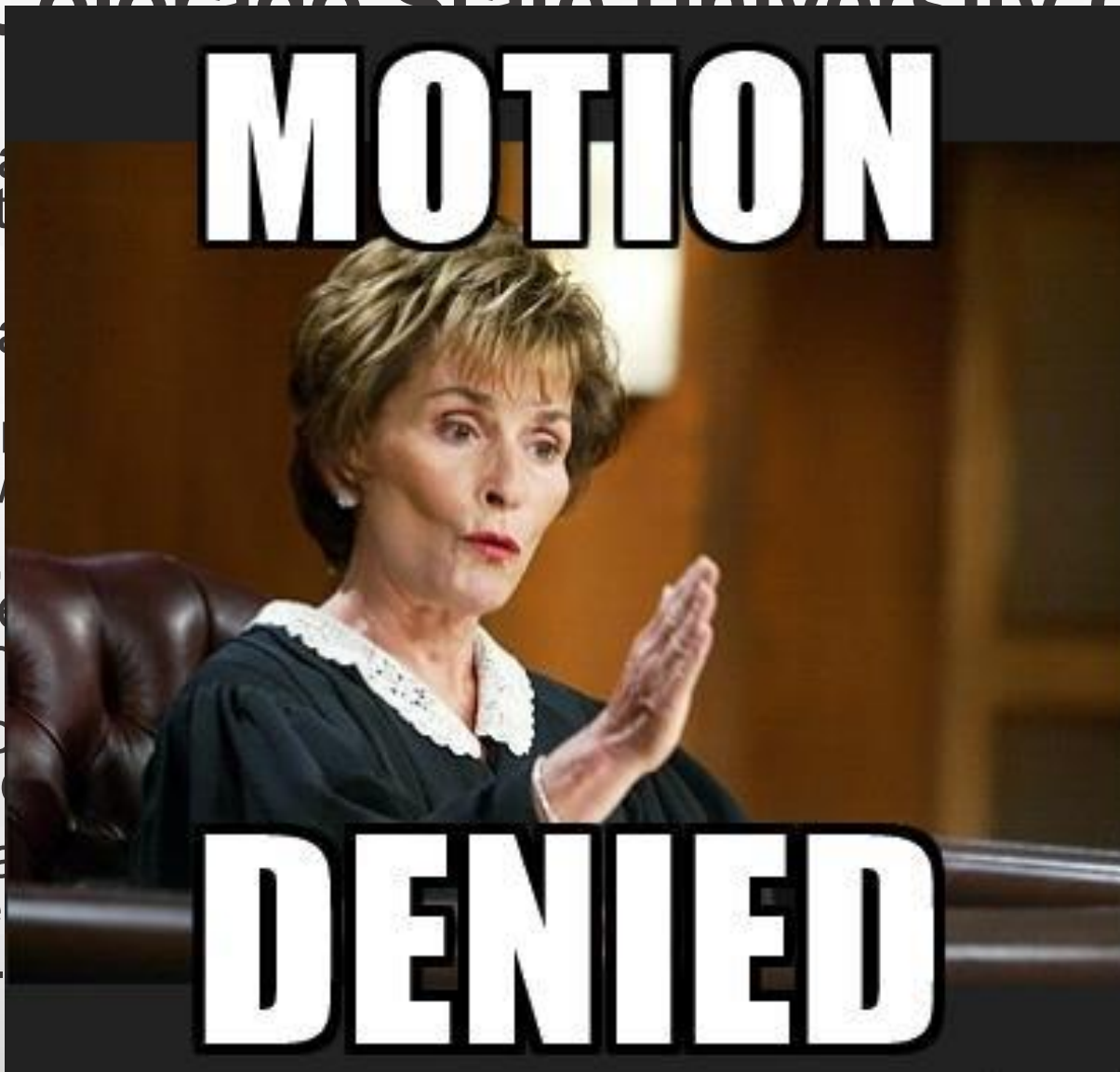


# Neal v. Colorado State University (D. Colo. 2017)

1. DOE/OCR's enforcement of the 2011 DCL has become gender-skewed against men, or has become widely understood by schools as such
2. CSU-Pueblo was influenced by the pressure or coercion of DOE/OCR's enforcement, to slant the procedures against Plaintiff so as to demonstrate to DOE/OCR that it would find accused men responsible for sexual misconduct and impose sanctions
3. Underlying facts that raise doubt of the accuracy of the outcome
4. CSU-Pueblo has “communications evidencing Defendants' inclination to favor female students alleging sexual misconduct over male students who are accused”
5. “all students that have been expelled from CSUP for sexual misconduct have been male”
6. CSU-Pueblo always finds male respondents, particularly male athletes, responsible for sexual misconduct

# Neal v. Colorado State University (D. Colo. 2017)

- Title IX Coordinating Committee report on campus culture, stating that the university had a “culture of sexual misconduct.”
- Title IX Coordinating Committee report on the football team in 2011, stating that the team had a “culture of sexual misconduct” and that the team had “meetings with women who were not on the team.”
- At that meeting, the coordinator gave an example to the committee of a “consensual” meeting and a non-consensual meeting.
- The Title IX Coordinator attempted to speak to the committee about the non-consensual meeting.
- Plaintiff further alleged that the coordinator figured prominently in the university’s response against Plaintiff.



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# Doe v. Notre Dame (N.D. Ind. May 2017)

- **Respondent:** Notre Dame disciplinary decision was “arbitrary and capricious”
- **Significant caveat:** “The relief he seeks at the moment is narrow. He is not seeking the conferral of his degree at this time; he is not seeking to participate in the upcoming commencement ceremonies; and he is not seeking to set aside the other components of the discipline meted out by Notre Dame. Instead, John only seeks an order instructing Notre Dame to allow him to take the two final examinations that he needs to complete his coursework for the semester.”

# “More than Negligible Chance of Prevailing On Contention That Hearing Was Arbitrary & Capricious”

1. **“Lack of meaningful notice . . . so as to be able to adequately prepare his defense” . . . “disciplinary matter arose in the context of a long term relationship with literally hundreds of contacts between the parties. To focus his defense, John reasonably needed to know what contacts and conduct was being scrutinized for possible violation of which policies.”**
2. **Inadequate investigation:** “Jane's complaints were principally based on text communications between herself and John . . . The University's investigation might have been arbitrary and capricious for failing to obtain and review the entire context of the couple's texting history . . . Jane has now produced to the parties in this litigation a much greater volume of text communications between herself and John, and acknowledges that this production contains more texts than were ‘produced in response to the processing of the Title IX matter by the University of Notre Dame’ and that ‘the University did not request the full extent of texts’ between her and John.”



# “More than Negligible Chance of Prevailing On Contention That Hearing Was Arbitrary & Capricious”

- 3. Goose and Gander.** “University's limits on hearing testimony—particularly the application of its narrow witness standard—might be found to be arbitrary or capricious in several respects . . . The Hearing Panel heard testimony from Jane and other witnesses about incidents in which John had angry outbursts in the past. But what did that have to do with the charges? . . . But what was sauce for the goose was not sauce for the gander because John was prohibited from offering prior acts of Jane—what the University deemed inadmissible ‘character’ evidence concerning her.”
- 4. Fairness.** “The significant ‘data dump’ of Jane's supplemental materials (up to several inches thick) the week of the Administrative Hearing could be found to have contributed to a capricious process. John had two-and-a-half days to review the materials, and could only do so in the OCS office, without making copies. Such a process is not designed to facilitate a fair hearing for which John is fully prepared to respond against Jane's allegations and evidence.”

# “More than Negligible Chance of Prevailing On Contention That Hearing Was Arbitrary & Capricious”

- “Similarly, the process can be criticized for its limitations on the examination of witnesses. **That all questions must be proposed in writing and are asked of witnesses only at the discretion of the Hearing Panel does not permit a robust inquiry in support of a party's position.** The **stilted method** does not allow for immediate follow-up questions based on a witness's answers, and stifles John's presentation of his defense to the allegations.”
- “At the Administrative Hearing, the accused student is essentially on his own. The actual presentation of the student's side of the case is left to the student himself, but with severe limitations . . . while he is permitted to have a lawyer or advisor present, those folks can't really do anything . . . They are only permitted to consult with the students during breaks, given at the Hearing Panel's discretion . . . When asked at the preliminary injunction hearing why an attorney is not allowed to participate in the hearing especially given what is at stake . . . the Director of the Office of Community Standards [testified] it's because he views this as an ‘educational’ process for the student, not a punitive one. This testimony is not credible. Being thrown out of school, not being permitted to graduate and forfeiting a semester's worth of tuition is ‘punishment’ in any reasonable sense of that term.”

# Four Recurring Practical Issues

1. Extent of notice to Respondent (tension between due process and investigation tactics)
2. Real limits on our ability to get information and how that should influence result
3. “The inherent messiness of hearings”
4. Providing ample opportunity to prepare versus obligation for prompt resolution (tension between thorough/fair and prompt)

# Naumov v. McDaniel College (D. Md. Mar. 2017)

- **Court:** “It is possible for an institution or individual to seek to do the right thing, motivated by proper motives and, yet, do so in the wrong way. This may be such a case.”
- University became aware of a potential claim of harassment, hostile work environment and stalking from a departing professor and immediately initiated an investigation. Investigation targeted Plaintiff Dr. Pavel Naumov who alleged “the manner in which Defendants pursued the investigation, which led to his termination, violated their own Title IX Policy and, thus, breached an agreement between the parties.”

# Two Claims: Title IX and Breach of Contract

- **A familiar allegation in a different context (erroneous outcome):** “Plaintiff argues that ‘the College has created an environment in, and procedure by, which male faculty accused of sexual harassment are virtually assured of a finding of guilty/responsibility and/or the College is deliberately indifferent to such a culture on campus.’”
- Significant concession regarding contract claim: “Defendants concede that the Title IX Policy and Employee Handbook are binding contracts between McDaniel and its employees, including Plaintiff.”

# Naumov v. McDaniel College (D. Md. Mar. 2017)

- “Although it was Dr. More who was allegedly harassed by Plaintiff, Dr. Stewart, the School Provost, filed the claim as the complainant. The significance of such an approach is that the Title IX Policy requires a complainant who is willing to be identified in order for the claim to proceed, and Dr. More had indicated that her family and friends had been discouraging her from participating in a claim and that she wished to remain an ‘anonymous witness rather than a complainant.’”
- “Thus, without substituting Dr. Stewart as the complainant, Defendants would not have been able to pursue the claim against Plaintiff.”
- “As it relates to Defendant's position that their Title IX Policy permitted them to substitute Dr. Stewart as the complainant for Dr. More, ‘there is a bona fide ambiguity in the contract's language or legitimate doubt as to its application under the circumstances, thus, the Court will deny Defendant's Motion for Summary Judgment.’”
- **One important takeaway: revisiting (visiting) faculty policies**

# Respondent Cases: Honorable Mention

- *Doe v. Miami University* (S.D. Ohio March 2017) (respondent's Title IX and due process claims dismissed)
- *Doe v. University of St. Thomas* (D. Minn. Mar. 1, 2017) (Court dismissed these claims because Doe's allegations—that a University official encouraged Doe to withdraw from UST and that UST's general counsel also served as the Title IX coordinator—did not suggest disparate treatment based on sex. Similarly, his claims that UST treated his female accuser more favorably than it treated him did not demonstrate a bias against males in general).
- *Doe v. Amherst College* (D. Mass. Feb. 28, 2017) (Court concluded that Plaintiff's allegations that his accuser was engaged in a student-led movement to compel the College to alter its handling of sexual misconduct complaints, that the College sought to appease this student-led movement, and that the College did not encourage him to file a complaint despite the fact that his intoxication level at the time of the incident made him a potential victim under the sexual misconduct policy, were sufficient to support erroneous outcome, selective enforcement, and deliberate indifference claims under Title IX).

# Some Takeaways

1. The wave will continue
2. Hopefully, appellate courts will start deciding cases and the case law lessons will become clearer
3. Internal training should incorporate state-specific case law lessons
4. Institutional decisions are subject to significant scrutiny – good practice in this area has investigations and reports subjected to internal scrutiny (someone needs to ask tough questions on front end)
5. Guiding Principles: Meaningful notice, fairness to both sides, thorough investigations, thoughtful credibility assessments, analysis that can withstand scrutiny and does not ignore inconvenient facts, impeccable documentation



# Issue: Student Goes Public With “Confidential Investigation” or Accuses Student of Lying or Being a Rapist . . . How to Handle?



# Nungesser v. Columbia University (S.D.N.Y Mar. 2017)

- Nungesser alleges that Columbia violated his rights under Title IX of the Education Amendments of 1972 ("Title IX") by permitting Sulkowicz, among other things, to carry out the Mattress Project and receive academic credit for it
- Deliberate indifference? Was this harassment based on sex?
- No harassment based on sex: “Thus, to the extent that Sulkowicz's activism was aimed at Nungesser, the SAC specifically alleges that it was **because of** his conduct toward her (whether because of his rejection of her, as he alleges, or because of the rape that she maintained had occurred) and her resulting personal animus against him, not because of his status as a male.”
- “Title IX does not **require** educational institutions to prevent defamation or to otherwise force its students to accept without challenge the results of its disciplinary processes.”
- Nungesser may have claim against Sulkowicz
- **Unanswered Question:** Can we “prevent defamation” or enforce confidentiality?

# Developments in Complainant Litigation



## Baylor University Facing Another Title IX Lawsuit Over Sexual Assault

May 17, 2017 10:56 AM

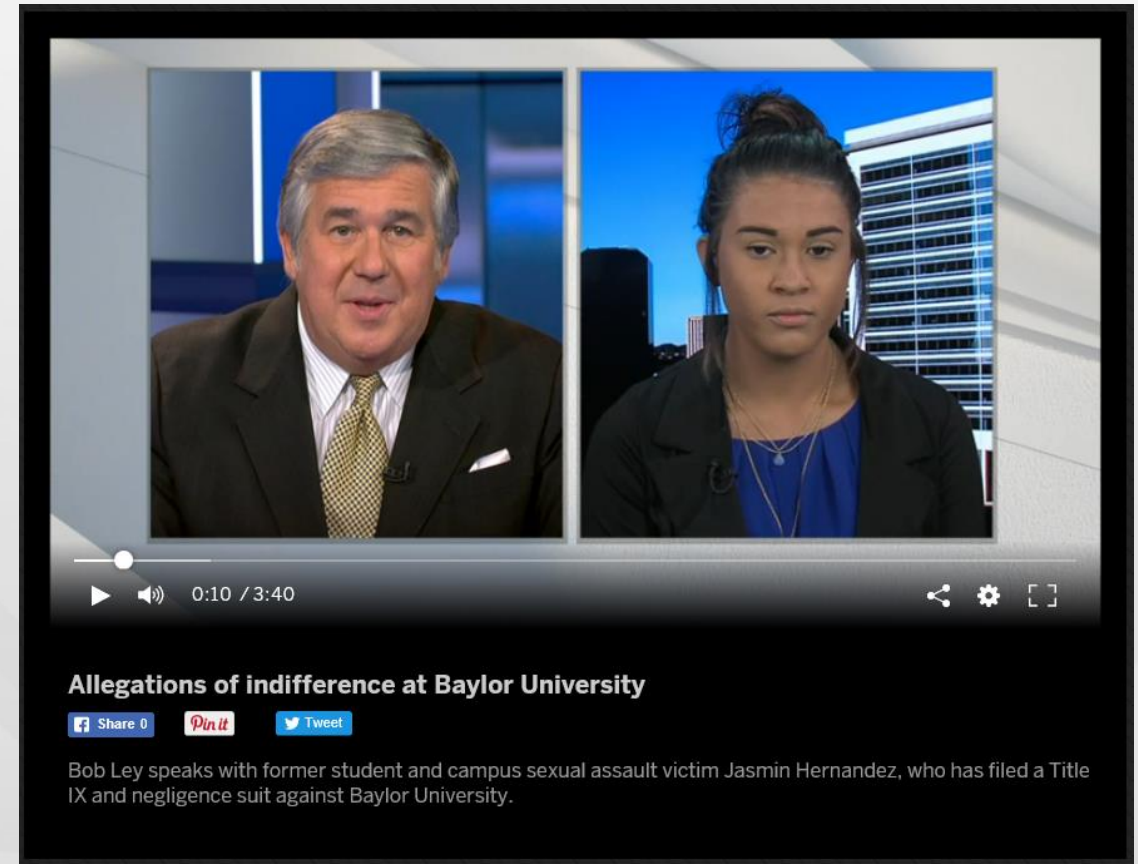
Filed Under: [Art Briles](#), [Baylor Football](#), [Baylor University](#), [College Football](#), [Gang Rape](#), [rape](#), [sexual assault](#), [Title IX](#), [Waco](#)



The campus of Baylor University is at the heart of Waco, Texas. (credit: Allen Holder/Kansas City Star/MCT)

# Hernandez v. Baylor University, (W.D. Tex. April 2017)

- Plaintiff was a former student at Baylor University who alleged she was sexually assaulted by a fellow student during her freshman year in 2013.
- Brought suit against Baylor University, former Head Football Coach Art Briles, and former Athletic Director Ian McCaw.
- Made complaint of assault and no action was taken.



# Statute of Limitations Argument

- Quick legal point: no express statute of limitations in Title IX – look to state personal injury limitations period (two years in Texas).
- Plaintiff makes two deliberate indifference claims: (1) Baylor knew of previous incidents of sex assault involving her alleged assailant and failed to take action causing her injury and (2) Baylor's failure to respond to her complaint.
- Legal question: when did claim (1) and claim (2) accrue (*i.e.*, when did the plaintiff become aware that she suffered an injury or had sufficient information to know that she had been injured)
- Plaintiff argues that her claims under Title IX did not accrue until early 2016, when Pepper Hamilton report revealed Baylor's alleged role in her assault.
- With respect to claim (1), Court concluded that Plaintiff “first became aware of Baylor's deliberate indifference to a known issue of sexual misconduct within its football program in May of 2016,” when the Pepper Hamilton report was released . . . Thus, while Plaintiff certainly knew of her injury—the sexual assault—in 2012, based on her allegations, she had no reason to know of Baylor's role in causing the assault until 2016.”
- Claim (2) is time barred.
- **Important legal takeaway: public disclosure of audit results may open school to liability in otherwise time barred claims**

# One More Quick Practical Point

- Court allowed negligence claims to proceed against coach and AD.
- What is coach or AD on notice supposed to do (in legal terms, what is reasonable)?
- Training point: **REPORT TO TITLE IX COORDINATOR!**

## Will University of Arizona's College Athletics Sex Scandal Cost Greg Byrne His Job At Alabama?



**Patrick Rische**, CONTRIBUTOR

*I cover the economics of the sports industry.* [FULL BIO](#) ▾

Opinions expressed by Forbes Contributors are their own.



TUCSON, AZ : University of Alabama Director of Athletics, Greg Byrne, is pictured here back on January 30, 2016 in Tucson, [ + ]

# Jane Doe v. Northern Kentucky Univ. (E.D. Ky. April 2016)

- Before court on motion for summary judgment
- Claim: Plaintiff Jane Doe filed suit against NKU alleging that NKU violated Title IX by responding with deliberate indifference to her claims of sexual assault by another NKU student.
- Specifically, Doe was raped by Student M in September 2013; she reported the rape to NKU around May 1, 2014; a hearing panel found 3-0 that plaintiff was a victim of “non-consensual sex by force”; and NKU imposed certain sanctions on Student M as a result.
- **Court: “It is the adequacy of NKU's response that is the pivotal question in this case.”**



# Deliberate Indifference

1. NKU advised Plaintiff not to pursue a criminal complaint.
  2. Student M showed up in the same cafeteria where Plaintiff was eating. When she called the police, it was revealed that they had never been advised concerning Student M's sanctions or provided with a picture of him.
  3. Plaintiff received a Snapchat notice from Student M.
  4. Student M was working in a recreation center which Plaintiff frequented.
  5. Student M was permitted to work in a program helping students move into dorms where he was encountered by Plaintiff.
  6. The chief of the University police circulated an email stating that Plaintiff was "slandering" Student M.
  7. In his deposition, the chief of the campus police testified that NKU declined to adopt measures to assure a "safe campus."
  8. The chief further testified that the University refused to implement his suggestion that ingress to the dorms be monitored by an attendant.
- Similar decision just issued in *Doe v. University of North Texas* (E.D. Tex. June 2017)
  - See also, *Leader v. Harvard* (D. Mass. March 2017) (denying university's motion to dismiss in deliberate indifference claim)



# Yeasin v. University of Kansas (2015)

- Yeasin posted a series of sexually harassing tweets on his Twitter account direct at female student. Yeasin was expelled, sued.
- None of this conduct occurred on campus or at a University sponsored or supervised event.
- Court: “The Student Code, the rules by which the University can impose discipline upon its students, deals only with conduct on campus or at University sponsored or supervised events. We therefore hold that the University had no authority to expel Yeasin.”

WayBack Machine

# Farmer v. Kansas State University (D. Kan. 2017)

- Plaintiff Tessa Farmer brings action against Defendant Kansas State University alleging that KSU failed to adequately respond after Plaintiff, a KSU student, reported she was sexually assaulted at a KSU fraternity.
- “The current Policy Prohibiting Discrimination, Harassment and Sexual Violence, K-State's Sexual Misconduct policy, specifies that it covers behaviors that happen[] on campus and at university sponsored events; which does not cover Fraternity Houses.”
- Title IX is triggered only when harassment occurs within an “education program or activity” of the funding recipient. The term “program or activity” includes “all of the operations of . . . a college, university, or other postsecondary institution, or a public system of higher education.” According to OCR regulations, “program or activity” also includes “any academic, extracurricular, research, [or] occupational training.”

## Nerdy Aside

“Plaintiff and the United States also refer to Dear Colleague Letters and ‘Questions and Answers’ documents issued by the OCR, which bear on the scope of Title IX liability and purport to interpret how Title IX applies to fraternities and sororities. KSU responds that these documents do not carry the force of law and are not entitled to Chevron deference in part because they were not promulgated pursuant to notice-and-comment rulemaking. **The Court agrees and therefore does not consider the Dear Colleague Letters and ‘Questions and Answers’ documents in determining whether Plaintiff has alleged a plausible Title IX claim.**”



# Trump Department of Education

- On White House directive on transgender students' rights: it is "at once illegal, dangerous, and ignores privacy issues."
- Obama administration's crackdown on campus sexual assaults has distorted Title IX "to micromanage the way colleges and universities deal with allegations of abuse," the platform says. Republicans said that sexual assault reports should be resolved only by law enforcement, rather than by university officials.



# Courts Are Weighing in . . .

- *Texas v. U.S.* (N.D. Tex. 2016): Title IX does not protect transgender students
- *Gloucester v. GG* (4<sup>th</sup> Cir. 2016): Yes, it does, but . . .
- DCL rescinded
- *Whitaker v. Kenosha School District* (7<sup>th</sup> Cir. 2017): Yes, it does.

## 7th Circuit Issues Landmark Transgender Rights Ruling in Favor of Student Plaintiff

by **Andy Towle**

May 30, 2017 | 5:17pm





## Koch Foundation Officer, a Critic of Title IX Guidance, Will Join Education Dept.

By Sarah Brown | JUNE 06, 2017

**A**dam Kissel, a senior program officer at the Charles Koch Foundation, was tapped on Monday to serve as deputy assistant secretary for higher-education programs at the U.S. Department of Education.

The unit he will lead "administers programs that broaden access to higher education and strengthen the capacity of colleges and universities," according to the department's website. Among those programs are efforts to support historically black colleges and other minority-serving institutions, students with disabilities, and students who are single parents.

He will also oversee the federal TRIO programs, which aim to help students from disadvantaged backgrounds as they work toward college degrees.

## 2 Education Dept. Picks Raise Fears on Civil Rights Enforcement

By ERICA L. GREEN APRIL 4, 2017





# The Trump Administration Inherited Hundreds Of Unresolved Title IX Complaints

Hundreds of sexual assault victims turned to the Department of Education for justice after feeling betrayed by their schools. Years later, many of them are still waiting for their complaints to be answered. "It's a shame."

Posted on March 6, 2017, at 8:30 a.m.

 **Tyler Kingkade**  
BuzzFeed News Reporter

## Civil Rights Slow Walk?

Trump wants to cut staffing at OCR, already facing a backlog of Title IX and other complaints, by 7 percent.

By [Andrew Kreighbaum](#) // June 6, 2017

48 COMMENTS 



# Responsible Employees

- 2001 Guidance: “authority to take action to redress sexual violence” or anyone who a student could “reasonably believe” has such authority
- Oregon: Faculty members will neither be mandatory reporters nor fully exempt from reporting, but will have the ability to use discretion to decide the reporting question.
- <http://around.uoregon.edu/content/new-reporting-responsibilities-policy-take-effect-sept-15>

New reporting responsibilities policy to take effect Sept. 15



May 23, 2017 - 10:21 am

[Twitter](#) [Facebook](#)

A new policy defining reporting responsibilities for employees who learn of a student who has experienced sex or gender-based discrimination will take effect on Sept. 15, having received the signature of President Michael H. Schill.

# Significant Title IX Settlement

- The University of Iowa will reportedly pay \$6.5 million to avoid further litigation in the discrimination lawsuits filed by former associate athletic director Jane Meyer and former field hockey coach Tracey Griesbaum.
- Griesbaum's lawsuit alleged that she was wrongfully terminated and that the athletic director had a pattern of firing female coaches.
- Meyer, Griesbaum's partner, successfully convinced a jury that she was fired in retaliation for complaining about that and other examples of sex discrimination within the department.

Iowa to pay \$6.5M to settle landmark sports bias lawsuits



Tracey  
Griesbaum

Jane  
Meyer

By Associated Press | Posted: Fri 2:35 PM, May 19, 2017

# A Moment on Gender Equity

## Feds visit campus to investigate University of Iowa athletics

Jeff Charis-Carlson , [jcharisc@press-citizen.com](mailto:jcharisc@press-citizen.com) Published 3:02 p.m. CT April 10, 2016 | Updated 3:43 p.m. CT April 10, 2016



(Photo: Register file photo)

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A team of federal investigators on Monday will begin a weeklong, on-campus probe in response to a complaint that the University of Iowa athletic department does not provide equal opportunities for female athletics.

The Office for Civil Rights of the U.S. Department of Education is looking into [gender bias in a wide variety of areas](#), including practice facilities, locker rooms, publicity policies, scholarships, practice schedules, tutoring supports, medical services and housing.

The office enforces the law known as Title IX, which bars sexual discrimination in education programs receiving federal aid.

Based on similar OCR investigations at other universities, this week's on-campus interviews may be the first of several over the next few years. If discrimination is found, the investigation could result in a settlement requiring UI to change policies, to spend more money on women's athletics or even to add another women's sport.

## UW women's rowing-team numbers inflated, avoiding Title IX scrutiny

Originally published March 5, 2017 at 7:00 am | Updated March 5, 2017 at 2:01 pm



The varsity women's crew team rows back to the shellhouse after a victory in the 2011 Windermere Cup. That year, the UW listed 181 participants on its report to federal officials but had 69 rowers on its roster on its website. (Steve Ringman / The Seattle Times)

**Despite students never trying out for women's rowing, the UW counted them on the team in its report to the Department of Education for several years.**

# Upcoming Speaking Schedule

- **NCCPS Trauma-Informed Sexual Assault Investigation and Adjudication Institute**, Washington, D.C., June 12 – 16
- **Association of College and University Housing Officers – International** (Everything You Need to Know About Legal Issues in Housing and Residence Life), Providence, Rhode Island, June 18
- **Independent Colleges and Universities of Florida** (Higher Education Compliance Bootcamp: Title IX and Beyond), Tampa, Florida, June 20 – 21
- **NACUA Annual Conference** (Clery for Lawyers New to Higher Education), Chicago, Illinois, June 25

# SCOTT SCHNEIDER

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