



University Revises Transfer Policies In Effort To Combat Campus Sex Assault

Insights

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One Title IX issue that has received considerable attention over the past several months is how colleges and universities should assess the student conduct records of students interested in transferring onto campus. Putting a finer point on it: should a finding that a student engaged in sexual misconduct at a prior school effectively bar that student from transferring to another school?

University Of Oregon Case Sounds A Warning Alarm

Two of Oregon's public universities have been at the forefront of this issue. Several months ago, the University of Oregon settled a lawsuit with a student who said she was gang-raped by three male basketball players. In that case, the female student alleged the Oregon's men's basketball coach recruited one of the players who allegedly assaulted her while knowing that he had previously been accused of sexual assault at Providence College.

In addition to paying the student \$800,000 and providing free tuition at the university, one of the terms of the settlement required the university to consider adopting a policy requiring transfer students to report their disciplinary history to the university. (Read article summarizing case [here](#).)

Oregon State University Announces Groundbreaking New Policy

In late November, Oregon State University (OSU) announced just such a policy that may serve as a model for other institutions. Pursuant to the new policy, all undergraduate and graduate students seeking to transfer to OSU must disclose whether they are ineligible to re-enroll at an institution they attended in the past seven years due to student conduct reasons.

Should a student disclose that they are ineligible to re-enroll at a previous institution, that student will be denied admission to OSU. Pursuant to OSU's policy, it appears that students expelled from another university would be eligible to enroll at OSU after seven years.

The new policy is being heralded by OSU's President as a means to combat sexual violence and to improve student safety. "We are committed to combatting sexual violence in society and to improving safety on the Oregon State University campus," said OSU President Ed Ray. "This is an important step to strengthen the university's admission policies for transfer students related to conduct that is not consistent with creating a safe and inclusive community at Oregon State."

Stakes Are High; Proceed With Caution

One of the unintended consequences of widespread adoption of such policies may be considerably more litigation from students challenging institutional findings of responsibility. This litigation is already at historically unprecedented levels and will likely increase if, in addition to being expelled from school, a student finds it virtually impossible to obtain an education elsewhere.

With stakes this high, colleges and universities would once again be well-served to assess whether their student disciplinary models (which are largely products of an era where this sort of litigation was rare and schools were given considerable deference) should be revamped and “professionalized.”

On the other hand, it appears that the days of turning a blind eye towards transfer students’ conduct records from previous institutions are over. The University of Oregon case aptly illustrates the potential perils of admitting a student who engaged in misconduct at a previous institution and then was accused of similar misconduct at his or her new institution.

Questions To Be Asked

For schools considering policies similar to the one adopted at Oregon State, several unresolved issues are worth considering:

- Should such policies rely solely on student self-disclosure or will independent vetting be conducted?
- How will such policies be applied to international students, especially from countries which have been stingy in providing university conduct records?
- How does the policy with respect to student disciplinary infractions mesh with institutional policy on criminal convictions?
- Will universities begin vetting student disciplinary records of employees who work with students?
- If there is no prohibition on enrollment for a student disciplined at a prior institution, who will make decisions about whether that student is allowed to enroll, under what circumstances, and after considering what factors?

Much the same way that higher education responded to calls to conduct criminal background checks on incoming students, there is seemingly still room for a school to deal with this issue in a manner that is consistent with its particular strengths, resources, and values. At a minimum, though, schools should be having a thoughtful conversation about how they want to address what is probably going to become a more high-profile issue over the next several months.

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