

Senate Higher Education Committee
Legislative Hearing on Campus Sexual Assault

September 17, 2018

Testimony on behalf of Ramapo College of New Jersey c/o:
Katherine McGee, Director of Title IX, ADA, and Compliance Training

Thank you Chairwoman Cunningham, Vice Chair Pou, and Committee members. In the midst of the Me Too movement and a national reckoning on sexual assault, I thank you for your commitment to advance campus safety. It's a privilege to represent Ramapo College and to speak with you about how the College responds to complaints of sexual misconduct on campus.

I'd like to take a few minutes to de-mystify our Title IX reporting and investigation policies because this has changed since many of us went to college as a result of federal guidance. While procedures at Ramapo College may have some similarities and some differences with our sister institutions, we all work towards the same goal of ensuring a fair and equitable process for all of our students.

When a report of sexual assault is made, we first work with the victim to ensure his or her health, safety, and continued access to education. The student is informed of his or her rights and resources, including: the right to report to law enforcement, speak with a Confidential Sexual Violence Advocate, and receive counseling and medical treatment. In addition, either Public Safety or I will sit down with the student and discuss on and off campus resources using a checklist modeled from the Bergen County Sexual Assault Response Team (or "SART"). A copy of the completed checklist is later provided to the Mahwah Police Department and Bergen County Prosecutor's Office. If the survivor wishes to remain anonymous, their name is redacted from the checklist. This allows us to best meet the needs identified by the survivor and increase communication and transparency with our county agencies.

Our Sexual Misconduct Policy, which is available on the Ramapo College Title IX website, explains the procedure for investigations of sexual misconduct. Following my initial meeting with the victim, wherein I discuss the investigation process and their rights under Title IX, a team of two Title IX investigators will then interview the parties, witnesses, and collect evidence. Our pool of 16 investigators undergo Title IX and sexual assault training conducted by nationally recognized experts. This extensive training includes an in-depth study of the dynamics of sexual assault, intimate-partner violence, and harassment; interview techniques; definitions of consent and incapacitation; due process; and the neurobiology of trauma, among other topics.

We also have five Deputy Title IX Coordinators who complete similar training. The role of the assigned Deputy Coordinator is to review the investigatory report, invite the parties and their advisors to separate meetings to read and respond to the report, and render an outcome (either responsible or not responsible) based on the preponderance of the evidence. The Deputy Coordinator will also determine the appropriate sanction if the accused is found responsible.

Throughout the investigation, students have the right to due process and fundamental fairness. Both parties have the same rights to:

- Have a personal advisor present for any investigation interview or meeting. The advisor can be anyone of the student's choosing, including an attorney.
- Access campus resources (for example, mental health and counseling support services).
- Present relevant witnesses and other evidence, review the written investigatory report, and then present any further relevant evidence.
- Be informed simultaneously in writing of the outcome.
- Appeal the outcome and sanctions to a trained appeals officer, who is separate and apart from the Investigators, the Deputy Coordinator, and myself.

Despite changes last fall to Title IX Guidance from the U. S. Department of Education which permits us the option to apply a “clear and convincing” evidence standard, the College does not intend to depart from the current evidentiary standard for sexual misconduct, that is, a “preponderance of the evidence” or “more likely than not” standard, as this is the standard used in all aspects of student conduct. It would be inequitable to set a higher bar that only applies to sexual misconduct. The College will continue to review further guidance and best practices to carry out our Title IX responsibilities.

If we are to eliminate sexual assault on campus, we must continue to advance best practices for ensuring all of our students truly understand consent. The issue of whether consent for sexual activity was granted has been at the crux of the majority of sexual assault investigations. In 2014 Ramapo College instituted an affirmative consent standard, a standard that is legally recognized for institutions of higher education in New York and Connecticut. Affirmative consent simply means permission for sexual activity, or as our policy states, “voluntary, unambiguous, clear agreement” for sexual activity. Silence or lack of protest, as you are aware, is not consent. A person must be conscious to give consent: someone who is asleep or incapacitated due to drugs or alcohol can not consent. To echo President Mercer’s remarks, our students learn these messages via interactive programs, web-based training, and poster campaigns that reinforce the importance of affirmative consent. All new students are required to attend an affirmative consent workshop led by staff from the Office of Violence Prevention. Recently, Resident Assistants (or “RA’s”) helped us place refrigerator magnets about affirmative consent in every campus residence so we can literally bring this message home.

As an alumna, in many ways Ramapo College is my home too. I care deeply about the safety of our students, and I thank you for shining a light on this important topic. By continuing to bring together policy makers, educators, and community agencies, we can make New Jersey a national leader for prevention. Thank you.

I join President Mercer in welcoming the Committee’s comments and questions.