# PEER SEXUAL HARASSMENT: ONE VIEW FROM A VICE PRESIDENT FOR STUDENT AFFAIRS

**Presenter:**

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**18th ANNUAL LAW & HIGHER EDUCATION CONFERENCE**
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# Peer Sexual Harassment: One View From a Vice President for Student Affairs

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## Why Be Concerned?

- Peer sexual harassment whether among employees or students creates conditions where an optimal educational or work experience cannot exist.
- Both employees and students need to be learn about the consequences of harassing behavior so that ignorance cannot be an excuse.
- Defining a hostile environment is difficult and varies depending on the facts of the situation.
- Student to student sexual harassment claims are on the rise at colleges and universities.
  - can also be related to employment (student supervisors)
  - same sex claims of harassment seem to be growing

- failure to act can cause potential legal and ethical problems for the institution.

- The draft document from the Office of Civil Rights, OCR Policy Guidance Regarding Peer Sexual Harassment contains proposed regulations which have great significance for student affairs administrators.

Concerns About the Proposed OCR Regulations

- Why should an institution of higher education be liable for sexual harassing conduct of third parties who are not affiliated with the institution? An institution has very little control over such individuals even if they are the members of visiting athletic teams. When there is no control that can reasonably be exercised by the institution, how can the institution be held liable?

- To always assume, as the proposed guidelines imply (page four) that failure or withdrawal from the institution is linked to harassing behavior is inaccurate. The student may legitimately be failing or thinking about withdrawal prior to the time the harassment occurred. Each case needs to be examined individually as to the facts before a determination can be made.

- What constitutes notice? If a student discusses harassing behavior in a confidential counseling session, is that notice? I would assume the Supreme Court feels otherwise based on their ruling in Jaffee v. Redmond, slip, op. 95-266 (u.s. Supreme Court, June 13, 1996).

- The OCR Guidelines indicate that an institution should be held responsible if they "reasonably should have known about the harassment". In a complex college or university setting I wonder how one could judge if the institution reasonably should have known about harassment. For example, commuting students, students living off campus, part-time students etc.

- The definition of staff members needs to be clarified for most colleges and universities. Many staff members in a division of student affairs have confidential relationships with students which are protected by either state law or ethical principles. The OCR guidelines do not even recognize these differences between and among professional staff.

- The section of constructive notice in the guidelines is particularly troubling. There is an implication that colleges and universities should regularly audit the

behavior of 'suspect' groups such as athletes or members of fraternities.

Issues Involved in Peer Sexual Harassment

Staff

- Providing information and orientation for staff
- Promulgating clear policies and procedures
- Informing about consequences of prohibited behavior
- Responding to and investigating all complaints
- Determining credibility of claims
- Use of peer panels is sometimes effective in determining credibility of claims
- Assuring consistency in response across the institution
- Providing assistance and support for both the alleged victim and the alleged harasser

Students

- Providing information and clear policies
- Orienting students regarding expectations for behavior
- Promulgating clear policies and procedures
- Responding to and investigating all complaints

- Determining the credibility of all claims
- Dealing with the issue of confidentiality
- Providing assistance and support for both the alleged victim and the alleged harasser
- Assuring consistency of response across the institution

Barriers to Effectively Confronting Sexual Harassment

- Attitudes of those entrenched in the system: alumni, faculty and staff
- Fear of reprisals in either the employment or the student environment
- Unrealistic expectations from parents of students who are alleged victims
- Lack of information

# COLLEGE AND UNIVERSITY STUDENT JUDICIAL CASES, INCIDENTS, MATERIALS: 1996

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# COLLEGE AND UNIVERSITY STUDENT JUDICIAL CASES, INCIDENTS, MATERIALS: 1996

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**NOTE: "WL" refers to West Law. To access West Law, type "fi 1996 WL 367638," or the appropriate WL cite. The letter "C" refers to the Chronicle of Higher Education.**

## 5. RAPE, SEXUAL ASSAULT

Campus Crime Report Forcible Sex C 4/26. 1,001 incidents were reported in '94, up from 892 in '93. Increase of 12%.

Reassignment of ASJA Member/Judicial Officer - California of Pa. (Herald - Standard 9/22/96.) Dr. Phil Hayes, dean of students/judicial affairs at California of Pa. since 1970 was reassigned to the purchasing department effective with the Fall, 1996 term. The basis for the reassignment, ordered by president Angelo Armanti, was a November 30, 1995 letter by a female student complaining that Hayes did not help her deal with a rape in which she was the victim. The complaint letter was investigated by an attorney from Pittsburg, a Caroline Roberto. The president stated that Hayes conducted himself in an "inappropriate manner," after reviewing Hayes' written and verbal responses to the student. The assailant was charged with rape, involuntary deviate sexual intercourse, aggravated indecent assault, indirect exposure, harassment and stalking. The student charged in the letter of complaint that Hayes helped raise bond money for the assailant, a charge which Hayes denies. Two unions have filed grievances over the reassignment. Hayes has taken sick leave, and has not reported for the reassignment. Hayes has been at Cal. of Pa. for 26 years, and is 61 years old. He holds a master's in counseling and a doctorate in administration. He states he is not qualified to work in purchasing.

K-12 Sexual Assault (____ v. LA School Dist., ). Jury trial ends with 1.5M judgement for student to student SA. 11 year old was the assailant -- 8 year old was the victim -- both were boys. The 11 year old transferred from Ark. when he was determined to be seriously emotionally disturbed after a series of violent and sexually inapprop. acts. Ark. had a teacher's aide on him one on one during the school day. LA Dist. put the 11 year old in a regular class without fully reviewing his file -- said to be "voluminous" -- from Ark. The file was not fully reviewed until his second arrest for SA. Defense counsel reportedly blamed the victim's mother for "overreacting", and alleged that the victim consented to the sexual acts.

Note - this may be the largest K-12 student on student SA award ever -- and it parallels some of the egregious student on student SA cases in higher education.

Viol. Against Women Stat. - VPI (Brzonkala v. VPI, W.D.Va., 1996 WL 431097, July, 1996). C5/17; C8/9. USDC judge dismisses VPI as a party, and later two individual football players from second case tried under Violence Against Women Act. Plaintiff seeks $8M, alleging dorm rape in '94. Plaintiff claims student disciplinary system is discriminatory, and that VPI had mishandled its investigation of her complaint, and its handling of her in light of criminal justice system. Same judge later held this statute unconstitutional as not supported by the Commerce Clause nor by the 14th Amendment. "Congress is not invested with the authority to cure all of the ills of mankind." BUT SEE DOE v. DOE, 65 L.W. 2087 (D.C. Conn. 1996). Suit under Violence Against Women Act. Abused wife against her husband. Husband attacked the stat. is unconstitutional extension of Cong. authority under commerce clause. Held - stat. is constit.

Date Rape Drug C6/28. Rohypnol reportedly involved in the ZBT (UCLA) rape incident. Several press reports indicate the drug is being used to sedate women -- who black out. Drug, a sedative, is used to enhance mari./alcohol "high." UF reports 20-25 such blackouts of women students. Drug manufacturer has agreed to pay to test any rape victim who believes she was given the drug prior to an attack.

Rape - M.L. v. U. Pitt., Phi Gamma Delta, Common Pleas Court, Allegheny Co., Pa., 1995). M.L. was an underage minor. She attended a "grain party" at the Fiji house. Her hand was stamped as a minor. Nonetheless, she was served, became intoxicated, and was gang raped by members of several fraternities in attendance. Held - Pitt. has no liability, because it cannot be considered a social host under Pa. law. Fiji was ruled to be a social host, since they served a minor and since Fiji's actions created a "special relationship," and Fiji has a high duty of care, having got her the means to get drunk. Issue of foreseeability of harm sent to a jury.

Discovery of Prior Sexual History - (Andersen v. Cornell University, March, 1996, 638 N.Y.S.2d 852.) Plaintiff could not be compelled to state if she had sex with individuals named in discovery documents, and was not required to identify by name sex partners, nor describe her relationship with them.

Stalking Stat. Unconstitutional. (State v. Bryers, Kans. Jan. '96, 910 P.2d 212, 1996 WL 36169.) Kansas Supreme Court held unconstitutional for vagueness state stalking stat. Case involved two students at a university.

Stalking - R.G. v. T.D. (PaSuper., 672 A.2d 341). Students were boy and girl friend, who broke up. Female seeks protective order prohibiting all contact for one year. Male had called and e-mailed, making threats, said she was the object of his obsessive-compulsive obsession. Order was granted.

Fed. Anti-Stalking Statute, 1996. Crossing state lines to harass or threaten someone is now a Fed. crime. Now violating a protective order by pursuing a victim across a state line is actionable in a Fed. criminal trial.

## 6. SEXUAL HARASSMENT

Title IX: Student to Student SH - Faculty/Student SH. OCR released draft guidelines for student to student and faculty to student (K-12) SH!!

### 6-1 SEXUAL HARASSMENT GUIDANCE: PEER HARASSMENT
(SYNFAX, 9/2/96)

The student to student guidelines were released on August 14, 1996. ASJA responded to the draft with a 5 page letter which is summarized below. Concerns were noted with draft language relative to

- a finding of hostile environment, in which an institution may be found to have violated the OCR guidelines even if the complainant failed to use the institution's complaint procedure.
- inadequate reference to relevant case law, such as Yusuf v. Vassar College.
- First Amendment rights of students in cyberspace.
- the issue of imputing liability to an institution, based on the acts of students, when such students are not agents of the institution, under agency law principles.
- the line of hate speech cases on hate speech codes.
- FERPA rights of accused students.

One K-12 publication on Student/Student SH is "Interpreting OCR's Guidance on Peer SH," LRP Publications, $22.50, 80 pp., 1-800-341-7874. This document indicates that significant amounts of peer K-12 SH occur on school buses, and the SH is often more severe on buses than that occurring in other settings.

Regs indicate schools and colleges will be liable under Title IX for student sexual

harassment only if the institution is noticed of the S/H and does not take immediate and appropriate steps to remedy S/H. (Web site (http://www.ed.gov/). OCR guidance is at variance with a May '96 5th Circuit decision, (Rowinsky) involving 8th grade boys touching girls breasts and genitals, and making sexually suggestive comments on a school bus. 5th Circuit ruled school district could be liable under Title IX only if it handled claims of student S/H differently for boys and girls. Male students were held not to be agents of the school district and hence, liability could not be imputed to the district. (Rowinsky, Apr. '96, 1996 WL 153985). Quare - in the 5th Circuit, which controls -- the court case or the OCR guidance? Rowinsky was appealed to the USS Ct., which refused to hear it.

Contra to Rowinsky is Davis v. Monroe Co. Bd. of Ed., Feb. '96, 1996 WL 34625. 5th grader's claim of hostile envir. S/H by a fellow classmate was held to run against the school board. Here school officials failed to take action; behavior lasted 5 months; criminal charges were filed.

Compare Doe v. Petaluma School Dist. (N.D. Cal. 1996), a K-12 school which does not create and implement policies reasonably designed to facilitate the reporting of severe SH incidents can be inferred to have created a hostile environment.

Wright v. Mason City Community School Dist. (N.D. Iowa), Aug. 27, 1996, 1996 WL 526274. A student seeking damages from an educational institution for peer sexual harassment under Title IX must prove: (1) that the student is a member of a protected group; (2) that the student was subject to unwelcome sexual harassment; (3) that the harassment was based on sex; (4) that the harassment was sufficiently severe or pervasive that it altered the conditions of the student's education and created an abusive educational environment; and (5) that the educational institution knew of the harassment and intentionally failed to take proper remedial measures because of the student's sex. The court rejected a test employed by another federal circuit which would award damages for an institution's negligent failure to prevent peer sexual harassment.

Same Sex Harassment (Nabozny v. Podleshy , C.A. 7 - Wis., July '96, 1996 WL 428031.) Gay student is being SH by his peers. Harassment included name calling, hitting, urinating on him, mock rape. Plaintiff twice attempted suicide, and was diagnosed with Post Traumatic Stress Disorder. This went on from 7th to 11th grade. Alleges school district took no action - but would have taken action if he

were female. Held - case should go to trial on issue of equal protection. A settlement of 900K was announced on 12/9/96!! See also Quick v. Donaldson Co., 8th Cir., July '96. Plaintiff sued under Title VII of '64 Civil Rights Act, after fellow employees grabbed his testicles more than 100 times. Act was called "bagging." Plaintiff suffered permanent injury to left testicle.

## 6-2 SH GUIDANCE: HARASSMENT OF STUDENTS BY SCHOOL EMPLOYEES.

These faculty to student SH guidelines, published in October, state that a school will not be liable under the "knew or should have known" standard, but will be liable if a teacher or other school employee uses his/her authority to force a student to participate in sex. This standard makes the school and school district liable under agency law.

The faculty/student guidelines define quid pro quo and hostile environment per the case law.

Highlights of the draft guidelines:

- Schools are strictly liable for quid pro quo.
- Schools are liable for hostile environment SH when the employee
  - acted with apparent authority
  - was aided in carrying out hostile environment SH by his/her position of authority.
- The guidelines can apply to the acts of maintenance and custodial workers - especially for younger students.
- Schools must adopt and disseminate a SH policy. A school is strictly liable under Title IX is it does not have such a policy, even if no SH has occurred.
- To be actionable as SH under the OCR guidelines, the sexual conduct must be
  - unwelcome
  - unsolicited
  - undesirable
  - offensive
  - student need not object
- "Consensual" relationships are presumed to be non -- consensual if between a

school employee and an elementary student, and there is a strong presumption that a high school or junior high student's relationship with an employee is not consensual.

- The OCR mandated grievance process should provide for notice of outcome and disposition of the complaint consistent with FERPA. If harasser is an employee, he/she has no FERPA rights, but may have personnel law privacy rights.
- Reference is made to First Amendment Issues.

Nov. 18, '96 was the deadline for comments on the draft. The point of contact is Howard Kallem, USDOE, 600 Indep. Ave. SW, Rm. 5414 Switzer Bldg., Wash. DC 20202-1174, 202-205-9641.

It should be noted that OCR plans to combine the drafts into a single document at some time in the future. This development must be carefully monitored. There are significant and substantive distinctions between:

- K-12 and post secondary
- public and private (constitutional vs. contract issues)
- union and non-union institutions

Further, OCR has apparently not yet identified the issue of "contra power" harassment . . . the SH of faculty by students, which apparently most often occurs by male students SH female faculty.

Recent SH cases involving Fac-Stu SH merit careful attention. The 8th Circuit, in Kinman v. Omaha Sch. Dist., 1996, held that a same sex relationship between a teacher and a student was actionable under Title IX, even though the school district had monitored the student's phone calls, interviewed the student, gave the student a polygraph test, and confronted the teacher! When the relationship was confirmed, the district fired the teacher!

Compare Landreneau v. Fruge, La. App., 3 Cir., 676 So.2d 701). Principal and school board not liable for teacher/coach's facilitation of lesbian encounter between teenage girl and adult woman.

"Save the Last Dance for Me"- In Nelson v. Almont Com. School, 931 F. Supp. 1345 (E.D. Mich. 1966), a male junior and his female English teacher had a 6 month

relationship. During this time, the student and the teacher were nominated for homecoming king and queen, and were slow dancing at the winter dance. Both denied a relationship when questioned by the principal. Nelson, the student, attempted suicide, and his parents found evidence of the relationship in his diary and in letters. His parents sued, alleging the school failed to end the relationship. The court refused to grant a summary judgement for the school. The matter was set down for trial on the issues of 1) the reasonableness of the principal's actions, 2) whether the teacher's sexual advances were unwelcome.

Rape (Wright v. Mason District, ND Iowa 1996). Wright was raped by her boyfriend. When she reported the rape, her classmates at Mason High physically assaulted her, engaged in name calling and graffiti. She then sued under Title IX, and a jury awarded $5,200 for the school's failure to stop the SH. On appeal, it was held there was no evidence of intentional discrim. against the plaintiff. School staff had punished her assailants, separated her from the rapist during the school day, and promptly removed the graffiti.

Rape - (Doe v. Hillsboro (Tx.) School District, 5th Cir., Apr. '96, 1996 WL 194831). K-12 student raped by school custodian has a Sec. 1983 action against school board, and others in the chain of command, based on failure to check criminal records of job applicants. At time of the rape, 1/3 of the maintenance staff were convicts, many for crimes of violence. School staff did nothing about maintenance staff who were reported to be SH students. NB - this liability runs personally against school administrators and board members!

"Punishing the Messenger: The Effect of Reporting Male Colleague Alleged SH (on the party reporting the same)," ____. WELR ____ 1996, Hassenpflug. Suggesions for avoiding retaliatory demotions, firings when a K-12 teacher reports alleged sexual misconduct.

SH Classroom Speech. San Bernardino College. This is said to be the first Federal appellate decision relative to sexually harassing speech in the classroom. C9/6 (9th Cir., ____ F.2d ____, 1996). An English professor used profanities and vulgarities, read Playboy and Hustler aloud, and discussed obscenity, cannibalism, and consensual sex with children in class. Professor assigned a paper asking students to "define pornography." Student sought alternative topic, professor refused, student filed grievance under College's "hostile learning environment" policy. College

committee found his teaching created a hostile environment, put him on probation, and ordered him to attend a SH seminar and to modify this teaching. Professor sued in Federal district court for violation of First Amendment rights. Federal district court sustained the College. Held that SH speech that unreas. interferes with acad. performance, or that creates an intimidating, hostile or offensive learning environment is not protected by First Amendment. Ninth Circuit Court of Appeals reversed, citing the "vagueness" of the college policy, which is almost word for word the EEOC regulation !!! (What does this say about the constitutional viability of the EEOC regulation?)

Robert O'Neil suggests colleges and universities adopt the language of the AAUP model S/H policy. Under the terms of the AAUP policy, before it may be punished as harassment, speech must be "of a sexual nature . . . directed against another," must be shown to be "abusive" or "severely humiliating" or to have persisted despite the objection of the person or persons against whom it was directed. Alternatively, it must be speech that is "reasonably regarded as offensive and substantially impairs the academic or work opportunity of students, colleagues, or co-workers."

O'Neil underlines the importance of adequate notice of the policy to faculty, and of the use of all procedures when the policy is allegedly violated.

What -- if anything -- does this case say about student to student speech? How would the 9th Circuit's opinion, for example, apply to the Penn. "water buffalo" case?

An incredibly helpful article entitled "Beyond Speech Codes: Harmonizing Free Speech and Freedom from Discrimination on Campus" appears in the Journal of C & U Law, V. 23, Summer '96, 91-132. This is the best article I've ever seen on this topic -- reports OCR rulings on such topics as the N word.

SH - Illinois, Michigan. C 11/15/96. Ill. provost is interviewing for Mich. presidency. Is asked how to handle a prof. stalking and SA a grad student. Provost reportedly said he knew of no such case. The next day, 30 Illinois profs. sign a letter saying a similar scenario had occurred in the Illinois psych. dept. Illinois administrators say that case involved exposure and a "quid pro quo" situation. Ill. provost does not get the job.

Rubin v. Ikenberry (C.D.Ill., 933 F.Supp. 1425). University's response to sexual harassment claims by students did not violate professor's rights to due process, free speech, or academic freedom.

Karibian v. Columbia U., S.D.N.Y., 930 F. Supp. 134, C7/12. This is our old friend, an off the wall case in which Columbia was found by the jury not to have sufficiently investigated a S/H claim, despite having investigated and fired the alleged harasser. A federal district court judge threw out a jury award of $450K to Karibian, finding that Columbia did all it could do to investigate and remediate.

Early Retirement - E. Washington U. C7/19. Two female students allege both rape and attempted rape by soc. professor. Prosecutor refuses to prosecute, on grounds of insufficient evidence (no fluids sample taken). Resolution - faculty member takes unpaid leave until 1998, and then retires. Faculty and students protest against the terms of the workout -- wanted a faculty disciplinary evaluation.

Women's Studies - Emory C3/29. $2M in damages sought. Allegation -- head of women's studies department shouted at associate director, forced embraces on her, and made her run errands. Plaintiff was fired for "abandoning her job." Defendant denies all allegations. Emory settled with plaintiff; defendant pays nothing.

Retaliation - Calif. of Pa. C5/3. Dept. chair allegedly touches, kisses and makes sexual comment to a female professor and a female secretary. EEOC investigates. In course of investigation, an additional secretary comes forward. Apparently Calif. does not take sufficient action, and allegedly retaliated against the second secretary. US Dept. of Justice files suit on behalf of the professor who allegedly harassed. The two secretaries have settled, and now work elsewhere.

"The Lecherous Prof." - Boston U. C4/19. Former grad student seeks 100K and attorney fees alleging that when she refused to have sex with professor, the professor retaliated by not having her play produced. Professor has had similar allegations made since '81, and he has been described in Boston literary circles -- so the Chronicle says -- as a "sexual predator." Ex-student files suit, bypassing BU internal process. Student also sues BU for employing the prof. despite his alleged reputation. BU denies such knowledge, and states that no SH claim has ever been made against the professor. One S.H. incident at Harvard in 1981 involving this professor is said to be included in a 1984 book entitled The Lecherous Professor.

Suit against professor settled in Nov. - terms are confidential (C 11/24/96). Suit against B.U. still in process.

Crew - Temple C9/16. Female crew members allege sexually hostile environment created by coaches and members of men's team. Training room said to be decorated with lewd photos, and males made lewd comments, gestures to females. An earlier incident in '94 led to a $5K payment to a woman on the crew team, who alleged a part time assistant men's coach made lewd gestures to her.

"Rebecca of Sunnybrooke Farms She is Not" - Ala. - Tuscaloosa C6/7. 40 year old female enrolls in women's studies program seeking a master's degree in Fall '94. In Nov. '94, student becomes romantically involved with head of women's studies program. Student leaves school, then returns in '95 to obtain masters in women's studies. Student alleges improprieties by women's studies head. Head alleges romance was initiated by student, and there were no academic improprieties. Student is a transsexual and is seeking a sex change operation. Professor's lawyer says student is "not Rebecca of Sunnybrooke Farm," and suggests she is seeking a deep pocket to pay for the operation.

Use of PR Firm - Maas v. Cornell U. C9/27. Cornell disciplined Prof. Maas for SH reported to have occurred with several female student assistants. Maas hired a NYC attorney and a PR firm, and filed suit for 1.5M claiming his rights were violated under either T.9, or the NY state version of T.9. A state trial judge dismissed all of Maas' claims, except that Cornell had been negligent in handling his case. Maas is represented by the Center for Individual Rights.

Quid Pro Quo - Chicago St. C10/11. (Bryson v. Chicago State, C.A. 7-Ill, Sept. '96, 1996 WL 528821). Professor alleges former provost sought her sexual favors, and when she said "no," she lost committee assignments and a job title. Appeals court required the matter to go to trial -- trial judge had granted a motion to dismiss her case.

Strict Liability (Pinkney v. Robinson, D.D.C., 913 F.Supp. 25, 1996). Law school could not be held strictly liable for its dean's SH, which created a hostile work environment.

SH and Title IX. (Nelson v. Temple U., E.D.Pa., Feb. '96, 1996 WL 65481.)

Student activities coordinator allegedly SH and SA a student, who sues him for SH pursuant to Title IX. Held - Title IX does not create a cause of action for SH against student activities coordinator personally, but he can be sued in his official capacity under Title IX. Also has viable state law civil rights and Title IX claims against Temple. Slater v. Marshall, (E.D.Pa., 906 F. Supp. 256, 915 F. Supp. 721, 1996). Student's complaint of quid pro quo SH by professor, to have viable cause of action under Title IX, must allege the college or a supervisor was aware of the discrim. against the plaintiff.

Motzkin v. Trustees of Boston University (D.Mass.), Aug. 5, 1996, 1996 WL 528602. A former associate professor who had been terminated following sexual harassment charges, was incapable, with or without accommodation, of performing the essential functions of his job, a special appointment with primary emphasis on the teaching role. Therefore, he was not a qualified individual with a disability under the Americans With Disabilities Act. The professor's counsel indicated the professor was presently not qualified to teach, even with the treatment the professor was receiving. The professor testified he was presently not qualified to teach because of a psychological disorder causing "disinhibition."

Check off all the Boxes - (Pallet v. Palma, S.D.N.Y., Jan. '96, 1996 WL 56106.) A college provided a reasonable avenue for sexual harassment complaints and took all reasonable remedial action once notified of two students' complaints of a tenured professor's sexual harassment and, therefore, could not be held liable for the harassment under Title IX. Although the students claimed the college ignored rumors of the professor's sexual harassment, the college provided copies of its policy against sexual harassment and its complaint procedure to all students and faculty; the dean encouraged both students to file a formal complaint against the professor, in accordance with the college's disciplinary procedures for tenured professors, after each personally notified him of the professor's actions; the dean's delay in taking action with regard to one of the student's complaints was due to the fact she requested him to keep her complaint confidential and not take any action; the college suspended the professor immediately after one of the students made a formal complaint; and the students failed to cooperate with the college in the proceedings to terminate the professor's tenure.

False Claim of SH. (Starishevsky v. Parker, NYAD 1, 1996 WL 135025, March 1996). College employee was fired for SH. Former college employee/plaintiff files

suit, alleging defendant told a student to file the claim, knowing the claim was false, and that the defendant provided confidential information about the claim to a newspaper. Held - Allegations state a valid cause of action; trial ordered.

SA by Priest (Gebhart, Ohio, App. 1 Dist., Aug. 1995, 1995 WL 453056). Liability for sexual assault by priest on non-student, done at night in priest's campus residence, held not to run to the priest's employer, the College of Mt. St. Joseph, under respondeat superior doctrine. Priest is on a "frolic and detour" when he engages in SA.

Watson v. Duke Hospital C10/95. Bobby Dixon, a Duke hospital employee, allegedly grabbed S. Watson, a fellow employee, and drew a picture of Watson with a penis between her legs. Dixon denies all. Watson seeks a jury trial. The jury orders Duke to pay Watson 500K in pun. dmgs., and to improve its SH policy. (When I had a student job at Duke -- I worked as a carpenter's helper -- sexual exploitation of hospital staff appeared to be routine.)