DEAR COLLEAGUES:

EXAMINING THE IMPACT OF TITLE IX REGULATION, INVESTIGATION, AND PUBLIC SCRUTINY ON HIGHER EDUCATION ADMINISTRATORS

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Nathan P. Miller
DEDICATION

This work is dedicated to my family, friends, and colleagues who have consistently supported me throughout my career and helped me reach this culminating point in my life.

Also, to all the student conduct administrators and Title IX coordinators currently working on addressing and responding to campus sexual violence and sexual harassment, I know firsthand that this work is often a thankless job. So first, thank you, and second, I hope this study helps illuminate the hard work you all do within this important topic.
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Finally, I want to say a special thank you to my research participants. Without your courage and willingness to participate, this study never would have happened. I hope this study helps to illuminate your voice within this important topic.
ABSTRACT

DEAR COLLEAGUES:

EXAMINING THE IMPACT OF TITLE IX REGULATION, INVESTIGATION, AND PUBLIC SCRUTINY ON HIGHER EDUCATION ADMINISTRATORS

Nathan P. Miller

Larry Moneta

Recently, the issue of campus sexual violence and the term Title IX have become commonplace with the majority of college-aged individuals within the United States. This time of increased regulation began as a crescendo with the U.S. Department of Education and the Office for Civil Rights (OCR) Dear Colleague letter of April 2011, which was enhanced by the reform of the Campus SaVE and VAWA Acts and the 2014 Question and Answers guidance documents. This guidance resulted in a significant increase in the number of institutions under federal investigation of alleged violations of Title IX by the OCR, with an increasing number of students also engaging in formal litigation with their institutions.

This qualitative study set out to better understand the impact of addressing campus sexual violence and sexual harassment, public scrutiny, and a U.S. Department of Education and OCR investigation of an alleged violation of Title IX on 19 student conduct administrators or Title IX coordinators who were responsible for administering, enforcing, and reporting incidents associated with Title IX at 11 Association of American Universities (AAU) institutions. Additionally, this study sought to give a voice to a U.S. higher education professional staff population that is often silent, either because of
federal regulations or due to the social stigma associated with their work. Eight main impacts were identified: (a) lack of clear guidance, (b) shifts in institutional organization structure and staffing, (c) legalization of the student conduct processes, (d) staff feeling on trial, (e) greater public scrutiny, (f) changes in relationships with students, (g) personal impacts, and (h) shifts in career ambitions. Overall, the process of addressing and responding to campus sexual violence and sexual harassment of student conduct administrators and Title IX coordinators has fundamentally changed.

Ultimately, this study demonstrated how the practitioners who deal most directly with campus sexual violence and sexual harassment experienced both positive and negative impacts in regard to addressing and responding to campus sexual violence and sexual harassment in this ongoing period of heightened U.S. federal regulation, guidance, and public scrutiny.
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CHAPTER 1 – INTRODUCTION

Background

With the dual birth of the United States and the U.S. higher education system, so too began the aspect of addressing student conduct, which was influenced by both British imperialism and the religious institutions of the time. Driven by a calling to educate clergymen and the youth of the new country, colleges’ and universities’ approach to student conduct was born out of the desire to educate the whole student, committed to social development and addressing any behaviors deemed antisocial (Smith, 1994; Thelin, 2011). Beginning with an approach grounded in the concept of in loco parentis, colleges and universities were expected to serve as a replacement for students’ parents (Chernoff, 2016; Dannells, 1997; Lee, 2011; Rhatigan, 2009; Smith, 1994). With increased tensions between the duopolistic role of faculty being both an educator and student conduct administrator, most faculty and college and university presidents welcomed the transition in academic pedagogy to the Germanic influence of the late 1800s. Shifting the academic focus of faculty to advancement in scholarship, graduate and doctoral programs, and professor expertise, faculty no longer had time to serve in a dual role, which resulted in the birth of the first college administrators (Smith, 1994; Thelin, 2011).

This shift also created a change in the overall educational philosophy away from in loco parentis to a more democratic system of student governance. Although no one uniform model exists in U.S. higher education even today, fundamentally, much has changed since the birth of student conduct within the U.S. higher education system. Even
with such variance, there remains one uniform aspect representative of almost all college student systems: the recognition to develop the “whole student,” creating a philosophy within the U.S. higher education system that places an emphasis “upon the development of the student as a person rather than upon [their] intellectual training alone” (American Council on Education [ACE], 1937, as cited in Smith, 1994, p. 82).

The early 2000s brought a substantive change to the student conduct landscape within U.S. higher education. The Great Recession of 2007-2008 hit colleges and universities, forcing many institutions to drastically reduce budgets and to reexamine staffing models, cut programs, and reduce staff (Oliff, Palacios, Johnson, & Leachman, 2013; Sponsler & Wesaw, 2014; Zumeta, Breneman, Callan, & Finney, 2012).

Beginning with the enhanced regulation and enforcement of the Clery Act, increased federal regulation would reach a crescendo in 2011 with the infamous Dear Colleague letter of April 2011 (Ali, 2011). Sending a major ripple through colleges and universities, the Dear Colleague letter of 2011 has substantively shifted the approach of student conduct administrators to a new model of Compliance U (Lake, 2013). Through the Dear Colleague letter, the Office for Civil Rights (OCR) decreed that colleges and universities have a duty to act on incidents of sexual violations and sexual harassment. This federal regulation has created an expectation that college administrators act on all incidents of sexual violence or sexual harassment of which an institution “knows or reasonably should know about student-on-student harassment that creates a hostile environment” (Ali, 2011, p. 4), expanding the expectations and pressure placed specifically on student conduct administrators and Title IX coordinators, who are
specifically responsible for addressing student conduct issues and sexual violence and sexual harassment on college and university campuses.

The impact of the Dear Colleague letter of 2011, including a decade long build-up of increased regulation and oversight from the federal government and the influence and scrutiny from the national media and social activism, has generated an ongoing debate between the concept of student development and a more criminal justice approach to addressing student conduct issues around incidents of college sexual violence and sexual harassment. Koss, Wilgus, and Williamsen (2014) wrote, “Compliance fosters a quasi-criminal justice approach not suited to all sexual misconduct and inconsistent with developing practice in student conduct management” (p. 242). Student conduct administrators and Title IX coordinators are burdened with a fear and real threat of investigation from the U.S. Department of Education and the OCR based on decisions these administrators have made. Consequences for some of these decisions include fines of up to millions of dollars and the loss of an individual’s employment. Student conduct administrators and Title IX coordinators, who have always been scrutinized by students and campus colleagues for the decisions they make, are now facing increased examination and exposure by the federal government, as well as national media and social activists (Cantalupo, 2012).

Using the 2011 Dear Colleague letter as a road map, neither the stakes nor the pressure have ever been higher for student conduct administrators and Title IX coordinators to accurately interpret the at best vague, and at times, inconsistent, guidance
provided by this document, as well as *The Handbook for Campus Safety and Security Reporting*, 2014 Questions and Answers, the Violence Against Women Reauthorization Act of 2013, and President Obama’s Presidential Memorandum on January 22, 2014 (Association for Student Conduct Administration [ASCA], 2014; Bolger, 2016; Carle, 2016; Koss et al., 2014; U.S. Department of Education, Office of Postsecondary Education, 2016). Creating an environment of expected failure and reduced personal accomplishment, student conduct administrators and Title IX coordinators may often feel like they are incapable of helping students, which may then cause these practitioners to experience a greater sense of reduced personal accomplishment.

**Purpose Statement**

In the wake of the U.S. Department of Education and OCR Dear Colleague letter of April 2011, great scrutiny, investigation, and opinion has developed around the topic of campus safety, with an emphasis on sexual assault and sexual harassment on college and university campuses within U.S. higher education. Since April 2011, federal regulations have increased, laws have been amended, such as the Campus Sexual Violence Elimination Act (Campus SaVE) and the Violence Against Women Reauthorization Act (VAWA) of 2013, a White House Task Force was created under President Obama’s Administration, and several student activist organizations have been created, such as Know Your IX and End Rape on Campus (EROC). With an increased focus in federal regulations since the Dear Colleague letter of 2011, as of April 29, 2017, the U.S. Department of Education and the OCR have engaged in 391 investigations into alleged violations of sexual violence under Title IX. Sixty-two cases have been resolved,
meaning that 329 cases remain open and are actively under investigation by the federal
government (“Title IX: Tracking Sexual Assault Investigations,” 2016). With an average
investigation period of over 1.7 years, colleges and universities under investigation often
remain in perpetual limbo.

It is often the decisions of student conduct administrators, or decisions from
panels or other adjudication bodies overseen by these administrators in collaboration with
Title IX coordinators, that are at the heart of these federal investigations, and these
administrators are put on notice that their decisions, failure to report Clery statistics
accurately, and/or the policies they have developed or employed may be problematic or
even in violation of federal regulation. With resolution outcomes that typically cost
institutions thousands, if not millions, of dollars, these administrators may have increased
pressure and may even experience a sense of fear associated with their day-to-day work.

Since 2011, several studies have been conducted that examined the impact of
college and university sexual violence on victims and victim advocates, and countless
media articles have scrutinized and often criticized colleges’ and universities’ handling of
these matters. An increased debate is even developing on the ability of colleges and
universities to appropriately address these important issues. Yet, little to no research
exists that examines the impact that increased federal regulations, internal and external
scrutiny and criticism, and expectations have had on the student affairs administrators
responsible for accurately administering, enforcing, and reporting on all aspects of
college student sexual violence and sexual harassment while under investigation by the
U.S. Department of Education and the OCR.
Research Questions

The purpose of this research is to explore the effects of addressing college sexual violence and sexual harassment, public scrutiny, and a U.S. Department of Education and OCR investigation of a violation of Title IX on U.S. higher education administrators responsible for the administering, enforcing, and reporting of Title IX.

Specifically, in the wake of the Dear Colleague letter of 2011, and ultimately culminating with a U.S. Department of Education and OCR investigation of an alleged violation of Title IX, this study will examine the effects of increased federal regulation, investigation, and public scrutiny and criticism on student conduct administrators and Title IX coordinators at 11 Association of American Universities (AAU) member institutions. The following question guides this research: What are the effects on student affairs administrators of Title IX, a U.S. Department of Education and OCR investigation of an alleged violation of Title IX, and public scrutiny related to college sexual violence and sexual harassment?

Definitions Within the Study

*Student Conduct Administrators.* Student conduct administrators are defined in this study as the primary personnel most often responsible for the institutional oversight of Title IX, including investigation, adjudication, or facilitation of the student conduct process and policy interpretation and development. Specifically, for this study, the Student Conduct Administrator is the primary individual responsible for the adjudication of allegations of violations of an institution’s sexual violence and sexual harassment policy or the facilitation of a hearing board or other student conduct administrative
process responsible for the primary adjudication of institutional violations that fall under Title IX.

*Title IX Coordinators.* The Title IX Coordinator is the individual who is responsible for the oversight of an institution’s sexual violence and sexual harassment policy, which includes a college’s or university’s Title IX policy.

**Research Methods**

This research study utilized a qualitative approach to examine the effects of increased federal regulation, enhanced reporting expectations, and a U.S. Department of Education and OCR investigation on student conduct administrators and Title IX coordinators in the midst of increased scrutiny, criticism, and federal guidance and an investigation of alleged violations of Title IX. Creswell (2013) and Ravitch and Carl (2016) identified that, through qualitative research, a researcher can explore complex issues and gain a detailed understanding of an individual’s experience directly from those individuals involved in the phenomena.

As a result, a qualitative research design allowed for a broad spectrum for studying the various effects on student conduct administrators and Title IX coordinators of addressing college student sexual violence and sexual harassment in the midst of increased federal regulations, enhanced reporting expectations, a U.S. Department of Education and OCR investigation related to Title IX, while coupled with increased public scrutiny and criticism. Individual Zoom video interviews were conducted with student conduct administrators and Title IX coordinators at 11 AAU member institutions. The interviews were digitally recorded and transcribed. Once transcribed, the data were
analyzed using Moustakas’ (1994) horizontalization method to give each statement equal value to identify commonality within statements collected by participants around various different effects that have resulted from addressing college student sexual violence and sexual harassment in relation to adhering to federal regulations and navigating a U.S. Department of Education and OCR investigation related to Title IX.

To preserve the privacy of each research participant and institution, a pseudonym for both the individual and the institution where the individual works was created. Student conduct administrators and Title IX coordinators were interviewed in an attempt to have a coupling of research sources for validity. Additionally, the researcher’s bias was clearly established at the onset of the study and member checks were conducted to ensure accuracy of general themes identified within the data coding.

**Limitations**

Since this study examined the impact of addressing college sexual violence and sexual harassment, increased federal regulation, public scrutiny and criticism, and a U.S. Department of Education and OCR investigation, research participants were limited to only those AAU member institutions that are or have been under investigation by the U.S. Department of Education and OCR for a Title IX violation. By relying on professional relationships to gain access to research participants who were willing to engage in this study, the variability and transferability of this study was limited by only examining AAU member institutions.

Given the stigma, sensitivity, and, at times, outright hesitation to discuss ongoing investigations by the U.S. Department of Education and OCR, student conduct
administrators and Title IX coordinators may have been cautious about what information they shared during the research study.

Research bias was another limitation of this study. The researcher bias, as a limitation to this study, was examined in greater detail in the Researcher Bias section.

Assumptions

Since the beginning of higher education within the United States, the concept of addressing student conduct has been a part of developing the whole student. Three primary assumptions have been made related to this research study. First, there has been a dramatic increase in federal regulation in relation to student campus safety, sexual violence and sexual harassment, and investigations of alleged Title IX violations. Second, since the Dear Colleague letter of 2011, student affairs professionals responsible for administering Title IX are affected by the increased federal regulation, public scrutiny, and U.S. Department of Education and OCR investigation of allegations of violations of Title IX.

Researcher Bias

At the time of this study, the researcher had over 16 years of professional experience within higher education, all of which involved some form of student conduct, and worked at an institution under investigation by the U.S. Department of Education and the OCR; therefore, researcher bias was a consideration. Clearly positioning the researcher’s biases or assumptions from the onset, coupled with routine bias audits conducted with the research committee chair, helped to address this limitation. Specifically, the researcher oversaw the entire student conduct system at three different
colleges or universities. The researcher also worked at small, private, liberal arts institutions, midsized state public institutions, midsized highly selective private institutions, and small, private, highly selective liberal arts institutions. At the time of this study, as one aspect of a multidimensional portfolio, the researcher served as a student conduct administrator, oversaw the entire student conduct system at a small, private highly selective institution, and served as a deputy Title IX coordinator.

Additionally, the researcher’s institution of employment is presently under investigation by the U.S. Department of Education and the OCR for allegations of violations under Title IX. Though not employed at the time of the initiation of the allegation, the researcher was brought to the institution to address the issues identified in the complaints to the U.S. Department of Education and the OCR and has been interviewed by the U.S. Department of Education and the OCR. The current investigation has been ongoing for 4 years.

The researcher was professionally trained by the Association of Student Conduct Administrators’ (ASCA) Gehring Academy, the Clery Center for Security on Campus, and the Title IX Compliance Institute. Also, the researcher had personal familiarity of college student conduct and sexual violence and sexual harassment issues that have gained local, regional, and national media coverage.

The researcher acknowledges that all of these experiences have the potential to bias their perspective on the impact of a U.S. Department of Education and OCR investigation. To strengthen credibility of this study and also combat this bias and address any perceived or unintentional subjectivity, the researcher committed to rigorous self-
reflection related to this research through both this researcher memo and continued
dialogue throughout the research project with the research committee and other student
conduct administrators and Title IX coordinator colleagues.
CHAPTER 2 – LITERATURE REVIEW

Student conduct administrators’ and Title IX coordinators’ work within higher education can be very rewarding and developmental for students, but at times, it may also be stressful and taxing. The increased scrutiny, regulation, and external pressure from the federal government, national news, and social media, the landscape of the student conduct system within higher education continues to evolve, directly affecting student conduct administrators and Title IX coordinators. Maslach (1998) wrote, “The organizational environments for [student conduct administrators] are shaped by various social, political, and economic factors (such as funding cutbacks or policy restrictions) that result in work settings that are high in demands and low in resources” (p. 68). In an era after the Great Recession of 2007-2008 when many college and university budgets were drastically reduced, including cuts in state funding, increased regulations from the U.S. Department of Education and the OCR, and increased OCR investigations of alleged violations of Title IX, these professions within higher education are experiencing increasing pressures in addition to increased demands (Ali, 2011; U.S. Department of Education, Office for Civil Rights, 2014; Zumeta et al., 2012).

Since the development of higher education in the United States, the concept of developing students through student discipline has always existed and has taken on many different forms. With increased federal compliance expectations and guidance, the core of current student affairs and student conduct work in relation to college sexual assault and sexual harassment is a conflicting balancing act between federal regulations and compliance and the educational development of students (Fischer & Zacker, 2013;
Triplett, 2012; Waryold & Lancaster, 2008). In the middle of this intense scrutiny are student conduct administrators and Title IX coordinators, the individuals responsible for addressing and responding to college sexual violence and sexual harassment and who often are at the center of the decisions being examined as potential violations of Title IX by the U.S. Department of Education and the OCR.

History of Student Conduct Within U.S. Higher Education

The history of student conduct within higher education in the United States began, as did institutions of higher education and the country as a whole, with influence from the British Empire and the religious institutions of the time. The first colleges and universities in the United States were designed not only to provide a young man with a scholarly education, but just as important was the social development of the individual (Smith, 1994; Thelin, 2011). With the commitment to the social development of an individual and the challenge of addressing the antisocial behavior of a student, the birth of addressing student conduct began with the creation of institutions of higher education in the United States (Smith, 1994).

Birth of Student Conduct Within U.S. Higher Education

During the beginnings of higher education in the colonial period in the United States, there was no separation from what was viewed as an ethical requirement of faculty to develop both the moral and academic behaviors of students. The primary goal of some of the original colleges was to develop new clergymen, who were morally upstanding individuals (Smith, 1994). The Calvinist doctrine was used as a guiding principle to address the “natural depravity” of students, and a strict authority and control
over student’s behavior was adopted (Smith, 1994). The concept of *in loco parentis* (in place of the parents) was administered most commonly in the simplest of ways directly by the faculty or president of the college (Chernoff, 2016; Dannells, 1997; Lee, 2011; Rhatigan, 2009; Smith, 1994). Some of the original issues that generated student misconduct ranged from poor food in the dining hall to restrictions on student’s autonomy and activities (Thelin, 2011).

During this period of time, the most common sanctions to address student misconduct were flogging, “boxing” of one’s ears (slapping the side of one’s head), public confessions or reprimands, open ridicule, rustication (the process of sending a student out into the countryside for a period of time), degradation (a formal demotion of a student’s ranking within his class), and expulsion (Chernoff, 2016; Dannells, 1997; Smith, 1994; Thelin, 2011). The goal of original sanctions within the colonial college systems were not educational based at all, but reflected the “strict religious-based code of social behavior” (Smith, 1994, p. 78) of the time. Birdseye (1907) wrote, “The Puritan master, like the Puritan father, believed that he whipped Satan when he whipped a refractory boy, and he was only too piously glad to smite the archenemy who lurked beneath the skin of an undergraduate” (as cited in Smith, 1994, p. 78).

With an increase in the tensions between the duopolistic roles of faculty or college presidents as both educators and student disciplinarians, so too increased the misconduct of students. Adding to an already strained relationship, many college faculty and administration bore allegiance to the British Empire during a time of increased tension with Britain (Peckham, 1971; Thelin, 2011).
Faculty found themselves with the conflicting rolls of educator and police officer, criminal investigator and judge (Brubacher & Rudy, 1958). As tensions flared, often as a result of blanket expulsions with little to no due process, early U.S. campuses saw an increase in student riots and violence and destructive behavior, including burning down buildings and assaulting faculty members (Smith, 1994). In 1802, Nassau Hall, Princeton’s premier building on campus was burned to the ground, which was believed to be the work of a group of students. Wertenbaker (2014) wrote, “[The Princeton President Smith] had been told that hostility to religion and moral order was one of their chief characteristics” (p. 127) when told of the group of students who allegedly burned down Nassau Hall. As this group of students was suspended from Princeton, the student body engaged in outrage and demonstration, documenting one of the first incidents in U.S. higher education history where the suspended student’s constitutional rights were infringed on when they were suspended after having been sanctioned without ever being formally charged with a violation of policy (Smith, 1994).

From In Loco Parentis to Student Self-Governance

Thomas Jefferson made the first attempt at a complete student-lead self-governance system at the University of Virginia. H. Adams (1888) highlighted Thomas Jefferson’s belief of student self-governance, which was part of an annual report for the University of Virginia, where Thomas Jefferson wrote:

The best mode of government for youth in large collections is certainly a desideratum not yet attained with us. It may be well questioned whether fear, after a certain age, is a motive to which we should have ordinary recourse. The human character is susceptible of other incitements to correct conduct more worthy of employ, and of better effect. Pride of character, laudable ambition, and moral dispositions are innate correctives of the indiscretions of that lively age; and when
strengthened by habitual appeal and exercise, have a happier effect on future character than the degrading motive of fear. Hardening them to disgrace, to corporal punishments, and servile humiliations can not be the best process for producing erect character. The affectionate deportment between father and son offers, in truth, the best example for that of tutor and pupil. (p. 94)

Jefferson’s belief of student self-governance was based on a unique and strict student honor code, “a code that was literally by and for students” (Thelin, 2011, p. 50). Though unique for its time, and loosely the foundation of today’s higher education student conduct system where students are often active members of hearing boards, Jefferson’s student-governance system was riddled with flaws. In a system completely controlled by students, Jefferson’s student self-governance system had no means of checks and balances (Smith, 1994), and contrary to many honor codes of today, “honor” to Jefferson “meant never betraying a fellow student” (Thelin, 2011, p. 52). As a result, the University of Virginia would experience some of the most significant student misconduct leading up the Civil War. Honeywell (1964) highlighted that one of the major flaws with Jefferson’s student self-governance model was that “in the absence of the most exceptional spirit of cooperation in the student body the imposition of discipline by student censors would be certain to arouse hostility” (p. 141).

With a heavy hand on authority and imposition of often extreme and board sweeping sanctions such as expulsion, many historians believe that much of the unrest that occurred during the early formation of the U.S. higher education system was a result of these practices. A product of its time, when society itself was clashing between the “Calvinistic morality and the frontier pattern of heavy drinking and brutal fighting,” U.S. college campuses were caught in the “new spirit of liberty let loose by the American
Revolution” (Brubacher & Rudy, 1958, p. 55). A collaborative approach involving greater student self-government and thoughtful college administration oversight and authority could have likely diminished most of the worst student misconduct (Brubacher & Rudy, 1958; Smith, 1994).

Amherst College made one of the first official attempts at a legislative student self-government “designed to secure more perfect order and quietness in the institution” (Tyler, 1895, p. 74), known as the “House of Students” in 1828. Though it lasted less than two years because of opposition to the restrictions and sanctions imposed, it would provide the foundation for the College Senate (Tyler, 1895). During times of campus unrest prior to the Civil War, several colleges began to experiment with forms of student self-governance models and other attempts to transition away from the British influenced colonial model of higher education. In collaboration with the faculty, students at Colgate College (known at the time as Hamilton Literary and Theological Institute) developed a student assembly to address student misbehavior, and Kenyon College introduced the concept of individual student advising by each faculty member (Brubacher & Rudy, 1958; Smith, 1994).

Post-Civil War and Germanic Influence

Following the Civil War and influenced by the German ideals of an educational structure, the U.S. higher education system experienced an overhaul of the foundation and what is now known as the core structure of the U.S. college. With a shift in focus to advancement in scholarship, graduate and doctoral programs, and professor expertise, the demands on faculty members’ time produced the first substantive change in college
student discipline (Smith, 1994; Thelin, 2011). An expansion of academic curriculum, refocusing faculty attention, and the introduction of extracurricular activities, including intercollegiate athletics, clubs, and fraternities and societies, gave birth to the field of student affairs within higher education. In an attempt to relieve faculty and the president of administrative duties associated with students, including student conduct, Harvard University in 1870, appointed LeBaron Russell Briggs the first dean of men (Appleton, Briggs, & Rhatigan, 1978; Smith, 1994; Waryold & Lancaster, 2008).

Even though a greater shift away from the old guard of *in loco parentis* to a more democratic system of student emerged, no uniform model was identified. From the creation of student self-governing boards to faculty staff and student hybrid models or the hiring of deans and other student personnel professionals, the early 20th century student conduct model reflects the nonuniformity of today’s student conduct systems, though to a somewhat lesser degree (Smith, 1994). Even with such variance there is one uniform aspect representative in almost all college student systems: the recognition to develop the “whole student,” creating a philosophy within the U.S. higher education system, placing an emphasis “upon the development of the student as a person rather than upon [their] intellectual training alone” (ACE, 1937, p. 1).

This evolution of student conduct resulted in the identification of two specific philosophies as guiding principles within modern student conduct systems by the ACE’s (1937) *Student Personnel Point of View*:

7. Assisting the student to reach [their] maximum effectiveness through clarification of his purposes, improvement of study methods, speech habits, personal appearances, manners, etc., and through progression in religious,
emotional, social development, and other non-academic personal and group relationships (p. 3); [and]

18. Administering student discipline to the end that the individual will be strengthened, and the welfare of the group preserved (p. 4).

**G.I. Bill and the Evolution of the Modern Student Conduct System**

With the creation of the G.I. Bill, U.S. colleges saw a dramatic increase in the enrollment and diversification of the type of student attending college (Thelin, 2011). As many schools were already focusing on educating the “whole student” and shifting the perspective of the college student as an adult, the influx of older, returning World War II veterans accelerated this process. The foundation for many schools to include students as members of college disciplinary boards came from the demonstrated maturity and worldview representative of the student populations accessing the G.I. Bill (Smith, 1994). With this shift in focus of the U.S. college student, so too shifted the approach of the student affairs practitioner from an authoritative decision maker or disciplinarian to that of an educator and mentor (Garland & Grace, 1993; Komives & Woodard, 2003).

By the 1950s and 1960s, U.S. college campus demographics had drastically shifted and another era of on-campus turmoil emerged. Similar to the colonial campus during the country’s origin, college campuses continued to be reflective of the societal tensions of that time. Though diminishing over time, questions around student’s civil liberties continued to emerge, ultimately putting to end the concept that college campuses should function under an *in loco parentis* model (Komives & Woodard, 2003; Lee, 2011). It was also during this time period that arguably the most influential incident occurred in relation to college student conduct: The Supreme Court ruling on the *Dixon v.*
Alabama State Board of Education (294 F.2d 150) case. In this case, an African American student at Alabama State College was expelled after his participation in a nonviolent civil rights protest (Kaplin & Lee, 1995; Lee, 2011). Ultimately, the Supreme Court rejected the concept of in loco parentis, which had been the guiding principle within the U.S. higher education system, “under which the law had bestowed upon schools all the powers over students that parents had over minor children” (Kaplin & Lee, 1995, p. 371). This Supreme Court ruling declared that colleges and universities were required to provide students due process rights (Ardaioolo, 1983; Kaplin & Lee, 1995; Lee, 2011; Ratliff, 1972), and that “due process requires notice and some opportunity for a hearing before students at a tax-supported college could be expelled for misconduct” (Komives & Woodard, 2003, p. 74).

Not only did the Dixon case provide a guiding principle for how U.S. colleges and universities must interpret student conduct due process rights, but this decision also fundamentally shifted how colleges view students, not as children that required the college to replace one’s parents, but as legal adults (Bickel & Lake, 1994; Komives & Woodard, 2003). The highest court in the United States legally ensured, for the first time, that college students had to be provided notice and the ability to participate in any college student conduct process (Dannells, 1997).

In 1967, representatives from the American Association of University Professors (AAUP), U.S. National Student Association (USNSA), Association of American Colleges (AAC), National Association of Student Personnel Administrators (NASPA), and National Association of Women Deans and Counselors drafted the Joint Statement
on Rights and Freedoms of Students (AAUP, 1968). This statement laid out six main rights and freedoms for students, with one of the six specifically focusing on the student conduct process within higher education, Procedural Standards in Disciplinary Proceedings (AAUP, 1968). Set as Roman numeral number six, this standard identifies that institutions have an obligation to establish and articulate to students the Standards of Conduct Expected of Students. This standard also outlines what students should expect in terms of Investigation of Student Conduct, highlighting that students should not expect to have their personal space and possessions searched, in the absence of extreme circumstances, and that if arrested, students should be informed of their rights and not subject to harassment. The Status of Student Pending Final Action identified that student’s access to campus should not be restricted or altered, except in cases of individual and/or campus physical or emotional safety or well-being. Finally, the standard outlined Hearing Committee Procedures, focused on a student’s due process rights and suggested facilitations processes (AAUP, 1968).

Beginning with the Civil Rights Movement of the 1960s, then accelerated by Dixon and culminated in the 1970s, the U.S. higher education student conduct system experienced a dramatic shift in philosophical approach in a very short period of time. Lake (2009) stated, “When we look back to times before the 1960s, we find systems of higher educational governance and management based on norms of power and prerogative, and the evaluation of character—not elaborate legalistic process systems, rules, or legalisms” (p. 10). A combination of the infusion of the federal courts into the higher education student conduct system, coupled with an authentic concern for due
process rights, “led many colleges and universities in the 1960s to establish formal, legalistic ‘judicial systems’ for the adjudication of misconduct and the determination of sanctions” (Lowery, 2016, p. 206). This action developed concern that the higher education student conduct system was overcorrecting to a pseudo-criminal justice system that was operating within colleges and universities, much to the detriment of the fundamental educational foundations of these institutions (Dannells, 1978, as cited in Lowery, 2016; Gehring, 2001). Identifying a conflict with the educational mission and a desire to push back against the formation of college criminal justice system, colleges began a distinct erosion of court-like procedures, replaced by systems that represented the educational missions of institutions, which presented an opportunity for individuals to learn and grow, and still ensured the constitutional fairness awarded to students (Bracewell, 1988; Dannells, 1990, as cited in Lowery, 2016).

Considered one of the leading experts and founders of the modern student conduct system in U.S. higher education, in 1988, Donald Gehring founded the Association of Student Judicial Affairs (ASJA), now known as the Association of Student Conduct Administrators (ASCA, 2017; Waryold & Lancaster, 2008). The fact that ASJA decided to change the organization’s name to include “student conduct,” as opposed to “judicial affairs,” demonstrates the evolution of moving away from a criminal punitive model in the justice system to one that reflects educational development of an institution of higher education within the field of student conduct (ASCA, 2017).

In addition, during this time a trend in examining college student conduct through a social justice lens also emerged. Embracing the shift to a more educational approach to
Title IX, Clery Act, and Additional Regulations

Title IX

During the early to mid-20th century, U.S. lawmakers used various gender-neutral financial-aid programs to assist in higher education attainment, beginning with the G.I. Bill in 1944, the National Defense Education Act of 1958, and the Higher Education Act of 1965, none of which considered the sex of beneficiaries, when provided financial assists in an attempt to make a higher education more affordable (Rose, 2015). It was not until the introduction of Title IX as part of the 1972 Education Amendments to the Higher Education Act of 1965 that a distinct dedication to gender equality should occur within U.S. higher education (Rose, 2015; U.S. Department of Justice, 1972). Representing the birth of gender-conscious higher education policy, “Title IX single-handedly revolutionized how American postsecondary institutions treat women” (Rose, 2015, p. 158).

In 1972, the federal government implemented a federal statue under Title IX, that prohibited any college or university that received federal funding from engaging in any sex-based discrimination of any kind (1972, 20 U.S.C §1681). Title IX is defined in 37 words: “No person in the United States shall, on the basis of sex, be excluded from
participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance” (U.S. Department of Justice, 1972, 20 U.S.C §1681).

The Clery Act

The federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) created in 1990 requires that all colleges and universities that participate in federal student financial aid programs report campus safety information in an Annual Security Report (ASR; U.S. Department of Education, Office of Postsecondary Education, 2016). Named in honor of Jeanne Clery, a Leigh University student who was sexual assaulted and murdered in her residence hall room by an unknown fellow classmate, the Clery Act was created as one of the original compliance policies established by the U.S. Department of Education related to college sexual assault and sexual harassment (Clery Center for Security on Campus, 2017; U.S. Department of Education, Office of Postsecondary Education, 2016). Amended in 2013 with the Campus Sexual Violence Elimination Act, also known as the Campus SaVE Act (SaVE), the Clery Act was intentionally designed as a companion legislative document to Title IX. On March 7, 2013, President Obama signed SaVE into law as part of the Violence Against Women Reauthorization Act of 2013 (VAWA, 2013).

The Great Recession of 2007-2008

Grounded in policy and procedures, student conduct administrators and Title IX coordinators are often at the core of behavior intervention teams, and out of concern for overall campus safety have become a highly utilized and tasked team, adding an
additional responsibility to an often already full portfolio (Sokolow & Lewis, 2009). The Great Recession of 2007-2008 hit colleges and universities hard, drastically reducing state funding and forcing colleges and universities to reexamine staffing models and often eliminate staff and programs (Oliff et al., 2013; Sponsler & Wesaw, 2014; Zumeta et al., 2012). In positions within higher education systems that often already were responsible for several different functional areas, student conduct administrators and Title IX coordinators were being called upon in a greater capacity to do more with less (Bradley, 2011). The residual effect of *in loco parentis*, external pressure from parents, community members, and federal agencies, created an environment where greater pressure for colleges and universities to protect the safety of students and campuses was often expected, requested, and required (Epstein, 2004). As a result of these expectations and requirements, student conduct administrators and Title IX coordinators experienced a greater sense of pressure and compliance obligation within their professional capacity.

**Dear Colleague Letter and Beyond**

As was the case in the 1960s, the U.S. higher education student conduct system is again experiencing significant pressure from outside forces, both legal and legislative, that are pushing back on the delicate balancing act of opposing forces: addressing misconduct of students through student development or adjudicating violations with a legal lens influenced by the criminal justice system (Lake, 2009; Lancaster & Cooper, 1998; Lowery, 2016; Smith, 1994).

Known to provide occasional guidance letters to institutions of higher education, the United States, the U.S. Department of Education and the OCR released a guiding

In the Dear Colleague letter (Ali, 2011), the OCR directs that colleges and universities have a duty to act on incidents of sexual assault or sexual violence of which an institution becomes aware or should have reasonably known about. Including the terminology “should have reasonably known about” expanded the expectations of colleges’ and universities’ student conduct systems in a way never previously experienced. This expectation of perceived insight created an environment of expected knowledge, understanding, and ultimately frustration on college campuses. Establishing the burden of proof for cases of sexual violence and sexual harassment to the preponderance of evidence standard, more likely than not, colleges and universities not adhering to federal guidelines identified in the Dear Colleague letter would be subject to litigation by the U.S. Department of Justice and/or the possibility of losing federal aid funding (Ali, 2011; Carle, 2016).

Since the issuance of the Dear Colleague letter, great debate has ensued on both sides of this argument. One side believes that the Dear Colleague letter is finally
shedding light on long unaddressed problems on college and university campuses, while critics argue that by attempting to protect victims of assault, the due process rights of the accused have gone away (Triplett, 2012). Contrary perspectives call into question the OCR directive to investigate and adjudicate all reports of sexual violence and sexual assault, in the absence of a medical exam or formal report to local law enforcement (Carle, 2016). Without the assistance of the formalities of the criminal court system of expert testimony on forensics, the ability to subpoena witnesses, and the inability to incarcerate criminal offenders, a concern is identified that college campuses are a form of kangaroo court (Carle, 2016).

Serving as a blueprint for the era of U.S. Department of Education and OCR investigations into alleged institutional violations of Title IX, on May 9, 2013, the U.S. Department of Justice sent a “findings” letter to the University of Montana (Bhargava & Jackson, 2013). Placing every other college and university on notice, this findings letter “defines ‘sexual harassment’ so broadly that it turns virtually every word and every gesture into a possible Title IX violation” (Carle, 2016, p. 448).

**Continued Guidance and Federal Amendments**

Even though the Dear Colleague letter of 2011 was extremely detailed with guidance expectations, there was much for U.S. colleges and universities to interpret. As with previous guidance documents issued by the U.S. Department of Education, the Dear Colleague letter provided definitions for harassment and hostile environment but had a primary focus on sexual harassment and assault between two parties (Ali, 2011). Though the Dear Colleague letter provided detailed definitions, there were few things explicitly
outlined in the guidance aside from a requirement that institutions use the preponderance of the evidence standard and are required to address allegations of misconduct, regardless where they occur, including off-campus (Ali, 2011). With much left to interpretation, and an increase in the number of institutions becoming under investigation by the U.S. Department of Education and the OCR for alleged violations of Title IX (“Title IX: Tracking Sexual Assault Investigations,” 2016), practitioners responsible for the administration on Title IX on college and university campuses were relying on guidance from OCR resolution agreements more than the Dear Colleague letter (Carle, 2016).

During this same time, the U.S. Federal government also issued an amendment to the Clery Act in the form of The Campus SaVE Act of 2014 and the Violence Against Women Reauthorization Act (VAWA) of 2013. First passed in 1994, VAWA was initially designed to provide advocacy services and support for victims of sexual violence with oversight from the U.S. Department of Justice, Office on Violence Against Women. Amending the Clery Act, section 304 of VAWA was tilted “Campus sexual violence, domestic violence, dating violence, and stalking education and prevention” required institutions to include domestic violence, dating violence, and stalking as part of the institutional reporting requirements under the Clery Act (VAWA, 2013, p. 89).

Though an amendment to the Clery Act, VAWA, worked in collaboration with the guidance of the 2011 Dear Colleague letter, with three specific expectations: new reporting requirements under Clery, new student discipline requirements, and new requirements to educate students and employees on sexual violence (ACE, 2013). Adding to the complexity of the interpretation of U.S. federal guidance around Title IX, VAWA
required that institutions must provide “a statement of the standard of evidence” but did not “prescribe the evidentiary standard . . . preponderance of evidence standard” (ACE, 2013, p. 2), as was previously identified in the Dear Colleague letter.

Also, in response to, and to assist in, the interpretation of the 2011 Dear Colleague letter, the OCR released their own “Question and Answers on Title IX and Sexual Violence” in 2014. Defined as a “significant guidance document,” the OCR articulated that this document was to “provide recipients with information to assist them in meeting their obligations, and to provide members of the public with information about their rights, under the civil rights laws and implementing regulations that [OCR] enforce” (U.S. Department of Education, Office for Civil Rights, 2014, p. i). This guidance document begins by summarizing the Dear Colleague letter of 2011, then attempts to provide greater clarifications of the OCR’s expectations related to addressing and responding to campus sexual violence in a question and answer format, with sections including, a school’s obligation to respond to sexual violence, students protected, procedural requirements, responsible employees and reporting, confidentiality, investigations and hearings, interim measures, remedies and notice of outcome, appeals, Title IX training, education and prevention, retaliation, and the First Amendment (U.S. Department of Education, Office for Civil Rights, 2014). In addition, the Questions and Answers on Title IX and Sexual Violence of 2014 also further established the connection between the Clery Act and VAWA of 2013, and how institutions should seek out further guidance from the OCR.
Burnout, Compassion Fatigue, and Secondary Traumatic Stress

Concept of Burnout

Historically, the concept of job burnout has been associated with careers within the human service industries (e.g., social work, first responders, mental health practitioners). The work of student conduct administrators and Title IX coordinators within U.S. higher education institutions have several parallel connections to other human service occupations, yet little research has been conducted on the sense of job burnout within this career field. Current research on burnout originated from research that focused on emotion or feelings and how individuals cope with these emotions, especially when situations or environments create an intensity of emotions (Maslach, 1998). Maslach defines burnout broadly as “a crisis in one’s relationship with work” (Bianchi, Truchot, Laurent, Brisson, & Schonfeld, 2014, p. 357). Maslach’s (1998) multidimensional theory also identifies burnout as “prolonged response to chronic interpersonal stressors on the job” (p. 68).

Additional research suggests that burnout within the workplace is specifically related to job engagement (Kim, Shin, & Swanger, 2009). Identifying the impact that engagement has on job satisfaction, engagement scholars believe that a depletion of engagement is most responsible for job burnout (Kim et al., 2009; Schaufeli, Salanova, Gonzalez-Roma, & Bakker, 2002). Using the job demand-resource (JD-R) model (Demerouti, Bakker, Nachreiner, & Schaufeli, 2001; Schaufeli & Bakker, 2004), researchers have identified that job demands and physical and psychological efforts lead to employee burnout, while job resources, social support, autonomy, and control coping
can assist in reducing job demands hence reducing job burnout (Kim et al., 2009). Kahn (1990) defines personal engagement as “the harnessing of organization members’ selves to their work roles” (p. 694) and went on to state that, “in engagement, people employ and express themselves physically, cognitively, and emotionally during role performances” (p. 694), indicating that the more engaged a worker is, the less likely they will suffer from burnout (Kim et al., 2009). Using Kahn’s concept of engagement and burnout, Maslach and Leiter (1997) created the continuum model of job engagement and job burnout. Kim et al. (2009) states, “[Maslach and Leiter (1997)] argued that job engagement is situated at the opposite end of the continuum of job burnout, characterized by energy (rather than exhaustion), involvement (rather than cynicism), and a sense of efficacy (rather than reduced professional efficacy)” (p. 97). By using this continuum model related to job engagement and job burnout, the MBI scale can be used as a measurement of engagement, identifying that an individual is likely engaged with high ratings in regard to personal efficacy and low ratings on exhaustion and cynicism (Kim et al., 2009).

**Concept of Compassion Fatigue**

Traditionally, compassion fatigue is identified as a natural phenomenon of a helping profession and is understood to be the moment when a professional is “emotionally affected by the trauma of another” (Figley, 2002, p. 3). In relation to an individual’s understanding of the world, the phenomenon of compassion fatigue is actualized when the helping professional experiences an emotional response to an incident and is not able to effectively place this new information within the understanding
of their world (Figley, 2002). A helping professional typically relies on building empathic relationships, and compassion fatigue can often be considered a natural side effect for an individual who engages in a career as a helping professional (Figley, 1995). A similar occupational stress to burnout, compassion fatigue can be manifested in various ways, including emotional exhaustion, preoccupation, depersonalization, and disconnection (Brewer, Lim, & Cross, 2008; Radey & Figley, 2007).

**Concept of Secondary Traumatic Stress**

Originally evolving out of secondary victimization (Figley, 1982), secondary traumatic stress is identified as the negative results of the secondhand traumatization experienced by being exposed to others’ trauma or learning of others’ traumatic experiences (R. E. Adams, Boscarino, & Figley, 2006; Ludick & Figley, 2017). More specifically, when one individual experiences a traumatic incident and then shares the intimate details of that traumatic experience with another individual, even though that second individual did not physically experience this trauma, the stress of learning of this experience and engaging with the individual who experienced this trauma results in secondary traumatic stress. Ludick and Figley (2017) define secondary traumatic stress as the residual outcome of working with traumatized individuals, whether directly or indirectly “as measured by incidence or prevalence of various stress reactions, varying from paper and pencil self reports to highly valid and reliable psychometric measures” (p. 112). Secondary traumatic stress is understood to occur in individuals who engage in a helping profession and is a direct reaction to dealing with those who have experienced trauma. Often the side effect of an empathetic helper, secondary traumatic stress is rooted
in the trauma experienced by an individual; learning of and understanding this individual’s direct trauma causes the secondary trauma response (Valent, 1995).

**Summary**

This chapter began with a review of the history of student conduct within the U.S. higher education system and the evolution and growth of federal regulations and compliance within colleges and universities. The limited research on the effects of increased federal compliance standards, public scrutiny, and ongoing U.S. Department of Education and OCR investigations on student conduct administrators and Title IX coordinators demonstrates the need for the proposed study to be conducted.

Similar to the Civil Rights era of the 1960s and 1970s, issues related to college sexual assault and sexual harassment, the impact of the Dear Colleague letter of 2011, the involvement of the federal government and the influence of national media, continue the debate between student development and a judicial affairs approach when addressing student conduct at colleges and universities. According to Koss et al. (2014), “Compliance fosters a quasi-criminal justice approach not suited to all sexual misconduct and inconsistent with developing practice in student conduct management” (p. 242). This debate is ongoing and directly affects the work of student conduct administrators and Title IX coordinators.

With a road map of guidance in the 2011 Dear Colleague letter, the 2014 Questions and Answers, the Violence Against Women Reauthorization Act of 2013, and President Obama’s Presidential Memorandum on January 22, 2014, the stakes for attempting to interpret the vague, and at times, inconsistent guidance colleges and
universities receive have never been higher, nor has the impact on student conduct administrators and Title IX coordinators been greater (ASCA, 2014; Bolger, 2016; Carle, 2016; Koss et al., 2014). Limited research has been published on the specific effects on student conduct administrators and Title IX coordinators related to college sexual violence and sexual harassment, in relation to increased federal compliance obligations and public scrutiny coupled with U.S. Department of Education and OCR investigations of alleged violations of Title IX within the U.S. higher education system.
CHAPTER 3 – RESEARCH METHODOLOGY

In the middle of this intense scrutiny and criticism are student conduct administrators and Title IX coordinators, the individuals responsible for administering and responding to the increased federal regulations related to college sexual violence and sexual harassment and who are also often at the center of the decisions being examined as potential violations of Title IX by the U.S. Department of Education and the OCR. With little clear guidance and often years before a formal resolution is provided by the U.S. Department of Education and the OCR to colleges or universities under investigation, the increased federal regulation and this perpetual state of uncertainty has not been fully actualized. In addition, the effect on student conduct administrators and Title IX coordinators related to the relationship between increased federal regulations, potential public scrutiny, and a U.S. Department of Education and OCR investigation has not been extensively examined within current higher education research.

**Qualitative Research Design**

To explore the variable impact of increased federal regulation around campus sexual violence and sexual harassment, public scrutiny and criticism, and a U.S. Department of Education and OCR investigation into an alleged Title IX violation, a qualitative research approach was conducted. A qualitative research design was selected because of the ability to provide a broad spectrum for studying various effects that increased federal regulation, investigation, and public scrutiny and criticism of student conduct administrators and Title IX coordinators has in relation to a U.S. Department of Education and OCR investigation within 11 AAU member institutions. Additionally,
qualitative research allows for a comprehensive exploration of complex issues gaining detailed understandings of individual’s experiences directly from those individuals involved in the phenomena (Creswell, 2013; Ravitch & Carl, 2016). Drawing from personal experiences of the individuals directly involved in the phenomena, qualitative research attempts to allow the researcher to understand these individuals in their own environment, empowering individuals to have ownership of the research, absence from what is expected of the researcher or what literature would suggest, and share their own story (Creswell, 2013; Ravitch & Carl, 2016).

Given the stigma, sensitivity, and at times outright hesitation to discuss ongoing investigations by the U.S. Department of Education and the OCR, a qualitative research study is needed to attempt to identify the various impacts that these increased regulations, potential criticism and scrutiny, and U.S. Department of Education and OCR investigations of a Title IX violation have had on student conduct administrators and Title IX coordinators at 11 AAU institutions, and to provide a voice to a population that has not been reflected within current research (Creswell, 2013). Creswell (2013) identifies that qualitative research “[empowers] individuals to share their stories, hear their voices, and minimize the power relationships that often exist between a researcher and the participants in a study” (p. 40). Examining the complex essence of and effect on student conduct administrators and Title IX coordinators related to increased federal regulation, scrutiny, and a U.S. Department of Education and OCR investigation of an alleged violation of Title IX is central to this study.
This qualitative study was grounded in a phenomenological perspective. Creswell (2013) defines “a phenomenological study [as] the common meaning for several individuals of their lived experiences of a concept or a phenomenon . . . [focusing] on describing what all participants have in common as they experience a phenomenon” (p. 64). With a focus on trying to examine the core essence of increased federal regulation of Title IX related to college sexual violence and sexual harassment through the Dear Colleague letter of 2011 and the effect on student conduct administrators and Title IX coordinators and the institutions under investigation by the U.S. Department of Education and the OCR, the participants’ lived experiences were reviewed in direct relation to the topic of inquiry, and the researcher included an interpretation of the meaning of this essence or lived experience (Bloomberg & Volpe, 2012). A phenomenological perspective allowed the researcher to gain a deeper understanding of the impact of these increased federal regulations and investigations have had on student conduct administrators and Title IX coordinators within 11 AAU member institutions. Through in-depth interviews, student conduct administrators and Title IX coordinators provided the essence of the effect of addressing and responding to college sexual violence and sexual harassment in the midst of increased federal regulations, enhanced reporting expectations, potential scrutiny and criticism, coupled with a U.S. Department of Education and OCR investigation of an alleged Title IX violation.

Research Participants

Potential research participants were identified through a pilot study utilizing an established professional contact network of student conduct administrators at highly
selective institutions who are part of the Consortium on Financing Higher Education (COFHE) institutions. Formed in the 1970s, COFHE (2017) is an “unincorporated, voluntary, institutionally-supported organization of thirty-five highly selective, private liberal arts colleges and universities, all of which are committed to meeting the full demonstrated financial need of admitted students” (ph. 1). The Chronicle of Higher Education identified that there are currently 329 institutions with open investigations by the U.S. Department of Education and the OCR (“Title IX: Tracking Sexual Assault Investigations,” 2016). A review of these 329 active investigations was cross-referenced with the 35 COFHE institutions to identify all COFHE institutions actively under investigation. The student conduct administrators, student affairs administrators, and/or Title IX coordinators were contacted via email at all of the COFHE colleges and universities with active investigations to identify potential research participants. Those institutions that responded to the email inquiry were then contacted to schedule a phone interview conversation to discuss the abstract research outline and confirm continued interest as a potential research participant. As a member of COFHE and ASCA, the researcher utilized professional contacts with student conduct administrators to identify other research participants who have direct responsibility addressing and responding to college sexual violence and sexual harassment in association to Title IX, navigating increased federal regulations, potential scrutiny, and participating in an active U.S. Department of Education and OCR investigation of an alleged violation of Title IX.

In an attempt to increase comparability between the data collected, a decision was made to focus the research participants to only student conduct administrators and Title
IX coordinators and expand the list of potential research participant institutions to include those institutions that are members of the AAU. Utilizing the already identified COFHE institutions that also are members of AAU, all AAU institutions were cross-referenced with the 391 institutions that are or have been under investigation by the U.S. Department of Education and the OCR for a potential violation of Title IX.

Ultimately, 11 AAU member institutions were confirmed as research participants for this qualitative study. For the purpose of this study, student conduct administrators and Title IX coordinators were identified as a research participant at 11 AAU schools for a total of 19 research participants.

**Data Collection Methods**

After approval of the study from the research committee and Institutional Review Board (IRB) to proceed with the research study (see Appendix A), individual research participants were contacted first via email (see Appendix B), and then the researcher followed up with a phone conversation to schedule a video interview using Zoom, a video connection technology. Once informed consent and permission were achieved, the scheduled interview commenced.

Using Creswell’s (2013) qualitative research interview design, data collection was “based on open-ended questions without much structure and by observing and collecting documents . . . without an agenda of what [the researcher hopes] to find” (p. 52). All participants were asked a pre-established list of semi-structured questions (see Appendix C) with a designated opportunity for follow-up and clarification. Each interview was scheduled for approximately one hour with a potential follow-up interview of 30 minutes,
if needed, for further exploration or clarity. A semi-structured interview guide was used to ensure that the basic outline of interview questions was uniform for each participant, and that these interview questions allowed the researcher to gain an understanding of what each participant could provide in relation to the overall understanding of the research questions (Ravitch & Carl, 2016). These research questions were formulated to provide the researcher with an opportunity to better understand the described experiences of student conduct administrators and Title IX coordinators, and to examine the various effects that increased federal regulations, internal and external scrutiny and criticism, and increased expectations have had on the student affairs administrators responsible for accurately administering, enforcing, and reporting on all aspects of college student sexual violence and sexual harassment, while undergoing a U.S. Department of Education and OCR investigation of an alleged Title IX violation.

A digital recorder and external microphone were used to record the interviews with each participant with a backup recording taken on the Zoom technology. The back-up recording was immediately deleted once confirmation and digital archiving of the interview occurred on the researcher’s computer. A digital recording was conducted to ensure the accuracy of the data collected and to allow the researcher to be engaged with the interview participant and not distracted by note taking. Each digital recording was transcribed, and both research participants and participant institutions were assigned a pseudonym in an attempt to preserve confidentiality. Only the researcher and the research committee chair had access to this identifiable information. Once transcribed, each interview was reviewed to identify common themes using Moustakas’ horizontalization to
ultimately identify the essence of identified phenomena within this study (Creswell, 2013; Moustakas, 1994).

**Data Analysis**

Epoche, or bracketing, represents the first phase in a phenomenological qualitative research study (Creswell, 2013; Moustakas, 1994). The researcher bracketed himself within this study in the Researcher Bias section of Chapter 1.

The interview transcripts were reviewed to identify all significant statements relevant to the effect on student conduct administrators and Title IX coordinators on addressing college student violence and sexual harassment in the midst of the increased federal regulation and reporting expectations of campus sexual violence and sexual harassment, potential scrutiny and criticism, and a U.S. Department of Education and OCR investigation into an alleged violation of Title IX. Using Moustakas’ (1994) horizonalization, each statement was given equal value to identify commonality within the data collected by participants related the various impacts responding to campus sexual violence and sexual harassment related to Title IX. Finally, once commonalities were identified, the data were clustered into common themes, eliminating overlapping and repetitive statements to identify clusters of meanings (Creswell, 2013; Moustakas, 1994). The final clusters of meaning were analyzed and reduced in an attempt to identify experiences that were undergone by all participants (Creswell, 2013; Moustakas, 1994). In a process that is cloaked in clandestineness, this reduction of the common experiences within the phenomenon determined the overall effect on student conduct administrators and Title IX coordinators related to increased federal regulations, internal and external
scrutiny and criticism, and an increased expectation for accurately administering, enforcing, and reporting on all aspects of college student sexual violence and sexual harassment, while under investigation by the U.S. Department of Education and the OCR, not only at the 11 AAU member institutions, but also at colleges and universities in general. Once identified, the overall effects on individual student conduct administrators and Title IX coordinators were summarized.

**Ethical Considerations and Validity**

**Ethical Considerations**

There are several ethical considerations that needed to be addressed within this research study. The first consideration was approval of the research study by the research committee. Once approved, and prior to beginning the research study, the research proposal was submitted to the Institutional Review Board (IRB) for approval to ensure the protection of human participants as part of this research study.

Once IRB approval was obtained, the research study commenced, and prior to each interview, all research participants were provided with an informed consent form (see Appendix D). Once informed consent was achieved, the interviews began. At the beginning of each interview, the researcher discussed the informed consent form, the purpose of the research study, what data would be collected, and how that data would be used within the research study.

An acknowledgement and consent to digitally record each interview was conducted prior to each interview. The digital recordings were saved on the secure, password protected PennBox server, which is only accessible by the researcher. Digital
transcripts of the interviews were also saved on the researcher’s secure, password protected PennBox server.

Pseudonyms for both individual research participants and institutions where research participants work were created to preserve the privacy of each research participant and institution. Although the number of AAU member institutions within the United States is small, specific effort was made to ensure that no individuals or institutions were identifiable within the research study. Only the researcher and the committee chair had access to the individual identifier of each research participant and institution. The researcher engaged in a participation privacy audit with the research committee chair throughout the research project to ensure that research participant privacy was achieved.

Validity

At times a concept of controversy within qualitative research, many scholars abandoned the concept of validity within qualitative research entirely (Maxwell, 2013). With a perspective that the concept of validity was too closely related to quantitative research design, many prominent qualitative scholars proposed a shift in concept from validity to concepts of trustworthiness, credibility, authenticity, transferability, dependability, and confirmability, which they saw as more relevant to qualitative research (Creswell, 2013; Guba & Lincoln, 1989; Maxwell, 2013). Maxwell (2013) states that validity “refer[s] to the correctness or credibility of a description, conclusion, explanation, interpretation, or other sort of account” (p. 125). In this research study, both Maxwell and Angen provide an influence on the interpretation of the concept of validity,
where Angen (2000) defines validation as “a judgment of the trustworthiness or goodness of a piece of research” (p. 387).

In an effort to achieve sound judgment in the trustworthiness of this piece of research, three main measures were deployed to address validity. The first measure established was a triangulation of research sources (Creswell, 2013). By utilizing student conduct administrators and Title IX coordinators from 11 AAU member institutions and then coding the data to identify common themes, a triangulation of the information occurred, resulting in validation of the themes identified (Creswell, 2013). The second measure utilized in this study began with an established and clarified understanding of potential bias of the researcher. By clearly positioning any biases or assumptions of the researcher from the onset, the impact of this researcher’s bias was established. Finally, member checking occurred with the research participants. Preliminary themes identified within the data set were shared with research participants to reflect on their accuracy (Creswell, 2013).

**Summary**

This study set out to examine the effect of increased federal regulations, internal and external scrutiny and criticism, and increased expectations have had on the student conduct administrators and Title IX coordinators responsible for accurately administering, enforcing, and responding to all aspects of college student sexual violence and sexual harassment, coupled with an investigation by the U.S. Department of Education and the OCR related to an alleged violation of Title IX related to sexual violence or sexual harassment at 11 AAU member institutions. With a specific focus on
examining the various impacts of increased federal regulation, enhanced reporting expectations, and a U.S. Department of Education and OCR investigation, a qualitative research approach was conducted through interviews with student conduct administrators and Title IX coordinators. Grounded in a phenomenological perspective, this qualitative study attempted to better understand the experiences of these college administrators.
CHAPTER 4 – FINDINGS

The Dear Colleague letter of April 2011 sent a ripple through the student conduct process within the U.S. higher education system that is still being felt 7 years later. All 19 participants within this study identified some fundamental change to either the student conduct process, functional roles within an institution, public perception, or direct impact on them as practitioners.

The primary focus of this study was to examine the effects of addressing college sexual violence and sexual harassment on student conduct administrators and Title IX coordinators in relation to organizational structure; personal impacts, both mental and physical; and career ambitions. To better understand the effects of addressing college sexual violence and sexual harassment on student conduct administrators and Title IX coordinators, this study explored the effect of changes in volume and case load; reactions and interpretations of federal guidance; desires to change or leave the field of work; external factors such as, the scrutiny of media and politicians; and changes in working relationships with institutional general counsel and media/communication offices. Nineteen semi-structured interviews were conducted, providing personal narratives of the overall effect that addressing college sexual violence and sexual harassment has had on student conduct administrators and Title IX coordinators during the period of time beginning with the Dear Colleague letter of April 2011 up to April 2017.

First, participants were asked to reflect on both the approximate number of Title IX-related cases they annually address, and the perceived percentage of their worktime that is dedicated to addressing cases related to incident of sexual violence and sexual
harassment. Next, the study examines changes to an intuition’s organizational structure as a result of the Dear Colleague letter of April 2011 or in response to a U.S. Department of Education and OCR investigation of an alleged violation of Title IX. This chapter goes on to explore the perceived effect on participants’ approaches to addressing college sexual violence and sexual harassment, and if participants felt that a fundamental change within the field of college student conduct occurred during this period of time. Finally, this chapter reviews the personal effect of addressing college sexual violence and sexual harassment on student conduct administrators and Title IX coordinators, with a specific focus on mental and physical health and the career ambitions of participants.

Participants

During the fall of 2017, 19 semi-structured interviews were conducted using Zoom video-conferencing technology with 13 (68%) student conduct administrators and six (32%) Title IX coordinators at 11 AAU member institutions. Of the 13 student conduct administrators, seven (54%) worked at private institutions and six (46%) worked at public institutions. Four of the six (67%) Title IX coordinators worked at private institutions and two (33%) worked at public institutions.

The overall gender breakdown of student conduct administrators was relatively balanced with six (46%) male and seven (54%) female participants. Specifically, four (31%) male and three (23%) female participants worked at private institutions, while two (15%) males and four (31%) females worked at public universities. All student conduct administrators were responsible for the student conduct process at their respective institutions. Twelve of the participants held the title of director, three of which also had
the combined title of associate vice president or associate dean of students with their
director of student conduct title. Additionally, this includes one student conduct
administrator who was interim, having recently been promoted to the director role. The
13th participant held the title of director of student life. Just over half of the student
conduct administrators (7) have been in their current position for between 2.5 to 4 years,
a little more than one third (5) have held their position between 6 to 11 years, and the
remaining one participant has been at their institution for 19 years.

The Title IX coordinators were less evenly distributed both by institution type and
gender. There were four (67%) female and two (33%) male Title IX coordinator
participants. Specifically, one (17%) male and three (50%) female Title IX coordinators
worked at private institutions, and only one (17%) male and one (17%) female participant
worked at public universities. Five of the six Title IX coordinator participants held the
sole title of Title IX coordinator/administrator or director of Title IX compliance at their
respective institutions, while one participant held the duel title of Title IX coordinator and
director of human resources.

Of the 19 research participants, only four (21%) of the participants, all student
conduct administrators, were in their same position prior to April 2011. Similarly, four
(21%) participants were at their institution prior to April 2011, but worked in a different
role than the role they had when interviewed for this study. The majority of the
participants have been in their current role and at their institution for 4 years or less,
including all six (32%) Title IX coordinators. See Table 1 for an overview of research
participant demographics.
Table 1

Research Participant Demographics

<table>
<thead>
<tr>
<th>Date</th>
<th>Participant</th>
<th>Position</th>
<th>Public/Private</th>
<th>M/F</th>
<th>Tenure</th>
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Summary

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<td>54% Private</td>
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<tr>
<td></td>
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<td>67% Female</td>
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Historically, addressing campus sexual violence and sexual harassment has never been easy or without challenge, but the complexity of responding to and addressing these issues has significantly increased. The federal guidance and regulation of the Dear Colleague letter of 2011, Campus SaVE and VAWA amendments, and the 2014 Question and Answers increased the awareness and generated a focus on the issue of campus sexual violence and sexual harassment. Though the majority of participants highlighted that there has been an increase in submitted reports, many shared that it was not the volume of reports but increases in both the complexity of reports and the institutional
processes that are so time consuming. Several participants articulated they process hundreds of reports annually, but many of which are not actionable within an institution’s student conduct process because the behaviors reported involved anonymous respondents or students’ reporting prior trauma from high school or childhood, where Title IX coordinators process all of these reports, providing resources, support, or other types of interim measures.

Though the majority of participants described an increase in reports, many articulated that the number of incidents adjudicated through their student conduct process has not drastically changed. One student conduct administrator stated, “It’s not so much the number of reports that are taking up our time, it’s that each report is growing increasingly complex. You have a handful of cases that are consuming all of your staff’s time.”

Several participants identified, with the increased potential for either litigation or a U.S. Department of Education and OCR investigation and sometimes both, the involvement of attorneys as advisors within the institution’s student conduct process, and increased public scrutiny, these variables as adding to the complexity of each case. What used to be a common practice of addressing allegations of student misconduct, a process similar to that of an allegation of academic misconduct for plagiarism, has now evolved into a quasi-criminal court proceeding, often complete with the challenges of attorneys, motions, and objections, but absent of subpoenas, requirements of participation, and the luxury of an unlimited timeline.
The complexity of each report and case, coupled with the real threat of litigation and investigation by the U.S. Department of Education and the OCR, has created an environment of caution, stress, and anxiety associated with addressing campus sexual violence and sexual harassment. For both student conduct administrators and Title IX coordinators the stakes are high, and the cost of making a mistake feels overwhelming. With repercussions ranging from individual criticism, institutional investigation by the U.S. Department of Education and the OCR, multimillion dollar lawsuits, or losing one’s job, the effect of addressing campus sexual violence and sexual harassment fundamentally impacts the work of student conduct administrators and Title IX coordinators. A student conduct administrator with over 20 years of experience within the field of student conduct stated “I’m much more calculating in my analysis of what steps to take, based on my experiences with [the OCR], litigation, et cetera. So, if anything, I’ve become much more cautious.” The caution and anxiety of addressing the increased complexity associated with responding to campus sexual misconduct is not isolated to student conduct administrators. With the designated responsibility to oversee institution’s response to incidents of sexual violence and sexual harassment, Title IX coordinators are also experiencing a demonstrated increase in stress and anxiety associated with their work. A Title IX coordinator highlighted this pressure, stating:

Every time I have a communication with a student, I think, “I’ve got to document. I’ve got to write down I told you this and you said this, and this is what you wanted,” because we’ve had so many times where students come back and file complaints or complain about [the process] and mischaracterize what happened, and so that’s the thing that keeps you up. Did I document this? Did I make sure that this person was told. . . . Oh, shit, did I say that they can be accompanied by somebody to the police, because technically we have to say that.
These new pressures, heightened by shifting guidance from the federal government and the increasing complexity of cases, have resulted in fundamental changes in the way practitioners at institutions of U.S. higher education approach their work. Specifically, student conduct administrators and Title IX coordinators have seen a transformation of their roles, including where they fit in new organizational structures, a move toward a more legalized adjudication system, changes in their relationship with students, and increased anxiety and stress.

**Lack of Clear Guidance**

The U.S. federal government has a history of routinely providing guidance to U.S. institutions of higher education through a document called the Dear Colleague letter. On April 3, 2011, the U.S. Department of Education and the OCR released a guidance letter to institutions of U.S. higher education; the difference associated with the April 2011 Dear Colleague letter was that this document intended to provide clearer guidance and direction for U.S. colleges and universities in responding and resolving incidents of campus sexual violence and sexual harassment. Even 7 years later, many participants reflected on the ambiguity of the initial 2011 guidance. Outside of establishing the preponderance of evidence standard and specifying that institutions adopt a 60-day timeline to resolve allegations of sexual violence and sexual harassment, most participants found that much of the guidance of the Dear Colleague letter of 2011 was difficult to understand; many found it challenging to interpret what exactly the U.S. Department of Education and the OCR expected of colleges and universities.
A great debate and analysis began regarding the statements of *should* and *must* within the letter. One student conduct administrator interviewed shared:

We were trying to figure out what we were supposed to do, but it wasn’t entirely clear. It wasn’t clear exactly what forms of harassment were covered underneath [the Dear Colleague letter]. I felt like there was a mark we were trying to hit, but it wasn’t exactly clear what mark that was.

Though not clear in 2011, the OCR uses specific language to indicate when an institution should take action or if an action should be interpreted as a recommendation. With so much confusion around the interpretation of the Dear Colleague letter, and a dramatic increase in the number of institutions under investigation by the OCR, institutions and individuals scrambled to interpret and make adjustments in response to the Dear Colleague letter. Compounding this issue, and in an attempt to capitalize on the confusion of the Dear Colleague letter, private organizations began to develop Title IX consulting firms. A Title IX coordinator shared, “A lot of private organizations [were] trying to create a Title IX industry, by jumping on all these ‘shoulds’ and saying they were requirements, scaring schools into using their services.” Similarly, some participants felt that the confusion in the guidance was not solely the result of the OCR or of the guidance, but was partially due to practitioners and others outside of the OCR and how they were interpreting the guidance. In addition, several student conduct administrators highlighted that with a rise in institutions under investigation by the U.S. Department of Education and the OCR for alleged violations of Title IX, practitioners were relying on resolution agreements from these investigations as a better form of guidance from the OCR than the 2011 Dear Colleague letter.
As time passed, participants highlighted increased confusion from the U.S. federal government as subsequent guidance and regulation was released in the form of the Campus SaVE and VAWA acts and 2014 Question and Answers. Several participants articulated that within these subsequent guidance documents, amendments, and resolution agreements, the U.S. Department of Education and the OCR appeared to contradict previous interpretations of regulation originally shared in the 2011 Dear Colleague letter. Specifically, participants highlighted a retraction of the formally ridged 60-day timeline to a more suggestive timeline to resolve incidents of campus sexual violence and sexual harassment. Most participants shared that the continual shifts, and at times contradictions, in guidance language added to the complexity of responding to and addressing incidents of sexual violence and sexual harassment on their campuses. Some participants shared that this confusion and lack of clarity also added to the stress and anxiety of engaging in this type of work within U.S. higher education. Several participants indicated that they had a fear of making a mistake or becoming under investigation by the U.S. Department of Education and the OCR for a misinterpretation of the released federal guidance and regulations. Many participants also indicated a level of concern and anxiety based on the potential of being one of the institutions that would be made an example of what not to do by being called out publically for other institutions to learn from.

In an attempt to be in compliance with these newly established guidelines and expectations, institutions questioned how to successfully complete sexual misconduct cases within these shifting parameters. As a result, institutions began to make adjustments
to policies, practices, and staffing, in an attempt to meet these expectations, initially diverting time and resources from other types of nonsexual misconduct cases.

**Shifts in Organization Structures**

The Dear Colleague letter of April 2011 and subsequent federal guidance and regulation created an emphasis and focus on the issue of campus sexual violence and harassment, providing an unprecedented access to resources, which were in desperate demand immediately following the Great Recession of 2007-2008. During a time when intuitions were reexamining staffing models and often eliminating staff and programs (Oliff et al., 2013; Sponsler & Wesaw, 2014; Zumeta et al., 2012), initially student conduct administrators and Title IX coordinators were routinely expected to do more with less (Bradley, 2011). Between the increases in incident reports and the complexity of cases, almost all participants indicated that there were always incidents under investigation, cases in review, and ample work for employees.

Many participants reflected on the decentralized approach to Title IX prior to April 2011. With this decentralization, once the Dear Colleague letter was issued, institutions saw an increase in competing demands for resources. One Title IX coordinator at a large public institution reported, “There was a huge tug-of-war when the DCL came about. You had a variety of different offices that were providing survivor services, advocacy offices, training offices, all kind of competing for the same amount of resources.” In an original flurry of activity, and in an attempt to be in compliance with federal regulations, many institutions looked for ways to quickly incorporate the responsibilities of the Title IX coordinator. Several participants highlighted that
originally, many institutions added the responsibilities of the Title IX coordinator to a pre-existing position within the institution, which often become an all-encompassing aspect of their job.

Several of the Title IX coordinators indicated that their position had shifted, been restructured, or was newly created since the release of the Dear Colleague letter of 2011. Only one Title IX coordinator indicated that their position remained a dual role of Title IX coordinator and director of human resources, which this participant indicated was not a sustainable model, and was one of the reasons they had recently left their position. The attrition rate of Title IX coordinators appears to be greater at institutions with a dual role than those institutions where a Title IX coordinator has a sole focus on gender equity.

Either based on the federal guidance from the Dear Colleague letter, Campus SaVE, VAWA, and the 2014 Questions and Answers, or in recognition of the all-consuming nature of addressing and responding to campus sexual violence and sexual harassment, most participants’ institutions migrated away for a dual role Title IX coordinator position to hiring a specific position with a singular focus on addressing issues of gender equity. To accommodate such a shift, many participants described newly created positions, which were placed under the preview of the institution’s Title IX office or were outsourced to external consultants, with both systems having an emphasis on individuals with a law degree background.

It was not until the initiation of the Dear Colleague letter and subsequent guidance, coupled with the increased litigation, federal investigations, and the public scrutiny of institutions, that the resource flood gates opened. The majority of Title IX
coordinators indicated that their positions, in their current structure, did not exist prior to 2011. One Title IX coordinator at a large public institution not only indicated that their current position would not exist if it were not for the Dear Colleague letter of 2011, but also indicated that the Dear Colleague letter “only helps our work because it elevates our priority level within the vast number of priorities in the institution.”

Almost all participants described increases in staffing structures within their organization in response to the Dear Colleague letter of 2011 and subsequent guidance and federal regulation. Many participants highlighted an ongoing expansion of staff during this research study, 7 years after the Dear Colleague letter. While participants articulated increases in institutional support, those increases did not always correlate into direct resources or staff. Specifically, one student conduct administrator discussed how they were stripped of all responsibilities associated with the investigation and adjudication of incidents of sexual misconduct as a result of a U.S. Department of Education and OCR investigation, while other interview participants discussed a shift in focus, approach, or functional responsibilities in relation to campus sexual violence and sexual harassment.

While many participants discussed the addition of new staff members often as a result of the Dear Colleague letter of 2011 and the subsequent federal guidance and regulation, or after an OCR investigation, there were at times also direct shifts in responsibilities. The most common examples that several participants highlighted were not only the creation of a Title IX office, but also the shift of the investigative processes associated with campus sexual violence and sexual harassment cases. Many participants
highlighted a process where the investigative responsibilities were removed from student conduct offices, which was traditionally the office that investigated these cases prior to 2011. What was once considered primarily the purview of an institution’s student conduct office has now shifted with the development of the Title IX office. One student conduct administrator described responding to incidents of sexual violence and sexual harassment as what was once considered under the general student conduct umbrella, but now works in tandem with or has been completely designated to a Title IX office. At times, this has created the need to develop complex structures behind the scenes to effectively address reports and complaints of sexual violence and sexual harassment. As an example, and in response to an increase in the number of reports received, a Title IX coordinator at a private institution stated, “Now student conduct does the intake, they send the case over to [Title IX] for investigation, we do the investigation and we send it back to student conduct for a hearing.” A student conduct administrator at a separate institution also reported that their office no longer conducts the investigations for a case, but also highlighted that this has allowed their office to better support students within the student conduct process. As a result of some of these institutional shifts, this same student conduct officer stated, “I think under the Dear Colleague letter, we’ve become better at accommodations for students.”

In contrast, though having a centralized office, a few participants discussed that their institutions created separate complaint resolution processes for students, faculty, and staff members. As an example, one student conduct administrator at a private institution shared the challenges of this approach stating, “Being a decentralized institution, we had
to write policies for each school, the dental school, the medical school, etc.” With each policy, there was a need for a committee and input from various stakeholders. This same student conduct administrator highlighted that the investigations are conducted centrally, through the Title IX office, but the adjudication of the investigation is sent out to the various schools, whose different policies do not always line up, which can create a challenge.

Many participants continued to highlight that their areas, both within student conduct and Title IX, are understaffed. Despite the demonstrated addition in staffing for many of them, given the increased volume of reports received annually, and the demand on resources, most participants shared that they need additional staffing to meet the demands associated with responding to sexual violence and sexual harassment. Several participants shared that even during the time of this study, 2017, they had either just hired new staff or were continuing to articulate a need for additional staff members to address Title IX-related issues. As an example, one student conduct administrator during their interview stated:

“Within the last 5 years, we’ve hired full-time investigators that have come out of the Title IX office, we’ve hired an associate dean, who works with case intake and processing those cases specifically, and now on Monday, I have a new staff member coming in. Similarly, a separate student conduct administrator is also currently lobbying for a new case manager, while a third shared that three staff members were added in the prevention education office as a result of the Dear Colleague letter, but also indicated there was still a need for more staff.”
Legalization of Student Conduct

Several participants articulated that with the shifts in organizational structure, and often the creation of an isolated role within the process of addressing and responding to campus sexual violence and sexual harassment, their work feels much more clinical and restrictive. Wanting to help educate and develop students, many participants highlighted that with the increased focus on compliance and regulation and an underlying fear of not wanting to make a mistake that would result in litigation or investigation, the entire process of addressing campus sexual violence and sexual harassment has become much more rigid and legalistic.

Similar to the Clery Act of 1990, the Dear Colleague letter of April 2011, the Campus SaVE Act of 2013, VAWA, and the 2014 Question and Answers were all intentional legislative and federal guidance documents designed to support Title IX and work to eradicate sexual violence and sexual harassment on college and university campuses. With increased U.S. federal guidance and regulation, including greater expectations of compliance, many could have predicted a movement toward the formalization of college and university student conduct, especially in relation to campus sexual violence and sexual harassment. Koss et al. (2014) provided some prediction of this shift, stating, “Compliance fosters a quasi-criminal justice approach not suited to all sexual misconduct and inconsistent with developing practice in student conduct management” (p. 242). Even with this prediction, many did not anticipate the overarching legalization of the student conduct process, nor the impact that it would have on
practitioners or the overall student conduct process outside of cases of sexual violence and sexual harassment.

Compared to the work of student conduct and addressing campus sexual violence and sexual harassment prior to the release of the Dear Colleague letter of April 2011, one student conduct administrator shared:

The process has become one hundred thousand times more legalistic. We [had] a process that whatever flaws [were] based in education and a knowledge of student development, and a knowledge of our community, and we ended up with an extremely legalistic process that lost a lot of those things.

Many participants shared that in cases of sexual violence and sexual harassment, the educational approach toward students’ development has been lost. With the demonstrated increase in litigation and investigation, coupled with U.S. federal guidance and regulation that restricted processes such as mediation or restorative justice to address incidents of sexual violence and sexual harassment, many participants articulated that a fundamental shift in focus occurred with a greater emphasis on ensuring compliance and avoiding litigation or investigation, and away from the educational development of the student or repairing the harm felt within a community. Similarly, as one student conduct administrator shared:

I think it’s an unfortunate thing that, because of the rise in litigation, and because of the rise in the media attention that stereotypes how colleges are responding, you have that learning opportunity lost; because the focus has become, how can I get off the allegation, rather than, what can I learn from this situation.

At times, several student conduct administrators and Title IX coordinators shared that they felt their positions have morphed into trial judges, continually responding to motions and objections. Several interviewees demonstrated a concern that the U.S. college and
university student conduct process now mirrors that of the criminal justice system, as well as the continually floated notion that courts should be allowed to handle these issues, highlighting that this would have a chilling effect on student reporting.

However, with all of the shifts in organizational structure, increased litigation and compliance standards, several participants articulated an openness to the notation of outsourcing incidents of campus sexual violence and sexual harassment. Identifying the stress, anxiety, and time associated with these types of cases, these participants felt that U.S. colleges and universities should not be addressing these types of student behavior.

Critics of the increased legalization of the adjudication process highlight the absence of formalities that exist in the criminal court system, including expert testimony on forensics, the ability to subpoena witnesses or other involved parties, and the inability to incarcerate criminal offenders as reasons to identify the adjudications that occur on U.S. college and university campuses as “kangaroo courts” (Carle, 2016). For every critic, there are others who believe that the Dear Colleague letter has required U.S. colleges and universities to finally begin to address an issue that has long been a problem in U.S. higher education. Regardless of which side of the argument one is on, every participant within this study identified the increased formalization, and at times legalization of, addressing campus sexual violence and sexual harassment.

Another aspect of the Dear Colleague letter, the requirement of allowing external attorneys as student advisors within U.S. college and university sexual assault and sexual harassment proceedings, has also played a major role in formalizing and legalizing the student conduct process. This influence has not only affected the advisory support
structure for student participants within the process but has also affected how institutions of higher education approach work. Though there has been a significant increase in attorneys within allegations of sexual violence and sexual harassment, institutions are also experiencing a ripple effect of attorney presence in other areas of misconduct. Several interviewees highlighted this as one of the most significant impacts of the increased federal guidance, regulation, and increased investigations by the OCR, indicating that this impact was not limited to just addressing campus sexual violence and sexual harassment. Many participants also discussed the increased presence of attorneys within other aspects of the student conduct process, including allegations of a minor nature, such as underage alcohol consumption. Other participants also discussed an increase in attorney participation in allegations of academic misconduct. Even when there is no criminal component to an alleged behavior, students are turning to attorneys to assist them in navigating these types of allegations, further legalizing the student conduct process.

Participants in the study also highlighted increase in U.S. college and university staff with a legal background. Several interviewees indicated that they have specifically hired individuals with Juris Doctor degrees for positions that previously had either been held by individuals with master’s degrees in higher education or a similar field of study, or for newly created positions.

Similarly, several other participants identified that they are exclusively using individuals with a law degree as investigators and adjudicators, as either newly hired internal staff or as external consultants to their institutions. Recognizing that attorneys as
advisors for students within the student conduct process was a forgone conclusion, and also not wanting this resource to be a viable option only for students with financial means, one student conduct administrator at a large private institution went so far as to hiring attorneys to represent both respondents and complainants within their institutional processes. Though an extreme example, this decision shows the prevalence of not only the role that attorneys currently have within the student conduct process, but also the influence they can have on the process.

**On Trial**

As a result of increased litigation and U.S. Department of Education and OCR investigations of alleged violations of Title IX, there was a tangible shift from an educational-based student adjudication process to a student conduct process that was much more formal and representative of legal processes, both in response and in anticipation of increased litigation around this topic. Prior to the Dear Colleague letter of 2011, student respondents in a student conduct process would typically work with a college administrator to assist in navigating a student conduct complaint; now institutions are seeing both respondents and complainants work with outside legal counsel to assist and advise them in an allegation of sexual violence and sexual harassment. Ultimately, many student conduct administrators and Title IX coordinators now feel that it is less the respondent’s behavior under review through an institution’s conduct process, but more their own administration of the institution’s policies and procedures that are now under scrutiny and evaluation.
With the identified increases in compliance expectations, federal regulation, and public scrutiny, student conduct administrator and Title IX coordinators are extremely cautious in how they navigate an incident of campus sexual violence and sexual harassment. Many participants shared this feeling is generated out of pressure, stress, and anxiety from an environment that even in the absence of a mistake, there still exists the possibility that their institution would have to defend a decision they made, either in litigation or a federal investigation by the U.S. Department of Education and the OCR. Several interviewees highlighted experiences where they often felt like they were in a no-win situation, feeling that regardless of the decisions they made their institution would be brought into litigation by the respondent or become under investigation by the OCR because of a complainant’s report, or that both would occur.

In an environment of such anxiety, stress, and scrutiny, similar to students in a student conduct process, student conduct administrators and Title IX coordinators shared that they are establishing a greater dependency on their own attorneys in the form of institutional general counsel offices. Even as participants acknowledged the frustration related to the increased legalization of addressing campus sexual violence and sexual harassment, participants felt compelled to engage with their own institutional legal counsel. Several interviewees even acknowledged an over reliance on their general counsel. However, the potential for litigation or a federal investigation by the OCR often compelled these individuals to continually utilize this resource and routinely check-in with their general counsel. Participants reflected that prior to the Dear Colleague letter of 2011, conversations with general counsel went from structured and formal to frequent
and fluid. One student conduct administrator described the connection and frequency as similar to being on a direct line with their general counsel, while another participant reflected on the close nature of their relationship with the general counsel office, highlighting that they frequently send text message communications with their general counsel. Increased litigation and federal investigation around the topic of campus sexual violence and sexual harassment has created an environment where participants are not only on a first name basis with their institutional general counsel, but they often have these individuals on speed dial.

Even when confident about a decision, participants shared that they would double check with general counsel staff to ensure that a decision they made wouldn’t later become an issue. Student conduct administrators and Title IX coordinators shared they routinely check-in with the general counsel office, not only if there is an active lawsuit, but also preemptively, in an attempt to avoid litigation. Participants also shared that they often consult with their general counsel office when their institutional procedures are unclear or silent on a topic, identifying that they seek guidance on an interpretation, as opposed to previously relying on their own interpretation. As a point of clarification, one student conduct administrator wanted to emphasize that their general counsel office is not “telling me what to do or how to interpret [policy], but it's more of a check before I move forward.” These interactions were described as a direct result of an era of increased litigation around the topic of campus sexual violence and sexual harassment. Several participants described an environment where they are encouraged by their general counsel offices to frequently keep them updated on situations in the event that a
complaint or lawsuit does develop; the general counsel office is therefore already aware of the situation and better prepared to respond to the complaint. One student conduct administrator shared that as the result of limited staff support and the close relationship they have with their general counsel office, they were able to utilize their general counsel office as a confidential resource to proofread suspension and expulsion student conduct letters.

Though most participants talked of the positive relationship generated between their offices and the general counsel office, some also discussed the negative effect that this increased partnership has created as a result of the increase in scrutiny and the potential for litigation. For example, one student conduct administrator shared that having additional individuals as part of these processes can be good and bad at times, “because sometimes, I feel like [general counsel] is far too conservative in his advice.” Many participants shared that often general counsel will state they are there to just give advice, but when the two perspectives are not in line with each other, these participants felt forced to possibly go against the advice of their general counsel. Several participants articulated that this relationship can create an environment where a general counsel office wants to always share their perspective, which at times can be very different from the opinion or interpretation of the practitioners in the trenches, doing the work every day. These participants went on to explain that these differences of opinions or over involvement of a general counsel office can become frustrating, adding to the stress and anxiety of this already difficult work. Participants highlighted that, when this happens, these differences of opinions need to be discussed and talked through, further adding to
an already full plate. As an example, a student conduct administrator shared their frustration, stating, “I see, frankly, at times, an over reliance on general counsel on my part. That especially involving sexual misconduct, I feel like I have to check with them.”

Similarly, participants also highlighted the influence of having an increased focus on compliance as a result of the Dear Colleague letter of 2011 and subsequent guidance and federal regulation as contributing to the shift in relationship and greater reliance with institution’s general counsel office. Compliance standards can at times limit the focus of an issue and a general counsel office’s guidance. Acknowledging that their institutions’ general counsel offices have become much more involved, participants shared that at times general counsel offices only focus on what is in compliance and not what is the right thing to do. Specifically, one student conduct administrator shared:

[General counsel offices] don’t think in terms of what people want or what’s essentially what we think is educationally necessary. They say, “Can I defend this? Is this complaint?” I think compliance goes the other direction some of the time. I think compliance leads us to just do what’s minimally required.

Participants shared that by setting a minimum standard it can be difficult at times to get others in their institution to do anything above this standard.

Public Scrutiny

Student conduct administrators and Title IX coordinators also routinely face criticism, scrutiny, and examination from individuals outside of the student conduct process. Part of the argument for the necessity of the increased federal guidance and regulation, which resulted in increased OCR investigations, was that U.S. college and university officials were intentionally covering up acts of campus sexual violence. A student conduct administrator passionately stated, “I would challenge that, at least anyone
in my position around the country, this notion that they’re trying to sweep things under the rug, I think that’s full of shit, frankly.” Yet frequently this is common perception of student conduct administrators, and at times, Title IX coordinators.

Many participants also discussed the impact that the media, including student newspapers, or other external sources has had on them as practitioners. Often filled with partial or inaccurate information, several interviewees discussed various levels of frustration with either the inability to correct inaccurate information in the media or fatigue associated with the amount of time that one would have to spend to correct this information, with one participant specifically highlighting that this could easily become a daily job. Many participants also described the impact that inaccurate information has had on their work, indicating that this has been the cause of some of the mistrust that students have had toward administrators. Several participants also highlighted that this inaccurate information would sometimes also be used within litigation, requiring participants to not only defend actual policies and practices, but also required them to correct inaccuracies while under oath, adding to the stress of these situations.

Given the confidentiality of student conduct processes, federal laws that protect students’ educational records, and institutional practices, student conduct administrators and Title IX coordinators often found themselves in a position where they felt they needed to defend themselves, but often could not. Highlighting this challenge, a student conduct administrator shared:

I feel like I’m kind of at the mercy of whatever the issue of the day is. If we have a lot of cases in the media where students are feeling like the university is not responding appropriately, any university, it doesn’t matter which one, then a student who’s a complainant will try to bring that up, like you’ve not resolved my
case within the number of days you’re supposed to, or you didn’t find the respondent responsible therefore you’ve done something wrong.

This constant examination, scrutiny, and need to defend even the most mundane of decisions demonstrates the new level of stress and anxiety felt by student conduct administrators and Title IX coordinators working to address and respond to campus sexual violence and sexual harassment.

With increased scrutiny around the topic of sexual violence and sexual harassment on U.S. college and university campuses, many also discussed the development of specific protocols and policies when responding to related inquiries, internal or external, to the institution. Several participants highlighted that such policies and protocols were developed not only because of the increased scrutiny around this topic, but also as a result of prior mistakes made by institutional employees. As an example, one student conduct administrator confirmed, “Anything that’s related to the media and Title IX has to go through our communications office. I think we had a few folks on the campus misstep with some information that ended up not reported accurately.” Similarly, given the intensity of some of these requests, a few participants shared that their media relations office attempts to vet the reporter and the requests being made, trying to identify what specific questions they would ask, and then either instruct the staff member to proceed with the interview or make no comment.

After the introduction of the Dear Colleague letter of April 2011, many student conduct administrators and Title IX coordinators found themselves needing to also defend simple due process rights of both parties within their student conduct process. For student conduct administrators, this has historically been a cornerstone of their work.
Though wanting to support survivors of sexual violence, participants highlighted a stigma associated with protecting the due process rights of respondents within a student conduct process; though a requirement of any student conduct process, any student conduct administrator or Title IX coordinator that also protects the due process rights of respondents is seen as acting against survivors of sexual violence. Title IX coordinators are not immune to this expectation or criticism if they represent a balanced approach to responding to campus sexual violence. Often perceived to be an advocate for victims of sexual violence, Title IX coordinators share the burden of supporting all parties involved in a case of sexual violence and sexual harassment. Demonstrating this challenge, a Title IX coordinator shared:

We want to get it right, we care about our students, we want fairness to both sides. We’re not trying to make sure the rapists all graduate with a degree, unfettered, but it’s difficult when that’s sort of, when you enter the room, that can be some of the thinking.

A common theme that emerged was the concept that disappointing both sides of an allegation actually represented success in the process. Highlighted by several participants was the notion that a successful process was one where both respondents and complainants were equally displeased, as this would demonstrate equity within the process.

**Relationship With Students**

The Dear Colleague letter of 2011, subsequent federal guidance, regulation, OCR investigations, and increased public scrutiny created an environment where students felt empowered and entitled to a prescribed response from student conduct administrators and Title IX coordinators. Additionally, if these expectations were not met, students felt
armed with the ability to threaten either litigation, engage in campus protests in an attempt to gain media attention, or initiate a federal investigation by the U.S. Department of Education and the OCR. Institutions experienced these threats at an unprecedented rate. Several participants shared examples where students would make demands of both student conduct administrators and Title IX coordinators, citing the Dear Colleague letter or other federal guidance or regulations, insisting that administrators respond in specific ways, threatening that if a specific response did not occur, the student would report that administrator and the institution to the OCR. A Title IX coordinator highlighted this fear, stating:

It does feel like there are some students out there that sort of want us to mess up, so that they can go make a big public whatever about it. You never know who those students are, and so every time I meet with someone, it’s in the back of my head, like is this going to be the student that’s looking for me to forget to say this one thing that technically we’re supposed to say, and did I make sure that I told them, did I document that I did all of this, and it’s stressful.

Almost all student conduct administrators and Title IX coordinators shared that they experienced increased levels of stress, anxiety, and a shift in their relationship with students like never before in their careers.

Describing a perpetual state of unrest, coupled with expectations that an error will occur, many interviewees believe that the U.S. federal guidance, regulation, increased investigations, and continual public scrutiny have developed an environment seeped in a lack of trust. Students often don’t trust their own institution or the student conduct administrator or Title IX coordinator working to assist them to address and respond to an incident of sexual misconduct. Generated out of a fear of losing one’s job, and because of increased litigation or a federal investigation, this mistrust can often be reciprocal toward
students. Adding to the environment of mistrust, many participants described an underlining caution when interacting with students involved in a campus sexual violence or sexual harassment incident, describing a perpetual concern that each student they meet with could be looking for them to make a mistake or forget to mention a specific resource. Stemming from the increased federal guidance and regulations and subject to the growing amount of litigation and investigations by the OCR, most participants described situations where they consistently questioned themselves, asking themselves if they provided all of the required resources or if they said something that could be perceived as unsupportive.

Even in the absence of making an actual mistake, it is possible to become under investigation by the federal government. Several participants described experiences where even after reorganizing office structures, changing policies, attempting to accurately interpret the evolving federal guidance and regulations, it was still possible, and has happened, that students would make a complaint to the OCR, which would result in the OCR opening up an investigation against that institution. Many participants went on to share the demoralizing affect that this possibility has on them as practitioners, describing a feeling of no matter what good work they do, there is always the possibility that their institution will be placed on the list of perceived offending institutions that are under investigation by the OCR.

**Personal Impacts**

Responding to campus sexual violence and sexual harassment, whether before the Dear Colleague letter of April 2011 or after, has never been an easy task. What has
changed is the intense stress, anxiety, and fear associated with being a student conduct administrator or Title IX coordinator. Though always a difficult job, the level of scrutiny, potential for litigation, and an investigation by the federal government exponentially increased after the Dear Colleague letter of April 2011 and subsequent federal guidance and regulation. So too, began an era of feeling a sense of perpetual limbo or state of unrest for student conduct administrators and Title IX coordinators. In general, most participants did not associate the guidance provided in the Dear Colleague letter of 2011 as the source of their increased stress, but that it was the ripple effect that the guidance caused in relation to increased evaluation and scrutiny. Similarly, several participants stated that they did not feel that they were directly burnt out from the nature of administering the student conduct adjudication process related to campus sexual violence and sexual harassment but discussed a different form of weariness: litigation fatigue. As an example, one student conduct administrator described the increase in having to respond to allegations from plaintiff attorneys who often make multiple retorts in an attempt to find a complaint that will hold-up in court proceeding, to which the student conduct administrator shared:

I’m having to spend more of my time preparing for depositions, responding to discovery requests, pulling data for years to show, and answering interrogatories as part of these cases; and so, that’s quite exhausting. I can spend all day preparing to be deposed and then spend 8 hours being deposed.

Most participants described both mental and physical fatigue, increased anxiety, and fear of the potential to lose their job; several even described physical health issues in response to the Dear Colleague letter and subsequent federal regulation and guidance, the increased federal investigations and litigation, and the constant public scrutiny associated
with their work. In addition to often being the sole decision maker in the adjudication process, several participants, both student conduct administrators and Title IX coordinators, discussed the stress and pressure of being the face of Title IX issues on their campus and that there was a sense of having a target on their back as the individual who was publicly associated with these issues. Most participants described a sense of feeling vulnerable, and at times attacked, by students, parents, attorneys, and the media.

Consistently, participants described becoming sick after addressing a very stressful or intense incident or case. Several other participants discussed decreases in taking care of themselves, highlighting poor eating habits and not getting enough sleep. Almost all participants described incidents of sleep deprivation, insomnia, or sleepless nights, which they all directly associated with responding to the Dear Colleague letter, subsequent federal guidance, investigation, public scrutiny, and increased stress and anxiety associated with addressing campus sexual violence and sexual harassment.

Specifically, one student conduct administrator highlighted the impact of the work in relation to sleeplessness sharing:

You go to sleep and you wake up at 2:00 a.m. and you can’t go back to sleep because it’s on your mind and you’re wondering about, should I do this, or should I have done that, or what could I have done different, or what should we do better. Participants also discussed the impact that responding to and addressing campus sexual violence and sexual harassment had on them in relation to their personal lives.

Given the intense exposure this topic has had within the media, many participants discussed what felt like a drastic change had occurred over overnight, impacting their lives directly. As an example, a participant shared, “All of a sudden, everyone became an expert. I couldn’t go to dinner parties without people bringing this up,” which this student
conduct administrator acknowledged was the most inappropriate dinner party conversation ever.

Not limited to social outings, participants also discussed the impact that this work had on them at home. Several participants shared that they attempted to leave work at work and when they were home, attempt to be present for their family, which could be difficult at times. One Title IX coordinator shared:

I have three little kids, and when you get home from 6 to 9, you’re on kid duty. So, for better or for worse, you kind of have to leave it. Sometimes that means you’re doing work from nine to [midnight].

Given the nature of the work and their positions, several participants stated that they are always on-call. As a result, many participants highlighted the effort they put in to help ensure that their job doesn’t overly impact their family life. As an example, one participant shared, “I’ve had to step out [of my child’s recital] and write no-contact directives on a laptop on the floor,” as an example of the feeling of always being on-call, and that their office has become somewhat of a first responder.

Other participants discussed the impact that addressing sexual violence and sexual harassment has on their personal relationships. Many participants shared that given the nature of their work, and the topics they are routinely required to address, they at times distance themselves from their partners, “I tell my partner, ‘Hey, I need to be by myself tonight or the next couple days,’ and it almost feels like a kind of mini-depression for a brief period of time.” Or, they tell their partner they do not want to talk about work when they come home, admitting, “It’s mainly because I’m drained and I just don’t want to talk about it. That’s part of my separation [strategy].” Another Title IX coordinator identified
that, at times, they carry with them the burden of the job, highlighting that they have not turned to substance abuse or anything similar, but they stated, “There are days where I have so little in the tank, I’m not emotionally available for my family.” Highlighting these feelings of stress, a participant shared:

Lots of us lost many nights of sleep worrying about the next shoe to drop and the next article to write, and we were at the mercy of, and still are largely at the mercy of what students wanted to say or write.

With a demonstrated increase in litigation, federal investigation, and public scrutiny, student conduct administrator and Title IX coordinators constantly found themselves on edge, anticipating notice that they were getting sued or were under investigation. Most participants described this as a perpetual state of limbo or a feeling of anticipation of a negative outcome, where most interviewees stated it was no longer if their institution would be sued or become under investigation, but when. Almost all participants embraced this probability, stating that it was only a matter of time before either or both of these outcomes would occur.

Participants also discussed a continual concern that if a new OCR investigation or lawsuit were to occur, they would be terminated from their position. Several participants described increased levels of stress and anxiety associated with their jobs because of the real possibility of being sued or investigated by the OCR because of a decision they made. A few participants went so far as to indicate that they believe they would be fired, whether for cause or as a symbolic fix to the problem, if their institution were to come under a new investigation by the OCR. As an example of this stress, a Title IX coordinator at a large private institution stated:
[We] got into student affairs because [we] liked working with students. [We] wanted to help students. [We] wanted to... make a difference. [We] feel that that has been stripped from [us]. [We’re] now going to work every day not to screw up, not to get in trouble.

Several participants cited the public nature of The Chronicle of Higher Education’s list of institutions under investigation by the OCR, and the perception associated with being on this list that added to the concerns regarding termination.

Given this increased level of stress or anxiety, all participants discussed incidents of unrest, which they directly associated to the work of addressing campus sexual violence and sexual harassment. Though the source of the stress or anxiety differed between participants, the most common response was a concern of making a mistake that resulted in their institution either being sued or becoming under investigation by the OCR. While sleeplessness was the most common physical impact that participants discussed, a few participants indicated that they experienced more extreme physical impairments, including being hospitalized for stress-related ailments or beginning to have to treat high blood pressure. While none of these physical impacts can be directly associated with addressing and responding to campus sexual violence and sexual harassment, these participants felt that there was a causational relationship between their job and their physical health.

Though many participants discussed feelings of burnout, anxiety, or stress, those who were successful within their position were also able to describe mechanisms they used to deal with and overcome the impact that the work had on them as practitioners. Being able to engage in self-care was critical to the success of participants within this study. Like other helper professionals, student conduct administrators and Title IX
coordinators experienced both a transference of trauma given the nature of the incidents that they reviewed, but also an intense level of scrutiny and anxiety associated with their work not realized in other positions within U.S. higher education.

As a result, there has been a shift in both how student conduct administrators and Title IX coordinators approached their own work and supported those who also work under them. Most participants described situations where they have created structures and systems both within their work and personal lives, where they are able to mentally and physical recover from addressing and responding to incidents of campus sexual violence and sexual harassment. Self-awareness and the ability to engage in self-care has become a required component of student conduct administrators or Title IX coordinators success and longevity within the field. Several research participants described a shift in their support and supervision of staff, limiting the number of cases a staff member addresses at one time or providing a break between cases, all with a specific focus on self-care and self-awareness in relation to fatigue and burnout. Although supportive of their staff’s self-care, many participants revealed an inability to provide similar means of balance or relief for themselves. Both the student conduct administrator and Title IX coordinator research participants are either the head of their student conduct or Title IX process at their institution and are not able to take a pause or disengage with all incidents of campus sexual violence or sexual harassment; as such, it was necessary for them to develop increased self-awareness and adopt greater personal strategies of self-care.

Even with increased self-awareness and the development of success self-care strategies, the increased level of stress, anxiety, and fatigue associated with addressing
camps and sexual harassment has attributed to a greater level of described burnout and attrition within both student conduct administrators and Title IX coordinators. Almost all interviewees described moments when they questioned their own ability to remain as either a student conduct administrator or Title IX coordinator because of stress, anxiety, mental or physical fatigue, or burnout associated with this work.

**Career Ambitions**

Participants were asked to reflect on their own personal career ambitions in relation to the overall impact of the Dear Colleague letter, subsequent guidance, regulations, and federal investigations, and increased scrutiny of their work related to responding to sexual violence and sexual harassment. Seventeen participants (89%) discussed that since the Dear Colleague letter was released in April 2011, each has questioned the longevity of continuing in their same position or related work. Participants highlighted a variety of responses, but most consistently was the increased stress associated with always feeling under the microscope or the intense scrutiny they experienced in relation to their work.

Several participants identified the emotional demands associated with their positions and responding to sexual violence and sexual harassment as a specific factor when considering their ability to remain in the field. Several participants discussed not letting scrutiny or criticism—valid or not—get to you in order to have longevity as a student conduct administrator or Title IX coordinator. As examples, two different participants shared, “You really have to have thick skin, but it's a very unique job, in that
it's kind of always bad news all the time. I don't know that it would be sustainable for decades,” and “I sometimes [feel] like I’m the punching bag of the school.”

Many participants also referenced that they know of former colleagues who have left the field of student conduct in part because of the impact of the Dear Colleague letter and the increased pressure and stress of addressing and responding to campus sexual violence and sexual harassment. Specifically, several participants identified former colleagues or supervisors who have left the field of student conduct in part because of the overall impact of responding to campus sexual violence and sexual harassment, moving into other areas of student affairs or into faculty positions, when able. Although the majority of Title IX coordinators in the study were in newly created positions, they too indicated that they knew of colleagues who have since left a Title IX position to work in other areas of student affairs. As an example, a Title IX coordinator shared, “I do have friends that have left the field. They’ve gone on and found other positions in other issues and topics in higher ed. because they just couldn’t do it anymore.” A few participants indicated that they also have examples of former colleagues who have left the field of higher education completely, and who personally shared with participants that their decision to leave the field of higher education was fully based on the toll the work of addressing and responding to campus sexual violence and sexual harassment had taken on them.

One participant also shared that since agreeing to participate in this study, they too had chosen to leave their Title IX position, but was still looking to remain in the higher education field.
A few participants also disclosed that they either recently left a previous institution or were actively looking to leave their current position, highlighting the stress and pressure that is not only caused by addressing and responding to campus sexual violence and sexual harassment, but also that which can be caused by an institution. As an example, a Title IX coordinator shared this was one of the main reasons they left their prior institution:

Part of why I left my previous position was the stress of the hotly debated administration, students, federal government, [and] feeling caught in the middle. Personally, I felt that I was being pulled in a lot of different directions and was not being very authentic or allowed to be very authentic with what I myself felt or believed or wanted to see happen, and it caused so much stress that I left.

Several other participants identified the stress of the unknown and the ambiguous nature of a federal investigation as some of the reasons they were looking to leave this work. Many participants described the frustration, and at times, vulnerability they felt by having their success measured, often inaccurately, by internal and external individuals through an OCR investigation who do not really understand this work. Specifically, a Title IX coordinator at a large public institution articulated that the two individuals they report to are very busy professionals, and if a federal agency begins an investigation the initial response is not, “Oh well, this is what happens; it’s okay what did you do wrong and how bad of an impact is it going to have on the institution.” This same Title IX coordinator indirectly referenced this is what they believe happened to their predecessor when the institution came under a formal investigation by the U.S. Department of Education and the OCR.
Many participants added that they have a perpetual feeling that any decision they make would be the wrong decision, which has an impact on their stamina within their job and creates a sense that their decision would result in their own termination. As an example, one student conduct administrator shared, “I don’t know if conduct’s gonna always be for me because, in part, maybe a good part, no matter which way we go [on a decision], I’m gonna be wrong on this.” Another student conduct administrator stated:

The decisions you make, someone is always unhappy with them. It’s hard, you’re never going to have a case where two parties walk away that are satisfied. You want them to walk away and feel like it was fair, that they were treated with respect, but someone is going to think you got it wrong and be angry at you.

Several participants highlighted that their fear of termination would intensify if under investigation by the U.S. Department of Education and the OCR. Participants shared that, because an OCR investigation would often be based off of decisions, these interviewees had made that they felt that, regardless of the outcome of the OCR investigation, they would likely be terminated because some change at their institution would have to occur as a result of the investigation. Specifically, a student conduct administrator shared:

The case in which we are under investigation for, I was the lead investigator. So, it’s me, right, [wondering] am I going to lose my job? I went to my vice president and said, does it help if I leave the institution? This is looking like you all are positioning for a sacrificial lamb and I think that’s going to be me.

As an outlier, one student conduct administrator, who has held their position for the longest period of time at their institution, over 19 years, was the only participant to indicate that they have never thought about leaving their position, nor known anyone to have left the field directly in response to addressing sexual violence and sexual harassment. This was an isolated response only shared by this interviewee, yet this
participant also shared, “There are days where I just want to look in the mirror and say, What the fuck? What am I doing?”

Though almost all of the participants had at times questioned the longevity of whether they could remain in their current positions within the field of student conduct or Title IX, most were not actively looking to leave their current positions; they articulated a great commitment to their positions and the work being conducted. Many of these participants highlighted a personal resiliency, a testament to the type of person they are. Several participants also highlighted a concern that if everyone were to leave the field, what kind of individuals would be left to do this work? Many participants highlighted their resiliency and personality as a benefit and challenge; assisting them in successful navigating and addressing very high stress and difficult challenges for their institution, they have also noticed a pattern where they are routinely being tapped to respond to similar types of issues, even when not directly related to their position or the work they generally do. A few participants identified that they felt they were being pigeonholed to respond to these types of high stress response work and were concerned that their success in addressing this subject matter could prevent them from moving to other opportunities at their institution because of this stereotype, success, and their institution’s fear of losing this resource.
CHAPTER 5 – ANALYSIS AND DISCUSSION

With a designed purpose to explore the effects of addressing campus sexual violence and sexual harassment, this research study reviewed the impact of increased federal guidance and regulation, a U.S. Department of Education and OCR investigation of an alleged violation of Title IX, and increased public scrutiny, on student conduct administrators and Title IX coordinators.

There has been a shift in the makeup of student conduct administrators and Title IX coordinators since the Dear Colleague letter of 2011, as a result of the overhaul of student conduct administrators and the creation of a dedicated Title IX coordinator position at many institutions. Though the work of student conduct administrators and Title IX coordinators has never been easy, the increased level of scrutiny, threats of litigation or federal investigation, and increased levels of stress, anxiety, and fatigue have changed some of the fundamental work of student conduct administrators and Title IX coordinators. With the increasing complexity associated with incidents of campus sexual violence and sexual harassment, student conduct administrators and Title IX coordinators are facing new challenges that did not exist in the same format prior to this period of increased federal regulation, increased OCR investigations and public scrutiny.

Beginning with the Dear Colleague letter of April 2011, the U.S. federal government required U.S. institutions of higher education to place a greater emphasis on addressing and responding to campus sexual violence and sexual harassment. With an increase in the number of institutions under investigation by the OCR for an alleged violation of Title IX, U.S. colleges and universities quickly worked to become in
compliance with the guidance and regulations provided by the Dear Colleague letter of 2011, the Campus SaVE and VAWA acts, and the 2014 Question and Answer guidance. Though the guidance was at times open to interpretation, no institution wanted to become the test case through an OCR resolution agreement as an example of what not to do. Similarly, the topic of campus sexual violence and sexual harassment became common, both internally and externally to U.S. college and university campuses. Powered by student activism, campus sexual violence and sexual harassment was debated on-campus, in the media, and within U.S. politics.

During this period of increased federal guidance, regulation, and investigation by the U.S. Department of Education and the OCR, the impact on student conduct administrators and Title IX coordinators was measurable. Eight main impacts were identified: (a) lack of clear guidance, (b) shifts in institutional organization structure and staffing, (c) legalization of the student conduct processes, (d) staff feeling on trial, (e) greater public scrutiny, (f) changes in relationships with students, (g) personal impacts, and (h) shifts in career ambitions. Due to these impacts, the process of addressing and responding to campus sexual violence and sexual harassment of student conduct administrators and Title IX coordinators has fundamentally changed.

Though guidance letters from the federal government were an occasional occurrence from the U.S. Department of Education and the OCR, all participants indicated that the release of the Dear Colleague letter in April 2011, created a marked distinction in relation to the work of addressing and responding to campus sexual violence and sexual harassment within the U.S. higher education system. Described by
the U.S. Department of Education and the OCR as a document that would provide clearer
guidance and expectations of U.S. college and university administrators responsible for
responding to and addressing campus sexual violence and sexual harassment, the
majority of participants within this study indicated that the Dear Colleague letter of April
2011 provided little specific guidance, outside of requiring the preponderance of evidence
standards and a 60-day timeline to resolve allegations of sexual violence and sexual
harassment. Equally, student conduct administrators and Title IX coordinators from both
public and private institutions indicated that at the time of the release of the Dear
Colleague letter and its guidance was open to interpretation, where practitioners were
relying more heavily on resolution agreements issued by the OCR after an investigation
of an alleged violation of Title IX than directly on the Dear Colleague letter.

Following the Dear Colleague letter of April 2011, the U.S. federal government
issued subsequent regulation amendments in the form of the Campus SaVE and VAWA
acts and the 2014 Questions and Answers guidance document, with the intent to further
clarify the expectations of U.S. college and university practitioners responsible for
addressing and responding to campus sexual violence and sexual harassment. Similar to
the Dear Colleague letter, several student conduct administrators and Title IX
coordinators within this study indicated that these subsequent guidance and regulator
documents provided little clarity to this topic and at times shifted previous guidance
expectations. Specifically, many participants highlighted the shift in the 60-day timeline
for resolution, from a requirement to a recommendation, as an example of the difficulty
in interpretation of the U.S. federal guidance. There was no measurable difference
between either student conduct administrators or Title IX coordinators in their articulated challenges of interpretations of the U.S. federal guidance or regulations, nor was there any perceived difference between public or private institutions. The only measureable difference between participants was a participant’s familiarity with the OCR, either through prior working relationship or investigation.

Every participant within this study, whether a student conduct administrator or a Title IX coordinator, highlighted institutional organizational changes in structure and the hiring of new staff members in response to the increased level of federal guidance and regulation or an OCR investigation, and sometime both. Staff increases equally occurred with both student conduct and Title IX offices, with no distinction between public or private institutions. Institution size appeared to be the most specific indicator of staff increases: a larger overall student population typically equated to a larger increase in new staff. Similarly, almost all participants indicated an ongoing need for additional staff to assist in addressing campus sexual violence and sexual harassment.

Institutional size also had a direct correlation to increases in the number of Title IX-related reports that an institution received annually. The larger the student population, the greater number of reports that these participants indicated they processed annually, with no significant difference between public or private institutions. Additionally, there appeared to be no relationship between public or private institution type and the number of reports that progressed forward to adjudication. Again, institution size was the best indicator of the number of reports that would progress forward to adjudication; institutions with larger student populations had more reports progress forward to
adjudication. All participants indicated that they received a far greater number of reports than the number of cases actually addressed through an institution’s formal adjudication process. With no demonstrated difference between public or provide institution type, the majority of participants indicated that the number of incidents adjudicated through their student conduct process has not drastically changed as a result of the Dear Colleague letter and subsequent federal guidance, regulation, or increased OCR investigations.

Regarding reorganization of staffing responsibilities, the most common restructuring was the removal of the investigation process of campus sexual violence and sexual harassment cases from student conduct offices to that of Title IX offices or external investigators. The majority of the participants, both public and private, indicated that their institutions hired new staff to serve in the role of Title IX investigator, as opposed to outsourcing this responsibility. Again, no measureable difference was identified between either public or private AAU institutions. The second most common reorganization was the creation of dedicated Title IX investigation staff within an institutions’ student conduct office. There appears to be a slight difference in private institutions being more likely to hire dedicated staff within the office of student conduct to serve as investigator, responsible for solely investigating incidents of alleged violations of sexual assault and sexual harassment policies than at public intuitions.

There was an increased presence of legally trained individuals working for U.S. colleges and universities who addressed campus sexual violence, there also appeared to be some intentionality to downplay the legalization of the field of student conduct and Title IX. Many participants discussed not using formal titles of Juris Doctor. Specifically,
one Title IX coordinator at a large public institution instructed all of their staff to dress down so that they would not be perceived as attorneys or overly legal or formal. These efforts demonstrated both the formalization and legalization of addressing campus sexual violence and sexual harassment and the attempt to deemphasize this new reality.

Universally, both Title IX coordinators and student conduct administrators discussed the increased legalization of an institution’s process to investigate, respond to, and adjudicate incidents of campus sexual violence and sexual harassment. From the requirement of allowing attorneys to serve as student’s advisors to the increase in institutions engaged in litigation, the focus of addressing campus sexual violence and sexual harassment has shifted from an educational based model to a more formal legalized process. Several participants highlighted that this legalization of the student conduct process has expanded beyond incidents of sexual violence and sexual harassment; even when there is no criminal component to an alleged behavior, students are turning to attorneys to assist them in navigating these types of allegations.

Coupled with the underlying fear of practitioners not wanting to make a mistake that would result in new litigation or an OCR investigation, all participants indicated that the entire process of addressing campus sexual violence and sexual harassment, including at times their own behavior and response to these situations, has become more legalistic and rigid. Student conduct administrators and Title IX coordinators equally referenced moments when they felt their positions had evolved into a quasi-legal trial judge, responding to motions and objections as would be the case in a criminal court process. The legalization of the student conduct process and U.S. higher education institutions
response to incidents of sexual violence and sexual harassment was similarly articulated by both student conduct administrators and Title IX coordinators within this study, with no measurable difference between participants at either public or private institutions.

Additionally, both student conduct administrators and Title IX coordinators equally articulated an increased reliance on institutional general counsel as a direct result of the increased incidents of litigations and in an attempt to avoid future litigation. The most common response from participants regarding their reliance on general counsel was an increased fear of making a mistake that would result in a new institutional lawsuit or OCR investigation. This fear was represented by both student conduct administrators and Title IX coordinators. The second most common reason for a greater dependency on an institution’s general counsel office was either to assist in the interpretation of U.S. federal guidance and regulation or the result of an active OCR investigation or lawsuit. Similarly balanced, a few student conduct administrators and Title IX coordinators indicated an over reliance on institutional general counsel offices, yet none of them indicated that these concerns would limit or stop them for continuing to interact with their own general counsel.

As a result of the increased public scrutiny or out of fear of the possibility of future litigation or an OCR investigation, there appears to be a slight decrease from both student conduct administrators and Title IX coordinators in making independent decisions related to incidents of campus sexual violence and sexual harassment. A few participants shared that even when confident in a decision, they would still check in with their institutional general counsel office, as a direct response to the increased litigation,
OCR investigations, and public scrutiny over their work. There was no distinguishable
different between participants from either public or private AAU institutions in any of
these regards, as both articulated that the student conduct process around campus sexual
violence and sexual harassment has become more legalized.

Similarly, many student conduct administrators and Title IX coordinators
indicated that as a result of increased attorney representation of students within the
student conduct process, coupled with greater public scrutiny around the topic of campus
sexual violence and sexual harassment, they felt that they themselves were now on trial,
more so than a respondent within a student conduct process. Highlighting an environment
where even in the absence of a mistake, both student conduct administrators and Title IX
coordinators felt a greater level of pressure, stress, and anxiety associated with the
decisions they make and the responsibilities they shoulder in successfully managing and
administrators their institutions sexual violence and sexual harassment policies and
procedures. As student conduct administrators are typically responsible for the
facilitation of the student conduct process that more directly interacts with students’
attorneys and often are the individuals responsible for upholding institutional policy,
there appears to be a slightly greater level of feeling on trial by student conduct
administrators than Title IX coordinators. As this feeling was not exclusive to just student
conduct administrators, this slight increase could also be a result of the larger number of
student conduct administrators within this study than Title IX coordinators.

In response to greater attention being placed on the topic of campus sexual
violence and sexual harassment over the last 7 years, as a result of the release of the Dear
Colleague letter of April 2011, followed by the subsequent U.S. federal guidance, regulation, and increased OCR investigations and instructions facing lawsuits, student conduct administrators and Title IX coordinators have experienced a raise in criticism, scrutiny, and evaluation from both parties within a student conduct process and publicly from individuals outside of the formal student conduct process. Equally, both student conduct administrators and Title IX coordinators indicated that they were impacted by misinformation published in media outlets, both internal and external to their institutions. Most commonly, participants indicated that they had to spend extra time and energy correcting and disproving these inaccuracies to students, colleagues, supervisors, institutional leadership, and at times within legal processes, all adding to the stress and pressure of their work. There was no distinguishable different between student conduct administrators or Title IX coordinators nor public or private AAU institutions related to the impact of increased public scrutiny associated with responding to and addressing campus sexual violence and sexual harassment.

With an increased focus being placed on the topic of campus sexual violence and sexual harassment, coupled with greater public scrutiny, a shift began to occur between some students and student conduct administrators and Title IX coordinators. With no measurable difference between public or private institutions, several participants articulated that a greater level of distrust had developed from some students, especially those identified as either a complainant or respondent within an incident of sexual violence and sexual harassment. Participants identified most commonly, a correlation between misinformation within media outlets, ongoing litigation or an OCR
investigation, or student activism concerns, even if at another institution, as the basis for this increased distrust from students. Comparatively, both student conduct administrators and Title IX coordinators indicated that an increase in distrust was reciprocal. Highlighting a greater concern that any student a participant met with could be actively looking for them to make a mistake to report to the OCR, several interviewees indicated an increased level of stress, anxiety, and mistrust toward students. Again, these feelings of mistrust were similarly felt between both student conduct administrators and Title IX coordinators at both public and private AAU institutions.

Additionally, there was no discernable different between student conduct administrators or Title IX coordinators regarding feelings of stress, anxiety, and mental and physical fatigue. Equally, Title IX coordinators and student conduct administrators provided examples of feeling increased levels of stress and anxiety related to addressing and responding to campus sexual violence and sexual harassment, as a result of the increased federal guidance, regulation, and public scrutiny, coupled with the growing number of institutions under investigations by the OCR or engaged in litigation. Most commonly, student conduct administrators and Title IX coordinators highlighted episodes of sleeplessness and anxiety associated with the anticipation of pending litigation or investigation by the OCR. Less common, a few participants indicated having been hospitalized or having to start blood pressure medication during this 7-year period; though none of these participants directly associated these medical incidents as the sole result of the impact from addressing and responding to campus sexual violence and
sexual harassment, several did feel it was a factor. All of these extreme examples were provided by student conduct administrators.

More student conduct administrators articulated greater levels of stress and anxiety over the potential for pending litigation, but the overall number of student conduct administrators was greater than Title IX coordinators, so no additional comparison could be made. There also appears to be no measureable difference between participants whether at a public or private AAU institution. Similarly balanced were participants increased levels of stress and anxiety associated with having to engage in a new investigation by the OCR for an alleged violation of Title IX. Student conduct administrators and Title IX coordinators equally articulated an increased level of stress and anxiety associated with the possibility that a decision they made or action they took would result in a new investigation by the OCR. This was one of the only times that there was a perceived difference between whether a participant was from a public or private AAU institution. There appeared to be greater apprehension of being under investigation by the OCR at public institutions than at private ones.

All participants indicated that responding to campus sexual violence and sexual harassment has forced them to develop a greater sense of self-awareness and self-care strategies. Though never easy work, participants indicated that since the Dear Colleague letter of April 2011, they have experienced more frequent moments of needing to distance themselves from others, including family, or taking a break from their work. As a result of this impact, several participants have even developed protocols to limit the number of cases or frequency that a staff member would be directly involved in
addressing an incident of campus sexual violence and sexual harassment. Only student conduct administrators articulated having developed organizational protocols that would limit the number or frequency of a staff members addressing or responding to an incident of campus sexual misconduct. As there was a greater overall number of student conduct administrators compared to Title IX coordinators, it is difficult to discern if this was the result of an imbalance in participants or an identifiable difference associated with the impact of adjudicating incidents of campus sexual violence and sexual harassment.

As one of the most significant identified impacts of addressing and responding to campus sexual violence and sexual harassment, almost all (89%) of participants questioned their own longevity in continuing in their same position or related work as a result of the Dear Colleague letter and subsequent federal guidance and regulations, increased OCR investigations, institutional litigation, or greater public scrutiny associated with their work. As an almost universal response, there was no distinguishable different between Title IX coordinators or student conduct administrators, nor a difference between public or private AAU institutions.

In summary, all participants discussed having experienced a multitude of the eight impacts identified within this study, many of which occurred concurrently. Furthermore, almost all participants identified that they experienced all eight impacts. No participants indicated that they had only experienced one or two of the eight impacts. Similarly, almost all participants described a correlation between the eight impacts. Specifically, it was difficult for participants to discuss or even describe one impact independently from the other seven impacts, given the complexity and evaluation of each impact and the
overall demands of addressing and responding to campus sexual violence and sexual harassment on student conduct administrators and Title IX coordinators. As a result, it was difficult to determine if one impact was more significant than another within this study. Participants often described some combination of all eight impacts, resulting in interviewees articulating increased feelings of stress, anxiety, fatigue, and questioning their own longevity in doing this work.

Overall, there did not appear to be a significant difference between student conduct administrators or Title IX coordinators in either the number of impacts experienced or the overall effect that the impacts had on them as practitioners. In addition, there was little distinguishable difference between participants from public or private AAU institutions. One of the only identifiable distinctions between participants based on institution type—public or private—was participants’ comfort level related to the possibility of again becoming an institution under investigation by the OCR for an alleged violation of Title IX. As all participants were selected from AAU institutions that were either currently or had been under investigation by the OCR for an alleged violation of Title IX, several participants from public AAU institutions identified a greater concern associated with a future investigation by the OCR than participants from private AAU institutions. Specifically, one participant from a public institution stated, “If for whatever reason we were to get on the . . . list, that could negatively impact my job security.” It appears that institutional size and reporting structure may play a greater role in the impact of an OCR investigation on participants than whether an institution is a public or private AAU institution. Participants whose supervisors had a greater understanding of the
comprehensive issues associated with addressing campus sexual violence and sexual harassment demonstrated slightly diminished impacts comparatively. Similarly, those participants who had greater access to resources, both financial and in personnel, described an easier time navigating a response to an OCR investigation and also an ability to more effectively cope with the various impacts of addressing campus sexual violence and sexual harassment, with increases in personnel providing the greatest impact. This supports why, even 7 years after the Dear Colleague letter of 2011, many participants were still actively hiring new staff, and almost all participants articulated a desire to hire new staff.

**Future Research**

There are several areas recommended for future research. As this study did not have an equal number of student conduct administrators and Title IX coordinators, a limitation in direct comparable analysis occurred between these two positions. Though similarities in impact appear to have occurred between student conduct administrators and Title IX coordinators, a study with strict requirements of equal ratios of student conduct administrators and Title IX coordinators from the same public and private AAU institutions could allow for greater comparable analysis.

Additionally, with so many of the Title IX positions within this study having been newly created, and a perception that these positions could be subject to a high level of turnover, a study that examines the attrition rate of both student conduct administrators and Title IX coordinators could provide a greater understanding of the length of time individuals hold each of these positions and its relation to new regulations.
As this study identified a demonstrated shift in the perceived legalization of addressing campus sexual violence and sexual harassment, a study that examines alternative resolution processes within campus sexual violence and sexual harassment could provide insight in comparable differences between potential models. Specifically, such a study could examine what role restorative justice or other non-adjudicative based models have in addressing and responding to campus sexual violence and sexual harassment.

Finally, with the release of a new Dear Colleague letter from the U.S. Department of Education and the OCR in September 2017, a future study that examines these same research questions could examine the specific influence and impact of the Dear Colleague letter on student conduct administrators and Title IX coordinators at AAU institutions.
CHAPTER 6 – CONCLUSION

The U.S. higher education system has a long history of addressing student conduct, rooted in a philosophy of social development and educating the whole student conduct (Smith, 1994; Thelin, 2011). Originally, U.S. college and university administrators were expected to function in a form of *in loco parentis*, or an extension of a student’s parents while their child was away at school (Chernoff, 2016; Dannells, 1997; Lee, 2011; Rhatigan, 2009; Smith, 1994). Though a shift in the philosophy of *in loco parentis* occurred over time, the expectation that parents have of institutions keeping one’s child safe while at school has not gone away. The issue of campus sexual violence and sexual harassment has long been a concern on U.S. college and university campuses, and many argue is just beginning to get the attention needed to address a long overdue issue in U.S. higher education.

Recently, the issues of campus sexual violence and the term Title IX have become commonplace with the majority of college-age individuals within the United States. After a tragic on-campus rape and murder of a student in the 1990s, the U.S. federal government began a period of increased regulation, guidance, and enforcement, beginning with the Clery Act, which reached a crescendo with Dear Colleague letter of April 2011 and the subsequent reform of the Campus SaVE and VAWA acts and the 2014 Question and Answers guidance documents. Adding to the already increasing student activism around this issue, this guidance resulted in a significant increase in the number of institutions under federal investigation of an alleged violation of Title IX by the OCR, with an increasing number of students also engaging in formal litigation with
their institutions. The combination of student activism, federal investigations by the OCR, and increased formal litigation exponentially increased the public scrutiny and examination around the topic of campus sexual violence and sexual harassment, with the college and university practitioners, student conduct administrators and Title IX coordinators, responsible for addressing and responding to campus sexual violence and sexual harassment at the center of this issue.

This study set out to better understand the impact of addressing campus sexual violence and sexual harassment, public scrutiny, and a U.S. Department of Education and OCR investigation of an alleged violation of Title IX on U.S. college and university administrators responsible for administering, enforcing, and reporting incidents associated with Title IX. Specifically, beginning with the Dear Colleague letter of 2011, and examining the period of time of increased public scrutiny, greater federal guidance and regulation in the form of referendums to the Campus SaVE and VAWA acts, the 2014 Questions and Answers guidance, and an investigation by the OCR for alleged violations of Title IX, this study examined the impact of addressing and responding to campus sexual violence and sexual harassment on 19 student conduct administrators or Title IX coordinators at 11 AAU institutions. Additionally, this study sought out to give a voice to a U.S. college and university professional staff population that is often silent, either given federal regulations or the social stigma associated with their work.

As a definitive point in time within U.S. higher education, the Dear Colleague letter of 2011, marked an identifiable shift in the landscape of U.S. college’s and university’s approach to responding to and addressing campus sexual violence and sexual
harassment. Often viewed as the starting point of the recent social movement to shed light on the often-hidden issue of campus sexual violence and sexual harassment, the Dear Colleague letter and subsequent federal guidance and regulation, coupled with increased OCR investigations and greater public scrutiny, created a domino effect within U.S. colleges and universities, still felt 7 years later. The impact of this movement and 7-year period of time has fundamentally changed U.S. college and university student conduct processes and institutions’ approaches to addressing and responding to incidents of campus sexual violence and sexual harassment.

In the wake of increased federal guidance, regulation, and formal investigation by the OCR for alleged violations of Title IX, U.S. college and universities scrambled to develop new policies and protocols associated with responding to and addressing incidents of sexual violence and sexual harassment. Even in the aftermath of the Great Recession of 2007-2008, U.S. colleges and universities were developing Title IX offices and adding new staff members to student conduct offices at an unprecedented rate. In an attempt to both respond to the increased number of reports being received associated with Title IX, and as a means to attempt to thwart becoming one of the growing number of intuitions under investigation by the OCR for an alleged violation of Title IX, institutions were actively adding resources and support. Even 7 years later, institutions are still examining organizational structures and actively growing staff in response to this issue. These increases in staff have allowed institutions to better serve and support students through a process that often was under-resourced.
Though introduced as guidance documents by the federal government, many practitioners felt the Dear Colleague letter of 2011 and subsequent guidance and regulation documents—Campus SaVE, VAWA, and the 2014 Question and Answers issued by the U.S. Department of Education and the OCR—provided little clear guidance and, at times, created more questions. In an era of heightened enforcement, often through an OCR investigation of alleged violations of Title IX, practitioners relied on resolution agreements more than these federal guidance documents. With the requirement to allow attorneys as student advisors within the student conduct process, increased federal investigations, and more institutions finding themselves in litigation related to incidents of campus sexual violence and sexual harassment, the entire Title IX process within U.S. higher education became more legalistic.

As Title IX-related incidents on U.S. college and university campuses became more complex, the external pressures of federal regulation, investigation, and public scrutiny, directly impacted the work of student conduct administrators and Title IX coordinators. What was once considered the quintessential learning outside of the classroom, U.S. college and universities saw an influx of Juris Doctor-educated staff to investigate, adjudicate, and even at times serve as Title IX coordinators. The shift in investigation models demonstrated an overall philosophical approach to addressing campus sexual violence and sexual harassment from what was routinely an educational-based model to more of a legalization of the field of student conduct.

With the formalization of the student conduct process, absent any educational development for students or an ability to repair the harm that had occurred, student
conduct administrators and Title IX coordinators struggled to make any significant
forward progress in addressing or eradicating campus sexual violence, as was the goal of
the increased guidance and federal regulation of the Dear Colleague letter of April 2011
and subsequent legislation of the Campus SaVE and VAWA acts. These regulations have
restricted processes such as mediation or restorative justice as methods to address
incidents of sexual violence and sexual harassment, creating a fundamental shift in these
processes. What resulted was a legalized process that was frequently focused on ensuring
compliance and avoiding litigation or federal investigation and moved away from the
educational development of the student or repairing the harm of the community. A
benefit of the increased regulation and formalization of these processes was that in some
cases it reorganized the process to better provide accommodation and support students.

In the midst of greater federal regulation, investigation, and institutional litigation
related to incidents of campus sexual violence and sexual harassment, student conduct
administrators and Title IX coordinators experienced increased levels of stress, anxiety,
and pressure. Routinely feeling like, even in the absence of a mistake, a decision they
make will result in a new OCR investigation or lawsuit, Title IX coordinators and student
counter administrators find themselves frequently checking in with institutional general
counsel and experiencing moments of unrest and anxiety. With increased public scrutiny
and in a job where sleepless nights are commonplace, many student conduct
administrators and Title IX coordinators, wonder if the next student incident will result in
their termination. With a need to develop a greater self-awareness and self-care, the
makeup of student conduct administrators and Title IX coordinators is evolving, evident by a period of increased turnover in many of these positions within the last 7 years.

In examining the impact of increased federal regulation and investigation, formal litigation, and public scrutiny, the impact on student conduct administrators and Title IX coordinators is intense. With the defined shifts in the U.S. higher education system associated with campus sexual violence and sexual harassment, the essence of developing students outside of the class room as been lost. The primary focus of addressing campus sexual violence and sexual harassment now is on avoiding litigation or investigation and not on developing students. In a society where many question the success of the criminal justice system in addressing the issue of sexual violence, so too can one question the current success of addressing campus sexual violence and sexual harassment. What has evolved is an environment where both student conduct administrators and Title IX coordinators often feel on trial, not only from the students involved and their attorney advisors, but also at times from their own institutions. Frequently on guard, and often waiting for the next shoe to drop in the form of a new OCR investigation or formal litigation, student conduct administrators and Title IX coordinators find themselves in a work environment seeped in pressure, stress, and scrutiny. In positions where individuals routinely question their own longevity to continue in this field, these factors truly make the work of student conduct administrators and Title IX coordinators unique within U.S. higher education.

Though the process is far from perfected, the guidance of this legislation and increased regulation has finally begun to address an issue that has long been a problem in
U.S. higher education. All of this has been aimed at reducing harm and increasing awareness around the topic of campus sexual violence and sexual harassment, which is a shared goal of student conduct administrators and Title IX coordinators. What sometimes has gotten lost is the reality of how difficult a job this is.

Ultimately, this study demonstrated both the positive and negative effects of addressing and responding to campus sexual violence and sexual harassment on the practitioners who deal most directly with campus sexual violence and sexual harassment in this post era of heightened U.S. federal regulation, guidance, and public scrutiny. These voices strengthen what is working and bring attention to what needs to be reworked in the midst of the ever-evolving federal guidelines, helping to answer the question: Where does U.S. higher education go from here?

**Recommendations**

The Dear Colleague letter of 2011 needed to happen: Putting a focus on college sexual violence and sexual harassment needed to happen. The missed opportunity was not including in the conversation the U.S. higher education practitioners who would ultimately be responsible for implementing and adhering to the needed increased guidance from the U.S. Department of Education and the OCR. Critics state that the evidence showed that U.S. colleges and universities were not taking this issue seriously, which required intervention from the U.S. federal government. Overgeneralizing the failures of student conduct administrators and Title IX coordinators eliminated an opportunity for collaboration in addressing this important topic and more holistically creating the needed change within U.S. higher education institutions. The way this issue
was approached, in isolation with only the U.S. Department of Education and the OCR, was misguided. Though there was some evidence of a few institutions intentionally trying to skirt this issue, to believe that there was not an opportunity to engage in discussion or an ability to provide some insight or perspective from any student conduct administrators or Title IX coordinators in responding to campus violence and sexual harassment limited the ability to more completely address this issue.

It is not a debate of the U.S. Department of Education and the OCR, or U.S. higher education practitioners, who should have led the discussion, but more a critique of not having student conduct administrators and Title IX coordinators as part of the discussion at all. How could the U.S. federal government make that decision and then expect those same practitioners to address and improve a system when they are absent from the conversation? If the true goal is to address the issue of campus sexual violence, then moving forward, and in consideration of the Dear Colleague letter of 2017, the U.S. Department of Education and the OCR need to allow student conduct administrators and Title IX coordinators to be part of the discussion.

This study also identified another pressing issue: How do we better support the student conduct administrators and Title IX coordinators doing this work every day? A rubric or guideline document should be made, not only as a support roadmap for practitioners, but also as a guidance document for the senior administrators or presidents who most often supervise these positions. Often, many of these upper-level administrators or presidents come from the academic pillar of their institutions and do not have a working knowledge of the full complexity of these issues. Greater emphasis needs
to be placed on the physical and mental stress that is beginning to be identified within these positions. Issues around burnout, stress, and anxiety need to be explored further, and recommendations for ways to avoid these issues should be understood and supported by supervisors. These best practices should also be incorporated into future guidance documents from the U.S. Department of Education and the OCR. Developing a roadmap or guidance document will allow these supervisors to better understand the nuanced complexities around this topic, and ultimately, provide better support to those practitioners doing this work daily.

Additionally, it is recommended that student conduct administrators and Title IX coordinators partner at their respective institutions to develop a working presentation to help explain why data in the institution’s annual safety and security report (Clery Report), which is based on calendar year, might be different from a student conduct office’s annual report, which is often based on academic year. This type of presentation can also address definitions or terms frequently used in policy (i.e., report or complaint) to highlight differences between those terms, which can often be misused within the media or outside of the institutional process. If someone does not know the nuances of the various complexities around these issues, the impact can be significant. Creating this package of information would allow student conduct administrators and Title IX coordinators to help educate both supervisors and their overall community.

Also, this study identified that access to institutional resources can play a significant role in an institution’s ability to more successfully address and respond to campus sexual violence. Though all participants were at arguably well-resourced
institutions, as they were all AAU member institutions, even within AAU, there was an identifiable discrepancy between the resources available among some of these institutions, which had a direct correlation to the number of staff dedicated to addressing this topic and the mechanisms of support for students, staff, and faculty. It is important to understand the role that access to resources can have on an institution’s successful navigation of this difficult topic, and that there can be a great discrepancy between the resources available by institution. This discrepancy shows that it would be beneficial to further explore the concept of a cooperative adjudication process. In response to both the issues of limited resources and in consideration of the variability and difficulty of responding to campus sexual violence and sexual assault, a discussion has begun on the development of localized adjudication centers that multiple colleges and universities would use for the investigation and adjudication of allegations of campus sexual assault and sexual harassment. Though not a criminal court system, this model could also address some critics’ beliefs that campus sexual assault and sexual harassment is a crime that colleges and universities should not be addressing. Having a regional center that addressed campus sexual violence could also begin to standardize the national response to sexual violence on college and university campuses and help element some of the variable interpretations of the federal guidance.

Lastly is a recommendation for allowing for grace and fortitude. One of the biggest impacts effecting student conduct administrators and Title IX coordinators is that frequently people jump to conclusions. So often, individuals believe what they read in the media is perpetually true. Individuals want to believe that student conduct administrators
and Title IX coordinators are acting with a disregard for the feelings of victims, respondents, or both. Often, there is an unwillingness to forgive or examine with compassion those directly responsible for addressing campus sexual violence and sexual harassment. Today’s student conduct administrator and Title IX coordinator have to be extremely competent practitioners who approach their work with grace and fortitude, often traits not reciprocated to them. Ultimately, what needs to be further examined is how we hold these practitioners accountable, when change may be necessary, but in a manner that does not do more harm.
APPENDICES

Appendix A

IRB Approval

University of Pennsylvania
Office of Regulatory Affairs
3624 Market St., Suite 301 S
Philadelphia, PA 19104-6006
Ph: 215-573-2540 Fax: 215-573-9438
INSTITUTIONAL REVIEW BOARD
(Federalwide Assurance # 00004028)

24-Aug-2017

Diane E Eynon
Attn: Nathan Miller
smiller2@swarthmore.edu
eynond@gse.upenn.edu

PRINCIPAL INVESTIGATOR : Diane E Eynon
TITLE : Dear Colleagues: Examining the Impact of Title IX as related to College Sexual Violence and Sexual Harassment, Including a Department of Education and Office for Civil Rights Investigation on Student Affairs Administrators
SPONSORING AGENCY : No Sponsor Number
PROTOCOL # : 828171
REVIEW BOARD : IRB #8

Dear Dr. Eynon:

The above-referenced research proposal was reviewed by the Institutional Review Board (IRB) on 23-Aug-2017. It has been determined that the proposal meets eligibility criteria for IRB review exemption authorized by 45 CFR 46.101, category 2.

This does not necessarily constitute authorization to initiate the conduct of a human subject research study. You are responsible for assuring other relevant committee approvals.

Consistent with the federal regulations, ongoing oversight of this proposal is not required. No continuing reviews will be required for this proposal. The proposal can proceed as approved by the IRB. This decision will not affect any funding of your proposal.

Please Note: The IRB must be kept apprised of any and all changes in the research that may have an impact on the IRB review mechanism needed for a specific proposal. You are required to notify the IRB if any changes are proposed in the study that might alter its IRB exempt status or HIPAA compliance status. New procedures that may have an impact on the risk-to-benefit ratio cannot be initiated until Committee approval has been given.

If your study is funded by an external agency, please retain this letter as documentation of the IRB’s determination regarding your proposal.

Please Note: You are responsible for assuring and maintaining other relevant committee approvals.

If you have any questions about the information in this letter, please contact the IRB administrative staff. Contact information is available at our website: http://www.upenn.edu/IRB/directory.

Thank you for your cooperation.

Sincerely,

Megan Bogia
IRB Administrator

Digitally signed by Megan Bogia
Date: 2017.08.24 13:02:38 -04'00'
Appendix B

Original Email Solicitation to Research Participants

Dear NAME,

My name is Nathan Miller, and I am a doctoral student within the Graduate School of Education at the University of Pennsylvania. I also am the Associate Dean of Students at Swarthmore College where I oversee the Office of Student Engagement (residence life and student activities), the Office of Student Conduct, and case management.

I’ve spent over 12 years working in and running student conduct offices at the University of Alaska, Anchorage, St. Olaf College, Dartmouth College, and Swarthmore. I know firsthand the challenge of this work and the impact that the federal guidance from the Dear Colleague letter and ongoing Department of Education and Office for Civil Rights investigations has had on our work.

I write to you today as a student conduct colleague and also as a colleague under investigation by the Office for Civil Rights and the Department of Education. Knowing how underrepresented the impact of these investigations is on student conduct practitioners and Title IX coordinators, I am hoping through my research to provide a greater voice to the work we do in relation to the topic of Title IX and college sexual violence and sexual harassment within higher education literature.

With a commitment to privacy and anonymity for both you and your institution, I write to you to see if you might be willing to be a research participant in my study. I would welcome the opportunity to answer any questions you might have prior to committing to this study. The expected time commitment for participants is one in-person or video conference interview, lasting approximately one hour, with the possibility of a 30-minute follow-up interview, if needed, at a later date. I am planning to conduct my interviews through the beginning of the Fall 2017 semester.

The primary question guiding my work is: What are the Effects of a Department of Education and Office for Civil Rights Investigation of a Violation of Title IX, Regarding College Sexual Violence and Sexual Harassment on Student Affairs Administrators of Title IX?

I look forward to hearing back from you.

Best,
Nate Miller
Appendix C

Interview Protocol

1. What is your position and how long have you been at your institution?
2. What percentage would you say is related to addressing sexual violence, sexual harassment?
3. Annually how many sexual harassment, sexual cases do you address?
4. What does a typical day look like for you?
5. What was your initial reaction to the DCL?
   a. Were there things that stood out to you?
   b. Were there things that were surprising?
6. Are you similar with the concept “ComplianceU” and what is your reaction to this term?
7. Do you think that media, political viewpoints, external factors are impacting your work?
8. Have you ever consider leaving your position because of your work with Title IX?
9. Have you ever experienced any physical or mental impacts as a result of the work you do with Title IX?
10. Have you experience a sense of perpetual foreboding in relation to your work with Title IX?
11. What is your relationship with your campus general counsel office?
    a. Has there been a shift in that working relationship since the Dear Colleague letter for April 2011?
12. What is your relationship with campus media/communications office?
    a. Has there been a shift in that working relationship since the Dear Colleague letter for April 2011?
Appendix D

Informed Consent Form

Protocol Title: Dear Colleagues: Examining the Impact of Title IX Regulation, Investigation, and Public Scrutiny on Higher Education Administrators

Principal Investigator: Nathan P. Miller
Graduate School of Education, University of Pennsylvania
3700 Walnut Street, Philadelphia, PA 19104
email: XXXXX@swarthmore.edu, phone: (610) XXX-XXXX

Before you agree, the investigator must explain a number of things to you. These things include:

DESCRIPTION: You are being invited to participate in a research study that explores the effects of addressing college sexual violence and sexual harassment, public scrutiny, and a Department of Education and Office for Civil Right investigation of a violation of Title IX on student affairs administrators responsible for the administering, enforcing, and reporting of Title IX. You are being asked to participate in an interview which will focus on your experiences as a student conduct administrator or Title IX coordinator at an AAU institution that is under investigation by the Department of Education and Office for Civil Rights. In-person interviews will be recorded and transcribed, and the recordings and transcriptions will be kept in a secure location. If an in-person interview is not available, a video interview will be conducted and recorded using Zoom (www.zoom.us) video connection technology. All publications and presentations will ensure your confidentiality, and all participants and participant institutions will be assigned a nonidentifiable pseudonym. This research is being conducted as part of the requirements for the Executive Doctoral Program at the Graduate School of Education at the University of Pennsylvania.

RISKS AND BENEFITS: There are no anticipated risks associated with this study. Given the stigma, sensitivity, and at times outright hesitation to discuss ongoing investigations by the Department of Education and Office for Civil Rights you may experience some discomfort when sharing information regarding your experiences of being a student conduct administrator or Title IX coordinator at an institution under investigation. Though I cannot guarantee confidentiality, I am committed to your confidentiality and will use pseudonyms for both individual participants and their institutions and will store the names and assigned pseudonyms in different locations from the data collected.

Participants will have the opportunity to share their story as either a student conduct administrator or Title IX coordinator at an AAU institution under investigation by the
Department of Education and Office for Civil Rights. Given the limited literature that currently exists for these populations, the findings may be used to better understand the impact that these investigations have had on you as a participant. With an increase in federal regulation and the growth of internal and external scrutiny and criticism, more student conduct administrators and Title IX coordinators find themselves navigating a Department of Education and Office for Civil Rights investigation of a violation of Title IX. This study will provide administrators with distinctive insight as they attempt to better understand the impact of the work of student administrators and Title IX coordinators, enabling better support for these practitioners.

As a participant in this study, you may request to receive a copy of the summary findings upon completion of this project. Upon your consent, this interview will be recorded. The recording will later be transcribed for research purposes, but will never be played for any audience other than the researchers directly involved in this project. Upon completion of the project, all recording will be erased.

**TIME INVOLVEMENT:** Your participation in this research project will take approximately 60 minutes. Brief (approximately 30 minute) follow-up interviews or telephone conversations may be conducted as needed. You will be invited to review the interview transcript to make corrections.

**PAYMENTS:** Although your assistance is greatly appreciated, there will be no payment for your participation.

**RESEARCH PARTICIPANTS RIGHTS:** If you have read this form and have decided to participate in this project, please understand that your participation in this research study is voluntary. Whether you decide to participate or not, you are free to leave the study at any time. You have the right to refuse to answer particular questions. Your individual privacy will be maintained in all published and written data resulting from the study. If you have questions about your participation in this research study or about your rights as a research subject, make sure to discuss them with the study investigator or members of the study team. You may also call the Office of Regulatory Affairs at the University of Pennsylvania at (215) 898-2614 to talk about your rights as a research subject.

You will be asked to sign this form to show that
- the research study and the information above have been discussed with you
- you agree to participate in the study

If requested, you may receive a copy of this signed form.
BIBLIOGRAPHY


