

Law Journal Article Condemns Higher Ed Sexual Assault Programs as Failures Influenced by Conflicts of Interest

An article in the BRIGHAM YOUNG UNIVERSITY EDUCATION AND LAW JOURNAL condemns sexual assault programs implemented by Institutions of Higher Education (IHEs) as influenced by conflicts of interest that no other profession with an ethical code would tolerate. The article then notes that IHE research demonstrates what types of programs will reduce sexual assault, but the vast majority of IHEs fail to implement the programs suggested by this research. The article adds that many IHEs implement programs that IHE research shows are ineffective in reducing sexual assault.

"I am so glad to get the chance to work on thought-provoking and discussion-provoking articles like this one," says Kate McKeen of the BYU Education and Law Journal.

Sexual assault is a significant and growing problem at IHEs. In 2007, the United States Department of Justice noted that 1 in 5 women are sexually assaulted while attending an IHE. In 2015, a study of 27 IHEs suggested that this decade, the number has increased to nearly 1 in 4. A 2017 study by the University of Texas system found that 6-15% of undergraduate women were *raped* while attending their institution.

The article notes that IHE research overwhelmingly demonstrates that programs teaching situational awareness and self-defense, combined with realistic alcohol education, are the only proven method of reducing sexual assault on campus. Such programs are empirically proven to modify behavior in ways that keep participants safer. When implemented in Canada, such programs have reduced rape by half and attempted rape by two thirds over control groups that receive the typical college program. The research also demonstrates that students find these programs much more enjoyable and interesting than the programs currently used at IHEs.

The article also examines IHE sexual assault investigation and adjudication practices. Article co-author Talcott J. Franklin explains the problem: "In many cases, the IHE essentially acts as policeman, prosecutor, defense counsel, judge, jury, and executioner in a case where the IHE also has an interest in the outcome. You cannot expect fair decision-making for either the accused or the accuser in this system."

The article argues that an arbitration model like that used by the Financial Industry Regulatory Authority (FINRA) involving clear rules and a truly neutral fact-finder unaffiliated with the IHE would produce fairer results. However, many models exist to reduce these conflicts, Franklin states. "IHEs will tell you that they can manage conflicts of interest that every other profession understands are not manageable. Recognizing this fundamental issue is the key to resolving it."

The article's authors and editors hope the article will cause IHEs to re-examine their sexual assault policy and prevention practices. "Sexual assault on campuses is not new, but many of the discussions are getting better and the solutions are out there. Hopefully good scholarship can continue to power those solutions," says McKeen.

The article is available at:

<http://digitalcommons.law.byu.edu/cgi/viewcontent.cgi?article=1392&context=elj>

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