

## Kenyon College Alumni Council: Title IX Discussion, May 2016

Fellow Alumni: During Alumni Council's May 2016 on-campus meeting, we had the opportunity to discuss Kenyon's Title IX policy and procedures, and its efforts to prevent sexual assault, with President Sean Decatur and Vice President for Student Affairs Meredith Bonham '92. The session consisted of a detailed briefing by President Decatur, followed by a wide-ranging discussion with both he and VP Bonham on additional concerns and questions raised by Council members.

This summary of the meeting focuses primarily on Council's overall impressions of the current situation, as well as our plans going forward.

The initial briefing was organized around four major topics:

1. History, background, and context – included evolution of Title IX over the past 45 years, the Clery Act, the Violence Against Women Act (VAWA), pertinent Supreme Court and other judicial decisions, and Ohio law. Much on the history, background, and context of this topic is summarized on Kenyon's website: [Title IX and Violence Against Women Act \(VAWA\) Policy](#).
2. Kenyon's Title IX policy and process, focusing primarily on the major policy revision which was implemented for the 2015-16 academic year in response to the Department of Education's 2014 "Dear Colleague" letter. The president also provided an overview of important statistics. No specific cases were discussed.
3. Current and planned education and prevention efforts.
4. The upcoming audit and other plans.

### **Overall Impressions:**

1. First and foremost, we came away from the meeting with no doubts about the depth and sincerity of President Decatur's and VP Bonham's commitment to efforts to stop sexual assault at Kenyon. This was evident in their frank and forthcoming approach to the discussion, pledge to learn whatever there is to be learned – whether supportive or critical – from the independent audit of the College's policies and practices, and change whatever needs to be changed to make the College safer. It was also evident in an equal commitment to improving education and prevention, the discussion of which began with a comment that "when a situation becomes a Title IX report we have already failed."
2. President Decatur articulated three overall goals in going forward: a campus where everyone is safe from sexual violence, fairness of process, and compliance with the law.
3. During the subsequent open discussion, Council members raised a number of questions and concerns, some grounded in recollections going back many years. It was clear that President Decatur and VP Bonham understand the depth and range of feelings about this matter across the alumni community and are attending to sources of information about them, such as the "Title IX at Kenyon" Facebook page, the public-facing blog, and media coverage of the issue at Kenyon and other institutions across the country.

### **Details about implementation of Title IX:**

1. Under the 2014 Title IX guidelines the College must appoint a Title IX coordinator; establish trauma-informed policies, procedures, counseling and support services for dealing with claims; provide both parties in a claim with equitable support; process cases within a specified time frame irrespective of parallel legal proceedings; and use a preponderance-of-evidence standard ("50% + a feather") in determining whether there was a violation of the College's Title IX policy and, if so, what sanctions should be applied. Both parties may have independent advisors.

2. The College's current Title IX policy and procedures, first implemented in 2015, were developed with wide-ranging input, including engagement of the law firm responsible for the investigation at Baylor. That relationship continues. The new process scrapped the old hearing board model and put in place a trained-investigator model.
3. Under Ohio law, the College must report suspected felonies to local law enforcement. Beyond this, Title IX is explicit in its requirement that legal proceedings are independent of the Title IX process. The decision about whether to seek separate legal recourse is the claimant's. The College provides claimants with help understanding their options and supports their personal decisions. It neither encourages nor discourages claimants from involving local law enforcement. Local law enforcement may or may not elect to pursue prosecution.
4. To help facilitate collection of legal evidence, the College is working on a process to bring trained nurse examiners to the College.
5. Decisions on how to proceed with the Title IX process are also up to the reporter. These can range from simple report with no further action at one end, to informal resolution, to a formal Title IX investigation, which the College must process. If a case becomes a claim (per the reporter's decision) the College must provide support to both the claimant and the respondent.
6. Claims are investigated by a team of two individuals, one of whom is a trained professional investigator from outside the College. Details of the investigative process are provided in the College's formal Title IX policy statement. In brief the investigators review evidence submitted by both parties, conduct interviews, and draft a preliminary report. Both parties have the right to submit additional evidence. A final report goes to an adjudicator.
7. Requirements that College staff (with the exception of designated confidential resources, i.e. peer sexual misconduct advisors, clergy, and health care professionals) report incidents of suspected sexual misconduct to the Title IX coordinator now provide a single focal point at the College for collection of data and will facilitate the identification of patterns involving individuals.
8. Some statistics for first academic year (2015-16) under the new Title IX policy, through the end of April.
  - 18 reports were made to the Title IX coordinator of unwanted sexual contact, ranging from touching/fondling to sexual intercourse.
  - 4 occurred elsewhere and/or prior to student's arrival at Kenyon.
  - 4 cases did not proceed to formal claim at the reporter's choice.
  - 4 cases proceeded to informal resolution.
  - 6 cases proceeded to claim and investigation.
  - Contrary to some reports, a majority of these resulted in sanctions.

#### **Details on the Title IX Audit:**

1. The process of selection of a firm will be completed in early June. The committee involved in the process includes students, trustees, faculty, and administration. It will be a firm specializing in this work, and independent of the firm which has been involved to date with the College in developing and implementing its policy and procedures.
2. Over the summer the audit will focus on a comprehensive review of policy and practices, investigative reports, and records of deliberations and actions. In the fall focus will shift to interviewing of students, organizations, etc., and assessment of education efforts.

#### **Update on Education and Prevention:**

1. As already noted, President Decatur considers the occurrence of new Title IX reports as evidence that more and better efforts are needed.

2. Current education efforts are multi-pronged and aimed at students, organizations, and College staff. There is much emphasis on the meaning of “consent.”
3. The student body was very activated by recent events. For example, during the weeks before final exams the Sexual Misconduct Advisors organized and hosted a community-wide forum, and the Student Council convened a mandatory meeting of all student organizations.
4. Addressing the community issues surrounding sexual misconduct on campus will include consideration of the findings of the audit, and open, honest and candid discussions about the party and alcohol culture on campus.
5. As a first step, the College is instituting new mandatory online training for all incoming students.

**Council Plans:**

Kenyon’s efforts to end sexual assault will be a standing item on Council’s agenda for the foreseeable future. In keeping with our mission, our roles will be to provide the College with an alumni-centric perspective on plans and their implementation, and to share what we learn with the alumni community. President Decatur promised to keep the Council involved and informed. We, in turn, will continue to keep all of you, our fellow alumni, informed of and involved in our efforts. We want and need your input. You can reach us at [alumnicouncil@kenyon.edu](mailto:alumnicouncil@kenyon.edu).

Sincerely,

Alumni Council