

How Do Universities Define Sexual Consent?

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BROADER PROJECT

Title IX prohibits sex discrimination in education, including sexual assault. Public pressure alongside policy forwarded by the Obama Administration ushered in new policy approaches. Starting in 2017, political opposition rolled back these changes. Our project examines school response as of 2016.

CONTEXT

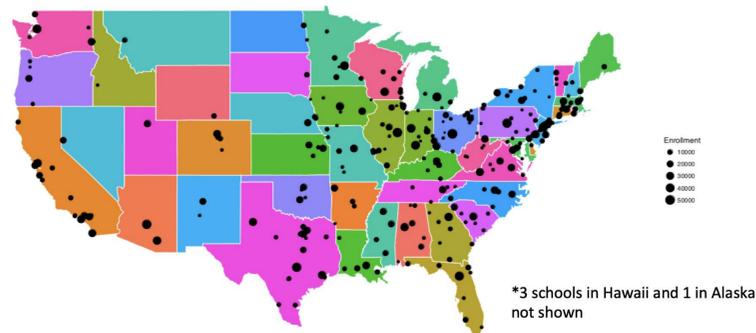
- 2011- Dear Colleague Letter released, stating sexual assault was a form of sex discrimination prohibited by Title IX.
- 2014- White House Task Force on sexual assault releases policy recommendations, including definitions for consent.
- 2014- California passes legislation requiring schools use affirmative consent definitions.
- 2015- New York passes affirmative consent law.
- 2017- DeVos rescinds 2011 DCL guidance.
- 2020- New Title IX regulations bolster rights of the accused. Sexual consent is not addressed 2000+ page document.

RESEARCH QUESTION

Without a national definition of consent, how did higher education policy documents define consent and incapacitation in 2016?

METHODS

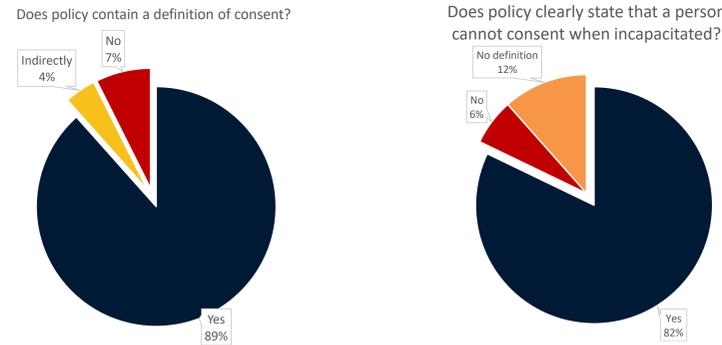
Title IX Project Sample, n = 381



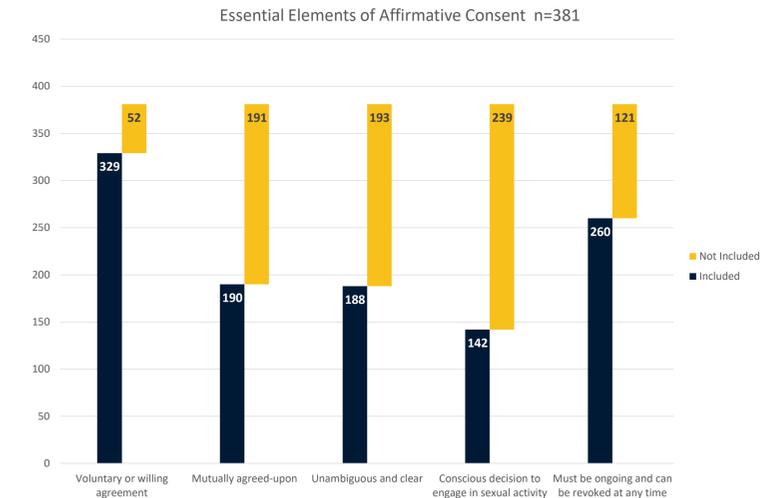
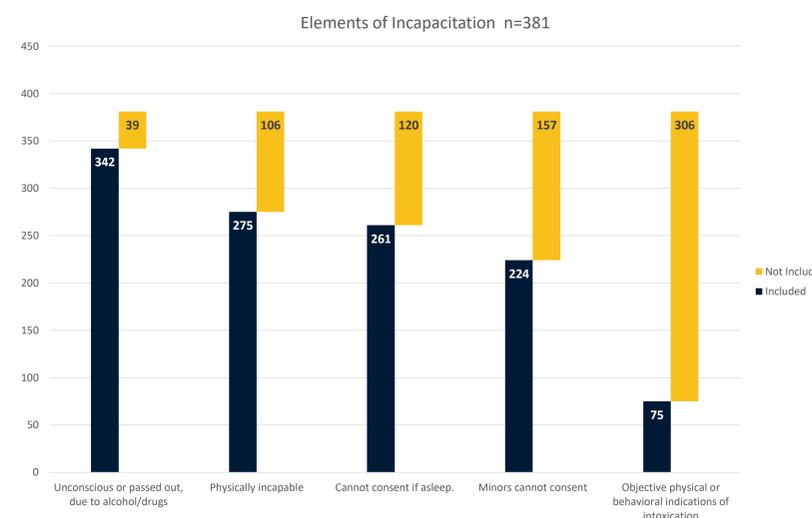
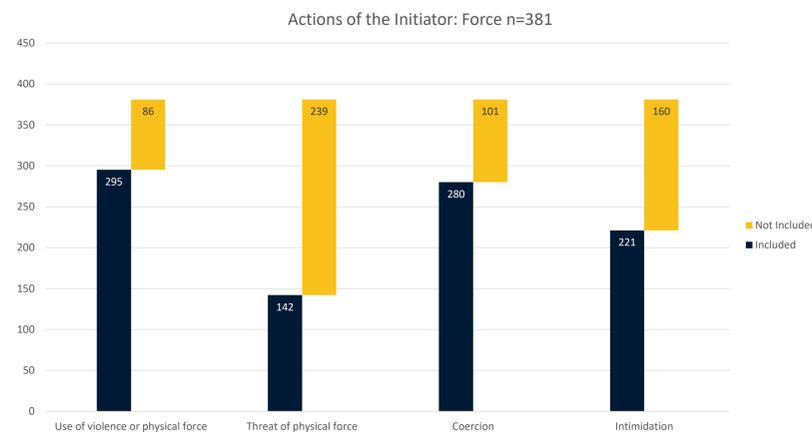
Data comes from a nationally representative sample of 381 US colleges and universities. We collected and coded school policy documents, found in 2016, detailing consent and incapacitation definitions. Two trained student coders used an original instrument to individually categorize consent elements

RESULTS

By 2016 most schools defined consent and incapacitation



However, the substantive diversity of consent definitions provided by schools was enormous. Schools cannot be easily sorted according to more or less feminist definitions, as schools appear to be pick and choose elements from across the whole history and development of the concept (e.g. They include some force elements, but not all, some affirmative consent elements, but not all, and it is not clear why they choose the elements that they do).



DISCUSSION

- We see the heterogeneity of the definitions driven by the multiplicity of influences, constraints, and stakeholders (e.g. state and federal law, student affairs, feminist sexuality educators, etc.)
- As students, faculty, and staff move from institution to institution they may be bound by quite different expectations for sexual conduct. This variation creates challenges for education and adjudication, and is particularly challenging for professional conduct in interorganizational spaces.

ADDITIONAL FUNDING

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RESEARCH TEAM

Project Primary Investigators: Elizabeth A. Armstrong and Sandra R. Levitsky
Thank you to the many undergraduate students who coded sexual misconduct policies.