Organizational Change through Hybridization: Adjudicating Sexual Assault Amid Conflicting Logics
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RESULTS
By 2016, only 20% of schools used the single investigator model to adjudicate sexual misconduct cases. Contrary to the media narrative, a majority of schools used hybrid procedures that separated the investigation from the determination of the finding to protect due process.

Data comes from a nationally representative sample of 381 US colleges and universities. We collected and coded school policy documents, found in 2016, detailing adjudication procedures. Two trained student coders used an original instrument to individually categorize policy decisions schools used at 7 stages of a complaint process.

Most schools included procedural handoffs, where there was an investigation conducted by trained, usually civil rights professionals, and the finding of responsibility was decided by another party. Inquisitorial hybrids included an investigation and the case was handed off to a more senior official or panel to review and make the determination. Adversarial hybrids consisted of an investigation prior to an adversarial hearing, wherein the hearing board weighed evidence from the investigation, the parties, and other evidence to make the determination.

On paper, almost half of policies were structured to balance Title IX rights with due process protections. The Adversarial Hybrid is the model required by the 2020 Title IX regulations, though cross-examination has been added to the procedure.

Contrary to media narratives, most schools did not have a procedure that allowed one official to act as "judge, jury, and executioner." Rather schools included procedural handoffs to ensure multiple actors were involved in the transition from investigation to determining the finding. These procedures, on paper, attempted to balance Title IX rights with due process.

The new regulations require schools to use a model similar to the Adversarial Hybrid. However, the mandate of cross examination tips this model in favor of accused students and criminalizes the procedure.

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