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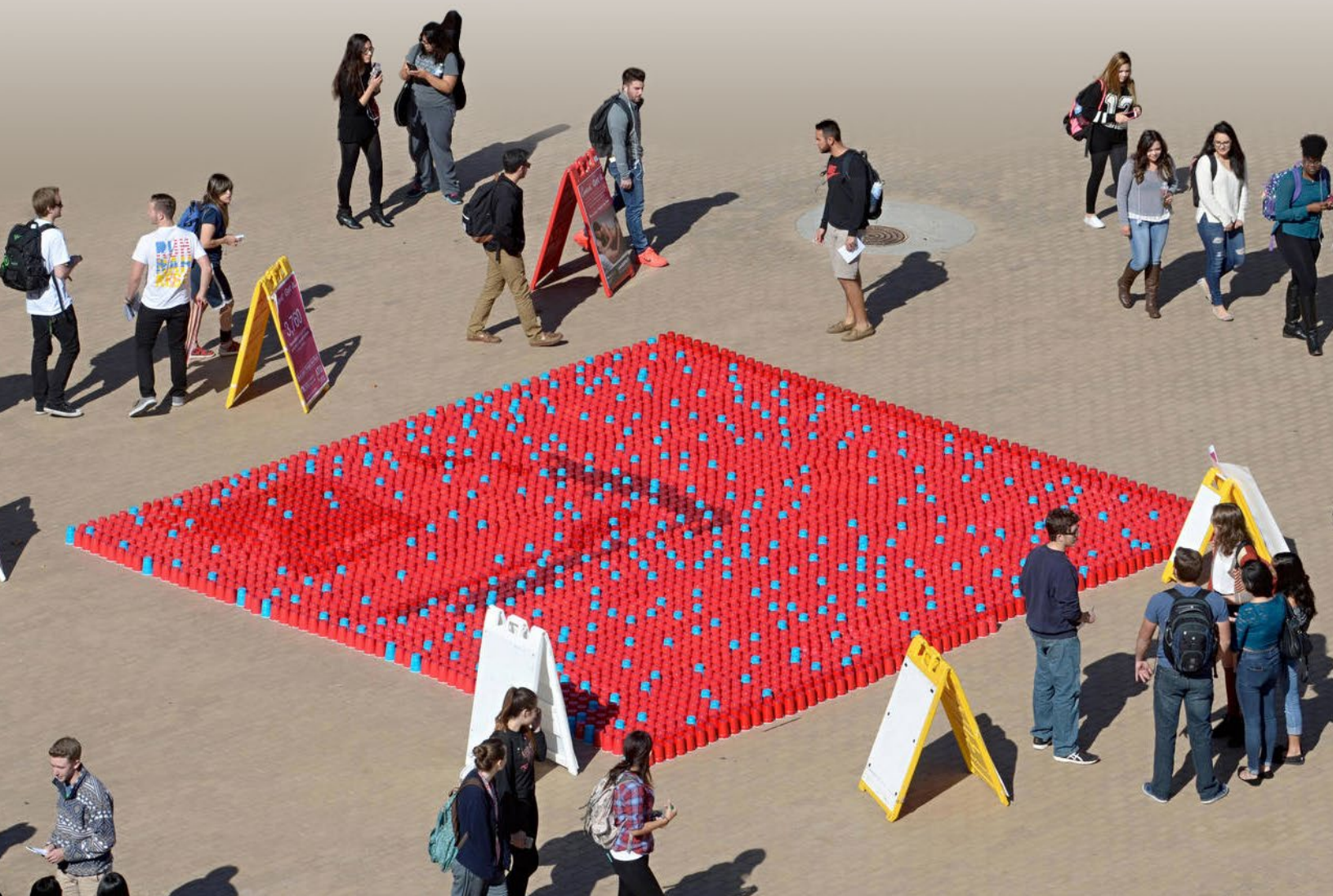
Where Colleges Stand on Title IX

A survey report on the progress, problems, and future of making campuses safer from sexual misconduct



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Contact CI@chronicle.com with questions or comments.

Cover photo: Students at the U. of New Mexico walk past a display of 3,760 red cups and 369 blue cups, representing the number of students at the university who are projected to experience some form of sexual assault in their lifetime. The red cups represent female students; the blue cups, male students. The project was presented by a fraternity and the university's Lobo Respect Advocacy Center to raise awareness on the campus.

DEAN HANSON, ALBUQUERQUE JOURNAL VIA ZUMA

INTRODUCTION

For almost 10 years, college campuses have made preventing and responding to sexual misconduct among students a major priority. They have organized student and faculty training, hired new staff members to investigate cases, rewritten policies, and taken other steps to curb sexual assault and harassment.

These efforts, in response to a 2011 directive from the Obama administration ordering colleges to strengthen compliance with Title IX, have made headway. But just how much is unclear. To help find out, *The Chronicle* commissioned a survey of Title IX directors and other senior administrators.

The results are a snapshot of how well college officials believe they are doing — and a sign of what else needs to be done. The survey was conducted in January 2020, before the spread of the novel coronavirus, which forced campuses to close dormitories and cancel in-person classes.

Most colleges, the survey found, are confident that they have improved their prevention of and response to sexual misconduct in the years since the Obama administration's "Dear Colleague" letter. That letter warned colleges that they could lose their federal funding if they did not take further measures to prevent and respond to sexual violence.

But the latest confidence level is based largely on the reality that many colleges had put minimal resources into dealing with sexual misconduct before 2011. The 2011 letter pushed them to invest in Title IX offices and train students and faculty members alike. They acted out of real concern about the problem, but also out of fear of federal scrutiny and of potential litigation.

The survey finds that while many colleges feel that they have made positive steps, fewer are certain that they have been in compliance with Title IX since 2011 — a sign, perhaps, of confusion over changing guidelines and recent court decisions.

Even trickier is evaluating progress and defining success. Results from the survey and from interviews with Title IX coordinators and other campus officials demonstrate how difficult it is to measure what these programs, meant to prevent and respond to reports of sexual misconduct, have achieved.

Some tactics, such as bystander intervention and peer educators, appear promising and popular on most campuses. Others spark controversy, such as requiring some or all college employees to report to the Title IX officer any perceived sexual misconduct that a student might discuss.

There are no simple answers or perfect strategies. And the legal environment is constantly evolving. Federal regulations spelling out the policies and procedures under Title IX are being revised. And resources, already stretched to support Title IX efforts, may dwindle further as colleges face the effects of the Covid-19 outbreak.

Despite the rapidly changing situation, colleges will no doubt continue to look at how to hone their existing methods of prevention and response and find more-nuanced ways to deal with the complex topic of sexual misconduct. To help deepen understanding of the issue, this report uses the findings from the survey and analyses from various campus leaders and other experts.

The survey includes results from officials at 567 colleges. A little fewer than half of the respondents identified themselves as Title IX coordinators, with the rest comprising directors, deans, presidents, and provosts. Both public and private institutions were represented, with 80 percent identified as four-year institutions and the others as two-year.

The *Chronicle* research and the report on its findings were developed to be presented at a meeting organized by the Department of the Army and the United States Military Academy at West Point to discuss Title IX issues among colleges and military academies. That meeting was postponed due to the outbreak of the new coronavirus.

Progress, but Concerns

At first glance, the figures look good.

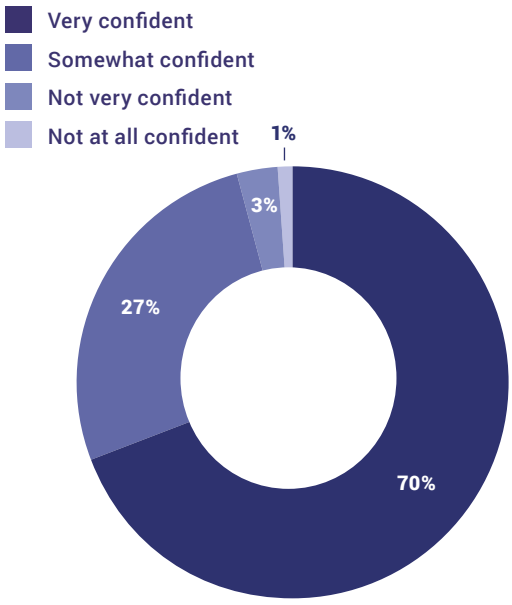
Almost 100 percent of the respondents to *The Chronicle*'s survey on Title IX say they have improved prevention of and response to cases of sexual misconduct since 2011.

Seventy percent are "very confident" that they have improved their prevention of sexual harassment, assaults, stalking, and intimate-partner violence, and 75 percent are "very confident" they have improved their responses.

But there is a different story behind those figures.

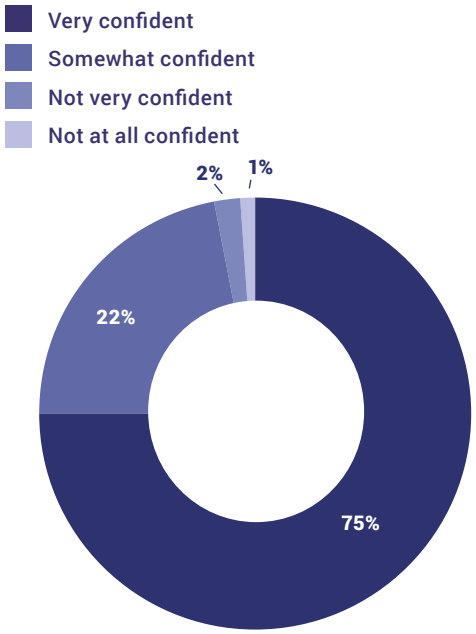
In 2011 "we didn't even have a comprehensive policy," says Jennifer Argo, Title IX coordinator for Jacksonville State University, in Alabama. "It wouldn't take a lot for me to say, 'OK, yes, from 2011 to 2020 we're heads-and-tails above where we were. We had a lot of room for improvement. But

How confident are you that your institution has improved sexual-misconduct prevention for students since 2011?



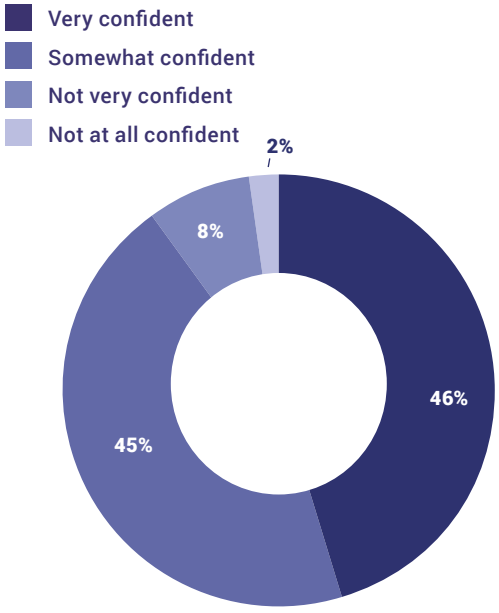
Source: *Chronicle* survey

How confident are you that your institution has improved its response to students' reports of sexual misconduct since 2011?



Source: *Chronicle* survey

How confident are you that your institution has been in compliance since 2011?



Source: *Chronicle* survey

we're doing so much better now."

Argo's comments are echoed by a number of other Title IX coordinators. Angela Catena, at the University of New Mexico, says the "'Dear Colleague' letter really lit a fire under institutions to get the ball rolling."

While most colleges feel they have made strides over the past nine years, they are less sure they are in compliance.

So, while most colleges feel they have made strides over the past nine years, they are less sure they are in compliance. Forty-six percent of the survey respondents say they are "very confident" that their institution has been in compliance since 2011, and 45 percent say they are "somewhat confident."

This uncertainty stems from a variety of reasons, but most significant are a lack of clarity in federal guidance on this issue — including the 'Dear Colleague' letter and subsequent changes, such as the 2017 interim guidance issued by the Department of Education — and the expected release soon of new regulations by the department.

In the *Chronicle* survey, 63 percent of respondents say the biggest barrier to progress on this issue is confusion over changing federal regulations. Sixty percent cite a lack of resources.

Respondents also report making a variety of changes to curb sexual assault and misconduct on campus. Several of these changes were described as "very effective" by a majority of colleges. They include small steps such as forming a task force or committee related to Title IX, and substantial ones, such as changing the standard of evidence for accused students to be found responsible, introducing anonymous re-

porting, and holding mandatory staff training.

Measuring Progress

More difficult to assess than whether progress has been made since 2011 is how to measure it.

Some colleges say an increase in the number of reports of sexual misconduct made to their Title IX offices indicates that their systems are working better, while others say a reduction in the number of reports suggests the same thing.

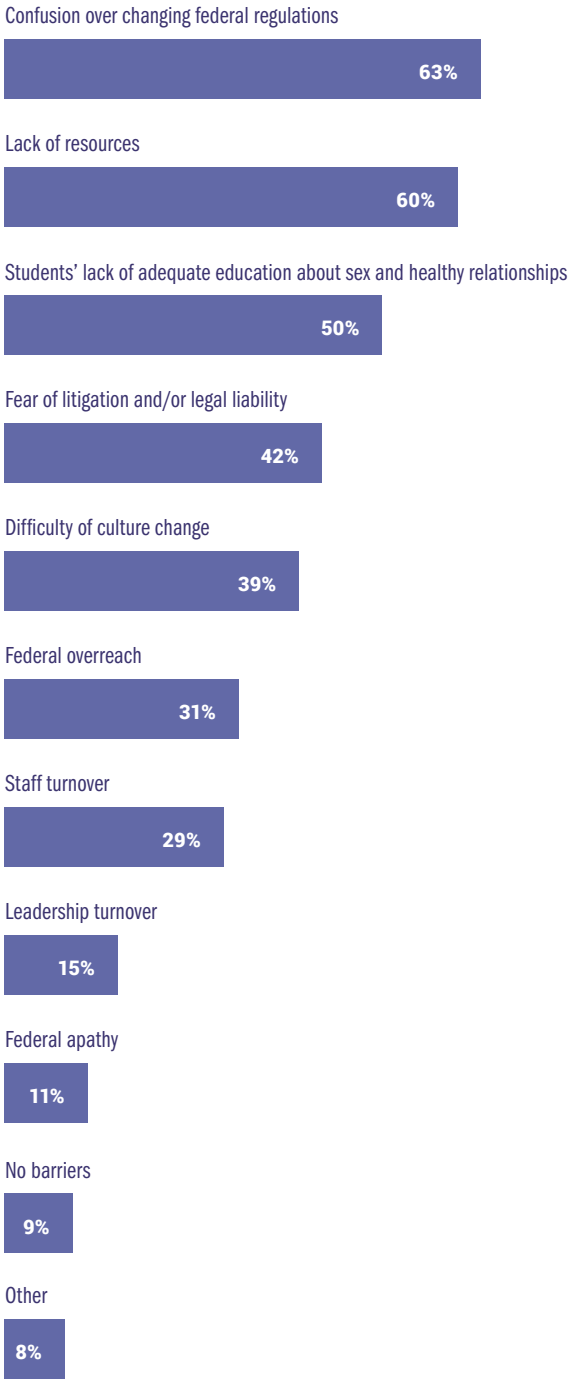
Other answers to the question of measurement involve student engagement in prevention efforts, fewer lawsuits, climate-survey data, and focus-group findings.

"It's very hard to know what the baseline is," says Peter F. Lake, a law professor and director of the Center for Excellence in Higher Education Law and Policy at Stetson University College of Law. "Are we asking the right questions for what we're trying to achieve? That's the big question of the day."

Many students, especially women, wonder the same thing. A survey of 180,000 students by the Association of American Universities, released in October 2019, found that more than one in four undergraduate women said they had experienced some form of nonconsensual sexual contact while in college. But only 15 percent of those who said they had been victimized by sexual assault or another form of harassment reported using a program or resource such as counseling or a Title IX office after the incident, with many saying they did not trust the process. An AAU study five years ago found similar results.

If students were asked about their confidence in the Title IX system on their campus, "I think you'd see a flip of numbers," says Brett Sokolow, president of the Association of Title IX Administrators. "If 80 percent of administrators were very confident,

What do you see as barriers to progress on this issue?



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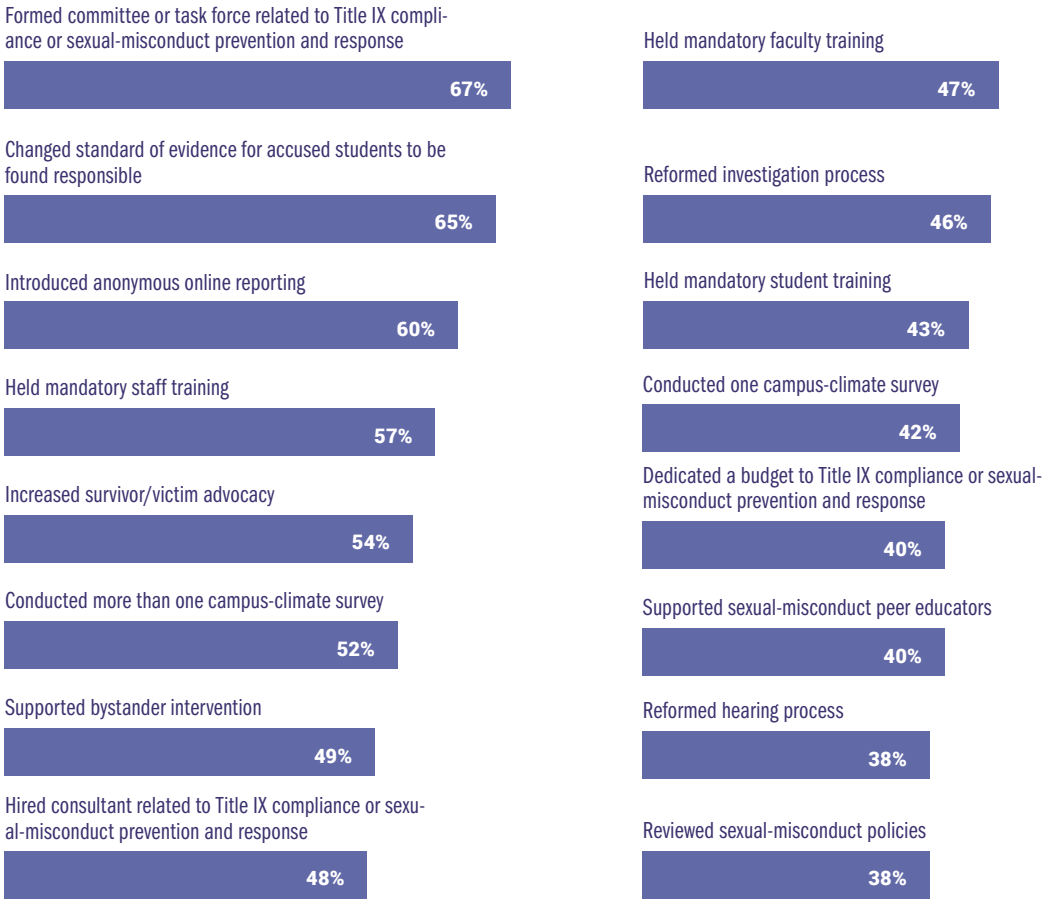
Source: *Chronicle* survey

Which steps have you taken to improve prevention or response that you'd describe as "very effective"? Top 16 choices.



Note: Multiple choices allowed. Respondents were asked to choose from a list of steps.

Source: *Chronicle* survey

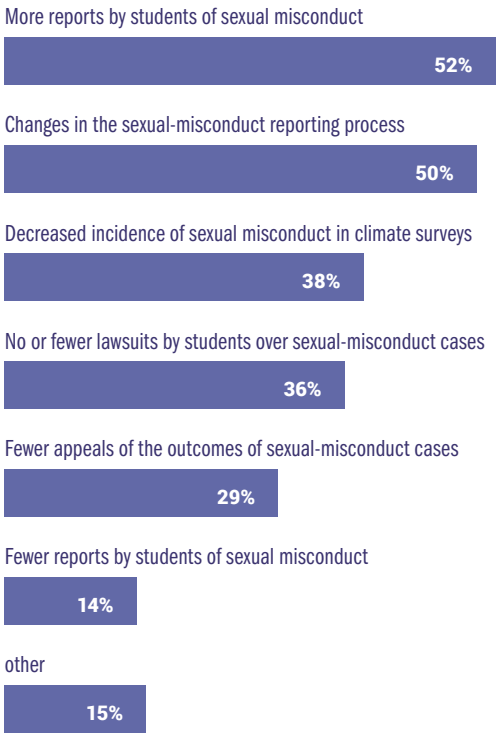
probably 20 percent of students would be equally confident."

Lack of trust is a major problem, but so is a lack of awareness, despite the information and training, whether online or in person, that almost every student receives upon entering a higher-education institution.

"I think it's super interesting when universities say they have a lot of confidence" in their Title IX system, says Catherine Campbell, a sophomore at Syracuse University. As a peer educator (a job for which she is paid), she understands how the policies and pro-

"If 80 percent of administrators were very confident, probably 20 percent of students would be equally confident."

How does your institution gauge improvement in its response to students' reports of sexual misconduct?



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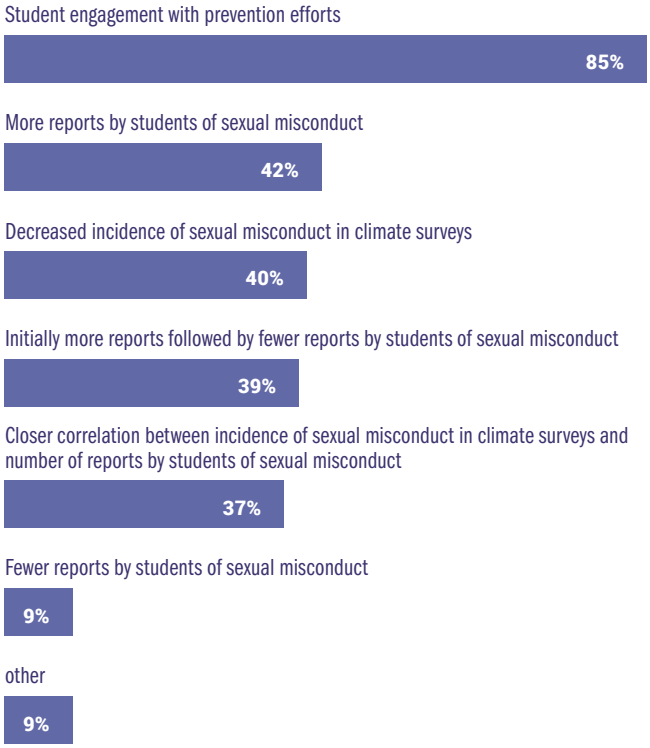
Source: *Chronicle* survey.

How does your institution gauge improvement in sexual-misconduct prevention for students?



Note: Multiple choices allowed.
Source: *Chronicle* survey

cedures work, she says, but "before I got that training, the process was very vague and unclear to me. Students don't know it unless they've gone through it, and most students who have gone through it don't want to talk about it." (Campbell notes that she is speaking as an individual and not representing the university.)

The reality, says Sokolow, is that "most people asked to self-evaluate their program in any context will probably be slightly optimistic about the success and effectiveness of that program. "You're asking them if they think they have an effective process in place. You're not asking the objective question if they have an effective process in place."

And Title IX coordinators know that.

"There's different ways to evaluate how successful your program is," says Sherri Conard, director of first-year experience and Title IX coordinator at Butler Community College, in Kansas. "It's so complicated, because we're dealing with young people's lives. We have been charged with a task that is very big, and we are being trained to follow processes with little resources."

Or as Jennifer Argo, at Jacksonville State, puts it, "The hardest part of this work is that there's no good way to measure success."

Improving Prevention

"When I first came to the University of New Mexico, in 2012, as a student, talking about sexual assault was taboo," says Angela Catena, the Title IX coordinator. "Now you can walk around the campus and hear people talking about it."

Although she knows talking about it isn't enough, the fact that it's on the radar now, she says, is a win.

In the *Chronicle* survey, when asked what types of prevention their college currently has in place, 85 percent of respondents replied that they have mandatory student training.

But mandatory training has its limits. Students are subjected to so much information, especially when they first enter college, that they don't necessarily absorb much of what they're told.

RAJAH BOSE, NEW YORK TIMES, REDUX

At the U. of Montana, signs appeared on the pillars of the football stadium in 2015 to raise concerns about sexual misconduct.

"A friend once said, 'No one hears the answer to a question they did not ask,'" says Catherine Berryman, director of community standards and Title IX coordinator at Hamilton College. "That definitely applies to training on an issue you're not currently interested in."

> "The training is providing people with the knowledge to say, 'You know, this actually doesn't feel right. There's something going on.'"

The University of New Mexico has come up with a method it says works better.

Starting with the incoming class of 2014, students are gathered in groups of about 100 for training on the prevention of sexual misconduct and then break up into smaller groups, of 15 to 20. Those groups in particular, facilitated by trained, paid student leaders, allow participants more opportunity to open up and discuss issues, says Catena, who has been Title IX coordinator since December 2018.

Previously, when the topic was presented as a play at orientation, in front of all the incoming students, there wasn't much follow-up, she says.

Now the data show that "our numbers are increasing, but it's interesting to see what the patterns are," Catena says. "We're seeing an increase in reports for stalking, for intimate-partner violence — some of those much more subtle or nuanced violations. So we know, as we're looking at our curriculum for education, that students have really started to focus on some of those pieces. The training is providing people with the knowledge to say, 'You know, this actually doesn't feel right. There's something going on.'"

Training to Intervene

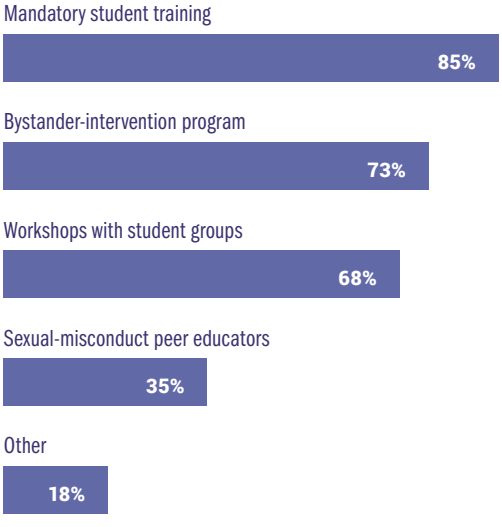
One method that both students and administrators believe has proved effective in preventing sexual misconduct is bystander-intervention training — teaching people how to step in when someone seems to be in an uncomfortable or potentially dangerous situation.

Bystander intervention has been more rigorously studied than most efforts in this area, with findings that generally support its effectiveness.

Seventy-three percent of the college officials responding to the *Chronicle* survey say they offer training in bystander intervention, and 49 percent identified it as a "very effective" prevention measure.

Catherine Campbell, the Syracuse student, gives training in bystander intervention and thinks it's a great program. She talks about setting ground rules for friends and having code words — "something to

Which types of sexual-misconduct prevention does your institution have in place now?



Note: Multiple choices allowed.
Source: *Chronicle* survey

keep in the back pocket" — if someone feels uncomfortable with someone.

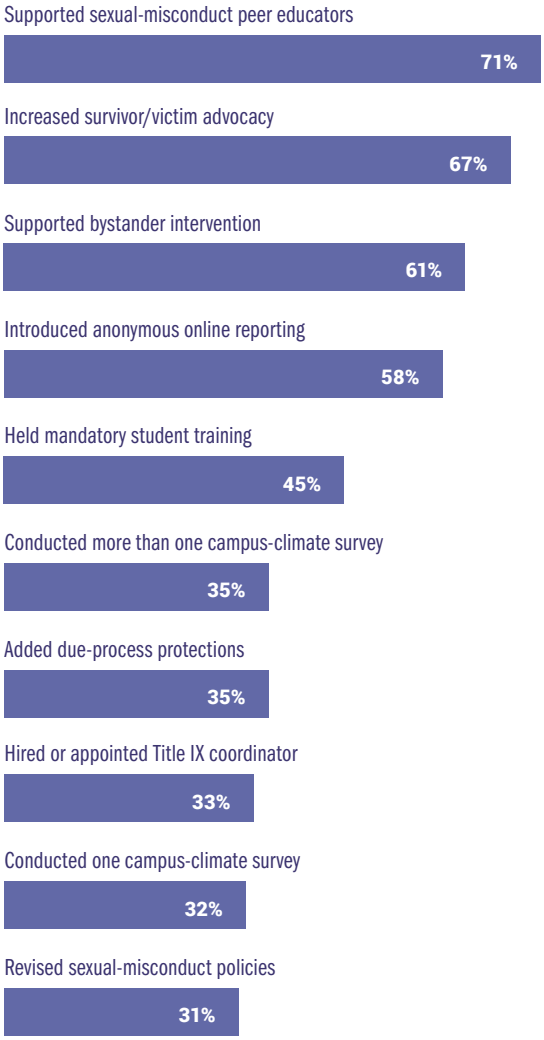
"Being able to talk about it makes you more comfortable with how to intervene without being obvious," she says.

When college officials were asked in the survey what measures they thought students welcomed the most in addressing prevention or response to sexual misconduct, the use of peer educators topped the list, with 71 percent answering in the affirmative.

How peer education is done, of course, makes a big difference. Rhea Shahane, 22, a first-year law student at the University of Texas at Austin, served on the executive board of a student-led group called Not On My Campus.

The group was started around five years ago on social media at Southern Methodist University and then spread to other campuses, she said. Students at Austin decided in 2016 to organize an on-campus group to hold two-day training sessions on preventing and responding to sexual misconduct.

Which steps, if any, did students welcome? Top 10 choices.



Note: Multiple choices allowed.
Source: *Chronicle* survey.

Students were also more willing to go to peer educators in their own circle with things they might have seen or experienced.

"When we tried to go to organizations and talk to people, they didn't really care what we had to say, because they didn't know who we were," says Shahane, who was an undergraduate at Austin. Training leaders within organizations made a lot more sense.

"When people you know and have hung out with are telling you how to take more-affirmative steps for sexual-assault prevention," it has much more of an impact, she says. Students were also more willing to go to peer educators in their own circle with things they might have seen or experienced.

Now 50 to 75 people attend each training session, Shahane says. "It kind of exploded because it was something that was needed on campus, and there was no one to fill that niche."

Improving Response

Colleges use several approaches to investigate an allegation of sexual assault or misconduct. Most (69 percent) rely on a single investigator, and most (70 percent) say they hold hearings in all or some of the cases.

While the public tends to focus on the formal inquiry as a response to an allegation of sexual harassment, relatively few reports received by Title IX coordinators result in full investigations or hearings.

Much depends on the size of a college, among other factors, says Brett Sokolow, president of the Association of Title IX Administrators. He estimates that a college's average number of formal hearings is six to 12 a year.

"We don't have many that go through the entire investigation process — maybe one a semester," says Allison Vetter, Title IX investigator and education coordinator at Hendrix College, in Arkansas. But there are many "what I call little-i investigations.

COURTESY OF SYRACUSE U.

"There's such a range of what can be considered sexual misconduct," says Catherine Campbell, a Syracuse U. peer educator.

I had a student in my office the other day saying, 'I don't want to do anything, I don't want the other person to know I'm here — I just want you to know I'm struggling a little bit,' and we talked about what I could do to help. A lot of what I do is case management or no-contact directives."

Many students worry that just dropping in on their Title IX office would set them on a path to a formal investigation, says Catherine Campbell, the Syracuse peer educator. "Talking to a Title IX coordinator can be like talking to the institution, and it can seem as if they won't have control over the way their situation or case goes."

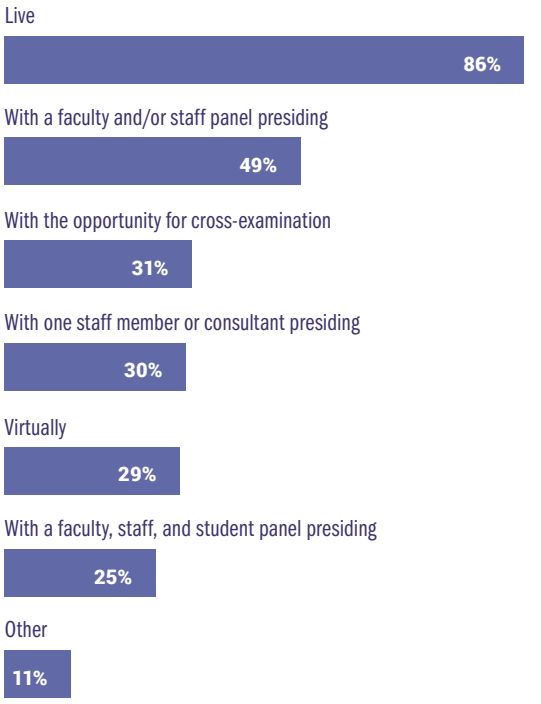
Many students worry that just dropping in on their Title IX office would set them on a path to a formal investigation.

Students also worry that what has happened to them doesn't really fall under the Title IX umbrella. While there are instances in which Title IX officers must, by law, pursue investigations because of the severity of the crime, that's not the case with the majority of complaints.

"There's such a range of what can be considered sexual misconduct," Campbell says. "When they come to me with questions, it's more, 'Does this count?' They see the signage from Title IX offices, and it's about stalking or domestic violence." Students don't know if they want to get the college involved in something they're not sure even qualifies as sexual misconduct, she says, "or they don't want to make it a really big thing."

Those who work in Title IX offices are familiar with that feeling and fight against it.

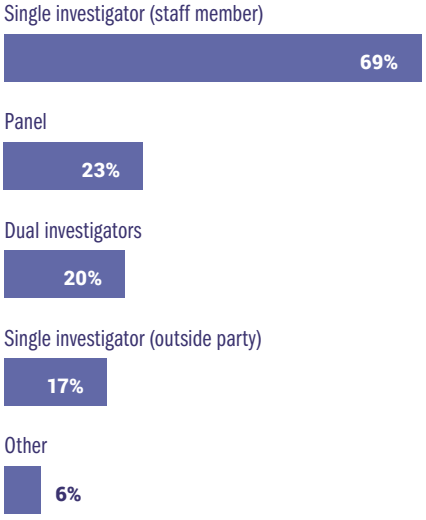
How does your institution conduct hearings?



Note: Multiple choices allowed.
Source: *Chronicle* survey

How does your institution investigate students' reports of sexual misconduct?

Types of Prevention



Note: Multiple choices allowed.
Source: *Chronicle* survey

Jennifer Argo, of Jacksonville State, says she tries to get in front of as many students as possible during classes and training sessions where sexual-misconduct prevention and response is discussed. "People feel more comfortable if they've seen someone face-to-face," she says. "That has helped."

She has also had display magnets made up with key contact numbers for campus resources, including hers.

"No one wants a Title IX magnet on their refrigerator, but I've put on the motto of our office, 'Your story matters.' The students really liked that. Almost everyone I've talked to recently says they have that on their fridge."

Concerns About Mandatory Reporting

Mandatory reporting is one of the more controversial institutional responses to cases of sexual misconduct. It is governed by three federal laws — Title IX, Title VII of the Civil Rights Act, and the Clery Act — which can make it confusing, Sokolow notes.

Many colleges, to avoid uncertainty, make almost everyone who receives a paycheck from the institution — excepting mental-health counselors, clergy members, and health-service providers — mandatory reporters, or, as they're often called, responsible employees.

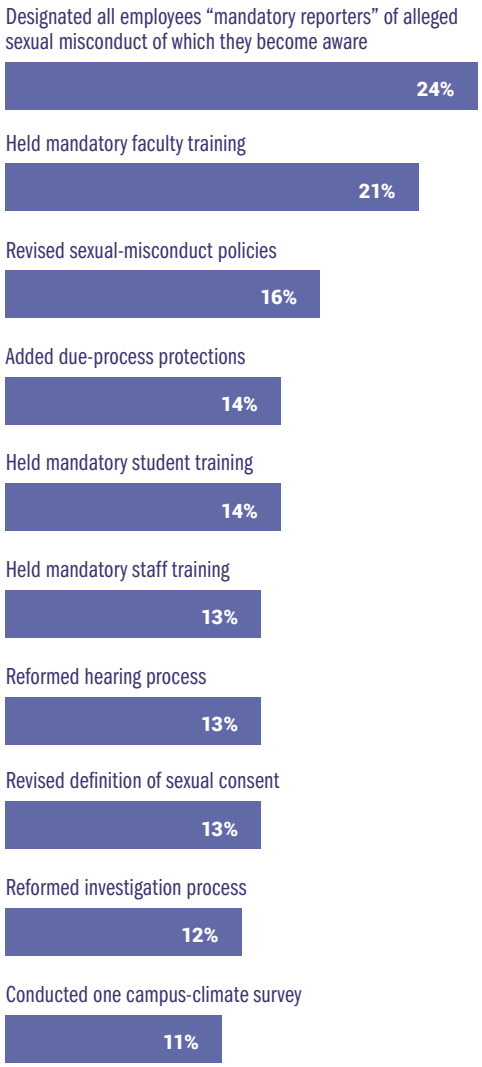
In the *Chronicle* survey, however, only a minority of institutions described the approach as "very effective" — 29 percent for designating some employees as mandatory reporters and 23 percent for including all employees. The survey indicated that mandatory reporting was the step that was most likely to be controversial, with almost a quarter of colleges saying it led to a campus debate.

"I see mandatory reporting as the right thing to do — just because a staff member is required to report it doesn't mean it will go into a full-blown investigation," says Sherri Conard, Butler Community College's Title IX coordinator. "It just means I've reached out to a student and said, 'Here are your choices.'"

Professors at her college are often glad to turn over the problem to her. "A lot feel, 'I don't want this on my hands,'" she says. "They report everything and anything to me."

But many faculty members dislike being put in the position of having to tell a student who wants to confide such a problem, or write about it for a class assignment, that they are obliged to report it to the Title IX office.

Which steps, if any, led to campus debate? Top 10 choices.



Note: Multiple choices allowed. Respondents were asked to choose from a list of 25 steps.
Source: *Chronicle* survey.

MONTANA STATE U.

By offering more training on reporting, Montana State University has helped mitigate concerns about mandatory reporting, says Emily Stark, the college's director of institutional equity and Title IX coordinator.

Emily Stark, director of institutional equity and Title IX coordinator at Montana State University, says that starting more in-person mandatory-reporter training for faculty and staff members, in 2018, has helped deal with some of those concerns.

"I think before, faculty and staff didn't understand what rose to the level of reporting, and that's a pretty low bar for me," she says. "We also demystify the process, and that helps folks."

She attributes some of the increase in sexual-misconduct reports at Montana State — they went up 33 percent from 2018 to 2019 — to getting more information from mandatory reporters.

A number of colleges have put in place confidential advocates — who are staff members exempt from the mandatory-reporting requirements under Title IX. The University of New Mexico opened the Lobo Respect Advocacy Center in 2015 to provide just such an option; everyone employed in the center is a confidential advocate, Catena says. These confidential advocates are also housed in other centers, such as the Women's Resource Center and the LGBTQ Resource Center.

The university was under Department of Justice oversight from 2016 to December 2019, following a 16-month investigation in response to student complaints that the university did not respond adequately to reports of sexual assault. The department found that the university was out of compliance with Title IX in a number of areas.

Under the agreement, the university pledged, among other things, to provide more training to students and staff and faculty members about sexual harassment and sexual assault, to ensure that training includes details about where to go for assistance, and to revise its grievance procedures.

> "Our number-one priority is that those who have been impacted feel supported."

"Our number-one priority is that those who have been impacted feel supported and able to continue to access their education or their work environment," Catena says. "A lot of times, confidential advocates can really help in navigating those pieces — it is a great resource for people who want to feel supported, who want resources, but do not want to move forward with something more formal in my office."

SECTION 4

What's Ahead

Most Title IX coordinators look to the future with both apprehension and optimism. Apprehension, as they worry what effect the new Title IX federal regulations will have on their programs. But optimism that they can learn from their own and one another's experiences as they develop their programs and procedures.

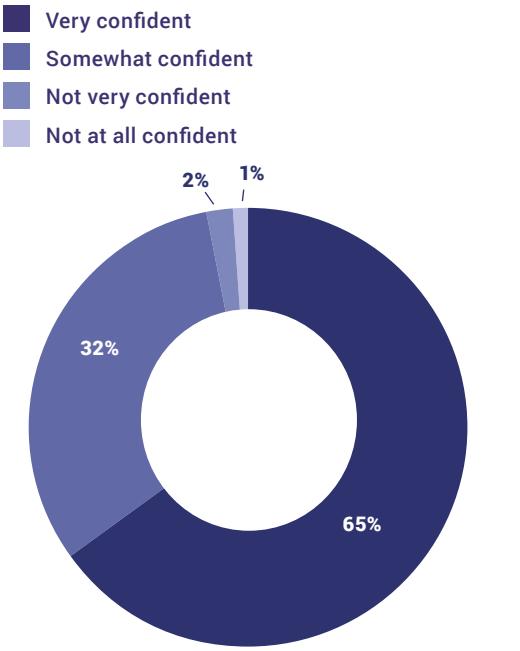
Sixty-eight percent of respondents to the *Chronicle* survey say they are "very confident" that they can continue to improve their response to students' reports of sexual misconduct, while 28 percent are "somewhat confident."

Ways that colleges can improve, they say, include getting feedback from students who have interacted with the Title IX office, especially those who have gone through investigations.

"I try to get a good gauge from students individually who I meet with during investigations — what they feel would be fair," says Jennifer Argo, of Jacksonville State. "That's where I draw my inspiration for making it a better process."

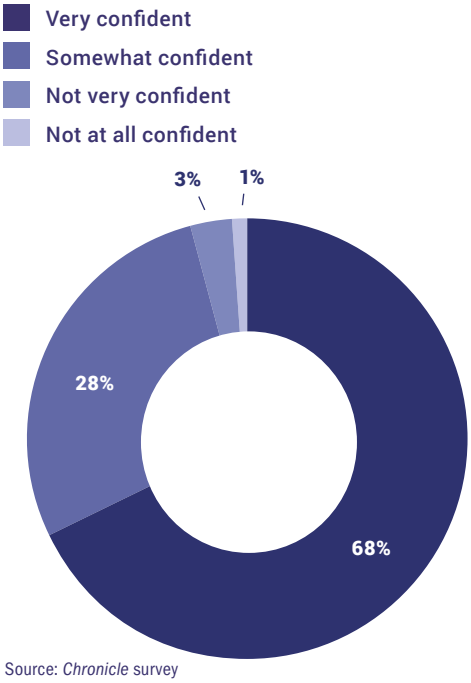
Stepping back and looking at how the process operates as a whole — something very few Title IX coordinators have the time to do — can also be very helpful, says Allison Tombros Korman. She is senior director of the initiative "Culture of Respect," a two-year program of Naspa-Student Affairs

How confident are you that your institution can continue to improve sexual-misconduct prevention for students?



Source: *Chronicle* survey

How confident are you that your institution can continue to improve its response to students' reports of sexual misconduct?



Source: *Chronicle* survey

Administrators in Higher Education.

Some 120 institutions have completed or are now part of the program — four-year colleges pay $8,895, and community colleges half that. Each university or college creates a working group across departments, including students, and uses a 150-question evaluation to rigorously assess its own program, says Tombros Korman.

She and her team then offer suggestions about areas that seem successful and those that need change. Colleges can use those ideas to create an action plan, and the evaluation is repeated at the end of the process to measure what has changed.

Some critique the program as too broad, with a one-size-fits-all approach to the issues. But Emily Stark, of Montana State, which joined Culture of Respect in January, says the appeal to her was "an evidence-based approach to participate in, without having to develop one from scratch."

And Catherine Berryman, at Hamilton, which also is in the program, says it was particularly useful to create "a campuswide team of individuals who are committed to reviewing our policies and looking at best practice in the area."

One area in which Title IX offices often fall short, Tombros Korman adds, is addressing the needs of graduate students — a topic that wasn't included in the *Chronicle* survey. "There's so much focus on undergraduates," she says, "that when they get to prevention and education for graduate students, they realize there's a gap there."

Moving Beyond Punishment

A number of colleges hope to find more ways to curb sexual misconduct that aren't punitive. Title IX coordinators say it is not unusual for students coming to their offices who want to have their issue dealt with but don't want the accused to be severely disciplined.

At the College of New Jersey, for example, climate surveys showed that "students weren't interested in 'getting someone in trouble' but wanted accountability in a different way," says Chelsea Jacoby, the Title IX coordinator. "But we didn't have anything like that."

So, after talking with stakeholders, including the police, the general counsel, and peer educators, the college in 2017 started an alternative-resolution process grounded in restorative justice.

That is not the same as mediation, in which each party takes some responsibility, Jacoby explains; rather, in restorative justice, one party acknowledges causing harm.

If both sides agree to go down this route, the reporter, as the college calls the victim, writes up a contract — which, Jacoby says, should be as creative and individual as possible.

One of the steps most often spelled out in such a contract is that the respondent — the accused — participates in a workshop, which generally comprises three one-on-one sessions with Jacoby or a counselor

COLLEGE OF NEW JERSEY

The College of New Jersey is exploring a restorative-justice approach to sexual-misconduct cases. Chelsea Jacoby, Title IX coordinator for the college, says students choose that path usually because of a combination of fear of punishment and a genuine desire to repair the damage they caused.

from the college's antiviolence initiative. The goal is to build rapport and help the student become more aware, using scenarios of the behavior the respondent engaged in. No investigation is involved.

If included in the contract, in the third session, the reporter delivers an impact statement in writing or in person.

The idea isn't that respondents admit to wrongdoing before agreeing to engage in restorative justice, Jacoby says. "It's naïve to expect that." And there are many reasons students might choose to use restorative justice, she says — usually a combination of fear of punishment and a genuine desire to repair the damage they caused.

It often depends on the relationship of the two people involved, Jacoby says.

Many Title IX coordinators are eager to explore this area further, although they need to determine how it will fit in with the new federal guidelines and whether their universities will be on board.

"We are absolutely interested in using restorative justice," Catena says. "In theory it sounds great. We're just trying to figure out what that would mean in terms of application."

Since 2017, the College of New Jersey's Title IX office has completed 13 alternative resolution cases using restorative justice; over that time, it also has had about eight to 12 formal investigations into sexual misconduct over each academic year.

There have been no long-term studies on recidivism at her campus, Jacoby says, but "no one has gone through the process, completed it, and ended up back in our office."

Title IX coordinators, for the most part, are eager to find new options for preventing and responding to sexual misconduct on campus. At the same time, they must be nimble enough to deal with court cases, federal regulations, and state laws, as well as with their own constituency of faculty and staff members and students — usually with inadequate time and money.

"No one has gone through the process, completed it, and ended up back in our office."

"We're devoting resources to this, we're devoting thought, and we're trying to respond to feedback," Berryman says. "We're actively working on this. We're not just sitting back and letting things stay as they are."

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