

THE CHRONICLE OF HIGHER EDUCATION

Students

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Botching Sexual-Assault Complaints Is Costly, Study Finds

By Robin Wilson

A student tells her RA or coach that she was sexually assaulted, but that person doesn't alert campus authorities. A staff member dissuades a student from officially reporting an assault by warning her how grueling the process will be. A college finds an alleged perpetrator responsible for an assault without considering text messages from his accuser that don't refer to their encounter as an assault.

All of those are real cases that got colleges into legal trouble in recent years, according to a [report](#) released on Tuesday by United Educators, an insurance and risk-management firm. The company and 104 of its member institutions spent more than \$17-million from 2011 to 2013 defending against and resolving students' claims, including lawsuits and federal complaints, in cases of alleged sexual assault.

The new study examines 305 reports of assault at the 104 colleges in that three-year period, which followed the U.S. Department of Education's [sharp admonition](#) to institutions to comply with the federal gender-equity law known as Title IX. Under that law, institutions must investigate and resolve alleged assaults promptly and fairly, whether or not the police are involved. United Educators requires member institutions—"given the serious nature of student sexual assaults"—to inform the organization of any reports they receive.

Of those tracked in the new study, 9 percent resulted in lawsuits against institutions and another 9 percent led to federal Title IX complaints arguing that the college had mishandled the case. A majority of such claims against colleges—all of the [federal complaints](#) and about 40 percent of the lawsuits—came from

[alleged victims](#). They commonly argued that colleges had discouraged them from pursuing their complaints, conducted slow or negligent investigations, or imposed inadequate penalties even on students found responsible for sexual assault.



A student had a blue ribbon painted on her face to raise awareness of sexual assault.

Patrick Fallon,
Bloomberg via Getty
Images

Responding to Sexual Violence

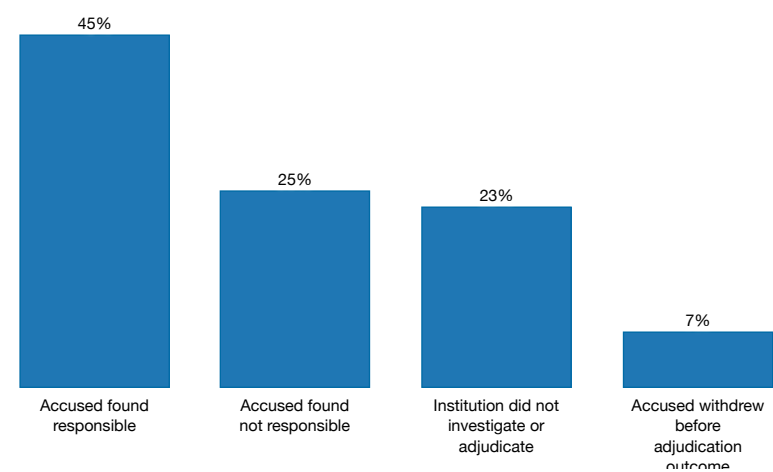
[Why Sororities Aren't Likely to Start Throwing Parties Anytime Soon](#)

[Download a Reader's Guide to Campus Sexual Assault](#)

Of the cases tracked in the study, United Educators found that campuses investigated more than three-quarters. Of the 23 percent of cases not investigated, the study found, the primary reason was that the alleged victim was not cooperative. In others, the college was unable to identify the alleged perpetrator, or that student withdrew.

"Campuses have tried to respond appropriately," said Robb Jones, senior vice president and general counsel for claims management at United Educators. "They struggle with confidentiality and finding enough resources. But they are not ignoring the problem."

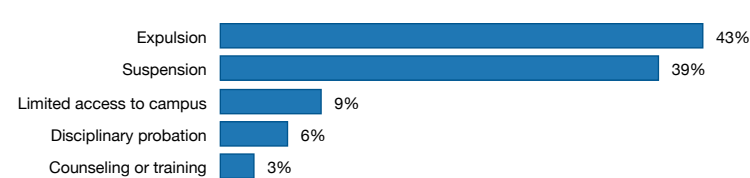
What Happened After Colleges Received a Report



Source: United Educators [Get the data](#)

They are also punishing alleged perpetrators, the study showed. In 45 percent of cases tracked, the college found the accused student responsible. Of those students, the vast majority—about 80 percent—were either suspended or expelled. The alleged perpetrators who [sued their institutions](#), representing about 60 percent of lawsuits in the study, commonly argued that the disciplinary process had discriminated against them and that penalties had been harsh and disproportionate.

Penalties



Source: United Educators [Get the data](#)

Yearlong Delays

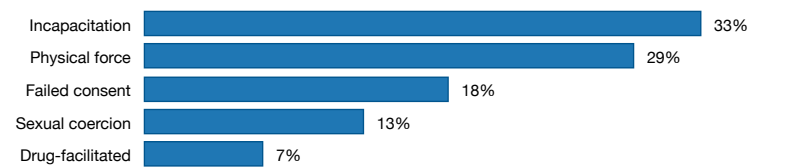
In addition to describing how cases go wrong, the study offers general insight into reports of campus sexual assault. That’s useful because relatively few sources analyze incidents across campuses.

According to the study, "[Confronting Campus Sexual Assault: An Examination of Higher Education Claims](#)," a third of students who reported assaults said that they had been incapacitated: unable to consent because they were drunk, passed out, or asleep. A slightly

smaller share of students reported the use of physical force, and 7 percent said they had unknowingly ingested a date-rape drug.

More than three-quarters of the incidents involved one or both parties' consuming alcohol. And in all the cases in the study, 90 percent of students knew one another before the alleged assault.

Methods of Sexual Assault



Incapacitation: Victim was unable to consent because he/she was drunk, passed out, or asleep.

Physical force: Perpetrator used physical force or threats of force to carry out assault.

Failed consent: Perpetrator used no force, threat of force, or coercion, but ignored or misinterpreted cues or inferred consent from silence or lack of resistance.

Sexual coercion: Perpetrator continued to engage in sexual contact after the victim hesitated or refused, but did not use force.

Drug-facilitated: Victim was incapacitated due to unknowingly ingesting a knockout or date rape drug.

Source: United Educators [Get the data](#)

Four in 10 alleged victims, the study found, delayed reporting assaults to their colleges. On average, they waited nearly a year after an incident. Among their reasons for waiting were blaming themselves because they had been drinking and labeling the incident an assault only after talking with friends or attending prevention training.

"Victim delay might be an indictment of a campus culture," said Constance Neary, vice president for risk management at United Educators. "You have students who've been assaulted, and they are suffering for months."

Meanwhile, other students are trying to support the victims, she said, and may perceive their institutions as unaware of sexual assault as a campus problem. And perpetrators are not being charged or punished. "This is damaging to the environment," said Ms. Neary. "Institutions have to be extremely clear about encouraging early reporting."

Eight in 10 alleged victims in the 305 cases were freshmen or

sophomores, the study found, and about half of the incidents occurred in residence halls. In 40 percent of cases, the two students involved had attended an off-campus party before going back to the campus, where the alleged assault occurred.

Nearly all of the accused students in the study were men (99 percent), and most of those who reported assaults (95 percent) were women. One in five students was accused of sexually assaulting more than one victim, and of those serial perpetrators, 44 percent were either athletes or fraternity members.

One in 10 cases might be considered a gang rape, involving a single victim and two or more perpetrators. Of those perpetrators, the study found, 40 percent were athletes and 13 percent fraternity members. "Our review of these claims suggests a subculture within some fraternities and teams that promotes hypermasculinity, sexual aggression, and excessive alcohol consumption," the report says. "These sociocultural factors may encourage students within these groups to engage in or excuse sexual violence."

Athletes were more likely than other perpetrators to be found responsible for assault. More than 60 percent of cases involving athletes resulted in findings of responsibility, compared with 45 percent of all cases. Athletes found responsible were about as likely to be expelled, but a smaller share were suspended and a greater share were placed on probation relative to the general population.

Robin Wilson writes about campus culture, including sexual assault and sexual harassment. Contact her at robin.wilson@chronicle.com.

Correction (1/28/2015, 2:02 p.m.): Because of inconsistent information provided by United Educators, the original version of this article said incorrectly that of the 305 reports of sexual assault tracked by the insurer, 28 percent resulted in lawsuits against institutions and another 28 percent led to federal Title IX complaints. The actual proportions were both 9 percent. The article has been updated to reflect this correction.

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Feudi Pandola • 8 hours ago

Wars are expensive, especially wars where 55% of the time you lose.

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Marc DePree • 7 hours ago

Administrators and faculty are not competent to adjudicate sexual assault claims/cases or other alleged crimes. They are/should be the purview of police and courts. Administrators and faculty can't even deal with accusations of plagiarism much less crimes. For example, see,

"University and AACSB Diversity" at <http://commons.aaahq.org/posts...>

"Virginia Tech Danger" at <http://www.amazon.com/VIRGINIA...>

"Ethics, Power, and Academic Corruption" at <http://www.amazon.com/Academic...>

Chauncey M. DePree, Jr., DBA, Professor (retired after 30+ years in higher ed), University of Southern Mississippi (a school that punishes speech).

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Reythia → **Marc DePree** • 2 hours ago

Agreed. The only thing university officials should be responsible for, when a student approaches them claiming to have been raped, is to quickly and accurately give the number to the local police station and later to willingly provide the cops with any needed formal records. That's it.

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fullprof99 • 6 hours ago

You know, there are lots of problems with adjudicating these cases in college settings, and so long after the fact, but at least in some cases some clear policy up front might be useful. For example, the sports team/frat guys who gang rape women. You'd think that colleges would be saying that any group sex--multiple men, one woman---would be automatically assumed to be coercive and an expulsion offense. Coaches and advisers could easily convey this to those they supervise. If one in ten charged rapes already fits this model, you'd be making an impact with this simple policy.

I suspect that one could come up with some similar guidelines for some other situations. Having clear guidelines such as these AND CONVEYING THEM CLEARLY might help alleviate the problems of sexual interaction, though of course they would not be complete solutions.

Oh, here is an egregious example in today's news:

<http://www.washingtonpost.com/...>

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sand6432 • 6 hours ago

I wonder how many of the athletes expelled or found responsible were high-profile athletes (like Jameis Winston)?--Sandy Thatcher

• Reply • Share

061150 • 5 hours ago

"Sexual coercion: Perpetrator continued to engage in sexual contact after the victim hesitated or refused, but did not use force."

