

How Many Terms Does It Take to Define Sexual Assault? Inconsistencies in U.S. Higher Education Sexual Misconduct Policies

Violence Against Women
1–21

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Abstract

Campus sexual misconduct policies (SMPs) outline prohibited conduct. We sought to document the range of terms used to refer to forms of nonconsensual sexual contact in SMPs and to analyze the content of definitions provided for the term “sexual assault.” We coded the 2016-2017 SMPs from a sample of 381 U.S. schools. We identified 125 unique terms and documented both a terminological and conceptual morass around sexual assault. Policy language may have implications for students’ and administrators’ evaluation of experiences and reports of sexual assault.

Keywords

campus sexual assault, sexual misconduct policies, higher education, colleges, universities, definitions of sexual assault

Introduction

Sexual assault is an umbrella term referring to nonconsensual sexual behavior ranging from touching to rape. Sexual assault of college women is an urgent issue given its impact on mental health (Carey et al., 2018), physical health (Smith et al., 2017),

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college academic performance and attrition (Baker et al., 2016; Mengo & Black, 2016), long-term health costs (Peterson et al., 2017), and employment (Loya, 2015). Approximately 20% of women and 4–7% of men experience sexual assault as undergraduates (Edwards et al., 2015; Fedina et al., 2018; Krebs et al., 2007; Muehlenhard et al., 2017). Despite high rates of assault on campus, few victim/survivors¹ report to the police or through other formal services (e.g., campus authorities, health services; Sabina & Ho, 2014). Victim/survivors may not report if the experience did not align with what they learned constitutes sexual assault. Griffin et al. (2022) analyzed tweets hashtagged with #WhyIDidntReport, including “I was taught rape was a violent attack from a stranger” (p. NP14728), “I was told that you can’t be assaulted by a boyfriend” (p. NP14729), and “I didn’t think it was bad enough to call assault b/c there wasn’t actual penetration” (p. NP14730).² Accurate and comprehensive definitions of sexual assault may help victim/survivors leave the “twilight zone,” in which they cannot categorize a violating experience (DeKeseredy & Schwartz, 2011).

Students often know little about how to engage in or evaluate ethical sexual behavior upon entering college (Hirsch & Khan, 2020), and college women are especially unlikely to label an experience of rape as such in comparison to noncollege women (Wilson & Miller, 2016). Critically, research shows that some college women learn an experience was sexual assault through educational sources, such as articles about assault (Harned, 2005). Schools are required by the U.S. Clery Act to distribute sexual misconduct policies (SMPs) (Karjane et al., 2002), and these could be students’ first exposure to formal sexual assault information. It is therefore imperative that schools provide students with clear and comprehensive information.

SMPs typically define prohibited conduct—such as sexual assault, stalking, and intimate partner violence—and describe how reports are adjudicated. They provide valuable insight into campus norms and values around sexual assault, gender, and sexuality. For example, a sexual misconduct policy at a private religious school that prohibits premarital sex will communicate a very different set of priorities, values, and norms than will a policy from a state flagship university. Inaccurate, inconsistent, and contradictory definitions can introduce misinformation and myths about sexual assault into the campus community. Schools whose SMPs define “sexual assault” as necessarily involving penetration—conflating sexual assault with rape—could teach students that nonconsensual touching is not *real* sexual assault. This narrow view could be adopted and used by students to evaluate, interpret, and judge their own and others’ experiences. Furthermore, incomplete, vague, or ambiguous definitions of sexual assault can communicate that sexual violations are normative, expected, or permissible in some situations (Papp & McClelland, 2021).

To our knowledge, there have not been any large-scale national studies documenting the range of and (in)consistency in terminology used in higher education sexual misconduct policies. We conducted a content analysis of SMPs from 381 schools across the United States to answer three questions: First, how many terms are schools using to define sexual assault? Second, do schools generally converge on shared definitions for the term “sexual assault”? Third, are schools providing conflicting definitions for “sexual assault” within a single policy?

Literature Review

Sexual assault is a multifaceted problem in the United States: it is variously viewed as a personal violation, a public health problem, a civil rights violation, a student conduct issue, a moral failing, a sin, and often a crime. Sexual assault definitions are situated within a complicated historical, political, and legal landscape. We describe advocacy and legislative efforts to define sexual assault and regulate campus sexual misconduct policies, and then we outline what we know (and still do not know) about school-provided sexual assault information.

The Politics of Defining Sexual Assault in the United States

Defining sexual assault has long been a political project in the United States, with important implications for women's sovereignty and citizenship (Freedman, 2013). Rape laws imported to the United States by English colonists established rape as the theft of a man's property (e.g., daughter). As a result, it was not a crime for a husband to rape his wife, nor was it for an enslaver to rape an enslaved person (Collins, 2004; Freedman, 2013). Early rape laws also placed undue burden on women to prove they were raped, for example, by requiring a corroborating witness (Freedman, 2013). Black women were early advocates of sexual justice in the nineteenth-century United States (Feimster, 2015; McGuire, 2004; Rosen, 2009), and, in the 1960s, a feminist antirape movement rose to prominence that further influenced public and legal consciousness and conceptualizations of sexual assault. Many members of this movement³ advocated for broader rape statutes and succeeded, resulting in widespread reform of state rape laws throughout the 1970s and 1980s (Berger et al., 1988). During this time, feminists used the term "sexual assault" to draw parallels between rape and physical assault and to communicate that rape is intrinsically non-consensual. The change was not only in name. Adopting new language also enabled the moral condemnation and criminalization of sexual harms beyond penile-vaginal rape, sometimes including nonconsensual touching (Berger et al., 1988).

New conceptualizations of sexual violence traveled through U.S. institutions. The American Law Institute's (ALI) 1980 Revised Commentaries on the Model Penal Code reflected changing cultural views on sexual violence through references to feminist reform efforts and states' expansion of sexual assault laws. Early campus sexual assault researchers faced intense backlash from critics in the 1980s and early 1990s, who disputed researchers' efforts to broadly define and operationalize sexual assault (Rutherford, 2017). These debates informed the federal Violence Against Women Act; when it was reported to the Senate in 1993, the draft characterized sexual assault as a broad term "including, but not limited to, rape" (p. 120). The section that contained that language was, however, struck from the bill before it became law. Today, scholars, federal agencies, and nonprofit organizations use "sexual assault" as a broad term to refer to a range of nonconsensual sexual activity (Canan & Levand, 2019; Office for Civil Rights, 2018; Rape, Abuse & Incest National Network, n.d.), but what counts as sexual assault is still politically and culturally contentious in the United States.

U.S. Federal and State Expectations for Schools' Policies

Title IX, a U.S. civil rights law passed in 1972, prohibits sex discrimination in educational programs that receive financial assistance from the federal government. In 1981, the Department of Education's Office for Civil Rights, the federal office responsible for enforcing Title IX, recognized sexual harassment as a form of sex discrimination (Reynolds, 2019). Without policies stating that sexual assault was a violation of the student code of conduct, schools had few options to address campus sexual violence. Adams and Abarbanel August (1988) called for U.S. universities to revise their policies so that they explicitly defined and prohibited various forms of sexual assault. The Student Right-To-Know and Campus Security Act (commonly known as the Jeanne Clery Act) of 1990 shared these goals and stated that "there is a clear need to encourage the development of policies and procedures to address sexual assaults" on campus (section 202). The Act required Title IX-eligible institutions to, in part, create and distribute policies on campus crime, including forcible and nonforcible sex offenses as defined by the Federal Bureau of Investigation's Uniform Crime Reporting (UCR) Program (Karjane et al., 2002).

In 1998, Congress mandated research on institutions' handling of campus sexual assault, including the existence and publication of definitions for sexual assault (Karjane et al., 2002). Karjane et al.'s (2002) content analysis of definitions revealed that while 45% of the policies (N = 591) prohibited at least one specific act (e.g., penile-vaginal rape), 33% used a single, generic term in their SMPs (e.g., sexual offense, sexual assault), and most policies did not define the generic term. Karjane et al. (2005) recommended that SMPs include clear definitions of all types of sexual assault; they emphasized that the Clery Act instructed institutions to use the FBI UCR Program's terms and definitions related to sex offenses but also recognized that institutions may use their own or their state's language.

The Obama administration sought to address campus sexual violence in its now-rescinded "Dear Colleague Letter" that reminded colleges and universities receiving federal funding of their legal responsibility to respond "promptly and equitably" to sexual violence (Ali, 2011). The administration later released additional, now-rescinded guidance to schools regarding their Title IX responsibilities (Lhamon, 2014). During this time, the White House Task Force to Protect Students from Sexual Assault (2014a) produced a set of guidelines for universities' SMPs. The Task Force included instruction to clearly define prohibited conduct and recommended including the terms "sexual assault," "nonconsensual sexual contact," and "nonconsensual sexual intercourse." For "sexual assault," the Task Force (2014b) provided a sample definition: "'Sexual assault' is actual or attempted sexual contact with another person without that person's consent" (p. 3). The Task Force's (2014b) proposed policy language also included examples of "sexual assault" ranging from any "intentional sexual contact" without consent to rape. The other relevant terms suggested by the Task Force (2014a) were not included in their sample language document.

State legislation regarding campus sexual assault increased in 2015–2017 following these efforts by the Obama administration (Johnson & Zhang, 2020). Johnson and

Zhang (2020) found that bills addressing campus sexual assault were introduced in 45 states and passed in 39 states between 2007 and 2017. One of the primary purposes of the legislation was to increase sexual assault awareness, in part by improving institutional policies and websites. Schools, seeking to be compliant, may incorporate state criminal statutes into SMPs. State laws are a weak foundation upon which to define sexual assault in a campus context, as they pay little mind to the complexities of college students' sexual cultures or the context of their assaults (DeMatteo et al., 2015; Hirsch & Khan, 2020). For example, drug or alcohol use commonly precedes campus sexual assault (e.g., Lorenz & Ullman, 2016), but many state laws do not address the temporary incapacitation that can be induced by drug or alcohol use. Furthermore, DeMatteo et al. (2015) found that state laws rarely defined sexual consent, or did so poorly, which can place school policies at odds with state laws if conflicting definitions are provided within the same policy.

Research on U.S. Schools' Sexual Assault Information

Prior research into U.S. college and university definitions of sexual misconduct suggest that terms related to sexual assault are inconsistently used and defined. Krivoshey et al. (2013) found that among Ohio school policies, the inclusion of terms and definitions differed across schools and that students' experiences of assault may not have been reflected in schools' definitions. Schwartz et al. (2015) determined that among 28 New Jersey college websites, 86% defined at least one form and 61% defined multiple forms of sexual assault. Less than a quarter of schools, however, cited a source for their definition. This finding suggests that, rather than drawing on expert sources, some schools may be creating their own definitions. Lund and Thomas (2015) reviewed the sexual assault information provided on a random sample of 102 U.S. universities' websites and found that 68% of the definitions of sexual assault explicitly stated that sexual assault includes a range of acts other than rape. A broad definition of "sexual assault" thus seemed to be most common—but not wholly accepted—among schools. Together, these studies documented the presence of terminological and conceptual inconsistencies but left open questions regarding the specific terms used in policies, the number of terms schools use to define nonconsensual sexual contact, and the extent to which formal policies provided conflicting information about sexual assault.

Current Study

Given the absence of consistent, widely adopted terminology and definitions, we sought to document the range of terms that schools are using to refer to sexual assault between unrelated adults who are intellectually able to consent to sex. Further, given the contention over what counts as sexual assault, we examined definitions of the term "sexual assault." We documented variation in definitions between and within schools. Variation between schools can contribute to general misunderstandings of sexual violence, and variation within schools can contribute to students' difficulty interpreting what forms of sexual conduct are unethical, prohibited, and reportable at their own school.

Method

Selection of U.S. Colleges and Universities

We drew a sample of 381 schools using the Integrated Postsecondary Education Data System (IPEDS) maintained by the U.S. National Center for Educational Statistics. IPEDS collects data from the more than 7,000 public and private colleges and universities that participate in federal student financial aid programs. We developed the sample using the following criteria: bachelor's degree granting, public and private not-for-profit, 4 years and above, and undergraduate enrollments of 900 students or more. From this list, we selected two overlapping samples: a simple random sample of 268 schools and a certainty sample of 114 schools. There were 31 schools that were in both samples. The certainty sample included all Ivy League institutions and every state's flagship public research university and schools in the Big 10, Big 12, NESCAC, and Peach Belt athletic conferences. We also included the most selective historically black colleges and universities (HBCUs), women's colleges, and Christian colleges. See Table 1 for sample characteristics.

Procedure

Two members of the research team, the lead author and a trained research assistant, coded sexual assault terminology defined in sexual misconduct policies following manifest content analysis (Potter & Levine-Donnerstein, 1999). We coded one policy per institution. We prioritized SMPs or similar standalone policy that specifically addressed sexual misconduct (e.g., Title IX Sex Discrimination Policy, Sexual Assault Policy). If a standalone SMP or related policy was not available, a student code of conduct or similar broad policy document was coded. Using a Qualtrics form, coders reported (1) the defined terms associated with sexual assault, (2) the policy used to identify terms, and, if provided, (3) the full definition for the term "sexual assault." Each unique term a coder encountered was added to the Qualtrics form as a new code. We captured the full text for definitions of "sexual assault" so that we could analyze how the term was used between and within institutions.

Terms were coded only if they defined nonconsensual sexual contact among unrelated adults with the intellectual ability to consent. As a result, we did not code for terms such as "incest," "statutory rape," and most "second degree" offenses.⁴ Because we were interested in terms that specifically defined sexual assault, we did not code for terms such as "sexual exploitation" (e.g., nonconsensual image sharing), "stalking," or "sexual harassment." Although sexual assault is considered a form of sexual harassment in the United States, we excluded the term "sexual harassment" because policy definitions did not define *examples* of harassment. Coding for "sexual harassment" would therefore not have provided insight into schools' definitions for nonconsensual sexual contact. Other terms, such as "gender-based violence" and "unwelcome sexual conduct," also referenced sexual assault as an undefined example. These terms were likewise not included in our analysis.

Table 1. Sample Characteristics.

| Institutional characteristics | n | % |
|--|-----|------|
| Geographic region | | |
| Northeast | 107 | 28.1 |
| Midwest | 105 | 27.6 |
| South | 123 | 32.3 |
| West | 46 | 12.1 |
| Sector | | |
| Public | 184 | 48.3 |
| Private nonprofit | 197 | 51.7 |
| Selectivity | | |
| Ivy League | 8 | 2.1 |
| Highly selective | 38 | 10.0 |
| Other elite | 23 | 6.0 |
| Less selective private | 145 | 38.1 |
| Less selective public | 145 | 38.1 |
| Nonselective | 22 | 5.8 |
| Peer groupings | | |
| Women's college | 12 | 3.2 |
| Historically black college or university | 22 | 5.8 |
| Religiously affiliated | 98 | 25.7 |
| State flagship | 50 | 13.1 |
| Ivy League | 8 | 2.1 |
| Sampling | | |
| Certainty sample | 114 | 30.0 |
| Probability sample | 267 | 70.0 |

If an institution used multiple terms for the same definition, we coded all terms. For example, if a definition was provided for “nonconsensual sexual intercourse (rape),” we coded the policy as defining the terms “nonconsensual sexual intercourse” and “rape.” If an institution did not define any terms specific to nonconsensual sexual contact, we coded that policy as having zero definitions, rather than excluding it from analysis, to illustrate the full range of approaches schools take to defining (or not defining) sexual assault in their policies.

The lead author trained the undergraduate research assistant. As an imagined audience member for these definitions, she was an invaluable part of our team and provided feedback on her subjective interpretation of the data (e.g., “The legal definitions were quite wordy and more difficult to understand than the university definitions.”). The research assistant was first assigned a random subset of 37 policies and asked to identify terms associated with sexual assault without using the Qualtrics survey. The lead author and research assistant then discussed any missed terms or terms that were coded but irrelevant. They both then coded 61 policies using the Qualtrics form to establish agreement at the institutional level (i.e., coded terms matched for a single school). Graham et al. (2012) suggested that 75% agreement and above is acceptable; the predetermined cutoff for agreement in the current study was 80%. Once they reached

agreement, they independently coded the remainder of the policies. The lead author then reviewed all coded policies.

The lead author coded the definitions for “sexual assault.” Given the complex history of the term “sexual assault” and disagreement regarding what behaviors it encompasses, we anticipated the term might be used to refer only to *some* acts, such as rape. Each definition of “sexual assault” was thus coded as either “narrow,” meaning it was exclusive to penetrative sexual assault, or “broad,” meaning it was inclusive of nonpenetrative acts such as nonconsensual touching. Policies that provided multiple definitions of “sexual assault” were examined for conflict between broad and narrow descriptions.

Findings

One well-defined term (e.g., sexual assault) can sufficiently communicate prohibited behavior associated with nonconsensual sexual contact. We identified, however, a wide range of terms used to define forms of nonconsensual sexual touching in campus policies and determined that many schools developed their own terminology. We also found that although most schools that used “sexual assault” defined it broadly, there were still inter- and intra-institutional conflicts over the term.

Number of Terms

A total of 125 unique terms that exclusively defined forms of sexual assault were captured during data collection. Despite a high number of terms in circulation, most schools defined few in their SMPs. The number of terms defined in each policy ranged from 0 ($n = 27$, 7.1%) to 17 terms ($n = 1$, 0.3%) with a median and mode of two terms ($n = 103$, 27.0%). See Table 2 for a complete list of terms and the Appendix for an example of a school’s terms and definitions associated with sexual assault.

Among the 354 schools that provided definitions in their SMPs, schools most commonly defined “sexual assault” ($n = 267$, 75.4%), followed by “nonconsensual sexual contact” ($n = 132$, 37.3%), “rape” ($n = 113$, 31.9%), and “nonconsensual sexual intercourse” ($n = 100$, 28.2%). The number of schools using the remaining terms dropped after “nonconsensual sexual intercourse.” The next most common term, “sexual violence,” was defined by 17.2% of schools ($n = 61$), followed by “fondling” ($n = 40$, 11.3%), “sexual misconduct” ($n = 27$, 7.7%), “sexual battery” ($n = 25$, 7.1%), “sexual abuse” ($n = 14$, 4.0%), “sex offenses” ($n = 13$, 3.7%), “acquaintance rape” ($n = 12$, 3.4%), and “nonconsensual sexual penetration” ($n = 10$, 2.8%). Approximately half of the 125 terms identified ($n = 65$, 52%) were used by only one school each, meaning that nearly one in five schools in our sample defined a term that was unique to their policy. We present a word cloud⁵ representing term usage in Figure 1 to visually illustrate the variation in sexual assault terminology.

The proliferation of unique and infrequently used terms appeared to be driven in part by schools’ inclusion of terminology similar to that used in criminal statutes. These terms were typically defined in degrees (e.g., “sexual assault in the third

Table 2. Defined Terms Related to Sexual Assault and Their Prevalence.

| Most common terms related to sexual assault | Number of schools that used term (%) |
|--|---|
| Sexual assault | 267 (75.4%) |
| Nonconsensual sexual contact | 132 (37.3%) |
| Rape | 113 (31.9%) |
| Nonconsensual sexual intercourse | 100 (28.2%) |
| Sexual violence | 61 (17.2%) |
| Fondling | 40 (11.3%) |
| Sexual misconduct | 27 (7.7%) |
| Sexual battery | 25 (7.1%) |
| Sexual abuse | 14 (4.0%) |
| Sex offenses | 13 (3.7%) |
| Acquaintance rape | 12 (3.4%) |
| Nonconsensual sexual penetration | 10 (2.8%) |
| Less common terms related to sexual assault | |
| Terms used by six schools (1.7%) | Criminal sexual conduct in the third (3rd) degree |
| First (1st)-degree sexual assault | First (1st)-degree rape |
| Forced sexual intercourse | First (1st)-degree sexual abuse |
| Second (2nd)-degree sexual assault | First (1st)-degree sodomy |
| Sexual assault with an object | Forced sexual contact |
| Terms used by five schools (1.4%) | Rape in the first (1st) degree |
| Attempted rape | Rape in the third (3rd) degree |
| Forcible touching | Sexual abuse in the second (2nd) degree |
| Sexual assault I | Sexual abuse in the third (3rd) degree |
| Sexual assault II | Sexual assault: penetration |
| Terms used by four schools (1.1%) | Sexual torture |
| Criminal sexual act | Sexual touching |
| Date rape | Terms used by two schools (0.6%) |
| Forcible fondling | Aggravated rape |
| Forcible rape | Aggravated sexual battery |
| Forcible sodomy | Criminal deviate conduct |
| Fourth (4th)-degree sexual assault | Criminal sexual contact |
| Sex offenses—forcible | Forced sexual assault |
| Sexual abuse in the first (1st) degree | Forcible sex offenses |
| Sexual assault: contact | Nonconsensual physical contact of a sexual nature |
| Sexually oriented criminal offense | Nonconsensual sexual activity |
| Sodomy | Nonconsensual sexual assault |
| Third (3rd)-degree sexual assault | Nonconsensual sexual touching |
| Terms used by three schools (0.8%) | Sexual penetration |
| Aggravated sexual assault: penetration | |
| Criminal sexual conduct in the first (1st) degree | |
| Criminal sexual conduct in the second (2nd) degree | |

(continued)

Table 2. (continued)

| Least common terms related to sexual assault (n = 1, 0.3%) | |
|--|---|
| Actual penetration | Nonconsensual personal contact |
| Aggravated criminal sexual assault | Nonconsensual sexual abuse |
| Aggravated criminal sexual abuse | Object rape |
| Aggravated sexual abuse | Offensive touching |
| Aggravated sexual abuse in the first (1st) degree | Persistent sexual abuse |
| Aggravated sexual abuse in the second (2nd) degree | Second (2nd)-degree sexual abuse |
| Aggravated sexual abuse in the third (3rd) degree | Sex assault |
| Aggravated sexual abuse in the fourth (4th) degree | Sex offense crimes |
| Aggravated sexual assault in the first (1st) degree | Sexual abuse in the fourth (4th) degree |
| Aggravated spousal rape | Sexual assault (category I) |
| Assault with intent to commit a sexual battery | Sexual assault (category II) |
| Attempted penetration | Sexual assault in the first (1st) degree |
| Criminal sexual abuse | Sexual assault in the second (2nd) degree |
| Criminal sexual act in the first (1st) degree | Sexual assault in the third (3rd) degree |
| Criminal sexual act in the third (3rd) degree | Sexual assault in the third (3rd) degree with a firearm |
| Criminal sexual assault | Sexual assault in the fourth (4th) degree |
| Criminal sexual conduct | Sexual assault: intercourse |
| Criminal sexual penetration | Sexual battery by an authority figure |
| Disrobing | Sexual contact without consent |
| Forced sexual activity | Sexual imposition |
| Forcible acts of sexual penetration | Sexual misconduct I |
| Forcible sexual abuse | Sexual misconduct II |
| Gang rape | Sexual offenses |
| Gross sexual imposition | Sexual penetration without consent |
| Inappropriate sexual contact | Spousal rape |
| Incapacitated sex | Spousal sexual battery |
| Indecent assault and battery | Unconsented contact |
| Level 1 sexual assault | Unwanted sexual contact |
| Level 2 sexual assault | Unwanted sexual penetration |
| Misdemeanor sexual abuse | Unwelcome conduct |
| Nonconsensual intentional sexual contact | Unwelcome sexual activity |
| Nonconsensual intercourse | Unwelcome sexual touching |
| Nonconsensual oral sex | |

Note. Percentages were determined out of 354, the total number of schools for whom we identified a relevant policy.

degree with a firearm”) or included language such as “aggravated” or “misdemeanor” (e.g., “aggravated criminal sexual assault”). At least 30% of coded terms incorporated this criminal-legal language, despite the fact that universities have no authority to determine whether reported behavior violated the law. Less common terms (e.g., “sexual penetration without consent”) did not describe distinctive behaviors otherwise unaddressed by more common terms (e.g., “rape,” “nonconsensual sexual intercourse”). It was not clear why

rape were used by 22 schools (8.2%). The University of Idaho (2014), for example, defined “sexual assault” as “the unwilling or nonconsensual penetration of any bodily opening of another person with any object or body part” (Proscribed Conduct section, para. 45). One school’s (0.37%) narrow definition framed “sexual assault” as *only* nonpenetrative sexual contact; in other words, it excluded rape.

Some schools ($n = 30$, 11.2% of those that defined “sexual assault”) provided multiple definitions for “sexual assault” within the coded policy. Policies that included multiple definitions often provided school, state, and/or federal interpretations of “sexual assault.” Conflicting definitions were provided by nine schools. Conflicts occurred when schools included two or more definitions of “sexual assault” that presented the term as broad (i.e., inclusive of nonpenetrative acts) *and* narrow (i.e., exclusive to sexual penetration) within a single policy. Broad federal definitions, narrow state definitions, and broad and narrow school-specific definitions contributed to conflicting information. For example, relying heavily on U.S. federal guidelines, Messiah College (2016) first defined “sexual assault” as the following:

An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI’s Uniform Crime Reporting (UCR) program.⁷ Per the National Incident-Based Reporting System User Manual from the FBI UCR Program, a sex offense is “any sexual act directed against another person, without the consent of the victim, including instances where the victim if [*sic*] incapable of giving consent.” (p. 18)

Messiah College (2016) immediately went on to define sexual assault as rape based on Pennsylvania state law:

The state of PA defines sexual assault as follows: Rape – Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. (p. 19)

This pairing of these definitions, one from a federal agency and the second from the Pennsylvania state legal code for rape, presents “sexual assault” as an umbrella term *and* as a term synonymous with rape.

Discussion

The current study sought to examine the variety and consistency of sexual assault definitions in higher education sexual misconduct policies. We coded 381 SMPs from a nationally representative sample of schools in the United States. We were guided by three research questions: First, what is the range of terms schools use to define sexual assault? Second, do schools converge on generally shared definitions for the term “sexual assault”? Third, are schools providing conflicting definitions about “sexual assault” within a single policy?

We found that U.S. schools used at least 125 unique terms to define what behavior constitutes sexual assault. Many of the terms used criminal language (e.g., “aggravated” acts), and more than half of the terms were defined once, meaning they were

each coded from a single, different policy. “Sexual assault” was the most commonly defined term, and most schools broadly defined “sexual assault” to be inclusive of behavior from nonconsensual sexual touching to rape. Among schools that defined “sexual assault” more than once in their SMPs, approximately one-third provided conflicting definitions (e.g., a broad federal definition and a narrow state definition). Conflicting guidance can pose challenges to students’ interpretation of policies and university efforts to adjudicate sexual misconduct.

It is crucial that college students have access to comprehensive sexual assault information given the prevalence of less “severe” forms of assault and aggression in students’ lives (Papp & McClelland, 2021). Though narrow definitions were the minority, their inclusion in 23 policies was concerning. We already know that students conceptualize sexual assault in different ways (Baldwin-White & Bazemore, 2020) and that lack of shared definitions for terms like sexual harassment, sexual assault, and rape creates challenges to young women’s identification of harmful sexual behavior (Deming et al., 2013). Policies that teach community members narrow definitions of sexual assault may contribute to and perpetuate students’ confusion about their own and others’ experiences of sexual violence.

There is not an obvious “sweet spot” for the number of terms schools should use to define sexual assault, but a number of terms too low or high can become a barrier to students searching for information about sexual assault. First, schools that did not include any definitions placed the burden on students to determine what constitutes sexual assault at their institution. Second, policies with many defined terms tended to be lengthy, difficult to interpret (e.g., use of legal language), and difficult to navigate (e.g., definitions found in different sections of the policy). Policies are required by the Clery Act to be distributed to members of the campus community (Karjane et al., 2002) and should thus be clear and informative. Recent research indicated, however, that the average Title IX policy is more difficult to read than the *Harvard Law Review* (Albrecht et al., 2022). Policies may be incoming students’ first exposure to what behaviors comprise sexual assault in their new community. Even if students can locate specific information in the policy, they may have difficulty understanding what it means (Albrecht et al., 2022).

Policy Implications

Schools’ sexual misconduct policies outline prohibited behavior and provide a framework for adjudication. The coders in this study found the inclusion of state laws to be confusing and unhelpful. Including state criminal code can also misrepresent the purpose of school policies and adjudication procedures; universities are not responsible for ascertaining whether the reported behavior was a crime, nor are university adjudication processes a substitute for criminal processes. State statutes should, where possible, be eliminated from campus policies, especially given that state laws may be inapplicable to most campus sexual assaults (e.g., when victim/survivors are voluntarily incapacitated; DeMatteo et al., 2015). If institutions include state statutes because they are seeking to act in compliance with the law, we recommend that they clearly identify

which definitions are relevant to institutional reporting and adjudication. For example, Transylvania University (2016) helpfully separated institutional definitions, located in the main body of its policy, from state criminal codes, found in the policy appendix. The criminal definitions began with a statement that the “state law definitions are for informational purposes only. For purposes of the University’s Sexual Misconduct Policy, the University will follow its own definitions as set out in that policy” (p. 25). This strategy may be useful for schools that are compelled or want to include legal definitions.

Schools often drew from federal legal codes to define the term “sexual assault,” but this decision still conflated criminal and campus adjudicative processes. Campus policy language does not need to employ legal language, federal or state, to be clear and effective. Federal guidance and resources regarding sexual misconduct policies, such as those provided by the White House Task Force (2014a), may be just as effective. The terms recommended by the Task Force—“sexual assault,” “nonconsensual sexual contact,” and “nonconsensual sexual intercourse”—were among the most prominent terms and were defined by 75.4%, 37.3%, and 28.2% of schools, respectively. We recommend that future guidance for SMPs provide definitions for all recommended terminology to increase the likelihood of adoption.

Increased consistency in sexual assault terminology and conceptualization does not require state or federal legal intervention. Higher education administration and staff can work within their professional organizations to influence SMP development beyond their own schools. Scholars, too, can develop research and advocacy groups focused on sexual misconduct policies. One such example is The 1752 Group in the United Kingdom, comprised of faculty who have conducted research on and developed guidelines for addressing student complaints of sexual misconduct by staff (Bull et al., 2021; The 1752 Group & McAllister Olivarius, 2020).

Limitations and Future Directions

A primary limitation of this study is that SMPs were sourced during the 2016–2017 academic year and some policies predated 2016. Trump-era changes in Title IX rules required many schools to rewrite their SMPs by 2020, although these changes primarily sought to address adjudication (Fenwick, 2018) rather than challenging what counts as sexual assault.⁸ Changes in policy definitions resulting from Trump- and Biden-era Title IX rules are nevertheless possible and ought to be examined in future research. Because our data were sourced from SMPs, we were unable to explain how schools arrived at the definitions in the policies. The process by which schools develop their sexual misconduct policies and the sources from which they draw terminology warrant additional attention. Furthermore, litigation resulting from school adjudication processes could contribute to the heterogeneity documented in this study, and this issue deserves the attention of researchers interested in how schools act to comply with laws and court decisions. Finally, we sourced policies from just 381 schools, suggesting that our findings are an underestimation of policy heterogeneity. We encourage research that continues to document the range of sexual assault terms in use by higher education institutions.

Conclusion

Despite the seriousness of sexual assault, we have yet to come to a shared understanding of what it is. Decentralized sexual assault policy—from the federal to state governments to institutions—prevents people from developing shared terminology and meaning around sexual assault as well as receiving equal protection from it. Ultimately, institutional authority positions schools as reliable sources of information on sexual assault. Students may view their universities' sexual misconduct policy as including complete, accurate information and, as a result, internalize the schools' perspective on sexual assault. Without exposure to different information and a willingness to reconceptualize sexual assault, narrow ideas about sexual assault can persist after college. Clear, broad descriptions of sexual assault are needed to ensure equitable access to education under Title IX and to educate all students on responsible sexual conduct.

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Appendix

Example Policy Excerpt from Ohio State University

| Term | Definition |
|----------------------------------|--|
| Sexual assault | Nonconsensual sexual contact and nonconsensual sexual intercourse. All such acts of sexual assault are forms of sexual violence, and therefore sexual misconduct, under this policy. |
| Nonconsensual sexual contact | Any intentional sexual touching, however slight, with any body part or object, by any individual upon another that is without consent and/or by force or coercion. Sexual contact includes intentional contact with the breasts, buttock, groin, or genitals or touching another with any of these body parts or object or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by the breasts, buttocks, groin, genitals, mouth, or other orifice. All such acts of nonconsensual sexual contact are forms of sexual assault, and therefore sexual misconduct, under this policy. |
| Nonconsensual sexual intercourse | Any sexual penetration, however slight, with any body part or object, by any individual upon another that is without consent |

(continued)

(continued)

| Term | Definition |
|------|--|
| | <p>and/or by force or coercion.</p> <p>Sexual penetration includes vaginal penetration by a penis, object, tongue, or finger; anal penetration by a penis, object, tongue, or finger; and oral copulation (mouth to genital contact or genital to mouth contact); no matter how slight the penetration or contact.</p> <p>All such acts of nonconsensual sexual intercourse are forms of sexual assault, and therefore sexual misconduct, under this policy.</p> |

Appendix Reference

Ohio State University. (2016) *Sexual misconduct*. <https://web.archive.org/web/20161215203734/https://hr.osu.edu/public/documents/policy/policy115.pdf>


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Notes

1. “Victim” and “survivor” are identities that may be adopted by people who have experienced sexual assault. We use the term “victim/survivor” to reflect the fluid nature of these identities, which may change over time or in different contexts.
2. College victim/survivors may not report sexual assaults for other reasons, including shame, concern about social backlash, or fear of not being believed (Ameral et al., 2020; Holland & Cortina, 2017; Khan et al., 2018).
3. Feminists who sought to collaborate with the legal system were primarily White women. Many Black feminists and other feminists of color have argued that carceral politics, and the resulting increase in police surveillance of and presence in communities of color, cannot resolve the problem of violence against women (Ake & Arnold, 2018; Davis, 2000; Richie, 2012).
4. Incest and statutory rape are included in the FBI UCR Program sex offense definitions and thus might be defined by schools seeking compliance with the Clery Act. These are

- categorized as “nonforcible sex offenses” in contrast to the “forcible sex offenses” of rape, sodomy, sexual assault with an object, and fondling.
5. Word clouds are an intuitive way of visualizing text. We created the word cloud by weighting each term with the number of times the term was defined across the sample of policies.
 6. Schools cited the Clery Act (20 U.S.C.A. § 1092(f)) and its implementing regulations (34 C.F.R. § 668.46(a)) as well as the Violence Against Women Act (42 U.S.C.A. § 13925(a)).
 7. This language can be found in the Clery Act implementing regulations (34 C.F.R. § 668.46(a)).
 8. The 2020 Title IX regulations did adopt a more conservative standard for sexual harassment, requiring that in order to be categorized as harassment, behavior must be “so severe, pervasive, *and* [emphasis added] objectively offensive that it effectively denies a person equal access to education” (Office for Civil Rights, 2018, p. 41). Sexual assault, however, was defined broadly through reference to the Clery Act (i.e., the FBI UCR Program sex offense definitions). A single instance of sexual assault can still rise to the level of sexual harassment under the new regulations.

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