

## Association of Student Conduct Administration Annual Conference

Case Law Update

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*The following content summarizes a sampling of court cases from the last year that impact student conduct administration. The summaries are not intended to reflect a full summary of any case; rather, they distill and summarize certain principles and evolving trends in the law as it relates to student conduct administration.*

### 1. ***Dudley v. Boise State University* (D. Idaho Dec. 9, 2022)**

Plaintiff, a graduate of Boise State University who was a licensed social worker, brought this action against Boise State after it revoked her degree and rendered her transcript invalid based on an investigation that revealed that plaintiff had accessed confidential client information. In addition to revising her transcript and revoking her degree, Boise State also notified the state licensing board for social workers of the action. Plaintiff alleged that defendants undertook all of these actions without affording her adequate notice of the charges against her or access to the evidence supporting the charges. Plaintiff also alleged that she was deprived of a meaningful opportunity to respond to the charges. Plaintiff sought a temporary restraining order requiring that the University implement procedural safeguards before proceeding with a student conduct hearing. The court granted the TRO and reserved judgment on a preliminary injunction.

### 2. ***Brown v. Arizona* (9th Cir. Dec. 9, 2022)**

This was a deliberate indifference case involving a student who was sexually assaulted by a University football player in an off-campus residence. A divided three-judge panel of the Ninth Circuit Court of Appeals issued an [opinion](#) on January 25, 2022, sustaining summary judgment in favor of the University based on a finding that the University exercised insufficient control over the context in which the harassment occurred. On December 9, 2022, the Ninth Circuit vacated the opinion of the three-judge panel and ordered that the opinion be reheard en banc.

### 3. ***Doe v. Regents of the University of California* (Cal. App. Oct. 27, 2022)**

Plaintiff John Doe, a student at the University of California Davis School of Law (UC Davis), was placed on interim suspension and ultimately suspended for 2 years after a hearing panel found him responsible for dating violence. Though Doe was deprived of notice and an opportunity to be heard prior to the interim suspension, as was required by UC Davis policy, that procedural error was cured when the Director of Judicial Affairs met with plaintiff the next day, thus rendering any error harmless. Turning to plaintiff's challenges related to the hearing and disciplinary decision, the court determined that although UC Davis held a formal hearing after a fact-finding investigation, the formal hearing did not address whether the charged conduct included dating violence. As such, notice was insufficient. Also, although plaintiff was indirectly offered the opportunity to cross examine his accuser, *indirect* cross was not enough under UC Davis policy, nor was it permissible for UC Davis to appoint an outside attorney as the hearing officer, as institutional policy limited this role to "faculty, students, or staff." These procedural

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<sup>1</sup> Materials prepared by Holly Peterson, Associate Director of Legal Resources, National Association of College & University Attorneys. A huge thanks to Alan Grose, NACUA Law Fellow, for identifying many of these cases.

missteps deprived plaintiff of a fair process under California law.

**4. *Hendrick v. Western Michigan University* (W.D. Mich. Oct. 17, 2022)**

Hendrick, a former student at Western Michigan University (WMU), was expelled from the University for sending a Snap Chat video to four students, wherein he pointed a gun to the video screen and repeated, “You’re done, you’re done, bud.” The court allowed plaintiff’s First Amendment claim to proceed based on disputed facts about whether the video amounted to a genuine threat or a joke. The court also allowed plaintiff’s procedural due process claim to proceed based, in part, on insufficient notice. Specifically, the context of the video turned on whether plaintiff was stalking one of the recipients. The court was troubled that a student conduct official “misled” plaintiff by explaining that he was not being charged with stalking (though that was true), since the stalking allegations were relevant to the threatening behavior charge. As such, a question of fact remained as to whether WMU deprived plaintiff of a meaningful opportunity to respond to the charge levied against him. For similar reasons—that the stalking allegation was so intertwined with the context of the video—the court allowed plaintiff’s due process claim to proceed on whether he had the constitutional right to cross examine his accuser on the stalking allegation.

**5. *Taylor v. Board of Regents of the University System of Georgia* (N.D. Ga. Oct. 3, 2022)**

Plaintiff, a graduate student in the Department of Public Health at the University of Georgia, alleged that the University abridged his procedural due process rights by declining to provide adequate notice of disciplinary charges prior to his expulsion. After failing his comprehensive exam, in part due to spelling and grammar errors, plaintiff enlisted a proofreader to review his work prior to submitting his second comprehensive exam. Unrelated to the proofreading errors, the university levied charges of plagiarism, and invited plaintiff in for a “facilitated discussion”, wherein student conduct administrators notified him of the plagiarism charges. Plaintiff was invited to attend a “Continued Discussion” before an academic honesty panel, wherein he was notified that the assistance of a proofreader, in and of itself, amounted to a violation of University policy. Plaintiff alleged that this late notice deprived him of constitutional due process. Assuming without deciding that plaintiff had a protected property interest in a final grade, the court analyzed plaintiff’s claims under two separate rubrics, characterizing the hearing panel’s finding of plagiarism as a disciplinary determination, and the faculty’s resulting sanction as an academic determination, warranting appropriate deference. With respect to the disciplinary charges, the court found that plaintiff was deprived of adequate notice since he was first apprised of the unauthorized assistance charge *during* the hearing. Applying the more lenient standard to the academic determination, the court determined that the faculty members carefully and deliberately adhered to university policy by dismissing plaintiff for twice failing the comprehensive exam.

**6. *Doe v. Bowling Green State University* (N.D. Ohio Sep. 30, 2022)**

Plaintiff, an undergraduate student and fraternity member at Bowling Green State University, brought procedural due process claims against the University after he was suspended for 8 years from the university for hazing that resulted in a new fraternity pledge’s death. Doe was afforded notice of the charges levied against him and an opportunity to respond to those charges in a group hearing. Of the 6 respondents, only Doe and one other respondent showed up to the hearing. Doe alleged, among other things, that he was deprived of his constitutional right to cross-examine the absent witnesses and his accuser. Decided at the motion to dismiss stage, and applying the 6<sup>th</sup>

Circuit's decision in *Doe v. Baum* ("when a public university has to choose between competing narratives to resolve the case, the university must give the accused student or his agent an opportunity to cross-examine the accuser and adverse witnesses in the presence of a neutral fact-finder"), the court allowed Plaintiff Doe's claims to proceed against BGSU officials regarding whether he was deprived of a constitutional right to cross examine his accuser.

**7. *Doe v. Curators of the Univ. of Missouri*, (W.D. Mo. Aug. 30, 2022)**

Plaintiffs, two complainants in a Title IX proceeding who had accused the same student of sexual misconduct ("student complainants"), brought Title IX erroneous outcome claims against the University of Missouri after the Title IX Coordinator stepped in against their wishes as the "complainant" in the matter, allegedly depriving the plaintiffs of procedural rights that would have otherwise been guaranteed to them under University policy and federal law. The University stepped in as the complainant, in part due to a safety issue, namely that the investigation yielded credible evidence that the accused student had stalked or assaulted 8 students. During the investigation, the non-party student complainants did not participate as fully as they otherwise would have if they were proceeding on their own behalf. For example, the investigator did not interview their desired witnesses and allowed the accused student to choose a hearing panel to resolve the matter, without input from the student complainants. The hearing panel found the accused student "not responsible" for a policy violation. The non-party student complainants were not able to appeal, as that right was only conferred to the official complainant in Title IX proceedings. Plaintiffs alleged that the procedures as applied to them as non-party student complainants discriminated against them based on sex by favoring the male, accused student, and that this discrimination resulted in the hearing panel arriving at an erroneous outcome. The court agreed that this inference was reasonable and allowed the matter to proceed for a jury to determine whether there existed articulable doubt as to the outcome of the proceeding and whether the process was infected with sex discrimination.

**8. *Unknown Party v. Arizona Board of Regents* (D. Ariz. Aug. 30, 2022)**

Plaintiff, a student at Arizona State University, brought a Title IX action against ASU after he was found responsible for sexual misconduct and expelled from the University. The crux of the decision was whether plaintiff introduced sufficient evidence to demonstrate gender bias. Though the 2011 Dear Colleague Letter, a pending OCR investigation, and allegedly biased statements were not enough to show gender bias, unexplained procedural irregularities, coupled with the other allegations, were sufficient. In particular with respect to procedural irregularities, the court was troubled that the University Hearing Board sustained a finding of sexual misconduct based on a sex-by-force theory, though plaintiff was never put on notice that he was being charged with sex-by-force. These and other irregularities, considered alongside statistical anomalies in the University's disciplinary process, were enough to defeat summary judgment on the question of sex bias.

**9. *Ogletree v. Cleveland State University* (N.D. Ohio Aug. 22, 2022)**

Plaintiff, a student at Cleveland State University, alleged that the University violated his 4<sup>th</sup> Amendment right to be free from unreasonable searches and seizures when it used remote proctoring software to scan his bedroom, prior to administering a test. Important facts included: (1) No University-wide policy on the use of remote proctoring software existed; rather, determinations about room scans were left within the discretion of individual professors, (2)

plaintiff's bedroom was the only suitable place in his home to take the exam, (3) plaintiff had confidential documents strewn about his room, (4) plaintiff only learned that his room would be scanned 2 hours prior to the exam and did not have time to tidy the confidential documents, and (5) because the events took place during the COVID-19 pandemic, plaintiff was not able to arrange to take the test on campus. The court determined that plaintiff had a subjective expectation of privacy in his bedroom that was objectively reasonable and thus that the Fourth Amendment applied to the virtual room scans used by Cleveland State. Also, though the parties agreed and the court acknowledged that Cleveland State had a legitimate interest in "preserving the integrity of tests," plaintiff's privacy interests, under the unique facts of this case, outweighed the University's interest. **Update: On December 20, 2022, the court amended its opinion to discuss the scope of remedies, most notably limiting injunctive relief to room scans as they apply to plaintiff only, and not to other students.**

#### **10. *Bhattacharya v. Murray* (W.D. Va. Aug. 19, 2022)**

This First Amendment retaliation case came about after the University of Virginia dismissed plaintiff from the medical school for "threatening behavior and a history of dangerous mental health episodes." Plaintiff, a medical student at UVA, struggled in his early years in the program with mental health episodes that raised concerns among students, faculty, and administrators and necessitated a hospital stay and a leave of absence. When plaintiff returned, he attended a panel on microaggressions, where he aggressively, and in the assessment of medical school faculty, unprofessionally, interrogated panelists during the presentation. The faculty expressed concerns about his ability to participate in clinical rotations which resulted in UVA requiring a psychiatric evaluation. Shortly thereafter, plaintiff experienced more mental health episodes and was involuntarily committed to a facility after his mother reported a domestic incident. Around the same time, plaintiff's ex-girlfriend obtained a protective order. Ultimately, a medical school committee determined that plaintiff failed to meet the requirements of continued enrollment and suspended him from the medical school. Disappointed by his suspension, plaintiff posted threats to 4Chan which prompted the University police to issue a no trespass order (NTO). In light of the NTO, the University suspended his disciplinary appeal indefinitely.

The crux of the issue before the court was whether there was a causal connection between plaintiff's behavior at the microaggression panel and the required psychiatric evaluation, suspension, or NTO. The court held that plaintiff failed to introduce direct or circumstantial evidence connecting his protected speech to any of the adverse actions. Even if that were not the case, individual administrators were entitled to qualified immunity because "there is no clearly established First Amendment retaliation claim for taking action against a student who, in the same time period that he is repeatedly involuntarily committed to mental health institutions for threatening others, makes protected speech in an aggressive and unprofessional manner, especially where there is no evidence whatsoever that the content of his speech, rather than his tone or demeanor, were the cause of the adverse actions."

#### **11. *Van Overdam v. Texas A&M Univ.* (5th Cir. Aug. 9, 2022)**

Plaintiff, a Texas A&M student who was found responsible for sexual misconduct, brought Title IX and due process claims against the University after he was found responsible for a policy violation and suspended from the University. During the hearing leading up to his eventual suspension, plaintiff was afforded the opportunity to confront his accuser by submitting questions to a panel that were screened for relevancy and consistency with rules of decorum (here, to ensure

that the questions did not harass the complainant). Plaintiff declined to submit any questions and instead claimed that this protocol deprived him of his constitutional due process right to have his attorney directly cross examine his accuser. The Fifth Circuit disagreed. Plaintiff's constitutional rights remained intact insofar as he was allowed to call witnesses, submit evidence, be represented by counsel, listen to his accuser's testimony, and submit cross examination or other questions to the panel.

**12. *Doe v. Trustees of Dartmouth College*, No. 22-cv-018-LM, 2022 WL 270475 (D. N.H. July 12, 2022)**

This case involves cross claims of sexual misconduct, wherein plaintiff was found responsible for sexual misconduct, but his accuser, against whom he had filed a cross claim, was not. Plaintiff brought Title IX and contract claims against Dartmouth to challenge the legality of the sexual misconduct proceedings applied to his charges. On plaintiff's contract claims, the court first held that plaintiff was deprived of proper notice of the charge that was eventually substantiated by the hearing panel. Plaintiff believed he was defending himself against a charge of "oral sex" when, in fact, he was ultimately found responsible for "improper touching." Had he received proper notice, he would have prepared a different defense strategy. As such, insufficient notice amounted to a contractual breach. Plaintiff also sufficiently pled a contract claim by alleging that he was deprived of a fair process insofar as the decisionmaker deemed him to lack credibility, based on his alcohol-induced fragmentary recollection of events, despite treating similarly situated female complainants differently with respect to alcohol-impaired, fragmentary recollections. This alleged disparate treatment between male and female complainants was sufficient to state a contract claim against the College.

**13. *Tennessee v. U.S. Dep.'t of Educ.* (E.D. Tenn. July 15, 2022)**

Plaintiffs, the State of Tennessee and 19 other states, sought to enjoin federal guidance related to President Biden's 2021 Executive Order on Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation, including (1) the Department of Education's June 2021 Interpretation of Title IX, "Dear Educator" letter, and fact sheet that interpreted Title IX consistently with *Bostock* to prohibit discrimination based on sexual orientation and gender identity and (2) EEOC technical guidance that described employer conduct that would amount to discrimination under *Bostock*, including conduct related to dress codes, bathrooms, locker rooms, showers, and pronouns. The issue before the court was whether these guidance documents validly interpreted existing law or amounted to substantive changes in the law that violated the Administrative Procedures Act. In awarding a preliminary injunction, the court found that plaintiffs were likely to succeed on the merits of their claim that both the Department of Education and EEOC guidance exceeded the scope of pre-existing legal obligations and amounted to legislative rules. The court further found that plaintiffs were subjected to immediate injury when their sovereign interest in enacting conflicting state statutes was compromised and that any harm that befell plaintiffs outweighed the harm to the defendants. Last, while the court found that both parties advanced a strong public interest, it nonetheless found that the public interest factor weighed in favor of a preliminary injunction.

**14. *Barlow v. State of Washington* (9th Cir. June 3, 2022)**

Plaintiff, a student at Washington State University, brought Title IX and common law negligence claims against the University after she was raped by another student. The accused student had

recently transferred from another Washington State University campus in the midst of an ongoing sexual misconduct proceeding that ultimately resulted in a finding that plaintiff engaged in sexual misconduct. At issue on appeal was whether the University owed students a duty to use reasonable care to protect them from foreseeable injury by other students. The court certified this question to the Washington Supreme Court, as well as the question, “If a duty is owed, what is the measure and scope of that duty?”

**15. *Doe v. Metropolitan Government of Nashville & Davidson County* (6th Cir. May 19, 2022)**

This case arose from two separate incidents in which high school students were surreptitiously filmed while performing sexual acts and then harassed by their classmates after the respective videos circulated. Plaintiffs brought Title IX claims against the school district, which the court labeled “before” and “after” claims. With respect to the “before” claims, plaintiffs alleged that the School District was deliberately indifferent to widespread problems of sexual harassment, causing them to be videotaped without their consent and sexually harassed. To support their claim, plaintiffs pointed to 950 instances of sexual harassment, 1200 instances of inappropriate sexual behavior, 45 instances of sexual assault, and 218 instances of inappropriate sexual contact in the school district in the course of a 4-year period. Based on this evidence, along with evidence that each incident was addressed by an individual employee but that the incidents collectively were never addressed in a systemic way despite a known pervasive problem, the court allowed plaintiffs’ “before” claims to proceed. Turning to plaintiff’s “after claims”, the court analyzed plaintiff 1 and plaintiff 2’s claims differently, allowing both to proceed. After plaintiff 1 reported the misconduct, a school employee responded that the matter was “way out of her hands,” reported to the police, and did nothing else. This was not enough to satisfy the district’s Title IX responsibilities. The court also allowed plaintiff 2’s “after” claim to proceed.

**16. *Thomas v. Board of Regents-University of Nebraska* (D. Neb. May 11, 2022)**

This case, involving multiple plaintiffs who were victims of sexual assault, centers around outrageous allegations of deliberate indifference in the University’s Title IX proceedings.<sup>2</sup> A sampling of the allegations included investigative questions about what the survivors were wearing, refused supportive measures in the absence of a formal complaint, a profane email from an accused student to a survivor that was deemed not to be a violation of a no contact order, and a comment that “race discrimination claims will never be fully investigated because students on campus have a right to free speech.” Despite these outrageous allegations, the court only allowed some of plaintiffs’ Title IX claims to proceed and dismissed other claims.

**17. *Speech First v. Cartwright* (11th Cir. May 2, 2022)**

Speech First, a First Amendment watchdog group, brought First Amendment claims against the University of Central Florida to challenge the University’s discriminatory harassment and bias incident response policy. The court summarized the University’s discriminatory harassment policy as follows:

The discriminatory-harassment policy prohibits ‘verbal, physical, electronic, or other conduct’ based on a long list of characteristics including, among others,

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<sup>2</sup> Note that this is a decision on a motion to dismiss, which means that all of plaintiff’s claims must be construed in the light most favorable to plaintiff without consideration of the University’s possible response.

‘religion [or] non-religion,’ ‘genetic information,’ and ‘political affiliation[.]’ The policy applies to any conduct that, for instance, ‘unreasonably . . . alters’ another student’s ‘participation in a university program or activity.’ It specifies that discriminatory harassment ‘may take many forms’—including, broadly, ‘verbal acts, name-calling, graphic or written statements . . . or other conduct that may be humiliating’—and it utilizes a ‘totality of known circumstances’ approach, based on a non-exhaustive list of factors, to determine whether a speaker’s expression satisfies the ‘unreasonabl[e] . . . alter[ation]’ standard. Lastly, the policy prohibits students not only from committing to the specified acts, but also from ‘[c]ondoning,’ ‘encouraging,’ or even ‘failing to intervene’ to stop them.”

The bias incidents policy defined “bias incidents” broadly (e.g., offensive acts, even if legal or unintentional, could amount to a bias incident) and vested the Just Knights Response Team with authority to monitor and track bias incidents, coordinate university resources, and marshal a response, though the JKRT did not have the authority to impose discipline or otherwise sanction students for policy violations. Specifically with respect to this litigation, Speech First alleged that the policies were overbroad, and additionally, that the bias incident response policy imposed impermissible content-based restrictions on speech. The 11<sup>th</sup> Circuit held that plaintiffs had standing to challenge the policies because both policies could be said to objectively chill protected expression. The court reasoned that the breadth of the disciplinary harassment policy, coupled with imprecise terms such as “unreasonably” and “alter”, effectively deprived students of notice of what kinds of speech the policy prohibited. Turning to the bias incident response policy, the 11<sup>th</sup> Circuit was not persuaded that the JKRT’s lack of sanctioning authority insulated the policy from scrutiny. Rather, according to the court, the Policy chilled speech because “[n]o reasonable college student wants to run the risk of being accused of ‘offensive,’ ‘hostile,’ ‘negative,’ or ‘harmful’ conduct—let alone ‘hate or bias.’ Nor would the average college student want to run the risk that the University will ‘track[] her, ‘monitor[]’ her, or mount a ‘comprehensive response[]’ against her.” The court further awarded a preliminary injunction with respect to the discriminatory harassment policy, finding that plaintiffs were likely to succeed on the merits of showing that the discriminatory harassment policy was overbroad and imposed content-based restrictions on speech, and also that plaintiffs suffered irreparable harm and that the balance of equities and public interest favored plaintiff. Finally, having overturned the district court’s standing decision regarding the bias incident response policy, the Eleventh Circuit remanded the matter to the district court to consider plaintiffs request for injunctive relief with respect to that policy.

#### **18. *Shurtleff et al. v. City of Boston* (U.S. May 2, 2022)**

Petitioner, director of Camp Constitution, sought to fly a Christian Flag at a city plaza adjacent to Boston City Hall. The plaza had three flagpoles, usually flying the American flag, the Commonwealth’s flag, and the City’s flag, though on 248 occasions over a two-year period, the City permitted other groups to fly their flags on the City’s flagpole. For example, the Pride flag flew over City Hall on at least one occasion. The City rejected petitioner’s request to hoist the Christian flag, prompting this lawsuit. The issue before the Court was whether the flag display represented government speech, or alternatively, whether the City had designated a public forum for expression. The Court held that the flags did not amount to government speech and that the City’s refusal to fly petitioner’s flag amounted to unlawful viewpoint discrimination in violation of the First Amendment.

**19. *Cummings v. Premier Rehab Keller, P.L.L.C.* (U.S. Apr. 28, 2022)**

Plaintiff, a deaf patient who sought physical therapy services from a Medicaid/Medicare provider, sought to recover emotional distress damages from the provider after it denied her request to have an ASL interpreter accompany her to appointments. The U.S. Supreme Court granted certiorari to decide whether damages for emotional distress were recoverable under legislation enacted pursuant to the Spending Clause of the U.S. Constitution—namely Title VI, Title IX, the Rehabilitation Act, and the Affordable Care Act. Observing that Spending Clause legislation operates based on consent and thus is analogous to a contract, the Court held that emotional distress damages are not recoverable under the Spending Clause antidiscrimination statutes.

**20. *Doe v. Princeton University* (3d Cir. March 31, 2022)**

This litigation began at the conclusion of plaintiff John Doe and Jane Roe’s intimate relationship, when Roe learned of Doe’s infidelity. According to the complaint, Roe spread false rumors that she terminated the relationship due to intimate relationship violence, prompting Doe to seek assistance from the University to stop the false rumors. The University, instead, initiated Title IX proceedings against Doe, which resulted in his expulsion and prompted Roe to Tweet, “my life is good again . . . worked out boy problems that were never real problems just things I created.” The 3<sup>rd</sup> Circuit vacated the district court’s order dismissing the action. The court first found that the district court improperly deferred to the investigator’s credibility assessment, in direct contradiction to the Complaint, which accused the panel of rendering “inconsistent credibility determinations.” Additionally, Doe sufficiently pled gender bias by alleging that Roe’s sexual misconduct report was treated with greater urgency than his own and that the University inconsistently enforced a mutual no-contact order. The court also allowed plaintiff’s breach of contract and good faith and fair dealing claims to proceed insofar as the pleading alleged that Princeton failed to investigate in an “impartial and unbiased” manner and applied an incorrect standard of proof.

**21. *Kostin v. Bucks County Cmty. Coll.* (E.D. Pa. March 30, 2022)**

This case distinguishes between academic and disciplinary dismissals, the former requiring fewer procedural protections than the latter. Plaintiff, a nursing student at Bucks County Community College (BCCC), brought [claims] against BCCC after it dismissed her from the nursing program for infractions of BCCC’s Integrity Policy. Specifically, plaintiff misrepresented that she changed a patient’s diaper when she had not, and this misrepresentation led to her dismissal from the program. The court first found that plaintiff had a property interest in continued enrollment in BCCC’s nursing program and that BCCC deprived her of that interest. Characterizing the expulsion as disciplinary and not academic, the court allowed plaintiff’s procedural due process claim to proceed based on allegations that she was deprived of the opportunity to tell her side of the story.

**22. *O’Shea v. Augustana Coll.* (C.D. Ill. March 24, 2022)**

Plaintiff was sexually assaulted at an off-campus bar by a guest of an Augustana University student. According to the Complaint, when the guest later enrolled at the University, plaintiff endeavored to pursue Title IX charges against him, but the University dismissed the charges



because they believed the University did not have jurisdiction to resolve the matter since the assailant was not a student at the time of the attack, and since the attack occurred off campus. The court agreed that “Augustana did not exercise control over the context in which the assaults occurred or over [the attacker] as a non-student.” Because plaintiff had no further harassing interactions with her harasser, the court dismissed her deliberate indifference claim. The court, however, allowed plaintiff’s retaliation claim to proceed. Plaintiff sufficiently alleged that she was subjected to adverse actions in the sexual misconduct investigation through “questions designed to humiliate Plaintiff”, including questions about her sexual history and questions about what plaintiff was wearing during the assault, and “a deliberate attempt to encourage Plaintiff’s friends to destroy her credibility.” She also sufficiently alleged that these actions were taken as a direct result of plaintiff filing a formal Title IX complaint, as opposed of acquiescing to the College’s desired form of resolution, which plaintiff claimed was an informal reconciliation process. The court concluded that it was plausible to infer that some of the procedural missteps (e.g., eliciting humiliating information, encouraging witnesses to discredit her) were undertaken due to a retaliatory motive.

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