

U.S. University Norms and the Ticking Clock: Programmatic Constraints and Title IX

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Tags

Crisis-Management; Cross-Cultural Issues; Education Abroad; Education Policy; Ethics, Equity, and Social Justice; Experiential Education; Management and Operations; University/Higher Education

Setting

A small, 4-week, faculty-led study abroad program designed in a fieldwork studies model offers students the ability to participate in archeological digs in rural South Africa. Students are housed under a communal guest house model which incorporates both sleeping quarters as well as dining facilities. Each day, students and the faculty member are taken by bus to the dig for on-site and highly interactive learning.

The program itself is managed by a non-profit study abroad provider and accredited through a U.S. university. Students on this particular program typically number less than 15 participants with most hailing from multiple U.S.-based universities along with a smaller number of participants from around the world. The coursework is aimed at the undergraduate level and is designed to be broad enough to appeal and apply to students from wide-ranging academic backgrounds.

Case

In the final days of the program it was revealed to the professor on-site by a student that she had a sexual encounter with one of the other students on two occasions during the program. The first instance of which was fully consensual. The second of which was identified by the student as coercive, bordering on non-consensual. The complainant indicated to the professor that she did not feel safe in either the housing or academic setting due to the extremely intimate environment. The remaining students in the group were seemingly all aware of the circumstances and sub-divided into factions of support for one party or the other by the time the report had

been made to the faculty member on site. Within an hour, an additional female student indicated that she also felt uncomfortable around the accused party and demanded immediate action. All three students involved in the case were from U.S.-based universities.

Given that the program was within 48 hours of its completion, the extremely rural nature of the location, the single faculty-member on site, and the significant time difference, multiple points of action and decision were frustrated by these circumstances. The faculty member communicated with the study abroad provider's central office, upon which the Title IX offices of the three students' home universities were contacted regarding the circumstances. Due to the time differences and the need to work through several administrative channels, the ability to speak to the three respective Title IX offices in an expedient manner was almost impossible.

Concurrent to this, executive decisions were formed within the study abroad provider's central office and action taken to remove the accused student from the guest house immediately and to book him into a hotel in the nearest town which was over an hour away. This limited his ability to complete the final aspects of the project associated with the course and jeopardized his ability to successfully complete the course. The accused student was extremely upset about his rights in the circumstances and demanded a refund for the program costs if he was unable to complete the course. He further hinted at litigation.

Over the ensuing 48 hours, the Title IX offices of the three institutions were in communication with the study abroad provider regarding their preferred methodologies – unsurprisingly, each of the three with differing protocols, policies, and approaches to their Title IX case management. These ranged from students being allowed Student Affairs hearings before action is to be taken to varied approaches based on the potential impact on the ability to complete the course, widely different protocols on Title IX between U.S.-based institutions not being an uncommon occurrence.

As the time on the program ran down, the accused student staying in the hotel was offered an alternate mode of completing the course which he found to be disadvantageous and may have resulted in receiving a lower grade. He felt that he had not been given proper attention to his side of the story and was punished without proper due course. The remaining students were satisfied with the action taken by the study abroad provider. There was no hearing held nor findings that could be processed in the short time frame and it was left to the three home universities to resolve with imperfect information with only one of the involved parties present.

Discussion Questions

As you consider this case, discuss:

- Were there alternatives for the study abroad provider in dealing with this scenario? What might have been the impact of those alternatives?
- What are the various possible points of legal exposure for the study abroad provider in this case? The faculty member on site?
- Was the accused student unfairly impacted by the decision to remove him from the site?
- What are ways in which the study abroad might prepare for future instances when the students' home institution Title IX offices have differing approaches?
- The study abroad provider is in a contractual relationship with a U.S.-based university to transcribe the coursework, what is their role in this scenario?

- Does it matter if the study abroad provider is U.S.-based? In what ways? Or if any of the three students involved had been non-U.S. citizens?