

Institutional Response to Legal Issues

CCSD 543 - Legal and Ethical Issues

Dr. Christopher Collins

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Ashley Arnold

Elisabeth Gibson

Lindsay Donahue-LaValle

Daniel Mendoza

Colleges and Universities provide millions of individuals the opportunity to better themselves annually. However, in order to ensure a safe environment for the students, faculty, and employees, it is necessary for the institution to establish and provide compliance and regulations for all members of the institution. While institutions vary in location, philosophy, and size, all must establish a safe environment for constituents to succeed. The following is an institutional and cross institutional analysis of four academic institutions and four policies present across the institutions.

Howard University is a private four year not-for-profit university located right in the city of Washington, D.C. established in 1867 as a Historically Black University (HBC). Howard seeks to provide exceptional quality at undergraduate, graduate, and professional levels to students of high academic standing and potential, with emphasis toward Black students. It is dedicated to attracting and sustaining a faculty committed to developing distinguished, historically aware, compassionate students through teaching, research, and service.

The hazing policy is located in the Howard University Student Code Manual and is defined as an act which endangers the mental or physical health or safety of a student for the purpose of initiation into a social group. It includes but is not limited to, the destruction or removal of public or private property, or any activity conducted on or off campus that causes or intends to cause an unreasonable expenditure of funds, embarrassing, intimidating or demeaning behavior, exposure to situations that could result in physical or emotional harm, or that causes undue stress, for the purpose of initiation, admission into affiliation with, or as a condition for continued membership in any sanctioned or unsanctioned group or organization at the University. A concern for this policy is that the students may not be aware of the different ways they could experience hazing and the manual does not provide a number to report hazing.

The sexual harassment policy for Howard University defines sexual harassment as unwelcome sexual advances, requests for sexual favors, and other electronic, verbal, visual, written or physical conduct of a sexual nature when; submission to such conduct is made either explicitly or implicitly as a basis for any decision affecting the terms or conditions of participation in any organization, program or activity, or status or evaluation (including grades) in an academic course or such conduct has the purpose or effect of unreasonably interfering with a student's educational right, privilege, advantage, or opportunity; where such conduct is so pervasive or severe that it creates an intimidating, stressful, hostile, or offensive environment for learning and has no reasonable relationship to the subject matter of the relevant course of instruction. While the sexual assault policy defines sexual assault as a willful attempt or threat to inflict injury upon the person of another when coupled with an apparent present ability to do so, and any intentional display of force such as would give the victim reason to fear bodily harm constitutes an assault. An assault may be committed without actually touching or striking, or doing bodily harm. Self-defense may be a mitigating factor to this charge, depending on the circumstances. A concern for the harassment policy is that it is difficult for students to understand what or who might be subject to sexual harassment and a concern for the sexual assault policy is that it never clearly states the assault is of a sexual nature. If the sexual act is not clearly defined then there could be potential weakness for complaints and incidences at the university.

The acceptable use of technology systems policy of Howard University clearly addressed electronic communication and media contact. With reference to electronic communication, it stated that using university telecommunications, data communication networks, or any electronic means owned and operated by the University for illegal or improper purposes or in violation of

University regulations and policies, or related federal, state, or local laws. For media contact the university stated Students are expressly prohibited from speaking on behalf of, or for, Howard University with any media organization or publication, or from inviting the same to any University-owned or operated property, facility, or event without the express written permission of the Office of University Communications. Essentially, students are not permitted to speak on behalf of the university without the approval of the Office of University Communications nor can they use the university's communication system for illegal or inappropriate endeavors. Unless students are familiar with the student code of conduct, the interpretation of "inappropriate" and "improper" are very subjective and can lead to vast interpretations of activities. Amongst the policies, a potential concern is the consistent lack of efficiency in processing the complaint. This is exacerbated by the time constraints for successfully filing the complaint and documenting the violation. The current process holds potential for the individual to have reoccurring trauma from the incident.

Similar to Howard, Vanguard University is a private four year university. With a foundation as a religious institution (Christian denomination), Vanguard began as the Southern California Bible School for the purpose of preparing Christian workers for ministry; by gradually adding programs, receiving accreditations, it became Southern California College in 1959, was granted accreditation by the Western Association of Schools and Colleges in 1964, and eventually achieved university status in 1999 changing its name to Vanguard University. Vanguard was the first four-year institution of the Assemblies of God and holds strong to its vision to equip students for a Spirit-empowered life of Christ-centered leadership and service, providing "excellence without compromise for the glory of Jesus Christ".

As a religiously affiliated university, Vanguard placed high priority of students conducting themselves in a “biblical view point” and students are to conduct themselves with “self-restraint” in all behaviors and avoid actions that might be harmful or offensive to others (Vanguard Student Handbook, 19). The Vanguard Student Handbook outlines their policies with consistent reference to maintaining the university standard of conduct. As with Howard, hazing means any method of initiation or pre-initiation into an official or unofficial student organization or body, which is likely to cause serious bodily injury to any former, current, or prospective student of any educational institution and does not include customary athletic events or school-sanctioned events. Vanguard maintains hazing is a crime and operates under California Penal Code 245.6 stating that it is an unlawful violation and any guilty member is subject to misdemeanor or felony charges and possible imprisonment. It also states that the “person against whom the hazing is directed” (not “victim”) may file a civil suit against any individual or entity, include university entities that condoned or participated in the hazing activity.

The harassment policy includes all forms of harassment, including sexual and defines harassment as slurs, jokes, statements, gestures, assault, impeding or blocking another’s movement or otherwise physically interfering with normal work or academic performance, pictures, drawings, or cartoons, based upon an individual’s race, color, national origin, age, sex, physical or mental, disability, or any other criterion protected law and includes, but is not limited to requests for sexual favors, conversation containing sexual comments, and other unwelcome sexual advances. University policy against harassment applies to all university employees, students, program participants, and visitors, and non-university contractors. Filing a complaint is encouraged and the policy clearly identifies who the individual should file complaint with depending on their status in the university (i.e. students see Director of Residence Life, graduate

students see Graduate Programs Director, etc.) and retaliation is not tolerated and can be seen as basis for disciplinary action. While harassment is addressed and a procedure for reporting is described, there is no reference to state regulatory support (i.e. California penal code) as there is for their hazing policy. While there is an agent for each university member to report incidences to, it is a concern that there isn't a single entity for allegations to be reported to such as campus safety or student life. This might make it difficult for students to effectively file their complaints whereas with hazing, the policy does not say where to report the incident to at all, simply that it will not be tolerated.

The Sexual Assault prevention policy defines sexual assault as rape, acquaintance rape, and other sexual offenses, forcible and non-forcible. Individuals in this section are referred to as "victims", unlike the other policy sections, and recommend "victims" report any incidences to a Resident Director, Director of Counseling Services, Director of Campus Safety, or Dean of Student Life and state they will report all incidences to appropriate law enforcement. Student "victims" of sexual assault can request any reasonable change in their living or academic situations. This policy does not clearly define with sexual assault can consist of, leaving the policy up to interpretation which leaves potential "victims" vulnerable and uninformed of their rights. Without accurate information and clear outlines for who will be notified and what to do upon being assaulted, "victims" are left to determine the best course of action for immediate need independently. There is a need for additional support if this policy is to be effective for the community.

As a spiritual community dedicated to nurturing its members and expecting members to conduct themselves in decent and respectful manners, Vanguard's policy on acceptable use of technology is disbursed through the Student Handbook in various sections and the overall policy

must be inferred. Due to the institutional values Vanguard upholds as a spiritual community seeking Christ-centeredness, they maintain the right to regulate and prohibit access to obscene, pornographic, and unlawful materials via the internet and distribution of such material over the campus network. Computer dishonesty and appropriate usage of technological systems is expected. All enrolled students must abide by the general idea of using the technological resources solely for academic enrichment and personal betterment or they are subject to disciplinary action outline in the Technology Use Policy. This policy is not clearly found in the handbook, nor does the policy directly address unlawful behavior via the internet; it merely addresses distribution of unlawful materials. While the standard of conduct indicates that engaging in unlawful behavior is not acceptable, lacking a cohesive definition of what the acceptable technological use policy is poses a weakness and concern. The four policies addressed within Vanguard University reiterate a student's voluntary participation in the community, conducting themselves with mutual respect and with mind to "certain standards" that are expected of students due to the heavy emphasis on the core spiritual beliefs of the university.

Unlike Vanguard, San Diego State University is a public four year university which was established in 1897 as a training facility for elementary teachers. It is currently a top-ranked university with programs for undergraduate and graduate programs in business, engineering, education, and international business. SDSU's mission is to provide balance and education in their programs with the goal distinction in teaching, research, and service. The university mission corresponds to the goals and is represented in its policies. The university maintains that, "the campus community shall denounce and confront acts of intolerance, abusive behaviors, and the beliefs and past events that have separated us as a people." Similar to Howard

and Vanguard University, hazing, sexual harassment, sexual assault, and the acceptable use of technology policies will be addressed.

SDSU outlines their stance on and against sexual harassment with 20 points. They state, “Nothing herein shall contravene rights guaranteed in the Constitution of the State of California or the Constitution of the United States.” The 20 points go over six main topics which include: scope, definitions, sanctions for sexual harassment, procedures for reporting sexual harassment, other persons to contact, confidentiality, retaliation against persons reporting sexually harassing behavior, and false charges. Each topic contains multiple points that explain it in more detail.

Because of the effects of hazing, SDSU outlines and prohibits any form of it. SDSU makes sure to clearly follow California state laws, the Associated Students of SDSU, and Aztec Recreation’s policies pertaining to hazing. SDSU stresses the importance of standing strongly against hazing as they admit it can start out as something fun but turn into something dangerous and in some cases there have been deaths. Their policy states, “apathy or acquiescence in the presence of hazing is not a neutral act, and is also a violation.” The strong stance against hazing fits perfectly with their mission and goals.

SDSU makes sure to let students and employees know that information and resources are available to them through the University Police Department, Student Health Services, Counseling and Psychological Services and the Residential Education Office. They clearly state various support services in addition to the disciplinary procedures. Furthermore, they give steps to follow if you ever need to file a police report.

SDSU outlines usage of computers by breaking it down to two main topics; computers and electronic mail. Under each of these topics there are various subtopics explaining policy in more detail. For instance, section 1.31 under Computers, the policy states that University policies

shall not supersede federal or state laws. Illegal actions may result in prosecution. Another example comes from section 1.1 under the section of Computers where the policy states that computer users shall be liable for activities on their accounts. Relevant federal and state laws and university regulations shall apply. A concern with these policies is a lack of definitions for terms pertinent to comprehension of the policy (i.e. sexual assault).

Finally, we look at Orange Coast College. Orange Coast College is a public two year community college in Costa Mesa. It is the first ranking community college in the nine community colleges in Orange County, enrolling 25,000 students each semester. Orange Coast College was founded in 1948 and has grown to one of the nation's largest and finest community colleges. OCC is fully accredited by the Western Association of School and Colleges. All of the college's policies can be viewed on their website.

One policy, in particular, displayed on the website is Sexual Harassment. Sexual harassment is documented on the Orange Coast College website as unwelcoming and offensive sexual attention. This could include pressure for dates, sexual favors, suggestive gestures or remarks, touching, or actually attempting rape or assault. The website exposes sexual harassment as violating Title VII of the Federal Civil Rights Act of 1964 as amended; Title 9 of the Education Amendments of 1972; California state law; and the Coast Community College District Board policies.

Orange Coast College's policy on sexual harassment is consistent with the institutions mission statement. The college prides itself on empowering students and fostering a respectful and supportive campus climate. Sexual harassment would interfere with providing a welcoming and encouraging learning environment. The one concern displayed on the website is the options available for the students if they were to experience some form of sexual harassment. It seems

the student would have to do some research and work in order to understand their rights. The website contains one paragraph explaining sexual harassment, as well as the laws it violates, and a phone number to call the Associate Dean of Health Services to obtain a brochure of the student's options and speak to an administrator if the student had experienced any form of sexual violation. It would be helpful to have the brochure online so the student can easily access their options.

Hazing can be accessed through the website. In order for the college to function as an educational institution founded on an intellectual and respectful atmosphere, students must abide by the "Student Code of Conduct and Disciplinary Procedures." The conduct defines hazing as any behavior engaged in by one or more students which causes, or is likely to cause, bodily danger, physical harm, or personal degradation or disgrace resulting in physical or mental harm to another student. This is maintained within section 2.14 in the code of conduct and is supported by the California Penal Code Section 32050. Grounds for discipline are based on section 3.18 of the conduct expressing any participation in hazing or harming for purposes of initiation into a campus organization or activity at any time. The conduct is prefaced explaining the maximum discipline for violating "Student Code of Conduct and Disciplinary Procedures" is expulsion. The only concern with this policy is there is not a direct contact for the student to connect with if he/she has been exposed to hazing.

The third policy on Sexual Assault provides the same concern. There is no direct contact provided for the student. The website expresses in section 3.11 of the "Student Code of Conduct and Disciplinary Procedures" any threat of sexual assault or actual sexual assault can be punished through expulsion. The website is not thorough on explaining any laws attached to this policy which is also a concern for the students because their rights are not easily accessible.

The last policy, Acceptable use Policy of University Technology Systems, has the most extensive information on the college's website. The policy is found under the "Community College District Policy 030-10-1 Student Code of Conduct and Disciplinary Procedure." The website provides 11 sections of information regarding the violation of computer usage policy. Both Sexual Assault and Acceptable use Policy of University Technology Systems aligns with the college's mission statement in protecting the students and fostering a safe and intellectually stimulating atmosphere. There does not seem to be a reason for having 11 sections of computer policies yet every other policy is not explained on the website as in depth.

Each institution approaches explaining their policy from a different angle and to different degrees. Howard University is very detailed in explaining their policies and focus on the legalities of definitions and technical terms. This may be indicative of the region (Washington D.C.). However, they do not address if there are any legal statutes that apply in their region. Vanguard, Orange Coast College, and San Diego State University are all located in Southern California and of these SDSU and Orange Coast College use more technical terms to express their policies than Vanguard does. SDSU organizes and references its material via section and incorporates penal code citations. Orange Coast College is similar in its use of penal code citation, but out of the four institutions, it is the only one to cite the Federal Civil Rights Act and have the heaviest use of statutes and legal terms. Reasoning for this style of articulation could be due to SDSU and Orange Coast College being public institutions, whereas Vanguard is a private, religiously affiliated institution and for they may have chosen to write their policies in a way that appeals to their emphasis on personal integrity and community benefaction.

Our group is very diverse in our expression of spirituality, ethics, and what drives us toward a career in student affairs. Due to the majority of the group possessing Christian beliefs,

Vanguard's philosophy on moral and personal development closely aligns with those members current philosophies. Orange Coast College's philosophy to empower students and foster a respectful, student campus life is also very pronounced among the group. While each group member has their own method of expressing their spiritual beliefs and professional aspirations, all members are equally passionate about their desire to work in student affairs for the benefit of the students and for their own self-edification. Our researched institutions have similarities and dissimilarities in mission, goals, and policies, but are all rooted in creating an atmosphere where students can exist for their own intellectual and personal betterment.