

Federal Court Reaffirms Institution's Responsibility for Off-Campus Activity Under Title IX

BY DAVID M. FELPER • APRIL 21, 2017

In Farmer v. Kansas State University ("KSU"), a federal district court revisited the issue of when off-campus activity that would violate Title IX becomes the responsibility of a college or university to investigate and, if necessary, remediate. In this particular case, the plaintiff alleged that she was sexually assaulted at an off-campus fraternity party. Under Title IX, coverage is only triggered when harassment occurs within an "education program or activity." Stated another way, "'there must be some nexus between the out-of-school conduct and the school to impose Title IX liability.'" (Citations omitted). For KSU, the off-campus fraternity satisfied this nexus requirement because (1) it is a student housing organization that is available only to KSU students and fraternities and sororities are promoted as such by the University; (2) the director of the fraternity was a KSU instructor; (3) KSU employs individuals to support fraternities and sororities; and (4) KSU had the authority to regulate fraternity houses and to promulgate rules of conduct.

Client Tip: *Title IX responsibilities for colleges and universities do not end with campus boundaries. The potential for off-campus activity to create Title IX exposure is obvious. Therefore, colleges and universities need to be aware of when off-campus activity triggers Title IX responsibility to investigate and potentially remediate.*

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