

**THAT COULD
~~NEVER~~
HAPPEN HERE**

**Compliance and Safety Imperatives for
Today's College Campus**

By Maureen De Armond

As this article was being written, allegations of sexual abuse of Ohio State University wrestlers were emerging. While the allegations may never be substantiated, as the team doctor alleged to have perpetrated the abuse died in 2005, the claims alone conjure recent memories of the trial of Dr. Larry Nasser, who abused female gymnasts at Michigan State University, and more distant memories of Coach Jerry Sandusky's abuse of boys at Pennsylvania State University. While the commonalities between how such horrendous abuse went unnoticed or unaddressed at Michigan State and Penn State requires its own analysis, a few points of significance help frame a discussion of the need for colleges and universities to modernize their compliance programs. Michigan State and Penn State (Ohio State, too) are highly regarded, if not outstanding, institutions. These same universities serve as positive examples and aspirational peers to many institutions of higher education. And that warrants some reflection ... if scenarios of this horrific nature could occur on such highly-esteemed campuses, that should send shock waves through us all. And yet, such widespread abuse crises keep happening.

A seemingly very different type of tragedy occurring with distressing regularity in educational and employment settings concerns active shooters. On February 14, 2018, 15 students and two staff members at Marjory Stoneman Douglas High School in Parkland, Florida, lost their lives to a teenage gunman who opened fire in the school hallways. While Parkland was hardly the first K-12 mass shooting, the magnitude of the shooting and the student response thereafter received extensive media coverage.

Plan for the Worst

Despite the frequency and visibility of active shooter incidents, some officials have not internalized the reality that a shooting could happen anywhere. Just two months after Parkland, investigators thwarted a school shooting in Vermont. On April 12, 2018, shortly after being briefed on the shooting plot, Governor Phil Scott publicly admitted, "As I processed this information, I was shocked. Just 24 hours before — even in the aftermath of Parkland — I thought [of Vermont] as the

safest state in the nation, [that] Vermont was immune to this type of violence."

While Governor Scott's shock may be unjustified, it is not a unique response. Says Dr. Gene Deisinger, a threat assessment expert with Sigma Threat Management Associates, "With 25 years of experience in the threat management field, I have never had a single person come up to me and say they think their institution is exactly the type of place an active shooter incident could occur. My experience has been quite the opposite ... every community thinks they are immune."

Although an active shooter event and a sexual abuse scandal may be different in many ways, there is one striking similarity: no college or university wants to believe that either scenario could really happen on their campus, regardless of size or prestige.

Does there need to be a shooting or foiled plot in every state for leaders to take this threat seriously? Does every institution of higher education need their own Sandusky scandal before acknowledging such events can happen at any institution? On the 21st-century campus, "This could never happen here" is an intolerably naïve response to

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incidents of abuse and violence. And shock is no longer an acceptable emotional response either. Instead, we must be fully prepared and ready to act immediately in case the unthinkable happens on our campus.

"You cannot *connect* the dots, if you don't *collect* the dots," offers Dr. Jeffrey W. Pollard, senior consulting psychologist with Sigma Threat Management Associates and a faculty member at George Mason University. When it comes to

adopting effective campus safety and compliance programs, considerable data and commentary are readily accessible. Yet, many institutions are not taking adequate advantage of that information. For example, identifying lessons learned from the Sandusky and Nasser scandals does not require extraordinary effort — the key lessons are there for the taking, in public documents that can be found with a quick Google search.

HR's Role in Supporting a Culture of Safety and Compliance

While HR professionals might defer the weighty tasks of threat assessment and safety planning to the subject matter experts, HR does have a role to play in supporting a culture of safety and compliance on campus. Using a framework discussed in the blog post *10 Elements of an Effective Compliance Program* (www.fcpablog.com), the discussion below focuses on how HR can assist in examining and updating compliance programs to adapt to the most extreme risks facing modern campuses.

HR can help push, pull and, if need be, drag campus leaders across the hurdle of stubborn denial that “that could never happen here.”

Review and Expand Upon Your Written Compliance Program

If your institution's policies and programs have not been recently reviewed, it's time. Many compliance programs were initially designed to detect and root out financial fraud and abuse. Even where policies are “owned” by HR, consider a multi-disciplinary team to review them to assure varying perspectives are considered as you modernize and improve your written guidance. Re-examine and modernize the scope of your efforts to fold in or cross reference your Title IX and equal opportunity efforts. Get buy-in from your campus safety partners — particularly where misconduct may constitute criminal conduct.

Get Board Oversight

Board oversight and direction will always be important and should be sought on a regular basis. Be sure your board is informed on the risks of abuse and violence. Buy-in and advocacy from campus leaders are critical in identifying institutional priorities, establishing culture and setting expectations for policy and conduct. As you vet high-level-leader candidates, use behavior-based questions to ask about their philosophies and experiences dealing with worst-case scenarios. Factor in the advantages of hiring new leaders who are not only willing but eager partners in establishing and maintaining a safe campus.

Ensure That Everyone Knows They Are Responsible for Reporting Misconduct

While designating individuals to manage and implement compliance programs is necessary, placing an affirmative duty on every employee to report misconduct is reasonable. Such affirmative job duties foster a culture of compliance. Reinforce these expectations in more than one place.

Highlight the obligation, process and routes for reporting misconduct in your compliance program and policies, job postings, job descriptions, website, onboarding, orientation and performance evaluation tools.

Operating and Reporting

Many compliance officers, risk coordinators and Title IX coordinators wear multiple hats. While additional staff and increased budgets are never easy asks, universities should regularly review operational and staffing needs.

Margo Foreman, assistant vice president for diversity and inclusion and equal opportunity at Iowa State University, suggests, “Focusing discussions on the critical role internal investigations play in compliance and risk mitigation is often more effective than starting the conversation with requests for additional staffing.”

Foreman, who also oversees Title IX compliance, adds, “When serious Title IX issues do arise at a college or university, the question of adequate staffing is always part of the after-the-fact review. Asking for assistance is never a fun part of the job, but if you're responsible for Title IX efforts and you are understaffed, you have an obligation to speak up. The same goes for departments dealing with public safety. This is an area where HR can be a partner and an advocate.”

Management's Record of Compliance

Reexamine how your institution addresses employees in supervisory positions who fail to report misconduct, and take such failures seriously. Consider how HR can offer additional guidance, shape best practices and provide minimum requirements for reference checks. Many institutions conduct criminal background checks at the time of hire but stop there. Consider whether there may be a benefit for conducting periodic checks thereafter. Or, determine whether any internal actions may trigger a new check — such as promoting an internal candidate to a leadership position.

Some institutions fall short in requiring meaningful conversations with qualified references. It is quite common in higher education for one institution to hire another institution's problem employee simply because they did not do sufficient vetting.

Communication and Training

Physical posters describing compliance programs or advertising an anonymous hotline have token value. Keep the posters up, but spend time analyzing your website. How search-friendly is it? Consider search optimization tools on compliance, risk and safety topics to ensure the most pertinent pages get top billing (e.g., if you run a search for "active shooter" within your home page, does your emergency management or public safety page on the topic get top billing or is it buried on page five of the search results)?

Every fall, a new academic year begins. Institutions can anticipate holidays, semester breaks, ebbs and flows of students on campus, finals week, etc. Designing an annual communications plan to roll out, like clockwork, adds consistency and predictability. It can routinely highlight important compliance standards, reporting requirements, and other risk and safety topics.

While online training has its place, there is no substitute for in-person training opportunities — especially training that can be tailored to the audience. Explore the benefit of offering faculty-focused training, especially for active shooter scenarios. Work with your threat assessment and safety experts to ensure you still have the right people serving on critical response and safety committees. Where appropriate, get student buy-in and support. Remember, many of the students on our campuses grew up with "if

you see something, say something" and with active shooter drills in their K-12 years. Campus safety and police aside, there exists a real possibility that the groups most prepared and best trained to react to a shooting are our Generation Z students and employees.

Monitoring and Evaluating

Explore how your compliance program can adopt additional proactive measures. Push questions on misconduct to athletes and athletic staff, faculty and students (consider adopting a short annual or bi-annual survey). Consider revising your exit and retention interview forms to include open-ended questions on compliance concerns and coworker misconduct. Most compliance programs require the adoption of an anonymous hotline, and this remains a necessary option. However, this is not the communication tool of choice, especially for more tech-savvy students and employees who prefer to both seek and share information from their handheld devices.

Consider adding mobile-friendly options for electronically submitting concerns. If you have not already, develop or purchase a campus safety app that allows for emergency and non-emergency reporting.

Consistent Enforcement and the Right Response

HR plays a fundamental role in facilitating consistent responses and discipline in instances where misconduct is substantiated. HR also bears responsibility for educating leadership on the importance of taking misconduct seriously. Ensuring appropriate hiring processes are followed, tracking disciplinary data, mentoring leaders, and helping onboard new employees and leaders are all tasks HR can help make more visible and meaningful. Consider whether there is any benefit in talking to your student-conduct partners. Are students and employees being treated in similar fashion for threats and violence? It is possible (if not likely) that common policies apply equally to faculty, staff and students (e.g., violence-free campus, Title IX, non-discrimination policies). Despite varying enforcement mechanisms, are employees and students engaging in similar misconduct treated in a similar fashion? Where there are differences, they should be intentional and defensible.

Risk Assessment

While conducting threat assessments and documenting criminal conduct are typically considered the responsibilities of law enforcement, there may be

opportunities for HR to collaborate in this area with campus safety and student conduct partners. If you're thinking about an initiative relating to employee engagement, considering a campus climate survey, or updating your exit interview surveys, talk to these partners. Using similar questions across the board may result in more compatible and meaningful data and dialogue.

Consider whether there are opportunities for more efficient and timely sharing of information with campus safety, compliance and risk partners. Collaborating when specific complaints come in and looking for patterns and hot spots are opportunities for sharing information and collaborating on wider solutions.


While student counseling and employee assistance programs (EAPs) justifiably keep many details confidential, consider what de-identified information may be appropriately shared (e.g., number of reports and incidents tracked over time, trends in types of reported concerns, spikes in reports or incidents in departments or divisions).

Join the Choir, and Book Some Gigs

When asked what role HR can or should play in campus safety, Deisinger observes, "Talking to HR professionals about the importance of prioritizing campus compliance and safety initiatives is often like preaching to the choir." But he is quick to add, "Don't forget how important the choir is. It serves a purpose. HR professionals play a significant role in training. They also help facilitate awareness of policies and resources, like EAPs. And due to HR's frequent interactions and relationships with

campus leaders, HR leadership can facilitate engagement among campus leadership around risk management and compliance in ways that may be more challenging for law enforcement personnel who may not have the same access to these leaders."

HR can be a vocal advocate for compliance programs and safety measures in its relationships and interactions with academic and operational leaders. When considering employee recruitment and retention, HR professionals can help create and maintain a safe work environment, as these are critical factors in employee engagement. HR can also serve as a watchdog when there are concerns about retaliation against people reporting misconduct. HR often has some control (or at least influence) over orientation programs and onboarding materials for faculty and staff, and therefore can incorporate the language of compliance, safety and obligations to report misconduct into HR policies, trainings and communications.

Lastly, HR can help push, pull and, if need be, drag campus leaders across the hurdle of stubborn denial that "that could never happen here." HR professionals must be insistent that previously unimaginable crises can indeed happen in our communities. And when they do, we will not have time to be shocked. We will need to be prepared. 

***About the author:** Maureen De Armond is assistant vice president of human resources at University of Florida. Prior to this, she served as associate counsel at Iowa State University. She has presented several sessions at CUPA-HR conferences and has authored articles on employee free speech, the use of social media in vetting job applicants and more.*

Related Safety and Risk Management Resources From CUPA-HR

KNOWLEDGE CENTER TOOLKITS:

Investigations (www.cupahr.org/knowledge-center/toolkits/investigations)

Title IX and Sexual Harassment (www.cupahr.org/knowledge-center/toolkits/title-ix)

Crisis Management (www.cupahr.org/knowledge-center/toolkits/crisis-management)

TRAINING VIDEO:

Higher Ed Scenarios for Harassment Training (www.cupahr.org/knowledge-center/essentials)

ON-DEMAND WEBINAR:

The Intersection of VAWA and Title IX: Implications for Sexual Misconduct Complaints and Institutional Response (www.cupahr.org/events/webinars/vawa-title_ix/)