**Sexual Misconduct and Bullying Scenario: Higher Education**

*For guidelines on facilitating a tabletop exercise, including developing goals, objectives, rules, after-action reports, and follow-up actions, please see United Educators’* [*Crisis Response Planning: A Facilitators Guide for Conducting Tabletop Exercises*](https://www.ue.org/risk-management/the-workplace/crisis-response-testing-resources-tabletop-exercises/)*.*

Scenario

Bella is a first-year student on a soccer scholarship. During the prior summer, she attended the preseason team camp on campus and met Emily, a rising senior and captain of the soccer team.

Bella and Emily began an intense but turbulent romantic relationship that continued after the academic year began. At 10 p.m. Nov. 4, with the team in contention for the conference championship, an incident happened between Bella and Emily. The two arrived together, arguing, at an off-campus party given by Emily’s friends. Bella drank heavily, blacked out, and didn’t remember how she got back to her dorm room. The next day she broke up with Emily, who took it badly, alternately accusing Bella of cheating and pleading with her to reconsider.

A few days later, several team members began harassing Bella in person and on social media, accusing her of being a “slut” and “cheating” on Emily. Victoria, another first-year player, pulled Bella aside to say she’d heard rumors that Emily was circulating pictures taken at the party of Bella making out with another woman.

Bella, who remembered nothing about the party after she arrived, wept. She said Emily was controlling and increasingly “pushy and aggressive” during their relationship, which Bella ended because she had begun to fear Emily. Victoria urged Bella to report the situation to Coach Lindsey Beckham, but Bella refused because she was worried about Emily’s reaction as well as endangering her soccer scholarship by breaking school and team rules against drinking. Bella begged Victoria not to say anything to others.

Coach Beckham noticed new tension between Bella and other players and was concerned that would affect the team’s success. Knowing that Victoria was a friend of Bella’s, she invited Victoria to her office to question her.

Victoria reluctantly relayed the bare bones of her conversation with Bella. After speaking to Victoria for an hour, the coach called Bella in to further investigate. Bella became upset and insisted that she didn’t want to discuss it, but she finally agreed when the coach pressed her to meet with Marshall Zapata, the school’s Title IX Coordinator.

During their meeting, Mr. Zapata asked Bella to explain more about what happened. Bella again said she didn’t want to discuss the matter, but admitted she’d heard “someone” took semi-nude photos of her at an off-campus party and that other students had seen them. Bella said she was scared of losing her scholarship if Coach Beckham discovered she was drinking. Bella refused to give Mr. Zapata more detail, saying, “I don’t want anyone else to find out what happened, and the school shouldn’t be involved in this.”

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| Discussion questions:* Is this a Title IX matter? Why or why not?
* Is VAWA/Campus SaVE Act implicated?
* What, if any, issues concern you?
* At this point, what should the Title IX Coordinator do?
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Inject 1

During his initial meeting with Bella at 11 a.m. Nov. 10, Mr. Zapata explained the school’s policies and procedures for handling reports of sexual misconduct. He also discussed the school’s amnesty policy for students who reported incidents of sexual misconduct, addressed Bella’s concerns about confidentiality, and provided campus and community resources for her to contact.

Later in the week, after speaking with a campus advocate and learning more about sexual misconduct, Bella filed a written complaint alleging Emily sexually assaulted her several times during their relationship and sexually harassed her by taking intimate photos of Bella at the party without her consent and sharing them with other people. Along with the written complaint, Bella provided a copy of a text to her from Emily dated one week after the party. In the text, Emily said, “I’m really, really sorry about what happened at the party. I didn’t mean to cross the line. Please forgive me.”

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| Discussion questions:* What, if any, interim measures are appropriate in this situation? Should you consider how interim measures might affect the soccer team and its season?
* Other than Emily and Bella, who should be interviewed during the investigation? In what order would you conduct interviews?
* List initial questions to ask the involved parties.
* Detail evidence you wish to obtain.
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Inject 2

After meeting with Bella the first time, Mr. Zapata contacted Victoria at 3 p.m. Nov. 10 to follow up on her conversation with Coach Beckham. He clarified that Victoria wasn’t at the party and had only heard about, not seen, photos of Bella making out with an unidentified woman.

After Bella filed her complaint, Mr. Zapata interviewed Emily. When she learned of Bella’s accusations, Emily started weeping. Emily insisted she loved Bella and would never hurt her. She adamantly denied sexually assaulting Bella or taking pictures of her making out with someone. She claimed, however, that Lily and Jen, two seniors who hosted the party at their off-campus apartment, told Emily they had taken some semi-nude photos of Bella that night but that Emily herself never saw them.

When Mr. Zapata asked Emily what she meant about “crossing the line” in her text to Bella, Emily said she couldn’t remember specifics but that she was probably referring to another argument, since the two of them had fought a lot.

When Mr. Zapata inquired more about Emily’s relationship with Bella, she insisted everything between them was consensual. When he asked, “Is there any reason Bella might be scared of you?” Emily shook her head and said, “I know sometimes Bella says I’m controlling, but I would never force her to do something if she said ‘No.’”

Next, Mr. Zapata separately interviewed Lily and Jen, who Emily identified as having hosted the party. Lily denied taking or knowing about pictures of Bella at the party. Jen admitted she had seen Bella making out with another woman, whom she didn’t recognize, in front of other people and that Bella and the woman appeared to be drunk. Jen denied taking photos herself but told Mr. Zapata she “had a feeling” that Emily might have done so and further stated that at the party, she’d overheard Emily complaining about her unfaithful girlfriend.

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| Discussion questions:* What questions would you ask Emily and Bella to determine whether any sexual encounters during their relationship were non-consensual?
* In thinking about witnesses’ statements, what questions should you ask to assess their credibility?
* Is there anyone you would want to interview besides the complainant and respondent (Bella and Emily), Victoria, Lily, and Jen?
* What other questions would you ask the parties and witnesses to help determine Bella’s condition on the night of the party?
* Based on information received thus far, identify any inconsistencies by making a list of disputed vs. undisputed facts.
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Inject 3

Mr. Zapata completed his investigation 5 p.m. Dec. 3 after conducting numerous interviews and obtaining from one of Bella’s teammates six photographs of Bella kissing and fondling another woman while both were topless. He prepared a detailed report for the adjudicator(s). The adjudication was scheduled, and Bella and Emily received copies of the school’s policies and procedures governing the adjudication process.

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| Discussion questions:* Identify the adjudication model your school would use to determine the outcome and its key elements.
* Discuss the role of an advisor in your institution’s adjudication process.
* Identify rights and restrictions that apply to the complainant and respondent during your institution’s adjudication process. Are there differences in treatment of the parties during the process?
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Inject 4

On 3 p.m. Dec. 15, the adjudicator(s) found by a preponderance of evidence that Emily was responsible for sexual harassment for taking pictures of Bella in an intimate situation while Bella was so intoxicated that Bella was unaware of her surroundings and unable to consent to photographs. Emily then shared the pictures with other students. However, the adjudicator(s) found there was insufficient evidence to hold Emily responsible for sexual assault or dating violence.

Emily was suspended for two semesters. Emily *and* Bella appealed the finding and sanction.

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| Discussion questions:* As a group, draft an outline for the notice of outcome.
* Based on your experience and discussions with your group, what is your reaction to the findings?
* List grounds for appeal at your institution.
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