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Columbia Struggles to Launch a New Policy

A series of outside attacks and a sudden resignation make for a rocky first year for Columbia's new Sexual Misconduct Policy.

By Ben Casselman
Spectator Campus News Editor

The red tape was gone, and with it the rallies and marches, petitions and packed University Senate meetings that characterized last year's fight for a new University-wide sexual misconduct policy. But in the year that was meant to be the triumphant launch of the new policy and a transition from activism to administration and oversight, sexual misconduct never quite faded from the spotlight.

The sudden resignation of the first coordinator of the policy, Charlene Allen, ended a two-month period of relative calm, the first since the policy was adopted last spring. The long-term significance of that development is still unknown, but it ensures that now, 14 months after the Senate approved the policy with only two dissenting votes, and eight months after the Wall Street Journal attacked the new code as unfair to the accused, the policy will stay in the headlines for some time to come.

Allen's Hiring and Resignation

The year started out on a positive note with the hiring of Allen, a lawyer who was serving as director of the Boston Area Rape Crisis Center, as the University's first coordinator for sexual misconduct prevention and education.

But according to Vice President for Student Services Gene Awakuni, whose office oversaw Allen, the job rapidly became too much for her to handle.

Allen could not be reached for comment since her resignation last Thursday.

In her role as coordinator, Allen was in charge both of outreach and education

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about sexual misconduct and the University's policies, and of overseeing the policy's disciplinary procedure.

But Allen, according to Awakuni, was forced to spend almost all of her time dealing with the disciplinary aspects of the policy, making it nearly impossible for her to do the education part of her job.

"She felt that her expertise was not being fully utilized, and that's in the outreach and prevention education areas," Awakuni said. "We all were expressing frustration about how to make [the coordinator position] work, because the discipline piece of it and the educational piece didn't seem to knot together very easily."

What occupied Allen's time was the task of clarifying the specifics of the policy. The disciplinary procedure the Senate passed in February 2000 was only a framework, intentionally leaving large gaps open to interpretation.

Allen was working to draft the specifics of the procedural regulations with Associate General Counsel Patricia Catapano, who chaired the Senate subcommittee that originally authored the policy. Only Catapano, though, interacted directly with the Trustees.

Catapano said Allen was involved in the drafting process and never gave any indication that she felt her objections were being ignored.

When Allen resigned last week, she said the new specified regulations were incompatible with her vision for the policy.

The current draft of the regulations contains a number of provisions to which Awakuni acknowledged Allen had objected. Among the provisions is the proposal that the accused student be allowed to view the proceedings live via closed-circuit television, which Awakuni said Allen thought might "have a chilling effect on students coming forward."

But, Awakuni said, the draft was not final. The procedures were all subject to approval by the oversight committee, which includes students who were active in drafting the policy last year.

But Allen felt she had irretrievably lost control over the process. She officially resigned on Thursday, two weeks after she first raised the possibility to Awakuni.

According to Awakuni, if Allen lost control, it was in part due to attacks by the Foundation for Individual Rights in Education (FIRE).

"Under different circumstances someone might successfully take care of these multi-tasks," Awakuni said, "but there was so much going on at the time that it would have been virtually impossible."

Last week Allen blamed the Trustees, who she said had been trying to change the policy in the wake of attacks by FIRE, a two-year-old "watchdog group" dedicated to protecting civil liberties on college campuses, according to its website.

Awakuni and Catapano denied that the Trustees were influenced by FIRE's attacks.

"I wouldn't say it was a response to FIRE as much as a recognition that as you put

together procedures there are certain kinds of realities that we had to face that wasn't anticipated when the policy was established by the Senate," Awakuni said. "You establish a policy and then once you start to deal with the nuts and bolts of trying to implement the policy, certain issues arise."

A Policy under Fire

The controversy that contributed to Allen's difficulties in her role began in October, after Allen's hiring but before she arrived on campus. On October 4, the Wall Street Journal ran an editorial attacking the policy for sacrificing the civil liberties of accused students, and charged the student groups who helped forge the policy with "want[ing] to put an end to ... the basic principles of due process."

The Journal editorial applauded efforts by FIRE to oppose the policy. FIRE had sent a letter to the Trustees in August explaining its objections to the policy. When it received little response from the Trustees beyond a letter voicing their general support of the policy, FIRE went to the Journal, resulting in the editorial and again thrusting the policy into what was this time the national spotlight.

Administrators defended the policy in an October 11 letter to the Journal, but the letter did little to quiet the issue. The policy continued to get coverage in the national press, including in The New York Times and the Boston Globe.

It was not the first time questions about due process had been raised. In the February 2000 Senate meeting where the policy was initially approved, Professors James Applegate and Gerard Lynch questioned the policy's lack of many of the rights extended to defendants under the American judicial system.

As a private institution, Columbia is not bound by American standards of due process, and its disciplinary processes are required only to meet a standard of "fundamental fairness."

The policy does not guarantee accused students the right to cross-examine witnesses, and it explicitly forbids accused students from being in the room with their accuser or from having a lawyer present at the hearing. Proponents of the policy say such limitations make the process less adversarial and less intimidating to the accuser, making it more likely that victims will report incidents of sexual assault, a notoriously underreported crime. Critics of the policy say the policy goes too far, giving accused students little chance to defend themselves.

Applegate and Lynch found little support for their concerns in the Senate, which approved the policy with only two dissenting voices, not including Lynch, who eventually voted in favor of the policy.

Applegate and Lynch did find a few sympathizers outside of the Senate, but the issue seemed to have almost entirely died out by fall, and the Journal editorial caught many of the policy's supporters off guard.

The arguments that followed were often heated. In November, Village Voice columnist Nat Hentoff dedicated three straight weekly columns to the policy, saying that he had "never seen so outrageous a violation of minimal fairness as in the new sexual misconduct procedures at Columbia University."

Supporters of the policy never mounted a full counterattack, but they did not remain silent. Students Active for Ending Rape (SAFER), one of the student

groups at the forefront of the initial battle for the policy, released a point-by-point defense of the policy. SAFER Co-Coordinator Sarah Richardson, CC '02, also wrote a letter to the Village Voice accusing Hentoff of misquoting and misrepresenting SAFER.

The clamor outside the gates had echoes on campus. Several letters and columns on both sides of the issue ran on the editorial pages of the Spectator, and Columbia's chapter of the American Civil Liberties Union (ACLU) attempted to organize a bipartisan panel on the issue.

When that forum, organized and moderated by Karl Ward, CC '01, a Spectator columnist, finally took place in February, the panel was markedly less bipartisan than originally planned. Sitting on the panel with Ward were Columbia Law professor Vivian Berger, who had written a column in the Spectator against the policy in November, and FIRE co-founder Harvey Silverglate, a nationally known civil libertarian.

SAFER declined to send a representative on the grounds that the panel was biased. The Administration also turned down an invitation to participate, saying that the issue warranted an internal discussion, but not a debate with the outside opposition.

The ACLU forum drew about 50 students, but organized student opposition to the policy never materialized. Public discussion of the policy all but ended on campus after the panel, and sexual misconduct was not a major issue in student council elections.

Moving Forward

Allen's resignation is a setback in the implementation of the policy, but Awakuni said the process continues to move forward. Students are now being shown the current draft of the disciplinary procedures, which Awakuni said Allen was meant to have been showing them all along.

Whether the oversight committee accepts those changes remains to be seen, but either way, Awakuni must now find a new coordinator, as well as negotiate a disciplinary code with which students, administrators, and the Trustees can all be happy. And with student activists again paying close attention to an issue from which they had seemed to move away, the committee, and the coordinator, will be facing scrutiny from both inside the University and without.

--Associate News Editor Tallie Lieberman contributed to this report.

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