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Body Image and Disordered Eating in Higher Education

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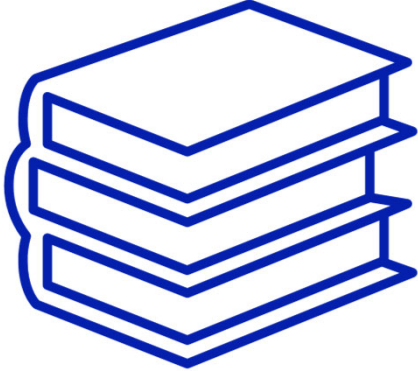
Background

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Terminology



- **Eating Disorder:** “any range of psychological disorders characterized by abnormal or disturbed eating habits.” (Oxford Dictionary)
- **Disordered Eating:** a descriptive phrase, where people with disordered eating may not meet the diagnostic criteria for an eating disorder.
- **Body Image:** subjective view or mental view of one’s own body.

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Examples

Major categories of eating disorders:

- Anorexia nervosa
- Bulimia nervosa
- Binge eating disorder

Types of disordered eating

- Cleanses
- Diet pills
- Emotional eating
- Excessive exercise
- Fad diets
- Laxative abuse
- Misusing supplements
- Overeating
- Skipping meals or fasting
- Social withdrawal

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Prevalence on College Campuses

- Eating disorders usually begin between 18 and 21 years of age
- Clinical eating disorder symptoms on college campuses:
 - 11% to 17% of females
 - Approximately 4% of males
- Subthreshold eating disorder symptoms:
 - 20% to 67% of college students
- This issue is prevalent among **all** student populations



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Prevalence on College Campuses cont.

- Risk of disordered eating was **not different** among female collegiate athletes and female collegiate non-athletes
- Athletes may be less likely to seek treatment for their disordered eating
- High mortality rate





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Why are eating disorders a concern for higher education attorneys?

Litigation risk

OCR investigations

Negative publicity

Danger to students

To avoid all of the above, it is important for higher ed institutions to have policies and systems in place to address these issues before they reach a breaking point

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Rise of Eating Disorders During the Pandemic

- Rise in eating disorders since the beginning of the Covid-19 pandemic
- Spring 2020 – Spring 2021: number of eating disorder inpatient admissions almost doubled
- Reasons for the increase?
 - Time of uncertainty;
 - Changes to daily routines;
 - Disruptions in food availability;
 - Health concerns;
 - Feelings of loss of control;
 - Restrictive diets to increase immunity



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ED Risk in Specific Student Populations

- Gender-diverse college students are at a higher risk of disordered eating
- Colleges should take steps to proactively address these issues:
 - Education on eating disorders and
 - offering mental health resources.



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ED Risk in Specific Student Populations cont.

- Student-athletes are faced with extreme pressure to succeed and perform well
- More common in female than male student athletes, but not a huge disparity
- Higher rates in aesthetic, endurance, and weight-class sports
 - **Aesthetic**
 - **Endurance**
 - **Weight class sports**
- Approximately 84% of collegiate athletes reported negative eating and weight control behaviors

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Eating Disorders and the Law

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Relevant Law



ADA (Title II and III)

The Rehabilitation Act

Title IX

State statutes

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ADA and
Rehabilitation
Act

ADA

- Title II: applies to public colleges and universities
- Title III: applies to private entities that are “places of public accommodation” which includes private colleges and universities

Rehabilitation Act

- Applies to institutions receiving federal assistance, which includes most public and private higher education institutions

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Is an eating disorder a disability?



- Yes, when the eating disorder substantially limits one or more major life activities
- Courts have found the following:
 - Eating disorders must impact a major life activity, which is a factual determination
 - A school’s failure to take disciplinary action on student harassment that was based on an eating disorder may be a form of intentional disability discrimination
 - Failure to accommodate an eating disorder as a disability may be a form of intentional discrimination

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ADA and Rehabilitation Act

- No affirmative outreach requirement
- But schools must provide reasonable accommodations to those who request them
- Students may voluntarily seek out other available campus resources



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Accommodating Students with Eating Disorders



- Supporting Documentation
- Begin interactive process
 - Individualized analysis
 - Work with student to find reasonable accommodation
- Potential accommodations:
 - Dining hall/plan adjustments
 - Residence hall adjustments
 - Academic adjustments if class performance is affected

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Direct Threat Test

- Pre-2011 standard
- 2011 amendments to Title II of the ADA and direct threat updates
- Colleges left grappling with what to do if a student presents a threat to themselves



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Direct Threat Test cont.



- OCR official recommended that schools steer clear of the “direct threat” terminology or framework
- Best practice recommendations:
 - Involuntary leaves of absence should be considered as a last resort
 - Must be determined on an individualized basis
 - Colleges should consider how student’s behavior impacted the campus community
 - Students should have a mechanism to challenge a leave decision

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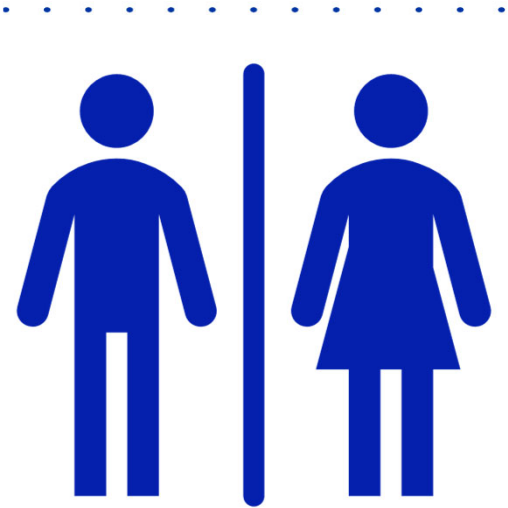
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Title IX

- Title IX prohibits discrimination on the basis of sex in education programs and activities that receive federal funding
- Student plaintiffs have alleged that eating disorders primarily impact women
- In *Franchi v. New Hampton School*, a parent of a secondary school student sued her daughter’s former school for violating Title IX after her child, who suffers from an eating disorder, was discharged from the school. 656 F. Supp. 2d 252 (D.N.H. 2009).




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State Statutes

- A limited number of states have statutes relating to eating disorders, disordered eating, or body image
- Of these states, their statutes generally focus on the following:
 - Creating mental health education programs
 - Creating mental health education programs within K-12 school districts



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- Few student eating disorder cases have been brought under state law
- One case highlighted that a claimant's state tort law claim for eating disorder related injury needed to be permanent and substantial.
- In Florida, a case was brought under the wrongful death statute, survival action statute and contract law, as well as the ADA, Section 504, and Title IX after a student died by suicide
 - Parents allege their daughter's coach fat shamed and bullied her

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- Eating disorders are comparable to other self-harm behaviors, and OCR has issued several resolution agreements related to this
 - University of Rochester
 - Rutgers University
- DOJ has also entered settlements with colleges regarding this
 - Quinnipiac University
 - University of Tennessee Health Sciences Center
 - Princeton University
 - Northern Michigan University



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Eating Disorders in the Media

Parents of college runner with disabilities sue school after her suicide: 'Monster' coach 'fat shamed' students, bullied our daughter

ELURA NANOS | Feb 20th, 2023, 10:55 am
37 comments

Surge in eating disorders spurs state legislative action

By JESSE BEDAYN March 23, 2023

Opinion | The hidden cost of disordered eating at Stanford

Florida soccer coach leaving after complaints by players over comments about eating habits, bodies

By Payton Titus

Female College Athletes Say Pressure to Cut Body Fat Is Toxic

Several women in track and field said their mental health spiraled as they skipped meals to be leaner at the urging of coaches and peers.



Can Dining Halls Help Students With Eating Disorders?

Dining halls can be land mines for students with eating disorders. Some universities want to change that.

Audra Koopman, who ran track and field at Penn State, said she felt pressured to avoid sweets and to trim down. But even as she did, she didn't feel like she performed better. Rachel Woolf for The New York Times

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Policies

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Policies



- Few institutions have policies that relate to eating disorders specifically
- More commonly, institutions have general mental health policies
 - This may include:
 - Involuntary withdrawal policies
 - Behavior Intervention Teams
 - Resource guides for students regarding access to campus mental health resources
- Schools should develop policies to be prepared for various scenarios that may involve students with eating disorders

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Policy Considerations

- What can/should faculty and staff do when they suspect a student has an eating disorder?
- Are eating disorder trainings offered?
 - How often?
 - Who receives the training? Students, faculty, and/or staff?
 - What is the content of the training?
 - Are the trainings mandatory?
- Is involuntary withdrawal an option?
 - If so, when can it be used and what is the process?
- What resources does the institution have or want to have for students with eating disorders?

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Athletics Specific Policy Considerations

- Consider having separate eating disorder policies for student-athletes
- Coaches should be required to undergo trainings on:
 - How to spot eating disorder behaviors
 - How to address suspected student-athlete eating disorders
- Investigation and grievance process for student-athlete complaints
- Avoiding frequent weight checks
- Avoiding inappropriate comments regarding weight
- Weight and BMI information should remain confidential
- Guidance on proper nutrition

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Scenarios

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Scenario #1

Student A is in University’s Physician’s Assistant program and has clinical rotations in the NICU at University’s Medical Center. Student A is ranked first in his class and consistently receives positive feedback from Medical Center faculty. However, over the last year, faculty and students have noticed that Student A has lost significant weight. Student A tells others that he has been working out and eating healthy, but in reality, he has an undiagnosed eating disorder. Student B confides in Professor C that she is worried Student A is not eating because he always makes up an excuse not to eat and is showing trademark anorexia nervosa symptoms (fatigue, always cold, thinning hair, excessive weight loss). Professor C meets with Student A to ask if he needs help, but Student A says he is fine.

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Scenario #2

Same facts as before, but after meeting with Professor C, Student A refuses to get help and his eating disorder remains untreated. A month goes by, and Student B reports that a distraught parent told Medical Center staff that Student A almost dropped her child while he was lifting the child from her crib. After conducting a preliminary investigation into the matter, other students also confirm to University personnel that they have noticed Student A’s hands and arms shaking during his shifts. Student B also tells investigators that she has witnessed Student A struggling to lift hospital equipment on multiple occasions, and that she often sees Student A sleeping during his shifts.

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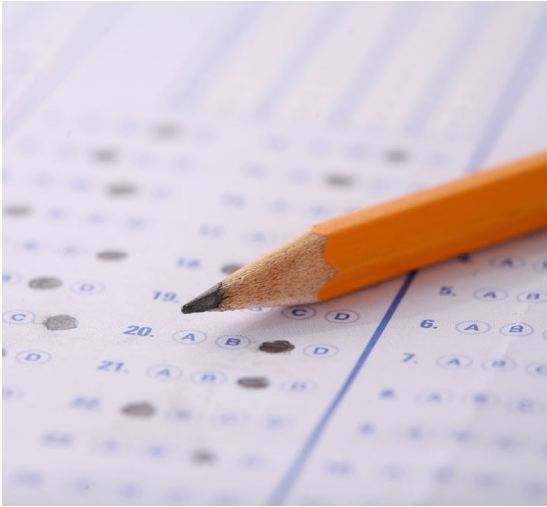
Scenario #3

College’s gymnastics team members are being interviewed by the College’s Title IX investigator after reports that an assistant coach made inappropriate sexual comments to some of the gymnastics team members. During an interview with Student-Athlete 1, investigator asks Student-Athlete 1 what the student’s experience has been like with the assistant coach. Student-Athlete 1 says that the student has not had a great relationship with the assistant coach, and upon further questioning, Student-Athlete 1 reveals that the student has been struggling with bingeing and purging for a few months after the assistant coach told Student-Athlete 1 that the student would be perform better if the student weighed less.

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Best Practices

- Engage in interactive process when accommodations are requested
- Training
 - Faculty and staff (including coaches) on how to identify the signs of an eating disorder, and what they should do if they suspect a student has an eating disorder
 - Students on eating disorders, treatment options, and inform them about different campus mental health resources

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Best Practices cont.

- Consider stand-alone eating disorder policy or include eating disorders specifically to a policy on mental health
 - Address if/when involuntary withdrawal is an option
 - Address steps the institution may take when students have eating disorders
- If concerns about specific student populations arise, consider conducting assessments to determine the prevalence and effects of eating disorders
- Create eating disorder response teams that include a campus dietician, therapist, and doctor

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Other Considerations



- FERPA and HIPAA obligations
- Risks associated with involuntary withdrawal

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Questions?
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