

# ***WOMEN'S ENEWS***

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## **Georgetown Ruling Breaks Silence on Campus Rape**

**By Juhie Bhatia, WeNews Correspondent**

*A ruling by the U.S. Department of Education gives students at Georgetown University the right to speak openly about sex-assault cases that come under campus authority. Advocates say the decision will help break the silence about campus rape.*

(WOMENSENEWS) – As students return to college campuses this month, those attending at least one school are guaranteed that they can speak more openly about sexual assault cases, thanks to a ruling by the U.S. Department of Education this summer.

In July the department advised Georgetown University that the school's policy of requiring a campus rape victim to sign a confidentiality agreement before receiving the outcome of any disciplinary action against an assailant was illegal.

Though some say the ruling isn't a huge breakthrough, a nonprofit group is hailing the decision, the first of its kind, as significant in treating victims of campus sexual assault more fairly and helping break the silence surrounding campus rape.

"It will ensure that sexual-assault victims are able to talk to people they need to tell what happened to heal," said Daniel Carter, vice president of Security On Campus Inc., the nonprofit victim assistance group based in King Of Prussia, Pa., that filed the complaint against Georgetown last year. "And if they have grievances they are free to address those."

It's unknown how many schools use actual nondisclosure agreements in cases of sexual assault. But rape advocates say that one way or another, most colleges conduct student disciplinary cases in confidentiality.

Carter said it's most common for schools to impose an informal understanding of confidentiality than to require a student to sign an agreement. "Having one or the other is virtually universal," he said. "In lots of other schools they just tell them they can't disclose the results; that's still a conditional disclosure." Carter's group brought the suit on behalf of student Kate Dieringer, who said she was assaulted in September 2001.

### **Suit Stems From 2001 Assault Case**

Figures on sexual assaults against college women are hard to pin down. Less than 5 percent of these rape or attempted rape cases are reported to the police and victims are often confused about what constitutes rape, according to The Sexual Victimization of College Women study

sponsored by the U.S. Department of Justice in 2000. The study estimated, however, that 1-in-4 women experienced rape or attempted rape during their college career.

Dieringer has stated she was 18 when she was assaulted, in the third week of her freshman year. She said she was pulled away from a party by her new student orientation leader and taken to his apartment. That's the last thing she remembers. She says she woke up four hours later and was being raped. She suspects she may have been drugged.

Georgetown's Office of Student Conduct initially expelled Dieringer's alleged rapist during a 2002 hearing, but the decision was changed to a one-year suspension, with the opportunity to return to Georgetown, after he appealed. To find out those results, Dieringer signed an agreement promising not to share the results with anyone but her parents and one close advisor. To top it off, she said the office's director called her "a woman scorned" in her discussion with her.

### **Following Privacy Law**

Georgetown maintains the nondisclosure agreement was necessary to protect the privacy of all the students involved and to comply with the Family Educational Rights and Privacy Act (FERPA), a federal law mandating privacy around student records.

"The alleged perpetrator needs as much protection as the alleged victim," said Sheldon Steinbach, vice president and general counsel for the American Council on Education. "Especially since many of these cases are awash in alcohol and drugs and nothing comes of them."

Colleges also want to make sure such proceedings are treated as educational. "The disciplinary system plays an educational role, it's not a criminal proceeding," said Julie Green Bataille, spokesperson for Georgetown University.

But victims' advocate Carter said these justifications don't suffice. "For lots of schools the real motivation goes to their image rather than a student's well being," he said. "Student safety and the ability to heal is a superior interest to privacy in cases of criminal conduct. We're talking about violence here, an alleged criminal act against someone else, not cheating or residence misconduct."

The U.S. Department of Education agreed. They said nondisclosure agreements in cases of sexual-assault violated the so-called Cleary Act, which requires schools receiving federal aid to notify victims of their right to report their assaults to law-enforcement authorities. The schools must also issue annual reports on crimes committed on their campuses.

The legislation – its full name is the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act – was passed in 1990 and named after a student at Lehigh University in Bethlehem, Pa., who was raped and murdered in her dorm in 1986. Institutions that violate the law face warnings, fines of up to \$27,500 per violation or loss of eligibility to participate in federal student aid programs.

Georgetown's Bataille said the school's policies reflected administrators' best understanding of these two federal laws. "Schools need to balance the privacy rights of students protected by FERPA with the outcome disclosure requirements imposed by the Clery Act," she said. "Now we're being given a more clear direction on how to administer those policies."

### **Defending Culture of Confidentiality**

Some participants in this legal area, however, defended campus customs on confidentiality.

Ed Stoner, a lawyer with Reed Smith in Pittsburgh, Pa., who represents colleges and universities, is one. "My clients all ask the students in a disciplinary process to treat the process with dignity and confidentiality. It allows the student to go forth with life."

Stoner played down the significance of the ruling, saying that such nondisclosure agreements are rare. "This ruling is significant in that colleges and universities pay a great deal of attention to the Department of Education with regards to the acts they administer and how they should be interpreted," he said. "But this situation is unique to Georgetown."

Some schools already allow disclosure of the outcome of the hearing so the ruling's impact isn't dramatic for higher education as a whole, added Steinbach. Besides, he said, confidentiality agreements have a limited impact. "There's very little restraining the student from breaking a confidentiality agreement and for the most part individuals who feel they're a victim feel no need to further disclose what transpires."

Carter, the rape-victim advocate, disagreed, saying that victims can be threatened with disciplinary action for disclosing information about an assailant. The threats initially worked on Dieringer. "The last thing I wanted to be was in trouble with Georgetown," she told Women's eNews.

Both Carter and Dieringer hope the ruling will make schools more accountable for how they handle rape cases, and that students will feel free to warn others, improving campus safety. "What's educational is to disclose what happens," said Dieringer, who's now preparing for her last year as a nursing major. "If someone knows what happens when they commit a crime it may be a deterrent. You can't deter a crime in secret."

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### **For more information:**

Security on Campus, Inc. – Campus Injustice: A Story of Predatory Rape at Georgetown University By Kate Dieringer:

<http://www.securityoncampus.org/aboutsoc/editorials/campusinjustice.html>

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