

Florida State University Pays \$950,000 to Settle Title IX Lawsuit

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Today, James Ryan, a Partner at Cullen and Dykman was featured in an *Associated Press* article regarding the highly publicized settlement between Florida State University ("FSU" or the "University") and Erica Kinsman, a former FSU student who filed a Title IX lawsuit against the University over one year ago. The [article](#) was published in many different news outlets nationwide.

By way of brief background, the lawsuit arose from an alleged December 2012 sexual encounter between former FSU quarterback Jameis Winston ("Winston") and Kinsman. Kinsman alleges that when she informed FSU about the alleged sexual assault, the University was "deliberately indifferent." Specifically, she alleges that FSU violated her Title IX rights by not properly investigating or addressing her claim of sexual misconduct against Winston. Kinsman left FSU in November 2013. Winston was not found liable for sexual misconduct following an FSU disciplinary hearing in December 2014. Soon thereafter, Kinsman filed a lawsuit in federal court alleging that FSU hid her sexual assault claim against Winston in order "to protect the football program."

In the settlement announced today, FSU agreed to pay Kinsman \$950,000, including attorneys' fees and made a five-year commitment to awareness, prevention and training programs. Plaintiff's attorneys contend that the settlement sum is one of the largest publicly disclosed settlement amounts ever paid to a Title IX complainant in federal court.

"I will always be disappointed that I had to leave the school I dreamed of attending since I was little," Kinsman said in a statement. "I am happy that FSU has committed to continue making changes in order to ensure a safer environment for all students."

FSU did not admit liability in the settlement agreement with Kinsman. "Although we regret we will never be able to tell our full story in court, it is apparent that a trial many months from now would have left FSU fighting over the past rather than looking toward its very bright future. We have decided to instead move forward even though we have full faith that the ultimate outcome of a trial would have been consistent with the previous law enforcement investigations and retired Supreme Court Justice Major Harding's findings in the student conduct hearing," said President Thrasher. "We have an obligation to our students, their parents and Florida taxpayers to deal with this case, as we do all litigation, in a financially responsible manner," President Thrasher said in a statement. "With all the economic demands we face, at some point, it doesn't make sense to continue even though we are convinced we would have prevailed."

The settlement does not at all influence or resolve the pending Office of Civil Rights investigation into FSU's Title IX policies and procedures. Kinsman "had two goals in this case - one was to hold the university accountable for what happened and the other was to force changes at Florida State," said Clune, one of Kinsman's attorneys in the case. "With this settlement, in conjunction with the OCR investigation, she's done that." Kinsman also stated that "my hope is that the federal investigation of my complaint by the Office of Civil Rights will produce even more positive change, not just at FSU, but across the country."

It is also important to note that since 2013, FSU, like so many other institutions across the nation, has taken numerous measures to improve its response to campus sexual assault. For example, FSU hired a full-time Title IX coordinator, formed a Sexual Assault Prevention Task Group, published revised policies and procedures, and has added six new positions relating to on-campus safety. "Since April 2014, there have been more than 100 training sessions conducted on the FSU campus about dealing with sexual assault and how to prevent it," said President Thrasher. "In this time, we have increased our institutional commitment to tackle this complex problem. There should be no doubt that Florida State is serious about fighting sexual assault."

This noteworthy settlement comes amid a nationwide discussion about the alleged mishandling of sexual misconduct complaints on college campuses. FSU is not the first, nor is it the last institution to be placed in the national spotlight over its alleged mishandling of a sexual assault complaint. In the wake of the current increase in Title IX lawsuits brought by both complainants and respondents, institutions are advised to review their sexual misconduct policies and update them if necessary to ensure Title IX compliance. Following the right protocol and investigative measures can also serve to mitigate the risk of litigation by both complainants and respondents. We encourage schools to provide regular Title IX training to students, educators and all members of the school community on how to properly recognize, prevent and respond to allegations of sexual misconduct.

Please note that this is a general overview of developments in the law and does not constitute legal advice. Nothing herein creates an attorney-client relationship between the sender and recipient.