

Ruling in the Kentucky Kernel Case

Jan. 24, 2017

Colleagues and Students,

A Fayette Circuit Court Judge has strongly and clearly ruled in favor of the University of Kentucky's position in the case involving the privacy of victim survivors of sexual misconduct.

For UK, this legal process has always been about one primary goal – preserving the right of a victim survivor to determine how, when, or even if to tell her story. We stand with survivors and we believe strongly that federal and state laws protect their right to privacy. Without privacy, we know victim survivors will not come forward to report. That's what was at stake in this case.

The ruling without question reinforces our position, and this is a victory for victim survivors and their rights and their privacy. First, the court correctly recognized that all the records in question are education records under federal law. Second, the court recognized that no amount of redaction could have protected the privacy of the victim survivors in the case in question.

We are gratified by this outcome. But there is much work to do. And that work will only be accomplished when everyone – regardless of the different perspectives on the legal issues involved – comes together.

The question now is how do we move forward – with strongly held views and often differing perspectives, but united by common interests in pursuit of common goals?

We all believe we have a responsibility to protect the rights of the accused and those who courageously come forward as victims of sexual misconduct. We all want a safe campus where everyone is welcome and everyone belongs.

We all believe that more transparency and openness are critical elements in creating a system that protects the rights of all involved.

And we all believe the public, who supports this institution, has a role to play and a fundamental right to know that this university is appropriately honoring the trust that has been placed in us.

Our next step – no matter how the legal process unfolds -- must be to reform a system that is imperfect in the way it safeguards the interests of victims and the accused.

We have started on the path of reform already, significantly increasing training for both faculty and graduate students about the parameters of acceptable behavior.

Now, we will be working with faculty, student and staff leaders to ensure that someone who wants to join our community must disclose any record of sexual misconduct in their past.

And we believe that while due process for the accused must be protected, the process with respect to tenured faculty must move at a timelier pace. A fair resolution should not be measured in years, but in fair and timely outcomes.

That is work we can and must do together, regardless of the perspective on this specific legal case.

UK has been – and will continue to be - a leader nationally on many of these issues. We were the first major public university in the country to require all students to participate in a campus climate survey.

The deep data being yielded over the course of five years will help us continue to invest time, talent, and resources in making our campus safer and our community a place where everyone feels a sense of belonging.

We already know that more is needed in education, training, and understanding of the resources available to those who have been victimized and to the avenues of reporting to ensure that such victimization doesn't continue.

UK is not alone. This is a national issue and every institution is grappling with the challenges associated with investigation, disclosure, and the protection of rights for victims and accused in cases of sexual misconduct.

We are not alone, but this is our issue to confront and our chance to lead. We will.

My hope, and belief, is that we can find a path forward that leads to a better system for all involved as we seek to foster a community of safety and belonging for everyone who calls this special place their home.

Eli Capilouto  
President