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## Judge Enjoins University from Expelling Student Accused of Sexual Assault Before Student's Claim is Adjudicated

Recently, a state court in North Carolina entered a preliminary injunction prohibiting Duke University from finalizing its decision to expel student Lewis McLeod, who was accused of sexually assaulting a female student. The court held that the university cannot expel McLeod until the court resolves McLeod's claim that the university violated certain procedural rights guaranteed to him through university policy. The claim alleged that, among other things, the university failed to interview or permit testimony from key witnesses, relied on secondhand accounts of anonymous witnesses, and discouraged McLeod from seeking legal advice. In its order, the court determined McLeod had a substantial likelihood of success on the merits of his claim that the university violated his procedural rights. A copy of McLeod's complaint and the court's preliminary injunction order are available [here](#).

### What This Means to You

The *McLeod* decision is illustrative of a number of recent cases whereby alleged perpetrators of sexual assault challenged an institution's aggressive (and arguably unfair) implementation of Title IX policies aimed at preventing sexual violence. These cases demonstrate that institutions must balance concerns about their need to meet Title IX obligations to remediate and prevent sexual violence against the need to provide adequate and fair due process to accused perpetrators. In short, *McLeod* illustrates the courts' continuing desire to protect the process rights of accused perpetrators despite concerns raised by the Department of Education, politicians, and various groups that widespread sexual violence on campus must be addressed through aggressive action. Institutions that adopt a "get tough" mindset and expressly

or implicitly adopt practices designed to limit an alleged perpetrator's ability to defend him or herself may subject themselves to civil liability in a suit brought by the alleged perpetrator.

### **Contact Us**

If you have questions or require more information about the implications of this development for your institution, please contact your Husch Blackwell attorney or Derek Teeter at 816.983.8331.