Sandra, a student at the College of Knowledge is allegedly sexually assaulted by another student, Reggie, during a non-university-sponsored spring break trip 500 miles away. Should the university exercise jurisdiction over the incident?

Addressing the actual incident is discretionary, not obligatory. Institutions have an obligation to address sexual harassment when the institution has control over both the harasser and control over the context of the harassment. Because the trip, like many spring break trips, was not university-sponsored, the institution lacks control over the context of the harassment. Accordingly, in this scenario, the institution has control over only one of the two - control over the harasser – and even then the institution’s control over the harasser at the time of the incident may be limited by the terms of its code of conduct. BUT, this does not absolve the institution of its Title IX responsibilities for any on-campus effects of the off-campus incident, and the campus may remedy it as it does all other Title IX – covered behavior, if it so chooses.

Regardless of whether it addresses the off-campus behavior, the institution must still prevent the incident’s recurrence, address on campus effects and remedy to the extent possible. For example, the institution should provide the victim appropriate resources and referrals and address any conflicts created by the students’ course schedules, extra-curricular activities and living situations. The institution should also address issues of retaliation promptly and firmly. It should be noted that if the incident reflects a pattern by the accused student (i.e. he has been named by two others for on-campus incidents of sexual harassment), the institution may feel more compelled to exercise jurisdiction over the incident itself.

If the incident involved two K-12 students, where the likelihood of the two students sharing a class or crossing paths throughout the day is increased, there exists a heightened obligation on the school/district to address the after-effects, and of course, to report an incident involving minors to law enforcement authorities and parents.

Tip of the Week can be found at http://atixa.org/members/tip-of-the-week/#exercisejurisdiction.