

Close the records loophole

Student counseling records should be fully private

Federal lawmakers have trouble agreeing on anything these days, but they should have no difficulty agreeing on the need for a steel curtain of privacy to protect sexual assault victims' counseling records at universities.

That the sanctity of victims' — or any student's, for that matter — counseling records is not already assured is an oversight demanding swift attention by lawmakers. The absence of privacy protections equivalent to those guaranteed by federal law to most Americans undermines counselor-patient relationships and compromises the ability of students to get needed treatment on campus.

The issue of confidentiality at campus counseling centers came to light recently when the University of Oregon gained access to a student's therapy records, stored at the UO Counseling and Testing Center, after she informed the university last year that she planned to file a federal civil rights lawsuit against the school.

The student alleged she was raped by three UO basketball players last year. Her lawsuit, filed in January against the university and basketball coach Dana Altman, alleged, among other things, that the school violated her civil rights by recruiting one of the involved players after he had previously been accused of sexual assault

at a different college. The lawsuit also claims the school violated federal and state privacy laws by obtaining her confidential therapy records in December without her or her therapist's authorization or knowledge. The university countersued in February, but has since dropped its lawsuit under intense and richly deserved public criticism.

The UO can rightly be accused of an epic failure of judgment on this and many other aspects of its handling of this case. But it appears that a loophole in federal law allows sexual assault victims' therapy and medical records to be released by colleges and universities.

Sen. Ron Wyden and Rep. Suzanne Bonamici, both Oregon Democrats, have asked the Department of Education to clarify its records policy. They also plan to introduce legislation closing the loophole in the Family Educational Rights and Privacy Act.

As UO professor Jennifer Freyd notes in an essay on the opposite page, the UO should return the student's records, acknowledge its lapse in judgment and act to prevent similar releases in the future. But a fix at the federal level is essential to restoring trust in campus counseling across the country and ensuring students get the therapy they need with the requisite assurance of confidentiality.