

Title IX and You

Everything you need to know about the proposed changes to Title IX

Wednesday, December 5, 2018



Hello everyone, and I hope you've made it through this semester alive. You're almost there!

Sadly, this will be my final post (for now) as SHARPP's student blogger as I'll be studying abroad next semester. And it's with an even heavier heart that today I'm writing about new rules under Title IX proposed by the Department of Education (DoEd) that could affect your rights as a student or staff member here at UNH.

What is Title IX?

Title IX is a landmark civil rights law that prohibits same-sex discrimination in federally funded schools and institutions. It was originally established in 1972 to address sex discrimination in sports but has since expanded to address issues of sexual harassment and sexual assault in education. It applies to all women, men and



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gender-nonconforming students and staff.

Under Title IX, UNH must take immediate action after receiving reports of sexual assault or harassment and must have an established procedure for handling complaints. This means that UNH cannot discourage you in any way from continuing your education and that you have a right to remain at UNH and take all educational and extracurricular opportunities available to you free of sexual assault, harassment or discrimination.

In 2011, the Obama Administration released the landmark "Dear Colleague" letter, which detailed guidance to institutions on how to properly handle cases of sexual assault. It recommended that all schools have preventive education programs and define what constitutes sexual harassment or assault and included consequences for institutions that do not abide by Title IX's standards.

Proposed Changes

The current secretary of education rescinded the "Dear Colleague" letter last year and promised a new set of rules to replace it. The DoEd's new proposed rules, the department claimed, will bolster the rights of the accused and create a fairer process in Title IX investigations.

But the proposed rules will do nothing but hurt survivors and those who are brave enough to report a sexual assault to institutions that already so rarely treat survivors with the equal treatment and accommodations that they deserve in order for them to safely continue their education.

No, these rules would not even help those who may be falsely accused of sexual assault, even though the frequency of false accusations is estimated to be as low as 2 percent of all cases.

Who Is Really Benefitting from the New Rules?

The DoEd's new rules are geared toward helping institutions push sexual harassment under the rug, not toward helping students feel safe in their educational environment. Under the previous administration, [over 400 institutions](#) were under federal investigation for violating Title IX regulations. But under the new proposed rules, institutions will save an estimated \$286 million to \$367 million in Title IX spending and will be protected because the new rules have the goal of lowering the number of Title IX investigations on all campuses; schools would only undergo investigations if they are "deliberately indifferent" to sexual harassment, a vague provision that would allow for less attention to sexual harassment cases.

Based on the DoEd's own estimates, reporting would fall 39 percent at colleges and universities and 50 percent in K-12 schools.

If the DoEd cares so much about the falsely accused, why would it want to reduce investigations into those cases? If the DoEd is dedicated to providing a safe environment for students to learn as it claims, then why would it narrow its Title IX provisions to discourage survivors even more from coming forward?

New Definition of Sexual Harassment

One major change that will affect survivors and could lower the number of reports to Title IX offices is the DoEd's narrowed definition of sexual harassment, which includes "unwelcome conduct on the basis of sex that is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity." Under the previous administration, the definition was much more broad and accurate as to what exactly sexual harassment is: "unwelcome conduct of a sexual nature." If a survivor's story doesn't meet the new vague and narrow standards, their case may not be addressed by the Title IX office. Some courts have even said that

certain rape cases do not count under this standard because it was not “pervasive,” not to mention possible complaints about stalking and relationship abuse, where the perpetrator is often in control and evidence is less clear-cut.

Off-Campus Sexual Misconduct

Under new provisions, schools only need to respond to sexual misconduct that occurs within a school program or activity. Assaults that happen just off campus property would no longer qualify for Title IX investigation. This means that a sexual assault in a Durham apartment, even if perpetrated by a fellow UNH student, would not be taken into consideration.

Mandatory Reporting

Under present Title IX rules, anyone who works for the school or university is required to report disclosure of sexual assault or harassment to the Title IX office to consider for investigation. But new rules would narrow the set of staff members to only those who have “actual knowledge” of the student’s case, often high-up administration. This means that the department would not hold an institution liable for mishandling a case if a higher-up did not have knowledge about it.

How These Rules Will Hurt Survivors

The list provided above is only a summarization of a small portion of the proposed rules that would harm survivors of sexual assault by discouraging them from reporting and further silencing them. Not to mention the effect it would have on already marginalized students, like students with disabilities or transgender students, who experience sexual assault at higher rates but rarely report.

It is because of our current Title IX rules and the guidance provided by the 2011 “Dear Colleague” letter that so many students who experience sexual harassment and assault are able to safely and comfortably continue their education. With the

standing definitions of sexual assault and the current investigative procedures, survivors can easily issue no-contact orders, have a perpetrator removed from their classroom or dormitory, get academic help and extensions from their teachers and so much more.

And even now, the dropout rate for survivors of sexual assault on college campuses is estimated at [34.1 percent](#). How many more will be forced to end their education if their institution fails to keep them safe?



How You Can Help

The good news is that these rules are not law yet; they are still merely a proposal that the public has a right to comment on for a period of 60 days. The “notice-and-comment” period is officially open until Jan. 28th, and that’s where you come in.

Survivors’ rights are under attack, and you have a voice that could help stop these rules from becoming law. If you believe that survivors have an equal right to education free from sexual harassment and discrimination, submit a comment to the Federal Register expressing why you disagree with the proposed rules and how they will be harmful to students. All comments must be reviewed and addressed by the Department of Education.

Successful comments are well-written with effective usage of data

and cited evidence that will support your argument as well as detailed explanations as to why the new rules would cause harm and discourage survivors from getting the justice they deserve.

Want to learn more about notice-and-comment? [Check out this helpful guide to crafting a successful comment by the organization Know Your IX](#), and stay tuned for more helpful information from your fellow students on social media and at tables in the MUB. We'll be there this week and next week to answer all of your questions.

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The stories are written by the staff of **UNH Communications and Public Affairs**.

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