

From: Dash Radosti
Sent: Fri, 11 Jun 2021 20:55:47 +0000
To: T9PublicHearing
Subject: Written Comment: Title IX Public Hearing (K-12 Title IX regulations)
Attachments: Public Comment_EndK12Violence .pdf

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To whom it may concern,

We are attaching our organization, End K-12 Violence's public comment, in response to the Title IX hearings.

Please feel free to contact us with other questions or concerns.

End K-12 Violence

www.endk-12violence.org



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Dear Secretary Cardona and the Department of Education,

We are writing to respectfully submit this comment to the Department of Education as part of its request for public comment regarding Title IX.

End K-12 Violence is a non-profit organization dedicated to keeping school children safe in the educational setting. We believe that all students are entitled to receive a safe education, free from bullying, harassment, discrimination, abuse, and violence. We strive for a culture of both inclusion and accountability to make this possible.

Title IX is one of the most important legal protections available to students of all ages. Unfortunately, students in the K-12 educational setting are often an after-thought in the overall discourse surrounding this law. While it's crucial we bring, and continue to bring safety, security, dignity and accountability to our college campuses, we cannot overlook the unique and complex challenges in the K-12 environment.

We respectfully ask the Department of Education to promulgate Title IX rules that do the following:

- (1) Create a more accurate way for tracking instances of sexual violence, assault, harassment, and gender-based discrimination in the K-12 educational setting.
- (2) Promulgate rules that require preventive trainings for educators, administrators, and students.
- (3) Encourage schools to continually track and assess a school's climate and culture to prevent Title IX violations before they happen.
- (4) Create age and incident-appropriate reporting procedures that align with state mandatory reporter laws. Ensure students and parents are informed about these procedures.
- (5) Create age-appropriate training for students regarding their rights under Title IX.
- (6) Create minimum standards for investigation and adjudication of Title IX violations that are age and incident appropriate.
- (7) Track outcomes of students after reporting Title IX to ensure survivors are not deprived of their education and that offending students do not reoffend.
- (8) Aggressively enforce existing Title IX regulations, with special attention on anti-retaliation procedures.

We are happy to discuss these proposals further with your agency, as well as share proposed language and/or drafted rules.



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(1) Create a more accurate way for tracking instances of sexual violence, assault, harassment, and gender-based discrimination in the K-12 educational setting.

Hard numbers are hard to find for incidents of sexual abuse, harassment, assault and discrimination in the K-12 settings. Without accurate statistics, it's hard to know how bad the problem is. It's also difficult to evaluate which interventions work and which do not.

Currently, the Department of Education reports over 15,000 cases of sexual violence in K-12 schools receiving federal funds in its last report, which encompassed the 2017-2018 school year. This was an increase by almost 50% from the previous 2015-2016 report, which reported 9,600 incidents of sexual violence.

Unfortunately, these numbers likely represent the tip of the iceberg. OCR relies on school self-reporting to gauge the severity of school sexual violence and gender discrimination. However, if students are not reporting incidents, then there is no way to currently track the magnitude of these problems. Similarly, if students are reporting incidents, but schools fail to properly report them to OCR, because of a lack of training, poor record keeping, or deliberate indifference, these incidents still do not make their way into the official numbers.

We believe the Department of Education needs to survey statistically accurate and representative samples of students directly, to get a true understanding the scope of sexual violence and gender discrimination in schools. This can be done by creating a new survey, or partnering with the Department of Justice and simply modifying the School Crime Supplement to the National Crime Victimization Survey to create specific questions regarding sexual violence, sexual harassment, and gender discrimination. These questions should also ask who is perpetrating the abuse (other students, teachers, non-teacher staff, etc.) as well as if students have reported these incidents to schools.

By slightly tweaking our data methodology of reporting and tracking Title IX violations in the K-12 setting, we will get a much better picture of the scope of the problem. We will also be able to gauge the accuracy, and effectiveness, of school self-reporting.



(2) Promulgate rules that require preventive trainings for educators, administrators, and students.

Preventing sexual violence and gender discrimination before it happens should be the Department of Education's ultimate goal. At End K-12 Violence, we believe the vast majority of educators want to do right by their students. Many, however, lack appropriate training in how to address Title IX violations.

The Department of Education should set minimum training standards for all teachers, including annual refresher training, on how to look for signs of abuse in training. This will likely complement mandatory reporter laws for child abuse, which many states have. Additionally, teachers should receive implicit bias to recognize stereotypes and ingrained thinking that may cause educators to inadvertently overlook incidents of sexual harassment or gender discrimination. While many school districts may do some form of this, a rule from DOE would be extremely effective for two reasons. First, it would set a minimum standard of training, and ensure policies are not just policies on paper only. Second, it would provide a reason for otherwise reluctant school districts to engage in this vital training.

(3) Encourage schools to continually track and assess a school's climate and culture to prevent Title IX violations before they happen.

Many times, children and teens in the K-12 setting do not feel they can safely report Title IX violations, or they simply do not know how. However, the lack of reporting does not mean there is no problem. DOE should promulgate rules that proactively encourage schools to measure their school culture by surveying students about the school's climate and culture, especially as it pertains to gender equality and a harassment-free educational environment.

For the vast majority of schools that want to do the right thing, these climate surveys will give administrators valuable information about what is going on in their schools. Like above, while some schools already do this, DOE should set a standard to ensure that all schools are encouraged to do this. For the few schools that are indifferent to their Title IX requirements, it will give DOE an indication about the reality of what is happening inside a school district. With this data, DOE can work with offending school districts to take the appropriate corrective action.



(4) Create age and incident-appropriate reporting procedures that align with state mandatory reporter laws. Ensure students and parents are informed about these procedures.

Students need to know, subject to age-appropriate guidelines, what to do if they are the victims of sexual violence, harassment, or gender-based discrimination. DOE should ensure that there are minimum standards for reporting Title IX violations. DOE should also promulgate rules that set basic standards to ensure that both students and parents are reasonably informed about these reporting protocols and channels.

DOE should also clarify the role, purpose, and training of Title IX coordinators, to ensure that they are effective and remain in a position to help. For more serious incidents, DOE should evaluate the interplay between Title IX coordinators and state mandatory reporter laws.

(5) Create Age-Appropriate Education Informing Students of Their Rights and Obligations Under Title IX.

The Department of Education needs to set a minimum standard of education, subject to age-appropriate guidelines, for the K-12 setting on their Title IX rights and obligations.

On the “rights,” young students should be told that they have the right to go to school without being made safe or uncomfortable. DOE should evaluate and encourage cross-training between Title IX training and sexual abuse awareness training, which many states have recently enacted. Older students should be told what Title IX is, what it protects, and what their remedies are for violations. On the “obligation” side, students need to be taught, at a young age, to respect people’s space, and that while there are differences between boys, girls, and non-binary students, those differences are okay. Older students should be instructed about appropriate conduct, including consent education. DOE should promulgate standards for the basic curriculum and frequency of these trainings.



(6) Create minimum standards for investigation and adjudication of Title IX violations that are age and incident-appropriate.

DOE needs to enact a rule that creates minimum standards of investigations, depending on age and the severity of the incident. All potential violations of Title IX should be investigated promptly by an independent, neutral investigator who has been trained in both Title IX, trauma, and how to recognize signs of abuse. In more serious incidents, while school officials should cooperate with law enforcement and child protective services, DOE should reiterate existing regulations that require schools to conduct their own, independent investigation that does not depend on the results of an external investigation.

If school districts are going to have hearings for potential Title IX abuses, school officials running those hearings need to have training in trauma, sexual violence, and implicit bias. DOE should enact age-appropriate rules to ensure that survivors are not re-traumatized or re-victimized by the investigatory and/or adjudicative process. This includes separating the survivor and the accused as much as possible. Even if the underlying Title IX allegation is unsubstantiated, DOE should enact rules reminding schools of their obligations to still take non-punitive remedial action, including monitoring the alleged survivor and continuing to separate the accused and accuser. The accuser must face no adverse consequences for reporting, even if the allegations are unsubstantiated. Otherwise, there is the risk that other survivors will be unlikely to come forward.

(7) Track outcomes of students after reporting Title IX to ensure survivors are not deprived of their education and that offending students do not re-offend.

Regardless of the outcome of a Title IX investigation, DOE should enact rules that continue to track all parties involved in the investigation. This includes monitoring students involved for signs of continued or repeated abuse, a decline in academic performance (a potential indication of retaliation or abuse), etc. DOE should also encourage schools to involve professionals, such as social workers and psychologists, to better inform these investigations.

Similarly, DOE should encourage schools to track alleged Title IX offenders to see if they continue to re-offend or face additional accusations of abuse. This will better allow schools to take incident, age-appropriate action toward offending students as well. For example, for younger students, this might be a referral to mental health professionals or even CPS. For older students, it might be finding an alternative educational setting for the offending student.



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Finally, the DOE should encourage schools to track outcomes of investigations, as well as the outcomes for both survivors and accusers, to ensure there is no socio-economic or racial disparity in outcomes and impacts of Title IX investigations.

It is not enough for Title IX to only be relevant in instances of when violence has already occurred or if a school district mishandles these reports. It is crucial that future Title IX regulations also include more preventative measures schools and school districts can take to help make schools safer

(8) Aggressively enforce existing Title IX regulations, with special attention on anti-retaliation procedures.

It is important for school districts that are deliberately indifferent to their Title IX obligations to know there are consequences. DOE should aggressively investigate K-12 school districts that do not enact or implement the appropriate Title IX policies.

Finally, DOE should take a hardline on retaliation, and make anti-retaliation an enforcement priority against school districts. Retaliation is perhaps one of the most egregious things a school can do. It both re-victimizes a survivor and potentially deprives them of an education, while simultaneously chilling other suffering students from coming forward about Title IX violations. DOE should use every tool at its disposal to hold retaliating school districts and officials accountable. DOE should also clarify that retaliation means disciplining a student just because a report was unsubstantiated, or disciplining a survivor for talking about their abuse.

Conclusion:

These are just several examples of much-needed change in the K-12 educational setting. K-12 schools cannot be an afterthought. No survivor should endure the loss or compromise of an education because of what others have done to a child. We do not send children to school to face a lifetime of trauma and pain but rather to learn and be enriched. Childhoods should not be destroyed at school.

It is a school's responsibility to create a safe environment and foster a healthy culture. Children are the most vulnerable members of our society, and we must take a stand for them and protect them. They rely on their educators, administrators, school system, and the Department of Education to adequately protect them. By not rectifying even one instance of violence correctly creates a hostile environment and a ripple effect for not only the survivor but for all other



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students, which is why we implore the Department of Education to come up with solidified and detailed guidelines for K-12 schools.

Thank you for your time, and I hope you will consider our statement when finalizing the guidelines. Please feel free to reach out to us with any further questions, thoughts, or the specific language of the proposed rules.

Respectfully,
End K-12 Violence
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