

From: Jane Jiumaleh
Sent: Fri, 11 Jun 2021 16:02:25 -0500
To: T9PublicHearing
Subject: "Written Comment: Title IX Public Hearing-- Importance of Impartial Investigations"

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The focus of my comment is Section 106.45(b)(1) of the Title IX Regulation.

Colleges and universities are NOT impartial. They will act to guard their donors, their reputation, and their finances. They will act against the interest of students and families if it is in their institutional interest to do so. When I was in college in the 1970s, we experienced a rash of dorm room robberies allegedly committed by a group of young men including some on the football team. Over the course of the year, the accusers were forced out of school, the football players were not disciplined in any way and the property was never returned. This was not an unusual thing; everyone knew that athletes were untouchable when it came to school discipline.

In recent years, the situation has reversed. Football players are often considered automatically guilty of anything they are accused of, especially if it is sexual misconduct. In a recent case at my university, a young man accused of sexual misconduct was quickly forced off the football team and out of school, but because the charges against him were criminal in nature, he eventually went to trial. At trial, he was cleared of the accusations and public opinion (as well as embarrassment about their Title IX process) forced the university to reinstate him. He has gone on to enjoy a professional football career. His case is still controversial on campus, but the Title IX hearing did not give him the opportunity to bring out the facts and defend himself. Instead, because of the contemporary "me-too" movement, the university was quick to sacrifice his schooling and his football career to reassure parents that the school was a safe place to send their daughters. In court, where his rights and the victims' rights were protected, a more complicated story was able to come out.

So, the prejudices of the day about football players have changed during my lifetime but the desire of the university to seek its own advantage has not. I've lived all my life in a university town, and I've long believed that campus police departments exist in order to control public perception of the university. Campus police can cover things up or make things public as it benefits the school.

In the U.S., we have a court system with rights, protections and procedures built in. It appears that Title IX is creating another judicial system, without any of the built-in protections, inside universities and colleges. Title IX coordinators are supposed to act impartially but they owe their positions to their employers who have their own agendas. Title IX states, "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance," but it happens all the time even at the hands of Title IX coordinators. Very disproportionately, those accused of sexual misconduct are black males or gay students of either sex. I've done a lot of reading of Title IX cases and it seems that the students most likely to be accused of sexual misconduct represent the students your parents would be least likely to be happy to know you'd been with. Alcohol is represented

in most of the sexual misconduct complaints, yet while students of any gender are held equally liable for drunken driving, on campus, only male students are held liable for drunken hookups. I understand that employees of the Department of Education advise their own male family members on how to avoid trouble with Title IX accusations: "Sleep with anyone you want to while you're at college, just make sure it isn't someone from your own school."

Sexual assault is a serious crime with long-term consequences. Our society keeps the names of female victims anonymous in order to protect their reputations. But Title IX accusations of sexual assault are made against named male students on whose reputations can be destroyed through campus gossip regardless of the Title IX hearing outcome. Those accused of often ill-defined sexual misconduct charges on campus have suffered bullying, social isolation, PTSD, and suicide. Yes; students charged with sexual misconduct in Title IX hearings have gone on to kill themselves! Perhaps Title IX needs a "first, do no harm" rethinking.

Serious crimes should be tried in court, not on campus. All parties should have access to all the rights and protections the criminal justice system supplies. Title IX proceedings should never be an end-around means of accusing someone of a criminal offense. Otherwise, it will be used as a system for personal retribution; a way to take someone down without having to meet standards of proof in an impartial justice system. While female students have long been ignored when they bring complaints of discrimination and mistreatment to school authorities, their past suffering is not corrected by ignoring the complaints of males. History is full of examples that human beings lie, manipulate and practice retribution against others regardless of gender. Title IX sets forth a standard of equal treatment regardless of gender and that should be the goal.

Recent changes to Title IX strengthen regulations promoting impartial investigations. These came about after numerous court cases illustrated how unfairly some campuses have implemented Title IX. Title IX contains a penalty, but to date, no school has lost federal funds because of Title IX violations. If Title IX regulations promoting impartial investigations are weakened, there will be many more years of court cases, shocking stories of gender discrimination by colleges and universities, and suicidal students. There is no need to repeat the dark days of a biased schools abusing the Title IX system!

Serious crimes should be tried in court, not on campus. All parties should have access to all the rights and protections the criminal justice system supplies. Women have been victims of sexual assault and authorities have not believed their testimony in far too many cases. But it is not up to colleges and universities to solve this problem.

I have personal experience with the way the Title IX process operated before the newer regulations. My son was accused of sexual assault by a wanna-be girlfriend who was angered when he left a campus party with another girl. She made a public accusation against him and three school employees confronted him and the second girl in his dorm room. All three found that the girl was in no danger and one filed an official report of that finding with the university.

That might have been the end of things, but several months later, the first girl's drinking and partying got her into some trouble. She told her mother, an attorney, that her bad habits stemmed from abuse by my son. When he was called to the office of the Title IX coordinator, he was accused of two sexual assaults, that of the first girl and that of the second. This is when I learned that it is common for schools to pile on charges. The Title IX Coordinator, upon meeting him for the first time, told him that he was a

predator who had a pattern of taking drunken girls home from parties to assault them but neither of the cases against him meet that description. That's when I learned that Title IX coordinators often show bias in Title IX proceedings, in fact they are often trained to "always believe the victim." Also at the first meeting, the Title IX coordinator told my son that he was in trouble because "her mother is a lawyer!"

The Title IX coordinator told him he was not allowed to have a lawyer.

As it turned out, the first girl's mother was both a lawyer and an alumna. She was also a member of one of the oldest families in the area. The Title IX coordinator turned over the investigation to the mother. Alumna mom ran the Title IX investigation, questioning witnesses and telling them they were prohibited from talking to my son. At the same time, the Title IX office demanded my son produce a list of witnesses for his defense. But these either refused to talk after meeting with attorney mom or were never interviewed at all. The Title IX coordinator repeatedly begged the first girl for text messages she'd exchanged with my son because the girl claimed would prove her case. The girl stalled for months, eventually claiming her little sister erased the messages. My son offered the same text messages as evidence the first day he met the Title IX coordinator because he felt they exonerated him. But the Title IX office refused to take them from him. The Title IX office refused to give him a written listing of the charges against him,. Eventually he got these from the investigator when her investigation was completed and there was no further opportunity for a defense. The Title IX office kept poor records, if any. My son was told he had ten minutes to speak at the hearing but was hushed when he tried to defend himself. That same day, he was expelled. Neither girl was at the hearing nor was he allowed to question them. The Dean of Students who had counseled him after he was accused sat on the hearing panel. Emails later showed that he was working the attorney mom to expel my son. My son appealed his expulsion and included the text messages with his appeal. The lack of Title IX officed records makes it difficult to know if his appeal was even considered.

Lawyers I spoke to found little to surprise them in this story although they'd never heard of an accuser's mom being allowed to run the Title IX investigation before. That's when I learned how common civil rights violations are in Title IX proceedings.

I filed a civil rights case with the Department of Education, Civil Rights Division. Their investigation and some other legal maneuverings by the attorney mom uncovered what happened. My family also started reading in depth about Title IX and found many examples at least as shocking as my son's case, and a pattern of unfair treatment against minority and gay respondents, especially males.

But the aftermath was awful. My son was accused at a very small school during the height of the #Me-Too accusations. He became the local example of all the news bad stories of sexual misconduct. Students complained to their teachers that they "felt uncomfortable" around him and he was excluded from educational opportunities. Other students shouted at him when he went to the dining hall. Still others warned him that there were plots against him. Someone sucker punched him and broke his jaw. He has been at loose ends ever since. He hasn't finished school. He's been depressed and suicidal.

The Dept. of Education worked hard to reach a settlement between my son and the university and that was recently accomplished. Both the Title IX coordinator and the university's President left their posts, the Title IX coordinator returning to her realty job.

Keep the regulations.

Sincerely,

Jane Jiumaleh

From: Jane Jiumaleh
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The Title IX process was awful. My son was accused at a very small school during the height of the #Me-Too accusations. He became the local example of all the bad news stories of sexual misconduct. Students complained to their teachers that they “felt uncomfortable” around him and he was excluded from educational opportunities. Other students shouted at him when he went to the dining hall. Still others warned him that there were plots against him. Someone sucker-punched him and broke his jaw. The university was able to appear to be on the right side of sexual misconduct after having been accused of racism by black students a couple of years earlier.

Since his expulsion, my son has been at loose ends. He’s lost a lot of friendships. He hasn’t finished school. He’s been depressed and suicidal. Now I am learning that this is not an uncommon outcome for victims of biased Title IX proceedings. The damage is long-lasting and profound.

The Dept. of Education worked hard to reach a settlement between my son and the university and that was recently accomplished. My son wanted to get on with his life. I wish we’d gone to court and gotten

more of this story on the record. Both the Title IX coordinator and the university's President left their posts, the Title IX coordinator returning to her previous job of selling real-estate. The university's President was replaced by a minority woman who is said to have Title IX expertise.

Keep the regulations. Strengthen protections of impartial treatment. Refuse to investigate crimes but report those to police authorities. Don't expect even-handedness on the part of schools; they have their own agendas.

Sincerely,

Jane Jiumaleh