

From: Lynn Gilbert
Sent: Thu, 10 Jun 2021 22:11:52 -0400
To: T9PublicHearing
Subject: Written Comment: Title IX Public Hearing
Attachments: Written Comment: Title IX Public Hearing

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Title IX Hearing Comment

In 2013, my son was falsely accused of sexual assault by his classmate. It was the most horrendous, terrifying, and traumatic thing that's ever happened to me and to him. You may not realize this, but false allegations are like a bomb that goes off and affects everything in the area—the accused and their families, friends, acquaintances, and the greater community. The damage is not limited solely to the accused. And much of that damage lingers forever. That's why it's important for colleges to have processes that are fair and reliable.

Because of what I experienced, the complete indifference to the truth-seeking process, I decided to go to law school. So at the age of fifty-three, I enrolled in law school. After summer internships in public defender offices, I joined a law firm that specializes in defending college students in misconduct cases. I've had the rewarding experience of representing many pro bono clients—students who likely would have been railroaded by their schools without an attorney to zealously advocate for them.

I'm still find myself shocked by the bias and lack of due process which permeates many Title IX offices, even though my personal experience should have prepared me for that. While the recently enacted Title IX regulations don't eliminate all the problems, there are some important safeguards which should remain substantially unaltered. Keeping the following provisions should not be controversial:

- Separating the investigation process from the fact-finding process to prevent the bias of one person infecting the outcome;
- Permitting informal resolutions in all cases to give students choices which meet their individual needs;
- Providing copies of all reports in a downloaded and searchable format so that students can read, take notes, and reference the materials to respond intelligently; and
- Allowing both parties a minimum of ten business days to respond to all reports to have the time to respond thoughtfully.

I also feel strongly that there should be live hearings with cross-examination by the parties or their advisors. If you're defending yourself or making an accusation, it's a big deal. And when something is high stakes, it's critical to attempt to find the truth. There's no better way than asking the right questions. Merely letting someone tell their story isn't enough. Schools have to do better than that, and cross-examination is what history and many of the courts are demanding that colleges to do.

I've always voted for democrats, and I did not vote for Trump. I'm a female who majored in electrical engineering in the 1980's and then went to law school in 2016. I'm not shy about speaking up when I see something that's gone wrong and standing up for what is right. And I'm speaking up now because the Dear Colleague Letter was a travesty. It caused incredible damage to millions of college students.

I implore you to put aside any preconceived notions you have about percentages of accusations that are true or the difference in trauma to a sexual assault victim versus a falsely accused respondent. All our students deserve to be safe and treated fairly. The current regulations should be tweaked, not rescinded. Due process should be the lodestar. When a Title IX outcome does not align with the truth, it is not only unjust but creates additional damage to individuals and their communities.

Thank you for considering my comment.