

**From:** Lynch, Mary  
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**To:** T9PublicHearing  
**Subject:** Comment regarding Title IX

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Dear Biden Administration,

I write as a professor who has taught violence against women courses at Albany Law School for over 25 years and currently teaches a clinical course focused on criminal prosecution of domestic violence and sexual assault crimes. I write also as a professor who has been the recipient of sexual assault disclosures by law students attacked by participants within the learning community and/or by non-school community offenders. I have been obliged to report under Title IX for both sexual assault and non-sexual assault related disclosures.

The current rules (the DeVos Rules) have made our campuses less safe for survivors and I commend to you the work of the National Women's Law Center on this issue <https://nwlc.org/press-releases/nwlc-applauds-biden-harris-administrations-title-ix-announcement/>

I have seen this firsthand over the course of the past year and a quarter the negative impact of the DeVos Rules. For example, a female student reached out to me immediately after a sexual assault – e-mailed me on the Saturday after the Friday night assault. We met the next week and I reported to the Title IX coordinator immediately. This case helped me see from the survivors perspective the daunting burdens survivors face with the current rules.

The first harm comes from the pretense under the DeVos rules that a learning community ends at the edge of the campus. In the case I discuss here, once the student was emotionally prepared to tell the school the name of her assaulter, the new rules were in effect and she learned that she was not federally protected under Title IX because it happened at what was supposed to be a "school party" at the offender's apartment, the circumstances about which the offender lied. That section of the rule also needs to be modified with a return to the earlier more inclusive language.

The second harm came from the narrative surrounding the development of the DeVos rules which creates fear on the part of the survivor to disclose the offenders name. The student knew that the newest iteration was a reaction based on a false sense that the old rules were "biased" against (mostly male) reported offenders. She was thus reluctant to open herself up to the stigma and burden that the DeVos rules place on

survivors. These newly lodged burdens include the fact that under the DeVos rules survivors who put forth from the assaulter must be cross-examined by the offenders team – elevating the hearing to the kind of process provided to defendants in a criminal case at which one’s liberty is at risk not one’s educational benefits from a particular learning community. This burdensome addition to survivors under the current Title IX rules should be removed.

Third, I saw first-hand the egregious effects on the survivors learning. She was unable to complete the semester after she was assaulted. She is still dealing with the psychological harm and PTSD. She is struggling to regain her confidence and wellbeing. I taught this student the semester before the assault – she was a star student who juggled many stressors effectively. The impact of the assault has been the most disruptive thing in her life and continues to be as I write this. The offender meanwhile did not suffer in terms of his grades or participation in extra curricular activities. He proceeded – at least academically – as if it was just another Friday night in the school year and approached the survivor hoping she could “put it all behind her.”

Federal law is meant to protect all students learning. We know of the disproportionate impact of sexual assault on female students in higher education. For those of us who have walked with survivors, the current Title IX rules are not helpful to survivors who heal when they speak their truth. They are not helpful to schools which need to deter repeat offenders. I am reluctant to teach this federal law as something that survivors should consider given the awful burdens on them.

I also note that the colleagues on faculties who are most vociferous about the due process rights of the offenders in Title IX cases are *not* the colleagues to whom survivors disclose. Survivors know who to trust after an assault. Many well-meaning defenders of more due process in Title IX have lots of theoretical knowledge and little real experience with survivor disclosures.

I urge you to return to regulations which affirm our country’s much too slow but hopefully more steady progress towards ending violence and sexual assault against women and girls. Please hold sexual assaulters in educational communities accountable for their mistakes and offenses -- from which they can learn. Only when you modify the current rules accordingly will women and girls be more likely to obtain the educational benefits too many of them have been forced to forfeit.

Sincerely,  
Mary A. Lynch

*“Not everything that is faced can be changed. But nothing can be changed until it is faced. ”*

**James Baldwin.**

Mary A. Lynch

*She/Her*

Kate Stoneman Chair in Law and Democracy

Professor of Law

Director, Domestic Violence Prosecution Hybrid Clinic <https://www.albanylaw.edu/centers/the-justice-center/our-clinics/in-house-clinics/domestic-violence-prosecution-hybrid-clinic>

TEL: 518.472.5834

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