

From: Steven Golemme
Sent: Wed, 9 Jun 2021 16:29:43 +0000 (UTC)
To: T9PublicHearing
Subject: Written Comment: Title IX Public Hearing (topic of the comment).

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Dear Sir/Madam,

I am writing to urge you to keep the due process protections of the new Title IX Rule.

The college community deserves basic due process guarantees such as the presumption of innocence, the right to see evidence, and the right to a live hearing and cross-examination.

Prior to the new Rule, Title IX officials routinely acted as criminal investigator, judge, and jury for allegations of crimes on campus, such as sexual assault and rape. Worse, proceedings did not have basic due process for those accused, such as the rights to see evidence, to confront accusers, and to cross-examine witnesses, even when such rights were written into school policy. In a real court, these rights are guaranteed and safeguarded by lawyers and judges who recognize the vital role they play in uncovering the truth and achieving just outcomes.

Every procedural change that the Obama administration imposed on colleges increased the chances that a student accused of sexual assault would be found guilty. Neither Obama nor Biden ever mentioned the due-process rights of accused students. Their attitude seemed similar to that of Colorado congressman Jared Polis, who [informed](#) a 2015 House hearing, “If there are ten people who have been accused, and under a reasonable likelihood standard maybe one or two did it, it seems better to get rid of all ten people.” That is easy to say, of course, until you are one of the eight or nine people who are unjustly eliminated.

Before any fact-finding, or a hearing with witnesses, or any sort of due process, the accused were often suspended, expelled, or denied their diploma. Their job prospects were immediately diminished because a life-altering black mark remained on their school transcript, even if they were ultimately exonerated. In the era of hyper-political correctness, it’s a process that almost always took the word of the female complainant as gospel. Something as simple as a bad grade or a professor’s lecture language could trigger a Title IX complaint. In many cases, the complainant was under the influence of alcohol during the events in question, resulting in hazy, unreliable facts.

The Trump-era rule, which went into effect in August 2020, limited the cases colleges need to investigate by adopting a narrower definition of sexual harassment. It also ensured that alleged perpetrators and victims had the equal right to submit, cross-examine, and challenge all evidence at a live hearing, where they can choose to be represented by a lawyer or adviser to avoid face-to-face questioning. Students shouldn’t have to relinquish their basic rights when they step foot on a college campus. Sexual misconduct is a gravely serious offense for which the punishment is rightly severe. The new Title IX regulations require schools to provide students with a fundamentally fair process before imposing these life-altering consequences.

As Justice Ruth Bader Ginsburg [observed](#) in 2018, “there’s been criticism of some college codes of conduct for not giving the accused person a fair opportunity to be heard, and that’s one of the basic tenets of our system, as you know: everyone deserves a fair hearing.” I urge you to do

everything in your power to preserve and enforce the due process protections put into effect by the Title IX Rule of August 2020.

Sincerely,

A father who will have a child entering college next year