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Subject: Written Comment: Title IX Public Hearing

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To Whom It May Concern:

I'd like to share what the improvements to the Title IX rules implemented in 2020 mean to families such as mine. To explain in a way that allows the reader to have empathy towards my son and our journey is challenging. How a 2015 false accusation still impacts him today is very real and traumatizing. It was a complicated series of events that in the end resulted in him being found not responsible by a preponderance of the evidence for Title IX, and a "not guilty" verdict in less than an hour of deliberations at a criminal trial. There was so much wrong in the 2011 dear colleague letter and the 2014 guidance, that led to the elimination of due process, a disregard for the presumption of innocence, and mental torment for my provably innocent son by school administrators, police officers, and court officials. It may be best to explain how each of the parties experienced Title IX, it was where it all began, and where I believe the 2020 changes reduced the ability of Universities to abuse their powers.

Key pieces to note: No sex, no sexual activity, fully clothed, no alcohol, no drugs, she was on top of him holding him down.

When the accusation was made, his accuser was provided significant guidance on who to talk to, what she needs to do, does she want to press charges, does she want a SANE exam, every step of the way she was treated with respect and guided through the process by carrying professionals. This is a good thing. I 100% believe that someone that experiences trauma needs to be treated with care as to not further the trauma and that it is critical to collect any potential evidence in case a crime has been committed. My son's experience in the first few hours of the accusation, his roommate was handed a letter to give to him. This letter stated someone would be contacting him in a few days to discuss a misconduct accusation. A few days passed and it took the school 32 days before contacting him again. In which this second letter he received stated they would like to schedule time with him to talk about why "they believed" he committed sexual assault. At the time of this request, he had not been informed by the school what he had been accused of. There had been no attempt to get his side of the story by the school investigator, or anyone else representing the Title IX procedures. Presumption of Innocence gone. It is important when an accusation is made against a student that they are told. The 2020 TIX regulations account for this important provision.

As time passed, he entered the hearing phase. Upon arriving at the school, of which he had been banned from Campus, the Dean of Students met us in the hall and had a couple of chairs waiting for us to sit in until they were ready. Just before the hearing, out of the Dean of Students office, out walked his accuser, her mother, her sister in-law, her school advocate, the school investigator, the chairwoman of the hearing committee, and the Dean of Students. There was no illusion that this was going to be a fair hearing. In the hearing room, it was recorded and transposed, which is why I know every detail of what was covered. The hearing was scheduled for 2 hours, but each party was not given equal time. The school presenting the case against my son took 100+ minutes of the allotted 120 minutes. Before my son's lawyer did get a chance to speak, he was informed that he had limited time, as they needed time to do a final summary for the school presentation for the accused. It was a joke. There was more crazy antics, such as presenting a "witness" statement by a non-witnessing party, who we were not informed about. At no time did the school instigator attempt to discover if there was any truth to the accusation. She was allowed to hand pick which "witnesses" that supported her biased belief of my son's guilt. At no point did my son have a chance to defend against any of these witnesses or refute any statement provided. A single individual should not be given the power to be the investigator and the person that determines guilt or innocence. The whole farce of a hearing is a perfect example of the death of Due Process. In the 2020 guidance, it addresses the single investigator model.

Lastly, the mental health of my son. Title IX is about equal opportunity. My son, who was a minority student at a University with less than 10% of the student population that is non-white, was treated guilty as accused the moment his accuser decided to destroy his life and "take his education" away. She did. To this day he is innocent of what she accused him of doing, but she nearly destroyed him. Every time he applies for a new job, he holds his breath as a background check is done. Will he be discriminated against for something he did not do? It has happened at least once. Does he still have to check the box on any future college application and feel confident in doing so? This process has changed him. It is so easy to not consider there are two sides of a story. When there are life altering consequences involved for either party, it is imperative that both sides are treated with respect. That both students are considered to be telling the truth, and that somewhere in-between there needs to be an unbiased process that helps each of the students come to a fair and equitable solution. The work done to arrive at the 2020 regulation changes, listened to all parties involved to come up with such a solution. There is no perfect answer. There needs to be thoughtful consideration for when a victim is traumatized, and also when a falsely accused student is traumatized. My hope is that when this process has concluded that the voices of the accused students are not pushed aside. There are hundreds of lawsuits that have shown what we have experienced. Please take the time to look

Hoping for a fair and equal future for all students,
Tracy Gardiner