

The Legal Intelligencer

COMMENTARY

Title IX—Required Reading for Students Entering College

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Students entering school in the fall must be fully equipped with knowledge of what Title IX is and what to do if they, or one of their peers,

ever experience, or are accused of, a sexual assault on campus. Over the last several years, Title IX procedures at schools have morphed into a court-like process that requires students and their advocates to be fully prepared well before a sexual assault takes place. Failing to do so can lead to the derailing of a student survivor's education and unraveling of the college experience.

Title IX is a federal law that protects people from sex discrimination in educational programs and activities at colleges and universities that receive federal financial assistance. Among others, sexual assault is a form of discrimination prohibited by Title IX. The law reads, in part:

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any educational program or activity receiving federal financial assistance.”

In 2020, Title IX regulations were implemented that drastically altered how complaints of sexual assault are handled on campus. These regulations were viewed as troublesome by some advocates for survivors of sexual assault. Student survivors who completed or are currently going through the Title IX process at their school under the current 2020 rule know the hurdles and barriers that survivors must confront when they decide to report campus sexual assault.

In late June, the Biden administration introduced proposed changes to Title IX. However, before the 2020 rule can be replaced and the changes implemented, a 60-day notice and comment period must take place. This process began on July 12 and will end on Sept. 12.

With such a short timeframe, it is important that survivors, students, and parents pay close attention to and engage in the process. As we learned over the last couple of years, the regulations that implement Title IX are just as important as—if not more important than—the text of Title IX itself. These regulations impact whether survivors and defendants are heard and whether they are able to continue pursuing their education.

Even after the new Title IX regulations are implemented, the process will in many ways remain more akin to a court hearing than an educational institution's disciplinary process. Therefore, it is imperative that students act quickly to preserve evidence and protect their rights. This is the case whether the student is a complainant or defendant. Students must be equipped with the knowledge of what to do in the immediate aftermath of a sexual assault on campus before a sexual assault ever takes place. Hopefully, it is knowledge students will carry with them throughout their education without ever having to use it. However, with more than one in four female undergraduate students experiencing sexual assault on campus, according to [Campus Sexual Violence: Statistics from RAINN](#), students must be prepared.

What constitutes “evidence” in these kinds of cases? Many students fail to preserve essential evidence that would hold their assailant accountable simply because they don't understand what “evidence” is. Screenshots of text message conversations, photographs of injuries, videos sent to friends, campus security footage, journal entries, and even correspondence/direct messages sent through social media networks can all be considered forms of evidence that can be used at Title IX hearings. Although campuses typically advise students about their Title IX rights at the beginning of the school year—whether through

orientation meetings or brochures —they seldom remind students what kind of documentary and physical evidence can be used throughout the hearing process to substantiate claims of assault. Because these kinds of electronic and physical evidence can disappear or be destroyed quickly, it is essential for students to be mindful and preserve any correspondence that could be used to substantiate or corroborate their allegations.

Additionally, students should consider who witnessed the underlying events. Other student witnesses besides the complainant and respondent can be utilized during a Title IX hearing if they have relevant information to share. Their testimony can be a strong indicator of credible corroboration or of fabrication. Discussing what happened with other students who may have seen or heard something relevant can be difficult, but may change the course of a Title IX proceeding.

Students should also be aware that rape kits are available at their local hospital and are an essential tool in helping to prove allegations of sexual assault. Students who are willing and able to use a rape kit after an assault should go to their nearest hospital as quickly as possible, preferably before showering. This will help preserve any possible DNA evidence that may be recoverable by a medical team and could be used to help substantiate their claims.

In addition to physical and electronic evidence, coupled with student testimony, writing down a detailed timeline can be a supportive tool for complainants throughout the Title IX hearing process. Our memories naturally fade with time, so compiling a comprehensive timeline and list of potential people and students who they may have interacted with on

the day in question can help guide an attorney in collecting evidence and ensuring the ability to secure the testimony of necessary witnesses.

Time is of the essence. While survivors of an on-campus sexual assault bear no burden to report their abuse, if they choose to do so, keeping these helpful tips in mind may mean the difference between their assailant being held responsible or not. It also helps to ensure that student survivors continue feeling safe on campus while being able to pursue their educational goals.

Even if students never experience sexual assault, they may be called upon to help their peers. In addition to understanding what action to take in the immediate aftermath, here are a few additional things to do to help a sexual assault survivor:

- Whether the assault occurred a while ago or an hour ago, make sure that the survivor is safe. Most communities have rape crisis centers and hotlines. RAINN operates a national sexual assault hotline that is free and confidential. The number is 800-656-HOPE.
- Convey to the survivor that you believe them and what happened is not their fault. Be nonjudgmental and supportive.
- Listen. Let survivors know that they are not alone. Convey to the survivor that counseling, therapy, and support groups for sexual assault victims can help them move on from the incident. Help them find local resources that are available to support them.

Often, the hardest step for victims is the first. They must understand what steps to take if they or one of their peers are sexually assaulted. Title IX complainants and defendants should receive a timely and impartial investigation and resolution of their case.

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