

Stop the Weaponization of Title IX

Save Free Speech, Due Process, and Women's Sports on Campus¹

Whereas:

1. Congress enacted the Title IX law in 1972 that states, “No person in the United States shall, *on the basis of sex*, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” [emphasis added]
2. In 2011, the Department of Education released a controversial Dear Colleague Letter that removed constitutionally based due process protections from students and faculty accused of sexual misconduct.²
3. Despite the fact that the new policy was justified by a need to curb campus sexual assault, an independent evaluation revealed the policy had no effect on sexual victimization rates among undergraduate male or female students.³
4. The 2011 policy gave rise to hundreds of lawsuits against universities by wrongfully accused male students. To date, over 170 judicial decisions have ruled in favor of the accused student.⁴
5. The American Association of University Professors opposed the federal policy because its overly broad definition of “hostile environment” caused free speech considerations to be “relegated to the background or ignored altogether.”⁵
6. In 2020, the Department of Education released a historic new Title IX regulation that protects free speech and academic freedom, ensures due process, and guarantees certain protections for sexual assault victims.⁶
7. On March 11, 2021, President Biden issued Executive Order 14021 that called on Title IX to redefine “sex” to include sexual orientation and gender identity.⁷
8. The new Title IX regulation reportedly will propose this expanded definition: “Discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex-related characteristics (including intersex traits), pregnancy or related conditions, sexual orientation, and gender identity.”⁸
9. On April 4, 2022, 26 leading organizations sent a letter to the Department of Education noting that the 2020 Title IX regulation provides important provisions to ensure due process and protect free speech. The letter concludes, “We strongly urge the Department to set aside its Title IX rulemaking and to allow institutions to continue their efforts to comply with the 2020 Rule.”⁹
10. On April 5, the Attorneys General from 15 states issued a letter noting that the Department of Education has “failed to provide sufficient justification for engaging in new rule-making,” expressing concerns regarding the proposed regulation’s “detrimental effect,” and calling on the Department to “cancel its plans to engage in rulemaking on Title IX.”¹⁰

Therefore:

The undersigned call on the Department of Education to immediately suspend all plans to issue a new Title IX regulation due to the Department’s inability to provide a sound explanation why the 2020 regulation requires revision.

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Citations:

¹ Petition sponsored by SAVE: <https://www.saveservices.org/camp/weaponization/> Contact: info@saveservices.org

² <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.html>

³ <https://www.aau.edu/newsroom/press-releases/aau-releases-2019-survey-sexual-assault-and-misconduct>

⁴ <https://www.saveservices.org/wp-content/uploads/2022/04/Analysis-of-Title-IX-Regulation-3.24.2022.pdf>

⁵ <https://www.aaup.org/file/TitleIXreport.pdf>

⁶ <https://www.saveservices.org/2020/05/new-title-ix-regulatory-text-34-cfr-106/>

⁷ <https://www.federalregister.gov/documents/2021/03/11/2021-05200/guaranteeing-an-educational-environment-free-from-discrimination-on-the-basis-of-sex-including>

⁸ <https://www.washingtonpost.com/education/2022/03/30/transgender-discrimination-title-ix-rule-students/>

⁹ <https://www.saveservices.org/wp-content/uploads/2022/04/Title-IX-Coalition-Letter-to-OCR-04.04.2022.pdf>

¹⁰ <https://media.dojmt.gov/wp-content/uploads/Title-IX-Coalition-Letter-4.5.22.pdf>