# Title IX; The Road to Reforming the 2020 Title IX Regulations for Higher Education

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## Abstract

This piece examines the pros and cons of the 2020 Title IX regulations and weighs how reforms to these regulations may impact sexual assault survivors, women of color, and LGBTQ+ college students. The paper analyzes how these regulations are affecting survivors and student affairs practitioners on college campuses across the country, as well as emphasizes rules regarding mandatory reporting, the requirement of live hearings and cross-examinations, and the impact these regulations are having on students reporting sexual assaults.

## Keywords

Title IX regulations, discrimination based on sex

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There is a longstanding debate regarding the implementation of Title IX regulations in higher education, which are part of the Education Amendments of 1972, prohibiting discrimination on the basis of sex in any federally funded program (Anderson, 2020). In May 2020, Education Secretary Betsy DeVos rolled out new Title IX regulations, which became operational in August 2020. The disputed criteria of the new rules include an updated definition of "sexual discrimination", outlines that faculty and staff will no longer be required to serve as mandatory reporters, and that sexual misconduct that takes place outside of the University's physical campus in settings such as Spring Break trips or in study abroad programs no longer requires the institution to take up the case (Anderson, 2020). A discussion based on the supporting and opposing views on the new Title IX changes follows, as well as a conclusion of the analysis on the debated topic.

According to Anderson (2020), proponents of the new regulations assert that the Davis standard definition of sexual harassment, "so severe, pervasive, and objectively offensive", properly upholds the original requirements of the First Amendment and protects free speech on campus (para. 2). Supporters concur with the decision about scraping mandatory reporting, claiming that not all University employees felt comfortable disclosing information regarding harassment shared with them. Moreover, the ability to consolidate complaints in one procedure for the same accused student, as well as requiring live hearings and cross-examinations, referring to them as "fair processes" and ensuring "consistent requirements in judicial and administrative contexts", increases efficiency and timeliness in legal proceedings (Anderson, 2020, para. 5).

Those opposed argue that the new regulations lack evidence-based and trauma-informed considerations (Creighton & Dunlap, 2020). Critics claim that giving greater protection to the accused will only lead to a decrease in already very low reporting numbers (Gluckman, 2019). Opponents presuppose that the new rules will further marginalize the most vulnerable students on campuses, primarily sexual assault survivors, women of color, and LGBTQ+ members. These student victim advocates, agents of gender equity, and survivors of sexual assault condemn the narrowing of the definition of "sexual harassment" and contend that requiring "cross examination" seen as "the greatest engine for ascertaining the truth" by the Department of Education, in practice only propagates rape myths and makes the process more traumatizing and intimidating (Creighton & Dunlap, 2020). Reformers theorize that the geographically limiting protections will be detrimental to students and their health and safety, as assaults that occur on school-sponsored trips (off campus) in which the institution harnesses substantial control will be required to be investigated, while non-affiliated, private study abroad programs or off-campus parties will not mandate investigations. The reforms do not align with the culture of care campaigns present on many campuses.

Ultimately, colleges and universities are responsible for the health, safety, and wellbeing of their students. With limited staffing, under-resourced colleges, and the need for new training, the new Title IX regulations are more harmful than helpful to both sexual assault victims and supporting staff. While there are some benefits to the new rules, it is best that the Department of Education create new regulations and reform the 2020 regulations. This can be done by consulting experts in the field of Sexual and Relationship Violence Prevention as well as student affairs professionals to center survivors' voices and create environments where students can feel safe in reporting and can begin to build trust in the legal processes by fairly representing survivors.

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