



11 DUPONT CIRCLE NW  
SUITE 800  
WASHINGTON, DC 20036  
202-588-5180  
NWLC.ORG

May 20, 2019

Dear Education Policymaker:

The National Women's Law Center ("the Center") is a nonprofit organization that has worked since 1972 to combat sex discrimination and expand opportunities for women and girls in every facet of their lives, including education, because we know that our country will never experience justice for *all* when more than half of us remain subject to discrimination. Founded the same year Title IX of the Education Amendments of 1972 ("Title IX") was enacted, the Center has participated in all major Title IX cases before the Supreme Court as counsel or amicus. We are committed to eradicating all forms of sex discrimination in schools, specifically including discrimination against pregnant and parenting students, LGBTQ students, and students who are vulnerable to multiple forms of discrimination, including girls of color and girls with disabilities. This work includes a deep commitment to eradicating sexual harassment (including sexual violence) as a driver of gender inequity and barrier to educational success. Having worked with students who have been harmed by sexual violence and other forms of sexual harassment, we know that too often when survivors seek help from their schools to address abuse, they are retaliated against or pushed out of school altogether.

We write to you, the leaders who shoulder the vitally important duty to enforce Title IX in our country's schools, with the hope that we all share the core value that sex discrimination has no place in education, that schools should take steps to prevent sexual harassment and violence, and that if and when such harassment and violence nevertheless occur, we should show the utmost compassion for survivors and ensure their equal access to education. The trauma of sexual harassment and assault is already more than anyone should have to bear; compounding that trauma by ignoring or punishing survivors after they report is simply unconscionable.

However, many people—including some government officials and education leaders—are confused about the current status of Title IX enforcement in schools because of the U.S. Department of Education's recent **proposal** to weaken Title IX rules and mandate discriminatory grievance processes at schools. We are writing to strongly reiterate that, despite misleading headlines to the contrary, **Title IX has not changed**. Your responsibilities to all students and your civil rights obligations to survivors of sexual harassment and assault are still in effect. The Department of Education is still processing [over 110,000 comments](#) submitted in response to its proposed rules. Even if these proposed rules are finalized, this does not change Title IX's statutory guarantee of equal access to educational opportunity and nondiscriminatory treatment for all students—and rules that conflict with that standard or interpret it indefensibly are invalid.

Furthermore, many of your educational institutions are still subject to additional local and state laws that require you to take action above and beyond current Department of Education guidance that has been in effect since 2001.

The recently proposed rules are [cruel, discriminatory, and at odds with many aspects of Title IX itself](#), as well as with many state and local laws and with policies that many of your schools already have in place to protect students. Moreover, the proposal reflects regressive stereotypes about survivors and disregards the reality that [men and boys are far more likely to be victims of sexual assault than to be falsely accused of it](#). The proposed rules fail to respond to the realities of sexual harassment in schools, and if finalized, would make schools less safe for all students by making it harder for survivors to safely report abuse, requiring schools to ignore many reports of sexual harassment and assault, and unfairly tilting grievance processes in favor of respondents to the direct detriment of survivors. These are the exact conditions that allow serial abusers to flourish, fostering cultures of complicity that allowed people like Larry Nassar and Jerry Sandusky to abuse hundreds of students over the course of decades.

Our society's widespread problem of sexual violence makes it clear: our schools need *more* robust enforcement of Title IX and more harassment prevention efforts, not less. This is why [the Center](#) and so many others have opposed the Department of Education's proposed Title IX rules. Comments against these proposed rules were submitted to the federal government from [survivors, students, teachers, school superintendents, secondary school principals, colleges and universities, Title IX coordinators, student affairs administrators, law professors, mental health professionals, scientists, men's groups, civil rights advocates, state legislators, state attorneys general, U.S. Senators, U.S. agencies](#), and community members. These tens of thousands of comments articulated the incredible importance of preserving existing Title IX rules and guidance, which have been respected by both Democratic and Republican presidential administrations since 2001. The comments are clear: these rules would not only harm students and deter reporting, but they would also pose problems for enforcement of Title IX and school policies, confuse students and schools about their rights and obligations, impose additional cost burdens on school and university stakeholders, and prompt litigation battles.

Even when the proposed rulemaking process ends, and the rules are finalized, these rules—like many other regulatory and policy actions by the current administration—are likely to face court challenges. When they do, history strongly suggests that these rules will not stand. In such regulatory fights, the Trump administration has a [94% loss rate in court, compared with a 30% loss rate for other administrations](#). Institutions following the lead of this administration would not only harm survivors and compromise student safety, they would also invite a significant risk of needless legal liability.

For all the above reasons, we thus urge you to continue following the existing Title IX rules and the guidance which has been in place since 2001. Both are consistent with Supreme Court precedent and have been enforced for many years, with bipartisan support. If you would like

additional resources, we invite you to review our [sexual harassment toolkit](#) and to share it with students, families, educators, and government officials in your schools and communities.

Thank you for respecting and enforcing the civil rights of all students – including survivors – and, where necessary, for reversing any decision to change Title IX enforcement in response to the Department of Education’s misguided and still-ongoing proposed rulemaking process. Millions of American families entrust their children’s safety, dignity, and futures to you every day; we sincerely hope you honor that trust by respecting students’ rights under Title IX.

Sincerely,

Emily Martin  
Vice President for Education & Workplace Justice  
National Women’s Law Center