

The Dear Colleague Letter of 2011 should be rescinded. The policies imposed on colleges and universities through the “guidance” is against the spirit of Title IX as it treats students unequally as well as unfairly, is detrimental to the educational environment, and causes unintended economic consequences to both schools and students.

First, the purpose of Title IX is to enhance educational equality and opportunity. The Dear Colleague letter imposes restraints on an institution’s ability to treat their students equally, giving accusers rights and support that the accused are denied. Further, young men accused are immediately denied their right to an equal education when restraints on their freedom are imposed before a finding of responsibility. The accused are also put in a position of incredible emotional stress without any school support furthering weakening their access to an equal educational while the accusers are given access to a myriad of support options confirming their educational rights. Many schools have interpreted the guidelines to mean males are responsible for all decisions and actions while under the influence of alcohol while females are victims if under the influence. It is a double standard which is squarely in opposition to the concept of Title IX equality of the sexes. The guidance document altered a school’s ability to treat their students fairly, applying educational tools and common sense, to a “believe the victim” and “presumption of guilt” mentality which is inherently unequal.

Educational opportunity also relates to the basic assumption that what happens at schools is both educational and truth seeking. The guidance letter rejects both tenants. The Dear Colleague Letter hinders schools from using any accusation as a learning opportunity for either party. If the accuser has told falsehoods, there is no process for mental evaluation and support. If either or both parties were inebriated, as is overwhelmingly the case, there is no call for substance abuse help. As a matter of fact, the guidance stipulates accuser’s drug or alcohol abuse is not to receive educational attention and possible important life help. That is a tragedy for our society. Education should emphasize learning from mistakes with every attempt to keep students enrolled in school. The emphasis should be on searching for results which allows the parties to gain any necessary support and counseling to ensure both students may attain a college education. Learning, not punishing, should be the emphasis of education. The criminal justice system is available to all citizens when a crime is committed which requires removal from society.

Educational learning is the search for truth. In the justice system, unbiased investigators, independent judges, and separate fact finders bound by laws and rules are the foundation for determining guilt or innocence. The Dear Colleague Letter disassociated the basic tools for finding the truth from the accusatory process at schools, particularly in eliminating cross examination – “the greatest legal engine ever invented for the discovery of truth.” Due process is ignored in the most basic forms of notice, unbiased fact finding, and ability to call witnesses. How can a process at a school be educational, fair, or reliable if the time-tested methods for determining truth are abandoned?

Mandating a preponderance of the evidence standard is further evidence of an abandonment of the goals of Title IX to increase access to educational opportunities. Students who have the most at stake, loss of an opportunity for a college education, as well as being denied basic due process should not have a lower standard of evidence than for any other campus violation. At most colleges, clear and convincing is the standard for everything but sexual misconduct. It is illogical to both lower the ability to defend oneself and lower the standard of proof simultaneously; but that is exactly the result of the Dear Colleague letter. Endorsing a

system which makes guilt finding easier (implicitly creating a high probability that innocent people will be found responsible), limits educational possibilities.

The Dear Colleague letter empowered advocate groups to limit free speech. The alienation of truth seeking in the adjudicatory process went a step further to limit conversation regarding the entire topic. Safe Spaces on campus were used as an emotional power play to stop any discussion regarding facts about the number of sexual assaults, cases dismissed for lack of cause, and the effect of false allegations. Professors who dare to question the mantra of the Dear Colleague letter find themselves subject to Title IX investigations themselves.

Finally, the economic consequences are devastating. The Title IX guidance has created an arms race of college sexual assault bureaucrats invested in growing their own power and salaries. Many cases have turned into lawsuit wars with no winners. Universities are playing a game to avoid bad publicity while accusers fight for damages and the accused to save their education. Colleges are fighting for themselves and completely abandon any interest in their students' well-being or their education. It is an absolute quagmire and sadly the money spent on Title IX lawsuits and investigations lessens the funding available for actual education which harms all students.

The Dear Colleague letter must be rescinded. Regardless of any initial good intent the consequences are not fair, are repugnant to the concept of education, and have caused good money to be wasted.