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U.S. Department of Education (/)

# Secretary DeVos Takes Historic Action to Strengthen Title IX Protections for All Students

**New regulation defines sexual harassment, requires supportive measures for survivors, restores due process on campus**

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WASHINGTON — U.S. Secretary of Education Betsy DeVos took historic action today to [strengthen Title IX protections](https://www2.ed.gov/about/offices/list/ocr/newsroom.html) (<https://www2.ed.gov/about/offices/list/ocr/newsroom.html>) for survivors of sexual misconduct and to restore due process in campus proceedings to ensure all students can pursue an education free from sex discrimination. For the first time ever, the Department's Title IX regulations define sexual harassment, including sexual assault, as unlawful sex discrimination. The new Title IX regulation holds schools accountable for failure to respond equitably and promptly to sexual misconduct incidents and ensures a more reliable adjudication process that is fair to all students. The new regulation comes after years of wide-ranging research, careful deliberation, and critical input from survivors, advocates, falsely accused students, school administrators, Title IX coordinators, and the American people, including over 124,000 public comments.

"Too many students have lost access to their education because their school inadequately responded when a student filed a complaint of sexual harassment or sexual assault," said Secretary DeVos. "This new regulation requires schools to act in meaningful ways to support survivors of sexual misconduct, without sacrificing important safeguards to ensure a fair and transparent process. We can and must continue to fight sexual misconduct in our nation's schools, and this rule makes certain that fight continues."

Since the beginning of her tenure, Secretary DeVos has worked to ensure all students have the freedom to learn in a safe environment, free from discrimination. The new Title IX regulation helps to achieve that goal by codifying prohibitions against sexual harassment in schools for the first time in history. The regulation carries the full force of law, unlike the previous administration's much-criticized "Dear Colleague" letter on the topic which denied students basic due process protections and led to cases frequently being overturned by the courts. With the benefit of robust public participation in the rulemaking process, this new Title IX regulation reflects Secretary DeVos' commitment to ensuring that every survivor's claim of sexual misconduct is taken seriously, and every person accused knows that guilt is not predetermined.

## Key provisions of the Department of Education's new Title IX regulation:

- Defines sexual harassment to include sexual assault, dating violence, domestic violence, and stalking, as unlawful discrimination on the basis of sex
- Provides a consistent, legally sound framework on which survivors, the accused, and schools can rely
- Requires schools to offer clear, accessible options for any person to report sexual harassment
- Empowers survivors to make decisions about how a school responds to incidents of sexual harassment

- Requires the school to offer survivors supportive measures, such as class or dorm reassignments or no-contact orders
- Protects K-12 students by requiring elementary and secondary schools to respond promptly when any school employee has notice of sexual harassment
- Holds colleges responsible for off-campus sexual harassment at houses owned or under the control of school-sanctioned fraternities and sororities
- Restores fairness on college and university campuses by upholding all students' right to written notice of allegations, the right to an advisor, and the right to submit, cross-examine, and challenge evidence at a live hearing
- Shields survivors from having to come face-to-face with the accused during a hearing and from answering questions posed personally by the accused
- Requires schools to select one of two standards of evidence, the preponderance of the evidence standard or the clear and convincing evidence standard – and to apply the selected standard evenly to proceedings for all students and employees, including faculty
- Provides "rape shield" protections and ensures survivors are not required to divulge any medical, psychological, or similar privileged records
- Requires schools to offer an equal right of appeal for both parties to a Title IX proceeding
- Gives schools flexibility to use technology to conduct Title IX investigations and hearings remotely
- Protects students and faculty by prohibiting schools from using Title IX in a manner that deprives students and faculty of rights guaranteed by the First Amendment

Assistant Secretary Kenneth L. Marcus of the Office for Civil Rights (OCR) added, "The new Title IX regulation is a game-changer. It establishes that schools and colleges must take sexual harassment seriously, while also ensuring a fair process for everyone involved. It marks the end of the false dichotomy of either protecting survivors, while ignoring due process, or protecting the accused, while disregarding sexual misconduct. There is no reason why educators cannot protect all of their students – and under this regulation there will be no excuses for failing to do so. In a string of recent major OCR Title IX cases, and in a large number of investigations over the last few years, we have shown that we will hold institutions accountable under federal civil rights laws. This regulation provides important new tools that will strengthen our ability to do so."

Today's action on Title IX is only one of many substantial ways Secretary DeVos has moved to protect survivors of sexual misconduct and all students.

Under the Secretary's leadership, OCR has aggressively investigated schools that fail to protect students from sexual misconduct and to bring them into compliance with the law. The Secretary has required sweeping reforms to protect students, most notably at [Michigan State University](https://www.ed.gov/news/press-releases/secretary-devos-leaves-largest-ever-clery-fine-against-michigan-state-university-requires-major-corrective-action-following-systemic-failure-address-sexual-abuse) (<https://www.ed.gov/news/press-releases/secretary-devos-leaves-largest-ever-clery-fine-against-michigan-state-university-requires-major-corrective-action-following-systemic-failure-address-sexual-abuse>), [Pennsylvania State University](https://www.ed.gov/news/press-releases/us-department-education-holds-penn-state-accountable-its-failure-protect-students-sexual-misconduct-requires-major-overhaul-title-ix-procedures-following-compliance-review) (<https://www.ed.gov/news/press-releases/us-department-education-holds-penn-state-accountable-its-failure-protect-students-sexual-misconduct-requires-major-overhaul-title-ix-procedures-following-compliance-review>), [the University of Southern California](https://www.ed.gov/news/press-releases/secretary-devos-requires-sweeping-changes-usc-after-title-ix-investigation-finds-university-failed-years-protect-students-sexual-abuse) (<https://www.ed.gov/news/press-releases/secretary-devos-requires-sweeping-changes-usc-after-title-ix-investigation-finds-university-failed-years-protect-students-sexual-abuse>), and [Chicago Public Schools](https://www.ed.gov/news/press-releases/us-department-educations-office-civil-rights-requires-significant-corrective-action-chicago-public-schools-following-systemic-failure-address-sexual-violence) (<https://www.ed.gov/news/press-releases/us-department-educations-office-civil-rights-requires-significant-corrective-action-chicago-public-schools-following-systemic-failure-address-sexual-violence>).

The Secretary's recently commenced [initiative on sexual assault in K-12 schools](https://www.ed.gov/news/press-releases/secretary-devos-announces-new-civil-rights-initiative-combat-sexual-assault-k-12-public-schools?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=) ([https://www.ed.gov/news/press-releases/secretary-devos-announces-new-civil-rights-initiative-combat-sexual-assault-k-12-public-schools?utm\\_content=&utm\\_medium=email&utm\\_name=&utm\\_source=govdelivery&utm\\_term=](https://www.ed.gov/news/press-releases/secretary-devos-announces-new-civil-rights-initiative-combat-sexual-assault-k-12-public-schools?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=)) enhances OCR's enforcement of Title IX in elementary and secondary schools and strengthens the responsibility of schools to respond to incidents of sexual misconduct. This major initiative also builds on the Department's work to implement the "Pass the Trash" provisions of the Every Student Succeeds Act (ESSA), which prohibits elementary and secondary school district administrators from shifting employees who sexually abuse students from school to school.

Over the last three years, OCR has closed a total of 172 sexual violence cases with change, a 375% increase over the prior eight years in the annual number of sexual violence cases closed with change.

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