OXFORD JOURNAL
OF STUDENT
SCHOLARSHIP

Title IX

Chloe Gao
chloegao1208@gmail.com

ABSTRACT

This review addresses the effects of the Title IX enforcement process established through the Education Amendments of 1972 and the 2011 Dear Colleague Letter. The review also considers how institutions react to sexual misconduct cases. The research is based on academic literature, government reports, case law, college documents and news reports. Research shows that prevention and investigation procedures have been enhanced at colleges and universities through implementation of the preponderance of evidence standard and appointment of Title IX coordinators. These measures have prompted colleges and universities to take greater responsibility for addressing sexual misconduct, diversify reporting channels, and allocate necessary resources. In addition, this article explores controversies surrounding due process, procedural fairness, and the treatment of accused students. The review found that the strengthening of the implementation of Title IX has significantly changed the way colleges and universities deal with sexual harassment cases.

INTRODUCTION

Equal educational opportunity is essential because it ensures that everyone has the opportunity to learn and succeed academically. If students experience discrimination or threats or feel unsafe, these conditions can prevent them from focusing on learning, attending school regularly, and achieving their academic goals [1]. Therefore, creating a safe environment where students can study at ease without worrying about discrimination or harm is crucial to students' personal achievements and the overall integrity of educational institutions. Civil rights laws promote equal educational opportunities by protecting students from various forms of discrimination. Although other civil rights laws protect students from various forms of discrimination, Title IX specifically prohibits discrimination on the basis of sex in federally funded educational programs and activities, including certain forms of sexual harassment.

Title IX was enacted in 1972 to prohibit sex-based discrimination in federally funded educational programs and activities. Over time, the scope of application of the regulation has expanded to cover sexual harassment and sexual assault, because such misconduct will limit the participation of students [2]. In view of this, the U.S. Department of Education issued the Dear Colleague Letter in 2011 [1].

Although these initiatives are designed to assist victims, they have also given rise to bureaucratic management systems in higher education institutions. This article aims to explore the impact of the Dear Colleague Letter on the implementation of Title IX in colleges and universities through a literature review

that includes academic journals, court precedents, government publications and institutional policies. Specifically, this article will focus on the bureaucratic phenomenon in the process of dealing with such cases in colleges and universities, and discuss relevant issues surrounding victim protection and due process. It is essential that such matters be examined, since they affect students' learning process and their rights.

METHODS

This article uses literature review and policy analysis methods. The focus of the research is not to carry out original empirical research, but to explore and explain important events and issues in the implementation of Title IX by sorting out government documents, court judgments, news reports and university policies.

Sources for this review were identified using keywords such as “Title IX,” “Dear Colleague Letter,” “campus sexual violence,” “university sexual misconduct,” “Title IX enforcement,” “higher education policy,” “sexual assault reporting,” “due process,” and “Title IX bureaucracy” on Google Scholar and JSTOR.

Relevant sources included those that addressed the following topics: the implementation of Title IX in colleges and universities, policies related to sexual misconduct, victim safety, due process, and the response of colleges and universities to government directives on sexual assault. The screening process also included peer-reviewed articles, government documents, judicial precedents and college policies published between 2011 and 2025. Nevertheless, foundational sources published before 2011 were also included when they provided important historical context for the development of Title IX.

Studies that addressed K-12 issues, workplace harassment, foreign laws or policies, and subjects irrelevant to sexual misconduct or Title IX issues were excluded. The remaining sources were assessed based on how they described institutional responses following the Dear Colleague Letter, including compliance with federal requirements, protection of complainants from retaliation, and adherence to due process.

Background and Need for Reform

Title IX was enacted in 1972, prohibiting sex-based discrimination in federally funded educational programs and activities. The law initially focused on gender equality issues in the field of education and sports, and was later interpreted to include sexual harassment and sexual violence when that behavior impedes equal educational opportunity [2]. Before 2011, although colleges and universities had responsibilities under Title IX, federal guidance on institutional responses to sexual violence was less detailed than the guidance provided in the 2011 Dear Colleague Letter [1].

Research shows that before the "Dear Colleague Letter" was released, many sexual assault cases in colleges and universities were either not reported or were not properly handled. As pointed out by the Association of American Universities, many college students who experience sexual misconduct do not report it because of fear of retaliation, concerns about institutional inaction, or uncertainty about the reporting process [3].

Further research also shows that individuals who have experienced sexual assault often experience anxiety and academic difficulties [2]. Specific manifestations include: lack of security on campus; avoidance of classes due to the presence of perpetrators; difficulty concentrating due to anxiety and emotional problems; alienation from academic and social activities; and even forced withdrawal from school due to trauma.

Delays and inefficiency in the response process in colleges and universities will prevent victims from actively participating in the learning process; victims may even be forced to live in the same classroom or dormitory with the perpetrator. Madi Barney's case provides an example. She reported that she had been sexually assaulted and subsequently experienced academic difficulties following her report to Brigham Young University [4].

These influences often have far-reaching consequences for students' academic prospects. For this reason, sexual harassment and sexual assault can qualify as sexual discrimination according to Title IX if they impede equal access to education for the student. In the end, the characterization of sexual assault as a violation of civil rights is based on the principle that all students should enjoy equal educational opportunities.

Before 2011, however, colleges and universities would respond to cases of sexual misconduct in a way that was not always consistent, and students have complained that the process at these institutions was inadequate or confusing.

Effects of the Dear Colleague Letter

As a result of the increasing attention to sexual misconduct in colleges and universities and the uneven measures taken by colleges and universities to deal with this problem, the Office for Civil Rights issued the Dear Colleague Letter in April 2011 [1]. Although the letter itself is not a law, it clearly explains the responsibilities of colleges and universities under Title IX.

It promoted a major change in the way colleges and universities deal with campus sexual assault incidents by providing clearer guidance on how to deal with sexual assault allegations. The issuance of the letter was significant to the implementation of the policy of Title IX, because it required colleges and universities to take stricter responses to such allegations, such as the adoption of the preponderance of the evidence standard.

The deepening of the federal government's involvement is also reflected in the subsequent investigation actions against colleges and universities [5]. According to the guidelines, schools should "take immediate and appropriate steps to investigate or otherwise determine what occurred" when they were aware of such events [1]. It also required that schools adopt the preponderance of the evidence standard, meaning that schools were required to determine whether it was more likely than not that the misconduct occurred. Additionally, the investigation required by the Dear Colleague Letter had to be conducted promptly and equitably, meaning that schools were expected to respond promptly while maintaining an equitable process for both parties. This helped ensure consistency in the process and promoted greater consistency in institutional procedures across colleges and universities.

It also emphasized that universities could face federal enforcement actions and potentially risk federal funding if they failed to comply with the guidelines. The fact that the letter was merely guidance and not legislation did not reduce its weight upon institutions to conform to OCR's interpretation of Title IX. Therefore, it became necessary for universities to implement a well-defined Title IX system, and they began doing so in order to satisfy these requirements. For instance, this involved appointing Title IX coordinators, instituting clear processes for reporting and investigating allegations, training university personnel on response strategies, and implementing other compliance measures.

These systems were intended to ensure that complaints were handled through formal and consistent procedures. This placed significant pressure on universities to conform not only for the sake of students' well-being, but also because of potential serious penalties imposed by the government. This motivated institutions to establish systems that could demonstrate compliance. Indeed, many schools have introduced Title IX Offices, Title IX Coordinators, formal complaint procedures, and even mandatory training programs for members of their institutions in order to prove compliance to federal laws [1]. This represented a significant shift in how Title IX cases were handled on college campuses. The establishment of strict mandates from the federal government coupled with its ability to enforce compliance motivated universities to alter their systems and procedures. There were further developments regarding the federal guidelines concerning Title IX. The Office for Civil Rights gave further guidance in 2014 that focused on how universities must handle complaints of sexual violence, including investigations, interim actions, and non-retaliation policies [6]. There was an ongoing development in the obligations set out by Title IX over the following years. For instance, the U.S. Department of Education issued a Final Rule in 2020 with new regulations concerning responses to sexual harassment complaints and formal grievance processes [7].

Survivor Protections and Educational Access

Title IX also sought to strengthen protections for survivors and preserve educational access. According to Peterson & Ortiz, more stringent institutional reactions were needed because survivors had been negatively affected by inadequate institutional responses [2]. The researchers state that the lack of urgency and speed caused the continued harm to victims who still suffered as long as their cases remained unresolved. In particular, scholars argue that as a result of delayed institutional responses could contribute to continued harm. For instance, they have to attend classes with alleged perpetrators, live in the same residence halls, or remain on campus without adequate protective measures. The experience reported by

Madi Barney at BYU illustrates this concern [4]. According to a report in Time, Barney reported that due to her complaints to the University Honor Code Office, she faced numerous challenges related to studying. In particular, the student mentions that she could not register for new courses and drop others as a result of Honor Code proceedings.

Sexual violence did not just cause psychological harm but had an impact on students' academics, as well, when the universities did not offer enough assistance. Hence, it further reinforces the assertion that insufficient or inappropriate response from the institution may have a negative effect on survivors' education. Thus, such cases illustrate the possible impact of the institutional response to sexual assault on the educational process of a victimized student. As a result, the implementation of the Dear Colleague Letter served as a guarantee for non-discriminatory continued education, as it is stipulated by the main purpose of Title IX. The policy addressed sexual violence within the broader framework of equal educational opportunity. Such conclusions were reached on the basis of case studies and scholarly research that identified a direct connection between the lack of response or its poor quality and educational processes.

Due Process and Liberty Concerns

On the other hand, the implication of this bureaucracy remains controversial, particularly regarding whether this system ensures protection of the students or whether it curtails the freedom of individuals. These differences arise due to different views regarding how the government regulates the behavior of the people through rules and regulations. Gersen and Suk argue that the expansion of Title IX bureaucracy may constitute government overreach [8]. They suggest that any federal regulations and interpretations of consent might be problematic from the standpoint of individual freedom. This is because any government interference in the private affairs of people might limit their freedom to make choices regarding their relationships.

On the contrary, Deborah Brake believes that this conception of liberty takes for granted the assumption that people are equally empowered, safe, and free in those circumstances, which is not always true in practice [9]. In her opinion, without any interference, the victim’s right to take part in educational activities might be taken away from them. Therefore, such individuals would lack freedom even before the infringement occurred due to the inequality they experience in comparison with other members of the educational environment. Thus, the Title IX administrative system can be seen as a prerequisite for guaranteeing equality and providing the same educational opportunities to everyone.

Taken together, these perspectives illustrate the competing considerations involved in Title IX enforcement. The creation of policies and procedures was instrumental in addressing some significant gaps in the response of higher education institutions to cases of sexual assault. Nonetheless, there were also implications on the part of higher education institutions in balancing their roles and obligations in relation to student well-being and management of their affairs.

Scholars have also raised concerns that institutional responses may be shaped not only by efforts to support complainants and respondents but also by concerns about legal liability and regulatory compliance. Thus, having procedures and systems developed enables universities to prove their compliance with the laws, while avoiding possible sanctions. For instance, universities were expected to provide grievance procedures, establish a Title IX coordinator and educate relevant employees on handling cases of sexual assault. In addition, the Dear Colleague Letter stressed the need for universities to independently conduct investigations into allegations of sexual violence irrespective of whether there were other investigations related to such cases. Such measures allowed universities to demonstrate to federal officials that they had a procedure established if their handling of a particular case was later questioned.

This change can account for why the procedures under Title IX became so formalized and process-oriented, with universities designing mechanisms that would follow a set structure and process based on established guidelines and regulations to show that they met requirements. The system designed by universities became highly focused on documentation and procedure, such that each case would go through a standard process.

These procedures were intended to make the process more consistent and predictable. Yet these procedures could also serve an institutional function by documenting compliance with federal requirements. This function consisted in protecting the institution, because universities could demonstrate that they adhered to the necessary procedures and fulfilled their responsibilities in accordance with the federal laws in question. Following established procedures and documenting them allowed universities to prove their compliance with federal law and avoid possible litigation, federal investigation, and other types of consequences.

University Title IX policies further demonstrate how institutions formalized reporting and investigation procedures in response to federal requirements [1,6].

The formalizing of the Title IX procedure is also an indication of the need of the institution to show that it complies with federal requirements. The policies, procedures, and appeals process can be used by the institution to ensure that it is able to show that there was compliance with procedures put in place [1,6].

This issue is also supported by academic research. Kathryn Lorenz and colleagues reported that all 21 participants described experiences of institutional betrayal during the Title IX process [10]. It is clear that, while Title IX systems grew to provide increased regulation and structure for addressing sexual violence in schools, participants' accounts also suggest that formalized Title IX processes may create bureaucratic challenges that negatively affect students.

While these systems can provide greater clarity and support for survivors reporting misconduct, they may also become bureaucratic and impersonal. Since the investigation is usually conducted in a manner that entails certain processes, survivors can sometimes find themselves facing a number of problems as they

experience delays while awaiting institutional action, particularly if they are forced to stay in class with the accused or remain in an environment that makes them uncomfortable.

Formal procedures can also provide greater clarity and more clearly defined expectations for accused students. On the other hand, the process can be too rigid and adversarial since it is governed by procedural norms, leaving limited procedural flexibility, making the proceedings resemble formal legal processes rather than flexible university-based resolutions. In either case, the process is defined not only in terms of justice and fairness considerations, but it is also governed by the need to have procedural processes that can withstand scrutiny, reflecting institutional considerations.

CONCLUSION

In conclusion, the 2011 Dear Colleague Letter became a landmark in the enforcement of Title IX and significantly influenced institutional response to complaints of sexual misconduct. Before the 2011 guidance, institutional responses to sexual misconduct complaints varied considerably, and students could encounter delays, uncertainty, and inconsistent procedures. Thus, many survivors experienced delays, uncertainty, and inconsistency that could harm their educational process. With the use of the Dear Colleague Letter, educational institutions received detailed guidance on their responsibilities under Title IX and had to create conditions where students would be able to continue their education without facing sex-based discrimination.

This literature suggests that the implementation of Title IX led to considerable changes in universities' activities. Title IX offices were created; Title IX coordinators were appointed; formal complaint and investigation procedures were developed; faculty and staff training was provided; preponderance of the evidence standard was applied. Such measures increased institutional accountability and helped to achieve better consistency in dealing with complaints. In addition, this process reflected increased federal involvement in Title IX enforcement.

The literature also identifies several challenges associated with these changes. As universities endeavored to adhere to guidelines set by the government, Title IX implementation became more bureaucratic in nature. Universities developed increasingly detailed policies, procedures, and documentation requirements in order not just to address the complaints but also to prove their adherence to the regulations set by the federal government. Although these processes provided more consistency and accountability, the literature shows that there is still ongoing debate on whether or not they strike the right balance between survivor protection and student due process.

Another important finding is that the effects of these institutional reforms are not limited only to the process of investigation. The experiences of complainants and respondents are determined by the way universities deal with the implementation of Title IX regulations. Prompt investigations and appropriate institutional responses may help survivors continue their education and reduce the academic

consequences associated with sexual harassment. At the same time, growing formality in the process may result in lengthy and bureaucratic processes.

There are various weaknesses of this literature review. First, the search for literature was confined to Google Scholar and JSTOR, so it might be possible that not all studies or legal opinions were found. Second, a formal systematic-review protocol, such as the use of a specific strategy or assessment of the quality of sources, was not used in this literature review, so there might have been selection bias in source choice. Third, U.S. and English literature was primarily searched because Title IX is a law in the United States. Therefore, literature from other countries or languages addressing similar institutional reactions to sexual abuse was overlooked. Fourth, because the regulations of Title IX have changed over time, some results mentioned in this literature review could be related to certain periods of regulation.

In conclusion, the research reveals that the Dear Colleague Letter was responsible for major shifts in the response of institutions to sexual misconduct. At the same time, the implementation of these changes was responsible for creating a more formalized and bureaucratized Title IX enforcement system. Overall, effective Title IX implementation requires balancing survivor protection and equal access to education with fair procedural protections for accused students.

REFERENCES

1. U.S. Department of Education, Office for Civil Rights. *Dear colleague letter: Sexual violence.* 2011.
2. Peterson A, Ortiz O. A better balance: Providing survivors of sexual violence with "effective protection" against sex discrimination through Title IX complaints. *Yale Law Journal.* 2016;125.
3. Association of American Universities. *AAU campus climate survey on sexual assault and misconduct.* 2019.
4. Begley S. BYU student says she was targeted after reporting rape. *Time.* 2016 Apr 20.
5. Anderson N. Federal government releases list of colleges under Title IX investigations over handling of sexual violence. *The Washington Post.* 2014 May 1.
6. U.S. Department of Education, Office for Civil Rights. *Questions and answers on Title IX and sexual violence.* 2014.
7. U.S. Department of Education. *Nondiscrimination on the basis of sex in education programs or activities receiving federal financial assistance (Final Rule). Federal Register.* 2020;85(97).
8. Gersen JE, Suk JC. The sex bureaucracy. *California Law Review.* 2016;104(4):881–948.
9. Brake DL. The trouble with "bureaucracy." *California Law Review Online.* 2016;7:66–78.
10. Lorenz K, Hayes R, Jacobsen C. "Title IX isn't for you, it's for the university": Sexual violence survivors' experiences of institutional betrayal in Title IX investigations. *CrimRxiv.* 2021 Nov 7.