

Policy Position:

Adopted by the MOASH Board of Directors, 2018

Student Protections under Title IX



What we stand for:

The Michigan Organization on Adolescent Sexual Health (MOASH) supports the interpretation of Title IX outlined by the 2011 and 2016 Dear Colleague Letters to protect students from sex discrimination in schools. Under Title IX, all education programs and activities receiving federal funding are prohibited from discriminating against students on the basis of sex, which includes sexual harassment and sexual assault.

By following the guidelines laid out by the 2011 and 2016 letters - including “a school must treat students consistent with their gender identity,” ensuring that educators and administrators are properly trained in handling sex discrimination complaints, and protecting students who report sex discrimination from retaliation by their perpetrator(s) - we should see a reduction in sexual violence against students. Adhering to these interpretations better protects young people from physical, mental, and emotional abuse and allows them to have more positive and healthy romantic and sexual experiences throughout life.

Why we stand for this:

- In order to ensure the safety and inclusivity of all students, the 2011 Dear Colleague Letter establishes guidelines for schools to effectively prevent instances of sex discrimination and violence (i.e., non-discrimination/harassment on the basis of gender identity). In addition, the 2016 Dear Colleague Letter specifically protects transgender students by requiring schools to treat a student's gender identity as their sex.
- In 2017, the interpretations of Title IX under the 2011 and 2016 Dear Colleague Letters were withdrawn. This change puts survivors at a disadvantage in the legal system, as it focuses on determining whether cases of sexual assault are 'real.' In order for the accused to be found guilty, the judicial system must find that it is highly probable or reasonably certain that the sex discrimination occurred, putting the onus and an incredible burden on the survivor.
- Experts in the field of sex discrimination emphasize how critical it is for survivors of discrimination and violence to be heard and believed. Therefore, schools should use preponderance of the evidence standard when resolving Title IX complaints, meaning they should work to determine whether it is more likely than not that sexual harassment or violence occurred. This aligns with evidence-based best practices.
- Prioritizing efforts to reduce sex discrimination improves student and staff awareness of the frequency and severity of discrimination, harassment, and assault. If staff members are better informed and adequately trained in how to protect students, this will encourage reporting behaviors in youth and lead to positive health outcomes through decreased instances of violence.^{1,2}
- Title IX is an essential policy to promote gender equity, setting a foundation for all students that will lead to positive physical, emotional, and social development. The standard calls for removing barriers for women to further their education by fostering an environment of support and protection from discrimination and permits girls and women to enroll in the same courses as boys and men.³
- Title IX protects pregnant and/or parenting students by ensuring that they will not be forced to enroll in less academically challenging programs while pregnant, or discouraged and dismissed from school altogether.⁴
- Under Title IX, survivors of sexual assault or harassment are protected against retaliation by the perpetrator, which in turn protects students when they choose to report their assault.⁵ Reporting may provide survivors greater access to support and resources, and may also prevent other students from being victimized.
- In addition to protection against retaliation, Title IX protects LGBTQ youth at school by ensuring that reports of discrimination are investigated. This leads to better educational experiences and higher academic success for all students, especially marginalized populations like LGBT students.⁶

¹ Bothra, N. (2014). The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. SSRN Electronic Journal. doi:10.2139/ssrn.2498990

² Beavers, Jenelle M., and Sam F. Halabi. "Stigma and the Structure of Title IX Compliance." *Journal of Law, Medicine & Ethics*, Winter 2017, p. 558+. LegalTrac, http://link.galegroup.com.proxy.lib.umich.edu/apps/doc/A528197847/LT?u=lom_umichanna&sid=LT&xid=7ab42c1d. Accessed 16 May 2018.

³ Fraction of Bachelor's Degrees Earned by Women, by Major. (n.d.). Retrieved from <https://www.aps.org/programs/education/statistics/womenmajors.cfm>

⁴ Musil, C. M. (2007, October). The Triumphs of Title IX. *Ms Magazine*, 42-47. <http://www.feminist.org/education/TriumphsOfTitleIX.pdf>

⁵ The Criminal Justice System: Statistics | RAINN. (n.d.). Retrieved from <https://www.rainn.org/statistics/criminal-justice-system>

⁶ Priest, L. (2003). The whole IX yards: The impact of title IX: The good, the bad and the ugly. *Women in Sport & Physical Activity Journal*, 12(2), 27. Retrieved from <http://proxy.lib.umich.edu/login?url=https://search-proquest-com.proxy.lib.umich.edu/docview/230685634?accountid=14667>

Data and statistics:

- Unlike colleges, K-12 schools are not mandated to report sexual violence statistics. However, the available data shows that one in four girls and one in six boys are sexually assaulted before they are 18. Nearly 30% of female survivors of sexual assault were assaulted between the ages of 11 and 17.⁷
- An AP poll found that from 2011-2015, 17,000 sexual assaults were committed by U.S. students. However, this number does not reflect the reality, severity, and widespread nature of the crime.⁸ Although the majority of 7th to 12th grade girls say harassment regularly happens and it's hurting their ability to learn, 80% of schools reported exactly zero harassment, in a recent report by the American Association of University Women (AAUW).⁹
- Reports of sexual assault on college campuses have been steadily increasing since 1980 and have increased 1000% since 2009.¹⁰ Title IX has helped to decrease stigma and shame associated with victimization, which may explain the drastic increase in reporting.
- Over 40% of LGBT youth enrolled in a Michigan college or university will be sexually assaulted during their time as a student.¹¹

⁷ Finkelhor, D., Hotaling, G., Lewis, I. A., & Smith, C. (1990). Sexual abuse in a national survey of adult men and women: Prevalence, characteristics and risk factors. *Child Abuse & Neglect* 14, 19-28. doi:10.1016/0145-2134(90)90077-7

⁸ Pritchard, J. (2017, May 02). Hidden horror of school sex assaults revealed by AP. Retrieved from <https://apnews.com/1b74feef88df4475b377dccc6406ebb7>

⁹ Andersen, Charlotte Hilton. "Girls Are Sexually Harassed In School All The Time and No One Is Doing Anything About It." *Seventeen*, Seventeen, 30 May 2018, www.seventeen.com/life/school/a19459677/sexual-harassment-assault-school-experiences/

¹⁰ College Sexual Violence Complaints Up 1,000 Percent in 5 Years. (n.d.). Retrieved from <https://www.usnews.com/news/blogs/data-mine/2015/05/05/college-title-ix-sexual-violence-complaints-increase-more-than-1-000-percent-in-5-years>

¹¹ Michigan Youth Consent Day Resolution. (2016, September 22). Retrieved June 11, 2018, from <http://www.legislature.mi.gov/documents/2015-2016/resolutionadopted/House/pdf/2016-HAR-0346.pdf>