

An illustration featuring three women positioned behind classical columns. The woman on the left is partially obscured by a column and has a somber expression. The woman in the center is looking directly at the viewer with a neutral, somewhat weary face. The woman on the right is also looking forward, her hand resting on a column. The background shows a building with a clock tower and a flag, suggesting a campus setting. The overall color palette is muted, with shades of blue, red, and purple.

Sexual Assault on College Campuses: A Policy Report

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Introduction.....

Sexual assault is a rampant problem on college campuses, as a poll from the Washington Post reported 25% of college women said that they had been sexually assaulted in the past four years (Anderson and Clement). Statistics show that minorities, especially **women of color** and members of the **LGBTQ** community, are affected by sexually assault at a much higher and disproportionate rate, and a lack of support and resources for victims of sexual assault and inaccurate reporting of cases by universities plague solutions to address the problem. In addition, subsequent overwhelming support of the perpetrator by the university if they are in a “**celebrity**” position as a varsity football or basketball player can exacerbate these issues. Studies have also shown that participants in similar all-male social groups, such as fraternities, are more likely to believe **rape myths** and endorse hyper-masculine and heteronormative cultural norms, such as

women say no when they mean yes and that men should be sexually promiscuous. They are also more likely to normalize violence, fear being perceived as homosexual, exhibit sexually deceptive and coercive behavior towards women, as well as pressure or be pressured among their social group to have sex with women (Seabrook et al., 2018). Sexual assault is clearly an issue among college students, and Title IX gives schools the authority to investigate cases of assault. However, the limitations imposed on Title IX by the current administration make it nearly impossible for victims to receive justice as the definition of assault narrows and as the responsibilities of schools to consider all cases decreases. This report will examine all of these issues and provide compelling evidence to show sexual assault is a pervasive issue and needs to be politically addressed immediately.



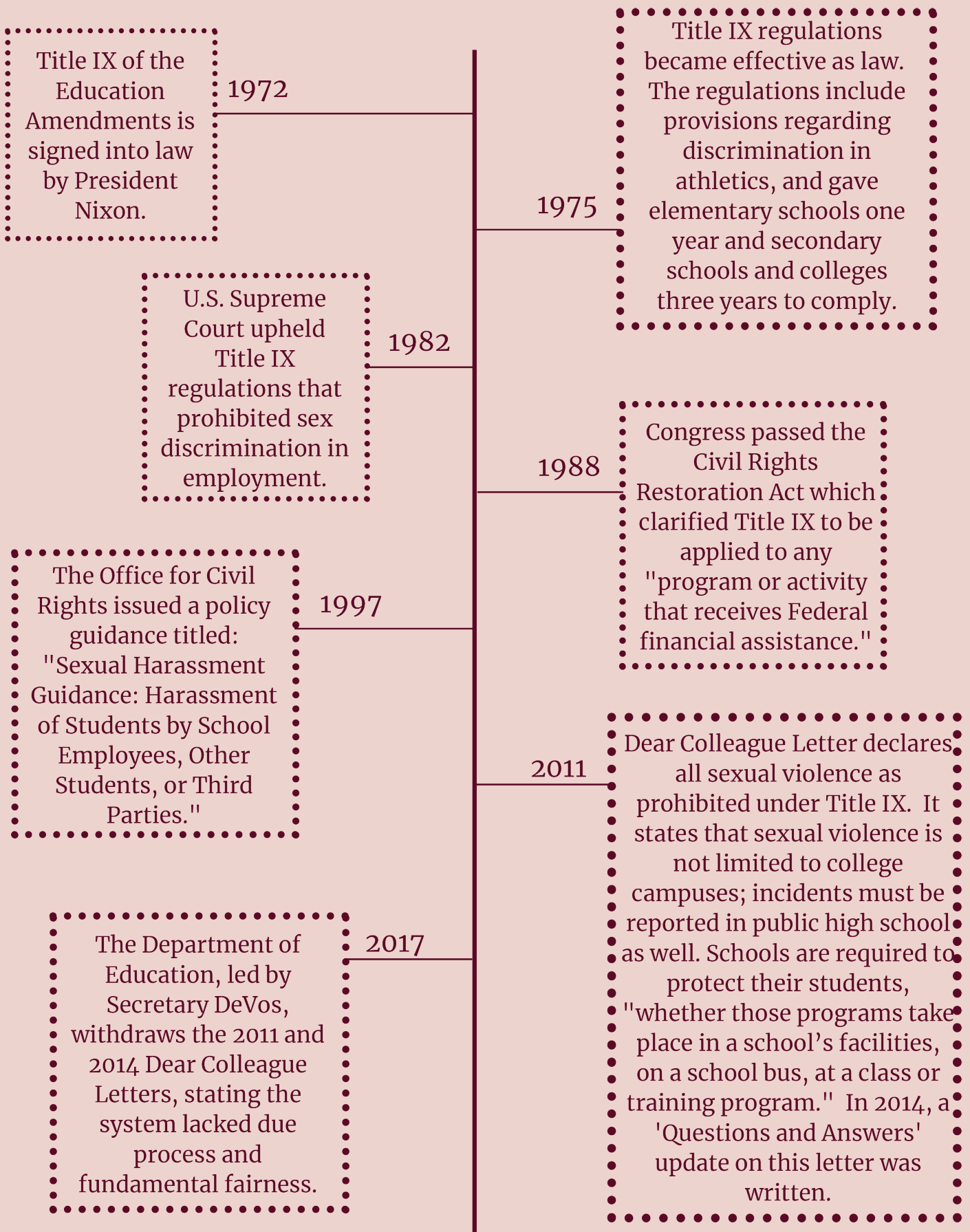
25% of college women were sexually assaulted, according to a study by the Washington Post

History of Title IX.....

When originally enacted, Title IX’s purpose was to create equal opportunities for all students regardless of their sex. Over time, it has changed and evolved greatly, shifting its

focus to athletics and more recently, sexual harassment. Throughout its existence, it has been surrounded by controversy, and that remains today.

MAJOR CHANGES TO TITLE IX (IN REGARDS TO SEXUAL ASSAULT) THROUGH-
OUT THE YEARS:



Intersectionality

A largely overlooked side of the campus rape crisis is the that it affects intersectional communities: minorities, especially women of color and members of the LGBTQ community, are affected by sexually assault at a **much higher and disproportionate rate** than their white, non-LGBTQ counterparts.

Women of Color

In general, **black** and **indigenous** women are the most likely to have been sexually assaulted compared to any other race (Survivors of Color Prevalence Rates), and as shown on the figure below, the rates of sexual assault are truly disproportionate. However, although Asian and Pacific Islander (API) women had the lowest rate of reported sexual assault, a different survey showed that when they were victims of sexual assault, **API's were the least likely to report** it, as 51.3% of white women report sexual assault, compared to only 37.9% of API's (Assoc. of American Universities). Minority women in general were found to have lower reporting rates than white women, as Brett A. Sokolow, president of the Ncherm Group, said that white women had about 10 times the reporting rate for women of all other races (Murphy, 2015). Another interesting fact found in a report was that respondents who identified as bisexual and/or "other race" had stronger beliefs that many campus sexual assaults are not reported than respondents who identified as white and/or heterosexual, which further lends support to the belief that many sexual

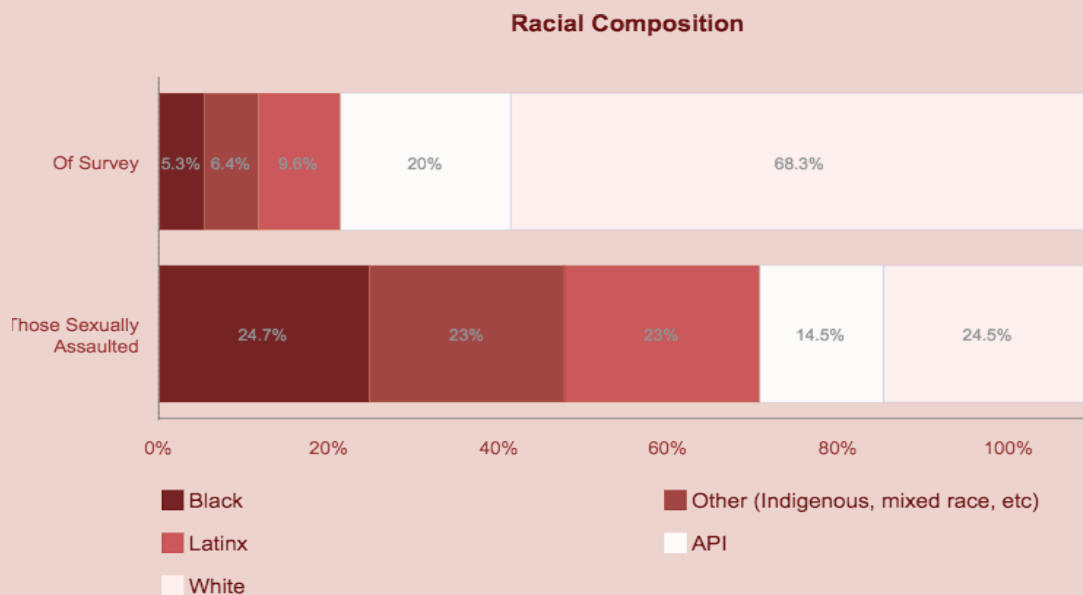
assaults against people of color or other minority communities go unreported due to factors such as fear of law enforcement, shame, and others (Worthen and Wallace, 2017).

LGBTQ Community

A survey showed that, overall, sexual assault was much more common among non-heterosexual and cisgender individuals than heterosexual female students (Krebs, 2016). A 2017 study reported that **transgender people had the highest rate of sexual assault** among college undergraduates (in terms of gender identity), as shown in the figure below. These rates are all much higher than the rate of sexual assault against cisgender women reported, which was 8.6%. Unsurprisingly, black transgender people had the highest rate of sexual assault overall at 57.7%, showing how the overlapping intersectional aspect of being both **black and transgender causes individuals to be at the highest risk of sexual assault** (Coulter, 2017), and this is also shown in the figure on the following page.

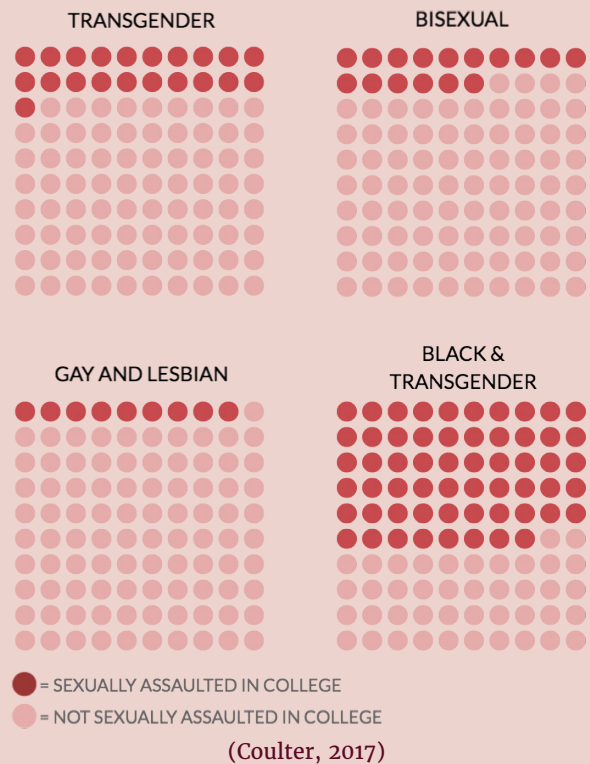
Origins

It seems that groups with a history of oppression and victimization have correlating higher rates of sexual assault (Assoc. of American Universities, 2010-2015). In particular, the cycle of oppression and literal enslavement has become a big factor in why sexual violence against black women is so



(Assoc. of American Universities, 2015)

common, but the actual number of reports is low. According to one article, it was reported that 58% of enslaved women between the ages of 15 and 30 had been sexually assaulted by a Caucasian male. In addition, rape laws were often excluding of women of color, as they often specifically defined the race of the women being raped as white, and so men who raped women of color often went unpunished (West and Johnson, 2013). In addition, a similar pattern appears for members of the LGBTQ community, especially for transgender people of color. In general, transgender people of color have increased rates of hate crimes against them, as statistics show that they are 6 times more likely to experience police violence than their Caucasian transgender counterparts (Survivors of Color Prevalence Rates). These facts show that the **high rate of violence against transgender people leads directly to high rates of sexual violence.**



All-Male Social Group Culture and Offenders in Athletics

It is difficult to fully study the scope of college sexual assault, since frequently victims fear retaliation and social backlash and consequently never report while many schools refuse to provide records by citing privacy concerns. However, a recent report found that **male college athletes were three times as likely to be named in sexual or domestic violence complaints** made at Power Five conference schools. Although they represented a minority of total complaints, they were overrepresented: 6.3 percent of Title IX complaints were against male athletes who make up just 1.7 percent of enrollment (Lavigne, 2018). Previous studies found that “While male student-athletes comprise 3.3% of the total male [college] population, they represent 19% of the perpetrators reported and 35% of domestic violence perpetrators reported. Between 1983 and 1986, a **U.S. college athlete was reported for sexual assault on an average of once every eighteen days.** 54%

of intercollegiate and intramural athletes admit to coercing a partner into sex” (Meyer, 2017).

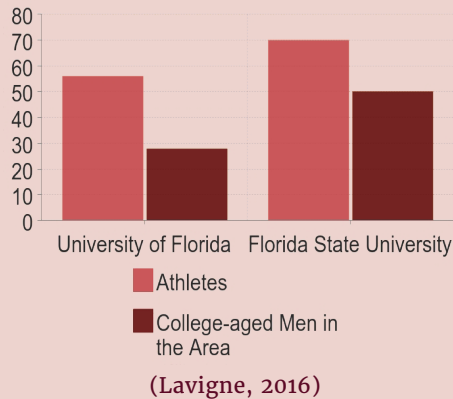
A Culture of Assault

All-male living and social spaces have been found to normalize violence, abuse, objectification, and power over women, and are also characterized by risk taking, low self-control, discomfort with gay men or being perceived as homosexual, and group secrecy, which can reinforce and cover up predatory behavior (Franklin et al., 2012; Locke et al., 2005; Steinfeldt et al., 2012). Research also shows that sports media prioritizes male athletes and rewards their aggressive behavior while giving their female counterparts significantly less screen time and subjecting them to sexist remarks. College men who watch or read such media were more likely to accept rape myths and were less willing to intervene if they witnessed a sexual assault (Hust et al., 2013). Participating in sports

teams that perform in more serious, competitive conferences can also create a culture of entitlement among athletes, who receive special admission, tutoring, living spaces, media publicity, and other privileges, which may create attitudes that they are above the law and other norms that non-athletes are subject to. This is reinforced when athletes receive special treatment by athletic departments, their university, and law enforcement, and frequently are not held accountable for criminal actions as a result (Meyer, 2017). For example, according to a recent study

Senator Claire McCaskill found that 20 percent of schools allowed athletic departments to oversee sexual assault cases involving athletes (Lavigne, 2018). This is a clear conflict of interest, as college athletics draw enormous amounts of private donations as well as prospective students to universities, thus incentivizing departments to mishandle investigations. In some conferences, schools transferred athletes to other universities to avoid Title IX investigations or allowed players with criminal backgrounds to transfer into their teams (Meyer, 2017). One report found that athletic directors and coaches frequently

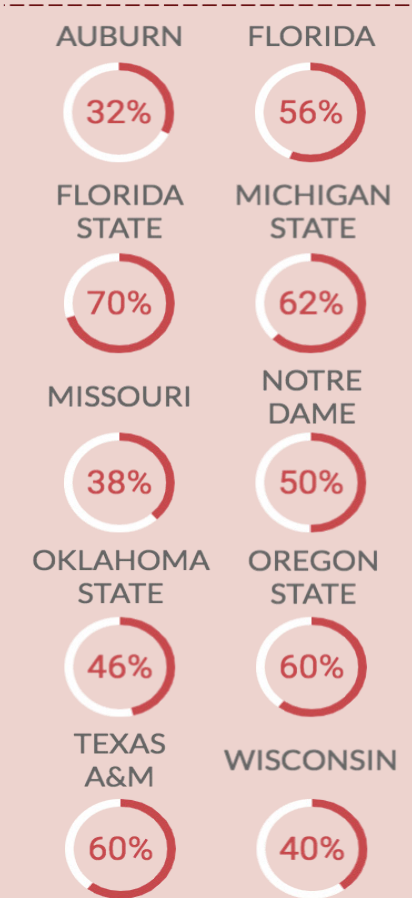
Percent of Crimes where Men Never Faced Charges, Charges were Dropped, or they were not Prosecuted



done by ESPN's Outside the Lines from 2009 to 2014, "male basketball and football players at the University of Florida and Florida State University avoided criminal charges or prosecution on average two-thirds of the time when named as suspects in police documents, a result far exceeding that of non-athlete males in the same age range" (Lavigne, 2016).

Players also benefit from the resources of their athletic departments. In a survey done in 2014 of 440 institutions, a report done by the Office of

% OF INCIDENTS NOT PROSECUTED OR DROPPED



(Lavigne, 2016)

inserted themselves into police investigations, such as controlling when and where police spoke with players, insisting on being present during interviews with them, and hiring high profile defense lawyers sometimes even before the athlete requested one. One department official even

handled potential crime-scene evidence. This has been highly successful in allowing players to evade prosecution as well as pressure witnesses and victims not to report (Lavigne, 2016).

Title IX and the Role of the NCAA

Title IX is the main legal protection cited by victims, which requires schools to provide a safe learning environment free of sexual violence (Meyer, 2017). The Office of Civil Rights (OCR), which investigates complaints regarding Title IX, had 400 complaints in 2017, an increase of four times since 2012. In addition, about **75 percent of Title IX administrators at universities reported feeling like they did not have**

enough staff (Lavigne, 2018). However, although failing to comply with Title IX is a loss of funding, no school in the 40 years of the law’s history has ever lost funds (Meyer, 2017). Similarly, the National Collegiate Athletic Association (NCAA), the national governing body for intercollegiate sports, has issued an Executive Committee Statement on Sexual Violence Prevention and Complaint Resolution, which recognizes the importance of responding appropriately to complaints. However, although it mandates that athletes, coaches and department staff be educated about sexual assault and must comply with campus reporting protocol as well as state and federal regulations, it mostly functions as a series of guidelines with no specific

Off-Campus Cases of Sexual Assault and University Jurisdiction

Key Concepts

To start, **sexual violence** is defined by the United States Department of Education as “physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent” due to a variety of reasons (Lhamon, 2014). Rape and sexual assault are both categorized under the definition of sexual violence, and can be carried out by any persons of any status (administrators, students, etc.). An important piece of legislation that was created to further the rights of victims of sexual assault on college campuses is the **Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act**. This federal Act requires colleges to annually report crimes that occur on campuses (Know Your IX, 2014). This information is then published and made publicly accessible, acting as a “warning sign” to the community. Not all schools include their off-campus incidents to this report, as off-campus properties are not explicitly included in this Act. Whether or not these off-campus locations are included in the required reporting is specific to each school, proving it more difficult to verify if off-campus sexual assault is “covered” by a certain school.

Title IX Implications

There is also language within **Title IX** that aims

to protect people from discrimination on the basis of sex. This extends to student-on-student sexual violence by providing protections for students attending federally funded schools. Title IX is applied when a student’s ability to participate in school programs is hindered or the school fails to act against the factors contributing to sexual violence (Lhamon, 2014). The responsibilities that schools must take when allegations are brought to light, and the repercussions that come about when these responsibilities are not upheld are both clearly defined within Title IX. When schools are faced with this situation, they are required to do everything in their power to aid the student victim

Sexual violence is defined by the United States Department of Education as “physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent” due to a variety of reasons (Lhamon, 2014).

in their recovery. Although the language in Title IX explicitly defines what sexual violence is and how schools are required to act when presented with an allegation that falls into this category, there is very little mention about the location in which these parameters apply. Therefore, there are very little protections in Title IX against **off-campus sexual assault** for students when faced with such circumstances.

Examples of the interaction of Title IX and colleges facing sexual assault allegations in fraternities can be seen in a Kansas State University case. Two female students reported separate instances of rape that occurred within fraternity houses in 2016 (Bauer-Wolf, 2019). In March of 2019, a federal appeals court decided to not toss out their lawsuit that “alleged that administrators refused to investigate their rapes and other reports of sexual assault in off-campus fraternity houses,” (Bauer-Wolf, 2019). Although these cases occurred off-campus, the women are not using Title IX to defend themselves against the acts of sexual harassment and their proximity to the school. Rather, the two women are using Title IX to fight the improper investigation of their rapes, which caused further harassment and loss of some educational opportunities.

Universities’ ability to get away with under reporting the number of sexual violence cases involving students that occurs on or around campus is a major problem surrounding sexual assault off-campuses. Because the punishments under the Clery Act are so minimal if a university is to violate them, there is virtually no motive to obey the Act. Corey Rayburn Yung, a law professor at University of Kansas, claimed that “the current punishments

in place for schools that violate Clery’s reporting requirements—up to a \$35,000 fine per each case that wasn’t logged—aren’t stringent enough to convince university officials to actually change their behavior,” (Culp-Ressler, 2015). **The lack of strict punishment for violations of the Clery Act are not enough to change the attitude of most universities about sexual violence.** The motivation to keep the reports low is simple. The lower the number of reported incidents, the more appealing a school looks to prospective students and community members.

Stricter consequences when in violation of the Clery reporting requirements could force universities to take sexual violence more seriously. In addition, bills similar to the Campus Accountability and Safety Act bill that was introduced in 2014 have the potential to change universities’ attitudes about their reporting of sexual assault (Campus Sexual Assault, 2016). The protections outlined in the bill would greatly improve resources for survivors of sexual assault, as well as change attitudes about the topic through incentivizing efforts. In order to better combat sexual violence against college students, the same language in Title IX and the Clery Act must extend to all off-campus locations that are frequented by college students. This includes fraternities, sororities, bars, clubs, and any other locations surrounding universities that see a high amount of sexual violence against students. By working to establish federal legislation with punishments for both on- and off-campus incidents, the amount of sexual violence incidents hopefully will be greatly reduced. The fear many survivors face will be mitigated once schools are held more accountable for their role in helping these students.

The Trump Administration, Betsy DeVos, and Title IX.....

Changes Under Trump

President Donald Trump, elected in 2016, rolled back previous administrations interpretations of Title IX and redefined pivotal terms used within Title IX’s implementation like “**gender**” and “**sexual harassment**.” President Trump also nominated Betsy DeVos as the 11th United States

Secretary of Education. DeVos has proposed drastic modifications to the implementation of Title IX that would alter its effect on schools and students considerably.

The Department of Health and Human Services released a memo in October of 2018 insinuating the

new legal definition of gender would consider “a person’s status as male or female based on immutable biological traits identifiable by or before birth” (Grinberg, 2018). The memo further went on to assert gender was based “on a biological basis that is clear, grounded in science, [and] objective”(Green et al., 2018). This new wording will certainly affect the implementation of Title IX and no doubt exclude the transgender community from its reach of protection. This change came on the heels of Betsy DeVos’s announcement of her plans to re-work Title IX and the legal definition of sexual harassment in late 2017. DeVos asserted that only “unwelcome conduct on the basis of sex that is so severe, pervasive and objectively offensive that it denies a person access to the school’s education program or activity” can be characterized as sexual harassment (Davidson, 2018). The syntax of this definition is strong and suggestive that in order for an encounter to be considered “sexual harassment,” it must be truly incapacitating and have a profoundly dramatic effect on the victim. In most instances, this is just not the case. Harassment is harassment, and all people feel it differently, so stating that an encounter needs to be “pervasive,” “objectively offensive,” and “denying access” to education invalidates victims unique experiences.

DeVos’s Proposals

Sexual Harassment is “unwelcome conduct on the basis of sex that is so severe, pervasive and objectively offensive that it denies a person access to the school’s education program or activity.”

Betsy DeVos, 2017

DeVos has, since her appointment, swiftly confronted Title IX and introduced her own ideas for the overhaul of its interpretation and meaning. DeVos asserted that the previous understanding of Title IX had been too harsh and quick to judge the accused as guilty, thereby sacrificing the integrity of the law for the accused (Busch, 2018). DeVos’s new proposal aimed to strengthen rights for the accused, lessen the responsibility of schools in cases of assault, and force victims to report cases to administrators or faculty in positions capable of starting a Title IX case or complaint themselves.

DeVos’s main argument regarding Title IX was based on the observation that the accused typically do not receive the justice due to them throughout an investigation or legal case. The accused do not always maintain their legal right “innocent until proven guilty” which does not give them enough room to prove themselves innocent if the public has deemed them guilty already (Busch, 2018). “In reality, the proposal is anything but equitable, as it

Gender is “a person’s status as male or female based on immutable biological traits identifiable by or before birth on a biological basis that is clear, grounded in science, objective and administrable.”

U.S. Dept of Health and Human Services

creates a false narrative that accused students are being denied Title IX protections as a pretext for disempowering survivors” (Yuen & Ahmed, 2018). Another facet of DeVos’s reworking of Title IX solidified the mandatory requirement of an assault to have been committed on school property for it to be considered a Title IX violation. This means that any assault at fraternity or sorority houses, at a bar or restaurant or anywhere else off campus, even if it was a student to student assault, could not be considered a Title IX violation. While this does not seem to be an outrageous policy for colleges and universities, Title IX covers all levels of education including primary and secondary education. For instance, if a third-grade elementary school class goes on a field trip to a park, and a child is sexually assaulted by a volunteer while off campus, the assault would not be considered a Title IX violation and the student would not have the mandatory support of his or her school in prosecuting the perpetrator. The school would also not lose any federal funding for failing to investigate the assault or provide support for the victim.

The final and most nonsensical feature of the Trump administration’s proposed changes to Title IX regards who the victim reports the crime to. DeVos stated crimes would only be considered by the school if reported to an administrator or someone in a position of power, able to actually address the issue directly. This change rules out students confiding in their residential advisor,

professor, coach or trainer, teaching assistant or other faculty or staff in similar roles. This often means the victim must disclose their assault to someone they do not know and may not feel comfortable talking to in order for any case to be filed against the perpetrator. This guideline is an unnecessary measure meant to discourage assault survivors from coming forward with their story and reduce the number of reported assaults on campus.

Title IX may not be perfectly fair to both parties in all cases, and Title IX may fail students in its implementation, but the ideology and construction of it set up by Obama and previous presidents is grounded in integrity and justice. **The current administration’s efforts to “equalize” Title IX are unreasonable and senseless.** At best, we know this new interpretation will discourage survivors of assault to come forward with their experiences; and at worst, the act will deny students

their civil rights (Davidson, 2018). In closing, reflect on these words from Betsy DeVos herself, which ring true no matter how contradictory to her own ideas they are: **“We know this much to be true: one rape is one too many. One assault is one too many. One aggressive act of harassment is one too many. One person denied due process is one too many”** (Busch, 2018).

“We know this is true: 34 percent of students who have experienced sexual assault drop out of college, higher than the overall dropout rate.” (Davidson, 2018)

Policy Recommendations

- The NCAA should discipline perpetrators of sexual violence in the same way they use their authority to punish athletes who have low grade point averages, abused drugs, or accepted gifts with fines, reductions in scholarships, suspensions from competition, vacating past championship wins, as well as disqualifying teams or players from future competition for violating these rules.
- The NCAA should prohibit athletic departments from interfering or not cooperating with criminal investigations, require athletes and staff to participate in gender and violence awareness training, and include legal counsel paid by coaches, donors, or athletic departments in the list of outlined benefits players are prohibited from receiving.
- Stricter consequences when in violation of the Clery reporting requirements could force universities to take sexual violence more seriously.
- The Campus Accountability and Safety Act would greatly improve resources for survivors of sexual assault, as well as change attitudes about the topic through incentivizing efforts.
- The same language in Title IX and the Clery Act must extend to all off-campus locations that are frequented by college students, including fraternities, sororities, bars, clubs, and any other locations surrounding universities that see a high amount of sexual violence against Betsy DeVos’s proposed changes to Title IX
- The current definition of gender and sexual harassment should be changed to be inclusive of all identities and orientations and to include non-physical acts of violence like psychological and verbal abuse.
- Children should be educated from a young age about consent, as some studies suggest teaching sex education as early as elementary school will allow children will grow up to naturally understand the wrongness of rape (Geggel, 2016). In particular, a greater effort should be made to provide these same resources and education to communities of high-risk populations in order to ensure that this information is readily accessible to all. This education should start in elementary or middle school, but should most definitely continue throughout higher levels of education, such as high school and college.
- In order to raise the low reporting rate of many minority groups, steps such as providing a safe environment in which women can report, anonymous reporting, and destigmatization of the reporting sexual assault need to be taken.

- Specifically, black and trans women's dilemma of the desire to report sexual assault but being afraid to due to the risk of facing police brutality and harassment needs to be addressed by steady reform of the police system to decrease racial profiling and inherent bias against minority groups.

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