

Title IX

Michelle Maher

CUNY Baruch College

Abraham J. Briloff Submission

A college or university that receives federal funds may be held legally responsible when it knows about and ignores sexual harassment or assault in its programs or activities. The school can be held responsible in court whether the harassment is committed by a faculty member, staff, or a student (Know Your Rights, n.d.).

The obligation cited above to protect the welfare of students under Title IX can trace its origin to 1977, in the case of *Alexander v Yale*, when “[Catherine] MacKinnon advised a group of Yale students alleging harassment on campus to file their lawsuit [under Title IX].…” (Kingkade, 2014). At the time of the suit, the notion that “[s]exual harassment on campus was discrimination, and... interfered with a woman’s ability to attend college... was an untested theory” (Kingkade, 2014). Although “in 1980 a judge threw out the five students’ suits on technical grounds, [the judge] upheld the legal argument that harassment was discrimination” (Caplan-Bricker, 2012). By upholding the premise that harassment is a form of discrimination, the courts set the precedent for future cases. “...[B]efore the 1970s, the few sex discrimination cases that reached the Supreme Court often ended in decisions that reinforced traditional views on sex roles” (Epstein & Walker, 2013, p. 652). *Alexander* may have been defeated in court, but the residual results of upholding harassment as discrimination has had a lasting and profound effect on how Universities handle sexual assault cases today. Title IX had become another means of protecting the rights of students in pursuit of an education.

Title IX was originally proposed by Indiana Senator Birch Bayh who intended for it “to make sure women could get a good education. He wanted to force schools to accept women as students” (Caplan-Bricker, 2012). Over the years Title IX has been adapted and reinterpreted to include women’s athletic participation, and today, cases of sexual harassment and sexual assault,

where “[u]nder Title IX, discrimination on the basis of sex can include sexual harassment or sexual violence, such as rape, sexual assault, sexual battery, and sexual coercion” (U.S. Department of Education, 2011).

From its inception, when President Richard Nixon “...signed Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 et seq., into law,” (U.S. Department of Justice 2014) the doors fully opened for women to participate in higher education. “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance” (U.S. Department of Education, 2012). With these 37 words Title IX was born. Today, these same words are being used to allow women to feel safe in that arena.

Recent years have seen the national spotlight turned on claims of unfair treatment based on sex, sexual orientation, national origin, economic status, age, and physical ability.

Attempts to force government to address these claims have engendered counterclaims by those who fear that a government overly sensitive to the needs of minorities will deprive the majority of its rights (Epstein & Walker, 2013 p. 611).

Title IX has been both beneficial and detrimental in its ability to combat sexual assault on college campuses. It has allowed for victims to have a safe place to report a crime, but it has also allowed a school to self-police and infringe on the rights of its students. Title IX may not be the most powerful weapon against sexual assault in education, but it is a strong step towards combating harassment issues on a college campus.

Title IX is enforced by the Department of Education, Office for Civil Rights. “Under Title IX, schools are legally required to respond and remedy hostile educational environments and failure to do so is a violation that means a school could risk losing its federal funding”

(Know Your Title IX, n.d.). As most schools are dependent on this funding, including, “approximately 16,000 local school districts, 3,200 colleges and universities and 5,000 for-profit schools...” (U.S. Department of Education, 2012) it is paramount that educational institutes follow the law.

The passage and implementation of Title IX is another attempt in the long history of the United States trying to better the lives of its citizens. None other than James Madison, in an effort to convince New York to ratify the U.S. Constitution, stated that “[t]here are two methods of curing the mischiefs [sic] of faction: the one, by removing its causes; the other, by controlling its effects” (Federalist No. 10, 1787). The passage of Title IX is comparable to these deliberations surrounding the ratification of the Constitution. Neither may be the perfect document, but they both proved steps in the right direction. The original intention of the passage of Title IX was to help protect students from discrimination against being accepted into college and allowing them, regardless of their gender, to have the right to be equally educated. However, as often happens, Title IX has proven not to be the panacea first imagined over 40 years ago, as inevitable cracks in the armor emerged which were not imagined by its authors. In the overzealous efforts to abide by its mandates, the result is often discrimination to both the alleged victim and the alleged perpetrator.

Prior to *Alexander v. Yale* students had little recourse to report an issue of sexual misconduct. It was not unusual for the victim to be further persecuted, like “[Ann] Olivarius [a plaintiff in *Alexander v Yale* who was] threatened with arrest for libeling one of the professors by reporting his advances to Yale administrators...” (Kingkade, 2014). *Alexander* led to the creation of the Sexual Harassment Grievance Board at Yale. The Board gave students a place and set of procedures to report sexual misconduct, and “in the next five years, hundreds of

universities across the country instituted grievance procedures” (Olivarius, 2011). This was a turning point, as prior to this grievance system, students were often punished for speaking out. By creating these outlets for students to report incidents, *Alexander* turned a seeming defeat in court into a victory for future generations.

Now that the precedent had been set, *Alexander v. Yale* opened the door for other cases of sexual harassment and assault as inhibiting a person’s ability to obtain an education. Another landmark case for Title IX was 26 years later in 1998, in *Davis v. Monroe Board of Education*. This case was centered on whether Title IX could also be interpreted to mean the equal access of students to educational benefits and opportunities in cases of "student-on-student" harassment (Davis, Aurelia v. Monroe County Board of Education, n.d.). The case was initiated by the parent of a fifth grade student in Monroe County. The charges focused on the school’s failure “to prevent the suffering [student’s] sexual harassment at the hands of another student. Davis claimed that the school's complacency created an abusive environment that deprived her daughter of educational benefits promised her under Title IX” (Davis v. Monroe, 2011). In a 5-4 decision, the Supreme Court ruled there is “an implied private right to education under Title IX...” (Davis v. Monroe, 2011). Speaking for the majority, Justice Sandra Day O’Connor stated,

In various ways federal law affects the ability of school administrators to discipline their students and the law sometimes works to deter disciplinary action. Title IX cuts in the opposite direction; it encourages schools to fulfill their obligation to protect students from extreme misconduct by their peers (Davis v. Monroe, 2011).

Davis brought to light the issue of student-on-student harassment being disruptive in the ability to obtain an education. Students of any age are now under the purview of Title IX.

In the argument for the dissent, Justice Anthony M. Kennedy states,

The fence the court has built has [sic] made of little sticks, and it cannot contain the avalanche of liability now set in motion. The potential costs to our schools of today's decision are difficult to estimate. But it is clear, they are so great that it is most unlikely Congress intended to inflict them on the States (Davis v. Monroe, 2011).

Justice Kennedy was correct in that Title IX, rather than enabling schools to effectively regulate equality as was originally intended, has instead become an underlying cause of fear for schools who are afraid of the cost of non-compliance. This is where we begin to see how Title IX can support the rights of one party, while simultaneously impinging upon the rights of another.

The difficulties schools will encounter in identifying peer sexual harassment are already evident in teacher's manuals designed to give guidance on the subject... The majority's inability to provide any workable definition of actionable peer harassment, simply underscores the myriad ways, in which an opinion that purports to be narrow is in fact so broad that it will support untold members of lawyers, who will prove adept at presenting cases... since the touchtone [sic] for determining whether Title IX viability exists is the effect on the child's ability to get an education... The prospect of unlimited Title IX liability in all likelihood will breed a climate of fear that encourages school administrators to label even the most innocuous of child conduct sexual harassment (Davis v. Monroe, 2011).

Our fear of causing damage towards another person is clouding our judgment to see the difference between an intentional and unintentional assault, moving us back towards a society of distrust. Back to a place we worked so hard to leave. We have created a set of rules and regulations that can make even the most innocent act look guilty. As John Locke (1690) so vividly expressed,

...In the state of nature there wants a known and indifferent judge, with authority to determine all differences according to the established law; for everyone in that state being both judge and executioner of the law of nature, men being partial to themselves, passion and revenge is very apt to carry them too far, and with too much heat, in their own cases; as well as negligence, and unconcernedness [sic], to make them too remiss to in other men's (sec. 125).

We are taking an extreme step away from our usual state of nature. We are now giving an even greater power to those in charge to execute such power without regard to the protection of students' rights. A school is now able to prioritize its best interests (low reports of sexual assault) at the expense of the interest of the victims.

We are often stymied in our attempts to move forward and amend or create new laws to fix an ongoing problem, which admittedly has new areas of cause, because we regularly look to the past to persuade us how we should be interpreting a law. As described by Alexis de Tocqueville (1835) "the English and the Americans have retained the law of precedents; that is to say, they continue to found their legal opinions and the decisions of their courts upon the opinions and decisions of their predecessors" (para 20). Due to this rule of precedent, each new interpretation can, and will, be scrutinized and be the basis for future lawsuits in the same genre. This fear is parallel to the very foundation of our government. The Framers were so afraid of returning to tyrannical rule that we began our early years under the imperfect Articles of Confederation. Although the Articles of Confederation ultimately failed in being effective for a large scale government, the system we have today is also fraught with fear of giving away power to the individual and the citizens as a whole.

Unfortunately, the Framers could never have imagined the great divide that has occurred

in our present day government. Our current system of government often seems irrevocably broken and works harder at stopping anyone's attempt at changing or enacting legislation, rather than taking real action towards improving the lives of their citizens. Today there seems to be more of an effort not to prevent a law that is unconstitutional or bad for the people, but rather to appease the wealthy constituents whom contribute to campaigns. As Federalist Paper No. 51 (1788) states, "you must first enable the government to control the governed; and in the next place oblige it to control itself."

Although the interpretation of Title IX to protect against sexual assault began at Yale, it is certainly not alone in this fight. The University of Virginia (UVA) is currently under investigation involving an alleged gang rape that occurred at the Phi Kappa Psi fraternity. What makes this story so tragic is that the focus has become the alleged victim's desire to not come forward at the time of the alleged crime, rather than the alleged crime itself. Her silence has pushed the circumstances of sexual assault and the University's actions (or, more often, inaction) out of the discussion. "[T]he University of Virginia expelled 180 students for cheating since 1998 while none have been expelled for sexual assault in the school's history..." ("How colleges handle," 2015). How is cheating considered a worse crime than sexual assault? We, once again, see how a school is placing its own interests above the victims. Cheating on a test results in a stricter, and arguably stronger, punishment administered by a university. Yet, directly infringing upon a student's right to be safe and protected on campus is not only going unpunished, it is being ignored. *Rolling Stone*, in its attempt to examine the issue of campus sexual assault, unfortunately reported the alleged crime before fully investigating the events of the night in question. Further scrutinizing by *Rolling Stone*, UVA, and others has resulted in questions of the



veracity of the victim's story (Hartmann, 2015). In its attempt to highlight a pervasive problem across American college campuses, *Rolling Stone's* lack of fact-checking became the story.

This only further perpetuates the notion that those who report a sexual assault are the ones who are truly at fault. Title IX is meant to be the place to give students a place to safely report a crime while also allowing them to continue their studies. "Students overwhelmingly... [state], were their schools to turn over their reports to the police, they would simply report the abuse to no one at all" ("How colleges handle," 2015). Title IX is acting as the intermediary to allow a student to report a crime, without necessarily being subjected to a criminal trial. The situation at UVA, as well as that at other college campuses across the country, rather than offering a welcoming setting for reporting incidents, has often created a more hostile environment for their students - a direct violation of Title IX. This can also lead to the alleged victims being "re-victimized by inadequate administrative response" (Grasgreen, 2013).

Sadly, the issue of sexual harassment and sexual assault continues to plague our institutions of higher education. The University of Virginia is just one of "97 investigations at 94 colleges and universities over concerns that the schools violated the gender equity law Title IX in their handling of sexual violence cases" (Kingkade, 2015). Additionally, "12 schools [are] under a sweeping investigation known as 'compliance review': a proactive probe launched by the Department of Education's Office of Civil Rights itself, triggered by concerns about deep-rooted issues" (Erdely, 2014). Compliance reviews are instituted as a means of auditing a school's level of compliance with Title IX and not necessarily with any particular violation, although the two often go hand in hand (Rocheleau, 2014). Often times, a victim fails to report any issues of sexual assault, so true numbers are difficult to learn.

UVA's sexual assault problems are not much worse than other schools; if anything... the

depressing reality is that UVA's situation is likely the norm. Decades of awareness programming haven't budged the prevalence of campus rape: One in five women is sexually assaulted in college, though only about 12 percent report it to police (Erdely, 2014).

It is truly an indictment of our failure to today's students that even now, in 2015, there is still a high number of unreported sexual assault cases.

The UVA story and others brings to light one of the largest problems with combating sexual assault on a college campus. Is the college the correct place to prosecute these alleged incidents? And if so, are they doing an adequate job? We look to our schools to shape and mold the next generation. If we are making every move someone makes a crime, people will spend more time policing each other than obtaining an education. We live in a world that goes directly against our own Constitution. A world where we are quick to point fingers and lay blame before taking in all the evidence.

No man is allowed to be a judge in his own cause, because his interest would certainly bias his judgment, and, not improbably, corrupt his integrity. With equal, nay with greater reason, a body of men are unfit to be both judges and parties at the same time (Federalist No. 10, 1787).

The Framers had sound judgment when it came to the policy of self-policing. They understood the bias one has when one is victimized by a crime and how that bias will influence the victim's judgment. According to Title IX, "schools should not wait for the conclusion of a criminal investigation or criminal proceedings to begin their own Title IX investigation, and if needed, should take immediate steps to protect the student in the educational setting" (Office of General Counsel, 2015). Once a school is notified of an alleged incident, they have 60 days to

initiate, investigate, and present their findings, despite the fact that an independent criminal investigation can, and often does, take longer. (U.S. Department of Education, 2014).

Additionally, a school is obligated to

coordinate with any other ongoing school or criminal investigations of the incident and establish appropriate fact-finding roles for each investigator... The investigation may include, but is not limited to, conducting interviews of the complainant, the alleged perpetrator, and any witnesses; reviewing law enforcement investigation documents, if applicable; reviewing student and personnel files; and gathering and examining other relevant documents or evidence... [Also] a school must give the complainant any rights that it gives to the alleged perpetrator. A balanced and fair process that provides the same opportunities to both parties will lead to sound and supportable decisions (U.S. Department of Education, 2014).

All the steps a school is required to take are intended to create a fair and equal environment to protect the rights of the both the alleged victim and the accused. Schools are “to determine guilt on the basis of a ‘preponderance of’ rather than ‘clear and convincing’ evidence—that is, on a 51 percent likelihood that the man did it, rather than a 75 percent one” (Shulevitz, 2015). Just the appearance that a person has committed a crime can declare them guilty in the eyes of the school. No criminal case would convict a defendant based on the likelihood the person committed a crime, but a college is put in just this situation. This flouting of the law is due, in part, to the fact that schools are self-policing sexual assault crimes, making them both judge and executioner. In an effort to protect itself, the school is in a no-win situation in their efforts to avoid being in violation of Title IX and losing their federal funding, while

simultaneously working to safeguard the rights of both the alleged victim and accused.

With a school working to make a sexual assault charge disappear as quickly as possible, several of the accused have sued for violation of due process. This includes those claiming protection under the Fourteenth Amendment, which states that, “no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws” (Epstein & Walker, 2013, p 781). Title IX declares that what is done for one party is to be done for the other, but schools are interpreting the law to best fit their needs, “disregard[ing] what most Americans think of as the basic civil rights of a person accused of a heinous act” (Shulevitz, 2015).

As powerful a law as Title IX is for the rights and equality of women, its unintended consequence is that it ironically can become discriminatory against men. Very often the male will find himself in a position of being assumed guilty, rather than being presumed innocent, going against the ideologies of having a fair and just trial. Title IX specifically states that,

if the school permits one party to have lawyers or other advisors at any stage of the proceedings, it must do so equally for both parties. Any school-imposed restrictions on the ability of lawyers or other advisors to speak or otherwise participate in the proceedings must also apply equally (U.S. Department of Education, 2014).

In most cases the accused is, “not even allowed to let a lawyer speak for him. At least 30 male students, some of whom were suspended or expelled for sexual misconduct, have filed suits against their universities, claiming that the process was unfair” (Shulevitz, 2015). If a school is taking direct measures to violate the rights of the accused, how can any of their investigations be considered credible? “He who punishes the criminal is therefore the real master of society” (de

Tocqueville, 1835).

Here in New York State, "...the State University of New York (SUNY) [on October 2, 2014] has adopted a uniform sexual assault prevention and response policy for SUNY campuses... [to] create a safer learning and living environment for students by outlining specific and consistent expectations of safety and responsibility" (Governor Cuomo Announces, 2014). New York Governor Andrew Cuomo went on to point out that "[b]y implementing a uniform sexual assault prevention policy, we are better protecting our students and our communities and setting an example for other states and schools to follow" (Governor Cuomo Announces, 2014).

Additionally, SUNY has launched a website that has details on the crime rates (both sexual and otherwise) for all SUNY schools, "...provid[ing] resources for students to learn how they can protect themselves and seek help when necessary... The data is reported to the United States Department of Education" (Governor Cuomo Announces, 2014). Although this is a positive step, we still need to educate the people we are looking to help. Reporting the data and listing the statistics does not always permit a person to clearly interpret all the evidence. Some SUNY schools have a lower student population, so the numbers may feel inflated compared to a school with the same number of incidents and a higher student population. Schools need to accurately, and factually, explain what the data represents. This should also include breaking down sexual assault between grievances and actual convictions, since there may have been several reports of sexual assault which were eventually proved to be unfounded.

Fortunately, Title IX is not the only recourse for a victim of sexual assault on a college campus, for a "society with built in flexibility can better bring its designs to realization" (Lévy, 2005). Some of the other laws, policies and departments tasked with this issue are the 1990 Clery Act; the 1992 Campus Sexual Assault Victims' Bill of Rights; Revised Sexual Harassment

Guidance from the US Department of Education; the Office for Civil Rights; the 2011 Dear Colleague Letter (DCL); the recently Reauthorized Violence Against Women Act (VAWA) in 2013; and in 2014, President Obama's Presidential *Memorandum—Establishing a White House Task Force to Protect Students from Sexual Assault*. Of these, VAWA is one of the more substantial acts in the protection of women, in that it

...amended... the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). The Clery Act requires institutions of higher education to comply with certain campus safety- and security-related requirements... [while]... VAWA... require[s] institutions to compile statistics for incidents of dating violence, domestic violence, sexual assault, and stalking and to include certain policies, procedures, and programs pertaining to these incidents in their annual security reports (Violence Against Women Act, 2014).

At the point one would believe that with the ever increasing awareness of these types of crimes against women, and the growth of organizations and legislation created to address them, we would be at a tipping point towards improving conditions for students attending college. Unfortunately, it seems that the incidents of campus sexual harassment and assault continues to grow unabated. While VAWA “was intended to change attitudes toward domestic violence, foster awareness of domestic violence, improve services and provisions for victims, and revise the manner in which the criminal justice system responds to domestic violence and sex crimes” (Sacco, 2014), we must continue our vigilance in protecting our students. The need for women to have access to a fair and equal education is as prevalent today as it was when Title IX was first enacted. A lot goes into a person obtaining an education, and every person deserves to learn in a safe and nurturing environment. Exactly one year after the enactment of VAWA, in his weekly

address, President Barak Obama reiterated the importance of education for women.

When girls are educated, their future children are healthier and better nourished. Their future wages increase, which in turn strengthens their families' security. National growth gets a boost, too. And places where women and girls are treated as full and equal citizens tend to be more stable and more democratic (Obama, 2015).

In spite of the current negative headlines as to Title IX's effectiveness as a means to fighting sexual harassment and sexual assault cases, there is some positive news in relation to its original intent of making education open to all. Although it is not explicitly stated, Title IX underscored the need to make universities open their doors to female students.

Women have been earning more undergraduate degrees than men since 1996 and in 2009 overtook them in the attainment of doctoral degrees; 47 percent of legal degrees and 48 percent of medical degrees were conferred on women in 2010, compared to 7 percent and 9 percent, respectively in 1972 (Caplan-Bricker, 2012).

Additional figures from the National Center for Educational Statistics (n.d.) illustrate that more women than men are currently pursuing advanced degrees, reporting that in 2013 "9 percent of females had completed a master's degree or higher, compared with 6 percent of males."

However, we should not read these statistics as merely an indication of a job well done, but as an additional rallying cry that with the success of the goal of increasing the female student body on our campuses, their rights should, and need, to be as fiercely protected.

The current climate of empowerment is finally allowing victims' voices to be heard. "[A] long habit of not thinking a thing WRONG [sic], gives it a superficial appearance of being RIGHT [sic], and raises at first a formidable outcry in defense of customs" (Paine, 1776). When we have a problem we turn to the authority in charge to help fix the issue. That could be a

parent, a teacher, or even the police. We like to think that those with power and authority are going to do their due diligence and protect and help us in our time of need. However, we are continually pushing the issue of sexual assault and violence against women to the side, blaming the victimized women and hoping someone else will deal with it. This is a longstanding tradition in our government; when the problem is too controversial or complicated to fix, let the next administration handle it.

Today, we are treating women overseas who live in what we deem an oppressive society better than the ones within our borders. We want to liberate them and allow these women the same rights and privileges we give to women in the United States, including the right to an education. Yet, when our women try to seek an education, they are often victimized against simply for being a woman. Why is it up to the woman to be constantly on her guard? If a woman is drunk at a party and is sexually assaulted, we are quick to blame the woman for putting herself in that situation. She should have known to drink less and be more aware of her surroundings. On the flip side, we applaud men who are able to drink themselves into a stupor without (or with minimal) consequence. This gender inequality is prevalent throughout our history and in all aspects of our daily lives. Sexual assault has always been an issue. People have been using sex as a weapon of force since the dawn of time; women were often considered the spoils of war and men could do as they pleased. Now, instead of sexually assaulting a woman after a bloody war, we are assaulting them in their dorms and on their campuses - in the very places where they are supposed to be safe.

A government is built to create a set of rules to protect its citizens. How do we combat the rules that are more protective of one group over another? Where do we turn when those who we entrust to help us are only looking out for themselves? Title IX may have started as an



offshoot of a bigger civil rights issue, and to grant equal access to education regardless of sex, but it has grown far beyond that original narrow concept. “Most societies prefer to leave their members in that state of political infantilism by refusing to re-educate them in alternative modes of conduct. A particular ideological view of the world becomes ingrained and hence invisible” (Freedman, 2003 p. 48). It is time to move beyond the idea that men and women are equal on paper, and make it a reality in life. In a society where we are quick to point the finger of blame at another, we often fail to look at our own shortcomings. In the words of Edmund Burke, “All that’s necessary for the triumph of evil is for good men to do nothing” (Constitution Society, 2015). Right now, we, as a society, are all just bystanders, letting the cycle of sexual assault continue unabated. When you see someone in a compromising situation and do nothing to stop it, it makes you culpable to the outcome of the situation. We do, however, have the opportunity to change this and to proactively use the tools currently available to combat the injustices being done on our college campuses; as well as the ability to fight for even better outlets for justice for both the victims and the accused.

To help us move forward we need to look at the schools that are working to truly combat sexual assault on campus, such as the University of Montana, which has been given the title “the rape capital” (Gray, 2014). Since 2012, the University has begun to implement a series of procedures and regulations to help combat the issue of sexual assault on their campus, including such steps as creating

a video tutorial about rape myths, school policies and resources on campus that students were required to watch... before registering for... classes. The University also made it mandatory for all its employees, excluding counselors and medical professionals, to report any information they learn about a sexual assault to a Title IX coordinator (Gray,

2014).

Outside of these general protocols, the University has also started to add a real world element to help combat this issue by

launch[ing] a cutting-edge bystander-awareness program... It helps students come up with realistic strategies to intervene in sexual assaults before they happen – by trying to distract or stop a potential perpetrator or getting a potential victim (like an intoxicated girl) away from a risky situation (Gray, 2014).

In the real world, you are unlikely to walk up to someone committing a crime and say, “Stop!” We all wish to believe we would be the hero, but when the moment arrives, many are paralyzed by fear of being injured or being judged by those around us. In light of this, the University has given various scenarios and tricks to distract a potential perpetrator, allowing the possible victim the ability to remove themselves safely from the situation. “Some... students say they see a shift in tone at the university too. ‘Things are slowly starting to change. You still encounter resistance, rape-culture issues. It hasn’t gone away, but the university is taking great steps’” (Gray, 2014).

Although there is no one-size-fits-all solution to combating sexual assault, the University of Montana has taken great steps in creating a system that is slowly changing the cultural norms of the University, making it a safer place for all students.

As the University of Montana demonstrates, just because something has been done one way before, does not make it the only way or the correct way. We just need to take one step at a time. Begin by educating people on what sexual assault is, and how to prevent it. Teach people the protocol for when something does happen. “Change is often slow, and inertia is powerful,” (Olivarius, 2011) but tradition is not immune to change. Title IX does not need to stand alone as the only way to address sexual harassment and sexual assault cases on our college campuses.

Rather, it is a combination of all the policies already in place that will help the victims.

Although no strategy has proven to be the perfect solution we all hope for, the continued push for awareness and action will move us forward towards the kind of justice we seek. As Samuel Adams once said, "It does not require a majority to prevail, but rather an irate, tireless minority keen to set brush fires in people's minds" (Constitution Society, 2015).

## References

- Caplan-Bricker, N. (2012, June 22). How title ix became our best tool against sexual harassment. *New Republic*. Retrieved from <http://www.newrepublic.com/article/104237/how-title-ix-became-our-best-tool-against-sexual-harassment>
- Constitution Society*. (2015). Notable quotes. Retrieved from <http://www.constitution.org/cons/quotes01.htm>
- Davis, Aurelia v. Monroe County Board of Education. (n.d.). Retrieved from <http://www.titleix.info/resources/Legal-Cases/Davis-Aurelia-v-Monroe-County-Board-of-Education.aspx>
- DAVIS v. MONROE COUNTY BOARD OF EDUCATION. (2011). The Oyez Project at IIT Chicago-Kent College of Law. Retrieved from [http://www.oyez.org/cases/1990-1999/1998/1998\\_97\\_843](http://www.oyez.org/cases/1990-1999/1998/1998_97_843)
- de Tocqueville, A. (1835). *Democracy in America*, (Vol. 1). *Causes which mitigate the tyranny of the majority in the united states*. Chapter 16. Retrieved from [http://xroads.virginia.edu/~HYPER/DETOC/1\\_ch16.htm](http://xroads.virginia.edu/~HYPER/DETOC/1_ch16.htm)
- Epstein, L., Walker, T.G. (2013). *Rights, Liberties, and Justice: Constitutional Law for a Changing America*. (8th ed). Thousand Oaks, CA: CQ Press.
- Erdely, S. R. (2014, Nov. 19). A rape on campus: a brutal assault and struggle for justice at uva. *Rolling Stone*. Retrieved from <http://www.rollingstone.com/culture/features/a-rape-on-campus-20141119>
- Federalist No. 10 (1787). *The same subject continued: The union as a safeguard against domestic faction and insurrection*. The Library of Congress. Retrieved from [http://thomas.loc.gov/home/histdox/fed\\_10.html](http://thomas.loc.gov/home/histdox/fed_10.html)
- Federalist No. 51 (1788). *The structure of the government must furnish the proper checks and balances between the different departments*. Yale Law School Lillian Goldman Law Library. Retrieved from [http://avalon.law.yale.edu/18th\\_century/fed51.asp](http://avalon.law.yale.edu/18th_century/fed51.asp)
- Freeden, M. (2003). *IDEOLOGY A Very Short Introduction*. United States: Oxford University Press Inc., New York.
- Governor cuomo announces SUNY adopts a comprehensive system-wide uniform sexual assault policy for all 64 campuses*. (2014). Retrieved from <http://www.suny.edu/suny-news/press-releases/december-2014/12-2-14-sex-assault-policies/>

- Grasgreen, A. (2013, Aug. 9). *Accused of rape, men allege discrimination under title ix*. Retrieved from <https://www.insidehighered.com/news/2013/08/09/accused-rape-men-allege-discrimination-under-title-ix>
- Gray, E. (2014, May 15). The sexual assault crisis on American campuses. *Time*. Retrieved from <http://time.com/100542/the-sexual-assault-crisis-on-american-campuses/>
- Hartmann, M. (2015, Jan. 13). Everything we know about the uva rape case [updated]. *New York Mag*. Retrieved from <http://nymag.com/daily/intelligencer/2014/12/everything-we-know-uva-rape-case.html>
- How colleges handle rape charges. (2015, Feb 13). *The New York Times*. Retrieved from <http://www.nytimes.com/2015/02/13/opinion/how-colleges-handle-rape-charges.html>
- Kingkade, T. (2014, June 10). How a title ix harassment case at yale in 1980 set the stage for today's sexual assault activism. *Huffington Post*. Retrieved from [http://www.huffingtonpost.com/2014/06/10/title-ix-yale-catherine-mackinnon\\_n\\_5462140.html](http://www.huffingtonpost.com/2014/06/10/title-ix-yale-catherine-mackinnon_n_5462140.html)
- Kingkade, T. (2015, Jan. 7). Barnard college joins list of 94 colleges under title ix investigations. *Huffington Post*. Retrieved from [http://www.huffingtonpost.com/2015/01/07/barnard-college-title-ix-investigations\\_n\\_6432596.html](http://www.huffingtonpost.com/2015/01/07/barnard-college-title-ix-investigations_n_6432596.html)
- Know Your Rights and Your College's Responsibilities (n.d.). *Title ix and sexual assault*. Retrieved from <https://www.aclu.org/files/pdfs/womensrights/titleixandsexualassaultknowyourrightsandyourcollege%27sresponsibilities.pdf>
- Know Your Title IX: Title ix in detail*. (n.d.). Retrieved from <http://knowyourix.org/title-ix/title-ix-in-detail/>
- Lévy, B. (2005, May 1). In the footsteps of toqueville. *The Atlantic*. Retrieved from <http://www.theatlantic.com/magazine/archive/2005/05/in-the-footsteps-of-toqueville/303879/>
- Locke, J. (1690). *The second treatise of civil government*. Chapter IX. Retrieved from <http://www.constitution.org/jl/2ndtr09.txt>
- National Center for Educational Statistics. (n.d.). *Fast facts*. Retrieved from <http://nces.ed.gov/fastfacts/display.asp?id=93>
- Obama, B. (2015). Weekly address: let girls learn. Retrieved from <https://www.whitehouse.gov/the-press-office/2015/03/06/weekly-address-let-girls-learn>

Office of General Counsel. (2015). The Catholic University of America. *Dear Colleague Letters*. Retrieved from <http://counsel.cua.edu/fedlaw/title-ixs.cfm>

Olivarius, A. (2011, Apr. 18). Title ix: Taking yale to court. *The New Journal*. Retrieved from <http://www.thenewjournalatyale.com/2011/04/title-ix-taking-yale-to-court/>

Paine, T. (1776). *Common sense*. Retrieved from <http://www.ushistory.org/paine/commonsense/singlehtml.htm>

Rocheleau, M. (2014, May 1). Umass amherst says compliance review, not a complain, prompted title ix investigation. *Boston.com* Retrieved from <http://www.boston.com/news/local/massachusetts/2014/05/01/umass-amherst-says-compliance-review-not-complaint-prompted-title-investigation/TckZkXsBAVDeK4y0cyFsDN/story.html>

Sacco, L. N. (2014, March 6). *The Violence Against Women Act: Overview, legislation, and federal funding*. Retrieved from <https://fas.org/sgp/crs/misc/R42499.pdf>

Shulevitz, J. (2015, Feb. 7). The best way to address campus rape. *The New York Times*. Retrieved from <http://www.nytimes.com/2015/02/08/opinion/sunday/the-best-way-to-address-campus-rape.html>

United States Department of Education, Office for Civil Rights. (2014). *Questions and answers on title ix and sexual violence*. Retrieved from <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>

U.S. Department of Education, Office for Civil Rights. (2011). *Know your rights*. Retrieved from <http://www2.ed.gov/about/offices/list/ocr/docs/title-ix-rights-201104.html>

U.S. Department of Education, Office for Civil Rights. (2012). *Title ix and sex discrimination*. Retrieved from [http://www2.ed.gov/about/offices/list/ocr/docs/tix\\_dis.html](http://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html)

U.S. Department of Justice. (2014). *Title ix of the education amendments of 1972*. Retrieved from <http://www.justice.gov/crt/about/cor/coord/titleix.php>

Violence Against Women Act, 34 CFR 668 (2014). Retrieved from: <https://federalregister.gov/a/2014-24284>