



Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance

Nona Maria Gronert, University of Wisconsin-Madison

The proposed rule narrows the definition of sexual harassment, “Unwelcome conduct on the basis of sex that is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient’s education program or activity;” this narrower definition will discourage survivors from reporting to school authorities. Students already underreport sexual violence via the formal Title IX adjudication process (Cantor et al., 2015; Holland & Cortina, 2017; Khan, Hirsch, Wamboldt, & Mellins, 2018). Such a limited definition has the possibility to further depress formal complaints.

The narrowed definition of sexual harassment only focuses on unwelcome conduct, ignoring the possibility that the conduct creates a hostile environment. Sexual violence is one form of trauma (SAMHSA, 2014b). Trauma consists of three interrelated elements: events, experience of events, and effects (SAMHSA, 2014a). Therefore, the Department of Education should not exclusively consider the events of sexual harassment or sexual assault, but also the survivor’s experience and the events’ lasting effects on the survivor. A hostile environment is made up not only of the event of sexual violence but also one’s experiences and sexual violence’s lasting effects.