

Why do schools handle sexual violence reports? Title IX requires schools to combat sexual discrimination in education. Schools are required to prevent and to respond to reports of sexual violence. Their procedures are not a replacement for reporting to the police, but a parallel option based on civil rights rather than criminal law. Many victims prefer not to involve the criminal justice system since some types of violence may not be specifically recognized depending on the local statutes. Victims also are fearful of encountering skepticism or abuse from police, prosecutors, juries, and especially defense attorneys. Schools use the “preponderance of the evidence” evidentiary standard and provide the accused more protections than for being accused of plagiarism, for example.

Recent court rulings on lawsuits from students accused of sexual assault are reflected in new rules issued by the Department of Education. The new rules reduce legal liabilities for colleges and universities and narrow the criteria for cases they are required to investigate. Additionally, these schools must hold live testimony hearings with cross-examination in campus sexual assault cases. These rules issued May 6 by Betsy DeVos, US Secretary of Education, are a direct rollback of requirements set during the Obama administration. Many advocacy groups and states’ attorneys general urged a delay in implementation due to the COVID-19 pandemic disruptions. However, schools must implement new procedures before the fall semester begins. During the notice and comment period survivors explained how the proposed rule change would push them out of school and let schools get away with ignoring sexual violence and discrimination. However, the Department of Education issued its final rule largely identical to their proposed draft. Their actions are a step backwards for civil rights.

Ultimately these issues will be heard by the US Supreme Court. Their decision will reflect the core beliefs of the nine individuals on the court at that time.