

# The Columbus Dispatch

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## Comment on new federal rules for college sexual assault cases ends this week

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As the U.S. Department of Education continues its efforts to restructure Title IX guidelines for colleges' responses to sexual harassment and assault, tens of thousands across the country are weighing in on the proposed changes.

They include Ohio students, educators and others who are taking part before the public comment period comes to a close this week on the pending changes to the federal guidelines.

In 2017, U.S. Secretary of Education Betsy DeVos announced that the department would review and redevelop policies put in place by the Obama administration to crack down on campus sexual assaults. Those policies said schools receiving federal aid have a responsibility to aggressively combat sexual harassment and violence.

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DeVos said in 2017, though, that [the current Title IX approach wasn't working and had pushed schools to overreach](#), diminishing due-process rights for the accused and establishing "quasi-legal" structures for addressing sexual misconduct.

In November, the education department unveiled its proposed new rules for enforcing the 1972 gender-equity law, and began a 60-day public comment period. Among the proposed changes:

- Colleges would be responsible for investigating only incidents occurring on campus or within an educational activity, not allegations off campus.
- The definition of sexual harassment would be narrower.
- Colleges could use a higher standard of evidence, rather than the "preponderance of evidence" standard suggested by the Obama administration.
- Accused students would be guaranteed the right to cross-examine the accuser.

As of late Friday, more than [71,600 comments on the proposed rules](#) had been submitted to the federal regulations site.

Some critics of the proposed rules wrote that the new guidelines would erode protections for survivors of sexual assault. Several commenters said the proposal would mean that schools such as Michigan State, Ohio State and Baylor universities "would be let off the hook," in some cases, echoing language of Title IX advocacy groups like [Know Your IX](#).

"With these changes, it will be even harder to report and conduct investigations," wrote one fourth-year Ohio State student in a submitted public comment. "We are running the risk of more students facing these problems. These changes echo a fear that women are falsely crying rape, which is untrue."

Granville attorney Eric Rosenberg, who has represented numerous individuals accused of sexual assault on college campuses, submitted a joint comment on the proposed new rules along with other attorneys and a professor.

Rosenberg told The Dispatch that he believes the proposed rules are in line with recent case law in college sexual-assault cases.

“The vast majority of the proposed regulations are mirroring concern raised by courts across the country about due-process protections that have been neglected because of bias in the process,” Rosenberg said.

In fact, Miami University announced this past fall that it was changing parts of its Title IX protocols to comply with a Sixth Circuit Court of Appeals decision requiring universities in Ohio, Kentucky, Michigan and Tennessee to give either the accused student or the student’s agent an opportunity to personally cross-examine the accuser, rather than channeling questions through the person running the hearing. The complainant can still choose to be in a different room than the respondent and use audio or visual web meeting technology, according to Miami University spokeswoman Claire Wagner.

Ohio State is finalizing a formal comment on the proposed rules to be submitted before the Wednesday deadline, university spokesman Ben Johnson said. The school already has been reviewing its Title IX policies following the closure of its Sexual Civility and Empowerment center last year.

“Ohio State is committed to preventing sexual and gender-based harassment and assault in the campus community, providing fair and effective processes for addressing complaints, and serving as a national model for education, prevention and campus engagement,” Johnson said in a written statement. “Title IX has been and continues to be an important part of our program for responding to sexual misconduct, preventing its recurrence, eliminating any hostile environment and remedying its discriminatory effects.”

Other central Ohio colleges have said they are reviewing the proposed changes and awaiting final regulations, and will adjust policies if necessary to be in compliance.

After the public comment period, the Department of Education must review and analyze the comments before finalizing the rules, and it could modify the proposal.

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