

A Resolution to Oppose New Title IX Rules Announced by the Department of Education

Lauren Sutherland (for herself, Daykota Hayes, and Gabe Myers) introduced the following resolution to the Steering Committee, where it passed, and then to the Governmental Relations Legislative Committee, where it passed, and to the floor, where it passed.

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Whereas the Undergraduate Student Government represents all undergraduate students at The Ohio State University, and

Whereas Title IX is a federal civil rights law passed as part of the Education Amendments of 1972 that protects people from discrimination based on sex in education programs or activities that receive federal financial assistance,¹ and

Whereas on May 6, 2020, the United States Department of Education announced new Title IX rules that are set to be implemented August 14, 2020,² and

Whereas schools are already dealing with the effects of the COVID-19 pandemic and now must deal with implementing new rules from a 2,033-page document in less than 100 days,³ and

Whereas 18 state attorneys general and numerous organizations, such as the American Civil Liberties Union (ACLU), have filed lawsuits to block the implementation of the new rules,⁴ and

Whereas the Undergraduate Student Government collaborated with Take Back the Night- a student organization dedicated to uplifting the voices of survivors at Ohio State- to condemn the new rules in a statement on social media⁵, and

Whereas under the new rules, sexual harassment would be narrowly defined as an instance that is “so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school’s education program or activity,” which would make it harder for students to bring forward a case if they have been sexually harassed since it would need to meet such high standards⁶, and

¹ <https://titleix.harvard.edu/what-title-ix>

² <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-regs-unofficial.pdf>

³ <https://news.bloomberglaw.com/us-law-week/insight-schools-colleges-universities-get-new-title-ix-sex-discrimination-rules>

⁴ <https://www.insidehighered.com/quicktakes/2020/06/05/attorneys-general-sue-devos-education-department-over-title-ix-rule>

⁵ <https://twitter.com/usgosu/status/1262493124728885256>

⁶ <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-regs-unofficial.pdf>

Whereas under the new rules, “schools must dismiss any complaints of sexual misconduct that occur outside of campus-controlled buildings and/or educational activities,” which includes fraternity and sorority housing, off-campus housing, online harassment, and study abroad programs,⁷ and

Whereas students living off-campus or participating in study abroad would be more affected by these changes as 87% of all college students, and 68% of Ohio State students⁸, live off-campus⁹, and

Whereas the rate of attempted or completed sexual assault during a semester in a study abroad program is 3 to 5 times higher than during a semester on-campus¹⁰, and

Whereas students living in on-campus housing that are assaulted off-campus would not be able to pursue action through the university under the new rules, forcing them to report to the local law enforcement, which not every student feels safe doing, or potentially not report at all, and

Whereas under the new rules, schools may remove the 60-day requirement, which requires investigations into complaints be completed within 60 days as not to drag them out or retraumatize survivors, and

Whereas under the new rules, students would not be allowed to file complaints against someone who does not attend their university, forcing students to turn to law enforcement or other forms of action, and

Whereas under the new rules, Quid Pro Quo harassment is defined as sexual harassment where an employee leverages educational opportunities over a student, with the word “employee” never being explicitly defined, and

Whereas narrowing the definition of Quid Pro Quo harassment to only between an employee and a student neglects the various power imbalances that are present between students, and

Whereas under the new rules, unregulated mediation would be allowed in cases of sexual assault, rape, dating violence, and domestic violence on a voluntary basis by both parties, despite career mediators agreeing it should never be used in instances of gender-based violence¹¹, and

⁷ <https://www.knowyourix.org/college-resources/hands-off-ix/>

⁸ <https://www.usnews.com/best-colleges/ohio-state-6883/student-life>

⁹ <https://www.nytimes.com/2016/08/07/education/edlife/how-much-does-living-off-campus-cost-who-knows.html>

¹⁰ <https://www.insidehighered.com/news/2012/12/19/study-finds-increased-risk-sexual-assault-study-abroad#:~:text=The%20risk%20of%20rape%20was,relative%20to%20on%2Dcampus%20rates.>

¹¹ <https://www.knowyourix.org/college-resources/hands-off-ix/>

Whereas under the new rules, a school is shielded from liability unless they are proven to be “deliberately indifferent” and all claims must be filed with the Title IX Coordinator specifically, greatly reducing a school’s obligation to act against sexual harassment¹², and

Whereas under the new rules, a school would be allowed to raise their standard of evidence from “preponderance of evidence” to “clear and convincing” which will discourage survivors from submitting complaints¹³.

Therefore, Let it Be Resolved that the Undergraduate Student Government opposes the new Title IX rules announced by the Department of Education and will continue to support survivors of sexual violence, harassment, and assault at The Ohio State University, and

Let it Further Be Resolved that the Undergraduate Student Government calls on The Ohio State University to create policies surrounding online/digital harassment and include Greek housing, student apartments, and study abroad as campus-controlled buildings and/or educational activities, and

Let it Further Be Resolved that the Undergraduate Student Government calls on The Ohio State University to keep the 60-day requirement to ensure investigations are not dragged out for months or years, and

Let it Further Be Resolved that the Undergraduate Student Government calls on The Ohio State University to clarify the definition of “employee” and clearly state all exemptions, if any, that may exist for positions such as graduate students, para-professionals, teaching assistants, adjunct professors, or independent contractors, and

Let it Further Be Resolved that the Undergraduate Student Government calls on The Ohio State University to not allow informal mediation and only allow for mediation when a mediator trained in trauma-informed care is present, and

Let it Further Be Resolved that the Undergraduate Student Government calls on The Ohio State University to maintain the “preponderance of the evidence” standard and not raise it to a “clear and convincing” standard, and

Let it Further Be Resolved that the Undergraduate Student Government urges The Ohio State University to publicly oppose these new Title IX rules and to demonstrate their commitment to survivors by committing to the actions listed above.

¹² <https://www.knowyourix.org/college-resources/hands-off-ix/>

¹³ <https://www.knowyourix.org/college-resources/hands-off-ix/>

Floor Vote: Passed with General Consent



Roaya Higazi
President



Nathan Rush
Speaker of the Senate

Date Adopted: June 24, 2020