



Testimony of Jonathan Taylor
Founder, Title IX For All
Presented to the U.S. Department of Education, Office of Civil Rights
Title IX Public Hearings, June 9, 2021

My name is Jonathan Taylor, founder of Title IX For All and a former A&M instructor. Our website [Titleixforall.com](https://titleixforall.com) is home to the Title IX Legal Database, a comprehensive clearinghouse of lawsuits by accused students which now exceed seven hundred.¹

Lawsuits by accused students exploded following the 2011 Dear Colleague letter. In the following years, opinions by judges across the political spectrum, male and female², presiding over appellate and lower state and federal courts, and of every creed and color have denounced the lack of due process, gender bias, and other deprivations of rights in higher ed Title IX proceedings.

Since the 2020 regulations went into effect, new lawsuits by accused students have sharply declined and schools have won substantially more lawsuits than they have lost. This is a sharp reversal from the previous years and an indicator that things are generally heading in the right direction. Since schools are now providing a greater degree of due process, accused students less frequently find the need to sue for redress, and complaints tend to be weaker than previously, leading them to be more easily dismissed.

In the grievance process we see competing goals and values: increased reporting by alleged victims, preventing the recurrence of misconduct, respect for due process, group advocacy for either one or both sexes, and so forth. One goal must take priority, however: the search for truth. In the Title IX context, by truth I mean the truth of the alleged incident.

There are several structural elements which empower the pursuit of the truth. They are (but not limited to):

- Neutral Title IX personnel with no conflicts of interest
- Timely notice provided to the accused student, including a description of the allegation, the accuser, and the date of the incident; relatedly, notice in the form of a pre-hearing phase that allows both parties time to examine the evidence in play.

¹ Title IX Legal Database, viewable at <https://titleixforall.com/title-ix-legal-database/>

² See especially *Doe v. Purdue, 2019*, in which a panel of three female judges unanimously referred to Purdue's process as a sham. Now-SCOTUS Justice Barrett's pathbreaking ruling substantially altered the path for Title IX litigation going forward.

- Live hearings that allow the presentation of evidence, questioning and answer phases, the ability of the parties to respond to new evidence, and so forth.
- Cross-examination by representatives of the parties (never the parties themselves), especially in he-said/she-said cases that fundamentally turn on credibility determinations.
- The prohibition of trauma-informed approaches to weighing and interpreting evidence specifically; as opposed to its appropriate use during intake interviews, as well as – to some degree – first responders and mandatory reporters.³

Where the truth of the alleged incident cannot be found, schools should refrain from causing new harm to either complainants or respondents and instead focus on accommodations, such as adjustments in living arrangements, classwork, and the maintenance of mutual no-contact orders. This is better than haphazardly issuing severe punishments such as expulsion.

The 2020 regulations are imperfect, but they are leaps and bounds ahead of the previous system in terms of overall fairness. We cannot hope to address everything in the time allotted here. Whenever possible, look to the wealth of reasoning available in court decisions. They are made with the insight of judges who have invested a lifetime in the pursuit of justice and – while historically deferring to schools in matters of misconduct - decided they had gone so far that a correction had to be made. We will submit a full written comment today.

Thank you,

Jonathan Taylor

Founder, Title IX For All

³ See [ATIXA Position Statement, Trauma-Informed Training and the Neurobiology of Trauma](#).