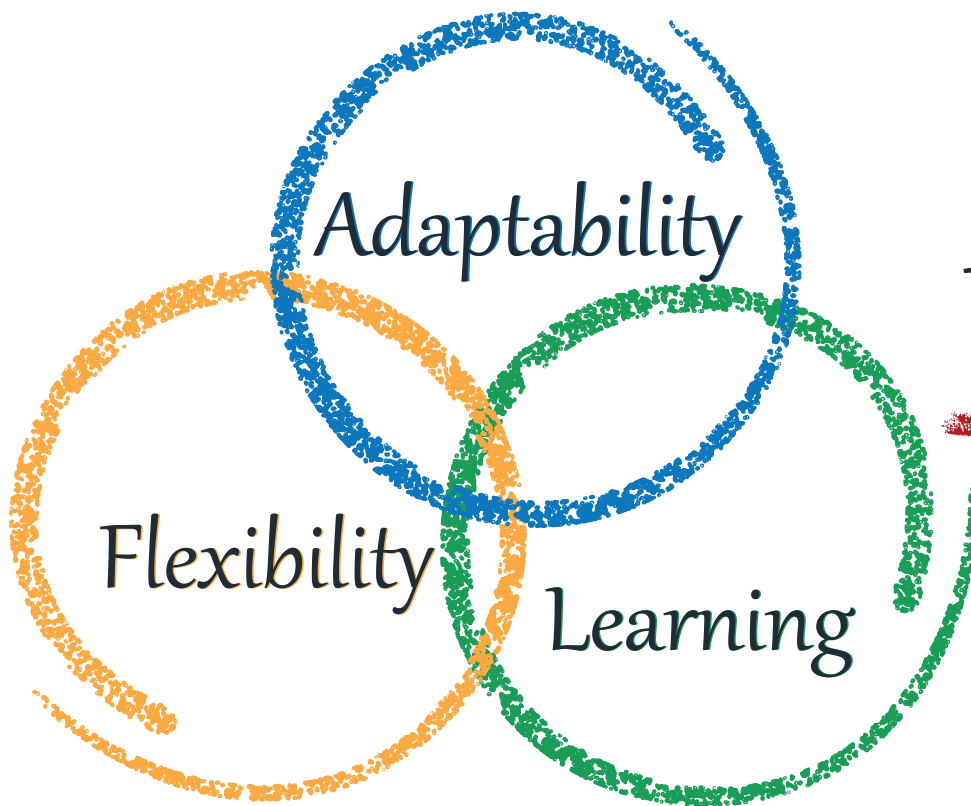


# FOR THE DEFENSE

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## Resilience

**The Protections and  
Potential Perils of  
the New Title IX  
Regulations**

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# The Protections and Potential Perils of the New Title IX Regulations

Patricia M. Hamill and  
Lorie K. Dakessian

**T**he United States Department of Education's new Title IX regulations<sup>1</sup> finally have been implemented and offer much needed steps toward promoting fundamental fairness, consistency, and reliability in campus disciplinary proceedings. The regulations are rooted in the principle that Title IX, which applies to all educational institutions (public and private) that receive federal funding<sup>2</sup>, protects access to education for all parties—complainants and respondents (i.e., the accused students), males and females—and that disciplinary proceedings should be fair to all. With these new and robust protections come potential perils that could undermine a just outcome.

The processes established by these new regulations generally benefit both respondents and complainants and aim to balance their interests by

treating the parties "equitably." This means that colleges and universities ("colleges") must offer supportive measures (e.g., counseling or academic accommodations) to every complainant, whether or not the complainant files a formal complaint with the institution. Colleges must create a grievance process that ensures that respondents will not be subjected to discipline unless they are found responsible after a fair process, including notice, an opportunity to respond, and a hearing before one or more impartial decision-makers. The grievance process must treat a respondent as presumed innocent—i.e., the institution may not treat an accused student as responsible for sexual harassment (including sexual misconduct) unless and until the finding is made at the "conclusion of the grievance process" outlined in the new regulations.

Under the new regulations, complainants are assured that reports of sexual misconduct will be taken seriously, that they can decide for themselves whether to pursue a formal grievance process, and that they will be given prompt access to a broad range of supportive measures whether or not they file a formal complaint. Complainants do not need to furnish proof of their allegations. If a complainant chooses to pursue a formal grievance process, then both parties are assured of specified procedural protections designed to ensure a fair process for both of them. If a respondent is found responsible following the grievance process, then the complainant is assured of an effective remedy to restore or preserve access to the benefits of her or his education.<sup>3</sup> Likewise, the respondent can be subjected to disciplinary sanctions.

## Background

How did we get here? Many of the elements of a fair grievance process outlined in the new regulations have been informed by court decisions arising out of the more than 400 lawsuits brought since 2011 by respondent students against their colleges and universities in the wake of unfair proceedings where they were found responsible for sexual misconduct and subjected to a life-altering disciplinary penalty (expulsion, suspension, and/or permanent marks on their records).<sup>4</sup> These skewed Title IX proceedings on our nation's campuses were instituted in response to the federal government's aggressive and public steps beginning in 2011 to combat what it viewed as an epidemic of sexual assault on college campuses, focusing on countering discrimination against women.<sup>5</sup> At the same time, schools were and continue to be subject to mounting public pressure—including from their own student populations—to crack down on alleged perpetrators of sexual misconduct. Sexual assault claims must be taken seriously and investigated properly. In pursuing these laudable goals, however, many schools went too far, essentially eliminating due process protections for accused students, the great majority of whom are male.<sup>6</sup>

In 2017, the U.S. Department of Education reaffirmed basic principles needed for fair and reliable proceedings and began taking steps to implement those principles. In September 2017, it rescinded previous guidance documents and issued new interim guidance. The Department then published proposed regulations for notice

and comment in November 2018, receiving more than 100,000 comments, an unprecedented number. The regulations were finally issued on May 19, 2020 and took effect on August 14, 2020. The new regulations appear at 34 C.F.R. §§ 106.1-106.82.

## Protections

The new regulations require colleges to provide several key procedural protections to any student or faculty member accused of sexual misconduct before a determination is made as to responsibility. A respondent must be presumed not responsible for the alleged conduct unless and until a final decision is made at the conclusion of the grievance process.<sup>7</sup> Complaints must be resolved in a timely manner.<sup>8</sup> Both parties must be given complete and correct information about the process, including the standard that applies (generally, preponderance of the evidence), the potential sanctions, appellate rights, and the supportive measures available.<sup>9</sup> Schools must investigate allegations and objectively evaluate all relevant evidence, both inculpatory and exculpatory, ensuring that credibility determinations are not based on a person's status as a complainant, respondent, or witness.<sup>10</sup>

When a formal complaint is filed, the school must give the parties written and timely notice of its grievance procedures and the allegations, and the school must also notify the parties if it later decides to investigate additional allegations.<sup>11</sup> Formal complaints must be investigated and must be dismissed if the alleged conduct does not constitute sexual harassment as defined in the regulations or did not occur within the college's education program or activity.<sup>12</sup> (This does not mean that a school is precluded from investigating and adjudicating an allegation of sexual misconduct under its code of conduct or other school policies, as noted in the next section.)

School officials involved in Title IX proceedings must not have a conflict of interest or bias for or against complainants or respondents (either generally or specifically).<sup>13</sup> A school must train its officials on the definition of the term sexual harassment and how to conduct an impartial investigation and how to conduct an unbiased grievance process, "including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias."<sup>14</sup> A decision-maker cannot also

serve as the Title IX Coordinator<sup>15</sup> or investigator (thereby prohibiting the “single investigator” model previously used at many schools).<sup>16</sup>

Schools bear the responsibility for gathering evidence “sufficient to reach a determination,” and must provide the parties an equal opportunity to present witnesses and evidence, timely notice of meetings or hearings, and equal access to evidence obtained in the investigation.<sup>17</sup> Investigative reports must fairly summarize relevant evidence and the parties must be given the chance to review the evidence and respond.<sup>18</sup>

A party may be accompanied by an advisor of their choice (who can and, in our opinion, should be an attorney), to any meeting, interview, hearing, or part of the university’s grievance process. The advisor will need to abide by the restrictions imposed by the university on her or his participation.<sup>19</sup> Colleges and universities must provide for a live hearing and allow advisors to the parties to cross-examine the other party and witnesses in real time, with the right to ask “all relevant questions and follow-up questions, including those challenging credibility.”<sup>20</sup> This cross-examination must be conducted by the party’s advisor—directly, orally, and in real time—and cannot be conducted by a party personally.<sup>21</sup>

Following the hearing, schools must issue a detailed written determination regarding responsibility.<sup>22</sup> Schools may use a preponderance of the evidence or a clear and convincing standard, but must use consistent standards for students, faculty, and staff.<sup>23</sup> Schools also must offer both parties an appeal, must implement the same appellate procedures for both parties, and must issue a written appeal decision.<sup>24</sup>

## **Potential Perils**

Criminal defense counsel with clients facing sexual misconduct proceedings should be mindful of three potential perils in the new regulations that could be implemented with greater punitive effect: the emergency removal of a student from campus or class, a decision-maker’s possible exclusion of exculpatory information contained in statements by witnesses who refuse, or are unavailable, to testify at the live disciplinary hearing, and the potential diversion of a misconduct case into a separate code of conduct process with fewer protections.

## ***Risk of Emergency Removal***

The new regulations allow schools to take punitive action (such as indefinite suspension) against a respondent student without going through a formal grievance process in circumstances where a school determines that emergency removal of the student is necessary. The regulations state that a school is not precluded from removing a respondent from the school’s education program or activity “on an emergency basis, provided that the [school] undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.”<sup>25</sup>

While the regulation requires that institutions allow the accused student to “immediately” challenge the removal, in an emergency removal situation, a respondent will receive far fewer protections than the formal grievance process normally provides, and could be removed from campus or class before the conclusion of a grievance process or even when no grievance process is pending. Serious consequences, such as the irreparable interruption of a student’s education, could result from a school’s rushed judgments about what constitutes an emergency and what constitutes an immediate threat to physical health. There are no requirements that the school periodically review its decision or place a time limit on the removal.

In an effort to ensure that this regulation applies to genuine emergencies involving the physical health or safety of one or more individuals (which includes the respondent, complainant, or others), note that the Department of Education inserted the word “physical” before health and safety in the final regulations.<sup>26</sup> The Department explained that this clarification would help ensure that the emergency removal provision would not be used “inappropriately to prematurely punish respondents by relying on a person’s mental or emotional ‘health or safety’ to justify” the removal, as the emotional and mental well-being of complainants could be addressed through the supportive measures described in another section of the regulations.<sup>27</sup> Further, the school’s safety and risk analysis must be individualized,

which means that the analysis may not rely on a “generalized, hypothetical, or speculative belief that the respondent may pose a risk to someone’s physical health or safety,” or be based on “general assumptions about sex, or research that purports to profile characteristics of sex offense perpetrators, or statistical data about the frequency or infrequency of false or unfounded sexual misconduct allegations.”<sup>28</sup>

### *Risk of Exclusion of Exculpatory Information*

The exclusion of certain statements by unavailable parties and witnesses could present a pitfall for respondents seeking to rely on certain aspects of those statements during a live hearing to adjudicate responsibility. The regulations require that colleges and universities offer live hearings (which can be by video with participants in different locations) where the “decision-maker(s) must permit each party’s advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.”<sup>29</sup> The Department of Education attempted to address a recurring unfairness in disciplinary hearings by prohibiting a decision-maker from resolving a credibility problem in favor of the party whose statements remain untested through cross-examination.<sup>30</sup> The Department concluded that the principle of cross-examining a witness “before allowing statements to be used is so deeply rooted in American jurisprudence that ensuring that these final regulations reflect that fundamental American notion of justice increases party and public confidence in the legitimacy of Title IX adjudications in post-secondary institutions.”<sup>31</sup>

Thus, the regulations warn that “[i]f a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party’s or witness’s absence from the live hearing or refusal to answer cross-examination or other questions.”<sup>32</sup> This rule may prove helpful in a scenario in which a respondent chooses not to appear at the hearing or answer cross-examination questions because of his position in a concurrent criminal proceeding, because his mere absence from the hearing or his refusal to answer questions would not affect the determination regarding responsibility in the Title

IX grievance process.<sup>33</sup>

Section 106.45(b)(6)(i) directs a decision-maker to reach the determination regarding responsibility based on the evidence remaining even if a party or witness refuses to undergo cross-examination by the other party’s advisor. So, even though the refusing party’s statement cannot be considered, the decision-maker may reach a determination based on the remaining evidence so long as no inference is drawn based on the party or witness’s absence from the hearing or refusal to answer cross-examination (or other) questions. The Department of Education declined to add exceptions to this provision, such as permitting reliance on statements against a party’s interest. “Determining whether a statement is against a party’s interest, and applying the conditions and exceptions that apply in evidentiary codes that utilize such a rule, would risk complicating a fact finding process so that a non-attorney decision-maker—even when given training in how to impartially conduct a grievance process—may not be equipped to conduct the adjudication.”<sup>34</sup>

The Department interprets the term “statements” according to “its ordinary meaning,” but clarifies that it “does not include evidence (such as videos) that do not constitute a person’s intent to make factual assertions or to the extent that such evidence does not contain a person’s statements.”<sup>35</sup> The Department does not explain why it excludes videos from this category, but states that documents such as police reports, Sexual Assault Nurse Examiner (SANE) reports, and medical reports cannot be relied on to the extent that they contain statements of a party or witness who has not submitted to cross-examination.<sup>36</sup> As another example, consider a scenario in which a complainant makes a statement to her friend who then is interviewed by the school’s investigator, and the complainant later refuses to submit to cross-examination at a live hearing, but her friend agrees to appear. If the friend’s testimony consisted of recounting the complainant’s statements, then, according to the Department of Education, it “would be unfair and potentially lead to an erroneous outcome to rely on statements untested via cross-examination. Further, such a modification would likely operate to incentivize parties to avoid submitting to cross-examination if a family member or friend could essentially testify by recounting the party’s own statements.”<sup>37</sup>



The effect of this rule on statements that contain information that is exculpatory or helpful to the respondent remains unclear. The Department does not address a scenario in which a witness's statement contains information that exculpates the respondent or corroborates his account, but the witness is not willing to submit to or be available for cross-examination. For example, consider another scenario in which a witness and the complainant are close friends who had a discussion the morning following the complainant's sexual encounter with the respondent, and the witness reported to the investigator information that contradicted the complainant's account to the investigator. Thereafter, the witness refuses to appear at the hearing, and now her statements—which would be helpful to the respondent (and which, if part of an interview, would be in the investigation report and visible to the adjudicator)—cannot be relied upon by the adjudicator. This situation—where evidence that supports the respondent's account or undermines the complainant's account is disregarded—very well could lead to an unfair result.

### *Risks of a Separate Process Under a Separate Code*

Although a school must dismiss a formal complaint if it would not constitute sexual harassment as defined in the Title IX regulations (even if proved) because it did not occur in the school's "education program or activity," or did not occur against a person in the United States, the school still could take action under another provision of its own code of conduct.<sup>38</sup> A grievance process pursuant to a college's own code of conduct often does not provide parties with the same protections that would be available in a grievance process pursuant to the Title IX regulations. For example, non-Title IX disciplinary processes may use a single investigator model, in which one person conducts the investigation and makes a determination of responsibility; may not give parties the same access and ability to analyze evidence collected by the investigator; and may not permit parties the ability to engage an advisor who is an attorney. Practitioners should be mindful that, regardless of the Title IX regulations, case law and state statutes may require colleges to provide certain procedural rights in their disciplinary processes.<sup>39</sup>

## *Conclusion*

Attorneys whose clients are parties to Title IX disciplinary proceedings must understand the protections to which their clients are entitled, as well as the potential perils of a school's interpretation of the regulations that could undermine a just outcome. We are also concerned that change will be slow, even with these regulations in place, and—although policies and procedures may comply on their face—they will still be administered by personnel steeped in the culture from the past nine years. But, the new regulations are a good start to providing a foundation for fairer processes for all parties involved in these very complicated matters. 🙏

### **NOTES:**

<sup>1</sup> Title IX of the Educational Amendments of 1972, or 20 U.S.C. § 1681, provides that "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance . . . ."). Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, a Rule by the Education Department (May 19, 2020): <https://www.federalregister.gov/documents/2020/05/19/2020-10512/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal>.

<sup>2</sup> Although Title IX also applies to K-12 schools, the authors focus this article on colleges and universities. The main differences between the institutional obligations at K-12 schools versus colleges is (1) an elementary school parent or guardian can bring the complaint, and (2) there is no requirement for a live hearing with cross-examination.

<sup>3</sup> These "remedies" may include the imposition of a no contact order, the suspension or expulsion of a respondent from the college, or, if the respondent remains on campus following the decision or will return to campus following a suspension, providing the complainant with a first choice of residence halls or classes that might otherwise be shared with the respondent.

<sup>4</sup> Any practitioner who represents a student accused of misconduct in a college or university disciplinary process should read the Department of Education's Title IX regulations (Nondiscrimination on the Basis of Sex in Education Programs), <https://www.federalregister.gov/documents/2020/05/19/2020-10512/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal>, the September 4, 2020 Questions and Answers Regarding the Department's Final Title IX Rule, <https://www2.ed.gov/about/offices/list/ocr/docs/qa-titleix-20200904.pdf>, and the college or university's sexual misconduct policy pursuant to Title IX and its code of conduct.

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# THE PROTECTIONS AND POTENTIAL PERILS OF THE NEW TITLE IX REGULATIONS

PATRICIA M. HAMILL AND LORIE K. DAKESSIAN



## Notes

<sup>1</sup> Title IX of the Educational Amendments of 1972, or 20 U.S.C. § 1681, provides that “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance . . . .”). Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, a Rule by the Education Department (May 19, 2020): <https://www.federalregister.gov/documents/2020/05/19/2020-10512/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal>.

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<sup>5</sup> See April 4, 2011 U.S. Department of Education’s Dear Colleague Letter – Sexual Violence (now rescinded), <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>; April 2014 Dept. of Education Questions & Answers on Title IX and Sexual Violence (now rescinded), <https://www2.ed.gov/about/offices/list/ocr/docs/ga-201404-title-ix.pdf>; and May 1, 2014 Dept. of Education’s Press Release listing 55 institutions of higher education with open Title IX sexual violence investigations. <https://www.ed.gov/news/press-releases/us-department-education-releases-list-higher-education-institutions-open-title-i>.

<sup>6</sup> The authors’ practice focuses on the representation of students and members of staff and faculty in institutions of higher education. As a result, the article reflects the authors’ perspectives on representations in college and university settings.

<sup>7</sup> 34 C.F.R. § 106.45(b)(1)(iv).

<sup>8</sup> 34 C.F.R. § 106.45(b)(1)(v).

<sup>9</sup> *Id.* § 106.45(b)(1)(vi)–(ix).

<sup>10</sup> *Id.* § 106.45(b)(1)(ii).

<sup>11</sup> *Id.* § 106.45(b)(2).

<sup>12</sup> *Id.* § 106.45(b)(3). An education program or activity includes locations, events, or circumstances (on campus or off campus), over which the school exercises substantial control over both the respondent and the context in which the sexual harassment occurred, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution (such as a fraternity or sorority house). 85 Fed. Reg. 30092-93 (May 19, 2020).

<sup>13</sup> 34 C.F.R. § 106.45(b)(1)(iii).

<sup>14</sup> *Id.*

<sup>15</sup> A Title IX Coordinator is a person who must be designated by the school to “coordinate its efforts to comply with its responsibilities” under the Title IX regulations. 34 C.F.R. § 106.8.

<sup>16</sup> 34 C.F.R. § 106.45(b)(7)(i).

<sup>17</sup> *Id.* § 106.45(b)(5).

<sup>18</sup> *Id.* § 106.45(b)(5).

<sup>19</sup> *Id.* § 106.45(b)(5)(iv).

<sup>20</sup> 34 C.F.R. § 106.45(b)(6)(i). In contrast, elementary and secondary schools have the option to provide for a hearing. With or without a hearing, the decision-maker must allow each party in a K-12 setting the “opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party.” 34 C.F.R. § 106.45(b)(6)(ii).

<sup>21</sup> 34 C.F.R. § 106.45(b)(6)(i).

<sup>22</sup> 34 C.F.R. § 106.45(b)(7). College disciplinary proceedings do not use the term “guilty,” and instead, find a student “responsible” for a policy violation.

<sup>23</sup> 34 C.F.R. § 106.45(b)(1)(vii).

<sup>24</sup> 34 C.F.R. § 106.45(b)(8).

<sup>25</sup> 34 C.F.R. § 106.44(c). In its discussion of the regulations, the Department of Education noted that the emergency removal provision in § 106.44(c) of its final regulations is different than, and a separate process from, the emergency notification provision in § 668.46(g) of the Clery Act regulations. Thus, a school may determine that there is a sufficient threat to justify an emergency removal under the Title IX regulations but not to require a timely warning or an emergency notification under the Clery Act regulations. Similarly, a school could determine that the circumstances justify issuing a timely warning or emergency notification but not an emergency removal of a student.

<sup>26</sup> 85 Fed. Reg. 30225 (May 19, 2020).

<sup>27</sup> *Id.*

<sup>28</sup> *Id.* at 30233.

<sup>29</sup> 34 C.F.R. § 106.45(b)(6)(i).

<sup>30</sup> 85 Fed. Reg. 30346 (May 19, 2020). In reaching this determination, the Department relied on two cases in which schools found a respondent responsible for misconduct by relying on allegations from a complainant whose credibility had not been assessed in person. See 85 Fed. Reg. 30346 n.1330 (citing *Doe v. Univ. of Cincinnati*, 872 F.3d 393, 401–02 (6th Cir. 2017) (“Given the parties’ competing claims, and the lack of corroborative evidence to support or refute Roe’s allegations, the present case left the [recipient] with a choice between believing an accuser and an accused. Yet, the [recipient] resolved this problem of credibility without assessing Roe’s credibility. In fact, it decided plaintiff’s fate without seeing or hearing from Roe at all. That is disturbing and, in this case, a denial of due process.”) (internal quotation marks and citations omitted); *Doe v. Purdue Univ.*, 928 F.3d 652, 664 (7th Cir. 2019) (finding it “particularly concerning” that the university concluded the complainant “was the more credible witness—in fact, that she was credible at all— without ever speaking to her in person. Indeed, they did not even receive a statement written by Jane herself, much less a sworn statement.”)).

<https://www.govinfo.gov/content/pkg/FR-2020-05-19/pdf/2020-10512.pdf>.

<sup>31</sup> 85 Fed. Reg. at 30347 n.1331.

<sup>32</sup> 34 C.F.R. § 106.45(b)(6)(i) (emphasis added). The Department of Education has noted that “a respondent’s alleged verbal conduct, that itself constitutes the sexual harassment at issue, is not the respondent’s “statement” as that word is used in § 106.45(b)(6)(i), because the verbal conduct does not constitute the making of a factual assertion to prove or disprove the allegations of sexual harassment; instead, the verbal conduct constitutes part or all of the underlying allegation of sexual harassment itself.” Dept. of Education Office of Civil Rights Blog – 20200522, *The New Title IX Rule: Excluding Reliance on a Party’s “Statements” When the Sexual Harassment at Issue Consists of Verbal Conduct*, <https://www2.ed.gov/about/offices/list/ocr/blog/20200522.html> (last visited October 11, 2020).

<sup>33</sup> 85 Fed. Reg. 30322 (May 19, 2020).

<sup>34</sup> 85 Fed. Reg. 30345 (May 19, 2020).

<sup>35</sup> *Id.* at 30349.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.* at 30347.

<sup>38</sup> 34 C.F.R. § 106.45(b)(3)(i); 85 Fed. Reg. 30090 (May 19, 2020).

<sup>39</sup> For example, the Student Due Process Disciplinary Requirements set forth in Pennsylvania’s Administrative Code, 22 Pa. Code § 505.1 *et seq.*, require universities in Pennsylvania’s State System of Higher Education to adopt procedures that, *inter alia*, guarantee a hearing with “[a]n opportunity for submission of written, physical and testimonial evidence and for reasonable questioning of witnesses by both parties,” and prohibit the use of hearsay evidence “to establish a fact necessary to establish guilt or innocence in a case.” 22 Pa. Code §§ 505.3, 505.6; see also *Doe v. Univ. of Scis.*, 961 F.3d 203, 216 (3d Cir. 2020) (stating that “basic fairness in the context of sexual-assault investigations requires that students accused of sexual assault receive” procedural protections in the form of a live, adversarial hearing with the ability to “cross-examine” witnesses, including accusers.).



# About the Authors



**Lorie Dakessian** represents clients in several practice areas, including complex commercial litigation, white collar and internal investigations, student and educator misconduct cases, and data privacy matters. She is a Certified Information Privacy Professional (CIPPI

US), the global standard for privacy certification. In addition to her state and federal trial court practice, Lorie has argued before each of the state appellate courts in Pennsylvania. She represents students and professors throughout the country who are subject to university disciplinary proceedings or appeals for any alleged Title IX or code of conduct violations. Prior to joining Conrad O'Brien, Lorie served for six years in the Philadelphia District Attorney's Office, managing all aspects of large and complex appellate cases. She is a graduate of Boston College Law School and the University of Michigan.



**Patricia Hamill** has extensive years of experience successfully representing clients spanning a breadth of matters, including complex commercial litigation, Title IX litigation, receiverships, insurance, securities, consumer class actions, government investigations, and E-rate compliance. Her clients are in a wide range of industries, including technology, insurance, and securities.

As Chair of the Title IX, Due Process and Campus Discipline practice, Patricia represents college students and professors nationwide who are subjected to campus disciplinary proceedings or who have been disciplined by their colleges for alleged sexual misconduct following such proceedings. She has represented close to 200 students and professors nationwide in disciplinary matters or related litigation involving more than 70 colleges and universities. Ms. Hamill is also sought out by groups and institutions for her opinion on how to work within the framework of the changing federal laws and guidance. Given her expertise, she was invited to testify before the US Senate Committee on Health, Education, Labor & Pensions (HELP) at the full committee hearing on "Reauthorizing HEA: Addressing Campus Sexual Assault and Ensuring Student Safety and Rights" in Washington DC (April 2019).

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