

Classrooms Into Courtrooms

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Abstract

The federal Department of Education's (DOE) 2020 Title IX Rule fundamentally transformed the relationship between postsecondary schools (schools) and students. While courts have long warned against turning classrooms into courtrooms, the 2020 Rule nonetheless imposed a mandatory quasi-criminal courtroom procedure for Title IX sexual harassment investigatory proceedings in schools. This transformation is a reflection of the larger trend of importing criminal law norms and due process protections into Title IX school proceedings. It is especially regressive at a time where calls for long-overdue criminal justice reform are reaching a boiling point across the nation. Its effects are especially troubling because DOE linked the changes with tenets of rape exceptionalism, which has historically burdened women alleging rape, notably those with marginalized identities. As a result, the 2020 Rule requires schools to treat survivors of sexual assault, who are disproportionately women, LGBTQIA+, BIPOC, or a combination, differently than those who report *

* Clinical Associate Professor of Law. Thanks to Aziza Ahmed, Michelle Anderson, Jack Beermann, Renee Burbank, Nancy Chi Cantalupo, Rachel Camp, Tianna Gibbs, Neil Gallagher, Aya Gruber, Chris Hamilton, James Hodge, Tammy Kuennen, Gary Lawson, Linda McClain, Sarah Nesbitt, Karen Pita Loo, Angela Onwuachi-Willig, David Rossman, Katharine Silbaugh, Rory Van Loo, Heather Yountz, the members of the Clinical Law Review Writer's Workshop and the members of the Boston Area Feminist Writing Group. Thank you to research assistants Susanna Chi and Katherine Quezada for their nuanced insights. A special thanks to my incredible research assistants of almost two years Kelsey Scarlett, Jaclyn Tayabji, and Lexi Weyrick, whose wisdom and thoughtfulness I consistently relied upon. This Article is dedicated to the law student survivors I have worked with. I am in awe of your resilience and your courage. Pour Suzanne Bondat, MariePaule Bondat, Claire et Dylan.