



THE COST OF REPORTING:

Perpetrator Retaliation, Institutional Betrayal,
and Student Survivor Pushout



**KNOW
YOUR IX**
A PROJECT OF ADVOCATES FOR YOUTH

Content Warning:

This report contains the first person accounts of survivors, including direct quotes from survivors about their experiences—which includes quotes from school administrators and their perpetrators. The report does not include detailed descriptions of the sexual violence or harassment, but does describe survivors' experiences in the aftermath of violence and trauma.

Acknowledgments

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Dedication

This report is dedicated to student survivors and advocates who have continuously fought for and demanded their right to an education free from violence, harassment, and discrimination; the many survivors who felt emboldened to share their stories and challenge the status quo; and the many more who never will.

Founded in 2013, Know Your IX is a survivor- and youth-led project of Advocates for Youth that aims to empower students to end sexual and dating violence in their schools.

Advocates for Youth partners with youth leaders, adult allies, and youth-serving organizations to advocate for policies and champion programs that recognize young people's rights to honest sexual health information; accessible, confidential, and affordable sexual health services; and the resources and opportunities necessary to create sexual health equity for all youth.

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I. INTRODUCTION

Title IX is a civil rights law focused on ensuring gender equitable access to education in any school that receives federal funds. Under the law, when a student experiences sexual violence and notifies their school, the school is obligated to take measures to ensure that the student feels safe on campus and is able to fully access their education in the wake of violence. Student survivors do not have to officially report sexual violence to access accommodations like moving test deadlines or changing dorms, but some survivors choose to formally report so that the school can take action against their perpetrator to whatever extent is necessary to restore the survivor's full and equitable access to education. In other words, schools are bound by Title IX to help make sure sexual violence does not push a survivor out of school.

Our survey of more than 100 student survivors who formally reported sexual violence to their schools found a massive failure on the part of schools to fulfill their obligations under Title IX. In fact, **39 percent of survivors who reported sexual violence to their schools experienced a substantial disruption in their educations.** Broken down, this means that 27 percent of survivors who reported took a leave of absence, 20 percent transferred schools, and nearly 10 percent dropped out of school entirely.¹ These educational interruptions occur not because of sexual violence alone, but because of sexual violence exacerbated by schools' inadequate or otherwise harmful responses to reports of violence. Survivors describe being blamed for the violence against them, being told the school could do nothing, facing name calling by school officials when seeking support, having their cases drawn out for years, and getting punished for their own assaults after seeking help.

In recent years, colleges have become entwined in a national battle over the rights of survivors of sexual violence and what rights are due to respondents—students named as abusers or assaulters—in those cases. Men's rights advocates and popular press have insisted that Title IX has forced the pendulum to swing too far in the wrong direction. Additionally, former Secretary of Education Betsy DeVos significantly rolled back the Department of Education (ED)'s enforcement of survivors' rights in schools, releasing regulations on Title IX that created special rights for respondents in Title IX cases and made it easier for schools to ignore survivors' reports. Secretary DeVos insisted that enforcement of Title IX rights by prior administrations has led schools to prioritize student survivors' rights over those of respondents. This report will illustrate that this narrative is far from true. Instead, an emboldened backlash to the school sexual assault movement and a massive decrease in Title IX enforcement by the Department of Education has led to institutional neglect for survivor safety, a shocking trend of respondents using school disciplinary systems to retaliate against survivors, a weaponization of defamation lawsuits, and high rates of survivor pushout from school.

¹ The discrepancy between the sum of these numbers and the 38.5 percent statistic comes from the fact that some survivors reported more than one interruption to their education -- for example, taking a leave of absence and transferring schools.

II. METHODOLOGIES

The survey was circulated via Know Your IX’s social media—namely Instagram and Twitter—and email listservs of survivor advocates and Title IX attorneys. Responses were collected beginning on September 1, 2020 and ending on January 9, 2021. The instructions to the survey explained that anyone who experienced sexual violence while a student at any level of schooling and who had reported the violence to an official at their school was eligible to take the survey. There were no criteria beyond self-identification to qualify as a survivor. Participants did not receive any compensation, monetary or otherwise, for responding to the survey.

Preliminarily, the survey asked for the participant’s name, pronouns, and email address as well as how they would prefer to be cited in any Know Your IX materials their story informed. The survey also concluded with a question asking whether the participant would be open to follow-up in the event Know Your IX had further questions. The substance of the survey consisted of one checklist question and seven open-ended questions with text boxes for responses.

The checklist question listed the following thirteen statements and asked the participant to check the box of any and all that they had experienced:

- Perpetrator filed a Title IX complaint against me (after mine)
- Perpetrator found out I was going to file and so raced to file against me first
- Perpetrator/their attorney threatened to sue me for defamation
- Perpetrator sued the school over the case
- Perpetrator filed for a protective order against me in court
- Perpetrator/their attorney threatened to sue the school
- School warned me I could face a defamation suit
- School threatened me with a lawsuit
- School threatened to or did punish me for conduct relating to the incident I reported (ex: drinking, premarital sex, drug use)
- My school encouraged me to take time off
- I took a leave of absence
- I transferred schools
- I dropped out of school altogether
- None of these, but I want to share something

The open questions asked about how the checklist items had impacted the participants’ education, career, finances, health, privacy, or safety in the format: “Did these actions impact your [insert]? If yes, how?” The last open-ended prompt stated: “Please share anything else you would like us to know about this/ese experience/s.” None of the open questions required a response.

Based on the contents of the responses and permissions to follow up, Know Your IX conducted twelve follow-up phone calls and one follow-up email conversation with participants. During these calls, Know Your IX received affirmative permission to take notes and to integrate the findings into Know Your IX materials using the requisite level of anonymity each participant had requested.

III. SURVEY PARTICIPANTS

The survey gathered limited demographic data and did not require the disclosure of any, in order to ensure participants were not deterred from responding. In total, 107 survivors completed the survey. These survivors had reported to their schools between 2002 and 2020, with the spread of reports in each year as follows:

Year	Number of Reports to Schools
2002 - 2011	6
2013	4
2014	6
2015	10
2016	11
2017	12
2018	14
2019	25
2020	13
Blank or Other	6

IV. ADVERSE IMPACTS ON SURVIVORS

Gender-based violence gravely impacts students' ability to equally participate in education. It can be hard to learn in school if your teacher or classmates are sexually harassing you, you have to share education spaces with your rapists or abusive partner, or you are trying to manage trauma symptoms while studying for your finals. Title IX is designed to protect educational access in the wake of sexual violence. Despite this, many survivors report dire educational consequences across the board. Almost 40 percent of survivors surveyed took a leave of absence, transferred, or dropped out of school after seeking help from their school. But even for survivors who did not leave school, the vast majority saw their education gravely impacted. Adverse academic effects of sexual violence also had widespread impacts on survivors' financial wellbeing. In turn, the educational and financial injuries resulting from sexual violence altered many survivors' life paths, forcing a shift—or at least a delay—in their career pursuits. Striking numbers of survivors reported experiencing mental and physical health effects, including post traumatic stress disorder (PTSD) and chronic pain conditions, due to sexual violence. Altogether, these adverse effects significantly degrade survivors' wellbeing in the most salient aspects of their lives.

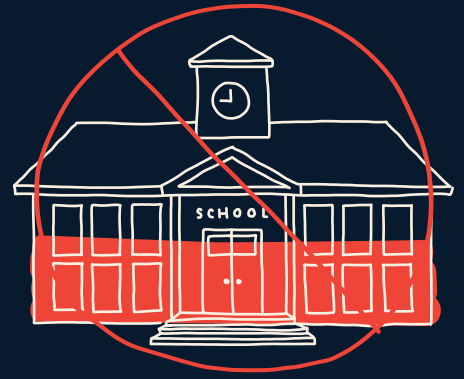
A. Educational Impacts

Nearly every survivor who discussed their grades explained that they suffered following the sexual violence. Some explained that their grades dropped significantly as they became afraid to leave their dorm rooms. For example, one survivor shared that following her assault in college, she was fearful of walking alone in the dark to and from band practice. Her grades were docked for poor attendance and she went from being part of top ensembles all four years in high school to receiving a C and an F in college band. The same was true for high schoolers. Two survivors who were high school students at the time they experienced violence, each recounted their grades slipping. One was stuck not only in the same school, but also in the same home room as her perpetrator. This made it impossible for her to focus on school, as she constantly feared that he would hurt her again. Eventually, both of the high school survivors were forced to transfer high schools.

Many college and graduate school survivors reported dropping at least one class, if not more. One survivor explained that she was forced to become a part-time student after the stress of her assault and Title IX case pushed her to drop two classes. A graduate student survivor explained that she was forced to drop to part-time status as well because her perpetrator, who was a lecturer at the school, continued teaching during the more-than-year-long investigation. He was ultimately found responsible for sexual assault, but she was already a year behind in her degree progression at that point.

Missing out on classroom learning was also a commonly reported experience. One survivor tried to avoid the classroom altogether by taking as many online classes as possible to avoid running into her rapists on campus. She graduated later than anticipated, and she also lost out on the classroom learning and research opportunities. Moreover, multiple survivors explained that they shared classes with their rapists and could not attend without having flashbacks, so they had to take the course as independent studies instead. Other survivors were explicitly told by their schools that it was their responsibility to stay away from their perpetrators, including when creating their course schedules, which limited the class options available to them. Several survivors had to go as far as changing majors. One reported that they changed majors because they shared a class required for their major with their perpetrator. Another explained that though her perpetrator was not in her class, they were in the room directly beforehand and would try to touch her walking out every day to intimidate her. That survivor dropped the class, which she needed for her major, and as a result had to change her entire field of study.

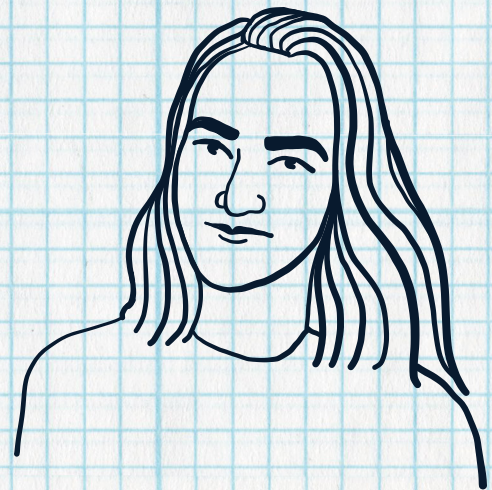
39 percent of survivors surveyed were forced to take a leave of absence from school, transfer to a new school, or drop out of school altogether.



you should take some time off.

35 percent of survivors surveyed reported that their schools explicitly encouraged them to take time off.

"When I started having severe panic attacks because of his presence on campus, they forced me to drop all my classes. I tried to re-enroll for the next semester but couldn't do it and left for good over spring break. Because of my federal loan status, I can't start over at another school. I'll never get the degree I spent years working toward." - Anonymous

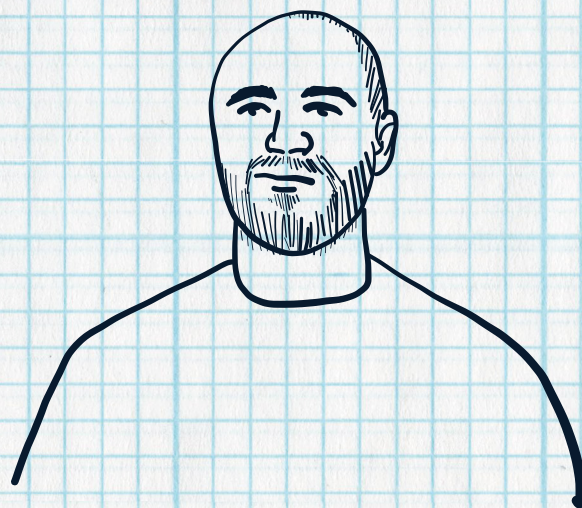


"I was in class with the perpetrator of my rape. I was unable to attend this class without flashbacks and had to take it as an independent study. My grades dropped significantly as I became afraid to leave my dorm room as he was still on campus. The dean of the school of liberal arts was one of my professors and she suggested I withdraw from one of her courses, ironically a women's and gender studies course." - Ana Gelfand

Many of the student survivors who self-advocated for the academic accommodations to which they are entitled under Title IX, experienced little more than apathy--and often overt disregard--from school officials. **When one survivor explained to her professor that her academics were lacking due to sexual violence, he responded: "well, we are all going through something."** A high school survivor shared that when she told her school counselor she was uncomfortable being in the same room as her perpetrator for meetings related to their shared specialized program, the counselor recommended that she drop out of the program altogether if she "couldn't handle it." Several college survivors had similar experiences, such as one survivor who was told to "get over it and move on, or drop out." Another survivor's school officials refused to help her understand her Title IX rights to things like academic accommodations, so she took it upon herself to learn. She spent inordinate amounts of time in the law library, teaching herself legal terminology and protocols so she could understand her rights, leaving her schoolwork to suffer.

Some survivors did not formally drop out but just stopped going to school because of all the trauma. High school survivors in particular pointed to the impact of skipping class and school on their academic achievements. Other survivors were all but told to leave; **one survivor reported that after they were assaulted and began struggling to keep up in school, their school told them "[This] may not be the school for you."** Many survivors' educations have been gravely delayed because of their experiences with sexual violence. One survivor, for instance, had to leave school for a year and a half after her assault when she was eighteen years old. Now twenty-two years old, she is still working on her Associate's degree. Given that Title IX obligates schools to ensure survivors can safely and fully access educational opportunities in the wake of violence, these widespread experiences with academic obstacles and administrative apathy are cause for alarm.

"This impacted my education greatly that semester. I was an above average student and my gpa dropped to a 2.4. I was barely eligible to play sports anymore. I also failed a class for the first time that semester.... I had to pay out of pocket to take 21 credit hours just to make up that class and graduate on time." - Bethany



"I often want to drop out even though I am in my last year. I struggle to go to class." - Anonymous

B. Financial Impacts

Experiencing sexual violence in school can be debilitatingly expensive. Most survivors whose educations were interrupted reported broad financial effects from such disruptions. After failing a class while coping with trauma, one survivor had to pay out of pocket to take twenty-one credit hours in order to be able to graduate on time. Another had to pay not only for the semester in which she withdrew, but also for additional summer classes at local schools in order to stay on track to graduate. Other student survivors regarded withdrawing as a luxury. For example, one survivor explained that she wanted to take a formal leave of absence but had to remain enrolled in order to keep access to her health insurance. That semester was essentially an academic waste and also required her to take out extra loans, increasing her debt. Several survivors pointed to the fact that their perpetrators did not suffer the financial consequences that they did. For example, **when one survivor dropped a class she shared with her abuser because she was on track to fail it, she had to pay \$500 to retake it. Meanwhile, she noted, “[her] rapist did not have to pay anything.”** Another survivor explained that she had to cover the cost of the abortion she needed after her rape left her pregnant by her professor-perpetrator.

Moreover, many survivors reported being out of work and assuming additional debt in the wake of violence. **Several survivors reported they had to choose between their jobs and their safety, as they either worked alongside their perpetrators or their perpetrators frequently patronized the places they worked.** One survivor had to quit her job after her perpetrator applied to work at the same place. **Another survivor was entirely out of work for five months after her rape, which left her homeless.** These financial harms have long-lasting impacts. Multiple survivors reported that despite being years out of school, they were still “beholden to student loans” for wasted semesters engulfed by trauma and their Title IX cases. One survivor reported that she even had to take extra time off to recuperate financially before continuing on to medical school. During that time, she

**“I was out of work for 5 months. I was homeless and had no family support.”
- Anissa Cartagena**

“I haven’t been able to afford returning as a full time student because I have had to pay for lawyers and medical expenses.” - Anonymous



“[Because of the financial impact of it all, I] had to take extra time off before med school and struggled to pay rent, which led to another abusive relationship with additional financial abuse.” - Anonymous

"I had to change majors and minors in order to avoid classes with the perpetrator. I had to quit extracurriculars (we were on the same team) and sacrifice my scholarship. I had to move out of my off campus house and terminate my lease, in order to move in the dorms so that my no contact order would apply. I also had to quit a job I had been previously working at where he applied for, as the no contact order didn't apply off campus." - D.K.

"I lost all scholarships by transferring." - J.B.

"...the fact that I was paid on his (my abuser's) grant kept me from telling anyone with the authority to help me until I felt I had no other choice but to report to Title IX (which I did not want to do) because he was going to be teaching a required course on Victimization my first semester of my second year of grad school." - Erin



struggled to pay rent, which led to another abusive relationship with additional financial abuse. Other survivors never completed school because of the financial costs. One even explained that they were prohibited from starting over at another school because of their federal loan status. For that survivor, sexual violence meant incurring substantial debt without the prospect of ever obtaining a degree.

Other survivors, especially graduate students, explained how their existing financial constraints at the time they experienced violence precluded them from seeking help. One graduate student explained that he experienced ongoing abuse at the hands of a romantic partner, but he had to stay because he "couldn't afford to take a leave [of absence] from school." **Several graduate students in PhD programs were trapped in abusive environments because their abuser was also their professor, advisor, and employer.** For these students, who largely intended to pursue careers in niche corners of academia or research, their abusers were some of the most powerful people in their fields. This meant not only choosing between their present livelihood and their safety but also potentially risking damage to their professional reputations, especially for women in male-dominated fields. Some of these survivors reported enduring ongoing abuse to the point of mental breakdowns. For one, her abuser's retaliation in the form of stealing her ideas and excluding her from important lab discussions, pushed her to report. For another, it was not until she realized she would have to enroll in her abuser's course on victimization that she finally decided she had no choice but to report.

"[After dropping out of my university,] I attended community college for two years (admittedly some of the best education I've received) to build up my very poor gpa. I ended up transferring into a four-year social science program instead of continuing with engineering, because I did not have a high enough gpa to make it into decent engineering programs." - Audrey Chu



"All of the people who should have protected me instead turned against me. What's more, the Title IX coordinators constantly fed me misinformation, "accidentally forgot" to include evidence, never responded to me, refused to move the hearing date to accommodate one of my witnesses because they had already ordered the catering, and were just deliberately incompetent at every step of the way. They put up every roadblock they could find to try to get me to drop my case... [Ultimately,] I left neuroscience, my field of study..." - Kirsten

C. Career Impacts

These educational and financial impacts reverberate into survivors' careers. Many survivors reported that their slipping GPAs or time off from school forced them to shift areas of study. In particular, several woman survivors reported that sexual violence pushed them out of male-dominated fields like science, technology, engineering, and mathematics. Other survivors lost out on the chance to contemplate their career paths entirely. For instance, one survivor explained: **"I was so focused on surviving that I never had the opportunity to plan or look forward to the future."** For those who spoke out publicly about the violence they had experienced, their names will forever be associated with survivorship. A woman who was assaulted during her graduate program while pursuing a career in academia noted that being public about her assault "will undoubtedly hinder [her] ability to get a job in academia." She was assaulted her first year, did not receive a finding until the end of her second year, and has been "embroiled in... multiple lawsuits since then." She believes that the weight of this all, plus the publicity around her assault in a relatively small academic community, will haunt her professional future.



more than 40 percent
of survivors disclosed that
they suffered from PTSD,

more than one-third
reported experiencing anxiety,



and more than one-quarter
raised becoming depressed in the
wake of violence.

"The college claimed that I was "unstable" simply because I discussed my resulting PTSD and worsening depression to the college counseling center. I was told to take a "voluntary" medical leave for the semester or I would not be refunded tuition for the semester that had just begun. They knew my family is a low-income immigrant family. I took a forced "voluntary" medical leave and continued with the Title IX investigation from home..." - Oksana Mykhaylyk



"When speaking about my experience or when I am reminded of it I feel phantom pains in my pelvis that radiate down my legs. I developed PTSD-induced psychosis due to my hypervigilance." - Ana Gelfand

"I became a shell of the person I am today..." - Anonymous



D. Health Impacts

The mental health effects of experiencing sexual violence are extensive. Though our survey of survivors who reported sexual violence to their schools did not ask about specific mental health diagnoses, more than 40 percent of survivors disclosed that they suffered from PTSD. More than one-third of survivors reported experiencing anxiety, and more than a quarter raised that they became depressed in the wake of violence. Nearly 15 percent of survivors mentioned panic attacks or panic disorder, and roughly the same proportion brought up suicide attempts or suicidal ideation. One survivor even experienced full-fledged PTSD-induced psychosis. Given that all of these diagnoses and experiences were raised unsolicited in the survey responses, the actual percentages are likely significantly higher.

The physical health implications of experiencing sexual violence often go unacknowledged, but these health issues—especially chronic ones—also produce hefty and enduring emotional and financial costs. A number of survivors, for instance, reported developing digestive issues linked to trauma, which led to difficulty eating and often excessive and unhealthy weight loss. Others disclosed excessive weight gain or other unhealthy relationships to food and their bodies. In fact, **when asked generally what health implications their experiences of sexual violence had for them, nearly one-fifth of survivors described disordered eating.**

Several survivors also developed or experienced flare-ups of chronic pain disorders after experiencing sexual violence. Two survivors reported developing Conversion Disorder, a nervous system condition that causes symptoms like seizures and vision difficulties or blindness, due to the stress of their assaults and their schools' investigation processes. Yet another survivor developed fibromyalgia, a disorder characterized by musculoskeletal pain and chronic fatigue. She still struggles with that chronic pain daily, more than five years out from her assault. She explained: "my chronic pain condition is a constant—and lifelong—reminder of the violence I experienced in school." Moreover, many survivors who already had chronic pain disorders explained that they had acute flare-ups after experiencing sexual violence. Even without formal diagnoses, several additional survivors reported experiencing "the physical ache and pain of the trauma" and "phantom pains" in their bodies—particularly the pelvic region—since their assaults, making clear the physical marks trauma can leave on the body.²

These physical and mental health difficulties endure—sometimes for years, sometimes forever—and with chronic health problems come chronic healthcare costs. One survivor put it plainly: **"It's not just the cost of the immediate medical needs, it's having chronic medical and mental health needs."** And the cost is not just monetary. Years out from experiencing violence, many survivors express the same sentiment that one survivor disclosed in their survey response: "I'm still suffering."

² Researchers have noted how trauma can have substantial long-term physical impacts. To learn more about the connections between trauma and chronic pain or other physical manifestations of trauma we suggest *The Body Keeps The Score* by Bessel van der Kolk.

V. TRAUMA OF THE REPORTING AND INVESTIGATION PROCESS

Notwithstanding the extensive, persistent, and well-documented adverse effects of sexual violence itself on student survivors, survivors consistently described something else as at least as traumatizing as the violence itself: reporting to their schools. Survivor narratives paint a grisly image of this phenomenon, which scholars have dubbed “institutional betrayal.”²

Several survivors explained that their PTSD diagnoses were linked not only to the violence, but also to their schools’ responses to that violence. For example, one high school survivor explained that most of her PTSD treatment has focused on sorting through the shame the school inflicted upon her when she reported. Another survivor reported that her trauma nightmares involve not only re-experiencing the assault, but also re-experiencing the horrific ways her school’s Title IX office treated her throughout the reporting process. As another survivor, who was forced to report against her wishes upon seeking medical care in the wake of her rape, explained: **“Honestly, what the school did to me was worse than what my rapist did to me.”**

A frightening number of survivors reported difficulties even initiating the reporting process. One survivor called the Title IX office to request information on how to file a report; no one ever returned her call. Another survivor who spent two years after her assault working up the courage to report, was told her case was “dead in the water” because it was a he said/she said matter. **When one woman expressed concerns about inadvertently impacting her rapist’s immigration status while reporting, the Title IX coordinator—instead of clarifying that a Title IX report does not subject someone to deportation—told the survivor: “if you don’t want to report it and ruin his life, you don’t have to.”** And yet another survivor was barred from opening a case altogether for no permissible reason: “according to the dean of students at the time, my rapist was leaving anyway.”

High school survivors, who are less likely to even know that they have rights under Title IX, experience unique barriers in their efforts to report sexual violence. One survivor shared that her school did not even have a Title IX coordinator or reporting procedures—in violation of the law. When she needed help after experiencing violence from another student in her cohort program, **she turned to the dean, who told her, “nothing could be done because the perpetrator ‘said he didn’t do it.’”** The dean never mentioned Title IX or the option of an investigation. Another high school survivor seeking recourse submitted a seven-paged letter to her local board of education describing her experience of violence. She and her parents met with the board to review the letter, and the board said someone would follow up. They never did. School officials’ efforts, at both the high school and post-secondary education levels, to block students from even accessing the reporting process under Title IX deprives survivors of their rights, and risks leaving campuses less safe.

Survivors also reported extensive victim-blaming by school officials throughout the investigation and hearing processes. Two high school students explained that each of their school resource officers (SROs) were involved in their report or investigation process. Both said the SROs explicitly blamed them for their own assaults. Another high schooler who mustered the courage to come forward was told by school officials that her assault was her fault, she was overthinking it, it could have been worse, and “at least [the assailant] didn’t rape [her].” A graduate student recounted a similar experience: after her program director threatened her to stay silent, the

³ Smith, Carly Parnitzke, and Jennifer J Freyd, (2014). “Institutional Betrayal.” *Am Psychol*, vol. 69, no. 6, doi:10.1037/a0037564.



70 percent of survivors who reported to their schools stated they experienced adverse effects on their safety and privacy.

"The insensitive response from my school added a whole other trauma on top of the actual sexual assault. I was diagnosed with PTSD, but a large portion of my continued PTSD treatment has to do with the shame inflicted upon me by my high school. It's hard to deal with people of authority, like school administrators, telling you that your truth isn't enough, or that what happened wasn't "bad enough" for my perpetrator to face any disciplinary action." - Anonymous, high school survivor

"I'm finally growing into my anger around this. I was underage and vulnerable and violated and my university told me that what I experienced wasn't sufficient to do anything about it. It took me so long to feel like maybe, just maybe, someone might hear me... I hoped that maybe I would be able to help others speak up. But now I only want to be silent because my voice should have mattered. And I was told that my voice mattered, but all of their actions proved otherwise." - P.D.

"I firmly believe that the way my case was handled as well as the social pressures within my department made my trauma into deeper, more lasting damage." - Emma Taylor



dean told her the abuse was her fault. In another case, the investigator, who was also the chair of the social work department, invoked age-old misogyny by likening the survivor's Title IX report to a witch hunt. And at one survivor's hearing, the panel asked her why she had been alone with her perpetrator: **"when I stumbled over my answer, [they] said that it must have been because I was 'too stupid to know better.'"**

Just as many survivors reported egregious procedural issues throughout the investigation and hearing process that made the experience unbearable. Several survivors reported that their Title IX coordinators told them they had lost key evidence or otherwise "forgotten" to include it in the report (these were not exclusions based on relevance; they were errors). One survivor explained that her key faculty witness had a conflict with the proposed hearing date. **When she asked the school to move the hearing date to accommodate her witness, the Title IX coordinators "refused... because they had already ordered the catering."** (The survivor shared that, despite this, there was no food present at the hearing).

Some survivors were not given full information on the process. One survivor explained that they were never told the other party would be able to view all evidence submitted to the decision-makers. Not knowing this, they submitted nude photographs depicting the bruises and hematoma left on their body after the assault. They later learned that they had been exposed to their perpetrator all

over again. Another survivor experienced the inverse of this when her abuser weaponized the disclosure of evidence. On the day of the hearing, he brought in a packet of “evidence” he had not submitted through the proper channels during the investigation. That packet contained semi-nude photos of the survivor that had nothing to do with the allegations at issue, but the abuser distributed them to each of the decision-makers and all the parties present. He also revealed intimate details of their relationship throughout the nine-hour hearing, with no intervention from the school. The survivor described it as utterly humiliating.

Survivors who made both Title IX and criminal complaints talked about the inappropriate use of one to delay or impede the other. Despite the fact that the standard of evidence in a criminal complaint is different than in a civil rights—and therefore Title IX—complaint, one high school survivor reported that her school relied on local prosecutors’ determinations to dispose of her case. The school superintendent called the district attorney and asked whether they would be prosecuting the case. When the district attorney said no, the superintendent used that to dismiss the survivor’s Title IX complaint. Another survivor recounted that her university decided to postpone her hearing not just until after the police finished their investigation and evidence collection but until the criminal case was entirely closed. **This meant that after she reported, she spent 519 days sharing a campus with her armed, violent abuser before her Title IX complaint was resolved.**

Even without a criminal complaint pending, survivors reported extraordinarily long timelines. These students reported sexual violence because sharing a school with their perpetrators made learning—and surviving—so difficult. But their schools’ lack of urgency left them without recourse for months, even years. One survivor’s investigation dragged on through her entire time in school. She explained: **“I am currently a senior in college and I reported freshman year first semester. I still haven’t gotten the results of my case back.”**

Institutional indifference, procedural errors, victim-blaming officials, and outrageous delays have a lasting impact: they discourage survivors—and their peers—from seeking help in the future. One graduate student survivor explained that if she had known what she would face when reporting, she would never have gone through with it. Another survivor stated that the whole process destroyed her worldview: **“[O]nce you learn that so many systems are designed to hurt people who have already been hurt, and how selfish universities are in handling these incidents... it breaks your trust.”** Others echoed the sentiment of broken trust. And it was not just the survivors who had reported who were deterred; one high school survivor wrote that her perpetrator harassed and assaulted many other girls at her school, but once they saw what happened to her, they decided not to come forward. This gives only a peek into the dual harms caused by schools’ mishandling of reports of sexual violence. Not only does that mishandling deprive survivors of their right to equal access to education, but it also has a ripple effect—allowing sex discrimination to permeate the learning environment unabated.

Being forced to live and learn in such an environment is crushing. One survivor explained that her school’s response made her internalize the belief that she was a nuisance simply for being raped. Another survivor wrote that even six years out from her experience reporting abuse, she still has nightmares where she seeks help from school officials but nobody listens. When survivors suffer mental health declines and feel shut down from all angles, the consequences can be permanent. One survivor whose school has been dragging its feet since she was raped a year ago wrote: **“At this point, I fear that my school will push me to take my life.”**

VI. PUNISHING SURVIVORS

15 percent of survivors who reported to their schools were threatened with or faced punishment for coming forward



Of those survivors, an astounding **62.5 percent** either took a leave of absence, transferred schools, or dropped out

Of survivors who reported to their schools, 15 percent stated that they faced or were threatened with punishment by their schools in connection with coming forward. Of those survivors who faced or were threatened with punishment, an astounding 62.5 percent either took a leave of absence, transferred schools, or dropped out. Survivor punishment takes multiple forms, all of which erase the experience of violence and silence survivors. The most commonly reported forms were punishment for **ancillary misconduct, the violence itself construed as the survivor's own misconduct, trauma responses, and speaking out.**

When student survivors report sexual violence, they too often face punishment for something else they may have been doing at the time of the violence. One survivor explained that their school was more concerned with the fake ID they had used that night than the fact that they had been raped. For high school students, sometimes the conduct punished isn't even ancillary; high schools have been known to punish survivors for "engaging in sexual contact"—their assault or rape—on school grounds.³ One high school survivor's school officials suggested as much. After she was sexually assaulted on a field trip, she told the chaperones what had happened. **"The field trip sponsors blamed me for the incident and told me that if I reported the student, I would lose my officer position and would no longer be allowed to travel with the organization for competitions."**

⁴ Kitchener, Caroline. "She Reported Her Sexual Assault. Her High School Suspended Her for 'Sexual Impropriety.'" <https://www.thelily.com>. The Lily, August 26, 2019. <https://www.thelily.com/she-reported-her-sexual-assault-her-high-school-suspended-her-for-sexual-impropriety/>.

"Ultimately, I was dismissed from the MSW program for "unprofessional conduct" including leaving the classroom when I was triggered by hearing my perpetrator's voice; for crying after a faculty member screamed at me; and for speaking with some of my peers about my experiences." - Angela D.



"I am fearful of my reputation on campus as I know the school sees me as a major liability. As they have found out that I have told people like my roommate about details of my case, I have been threatened with going in front of our school student justice panel for breaking rules." - Anonymous

Other survivors faced punishment for their behavior in the wake of violence. One high school survivor said that her school refused to protect her from the boys who assaulted her. Then, when those boys tried to touch her inappropriately in class, she was punished for fighting back. In the end, the teacher made **her**, not them, switch seats. A social work graduate student was also punished for her post-assault conduct. She left the classroom when she heard her perpetrator's voice, an instance her school cited when it ultimately dismissed her from her degree program for "unprofessional conduct."

Many survivors faced threats of punishment from the school for speaking out about their experiences of violence. Several survivors were told not to share their stories on social media or even with friends or else they would face conduct charges. One was even told she would lose her dorm privileges if they spoke about their case. Another survivor was reprimanded for requesting detailed explanations about the disciplinary and appeals processes. The bottom line was clear; as one survivor put it: **"the school was trying to punish me for getting raped."**

VII. PERPETRATOR BACKLASH

Intimate partner violence experts have long highlighted how perpetrators of violence manipulate systems, often ones meant to protect survivors, to continue their abuse. For example, if a survivor of intimate partner violence attempts to leave their abusive partner, the abuser may utilize court systems against the survivors--this is commonly referred to as litigation abuse.

Litigation abuse is an extremely difficult form of abuse to navigate because it is hard to limit someone's access to the legal system and is often extremely costly for the survivor.⁴ This abuse can commonly look like:⁵

- Filing for a protective order against the survivor and their friends or family--abusers will often do this if a survivor has already filed for a protective order.
- Waging custody battles and portraying survivors as unfit parents and/or requesting mental health evaluations.
- Filing frivolous motions, appeals, motions for revision, or motions for reconsideration, forcing the survivor and abuser to meet in court, and spend time and money.
- Attempting to bring issues that have already been decided back into court ("relitigate").
- Making burdensome discovery requests and/or using the discovery process to bring up embarrassing or irrelevant information about survivors.
- Prolonging court proceedings to inflict financial and/or emotional harm.
- Suing the survivor for reporting abuse.
- Suing or threatening to sue anyone who helps the survivor, including family, friends, advocates, attorneys, and law enforcement officers.
- Filing complaints against the judge or the survivor's lawyer.

While the school disciplinary process is not intended to be a court process, the survey revealed striking similarities between the retaliation student survivors faced from their perpetrators and litigation abuse. Survey responses indicated that respondents used school disciplinary resources similarly to how abusers have utilized legal systems to further abuse. Additionally, the survey revealed that many respondents, and even schools, utilized or threatened to utilize legal systems to control and/or silence survivors.

⁵ Ward, David (2016) "In Her Words: Recognizing and Preventing Abusive Litigation Against Domestic Violence Survivors," Seattle Journal for Social Justice: Vol. 14 : Iss. 2 , Article 11. Available at: <https://digitalcommons.law.seattleu.edu/sjsj/vol14/iss2/11>

⁶ Domestic Violence Manual for Judges, Appendix H: "Abusive Litigation and Domestic Violence Survivors," by Legal Voice

10 percent of survivors who completed the survey reported experiencing retaliatory cross-filing



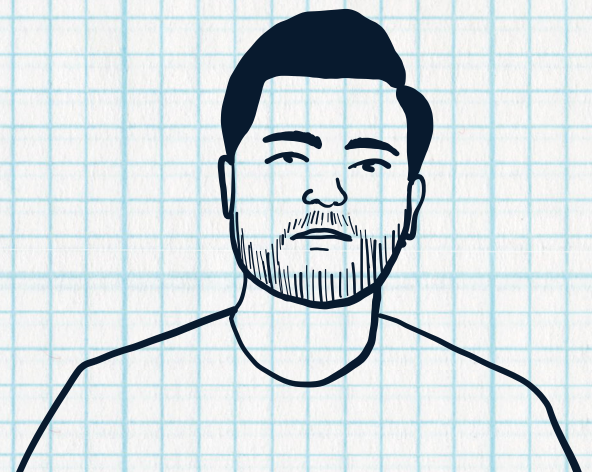
Half of survivors who faced retaliatory cross-filing took a leave of absence or transferred schools

"[As a result of his retaliatory cross-filing,] I was charged with harassment by my university and forced to participate in the... program on healthy relationships. I was also banned from certain leadership roles at my school." - Anonymous



"My abuser was, and potentially still is, monitoring my (private) social media accounts for mentions of him and abuse. Following our trial, he still reported me to [the school] at least 10 other times for defamation and harassment. I was an art major so he reported every piece of art I made as being implicitly about him. He also has reported me and made retaliatory statements of me being an abuser..." - Anonymous

"[My] perpetrator tried to open a case against me for "damaging his reputation" (libel/slander). As a result, school disregarded my existing case and forced us to do mediation (despite my existing no contact order against the perpetrator). During this process, they refused to remove him from classes/extracurriculars with me. I had to quit debate and sacrifice a scholarship, had to endure classes with him, and was stalked on campus for nearly a year." - D.K.



A. Retaliatory cross-filing:

Survey responses illuminated a concerning new trend, as nearly 10 percent of survivors who completed the survey reported experiencing some sort of retaliatory cross-filing. The survey asked survivors to indicate if either of these statements was true for them with respect to the school reporting process: (1) perpetrator found out I was going to file and so raced to file one against me first; or (2) perpetrator filed a Title IX complaint against me (after mine). **Every single survivor who experienced retaliatory cross-filing reported to their school no earlier than 2016, and 80 percent reported to their school no earlier than 2018.⁶ Moreover, half of survivors who faced retaliatory cross-filing took a leave of absence or transferred schools.** This spread of numbers demonstrates that the phenomenon of retaliatory cross-filing by perpetrators is extremely recent, on the rise, and contributes to student survivor attrition.

Survey responses from survivors showed that retaliatory cross-filing through the school was similar in tactic and outcome to perpetrators who abused survivors through litigation by cross-filing for protective orders, filing frivolous complaints, relitigation attempts, and prolonging court proceedings. In campus disciplinary systems, as in legal systems, the goal of these tactics was to force survivors and their perpetrators to have to interact through the disciplinary process, drag out the process, control and/or silence the survivor, and drain their time and financial resources.

Several of the survivors who experienced cross-filing mentioned that it occurred multiple times, often in response to the survivor speaking out. One survivor indicated she was going to file a complaint for the nearly two years of abuse she had endured, and so her perpetrator preemptively filed a harassment claim against her. When she went in to talk to the Title IX office in response to the charge against her, she disclosed his extensive abuse. This survivor was an art major. Following her disclosure, her abuser stalked her social media to view her art and then reported it—at least ten times over the next year and a half—to the school as harassment. He was neither named nor identified in any of it, but each time, she had to answer to the frivolous and abusive complaints.

Other survivors reported similar cross-filing in which their perpetrators painted accountability as harassment or attempted to flip the script of who had abused whom. One survivor shared that in response to her case, her perpetrator tried to open a case against her for damaging his reputation. The school entertained the charge, merging his claim with hers and forcing the survivor into a mediation with her perpetrator. In the meantime, the school refused to remove the perpetrator from any of her courses or extracurriculars—including the one that sponsored her scholarship—and so after extensive stalking, she had to quit the activity, lose her scholarship, resign from a job, break her lease, and move apartments.

Another survivor explained that her rapist took a kitchen sink approach to avoiding accountability by cross-filing. After she was strangled and raped by a classmate her freshman year, the survivor reported to her school. One month later, after a process through which the rapist maintained that everything had been consensual, he was found responsible and suspended for one year. He exhausted his appeals, and the finding and sanction remained in place. Six months later—during which time he continued to cyber stalk and harass the survivor in violation of the no-contact order—the rapist filed a Title IX complaint against the survivor alleging she had raped him that very night, which he had previously contended was entirely consensual. **“I then had to read over ten pages of him describing me as too tall, fat, and ugly to be raped, and basically describing me as a racist caricature of a Black woman,”** she explained. Her rapist even nodded to the retaliatory nature of his own claim, requesting in his complaint that the rape finding against him be wiped from his record. The school eventually dismissed the cross-filing as meritless, at which point the rapist messaged her suggesting they sue the school together. She reported this as a violation of the no contact order, but no further action was taken against him.

The following semester, the aforementioned survivor started a petition online to push the school to take basic measures to support survivors—not disclosing or alluding to her rapist’s identity once. In response to her petition for survivor rights on campus, her rapist filed yet another frivolous, retaliatory harassment charge against her through the Title IX office. His attempt to punish her for self-advocacy was so blatant that for the location of the alleged incident, he wrote: change.org.

⁷ Nearly half of survey participants reported to their schools before 2018.

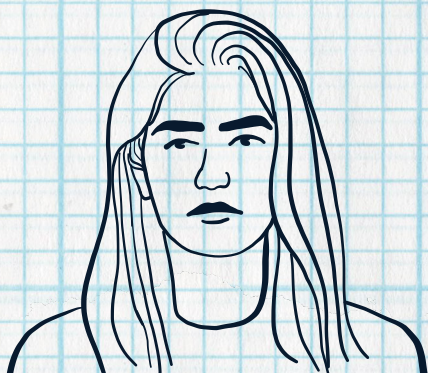
B. Abuse Through Attorneys, Private Investigators, and Other Third Parties

Survivors reported that in an effort to silence, scare, or further abuse them, their perpetrators used third parties to harass and intimidate against them. Some survivors shared that their perpetrators hired private investigators to stalk them or dig into their personal life. One graduate student survivor discussed how her rapist hired a private investigator to look into her. Because her degree did not require further coursework, she was able to move out of the city where her university was located, but the invasion of privacy was enormous. Another survivor shared that after facing retaliation, continued harassment, and stalking from her rapist for years, she moved out of the country in hopes of making the violence stop. Instead, her rapist hired a private investigator to follow her around her new home country, and his attorney continued to watch her social media accounts to stop her from speaking publicly about the assault and continued harassment.

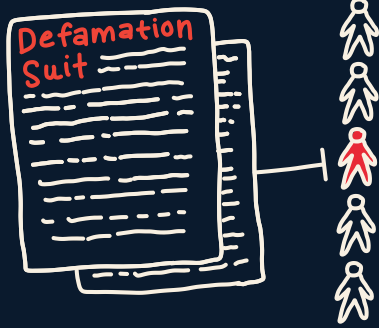
Other survivors named their perpetrators' attorneys themselves as extraordinarily harmful. Several survivors shared that their perpetrators' attorneys monitored their every move on social media and would try to find information to discredit them that they had shared on blogs or other sites that were unrelated to the complaint. One survivor reported that she considered her rapist's lawyer to be nearly as harmful as her rapist himself, given his willingness to lodge unfounded retaliatory complaints against the survivor simply because his client was found responsible for raping her. Another echoed this sentiment: **not only did her rapist's attorney help her rapist file two frivolous Title IX complaints against her, but when both of those failed, that attorney then assisted the rapist's girlfriend (from the time of the rape) in filing a complaint against the survivor.** The nine-part complaint accused the survivor of being insecure and fat and "stealing" this student's boyfriend in order to prove she could. The date listed for the incident was the date of the survivor's rape.

Survivors commonly shared that their perpetrators retaliated against them through friends, family members, intimate partners, social organization members, and even professors. Numerous survivors said that members of Greek life posted fake stories about them on social media to discredit them, posted private photos of them online, barred them from social events, and repeatedly threatened and harassed them. One survivor shared that her rapist's fraternity brothers continuously threatened her on her walks to class or work and even stood outside of her classes and workplace to watch her through the windows. Similarly, another survivor shared that after she filed a complaint with the school and her rapist admitted to assaulting her, members of his fraternity would call her a "liar" and a "slut" whenever they passed her on campus. Survivors explained that this sort of continued harassment only compounded the harm of the initial violence and institutional betrayal.

Additionally, multiple survivors shared that their assailants and members of the school falsely reported the survivors were actively suicidal.. These false reports led to police showing up at the survivors' homes for a wellness check. For some survivors, that resulted in the police escorting them to the hospital against their will or involuntarily committing them to inpatient care facilities. Survivors noted that these wellness checks were routinely used to undermine their credibility by making them look "unstable" and therefore unbelievable. Multiple survivors of intimate partner violence, particularly those who faced pre-emptive retaliatory cross-filing, shared that their abusers requested wellness checks on them once the abuser learned the survivor planned to seek help from law enforcement or their school. These efforts typically stopped the survivor from seeking help, or gave the abuser an opportunity to file a complaint against the survivor before they could make a report. Survivors noted that during the cross-complaint proceedings, their assailants would weaponize the wellness checks against them to make them appear incredible compared to their abuser.



"I had members of Greek life who felt I was a threat to the system post pictures and fake stories about me to ruin my reputation/credibility." - Anonymous



More than **1 in 5 survivors** were threatened with a defamation suit

C. Use of Defamation Suits

In addition to cross-filings, the survey revealed yet another growing trend of retaliation: the threat and use of defamation lawsuits by perpetrators against their victims. Of survivors who took the survey, 23 percent reported that their perpetrator or the perpetrator's attorney threatened to sue them for defamation, and 19 percent of survivors were warned by their school of the possibility of a defamation suit. Several survivors commented on the silencing effect of these threats, which isolated them even from their closest support systems. One survivor wrote that her abuser threatened to sue her for defamation if she reported, saying **"If you come after me, I'll come after you."** Another explained that her perpetrator's family contacted her family, threatening them with a lawsuit unless she dropped her Title IX case. The threats universally inspired fear, discouraged online engagement, and inhibited reporting, because the survivors knew those threats were not empty ones. As one survivor wrote: "Knowing my abuser—he will do anything to retaliate against me."

One graduate student survivor described how her professor perpetrator followed through on his threats, suing her for defamation for speaking out about her assault. She explained that she knew he was watching her every move online before, but now that surveillance feels even more threatening: everything the survivor posts or states publicly, she knows, may be put before the court and used to draw out the process even longer. Even if none of the evidence ultimately holds against her, she and her attorney must use up time and resources to defend against the allegations. Meanwhile, she continues to pursue her PhD, heal from trauma, and ensure her actions to protect herself against discrimination are not further weaponized against her to block her from pursuing her desired career in academia, all while her assaulter remains largely unscathed and on paid leave.

Another survivor highlighted the privacy implications of a defamation suit. After she was raped by a lecturer at her university and reported to the school, a graduate student pursuing a dual degree was hit with a defamation lawsuit. **Even though the defamation suit was ultimately dismissed, the survivor shared, "his complaint is online and appears in Google searches about me."**

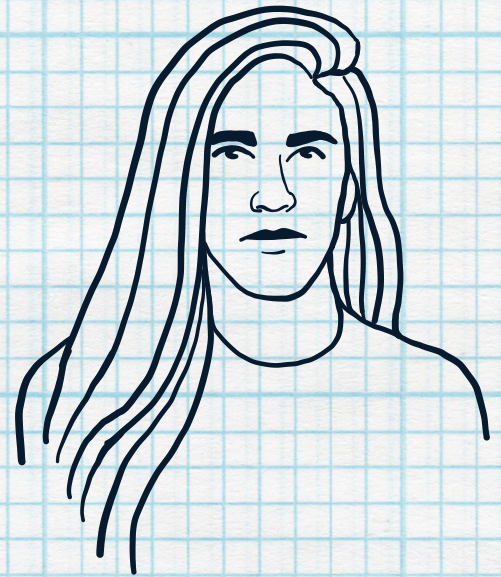
Both the pursuit and threat of defamation suits had harmful consequences for survivors. Nearly every survivor threatened or hit with a defamation suit reported rolling back their online engagement altogether, tightening privacy settings or ceasing to post on social media at all for fear that any content would be weaponized against them. One high school survivor lost the chance to pursue her Title IX case altogether, in part because her parents were too wary of facing a defamation suit. Another high schooler described how the threats of defamation spanned beyond punishing her: **"Some teachers almost lost their jobs trying to protect me,"** she wrote. Several survivors expressed depression and suicidal ideation as a result of the threats and harassment linked to defamation suits, and one left school entirely because of the threatened suit. Those who remained lived in constant fear not only of physical retaliation, but of legal retaliation. As one survivor put it: "I was always sweating over what his next move would be to try and hurt me or my case."

D. Schools' Perpetuation of Harm

Survey responses showed that schools were often complicit in the abuse survivors were facing through adjudication processes and did not intervene to stop it. Additionally, schools caved to the demands of respondents and prioritized their access to education over survivors.

In response to fear and threats of frivolous lawsuits from respondents, schools often bent over backwards to meet the requests of perpetrators and their attorneys. As one survivor puts it: **"During the Title IX hearing, the school repeatedly had catered to the perpetrator. I would later find out that it was because the school didn't want to get sued."** Even in cases that should have been fairly straightforward, schools still prioritized respondents to survivors' detriment due to the looming threat of litigation. One survivor who had been drugged and raped had a plethora of evidence available in her Title IX case—in her words, "more evidence than is available in many cases." Nevertheless, that survivor said her school, in order to avoid a lawsuit, "downplayed the seriousness of the perpetrator's misconduct" and "went with evidence they called 'bulletproof.'" Reflecting on the harmful effects of her school's decision, the aforementioned survivor explained: "This cowardly decision of course came at my expense—there was more than enough to prove he had full on raped me." Along the same lines, schools often caved to pressures put directly upon them by lawyers representing respondents. As one survivor shared: **"Because they hired a lawyer that specialized in suing institutions, the university caved and let my abuser skip out on the punishment that was mandated at the end of the Title IX case."**

"I was constantly questioning my safety as he was allowed to still be on campus and attempted to hit me with his car, and left threatening notes on my car." - Bailey Sherman



VIII. SCHOOLS' DISREGARD FOR SURVIVOR SAFETY

The survey yielded an enormous set of responses emphasizing schools' disregard for survivor safety. **In fact, 70 percent of survivors who reported to their schools stated they experienced adverse effects on their safety and privacy.** These safety concerns led to a plethora of negative impacts, ranging from further physical and psychological harm to increased vulnerability to school drop-out. Each narrative makes clear one principle: when schools disregard survivor safety, Title IX's command of equitable educational access goes unfulfilled.

Survivors reported several instances in which their schools blatantly disregarded their mental health concerns, even to the point of deliberately exacerbating them. A high school survivor explained that her mental health declined so severely in the wake of her assault that she turned to the school for help. "Even when I tried to ask for help," she wrote, "the staff shrugged it off." One college survivor informed her school that she had a PTSD diagnosis that prevented her from being in the same room as her abuser. Despite that knowledge, the school forced a mediation between the two. The experience triggered intense trauma responses that disrupted the survivor's ability to succeed in school. **Another survivor endured complete invalidation from her college dean, who told her "just because you felt victimized doesn't mean you actually were." Aware of her declining mental health, he said straight to her face: "[n]o one [at this school] would care if you killed yourself, including [your perpetrator]."**

Survivors also recounted endless experiences of their schools altogether neglecting their safety after they reported sexual violence. One high school survivor explained that even after she reported, her school failed to ensure she was not placed in classes or testing rooms with her perpetrator. Her mom had to call the school and have her schedule changed after the survivor was placed in the same math class as her perpetrator, who had assaulted her while she was helping him in math class the prior year. A college survivor consulted her school about safety options, only to be told pursuing a court order or pressing charges would likely endanger her further. The school offered no alternative measures, only instructing the survivor to think long and hard about what her report would do to her perpetrator's future. **Another survivor asked to have her perpetrator—who was no longer a student at the school—barred from accessing campus, but the school informed her they could not ban someone from a public campus. One year later, that same campus issued a tobacco policy authorizing the school to ban visitors from school grounds for smoking cigarettes.**

"I asked [the school] my options, [and] they said it was pointless to [pursue] a full restraining order or even press charges since it would be likely he would either hurt me more or that nothing would happen." - Anonymous



Two survivors at two different schools who were punished for ancillary conduct as a result of filing complaints for sexual violence explained that they were both placed in the same disciplinary course on alcohol, drugs, and consent as their perpetrators, who were there for the violence committed against those particular survivors. A graduate student's safety concerns were met with an advisory from her faculty that the matter "needed to be resolved 'off campus.'" A group of high schoolers took it upon themselves to protect their friend, whose school did nothing to keep her safe after she reported her stalker. "We just had to be her bodyguards," the student said. And another high school survivor explained her principal's egregious indifference to her concerns of not only personal but also community safety, to no avail: **"I told my high school principal that I was raped and while raping me [the perpetrator] threatened to shoot up the school. The principal did absolutely nothing besides send me home."**

Even those survivors who did have no contact orders or court-issued protective orders similarly struggled to convince their schools to meaningfully enforce them. One survivor obtained a school-issued no contact order because they wanted to ensure their perpetrator stayed out of their dorm. Within one week of that order being issued, the school amended it to allow the perpetrator into the survivor's dorm. Another survivor stated that she and several witnesses notified the school when the perpetrator threatened their safety or harassed them. Despite even criminal findings against the perpetrator on related charges, the school chose to take no safety measures beyond getting the perpetrator's word that he would not contact, harass, or harm the survivor. Yet another school defied court orders to protect a survivor entirely. There, the survivor wrote, **"the university refused to honor the judge's order for him to stay out of my classroom buildings and told me I would have to take it upon myself to avoid him."**

Schools also handled sensitive survivor information carelessly on multiple occasions, jeopardizing survivor safety. One survivor explained that her school provided a system where it was easy to look up other students' addresses, and she lived in a dorm that was particularly easy to access. Afraid she would arrive home to her perpetrator waiting for her in her dorm room, she expressed concerns to the Title IX office multiple times. "[N]othing was done about it." Similarly, when six graduate students came together to file a Title IX complaint against the same professor, who had sexually harassed or assaulted each of them, the students asked the Title IX office to ensure that the professor could not access their home addresses. The Title IX office never responded. Another survivor who reported an anonymous stalker to her school said that the mounds of personal information they disclosed to the Title IX office when reporting ended up in the hands of their anonymous stalker. The survivor was not informed this would happen and was left extremely exposed and vulnerable.

Vast numbers of survivors reported that their schools' apathy toward survivor safety left them vulnerable to further abuse. One survivor's abuser, who was set to be expelled for the violence against her, was in the ROTC program and so had access to weapons. The school dragged its feet with the investigation for so long that the abuser multiple times showed up at the survivor's dorm room, learned her class schedule, and staked out campus dining areas to find her. Another survivor received notes from her abuser on her front porch. He would wait by her car, enroll in the same classes as her, and show up places at the same time as her, with no action by the school. **A different school's decision to let a survivor's abuser remain on campus led to him attempting to hit her with his car. Meanwhile, the school encouraged her to take some time off and wait it out until he graduated.**

"The school ended up making my rapist take a class on drinking, drugs, and consent. They assigned me to the same exact class..." - Lilly Melartin



The night after one college survivor's perpetrator was notified of the complaint against them, that survivor's dorm whiteboard was vandalized with a note that said "I can't sleep now, I'll sleep soon SLUT." The survivor reported the vandalism, along with evidence, the perpetrator had been in that dorm building at the time the vandalism occurred, but the school took no action. The survivor began staying with friends off campus. Another student survivor, who was enrolled in night class, reported to her professor that she was repeatedly harassed by her perpetrator on her commute home in the dark. The professor nevertheless refused to accommodate her by allowing her to finish the course remotely. Similar indifference to another survivor's reports of stalking directly led to further violence.

After being told she needed to "solve [her] own problems like an adult" when attempting to make stalking reports to her school, that survivor was severely physically assaulted again—by the perpetrator she had attempted to report.

This institutional inaction in response to survivor safety concerns has a long-term effect of deterring help-seeking, adversely impacting both campus and survivor safety. One survivor shared that after her botched Title IX investigation, she was sexually assaulted twice more by students at the university, but because of her past experience with reporting, she did not consider reporting those assaults, even for a moment. Another survivor expressed the same situation, adding that after being let down by Title IX, they "ha[d] no idea how to get the help [they] need[ed]."

Two other survivors reported that when their schools failed to address their safety, they incurred additional financial harm doing so themselves, which led to greater vulnerability to further abuse. One of those survivors graduated with extra debt, leading her to struggle to pay rent. She ended up relying on an abusive partner to cover those expenses, keeping her trapped and unsafe for years after graduating. The other survivor was forced to withdraw from school due to safety concerns, losing the scholarship that covered rent, and "had to start sleeping rough." In these ways, schools' disregard for survivor safety compounds vulnerability to future harm.

Finally, a number of survivors reported that their schools' disregard for their safety led directly to the outcome Title IX exists to prevent: inequitable access to education. One high school survivor found it difficult to attend school at all: "I had to stay home from school for weeks at a time," she reported, "[because] I was too frightened to be on the same campus as my perpetrator." Another high schooler explained that after her school assured her that her perpetrator, who had gone abroad for an indeterminate period of time, could re-enroll whenever he wanted, she opted for online schooling. This meant she missed out on the classroom and extracurricular experience she would otherwise have had as a young teen. Multiple other survivors expressed a sort of guilty relief at the fact that COVID-19 led to largely remote schooling, explaining: **"the virus is protecting me from my assailant (since the school wasn't going to)."** Other survivors had already lost out on their educational access by the time the pandemic was in full swing. One put it plainly, writing that because her school so gravely failed to keep her safe, "I was forced to either share a campus with my rapist or drop out." Another survivor told of a similar experience, explaining that the school had left them to choose, quite literally, between their safety and their education. Their conclusion sheds light on what is at stake when schools fail to enforce Title IX: in the end, they wrote, **"I had to drop out to protect myself."**



"[T]he Dean of the College of Humanities and Social Sciences [told me] '[j]ust because you felt victimized doesn't mean you actually were' [and] '[n]o one [at this school] would care if you killed yourself, including [perpetrator].'" - Angela D.

IX. SCHOOLS PRIORITIZING RESPONDENTS

Despite national narratives claiming Obama-era policies and survivor organizing has pushed schools too far, causing the deck to be stacked against respondents in sexual violence cases, responses from survivors show that schools are still prioritizing respondents and their bottomlines over survivors' safety and educational access. While Title IX requires schools to ensure a student's access to education is not interrupted because of sexual violence, nearly all survey responses showed that schools dragged their feet or refused to take action to keep survivors in school, or even keep them safe. In an overwhelming number of cases, schools prioritized the wants and needs of respondents—at survivors' expense. The survey data suggests that schools often pursued this course of action due to fear of involvement in legal proceedings. As one survivor put it: **"During the Title IX hearing, the school repeatedly had catered to the perpetrator. I would later find out that it was because the school didn't want to get sued."** Prioritization of respondents occurred in different ways with a range of damaging repercussions for survivors.

The most frequently reported repercussion of respondent prioritization was interrupted education. An alarming 39 percent of survivors surveyed were forced to take a leave of absence from school, transfer to a new school, or drop out of school altogether. Survey data also show that schools did little to prevent these interruptions and even sometimes motivated their occurrence. A staggering 35 percent of survivors surveyed reported that their schools explicitly encouraged them to take time off, and interviews with survivors revealed that this encouragement was often for respondents' benefit. One survivor's school encouraged her to take a leave of absence while her abuser was permitted to remain on campus and continue harassing her because his parents got involved and demanded that his education not be interrupted. Another survivor's school asked her to take a year off because her abuser was older and set to graduate before her. In some cases, schools even pushed survivors out by enabling respondents' violent behavior. As one survivor shared: **"Because of the violence and abuse I experienced, as well as the university not protecting me, I left school as soon as I felt I could. I'm luckily now at a new university, but I'm still terrified of my abuser stalking me and hurting me again."**

Schools also prioritized respondents by dissuading survivors from reporting or even discussing their abuse. In fact, 20 percent of survivors surveyed said that their school warned them they could face a defamation suit. Survivors sometimes interpreted these warnings to be coercive. One survivor's school cautioned the survivor and her friends to be careful of what they say in case her perpetrator was found not responsible and decided to sue for defamation. **The survivor disclosed her suspicion of her school's ulterior motive: "They kept telling me it was for my own safety and well-being, but it felt like they were siding with the perpetrator."**

Some survivors even faced active danger as a consequence of their schools prioritizing respondents. In one abuse case marked by a great degree of physical violence, the perpetrator violated the survivor's no contact order several times, and yet the school failed to take serious action. As the aforementioned survivor explained: **"When my abuser showed up at my apartment and I reported it to Title IX, I spent the weekend in a safe house for students in trouble. When the university didn't hold my abuser to their punishment I felt so scared that I never went back to campus. I still am terrified of my abuser being able to find me and kill me because they have literally faced no punishment."**

Ultimately, as a result of respondent prioritization, survivors often leave the Title IX process with their educational opportunities and personal well-being burned to the ground. In one case, a school showed its discriminatory and ableist ideology naivety when it conflated intimate partner violence with mental

illness. After finding the respondent responsible, the school issued a conditional suspension requiring him to pass a psychological evaluation before returning to school. Despite clear differences between mental illness and abuse, the perpetrator was ultimately readmitted, received his PhD, and continued as a medical student. In doing so, the school showed that it saw mental illness as the real threat to school safety, instead of the violence perpetrated. The survivor, who had been, in her words, “bullied and degraded” by Title IX staff and university officials, was forced to leave her own field of study. The survivor also had to endure lasting psychological and emotional damage due to the harmful ways she was treated during the reporting process. As she put it: “when people treat you over and over and over like you’re worthless, you start to believe it.” Expressing frustration toward her school’s handling of her case, the survivor said that **her school “puts on an act as being survivor-centered...but it’s all just a farce to deflect attention from what they are actually doing—which is trying to silence survivors by making the reporting process horrific.”** Many other survivors agree that their respective schools act in similarly hypocritical ways to perpetrators’ benefit. As another survivor stated: **“It is unbearably painful to be willfully and intentionally wounded so carelessly by so many because schools are only looking out for themselves.”**



X. WHERE DO WE GO FROM HERE?

As survivors and advocates, we know that what often motivates survivors to share their stories is a desire to ensure that no one else experiences the same pain and suffering they did. For many student survivors, that means changing the ways schools, staff, and campus administrators respond to survivors' disclosures. Throughout the process of surveying and interviewing survivors, we heard again and again from participants that if their school had taken their report and safety more seriously, their lives would be completely different. To put it frankly, survivors are facing continued health, emotional, financial, educational, and career crises because of mistreatment and neglect at the hands of their schools.

Right now, the cost of reporting is high for student survivors—but it doesn't have to be this way. Schools, state and local governments, Congress, and the Department of Education can take meaningful action to ensure that no student is denied equal access to education because of sexual violence and discrimination.

Below are our recommendations for how institutions can shift the lived realities of student survivors. These recommendations were created by survivors and advocates, and are directly influenced by the experiences of survivors who have been harmed by their schools. While we know that these recommendations will not entirely eliminate the trauma associated with the reporting process, we are confident that they will contribute to a more accessible and equitable world for survivors.



XI. RECOMMENDATIONS

Access to Accommodations and Safety Protections:

Survivors need access to robust accommodations, supportive measures, and safety protections that ensure they can continue to succeed in their education following violence. As this report demonstrates, the trauma related disabilities and health concerns created by sexual violence can greatly inhibit a survivors' ability to participate in school. Additionally, gender-based violence can make school an unsafe environment for survivors who may be fearful of encountering their assailant, or who face continued violence through stalking and harassment. Schools must ensure survivors' safety, eliminate a hostile learning environment, and support their continued access to education by providing access to robust accommodations and supportive measures. These protections may include, but are not limited to, academic accommodations such as extensions on assignments and tutoring, housing and residential accommodations, campus employment accommodations, campus escorts, no-contact orders or persona non grata letters, and transportation arrangements. All of these accommodations should be accessible to students with disabilities, transgender and gender non-conforming students, and students with limited financial means.

1. Mental health services, adequately trained providers, and crisis advocates

Mental health services must be readily accessible to student survivors--both on and off campus. Many student survivors benefit from mental health support in the aftermath of assault. When survivors need mental health services and cannot access them, they have worse scholastic outcomes. Providing survivors with access to mental health services is a vital step in ensuring their equitable access to education. Furthermore, mental health counselors who work with survivors should be adequately trained for work with this specialized population. Mental health service providers who lack specialized training may be ill-equipped to provide effective services for student survivors.⁸ Finally, where possible, these services should be provided on campus, but where unique circumstances render this impossible, schools should provide cost-free, accessible transportation to and from such services or an alternative means of access such as telemental health.

Additionally, confidential crisis advocates should be available to survivors 24/7. To provide these services, schools should either have a confidential Rape Crisis Center on campus, or a Memorandum of Understanding (MOU) with a local rape crisis center and domestic violence service provider. These services must have qualified victim advocates on staff who are available to assist student survivors in: reporting to their school, accessing on- and off-campus resources, hospital visits following violence, crisis planning, as well as individual counseling for survivors. Schools must provide information to students on how to contact the confidential advocates and 24/7 victims' hotline.

Schools should utilize discretionary funds to provide student survivors with on-campus mental health services and increase the accessibility of off-campus resources. Additionally, government officials should work to provide additional resources to schools for mental health survivors. Congress, ED, and the Department of Justice should work together to increase the campus grant program to ensure more schools can hire specialized mental health professionals to support student survivors. This funding opportunity should be expanded to K12 schools so even the youngest student survivors can get the support they need to stay in school. We recognize though, that this grant program can not provide enough funding to ensure most schools have these resources. To fill this gap, state legislatures and school districts should provide schools with funding for mental health professionals. This is especially important for K12 students who shared that their school-based crisis resources were often their academic counselors who had little to no training on sexual violence.

⁸ Artime, Tiffany & Buchholz, Katherine. (2016). Treatment for Sexual Assault Survivors at University Counseling Centers. *Journal of College Student Psychotherapy*. 30. 252-261. 10.1080/87568225.2016.1219610.

2. Student survivors should have maximal access to mental health services and agency over treatment.

Student survivors should have unlimited access to free counseling services and other reasonable disability accommodations required by relevant federal and state law, including Section 504⁹ and Title II¹⁰ of the Americans with Disabilities Act. Many counseling centers based at educational institutions cap the number of free counseling sessions that students can receive. This cap should be removed for student survivors to receive the care they require. If schools that lack the capacity to provide unlimited access to free counseling services on campus, they should partner with local providers to ensure continued free access for student survivors. Moreover, many counseling centers based at educational institutions have late arrival and no-show fees and policies. These should be relaxed or removed altogether for student survivors to maximize access to care.

K-12 schools, colleges, and universities should give student survivors, including those who are minors, as much agency and control over the care they receive as is legally possible. Student survivors should be able to choose their care providers and should be included in decisions about when and how they receive care, and what kind of care they receive.

3. Resident and Dining Accommodations

Student survivors frequently face ongoing threats of active physical danger, including repeated assault, stalking, harassment, and psychological and emotional harm from fear of crossing paths with abusers. And students living on campus can face increased safety concerns, as abusers may have an easier time finding where they live and can have easy access to their residences. When students feel unsafe in or are displaced from their homes, learning becomes impossible. Given these considerations, schools should ensure that students have access to safe housing.

Schools should reserve a number of vacant rooms or apartments for students who feel unsafe in their living situation in the wake of violence. Additionally, schools should provide lease-breaking assistance to student survivors who have to leave their housing because of physical and emotional safety concerns. This assistance should be available to students through informational guidance, and direct support in navigating the process. Additionally, schools should not assess any lease breakage fees or other ongoing or punitive costs to student survivors moving from school-owned housing. Schools should provide parallel informational guidance and advocates for students breaking leases in non-school-owned housing. Where state or local law allows survivors of gender-based violence to break leases free of charge, schools should inform student survivors of and facilitate the process of obtaining any necessary certification. Where such certification cannot be obtained, schools should cover the cost of any lease-breaking and related fees. Schools should also provide funding to cover reasonable moving expenses incurred through a survivor's move to emergency housing. Additionally, if a student is moved to a new dining facility as an accommodation to avoid a perpetrator, the school must ensure that survivors are not forced to pay additional meal fees as a result and reimburse survivors for lost dining fees.

Transgender and gender-nonconforming individuals experience sexual violence at disproportionately high rates, and yet they often have few options for gender-inclusive housing on campus.^{11,12} Similarly, students with disabilities are more likely to be victimized, yet have limited access to housing opportunities. Emergency housing accommodations plans must include meaningfully comparable gender-inclusive and accessible options.¹³

To ensure on-campus housing can be a safer option for student survivors, schools should train all housing staff, including resident assistants, in regards to how to best respond to sexual assault, stalking, and

⁹ Section 504 of the Rehabilitation Act of 1973, Pub. L. No. 93-112, 87 Stat. 394 (Sept. 26, 1973), codified at 29 U.S.C. § 701 et seq.

¹² Title II of the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12101 et seq. (2020)

¹¹ Malone, Scott. "College Dorms a New Front in U.S. Battle over Transgender Rights." Reuters, June 10, 2016. <https://www.reuters.com/article/us-usa-lgbt-education/college-dorms-a-new-front-in-u-s-battle-over-transgender-rights-idUSKCN0YW15P>

¹² Colleges and Universities that Provide Gender-Inclusive Housing. (2021). Campus Pride. <https://www.campuspride.org/tpc/gender-inclusive-housing/>

¹³ An accommodation is meaningfully comparable if it is substantially similar in quality, value, and accessibility. For instance, offering transgender and gender non-conforming students only emergency housing options that require a shared bathroom or do not include a kitchen while offering cisgender students full apartment-style options would not be meaningfully comparable.

intimate partner violence. Additionally schools should establish, and train staff, in protocols. Because the lack of safe housing can gravely impact student survivors' ability to continue accessing education, ED should issue guidance outlining schools' roles and responsibilities in helping student survivors obtain safe housing. Additionally, legislators should work with student survivors and advocates to draft and pass laws that enforce these protections on campuses.

4. Academic Accommodations

Survivors are facing massive interruptions in their education as a result of violence, and their school's failure to properly respond to their reports. Survivors disclosed that schools often failed to provide them meaningful accommodations to support their access to education, and as a result, survivors were often pushed out of school. If the Department of Education, and individual schools, hope to reduce the massive pushout of student survivors, survivors must be provided robust and cost free academic accommodations.

Research shows that gender-based violence can have significant negative impacts on a students' grades.¹² To minimize the effect violence has on a survivor's ability to succeed in education, schools must work with survivors to provide them the academic accommodations necessary for their success. This can include, but is not limited to, tutoring, extensions on assignments, and additional time for exams. Coordination for these accommodations should be available through the Title IX Coordinator, Disability Services, and campus based victim advocates. Many survivors surveyed noted that while they were told they had academic accommodations, some faculty and staff refused to adhere to them. To minimize resistance to accommodations, schools should train all faculty and staff on how to ensure student accommodations are respected and adhered to.

Many survivors noted that, because of violence, they were forced to withdraw from class or take a leave of absence. This often had costly impacts on their education as they were forced to repay for courses or pay for an additional semester or year of school. Student survivors should be able to withdraw from and retake classes without financial penalty, receive tutoring without charge, and have their course change fees waived when these services would help protect their continued access to education. When a survivor is forced to leave a shared class with their perpetrator, or take a leave of absence, they should be able to retake their course free of charge. Additionally, to ensure survivors don't face negative GPA consequences, the deadline for withdrawing from a class should not apply to survivors who need to leave a class in relation to the sexual harassment.

Fair Discipline Processes:

Many survivors shared that their campus proceedings were unfair, biased, and inequitable. School's often prioritized respondents' education over survivors', and in some cases, bent over backwards to ensure respondents' faced little to no academic penalty for their sexual misconduct. At some schools, campus administrators made unilateral decisions to overturn the outcome of sexual misconduct cases to prevent respondents from facing any accountability for their actions.

While our survey of survivors found that schools often prioritize respondents' over survivors', we wholly believe it is essential that schools provide a fair process to both complaints and respondents. As advocates and survivors, we know firsthand that disruptions in education have lasting consequences for survivors who are forced to leave school because they don't feel safe staying on campus with their perpetrators, but also in the case of a respondent unfairly facing suspension. Moreover, bare bones procedural protections harm all students and leaves room for discrimination against all students on the basis of race, ability, and/or financial means. Additionally, as this report demonstrates, as perpetrators weaponize the reporting process against their victims, we know that fair processes that support both complaints and respondents are essential for survivor respondents.

While Know Your IX has developed these recommendations in response to gender-based violence on campus, we believe that educational institutions should respond to and investigate reports of gender-based violence in a manner consistent with their response to reports of other serious student code-of-conduct violations.

¹⁴ Jordan CE, Combs JL, Smith GT. An Exploration of Sexual Victimization and Academic Performance Among College Women. *Trauma Violence Abuse*. 2014 Jul;15(3):191-200. doi: 10.1177/1524838014520637. Epub 2014 Jan 22. PMID: 24452765.

Recommendations for Robust Procedural Rights for Both Parties:

In student conduct cases, schools must ensure proceedings are prompt, equitable, and governed by consistent procedures. Schools should provide robust procedural protections to both alleged perpetrators and victims, including but not limited to:

- **Timely and clear notice of both parties** rights and responsibilities under school policy and applicable law, factual allegations, and procedural developments;
- **Receive written or electronic notice**, provided in advance and reasonable under the circumstances, of any meeting or hearing they are required or are eligible to attend;
- **Review available evidence** in a case file, with adequate time to consider and respond;
- **Access to counsel** who may assist and advise each party throughout the disciplinary process, in compliance with applicable law. If students are financially unable to independently access counsel, schools should be responsible for securing free legal consultation for them;
- **Have a personal supporter of their choice**, either in addition to or in lieu of an attorney, who may assist and advise any party throughout the disciplinary process, including all meetings and hearings related to such process, in compliance with the applicable federal and state laws;
- **Have complaint investigated** in impartial, timely, thorough, and trauma-informed manner by appropriately trained investigators;
- **Provide testimony** without encountering the opposing party and to view testimony provided by the other party. The school may use a range of options to provide for testimony, including videoconferencing or CCTV;
- **Have findings of responsibility or non-responsibility** for an incident of gender-based violence determined by a panel of 3-5 impartial and regularly and thoroughly trained decision-makers using a preponderance of the evidence standard;
- **Reasonable opportunity**, provided equally among the parties, to submit evidence, recommend witnesses, provide testimony at a hearing, and recommend for the other party and witnesses to investigators, hearing panelists, and other decision makers;
- **Fair and proportionate sanctions**;
- **A written explanation of any outcomes**, including but not limited to a finding of (non-) responsibility, sanction, or granting of an appeal;
- **The opportunity to appeal in appropriate circumstances**. The institution must review requests for an appeal in the same manner regardless of which party files the appeal and the appeals process must be prompt and equitable for both parties. Appeals should only be approved through a panel decision, ensuring case outcomes are not overturned by a single administrator.

If a school utilizes cross-examination, questions should be submitted to a neutral third party, in writing, for the panel to review for materiality and appropriateness, before questioning is conducted through the neutral third party. If questions are considered important for materiality, but are worded in a manner that may be inappropriate or harassing, the panel should reword the question for appropriateness.

Limiting Perpetrator Backlash:

Backlash and retaliation from perpetrators has frightening consequences for survivors' future success. As this report demonstrates, retaliatory cross-filing can push survivors out of school. And frivolous defamation suits can be costly for survivors. As this is a trend that is on the rise, we recommend schools, states, and ED can work to reduce opportunities for perpetrator backlash and curb the impact. To do this we recommend that:

- 1. ED should create a task-force of experts in campus sexual misconduct and litigation abuse, survivor advocates, survivors who have faced campus based retaliation, and attorneys to explore how ED can:**
 - Prohibit or reduce retaliatory cross-filing against student survivors
 - Ensure campus based stay-away orders include attorneys and private investigators
 - Ensure prohibitions on retaliation include abuse or threats of abuse of campus and civil systems
 - Increase school administrators' awareness of how school processes' can be weaponized against survivors, and the patterns of power, abuse and control in intimate partner violence
- 2. States should work with survivor experts and attorneys to explore how Anti-SLAPP laws could be adapted to protect student survivors.¹³**

Punishment Against Survivors:

Schools disciplining survivors for reporting sexual violence and harassment, can reduce reporting and stop survivors from seeking further help. No survivor should be punished for looking to their school for help in the wake of violence, or for doing their best to survive. To ensure that survivors' access to education isn't interrupted, ED should prioritize stopping the punishment of student survivors, especially survivors in K-12. Schools and the Department of Education should:

1. Review disciplinary action(s) taken against student survivors

Schools should review any disciplinary actions taken against student survivors to see if there is a causal connection between the sexual violence and the misconduct that may have resulted in discipline. For example, if the student was disciplined for skipping a class they shared with their perpetrator, the school should review the incident to determine if the survivor skipped class to avoid contact with the perpetrator.

Under no circumstances should a student who reports gender-based harassment or assault be penalized under school disciplinary codes prohibiting sexual activity. To ensure that no student is punished for seeking help, or punished for their trauma, ED should issue guidance outlining how schools should review disciplinary actions taken against complainants, and prohibit schools for punishing survivors for their sexual victimization.

2. Increase survivor access to trauma-informed, trained advocates.

If a school lacks capacity or space to provide these services directly through its own staff, ED should require the school to arrange services with a local mental health provider or telehealth provider. Any ancillary costs, such as transportation or copays, should be covered by the school. Moreover, ED should prohibit schools from restricting the number of free, confidential mental health sessions a student survivor may access.

3. Prohibit schools from punishing students in relation to their report of sexual violence.

a. All colleges and universities should be required to have and enforce amnesty policies.

All schools should implement, advertise, and enforce amnesty policies. Students reporting sexual violence or serving as witnesses in an investigation should never face punishment for alcohol or drug use, consensual sexual conduct, or other conduct violations that do not involve harassment, discrimination, or violence. The

¹⁵ Short for **strategic lawsuits against public participation**, SLAPPs have become a common tool for intimidating and silencing survivors. Anti-SLAPP laws are intended to prevent people from using courts, and potential threats of a lawsuit, to intimidate people exercising their civil rights.

fear of such repercussions deters student survivors and bystanders from coming forward to report sexual harassment, reducing the likelihood that survivors will get the support and safety measures they need to continue accessing their education. Recognizing this reality, the Department must mandate that school districts—like colleges and universities—meaningfully advertise and adhere to amnesty policies in order to comply with Title IX.

i. Students reporting sexual violence or assisting in its investigation should not be punished for substance use.

Students reporting or serving as witnesses in sexual harassment investigations must have amnesty from drug or alcohol policy violations. Where alleged sexual harassment is drug- or alcohol-facilitated, schools may consider this as part of the sexual harassment allegation itself in both the responsibility and sanction phases, as doing so is not likely to deter survivors or witnesses from coming forward. Additionally, alcohol or drug use alone should not serve as grounds for investigators to form an adverse inference regarding a party's credibility. Finally, the Department should require schools to publicize and educate their students on the existence of this policy. This holistic amnesty policy will reduce barriers to reporting sexual harassment in schools.

ii. Schools should not punish students for engaging in sexual activity barred by the conduct code when they report sexual misconduct.

Students should not fear punishment for consensual sexual activity when reporting sexual harassment. Many K-12 schools, and some colleges and universities, enforce student conduct policies against even consensual sexual activity on school grounds or at school-sponsored activities. These policies should not be used to curtail any student's rights under Title IX. Schools have used these policies to punish students¹⁴ who report sexual violence for participating in sexual activity. This sort of discipline compounds victim-blaming and can have massive chilling effects for other student survivors. In order to prevent these adverse impacts, the Department should bar schools from investigating students for or otherwise disciplining students who come forward with allegations of sexual harassment for consensual sexual conduct. This amnesty should extend to student witnesses as well as student complainants whose claims, after investigation, are deemed unsubstantiated. Amnesty from sexual conduct charges linked to reports of sexual harassment must be widely publicized and meaningfully enforced to promote help-seeking and bolster equitable educational access.

b. Student survivors should not be unnecessarily punished for behavior or misconduct linked to their trauma.

Student survivors contending with trauma may act out or violate codes of conduct for reasons linked to their experience of sexual harassment, and they should not face unnecessary punishment for that conduct. Young people who experience trauma may act out in school, withdraw, create distractions, have public outbursts, or engage in other behavior viewed as misconduct. But when such behavior is linked to a student's experience of sexual harassment in school, discipline is unlikely to address the underlying circumstances motivating that behavior. The Department should instruct schools to assess conduct infractions and any disciplinary actions against a student who has formally or informally disclosed an experience with sexual harassment to the school. If that behavior may be linked to the traumatic experience, the school should avoid marking the student's record or penalizing them. Instead, the school should take supportive measures to remedy any harm and create a plan to support the student in a way that is likely to prevent subsequent behaviors of this kind. This process should mirror—or be merged with—the school's equivalent processes pursuant to section 504 of the Rehabilitation Act and the Individuals with Disabilities in Education Act (IDEA).

¹⁴ Coyne, A. (2020, August 25). Suit: Gwinnett schools using ex-student's nude photos to 'discredit' her. *AJC*. <https://www.ajc.com/news/atlanta-news/suit-gwinnett-schools-using-ex-students-nude-photos-to-discredit-her/KPHQAPMCL5CBZCEGO7FMLA377M/>

4. Limit the involvement of campus police or school resource officers in sexual misconduct investigations.

A 2006 study found that 80% of survivors who engaged with police after violence felt reluctant to continue with their investigation due to retraumatization. Outside of the education system, over 80% of survivors never report their experiences to police, citing fears that no one will believe them. Police act as a symbol of authority and criminality, which often have negative connotations for marginalized survivors who have negative personal and community experiences with the criminal legal system. As many survivors do not feel safe engaging in a process with police, police presence within a Title IX investigation impedes the ability of a school to create a safe educational environment outside of the legal system.

The fear of police involvement in an investigation is particularly relevant among multiply marginalized survivors, for whom the police are even less likely to represent safety. A 2020 RAINN study found that Black survivors were much less likely to report violence to police due to negative personal, family, and community experiences with police. Additionally, one third of transgender survivors of sexual violence did not access support services because of previous negative interactions with the criminal legal and healthcare systems. Thus, involving police in Title IX only makes education less safe for marginalized survivors.

Financial Impact Solutions:

Because of gender-based violence, many student survivors suffer financial costs that undermine their ability to access an education. As this report shows, sexual violence and school pushout has severe and long-lasting financial impacts on survivors, whether or not they continue with their education. Survivors report losing scholarships, taking on additional debt for delayed graduation and unemployment, and being penalized for breaking leases. To limit the financial burden that can inhibit a survivor from accessing their education, ED and Congress should work to limit the financial consequences of sexual violence and schools' failures to respond to students' complaints.

1. Schools should allow students to retake courses without financial penalty

As a result of gender-based violence, student survivors' academic lives are often disrupted. Tuition remission, or tuition waivers, would substantially benefit student survivors who take an absence from school in the aftermath of sexual harassment or assault. Student survivors should be able to access these tuition waivers throughout the semester and while on a leave of absence or period of unenrollment from the school. The amount of tuition being waived should be determined by the student survivor. The tuition waivers should apply retroactively to previous academic terms if needed. The application process for tuition waiver should be accessible for all students. The application process should be available on the school's website and the school's Title IX office.

2. Colleges and universities should allow student survivors to break residential leases without penalization. In order to prevent undue financial burden on survivors, ED should mandate that schools allow students to break these leases

As discussed in the "access to accommodations" recommendations, student survivors' housing situations are often disrupted because of gender-based violence. Student survivors may incur financial costs in attempts to change their housing because of an assault. Allowing student survivors to break residential leases would lessen some of the economic impact of sexual violence. The school should subsume any fees that might be triggered by breaking a lease.

3. Federal direct subsidized and unsubsidized, direct PLUS for graduate students, direct PLUS for parents, and Perkins student loan grace periods should be extended for student survivors who are on leave from their schools because of gender-based violence

When a school violates a survivor's Title IX rights, the survivor is often forced to withdraw from classes, losing tuition and risking increased student loan debt if they re-enroll at a later date. And if victims fall below half-time enrollment, they often need to begin paying their loans—a tall order for individuals without

a degree, already struggling with the effects of trauma. To ensure student survivors aren't denied access to education because of financial consequences, ED should give survivors the opportunity to extend the grace period on their student loans.

- 4. Schools should waive scholarship requirements, such as maintaining a certain grade point average or remaining in a certain academic department or program, for student survivors whose education has been negatively impacted by violence.**

When a survivor's grades have dropped in the wake of violence, GPA requirements can prohibit a survivor from accessing scholarships, educational activities, and other educational opportunities. Additionally, no survivor should be faced with the possibility that they may have to drop out of school because their scholarship was revoked because of a drop in their grades in relation to violence. To ensure no survivor is denied the same educational opportunities as their peers, student survivors should be able to request waivers for GPA requirements to school programs and activities. Survivors should have the opportunity to seek these waivers without going through the formal Title IX process.

Increased Enforcement of Survivor Rights:

- 1. In order to maintain transparency on the prevalence of sexual violence on their campuses, schools should conduct climate surveys of their campus communities once every two years. In order to ensure that schools are conducting these surveys, ED should develop and distribute a standard survey and mandate that all schools conduct this survey once every two years.**

A climate survey generates school-specific data on the nature and prevalence of gender-based violence within a school community, as well as data on the attitudes and perceptions about gender-based violence among different student groups.

- a. Questions should address topics that include, but are not limited to, the following:**

- i. The incidence and prevalence of sexual harassment, sexual violence, dating violence, domestic violence, and stalking;**
- ii. Whether the perpetrator was a student and other contextual factors, such as whether force, incapacitation, or coercion was involved;**
- iii. Whether students know about institutional policies and procedures, such as the identity of the Title IX Coordinator, the location of university resources, and definitions of sexual misconduct;**
- iv. If survivors reported gender-based harassment violence, to whom they reported, and what response the survivor may have received;**
- v. The cost and/or impact of violence on survivors, such as costs associated with counseling, medical services, or housing changes, as well as any disabilities that may have resulted from experiencing gender-based violence or harassment;**
- vi. Community attitudes toward gender-based violence and harassment, including individuals' willingness to intervene as a bystander;**
- vii. Community members' perception of campus safety and confidence in the institution's ability to appropriately address gender-based violence and harassment.**

- 2. In order to maintain transparency on the prevalence of sexual violence on their campuses, schools should collect and publish annually data on disciplinary outcomes in all Title IX procedures. In order to ensure that survivors can access this data, ED should mandate schools collect and publish data on outcomes of Title IX procedures annually.**

Making this data publicly available will allow students, survivors, staff, and alumni to accurately assess the fairness of a school's disciplinary proceedings. The data collected should be anonymized and non-identifying to protect survivors' identities, and it should be easily accessible on a school's website.

Data should include:

- The number of reported instances of sexual harassment and gender-based violence, including domestic and dating violence and stalking;
- The type of process used to resolve each report (i.e., informal resolution or formal investigation), including alternative resolutions such as complainants or respondents leaving campus to end the process prior to a resolution;
- The number of investigations opened;
- The number of cases in which accommodations were requested, granted, modified, and denied;
- Where not identifying the number of students who experienced any of the following after reporting gender violence:
 - Withdrawal from a class;
 - Placement on academic probation;
 - Voluntary or medical leave from school;
 - Transfer;
 - Withdrawal from school;
- The number of respondents who were found responsible, the sanctions imposed, and the reasons given for the decision;
- The number of respondents who were found not responsible and the reasons given for the decision;
- The number of cases in which any changes were made to the determinations or sanctions as a result of an appeal and reasoning;
- The length of each case, from the time of the initial report to the final resolution.

K-12

Although most of the conversation around Title IX has focused on higher education, as this report shows, K-12 survivors are experiencing unique challenges when attempting to actualize their rights under Title IX. Survivors report inability to even file a report or access accommodations, punishment for sexual activity and substance use or their responses to trauma, and the involuntary involvement of School Resource Officers (SROs) in their investigation. In order to ensure that K-12 survivors are able to access the full extent of their Title IX rights, we recommend that:

1. **All K-12 schools offer student survivors supportive measures without requiring a formal complaint of sexual misconduct. To ensure that students are able to access accommodations, the ED should mandate that schools provide accommodations, including, but not limited to:**
 - a. Robust academic accommodations such as tutoring, extensions on assignments, and additional time on exams.
 - b. Confidential mental health care including counseling which should be provided free of charge to K-12 student survivors.
 - c. Changes in academic or dining schedules
 - d. Schools must make all accommodations for student survivors fully accessible to students with disabilities.
 - e. Schools provide all accommodations – including both educational and mental health resources – accessible to students learning virtually during and after the Covid-19 pandemic.

2. **PK-12 schools should remove police from sexual misconduct investigations. To ensure the protection of survivors in investigations, ED should advise the removal of police—including school resource officers—from schools and school sexual misconduct investigations.**

SSROs directly uphold the school-to-prison pipeline, the process by which students—especially marginalized ones—are funneled from public schools into the criminal legal system. **The Justice Policy Institute found that, even when controlling for a district’s poverty level, schools with SROs had five times as many arrests for “disorderly conduct” than schools without them.**¹⁷ This is true despite the fact that, controlling for socioeconomic status, schools with SROs and schools without SROs have similar levels of serious crime.

Nearly half of schools with a majority non-white student population have SROs, compared to only 14% of schools with a less than 5% non-white population.¹⁸ Moreover, despite the fact that Black students make up only 15% of the U.S. public school population, they account for nearly one-third of students arrested in school.¹⁹

Survivors of color, particularly Black women and girl survivors, are disproportionately affected by the school to prison pipeline. Black girls experience age compression beginning from the age of five, and are often perceived as more adultlike than their white peers. Therefore, they are three times more likely than their white and Latina peers to be referred to juvenile court.²⁰

Survivors of sexual violence may “act out” in school if they do not receive proper resources, and many Black girls in juvenile detention are there because of actions stemming from untreated ramifications of trauma.

Criminalized youth are separated from the educational support and career guidance in their schools, hurting future prospects. **Additionally, if a young person does not come into contact with the criminal-legal system by the age of 25, they likely never will.**²¹ Pushing students into the criminal justice system has long term and generational impacts on educational outcomes. Independent of other factors, children of incarcerated parents are more likely to drop out of school and experience physical and mental illness that impacts their education than students who do not have incarcerated parents.

¹⁷ Theriot, Matthew. (2009). School Resource Officers and the Criminalization of Student Behavior. *Journal of Criminal Justice*. 37. 280-287. 10.1016/j.jcrimjus.2009.04.008.

¹⁸ National Center for Education Statistics, Bureau of Justice Statistics, & American Institutes for Research. (2015, July). Indicators of School Crime and Safety: 2014. U.S. Department of Education and U.S. Department of Justice Office of Justice Programs. <https://nces.ed.gov/pubs2015/2015072.pdf>

¹⁹ The Condition of Education - Preprimary, Elementary, and Secondary Education - Elementary and Secondary Enrollment - Racial/Ethnic Enrollment in Public Schools - Indicator May (2020). (2020, May). https://nces.ed.gov/programs/coe/indicator_cge.asp

²⁰ Morris, M. (2019, March 29). Why Are Black Girls More Likely To Be Punished In School? | WBUR News. <https://www.wbur.org/Npr/707191363/Monique-Morris-Why-Are-Black-Girls-More-Likely-to-Be-Punished-in-School>.

²¹ MDecarceration Strategies: How 5 States Achieved Substantial Prison Population Reductions. (2019, September 27). The Sentencing Project. <https://www.sentencingproject.org/publications/decarceration-strategies-5-states-achieved-substantial-prison-population-reductions/>

XI. CONCLUSION

As this report has shown, institutional neglect, lack of administrative enforcement, and perpetrator backlash have severe costs for student survivors. Despite growing national conversations painting Title IX as creating systems that favor survivors across the board, the reality for student survivors is much bleaker. Survivors have been forced out of school, been punished for being raped or speaking out, lost thousands of dollars, died by suicide, and been killed by intimate partners after their schools refused to take action to keep them safe.

Despite the current reality, we know that another world is possible. We wholeheartedly believe it is possible to build institutional, legislative, and judicial structures that aid survivor healing, work toward safer campuses, and respect the rights of all parties involved. Together, we can build a world where the promise of Title IX—that students be able to learn free from violence and its impacts—is not just a right on paper, but also in reality. Because the cost of an education should never include sexual violence.

