

Ensuring Equity in School Sexual Misconduct Investigations

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While it is imperative that educational agencies take seriously their obligations to promptly investigate and respond to allegations of student sexual misconduct, one school district is facing a lawsuit for failing to conduct an equitable investigation.

[According to the lawsuit](#), a male student was suspended after an investigation into allegations of inappropriate touching and sexually explicit comments made by three female students in a Virginia school district. Now, the male student claims that the school's investigation was inadequate and violated his rights under Title IX.

Unlike Title IX claims alleging that a school didn't do enough to respond to sexual misconduct, this claim criticizes the school's aggressive response. According to the male student, the school did not conduct an objective investigation and was biased against him from the outset. The male student claims the school favors females in investigating claims of sexual misconduct. Accordingly, the male student charges that the school discriminated against him on the basis of his sex in violation of Title IX.

Title IX prohibits federally funded educational institutions from discriminating on the basis of sex. Schools' responses to sexual harassment and sexual violence are included in Title IX's reach because the hostile environment caused by sexual misconduct denies students access to an education.

Last year, the U.S. Department of Education announced plans to [overhaul regulations implementing Title IX](#) and [issued the guidance letter "Q&A on Campus Sexual Misconduct"](#). The interim guidance mandates "a prompt and equitable resolution of complaints of sex discrimination, including sexual misconduct" when a school knows or reasonably should know of such incidents.

Schools must balance the need to be prompt and thorough in investigating complaints of sexual misconduct with the need to be objective and fair to both the complainant and the subject of the investigation. Relying on stereotypes or generalizations may violate Title IX, as does failing to provide both the complainant and the subject of the investigation with equal access to witnesses and information.

Once released, the U.S. Department of Education's final regulations may further define schools' obligations to conduct equitable investigations.

If you have any questions or concerns about your existing policies and procedures, please do not hesitate to contact any of the attorneys in [Barley Snyder's Education Practice Group](#).