

OPINION

Title IX attorneys: Princeton must consider due process in sexual misconduct policies



Students protesting the University's Title IX policy in May 2019 form a circle around Nassau Hall.

Claire Silberman / The Daily Princetonian

Andrew Miltenberg and **Kristen Mohr**

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The following is a guest contribution and reflects the authors' views alone. For information on how to submit an article to the Opinion Section, click [here](#).

To the Princeton Community:

We write in response to the April 27, 2021 Daily Princetonian Opinion [piece](#) entitled "Princeton must reform campus climate for the safety of students," submitted by Princeton Students for Title IX Reform and the Organizing Committee of Princeton Graduate Students United.

Over the last several years, Princeton students have rightly called for more transparency, better resources, and more engagement from Princeton's administration concerning matters of campus safety. Princeton, and virtually all colleges and universities, turned a blind eye for far too long to sexual misconduct on their campuses.

As these well-meaning movements grow and gain momentum, we have also seen a disturbing trend of intermingling reasonable calls for thoughtful reform, with unabashed, anti-democratic demands, usually in the form of expecting all those *accused* of misconduct be punished, even in some cases specifying the punishments against individuals, often based on little more than rumor, gossip, and speculation.

Unfortunately, the latest opinion piece follows this same pattern. While much of the piece focuses on desired policy and organizational changes to better address the problem of sexual violence on campus, it closes with a bald demand that Princeton University bend to the will of public opinion in making staffing and personnel decisions in individual cases by calling on the University to terminate employment positions immediately, solely based on allegations and without due process.

These two concepts simply cannot be reconciled. Calls for "transformative justice" must be compatible with actual notions of justice: due process, impartial arbiters, equitable support and resources, individualized determinations based on specific circumstances, and the absence of prejudice for or against any individual based solely on their gender, race, their position in the community, or whether they are a complainant or respondent.

As attorneys who handle Title IX cases throughout the country, including at Princeton, we are acutely aware of the need to protect students from all forms of sexual misconduct and sexual violence on campus. Universities must make continual, renewed commitments to protecting the welfare, safety, and rights of all students. With that commitment comes a continuing dedication to transparency, equity, fairness, and recognition of due process.

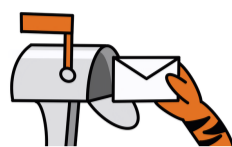
Based on our extensive experience with university Title IX matters, we suggest that the Princeton community give serious pause before reflexively signing onto demands which are portrayed as seeking justice, but in practice, are anything but. Too often, we see universities make decisions based upon local student outrage and "optics," rather than the facts and needs of individual cases. Too often, we see reasonable demands for transparency in *process* devolve into demands for "transparency" in terms of disclosing the results of individual cases — with no regard for the need for (and federal regulations mandating) privacy and confidentiality for those involved in these extremely sensitive matters. Too often, we see universities such as Princeton respond to well-meaning victim/survivor advocacy by simply trampling over the rights of accused students.

These issues are particularly problematic considering the life-altering consequences of being found responsible for sexual misconduct in any form in a university proceeding. At Princeton, when a finding of responsibility is made, regardless of what sanctions may be imposed, that finding remains on the respondent's permanent record, forever marring future educational and career opportunities and devaluing the hundreds of thousands of dollars that are spent on a Princeton education. The finding must be disclosed on applications for graduate school, professional licensing, and even certain employment applications. Outside of litigation, the respondent often has no opportunity to remove this notation and is forever, permanently marked as a dangerous criminal — all *without* having been afforded the constitutional protections of true criminal proceedings.

To be clear, we emphatically support the cause of making college campuses safer for all. And in the interest of justice, punishment must be served. Sexual violence has no place in society, let alone on our college campuses. However, it is important not to sacrifice fairness for expedience. We must not

confuse justice with vengeance. We cannot equate “accused” with “guilty.” Universities, including Princeton, must commit to continuous, conscientious implementation of policies and procedures that are transparent, fulsome, and equitable to *all* parties involved.

Andrew Miltenberg specializes in Title IX and campus assault due process. He can be reached at AMiltenberg@nmlplaw.com.



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Kristen Mohr is an attorney with a focus on civil rights, Title IX, defamation matters, and faculty disputes.



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