

# Campus Title IX Hearings: This Isn't a "Court of Law" but Your Words May Still Have Legal Consequences

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Title IX hearings are administrative, educational proceedings designed to address student reports of sexual harassment on campus. They are not intended to simulate a “court of law” and are not held to the same evidentiary or legal standards one can expect from a traditional legal proceeding. Although campus Title IX proceedings are not legal proceedings, students should still be wary of what they say during the process and beyond. While their statements during the campus Title IX process are likely privileged, absolute immunity may not apply to insulate students from defamation liability. Additionally, what students say outside the campus Title IX process is not privileged at all and may carry significant legal consequences. As Title IX matters increasingly intersect with defamation, understanding this overlap is critical.

Consider a common scenario: a student is accused of sexual misconduct following an encounter where both parties had been drinking. The accused student believed the interaction was consensual but soon found themselves the subject of rumors spreading across campus, including being labeled a “rapist.” What begins as a private dispute quickly escalates into widespread reputational harm. The accused student experiences social isolation, is asked to step down from organizations, and sees their academic performance decline. Seeking relief, the accused student turns to the university, but institutional responses are often limited.

## Defamation Basics and Why Title IX Makes Things Complicated

The majority of Title IX matters are “he said, she said” situations and often involve competing narratives of what took place during the parties’ encounter. When one party publicly shares their perspective with others, it can sometimes lead to premature conclusions about the other party that have long-lasting and stigmatizing effects. This is where Title IX intersects with the concept of defamation. To establish a defamation claim, a plaintiff must generally show that a false statement of fact was made about them, published to a third party, and caused reputational harm, all without the protection of a legal defense or privilege. However, not every harmful or offensive statement is subject to defamation liability. Opinions and statements made in good faith during the campus Title IX process may fall outside the scope of defamation. In the Title IX context, the line becomes blurred, particularly when statements about another student spread beyond the formal process.

## Privilege, Immunity, and the Limits of Protection

Even when statements are later proven false, they may be protected by privilege if they were made during the Title IX proceeding. In some jurisdictions, a Title IX proceeding qualifies as a “quasi-judicial” proceeding. Certain communications made in quasi-judicial or administrative settings may be shielded from defamation claims, but these protections are not absolute. In fact, very few jurisdictions provide absolute immunity to statements made during the Title IX process. Sometimes, statements are only cloaked by a qualified privilege, which means the speaker must still prove that the statements at issue were made in good faith before the privilege applies. Courts have increasingly been asked to evaluate how these principles apply in university disciplinary proceedings, underscoring the legal complexity surrounding campus speech.

## How Courts Are Treating Title IX Statements After the Fact

As courts begin to weigh in, it has become clear that what is said during a Title IX proceeding, and how those statements are later treated, can have consequences that extend far beyond campus. In *Khan v. Yale University* and *Le v. University of Medicine and Dentistry*, the court focused on what happened inside the Title IX process itself. In *Khan*, the Connecticut Supreme Court concluded that Yale's Title IX disciplinary process did not function enough like a courtroom to give participants absolute immunity from defamation claims. While the court acknowledged the importance of encouraging students to report sexual misconduct, it held that knowingly false or malicious statements made during the process could still lead to liability. Together, these cases show that statements made during campus disciplinary proceedings may not always be fully protected and can later become the subject of litigation.

## Statements Outside Title IX Proceedings and Resulting Liability

What happens outside of a Title IX proceeding can be just as significant. In *Pampu v. Wingo*, the defamatory statements at issue were made by two Clemson students outside of the Title IX process. As a result, the statements were not protected by absolute immunity or qualified privilege at all. After a week-long trial examining testimony from five eyewitnesses, the plaintiff and three co-defendants, a twelve-member jury unanimously found the Clemson students liable for defamation and civil conspiracy and awarded *Pampu* \$5.3 million dollars in compensatory and punitive damages<sup>1</sup>. While the matter is on appeal for reasons unrelated to immunity or privilege, the lesson from *Pampu* is clear: what a student says about another student can cause lifelong damage and may lead to significant legal liability if a jury determines those statements are untrue.

Universities are operating in an increasingly challenging environment. Recent campus controversies involving protests, disciplinary actions, and speech restrictions have heightened the scrutiny of institutional decision-making. Schools must balance competing obligations under Title IX, free speech principles, and due process requirements, often under intense public and legal pressure. In doing so, universities are tasked with protecting the rights, safety, and educational access of all parties, while also managing the reputational and interpersonal fallout that can accompany allegations of misconduct.

Ultimately, while a Title IX proceeding may not be a legal proceeding, they are far from consequence-free. What you say about someone during a Title IX proceeding should not be taken lightly and should only be made in good faith. Allegations, responses, witness accounts, and investigative findings can have lasting academic, professional, emotional, and reputational effects, sometimes extending well beyond campus. The safest approach is to treat every statement as if it could matter later, because it very well might.

<sup>1</sup> See *Kimberly Lau Representative Matters*, second bullet point