

*Doe v. Trustees of the University of Pennsylvania*  
270 F.Supp.3d 799 (E.D. Pa. 2017)

“In light of these allegations, we conclude that the Complaint plausibly alleges that Defendant breached the contractual requirement that it train Hearing Panel members ‘to fulfill their responsibilities as adjudicators according to the procedures and policies outlined’ in the Disciplinary Procedures and ‘to ensure compliance with Title IX.’ In light of these same allegations, we also conclude that the Complaint plausibly alleges that the investigators were not appropriately trained as investigators in handling sexual violence cases. We therefore deny Defendant's Motion to Dismiss insofar as it seeks dismissal of Plaintiff's claim that Defendant breached its contract with Plaintiff in this regard. [...]

While Plaintiff had an opportunity to supplement his own testimony at the *de novo* hearing, the record as developed by the investigator went well beyond Plaintiff's account and was the factual backbone of the *de novo* hearing. Under these circumstances, it is simply premature to conclude that any investigative breaches did not cause any damage to Plaintiff. Accordingly, we deny Defendant's Motion to Dismiss the breach of contract claim insofar as the claim is grounded on the investigator's failure to conduct a ‘thorough’ investigation that ‘include[d] interviews of the complainant and respondent, interviews of witnesses, and review of documentation, physical evidence, and any other relevant evidence.’”

*Doe v. University of Notre Dame*  
2017 WL 1836939 (N.D. Ind. 2017)

“Of course, all conclusions about the merits are conjectural at this point, and do not predict ultimate victory for John **Doe**. But it has been shown by the evidence and argument submitted that a jury could conclude that the disciplinary process was conducted in an arbitrary and capricious manner, and that **Notre Dame** breached its promise to provide John with a prompt, fair and impartial investigation and resolution of Jane's complaint. [...]

I am persuaded that [a gap in John's education record] constitutes irreparable harm to John's reputation and resumé for purposes of career prospects and possible further academic advancement. The questions the gap raises, and the explanation it requires, are potentially damaging to John in a manner not compensable by money damages and not repaired by permanent injunctive relief that might be granted after a decision on the merits in John's favor. To repeat, the preliminary relief John seeks is very narrow—an injunction that he be allowed to take two exams—and is appropriate to minimize the consequences of the irreparable harm attributable to the pendency of the lawsuit, if John meets the other requirements for preliminary injunctive relief.”

*Doe v. Loh*

2018 WL 1535495 (D. Md. 2018)

- Failure to allow Respondent to Confront his accuser and providing him with an outdated policy does not violate due process.
- Plaintiff lacks a good faith basis for gender bias allegations despite allegations that training materials that refer to women as victims and men as perpetrators.



Notice and comment proposed rulemaking expected this spring that will set forth Title IX guidance for colleges and universities. **What will change and how much is anyone's guess.**

H.R. 4030 – Title IX Protection Act referred to the House Committee on Education and the Workforce on October 12<sup>th</sup>, 2017

- 2001 - <https://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>
- 2011 - <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>
- 2014 - <https://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>
- 2017 - <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-title-ix-201709.pdf>  
- <https://www2.ed.gov/about/offices/list/ocr/docs/qa-title-ix-201709.pdf>

KC Johnson, Commentary Magazine:

- KC Johnson, Commentary - <https://www.commentarymagazine.com/articles/campus-sex-crime-tribunals-losing/>

Emily Yoffe, The Atlantic:

- <https://www.theatlantic.com/education/archive/2017/09/the-uncomfortable-truth-about-campus-rape-policy/538974/>

- <https://www.theatlantic.com/education/archive/2017/09/the-bad-science-behind-campus-response-to-sexual-assault/539211/>

- <https://www.theatlantic.com/education/archive/2017/09/the-question-of-race-in-campus-sexual-assault-cases/539361/>

**QUESTIONS?**