

Financial Aid & Title IX
Office for Civil Rights
U.S. Department of Education
December 2nd, 2015

Question: Is a school required to handle financial losses incurred by a student who withdrew from school due to the effects of a sexual assault?

Example: *We had a student withdrawal based on debilitating effects stemming from a sexual assault. The student is ready to return but Financial Aid is saying they have to pay back the money from the last semester they attempted but did not complete. I believe that the university is required to either advocate for the student to waive this rule or to cover the financial loss the student incurred. Is that right? If so, the financial aid office is asking for the specific section/code/rule of Title IX that states this requirement. I can't find it, and was hoping someone could point me in the right direction.*

Answer: Each case is fact-specific and each determination is based on the particular set of facts presented. Although we do not give legal advisory opinions, we do provide information on how the civil rights laws that OCR enforces apply generally.

As you are aware, OCR enforces Title IX of the Education Amendments of 1972 and its implementing regulation at 34 C.F.R. Part 106 (Title IX), which require schools receiving federal funding to respond promptly and equitably to allegations of sexual violence. When student-on-student sexual violence creates a hostile environment, the school must take prompt and effective steps reasonably calculated to end the sexual violence, eliminate the hostile environment, and prevent its recurrence. Further, if a school delays responding to allegations of sexual violence or responds inappropriately, the school's own inaction may subject the student to a hostile environment. If it does, the school will also be required to remedy the effects of the sexual violence that could reasonably have been prevented had the school responded promptly and appropriately. If remedies are necessary to ensure equal access to education programs, a school cannot require a student to pay for receipt of those remedies.

The specific remedies offered and the process for implementing those remedies will vary depending on the facts of each case. The effects of sexual violence on an individual can manifest themselves in many ways, some of which can lead to financial injuries. These financial injuries can range from out-of-pocket expenses (like medical payments) to the lost value of educational services already paid for (when a survivor cannot benefit from classes). The scope of a school's responsibility is tied to the scope of the school's culpability. Thus when a school's actions or inactions (after it knows or should have known of the hostile environment created by the sexual violence) augment the survivor's injury, more can be expected of the school by OCR. By contrast, when a school takes prompt and effective steps reasonably calculated to end the sexual violence, eliminate the hostile environment, and prevent its recurrence, OCR would not normally expect the school to reimburse a survivor for financial injuries that can be traced back to an incident of student-on-student sexual violence. For example, if a school's ignoring of a student's complaints of sexual assault by a fellow student results in the complaining student having to remain in classes with the other student for several weeks and the complaining student's grades suffer because she was unable to concentrate in these classes, the school may need to permit the complaining student to withdraw or retake the classes without an academic or financial penalty (in addition to other remedies) in order to address the effects of the sexual violence.



Title IV of the Higher Education Act (Title IV), which relates to student financial assistance, is enforced by the Department's Office of Federal Student Aid (FSA). Per the Department's regulations related to Title IV at 34 C.F.R. § 668.22(a)(1), if a recipient of Title IV grant or loan funds withdraws from a school after beginning attendance, the amount of Title IV grant or loan assistance earned by the student must be determined. If the amount disbursed to the student is greater than the amount earned, the unearned funds must be returned to the Department. This is often referred to as the return to Title IV funds calculation. The Title IV regulations at 34 C.F.R. § 668.22(d)(1) explain that a school does not have to treat a leave of absence as a withdrawal for Title IV purposes, if it is an approved leave of absence and meets the requirements set forth in 34 C.F.R. § 668.22(d)(1)(i)-(viii). If a leave of absence meets these requirements, it is considered a temporary interruption and is not counted as a withdrawal for Title IV purposes so the school is not required to perform the return to Title IV calculation and return unearned funds to the Department. Depending on the facts of the case and in particular, the length of the student's absence from school following the sexual assault, such an absence may qualify as an approved leave of absence for Title IV purposes. It is up to the school to determine if a student who withdraws from school due to the effects of sexual assault qualifies for a leave of absence for Title IV purposes. For additional information regarding the return to Title IV funds calculation and approved leaves of absence under Title IV or other questions regarding the Title IV regulations please contact FSA at 1-800-433-7327 or fsa.customer.support@ed.gov.

OCR is committed to providing the public, including students and their families, school staff and administrators, and other interested persons, with information about the civil rights laws OCR enforces. In responding to correspondence, OCR provides general, publicly available information about a wide variety of civil rights issues in the education context. OCR does not, however, provide legal or other advice or issue advisory opinions to customers concerning specific factual scenarios. Correspondence issued by OCR in response to an inquiry from the public does not constitute a formal statement of OCR policy and should not be construed as creating or articulating new policy. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public.

