

Survivors say DeVos Title IX rules may have let MSU off the hook

Slotkin joins roundtable on new campus sexual assault guidelines

By **C.J. Moore** June 23, 2020



"Finding Our Voice: Sister Survivors Speak" exhibit at MSU, April 16, 2019 |
Derek Robertson

Michigan survivor advocates joined U.S. Rep. Elissa Slotkin (D-Holly) during a Monday [roundtable](#) to discuss the upcoming implementation of a new

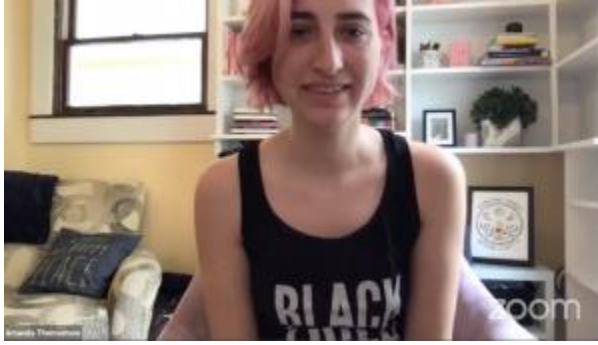
federal [Title IX final rule](#) handed down in May by U.S. Education Secretary Betsy DeVos.

Lawmakers with the Democratic Women's Caucus hosted the roundtable to talk about potential harm posed to survivors by the new U.S. Department of Education (ED) guidelines. Although DeVos claims the rule restores due process rights to people accused of sexual assault, it has been criticized by survivors, advocacy groups and lawmakers who say key components of it discourage individuals from reporting sexual assault or rape.

"We're here today because Secretary DeVos' Title IX rule is cruel and it is calculated — calculated to ensure it's easier for rapists to get away with assault and harder for survivors to come forward," said U.S. Rep. Jackie Speier (D-Calif.), a caucus member who hosted the discussion.

Set to be adopted by August, the ED's rule has been met with criticism and scrutiny, especially components of it that mandate live hearings by arbitrators who are not with a Title IX office nor investigative staff. Under the rules, a student's representatives can conduct cross examinations of other students.

The rules narrow down the definition of sexual harassment to unwelcome conduct that is "so severe, pervasive and objectively offensive that it effectively denies a person equal access to education." Students can also appeal decisions made by their institutions and schools are also allowed to raise standards of evidence to be "clear and convincing," which makes it more difficult for accused students to be found guilty. Before the new guidance, a "preponderance of evidence" was required.



Amanda Thomashow

Slotkin, one of the co-hosts of the panel, invited Michigan survivor advocates Amanda Thomashow and Tashmica Torok to give testimony on the rule.

Amanda Thomashow is the executive director of [Survivor Strong](#), a Lansing-based organization whose mission is to provide healing and support to survivors of gender-based violence and abuse throughout the state. She was also the first person to file a Title IX complaint against convicted serial predator Larry Nassar back in 2014, when she reported his violations of MSU's sexual harassment policy.

Thomashow told roundtable participants she is tired of having to fight for a seat at a table to talk about rights, protections and best interests of survivors. More protections existed under the previous administration's guidelines, she said — and she does not believe she could make a Title IX claim under the new ones.

"My school launched an investigation into Larry Nassar because of my report in 2014," Thomashow said. "That same complaint would serve as a catalyst for change years later -- but under this new rule, that catalyst would have never existed."

DeVos' new rule could have excused MSU's administration from responsibility for the dozens of women and girls assaulted on its campus, she added.



Tashmica Torok

Torok is the founder and executive director of the Michigan [Firecracker Foundation](#), which provides healing services to child survivors of sexual trauma. She trains parents, teachers and social workers in how to provide healing to survivors and their relatives.

Torok said the new rule extends beyond college campuses and could adversely impact children, especially those who are from marginalized communities.

“I have to also lift up that black girls will feel the impact of this far greater than their counterparts,” Torok said. “LGBTQ youth will feel it far greater than any of their counterparts. We know that Indigenous girls, we know that pregnant and parenting teens, we know that teens with disabilities are going to be further marginalized by these rules.”

Thomashow and Torok also stressed that it is crucial to teach communities about understanding what sexual violence is, how to take steps to prevent it and how to access resources in their communities.

They both are members of Slotkin’s Title IX District Advisory Board and Thomashow attended the 2019 State of the Union address as the congresswoman’s guest. Slotkin represents Michigan’s 8th Congressional District, which includes East Lansing and MSU, where Nassar’s crimes occurred.

In December, Slotkin [introduced legislation](#) to push back at DeVos’ then-proposed Title IX changes. She said after what happened within the MSU community, she could not understand why DeVos, a native Michigander,

continued to move forward with proposed changes to Title IX that make it harder for victims to come forward.

“This one really got me, because Betsy DeVos made these rules and these new rules would have made it impossible for Michigan State University to be accountable for Amanda’s case,” Slotkin said during the roundtable. “It’s a very important part of the changes and makes them devastating, as far as I’m concerned.”

Caucus members also heard from Chanel Miller, author of “Know My Name;” Sage Carson, manager of political advocacy group Know Your IX; and Shiwali Patel, director of Justice for Student Survivors at the National Women’s Law Center (NWLC).

New rule goes into effect in August

Under Title IX — the mandate that bars discrimination on the basis of sex in education — institutions that receive federal funding are [required to adopt](#) guidelines or risk losing that funding through non-compliance. They are required to implement DeVos’ rule by Aug. 14 for the 2020-21 academic year.

Four Democratic lawmakers — including Speier and U.S Reps. Brenda Lawrence (D-Southfield), Ayanna Pressley (D-Mass.) and Carolyn Maloney (D-N.Y.), the House Oversight Committee chair — [sent a letter](#) to DeVos in which they asked for documents and correspondence from the rules’ drawn-out development to be on their desks by July 3. Some of those documents date back to 2017, when DeVos first assumed the role of education secretary.

And earlier this month, Michigan Attorney General Dana Nessel joined a coalition of 17 other states’ attorneys general in filing a complaint against DeVos and the department. The coalition said the new rule “strips students of longstanding protections against sexual harassment” and violates Title IX mandates to stop and address sex discrimination.

Gov. Gretchen Whitmer supported Nessel's complaint, adding that the new rule, as it stands, will do nothing to change the culture of campus sexual assault.