

THE CHANGING LANDSCAPE OF TITLE IX LAW

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Prompt: Write an essay (800-1000 words) on the impact of a false criminal accusation as a college student and the importance of a good attorney in this situation.

In the wake of the false accusations of sexual assault leveled by Christine Blasey Ford against Supreme Court nominee Brett Kavanaugh in 2018, men across the United States, regardless of race or socioeconomic background, fear the devastating effects of false and unproven statements destroying their reputations, careers, and families. President Trump asked Americans to think of their sons or husbands when considering the impact of such false claims, stating, “It’s a very scary time for young men in America, when you can be guilty of something that you may not be guilty of.”¹ While it is clearly important to create an environment where victims of sexual assault feel comfortable espousing their claims, it is equally imperative that young men be given due process.

False sexual assault claims are uncommon, but they still do occur.² Such false claims “range from two to ten percent of all reported sexual assaults.”³ Some fifty-two cases have been reported where men who were falsely accused of sexual assault were ultimately exonerated.⁴ Due process matters for these men – these sons, husbands, and brothers – who deserve the right to a trial by a jury of their peers, a right to confront their accuser and know the allegations leveled against them, and a right to be presumed innocent until evidence proves otherwise.

While most Americans watched Brett Kavanaugh speak out vehemently in defense of his honor and his family, there are many like him at universities whose stories are less prominent. First, there is Joseph Roberts who attended Savannah State University. Roberts was suspended under threat of expulsion and arrest by an email the same day the university received the false claim of sexual assault. Within minutes of emailing Roberts, the university then sent out a campus-wide email with Robert’s picture attached. Roberts was not contacted by the university or

interviewed by university staff prior to the emails. After a suicide attempt, Roberts eventually finished his degree online.⁵

In another case, false rape accusations by a high school girl ruined a young man's college aspirations. Jealous that he was elected as president of the Latin Club, she made the false rape claim against him. By the time she confessed the lie to a friend, her father had already sent copies of the police report to every college admissions office in Ohio, ensuring that the young man was denied admission to those institutions of higher learning. While he has now filed suit against the family, it cannot compensate for the devastating toll the false claims took on his life, interrupting his education and destroying his reputation.⁶

In yet another case, two drunken college students had consensual sex, but the female later decided to file a rape claim against the male. His mother described how her son was expelled a few weeks after the accusations were made. He was not advised to retain an attorney. He was not allowed to confront his accuser or cross examine witnesses against him. No recording was even made of the university proceeding. His mother claims that the university ignored conflicting testimony of the female student as well as testimony that supported her son's account of the events in question. She described the "lonely, horrible nightmare" the family endured, and she emphasized that the "damage this stigma and these charges cause to a young man's psyche and future cannot be overstated."⁷

How did America reach this current state where men's reputations can be ruined by merely an unproven accusation? Title IX of the federal civil rights law enacted in 1972 purported to create equality in education, strengthen women's sports programs and provide the framework for how schools react to claims of sexual assault. President Obama sought to make the rules that protected students against sexual assault more strict, and his administration issued guidance documents in

2011 and 2014 for colleges to follow when investigating claims. In the wake of the Kavanaugh accusations, however, President Trump's administration is rolling back these guidance documents and trying to require victims to show stronger evidence of sexual assault.⁸

The tide may be turning in campus sexual assault cases. In June of 2018, a female college student at Sacred Heart University in Connecticut was sentenced to a year in prison after making false rape accusations against two football players on her campus. In this case, the female student ultimately admitted that the sex was consensual and that she had cried rape to garner attention from another male student. The players, however, were suspended from school. While one of the male students later returned to the university, he was no longer on the football team and had lost his scholarship.⁹ In an even more recent case in Michigan, a judge sentenced a female student who made false rape accusations to a forty-five day jail sentence.¹⁰ A group called Save our Sons is currently following 170 due process lawsuits filed by students who were found guilty of sexual assault despite strong evidence of their innocence.¹¹

Students who have been falsely accused should immediately hire competent criminal defense counsel to represent them. A seasoned criminal lawyer can advise students of their rights, require universities to follow their written investigation procedures, record any due process violations, and seek to uncover any bias on committees investigating the allegations. Savvy criminal defense attorneys may also question why the accuser would lie, leading to evidence that could exonerate the accused, preventing damage to his reputation and interruption of his education.¹²

Again, it is important for victims to feel comfortable making legitimate claims of assault, but it is equally significant for all accused students to receive due process with the presumption of innocence until evidence proves otherwise. Hiring a competent criminal defense firm to represent

accused students immediately is important to ensure the rights of those students are not violated. More strict punishment for false accusers may deter future false claims, and the light shed on this issue by Kavanaugh's experience may continue to create fairness in Title IX due process procedures.

References

1. Moon, E. (2018, October 5). False Reports of Sexual Assault Are Rare. But Why is There So Little Reliable Data About Them? Retrieved from Pacific Standard: <https://psmag.com/news/false-reports-of-sexual-assault-are-rare-but-why-is-there-so-little-reliable-data-about-them>
2. Diep, F. (2018, September 26). What the Research Says About (the Very Rare Phenomenon of) False Sexual Assault Allegations. Retrieved from Pacific Standard: <https://psmag.com/news/false-reports-of-sexual-assault-are-rare-but-why-is-there-so-little-reliable-data-about-them>
3. Moon.
4. Diep.
5. Phillips, K., Galli, C., Crawford, S. K., Hosenball, A., Valiente, A., & Ruchalski, E. (2018, October 18). Ex-student says he was falsely accused of sexual harassment and was denied due process on campus. Retrieved from ABC News: <https://abcnews.go.com/Politics/student-falsely-accused-sexual-harassment-denied-due-process/story?id=58592962>
6. Koffel, B. (n.d.). The Changing Narrative of Sexual Assault. Retrieved from The Koffel Law Firm: <https://www.koffellaw.com/sex-crimes/rape/title-ix-and-false-accusations/>
7. FACE. (n.d.). The parent of a falsely accused student: . Retrieved from Families Advocating for Campus Equality: <https://www.facecampusequality.org/stories-8>
8. Philips.
9. Stone, S., & Supler, K. (n.d.). When An Accuser Cries Wolf: Repercussions for Making False Allegations of Sexual Assault On College Campuses. Retrieved from KJK: <https://www.kjk.com/2018/06/27/making-false-allegations-of-sexual-assault-on-college-campuses/>
10. Stone.
11. Koffel
12. Schow, A. (2016, February 19). What to do if you're falsely accused of campus sexual assault. Retrieved from Washington Examiner: <https://www.washingtonexaminer.com/what-to-do-if-youre-falsely-accused-of-campus-sexual-assault>