

April 30, 2019, New York, NY – Legal Services NYC filed a [lawsuit](#) against the NYC Department of Education ("DOE") in the Eastern District of New York today alleging Title IX violations after the DOE repeatedly ignored reports of sexual assault and harassment by four female middle and high school students of color with disabilities, two of whom reported being raped.

The complaint alleges that New York City school personnel knew of the incidents yet failed to conduct investigations, notify parents, offer interim safety measures, or assist with safety transfers. The complaint also alleges that DOE was aware that the students were suffering from trauma-related mental, behavioral, and emotional challenges resulting from the sexual assaults and harassment, yet routinely ignored their legally mandated obligations to conduct evaluations of students or provide support or accommodations to help students make progress toward their education.

"Sadly, these students' traumatic experiences are by no means isolated or unusual," said **Amy Leipziger, a senior staff attorney at Legal Services NYC**. "They are the result of the NYC Department of Education's longstanding and pervasive failure to take appropriate and legally mandated action when students report sexual assault and harassment. Despite being on notice, the DOE has repeatedly failed these and other students who are being sexually assaulted and traumatized on their watch. All victims of sexual assault and harassment deserve to be taken seriously and we won't stop fighting until we get justice for these students and countless others like them."

"The NYC Department of Education's response in these cases shows how unequipped our schools are to recognize and respond to trauma and its impact on learning," said **Katrina Feldkamp, an Equal Justice Works Fellow at Legal Services NYC**, sponsored by the Arnold & Porter Foundation. "These four girls already experienced life-changing trauma. Now they are bravely fighting for their rights, and the rights of countless others, to the trauma-informed special education services that will help them heal and reach their full academic potential. How many more students must suffer and fall behind before the NYC Department of Education creates meaningful supports for students impacted by trauma?"

Legal Services NYC, the largest civil legal service provider in the country, filed suit against the NYC Department of Education after it discovered multiple students with disabilities whose reports of gender-based violence and harassment were repeatedly ignored and mishandled by their schools and whose right to meaningful educational progress was unlawfully thwarted by the schools' inaction. Two of the students (ages 12 and 14) were raped by classmates, and the other two students (ages 13 and 18) suffered repeated verbal taunts, groping, and sexual assault by their classmates. All four students reported the incidents to their schools and in each case, the school failed them. In response to reports of sexual assault, one teacher allegedly said "oh, he just likes you," while a principal said she "felt sorry" for the student, then walked away. A dean also allegedly told a victim of sexual assault at another school that the perpetrator was just a "touchy-feely kind of person."

Read the complaint [here](#).

Under Title IX of the Education Amendments of 1972, the NYC Department of Education is obligated to take corrective action when it knows about or should have known about sexual harassment and assault. Yet their schools made no effort to investigate the incidents, took no interim safety measures to keep the students safe, and stood silently by as the impact of the assaults took a toll on the students' academic and emotional well-being.

This is not a new problem for the DOE, which was previously sued and investigated for Title IX violations in 2016 after the school deliberately ignored reports of student sexual harassment and assault. The New York Attorney General's office also investigated the DOE in 2014, finding inadequate training on identifying and responding to discrimination and harassment and severe underreporting of incidents. That year, 70 percent of NYC schools reported zero incidents of sexual harassment and assault. Similarly, a 2019 audit by the New York State Comptroller's Office found that New York City schools are still underreporting incidents due in part "because school staff had differing views of when to report an incident." Yet a recent survey by Girls for Gender Equity found that as many as one in three students said they experienced some form of sexual harassment at their schools.

The complaint also charges that the DOE violated federal disability laws, including the Individuals with Disabilities Education Act, the Americans with Disability Act, Section 504 of the Rehabilitation Act, when it denied students with disabilities their right to an education by failing to provide special education placement, services, and accommodation to address the mental, emotional, and behavioral challenges resulting from the trauma they experienced.

All four students in this case experienced changes in health and behavior that impacted their academic performance, including difficulty concentrating, decreased engagement with schoolwork and class assignments, memory problems, fear of attending school, sleeping in class, and a drop in grades. Yet their schools did nothing to address the role of trauma in their learning, behavior, and social and emotional growth. Studies show that traumatic incidents, such as sexual assault and harassment, can produce measurable cognitive, neurological, and behavior effects that severely interfere with academic functioning, including poor concentration, intrusive thoughts, disorganized behavior, agitation, irritability, and avoidant behaviors. These changes are likely to produce lower grades, increased absences, and decreased rates of high school

graduation. Studies also show that proper supports can reverse these cognitive changes, and that schools are best equipped to provide these supports. The complaint demands that DOE provide these supports, as mandated by law.

Legal Services NYC is also seeking compensatory damages for the victims, an order barring the DOE from engaging in unlawful, discriminatory conduct, and systemic reforms throughout New York City schools that prioritize the safety and academic success of students with disabilities who experience gender-based violence and harassment.

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"The Department of Education is failing to meet the social and emotional needs of our students. The DOE's inaction to address the trauma these four students experienced is unacceptable" and it is clear that monumental changes need to be made, including investments in more Title IX coordinators. We have to do everything possible to make sure our students' social and emotional needs are met. Currently, there is only one Title IX coordinator for 1.1 million students, and the New York City Council is fighting to fund at least seven additional DOE Title IX coordinators across the five boroughs because no student's needs or trauma should ever be ignored," said **Council Member Mark Treyger, Chair of the Education Committee**, who is holding a joint hearing on the issue on April 30. "All of our students deserve to be treated with dignity and respect, and these four students deserve justice."

"The Department of Education's failure to address incidents of sexual assault in our schools is inexcusable and morally reprehensible," said **Council Member Ritchie Torres**. "It is incomprehensible to think that our children are not safe from sexual assault in their own classrooms and DOE's inaction flies in the face of our city's values that every victim of sexual assault deserves to be heard and supported with trauma-informed care."

"Today in the U.S. one in three women will experience rape. These numbers will not change unless institutions and people decide to take decisive action to believe and support women and girls who report sexual assault and rape," said **Ana Maria Archila, Co-executive Director of the Center for Popular Democracy**. "As a mother, as a survivor, and as a New Yorker, I am horrified to know that the DOE repeatedly ignored reports by four young survivors. When institutions fail to respond with urgency to reports of sexual harassment and sexual assault, they reaffirm a culture that enables sexual violence in the first place. NYC schools must become a place where every student can move freely without the danger of sexual assault and harassment."

"Girls have a right to learn in a safe, nondiscriminatory environment. But too often, when students experience sexual harassment, schools fail to step in, which can mean students' ability to succeed in school suffers," said **Fatima Goss Graves, President and CEO of National Women's Law Center**. "Title IX requires that schools treat all reports of sexual assault and other forms of sexual harassment seriously, providing full and fair investigations and ensuring that students targeted by harassment have the accommodations they need to learn safely. When schools ignore these obligations, they violate Title IX, which seeks to ensure that sexual harassment and assault are never the end of anyone's education."

"No student should ever have to choose between their safety and their education," said **Carol Moody, President and CEO of Legal Momentum**. "It is difficult enough for sexual assault victims to come forward and seek help, to be turned away is devastating and harmful. The NYC DOE's inaction in response to these students' trauma is inexcusable and unlawful."

"This necessary legal action will go a long way in raising the alarm on how our schools are failing students who are sexually assaulted," said **Sonia Ossorio, president of NOW-NY**. "DOE failed to notify parents, investigate the reports of assault or help these kids who were exhibiting trauma-related issues. It's a stain on New York City government. Our students deserve better."

"In a moment when the federal government threatens to roll back Title IX, it behooves the City of New York to go above and beyond the federal mandate to protect students," said **Joanne N. Smith, President and CEO of Girls For Gender Equity (GGE)**. "In fact, we recently launched The School Girls Deserve Campaign, calling on the DOE to hire at least seven Title IX Coordinators and to fundamentally rethink the role of these individuals to work proactively to prevent sexual assault before it happens, rather than responding after the fact. We hope that the courageous survivors who have come forward thanks to our partner at Legal Services NYC will encourage the DOE to ensure the safety of all students in schools."