

Title IX + Defamation + Social Media

Q&A



I want to post about my Title IX case on social media. Is that ok?

This is a hard question to answer because speaking publicly about experiencing sexual harassment, like posting on social media, or being interviewed by a newspaper, can be empowering for survivors. However, survivors should be aware of possible legal risks when they share their experience publicly or when they talk about a legal case, including a Title IX case.

Sometimes speaking publicly about an experience could result in the survivor being sued in civil court or the school taking action as a result of the survivor violating school policies that apply to a Title IX case. NVRDC always recommends that a survivor seek the advice of a lawyer who can advise the survivor on the potential legal consequences of speaking about their sexual harassment publicly. Survivors should seek justice in whatever way feels right to them while also educating themselves about any laws that might apply to the statements they make.



What is defamation?

Defamation is when Person A makes false statements about Person B to Person C or makes the statements publicly. Person B can go to civil court and ask for money from Person A to make up for damage to their reputation. Defamation is a type of civil lawsuit; it is not a crime. Here is an example to help explain:

A survivor goes on social media and posts that Taylor sexually assaulted them. Taylor claims the survivor is lying about the sexual assault. Taylor could sue the survivor in civil court to ask for money to make up for the damage to their reputation IF Taylor can prove the survivor's statement was false and that it hurt their reputation. The survivor can defend themselves by proving the statement was true.

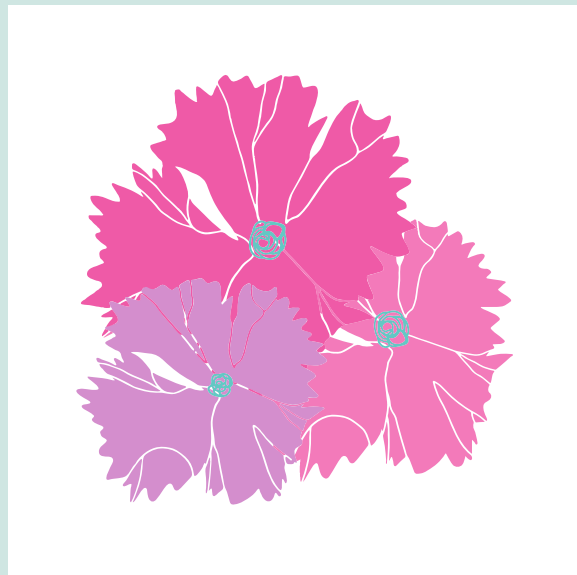


Defamation laws vary from state to state and anyone with questions about defamation should speak to a lawyer in their state.



I was sexually harassed by the respondent, so how could I be sued for defamation if what I say is true?

Even if you're telling the truth, this doesn't prevent someone from suing you for defamation. If you prove the truthfulness of your statements in court, then the lawsuit would be unsuccessful.



Even if a survivor is successful in defending themself against a defamation lawsuit, being sued for defamation can be a huge emotional and financial burden for a survivor because they will likely need to hire a lawyer, go to court numerous times, and work to get the case dismissed. It is important that a survivor speak with a lawyer if they intend to make statements to third parties (whether it's online, to a school paper, to other students, etc.) about the respondent and what the respondent did to the survivor.



How can I avoid being sued for defamation?

Unfortunately, whenever a survivor chooses to speak publicly about their experience, there is a risk of being sued for defamation, despite the truthfulness of the survivor's statements. That's why it's important for a survivor to speak with a lawyer about the potential risks of speaking publicly so the survivor can make a choice that feels right to them.

What if I speak publicly about my sexual assault but I don't name my assailant?

It's possible that this could lessen the risk of being sued for defamation. This is because defamation requires that the statements damage the assailant's reputation. If no one knows the identity of the person the survivor is referring to in their public statements, then it is less likely there would be that damage to that person's reputation. However, not naming an assailant doesn't mean the assailant cannot sue for defamation, particularly if the assailant is identifiable from details the survivor gives, or if many people know who the survivor is talking about.

What if I post anonymously, or someone else posts about it on my behalf?

Speaking anonymously does not necessarily mean a person cannot be sued for defamation. It is possible that the assailant or other people may know who the survivor is, even if they post through an anonymous means.



NVRDC provides free lawyers who act as attorney-advisors to survivors in Title IX cases at DC colleges and universities. If you are the complainant in a Title IX case and you would like to speak to an NVRDC lawyer who could potentially serve as your advisor, please contact 202-742-1727 or email info@nvrdc.org.

While NVRDC does not represent survivors in defamation suits, an NVRDC lawyer may be able to provide a survivor with a brief consultation and referrals to other lawyers that handle these types of lawsuits.

