Sixth Circuit Rules on Sexual Misconduct Case

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The Sixth Circuit recently held, in Doe v. Baum, that a public university violated the Due Process Clause and Title IX when it did not allow a student accused of sexual misconduct to conduct a cross-examination of the claimant during university-run proceedings. The Court ruled that since the public university had to “choose between competing narratives to resolve the case,” the accused was entitled to conduct a cross examination.

The case began after Jane Roe filed a complaint of sexual misconduct against John Doe, another student, after stating she was too drunk to provide consent. Doe, however, argued that Roe was an active participant in the sexual encounter and did not appear intoxicated at the time. After conducting an investigation, in which witnesses provided statements in support of both sides, the investigator recommended that the University find in favor of Doe. Roe appealed to the University’s three-member Appeal Board, which reversed the investigator’s decision and concluded that Roe’s description of events appeared more credible. Rather than face expulsion, Doe withdrew from the University and filed suit.

In its analysis of the case, the Sixth Circuit ultimately found that the case rested on two main points: (1) since Doe was accused of serious misconduct, he was entitled to a hearing; and, (2) since credibility was a central aspect of the case, Doe should have been permitted to cross-examination. The Court then applied a balancing test, stating that Doe’s interest in not being labeled a sex offender greatly outweighed the interest of the University, which had little to lose by permitting cross examination.

In light of recent attention surrounding sexual misconduct cases, this ruling may cause sister Circuits to follow suit and expand the nature of investigations and related hearings.

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