



# BOB CASEY

FIGHTING *for* PENNSYLVANIA FAMILIES

## The Students' Access to Freedom & Educational Rights Act of 2022

*U.S. Senators Bob Casey and Mazie Hirono*

Decades ago, Congress created strong protections against discrimination across key aspects of our society. With Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, Congress has ensured those protections, including the right to be free of harassment, have extended to federally-funded schools. However, Supreme Court rulings in *Gebser v. Lago Vista Independent School District* and *Davis v. Monroe County Board of Education* have created standards for Title IX sexual harassment lawsuits that are more onerous than those applicable to workplace sexual harassment lawsuits under Title VII of the Civil Rights Act of 1964. These standards have made it more difficult for students to be protected from sex-based harassment and have influenced other civil rights laws, making civil rights enforcement against harassment on the basis of race, disability, and age more difficult as well. Today, Title IX plaintiffs must establish that they were subject to severe, pervasive, *and* objectively offensive harassment; that a high-ranking school official had actual knowledge of the harassment; and that the school was deliberately indifferent to the harassment. In contrast, under Title VII, a plaintiff experiencing harassment by a coworker or other non-supervisor need only show that their employer reacted negligently in response to severe *or* pervasive harassment of which the employer knew or should have known. Thus, because of court rulings, schools are required to do less to address harassment against their students than to address equivalent harassment of employees.

The Students' Access to Freedom & Educational Rights Act (SAFER) Act would ensure all students receiving a federally-funded education, from kindergarten to post-secondary, are truly protected from discrimination and afforded the equal educational opportunities to which they are entitled. Specifically, this bill would:

- Amend Title IX, Title VI, Section 504 and the Age Discrimination Act to remove unreasonably burdensome standards for private harassment lawsuits for money damages.
- Strengthen protections against harassment based on sex (including harassment based on sexual orientation, gender identity, sex characteristics, pregnancy, childbirth, a medical condition related to pregnancy or childbirth, and sex stereotypes), race, national origin, color, disability, age and intersectional forms of harassment.
- Preserve the right for schools to request a religious exemption under Title IX while requiring transparency when such an exemption is requested.
- Require the development and administration of a climate survey on K-12 students' experiences with domestic violence, dating violence, sexual assault, sexual harassment, and stalking.
- Improve institutional supports for students who initiate complaints of sex-based harassment.
- Establish training requirements and a grant program to ensure Title IX coordinators are in place and school staff are well-equipped to foster a safe educational environment.