

*Review of Laura Kipnis'*

UNWANTED ADVANCES:  
*Sexual Paranoia Comes To Campus*

BY SARAH KERN\*

In 2015, Laura Kipnis, a film professor in Northwestern's School of Communications, found herself at the center of a Title IX investigation. That year, she wrote an essay for the Chronicle of Higher Education questioning Title IX policies and what she saw as the unfair treatment of a fellow professor, Peter Ludlow. After the article was published, students at Northwestern filed complaints against Kipnis for creating a "hostile environment" and marched in protest. Although Kipnis was cleared of the accusations against her, she wrote *Unwanted Advances: Sexual Paranoia Comes to Campus* as a warning call to academics, bringing attention to the frenzied and opaque administration of Title IX policies at universities. She argues that paranoia, coupled with overzealous reporting, takes away and pushes feminism backwards, all while threatening academic freedom.

Title IX of the Education Amendments of 1972 states "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."<sup>1</sup> Almost all post-secondary schools in the U.S. receive federal funds and are required to comply with Title IX regulations. The U.S. Department of Education Office for Civil Rights issues guidance with legal standards and potential repercussions for failure to comply as "Dear Colleague Letters." In response to growing concerns about rampant and unaddressed sexual harassment and assault on college campuses, the Department of Education released Dear Colleague Letters in 2011 and 2014 with further guidance on how colleges and universities should respond to sexual misconduct.<sup>2</sup> In response, colleges and universities created new Title IX offices, implemented campus-wide prevention training, and utilized the "preponderance of the evidence" standard in hearings for sexual misconduct.

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1 Title IX of the Education Amendments of 1972, Pub. L. No. 92-318, 86 Stat. 373 (codified as amended at 20 U.S.C. §§ 1681-1688 (2012)).

2 Russlynn Ali, Assistant Sec'y for Civil Rights, Office for Civil Rights, U.S. Dep't of Educ., Dear Colleague Letter: Sexual Violence 11 (Apr. 4, 2011), <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>; Letter from Catherine E. Lhamon, Assistant Sec'y for Civil Rights, Office for Civil Rights, U.S. Dep't of Educ., Questions and Answers on Title IX and Sexual Violence (Apr. 24, 2014).

In *Unwanted Advances*, Kipnis uses a narrative of Ludlow's and her personal Title IX experience to illustrate how campuses are caught up in sexual harassment hysteria. According to Kipnis, a student wrongfully accused Ludlow of forced drinking and unwanted groping after a night of bar hopping. The student claimed the incident led to a failed suicide attempt the next morning. At the same time, Ludlow was also the subject of sexual assault claim by a former graduate student with whom he had a relationship. Kipnis had a front seat to Ludlow's Title IX hearing as his faculty support person. Ludlow resigned before he was fired, and with his academic profession forever ruined, he resides in Mexico.

The book's examination of Ludlow's case is based only upon interviews with him, his documentation, and Kipnis' own experience. She focuses on discrediting the character of Ludlow's accusers and challenging their version of events. In Kipnis' opinion, the embittered students making Title IX claims are full of psychodrama and fueled by sexual regrets. Kipnis tries to mitigate the power differential between faculty and students; she claims "youth and attractiveness offset power".<sup>3</sup> Like Ludlow, Kipnis reveals she also dated her students, and defends this practice as an adult's personal freedom. Ludlow points to his past as a divorced man to show that he has difficulty communicating in relationships, and Kipnis accepts this as the reason Ludlow could not see how manipulative younger women could ruin him.

Kipnis contends there is permanent danger in the Title IX policies for both men and women. She believes that the outcome of Ludlow's ordeal reinforces the male/predator and female/prey stereotype. Throughout her narrative, rape culture is equated to terrorism, which makes women believe they are in a state of perpetual vulnerability. Title IX policies remove women's agency, their choice, and makes it look as though they do not have their own sexual desires. Further, she maintains the policies support the narrative that sex is dangerous, promotes enfeebled and traditional forms of femininity, and make wrongfully accused male students distrustful and loathe women.

The author's caustic analysis of Title IX processes is useful to the current debate about proper limits of federal agency regulations on campus sexual assault policies. Kipnis took a chance by ignoring administrative directives to keep her investigation confidential to share a picture of a frustratingly unclear process with unknown motivations and potentially ruinous results. She shines a light on the decisions made behind closed doors that have an effect on an entire campus community, such as the definition of consent, and exposes a system that nearly requires one to be a legal scholar to be protected by the Title IX process. Also explored in the book is the notion that academic freedom is at stake when the focus of education shifts from the ideas of teachers to their institutional roles. Her argument is that faculty are increasingly afraid of complaints from students about content and the potential to create a hostile environment. As a result, faculty stifle their creativity and academic material. She reflects wistfully about her time in college, when no one cared that her greatest artistic influence was a womanizing genius professor. Kipnis' view may be anachronistic, but it brings up points well worth discussion.

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3 Laura Kipnis, *Unwanted Advances: Sexual Paranoia Comes to Campus* 94 (2017).

The primary weakness in *Unwanted Advances* is the lack of journalistic fairness.<sup>4</sup> It is difficult to accept the author's arguments about the inequality of the sexual complaint process when only portrayed through the lens of the accused. Although the confidentiality rules around Title IX complaints would prevent Kipnis from reviewing documents from Ludlow's and her accusers, accounts from accusers in other cases would add credibility to her investigation. Further, objective statistics and expert advice are replaced with hearsay and the commentary from those unfamiliar with the details of Ludlow's case throughout the text. Kipnis repeatedly reminds the reader that she is a left-wing feminist, but undercuts this claim when she tries to provide the "real" reasons why Title IX complaints are filed. Old stereotypes about women are trotted out: scorned women, regretful women, women looking for payback, and ladder-climbers willing to use Title IX investigations to get ahead. Most egregious of these stereotypes is the histrionic woman, a common theme used throughout the book to paint accusers as melodramatic attention seekers instead of exploring deeper reasons for their actions.

Kipnis' outrageous style while dealing with sensitive topics is difficult to appreciate. The men in her book are, at the most, guilty of being bad communicators and prognosticators. Women, on the other hand, are typecast in the roles of power-seeking, vengeful vixens that may have financial motivations to file Title IX complaints. According to the author, this isn't the fault of women but rather it is symptom of the fanatical, overly bureaucratic, rape culture crusade that makes women believe they are sexually vulnerable. She refuses to identify with women accusers, and mocks the effects of trauma on sexual assault survivors, claiming that much of used to be called "learning experiences" is now labeled "trauma".

*Unwanted Advances* is timely and the charismatic writing borders on gossip, which is perhaps why it is so entertaining to read. However, Kipnis should understand the value of a fair investigation and an even-handed analysis given her own experience with the Title IX process<sup>5</sup>. With the reader's attention in her grasp, the author missed an opportunity to effect change when she failed to bolster her narrative with support. While the book fails in this respect, it does offer an important perspective in the broader conversation around Title IX's reach on campus. Current proposed regulations to replace the Obama-era guidance on sexual assault espouse the same push for greater due process rights of the accused advocated by Kipnis.<sup>6</sup> Further, the academic freedom/free speech arguments found in the book are echoed by opponents to expansion of Title IX sexual harassment

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4 Indeed, this failure has formed the basis for a lawsuit filed against Kipnis. See Katherine Mangan, *Laura Kipnis is Sued Over Portrayal of Graduate Student in Book on Campus 'Sexual Paranoia'*, CHRON. HIGHER EDUC. (May 18, 2017), <https://www.chronicle.com/article/Laura-Kipnis-Is-Sued-Over/240105> for a description of the lawsuit and a timeline of events.

5 See Laura Kipnis, *My Title IX Inquisition*, CHRON. HIGHER EDUC. (May 29, 2015), <https://www.chronicle.com/article/My-Title-IX-Inquisition/230489?cid=rclink>.

6 Some of the proposed changes to policy guidance that push for increased rights for the accused; including the ability to cross-examine victims, a more narrow definition of sexual harassment, and a higher standard of proof. See Q&A on Campus Sexual Misconduct, U.S. Dep't of Educ., <https://www2.ed.gov/about/offices/list/ocr/docs/qa-title-ix-201709.pdf>; Proposed Title IX Regulation Fact Sheet, U.S. Dep't of Educ., <https://www2.ed.gov/about/offices/list/ocr/docs/proposed-title-ix-regulation-fact-sheet.pdf>.

regulations on campus.<sup>7</sup> These current trends may move the needle farther away from justice for graduate school women who are most often the victims of sexual harassment misconduct by faculty”.<sup>8</sup> Kipnis may not have supported her argument well, but she did reignite a worthy debate over what constitutes sexual harassment on campus and the role faculty play in sexual harassment on campus.

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7 See e.g. *NCAC to Dept. of Ed: Vague Definition of Harassment Under Title IX Threatens Student Free Speech*, NAT'L. COAL. AGAINST CENSORSHIP, <https://ncac.org/resource/are-department-of-education-policies-hurting-campus-free-speech>.

8 See Nancy Chi Cantalupo & William C. Kidder, *Mapping the Title IX Iceberg: Sexual Harassment (Mostly) in Graduate School by College Faculty*, 66 J. Legal Educ. 850 (2017); Brian A. Pappas, *Abuse of Freedom: Balancing Quality and Efficiency in Faculty Title IX Processes*, 67 J. Legal Educ. 802 (2018).