

November 16, 2018

University of California troubled by proposed changes to sexual harassment rules

University of California's Interim Systemwide Title IX Coordinator Suzanne Taylor issued the following statement today (November 16, 2018)

The Department of Education's (ED) proposed changes will reverse decades of well-established, hard-won progress toward equity in our nation's schools, unravel critical protections for individuals who experience sexual harassment, and undermine the very procedures designed to ensure fairness and justice. This is yet another attack on students' right to an educational environment free of sexual harassment.

I am deeply concerned about specific aspects of the proposed rules:

- Contrary to the Department of Education's assertions that changes would grant campuses more freedom, the rules are prescriptive. They require universities to hold live hearings rather than implementing an investigative model that many schools, including UC, have carefully and deliberately created. The proposed hearings would allow representatives of alleged assailants to directly cross-examine complainants, which is wholly unnecessary and inherently intimidating, especially to students making the already difficult decision to come forward. ED proposes these rules under the guise of protecting respondents, yet UC's procedures (and those of many other universities) already ensure due process, including the respondent's right to question complainants and witnesses in a manner that does not cause further trauma.
- Narrowing the scope of what constitutes sexual harassment risks leaving serious misconduct unaddressed, especially at schools that adopt the higher evidentiary standard. The Office of Civil Rights (OCR) and schools nationwide have effectively applied the current definition for decades. Suddenly permitting schools to disregard any sexual misconduct that does not overcome new and unnecessary hurdles is equally confounding. These and other proposed rules by ED will seriously impede students' abilities to obtain redress for

wrongdoing.

- The proposed rules significantly weaken OCR's authority to enforce Title IX. In stark contrast to its current enforcement powers, OCR would not require changes to a school's process unless it determines the school is "deliberately indifferent," an incredibly high standard. Applying these standards to other areas of OCR's jurisdiction, if that is ED's intent, will also undermine important civil rights laws that protect students from racial and disability discrimination.

The rights of the most vulnerable among us are under attack, and it is important that we continue to counter ill-advised attempts to erode important Title IX protections for all members of the community. UC remains steadfast in its commitment to combatting sexual violence through prevention, transparent and fair resolution processes, and just outcomes. The university will continue to ensure its policies and procedures protect the rights and well-being of all parties in the process.

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