

STUDENT SENATE RESOLUTION 2019-1068

TITLE: Resolution Opposing Proposed Changes to Title IX Regulations

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WHEREAS, in November of 2018 the Department of Education proposed changes to Title IX regulations and how universities handle reported sexual harassment; and,¹

WHEREAS, under the new policy, schools will likely investigate fewer complaints, and the Department of Education will hold fewer schools accountable for ensuring campuses are free of sexual harassment and assault; and,^{2 3}

WHEREAS, the overwhelming effect of the new rules is to limit schools' obligations to students who file complaints of sexual harassment and violence under Title IX; and,⁴

WHEREAS, sexual harassment was previously defined as all "unwelcome conduct of a sexual nature," following court precedent; and,⁵

¹ <https://www.ed.gov/news/press-releases/secretary-devos-proposed-title-ix-rule-provides-clarity-schools-support-survivors-and-due-process-rights-all>

² <https://www.aclu.org/blog/womens-rights/womens-rights-education/betsy-devos-wants-roll-back-civil-rights-protections>

³ <https://www.apa.org/pubs/journals/releases/law-0000037.pdf>

⁴ <https://www.aclu.org/blog/womens-rights/womens-rights-education/betsy-devos-wants-roll-back-civil-rights-protections>

⁵ <https://educationpost.org/devos-is-planning-to-roll-back-guidelines-that-protect-students-from-sexual-assault/>

WHEREAS, the new rules would require schools to take action only when harassment is “so severe, pervasive and objectively offensive” that it denies a student access to the school’s educational program; and,⁶

WHEREAS, the new rules would therefore only require schools to investigate the most extreme forms of harassment and assault, and not necessarily all cases; and,

WHEREAS, the new rules would require schools to establish live cross-examination, where an accused student’s representative would be able to directly question a survivor in real time; and,^{5 7}

WHEREAS, the process of reporting a sexual assault can be traumatic and painful, and live cross-examination of survivors will rehash such trauma. Brett Sokolow, president of the Association of Title IX Administrators projected this to lead to a 50% drop in future reports; and,⁸

WHEREAS, the new rules would make it impossible for survivors to request that their perpetrator be moved out of their dorm or classes as an interim accommodation; and,⁶

WHEREAS, the Department’s rules would allow schools to adopt a higher standard of proof for sexual misconduct complaints, allowing a choice between a preponderance of evidence and clear and convincing; and,

WHEREAS, other cases investigated by universities require the preponderance of evidence as the burden of proof; and,⁹

WHEREAS, student conduct cases do not rely on the same rules of evidence governing criminal and civil court cases and do not have the power of subpoena; and,^{10 11}

WHEREAS, this is discriminatory of victims of sexual assault, as they may have to reach a higher burden of evidence than victims of other crimes in a student conduct process; and,¹²

⁶ <https://www2.ed.gov/about/offices/list/ocr/docs/proposed-title-ix-regulation-fact-sheet.pdf>

⁷ https://actionnetwork.org/user_files/user_files/000/028/107/original/Two_pager_on_proposed_rule.pdf

⁸ <https://educationpost.org/devos-is-planning-to-rollback-guidelines-that-protect-students-from-sexual-assault/>

⁹ <https://sccr.dso.ufl.edu/resources-by-audience/faculty-and-staff/honor-code-process/>

¹⁰ <https://sccr.dso.ufl.edu/policies/student-honor-code-student-conduct-code/>

¹¹ <https://litigation.findlaw.com/going-to-court/what-is-a-subpoena.html>

¹² https://actionnetwork.org/user_files/user_files/000/028/107/original/Two_pager_on_proposed_rule.pdf

WHEREAS, the new rules would allow schools to use unregulated “mediation” processes in lieu of investigations; and,^{6 13}

WHEREAS, the existing rules recommend that schools conduct sexual assault investigations within 60 days; and,⁷

WHEREAS, the new rules would mandate that investigations be “reasonably prompt,” which is an unspecified period of time, and would permit schools to postpone investigation until completion of “law enforcement activity,” which could extend for months⁶ or years¹⁴; and,

WHEREAS, under the new rules, colleges and universities would be obligated to take action only if students make formal complaints to designated Title IX and high-level school officials; and,¹⁵

WHEREAS, of female students surveyed at the University of Florida who responded that they had been survivors of penetration by physical force, 58% said they did not report the behavior because they did not think it was serious enough to report, 23% did not report the incident because they did not think anything would be done about it, 18% did not report because they feared the information would not be kept confidential, and 27% did not report because they felt embarrassed or ashamed; and,¹⁶

WHEREAS, more than 90% survivors of sexual assault on college campuses already do not report assault when it occurs; and,¹⁷

WHEREAS, the rules would allow schools to eliminate protections for students studying abroad; and,¹⁸

WHEREAS, the Department’s rules would narrow the definition of sexual harassment to include only those offenses which occur within a schools’ programs or activities, which does not include off-campus housing and activities not organized by the University, thus restricting the availability of the remediation process to survivors from a wider applicability under the status quo; and,^{19 20}

¹³ <https://www2.ed.gov/about/offices/list/ocr/docs/title-ix-nprm.pdf>

¹⁴ <https://www.1202.org/il/en/union/info/after/legal-proceedings>

¹⁵ <https://www.aclu.org/blog/womens-rights/womens-rights-education/betsy-devos-wants-roll-back-civil-rights-protections>

¹⁶ <http://news.ufl.edu/articles/2015/09/uf-releases-results-of-sexual-assault-and-misconduct-survey.php>

¹⁷ https://www.nsvrc.org/sites/default/files/publications_nsvrc_factsheet_media_packet_statistics-about-sexual-violence_0.pdf

¹⁸ <https://www2.ed.gov/about/offices/list/ocr/docs/proposed-title-ix-regulation-fact-sheet.pdf>

¹⁹ <https://www2.ed.gov/about/offices/list/ocr/docs/background-summary-proposed-ttle-ix-regulation.pdf>

²⁰ https://actionnetwork.org/user_files/user_files/000/028/107/original/Two_pager_on_proposed_rule.pdf

WHEREAS, out of eight major universities that provided data, five had more reports of sexual assault from off campus than on school property; and,²¹

WHEREAS, approximately 78% of UF undergraduate students live off campus; and,²²

WHEREAS, the University of Florida Police Department has reported on only 64 cases of sexual assaults from 2015 to 2017; and,²³

WHEREAS, 20% of female, 4% of male, and 21% of transgender, genderqueer, and gender nonconforming students are sexually assaulted while in college; and,²⁴

WHEREAS, an assailant has a 99% chance of avoiding a prison sentence; and²⁵,

WHEREAS, 90% of sexual assaults are committed by repeat offenders; and,²⁶

WHEREAS, if assailants were stopped after their second offense, then 59% of sexual assaults would be prevented; and,²⁷

THEREFORE, LET IT BE RESOLVED that the University of Florida Student Senate opposes the proposed changes to Title IX Regulations.

THEREFORE, LET IT BE FURTHER RESOLVED that the University of Florida Student Senate stands with many other Universities' Student Government Associations which have adopted, or may adopt, resolutions supporting similar sentiments.

THEREFORE, LET IT BE FURTHER RESOLVED that the UF Student Senate empathizes with survivors of sexual assault.

THEREFORE, LET IT BE FURTHER RESOLVED that the UF Student Senate remains committed to sexual assault prevention and the safety of students who live both on and off campus.

²¹ <https://apnews.com/3823e7c2ca3349e1a77487e62cfbf891?fbclid=IwAR1haXMPLhVOTpqI9CWkmpkfvv6123ou9PhtDNVJEczrnMJ32J7clSAIkE8>

²² <https://www.usnews.com/best-colleges/university-of-florida-1535/student-life>

²³ <https://police.ufl.edu/media/policeufl.edu/documents/UFPD-Gainesville-ASR.pdf>

²⁴ <https://www.rainn.org/statistics/campus-sexual-violence>

²⁵ <https://www.rainn.org/statistics/criminal-justice-system>

²⁶ <https://kinseyconfidential.org/most-campus-rapes-are-committed-by-repeat-offenders/>

²⁷ https://www.ted.com/talks/jessica_ladd_the_reporting_system_that_sexual_assault_survivors_want/

THEREFORE, LET IT BE FURTHER RESOLVED that the UF Student Senate respectfully requests that the Department of Education more comprehensively consider the wishes of affected university students when crafting rule changes relevant to sexual assault prevention, investigation, and resolution.

THEREFORE, LET IT FINALLY BE RESOLVED that the UF Student Senate respectfully requests that the University administration does all within their power to stand with survivors of sexual assault.

Proviso: A copy of this resolution shall be sent to Secretary of Education Betsy DeVos, Provost Dr. Joseph Glover, Dean of Students Dr. Heather White, Student Legal Services Director Jon C. Adcock, Vice President for Human Resources Jodi Gentry, University Title IX coordinator Dr. Russell Froman, the UF Police Department's Office of Victim Services, STRIVE, U Matter, We Care, the Office of Multicultural and Diversity Affairs, Student Body President Ian Green, Student Body Vice President David Enriquez, Student Body Treasurer Stefan Sanguyo, Student Body President-Elect Michael Murphy, Student Body Vice President-Elect Sarah Abraham, Student Body Treasurer-Elect Santiago Gutierrez, University of Florida President Dr. W. Kent Fuchs, Florida State University Student Body President Stacey Pierre, Florida State University Senate President David Higgins, Florida Atlantic University Student Body President Kyle Macdonald, Florida Atlantic University SG Boca Raton Campus House Speaker Noah Goldberg, University of South Florida Student Body President Moneer Kheireddine, University of South Florida Senate President Sarah Lucker, University of Miami Student Body President Evan de Joya, University of Miami Speaker of the Senate Mili Khurana, Claremont McKenna College Student Body President Maya Love, Claremont McKenna College Executive Vice President Max Knowles, Undergraduate Government of Boston College Student Body President Reed Piercey, Undergraduate Government of Boston College Executive Vice President Ignacio Fletcher, Tufts Community Union President Jacqueline Chen, Tufts Community Union Vice President Adam Rapfogel, Texas State University Student Body President Alison G Castillo, Texas State University Student Body Vice President Keely Freund, College of Charleston Student Body President Tripp Keeffe, College of Charleston Student Body Vice President Sara Graham, University of Chicago Student Body President Satyen Gupta, University of Chicago College Council Chair Jahne Brown, Florida Southern College Student Body President Natalie Barton, Florida Southern College Academics Vice President Greg Imhoff, University of Northern Iowa Student Body President Drew Stensland, University of Northern Iowa Student Body Vice President Kristen Ahart, Northeastern University Student Body President Dylan Balcom, Northeastern University Executive Vice President Jake Grondin, University of South Florida St. Petersburg Student Body President Daniel "Kaeden" Kelso, University of South Florida St. Petersburg Senate President Tiffany Porcelli, Duke University Student Body President Kristina Smith, Duke University Executive Vice President Jake Hoberg, Kansas State University Student Body President-Elect Jansen Penny, Kansas State University Student Body Vice President-Elect

Ali Karamali, University of West Florida Student Body President Brandon Malone, and University of West Florida Student Body Vice President Zenani Johnson.