



**STATE OF NEW HAMPSHIRE**  
**OFFICE OF THE GOVERNOR**

**CHRISTOPHER T. SUNUNU**  
Governor

November 19, 2018

The Honorable Betsy DeVos  
Secretary of the Department of Education  
Lyndon Baines Johnson (LBJ)  
Department of Education Building  
400 Maryland Ave, SW  
Washington, DC 20202

Dear Secretary DeVos,

I write to you as part of the comment period regarding the proposed Title IX rule changes. Specifically, how allegations of sexual harassment and assault in public schools and on college campuses are handled.

As Governor, I am concerned that the proposed changes as currently written could jeopardize protections for victims of sexual harassment and assault. As such, we hope you will consider the following comments as you proceed with the federal rulemaking process.

As you know, Title IX was enacted to ensure that discrimination based on sex, which includes sexual harassment, would not impede a student's right to education. Its purpose is to provide critical protections to all students and dictate how schools that receive federal funding will be expected to handle allegations of sexual harassment and assault. The proposed regulations could potentially undermine the very purpose of Title IX and have an adverse effect on survivors' ability to pursue their education.

Of particular concern, is that the proposal seeks to drastically narrow the definition of sexual harassment to only apply to "unwelcome conduct on the basis of sex that is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or sexual assault." This means that sexual harassment must be endured until it becomes so significant that the student's access to education is in jeopardy. Obviously, one goal of any sexual harassment policy in the educational setting should be to guard against the abuse escalating to the point that a student believes they have no other option but to disrupt or end their educational pursuits.

I believe this change could have unintended consequences that negatively impact lesbian, gay, bisexual, and transgender students. One of the most common reasons that LGBTQ students do not report incidents of harassment is because they doubt that effective intervention will occur. Narrowing the definition of sexual harassment to only the most severe of cases may have an overly negative effect on LGBT students, many of which are already fearful to report harassment in schools.

Additionally, under the proposed regulations, schools would only be obligated to respond to instances of sexual harassment and assault when the school has "actual knowledge" of the harassment, and only if the harassment that occurred within the school's own "education program or activity." This could potentially result in schools failing to address instances of abuse that absolutely should be covered under Title IX. This stipulation is wrong and must be reassessed.

In New Hampshire, we know that 1 in 4 women and 1 in 10 men will be sexually assaulted in college. Of those victims, only 12% of them will report the assault to schools or police. We know from survivors that the fear of being blamed, and the fear of not being believed are among the top reason why they do not come forward to report their experience. As currently written, these proposed regulations could potentially codify those fears, threatening the safety and integrity of students and our educational institutions. I am concerned these changes may move Title IX away from its purpose of protecting all students and will impose even more barriers for victims of sexual violence to seek help and justice.

Again, while we agree with the goal of ensuring a fair and due process to both the accused and the accuser, the proposed rules fall well short of that aim and we hope we will be reassessed.

Thank you for your consideration of these comments.

Sincerely,



Christopher T. Sununu  
Governor