

# Congress of the United States

Washington, DC 20510

January 9, 2019

The Honorable Betsy DeVos  
Secretary of Education  
U.S. Department of Education  
400 Maryland Avenue, S.W.  
Washington, DC 20202

Dear Secretary DeVos,

We write to urge you to extend the comment period for the proposed rule on harassment and assault protected under Title IX by an additional 30 days beyond the currently scheduled public comment deadline. As you know, the ability of students to access higher education relies heavily on a student being safe and free from discrimination and harassment. In light of the great interest in this rule and the perception the Department of Education (ED) is failing to listen to students and survivors, we encourage you to use your authority to extend the comment period for the proposed rule published on November 29, 2018, by an additional 30 days to provide all interested parties, especially students, sufficient time to review and respond to the proposed rule.

The proposed rule is expected to have a significant impact on schools by dramatically changing the requirements placed on them for when and how to respond to sexual violence, and, as such, represents a drastic change in ED policy. According to Executive Order 12866, an agency must provide the public with the opportunity to meaningfully comment on any “significant regulatory action,” including those with significant economic effects or raising new legal or policy issues.<sup>1</sup> For students, the proposed rule would mean huge changes in terms of when and how their school will be required to respond to sexual harassment and assault, including the very definition of sexual harassment itself, if implemented. Expectations for schools would also change under the proposed rule, including new requirements for live hearings that would involve many more officials than are involved in the current process. Complicated changes such as these require providing more time for schools to fully understand their potential new responsibilities in order to be able to respond appropriately in the comment period. Understanding exactly what the Department’s expectations are in these processes will be challenging, and schools and other stakeholders must have sufficient time to respond.

Additionally, final examinations and winter break fall in the middle of the current 60 day comment period for many schools. Some administrators have indicated they would welcome additional time to review this very complex and potentially burdensome rule.<sup>2</sup> Addressing sexual harassment and assault in educational settings is something we all take very seriously. We fear this proposed rule will move us in the wrong direction – making it easier for schools to ignore harassment and assault and harder for survivors to get justice. We ask that you ensure every voice is heard in this process and that includes allowing the public a meaningful opportunity to

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<sup>1</sup> [https://www.reginfo.gov/public/jsp/Utilities/EO\\_Redirect.myjsp](https://www.reginfo.gov/public/jsp/Utilities/EO_Redirect.myjsp) Executive Order 12866, Regulatory Planning and Review (58 FR 51735; October 4, 1993)

<sup>2</sup> See, <https://www.seattletimes.com/education-lab/devos-title-ix-changes-open-for-public-comment-thursday/>

comment by extending the comment period for an additional 30 days. Thank you for your consideration of this request.

Sincerely,

  
PATTY MURRAY  
U.S. Senator

  
ROSA L. DELAURO  
Member of Congress