

Congress of the United States
Washington, DC 20515

September 19, 2017

The Honorable Betsy DeVos
Secretary of Education
United States Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Dear Secretary DeVos:

On September 7, 2017 you delivered a major speech at George Mason University announcing the beginning of a “notice and comment” period for the Department of Education’s Title IX guidance to colleges and universities and announced your intention to replace the existing guidance with a “workable, effective, and fair system.” We share your stated goal at the outset of this process. Title IX should protect students from discrimination and sexual violence while ensuring all students are afforded due process.

According to the *Campus Climate Survey Validation Study*, 87 percent of sexual assault survivors do not report their assaults to campus officials. Underreporting of sexual violence is a tragedy and endangers campus communities. The experiences of survivors must be the focus of any conversation about sexual violence on campus to ensure they have faith in, and are treated fairly by, the disciplinary process. Any final rule on Title IX must not have a chilling effect on reporting.

Because attending a college or university is not deemed to be a state-protected right, but rather a privilege, Republican and Democratic Administrations have maintained that preponderance of evidence is the proper evidentiary standard for campus disciplinary proceedings. Preponderance of evidence is used in civil legal proceedings where there is similarly no threat to an individual’s liberty. This standard balances the rights of both parties involved in the disciplinary process by recognizing that each has an equal stake in the outcome of a case. We urge you to maintain preponderance of evidence as the evidentiary standard in all campus sexual violence proceedings.

Survivors of sexual violence should have the option to engage law enforcement and file criminal charges against their attacker; however, this does not replace the obligation of colleges and universities to remedy sexual misconduct under Title IX. Similarly, in recognition of a survivor’s interest in controlling their response to an alleged incident, colleges and universities should respect a survivor’s choice to withdraw from a disciplinary proceeding without prejudice. Every campus should implement fair disciplinary proceedings and provide trauma-informed support for both survivors and the accused. The Department of Education must provide technical assistance to colleges and universities to ensure schools successfully implement fair practices on campus.

As identified by the Centers for Disease Control and Prevention (CDC) in their *Sexual Violence on Campus: Strategies for Prevention* report, comprehensive sexual violence prevention makes campuses safer. We urge you to encourage colleges and universities to implement comprehensive prevention programs that are developmentally appropriate for students, administered by well-trained staff using a variety of teaching methods, engage with all students

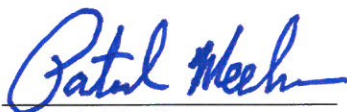
over the course of the school year, incorporate evidence-based methods, and are tailored to the needs of each campus.

Students, families, and administrators are uniquely positioned to understand what is happening on campuses today. During your review of Title IX, we encourage you to consult with all parties involved in these campus proceedings – especially survivors. Colleges and universities, thanks to the advocacy of survivors and with guidance from the federal government, have made great strides addressing cases of sexual violence since the Dear Colleague Letter was released in 2011. We hope your review is transparent and builds upon this hard-won progress.

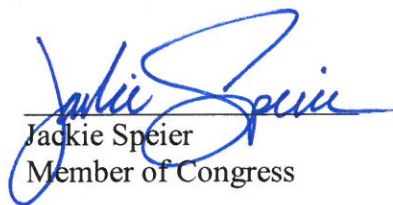
Sincerely,



Ann McLane Kuster
Member of Congress



Patrick Meehan
Member of Congress



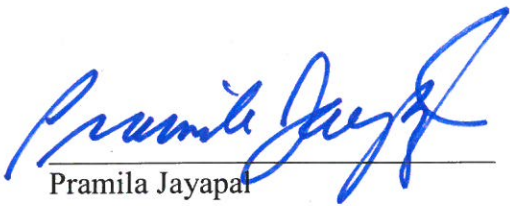
Jackie Speier
Member of Congress



Susan Davis
Member of Congress



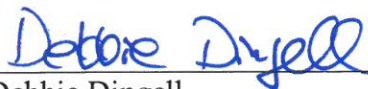
Ted Poe
Member of Congress



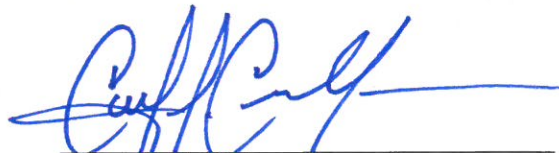
Pramila Jayapal
Member of Congress



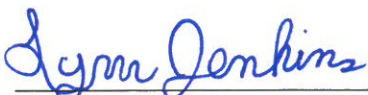
Tom Reed
Member of Congress



Debbie Dingell
Member of Congress



Carlos Curbelo
Member of Congress



Lynn Jenkins
Member of Congress