

COMMONWEALTH OF PENNSYLVANIA

OFFICE OF ATTORNEY GENERAL

JOSH SHAPIRO  
ATTORNEY GENERAL

July 19, 2017

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

Dear Secretary DeVos:

We are writing to express our serious concern over reports that your office is preparing to roll back important protections for survivors of sexual assault on college campuses.

As Attorneys General, we see the impact campus sexual assault has on survivors, educational institutions, and our communities. Incidents of sexual assault on colleges and universities are widespread: the American Association of Universities (AAU) has found that 23 percent of female undergraduates were the victims of sexual assault or sexual misconduct due to physical force, threats of force, or incapacitation.<sup>1</sup> The federal government's own studies have reached similar conclusions: the U.S. Department of Justice's Bureau of Justice Statistics found that, on average, 20.5% of college women had experienced sexual assault since entering college<sup>2</sup> while the Centers for Disease Control and Prevention found that one in five of women experienced sexual assault in her lifetime.<sup>3</sup> Moreover, the vast majority of these incidents go unreported. In fact, the AAU study concluded that reporting rates for some types of assaults were as low as 5 percent, in part due to survivors' concerns about coming forward.

Thanks to the tireless work of survivors and advocates, our nation is beginning to understand the full scope of this epidemic. The Department of Education's current guidance reaffirms the obligation of colleges and universities to protect survivors of sexual assault.

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<sup>1</sup> AAU Climate Survey on Sexual Assault and Sexual Misconduct (2015), <https://www.aau.edu/key-issues/aau-climate-survey-sexual-assault-and-sexual-misconduct-2015>.

<sup>2</sup> Campus Climate Survey Validation Study, Final Technical Report, Appx. E, [https://www.bjs.gov/content/pub/pdf/App\\_E\\_Sex-Assault-Rape-Battery.pdf](https://www.bjs.gov/content/pub/pdf/App_E_Sex-Assault-Rape-Battery.pdf).

<sup>3</sup> National Intimate Partner and Sexual Violence Survey, [https://www.cdc.gov/violenceprevention/pdf/nisvs\\_report2010-a.pdf](https://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf).

Among other provisions, the guidance reaffirms that Title IX requires institutions to use a “preponderance of the evidence” standard in investigating allegations of sexual harassment or domestic violence. While we recognize that there is a great deal more that can be done to protect students and agree on the importance of ensuring that investigations are conducted fairly, a rushed, poorly-considered effort to roll back current policies sends precisely the wrong message to all students. Yet there is every indication that is exactly the approach your Department is taking.

In particular, we were deeply troubled by the comments attributed to Acting Assistant Secretary for Civil Rights Candice Jackson, who claimed that ninety percent of campus sexual assault allegations “fall into the category of ‘we were both drunk,’ ‘we broke up, and six months later I found myself under a Title IX investigation because she just decided that our last sleeping together was not quite right’.” While we appreciate that Ms. Jackson has issued an apology, her comments communicate to survivors of campus sexual assault that the Department does not take their concerns seriously and that it is not committed to continuing its current efforts to combat this epidemic on our college campuses. Coming on the heels of news that she has directed the Office for Civil Rights to reduce its efforts to identify systematic problems in conducting investigations, we have serious concerns as to whether Ms. Jackson can be entrusted to oversee a fair, thorough process in evaluating the Department’s policies in this area.

Despite our concerns, we are committed to working collaboratively with your Department to address the problem of sexual assault on America’s college campuses. But any effort in this area must be deliberate and allow for meaningful input from all stakeholders, and it must focus on the ultimate goal of ensuring that all students are protected from discrimination, including sexual harassment, assault, stalking and domestic violence, under Title IX. To that end, we urge you to directly engage with a broad, representative group of stakeholders, including survivors, victims’ rights advocates, law enforcement, and a bipartisan group of Attorneys General from around the country, so we can take action together to end the scourge of sexual violence on our college and university campuses. Furthermore, we urge you to continue to implement and uphold these important civil rights protections so that all students are able to learn in a safe environment free from violence and discrimination.

We stand ready to partner with you in this effort and look forward to your response.

Sincerely,



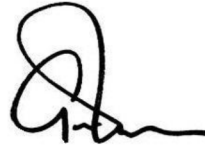
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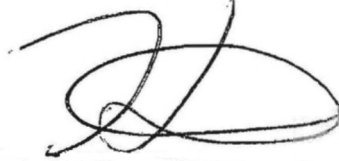
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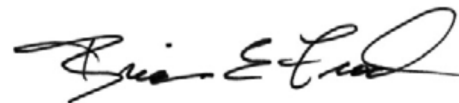
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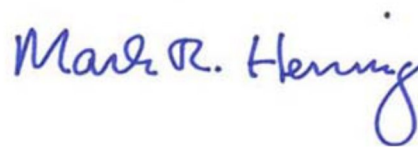
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