

Dear Secretary DeVos,

I am writing you as a citizen who has been working in the field of sexual violence for nearly a decade and as someone who works for an academic institution on Title IX issues daily (these are my personal comments don't represent my institution). I have worked on the response side as well as on the prevention side of this issue. As a campus administrator I first feel it is important that you know that myself and many of my colleagues have been grateful for the official guidance documents published on Title IX over the last few years, as they spoke to and addressed many of the questions we had concerning compliance and provided us with a framework to assist in implementing and further developing institutional practices and procedures. In fact, since 2015 I have seen a huge benefit to our institution and our students and staff because we have implemented many changes based on the guidance documents. Our students trust our institution more than ever to keep them safe and to provide them with knowledge and support if they find themselves involved with a Title IX investigation. This was not the case before 2015.

I agree with you that largely we do have a failed system, but I sincerely believe that the system has always been a failed system. Since 2015 we have made positive changes in the right direction. We still have a lot of work to do to make the system work well, but not enforcing these documents will do way more harm than help. It is only because of those documents that we even ever found out that the system is failed. Because without those documents and the last administration's focus on ensuring students were made aware of their rights, most if not all students would never have even known that they could file a complaint, that they had rights that their institution had to uphold, that there was anything to be done about harassment/discrimination/sexual misconduct.

In your speech, all of your examples illustrate that institutions were not following the law or abiding by OCR guidance - they don't illuminate how OCR guidance is wrong or failing. OCR guidance tells us students should not feel they have to go the process alone, it states institutions must enforce due process rights, it states we must get adequate training to do our jobs. OCR guidance documents clearly outline that Title IX investigations need to be balanced, impartial, and fair, providing the same opportunities to both parties.

Yes, Title IX and OCR guidance documents do not require that an appeal process is provided; however, an appeals process is recommended under OCR guidance documents. This small change from a recommendation to a requirement would be easy to accomplish. I would also suggest ensuring that if one party has legal representation that the other party is given access to legal representation as well.

You discuss the fact that there is a need for a more precise definition of sexual misconduct. However, I would say that we don't need a more precise definition of sexual misconduct itself, what we probably do need to have a discussion about is the definitions for various forms of sexual misconduct (sexual assault/rape/domestic violence/stalking). Indeed my own colleagues and I have been discussing this for the last two years. Clery uses one set of definitions put forth

by the FBI, states put forth their own definitions in state code and often these definitions are not the same.

You similarly spoke of faculty or students being punished for free speech. Under OCR guidance it has been clear that free speech is protected, and that institutional responsibility to protect students from discrimination must be done while respecting free-speech rights.

All in all your problem is with institutions that don't follow OCR guidance nor best practices in the field. This is an incredibly complex field, one in which I've been working in and studying for almost a decade. There is no simple answer. However, if we are committed to continuing to do research, to establish and implement best practices then we will be on the right side of this national conversation. I hope that you join me in my commitment to implementing best practices in this field. Yes, we can improve OCR guidance. We should improve it as we learn more about what is best practice. We should not go backward and get rid of everything we've worked for. As the head of the DOE, I hope you stay committed to helping institutions across this country implement best practices on their campuses.

I appreciate your comments in your speech about testing "ideas with those who know this issue all too well." Professionals in this field, myself included, should certainly have a seat at the table. I urge you to follow through with these statements and am more than happy to contribute to these conversations.

Thanks for your time and consideration,
Stephanie McClure