

Congress of the United States
Washington, DC 20515

March 2, 2021

The Honorable Miguel Cardona
Secretary
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Dear Secretary Cardona,

Congratulations on your historic confirmation as Secretary of the Department of Education. We look forward to working with you to safeguard quality public education, advance equity in schools, and enable safe and effective in-person learning.

We write to implore you to prioritize replacing Secretary Betsy DeVos' final rule prescribing how K-12 schools and postsecondary institutions must respond to sexual harassment and assault under Title IX of the Education Amendments of 1972 (Title IX). These regulations gut protections for survivors of sexual violence and overburden already-strained schools struggling amid a global pandemic. Importantly, these changes are contrary to the letter and spirit of Title IX – a civil rights law intended to protect students' right to an education free from harassment and discrimination.

Survivors of sexual violence deserve justice, dignity, safety and healing. Yet, Secretary DeVos' rule turns back the clock and erodes hard-fought protections and rights for victims with a "boys will be boys" approach to sexual assault on college campuses. The changes fly in the face of common decency by:

- Cruelly subjecting students in higher education to relive their assault with live hearings and cross-examination by a perpetrator's advisor of choice;
- Imposing bizarre rules around the location where a student must be assaulted, whom they must report to, and how much they must suffer in order to avail themselves of their civil rights. As a result, some students assaulted in off-campus parties or harassed online may lack protections;
- Forbidding schools from investigating many complaints of sexual violence, such as if a victim drops out of school or transfers to another school before filing a complaint;
- Allowing unnecessary delays on investigations;
- Limiting meaningful supportive measures for victims;
- Narrowing the definition of sexual harassment; and much more.

These changes willfully ignore the devastating impact when schools fail to respond effectively to sexual violence, especially given that one in three student survivors drop out of college. They discourage survivors from coming forward and achieving justice, make schools more dangerous, and send a clear message to perpetrators that they are free to violate again.

Given that the vast majority of the 124,000 comments submitted during the rulemaking period were in opposition to the proposed rule, and that multiple lawsuits have been filed challenging the rule, we encourage you to work with the Department of Justice to seek a voluntary stay of the rule and remand for reconsideration in the litigation challenging the rule. The Department of Education should also notice an immediate review and revision of the final rule. Such rulemaking should take account of the concerns and challenges schools have faced implementing the changes and the voices silenced during Secretary DeVos' tenure, including student survivors, many of whom have already been negatively impacted.

In addition to staying enforcement and undertaking a review and revision of the rule, we encourage you to promptly issue interim guidance drawn from key portions of earlier guidance addressing Title IX protections against sexual harassment in schools. Such interim guidance should also address issues that have emerged during the COVID-19, including accommodations for student survivors and the administration of Title IX to online and off-campus harassment.

Thank you for your attention and dedication to this matter. We stand ready to assist as you work diligently to protect students' civil rights to an education free from harassment and discrimination.

Sincerely,



Jackie Speier
Member of Congress



Brenda L. Lawrence
Member of Congress



Lois Frankel
Member of Congress



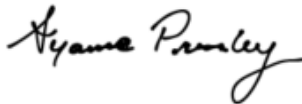
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Member of Congress



Ann McLane Kuster
Member of Congress



Gwen Moore
Member of Congress



Ayanna Pressley
Member of Congress

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Adam Smith.
Member of Congress

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Albio Sires
Member of Congress

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Andre Carson
Member of Congress

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Barbara Lee
Member Of Congress

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Carolyn B. Maloney
Member of Congress

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Chris Pappas
Member of Congress

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Danny K. Davis
Member of Congress

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Debbie Wasserman Schultz
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Dina Titus
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Al Lawson, Jr.
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Alcee L. Hastings
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Andy Levin
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Betty McCollum
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Chellie Pingree
Member of Congress

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Chrissy Houlahan
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David Cicilline
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Deborah Ross
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Donald M. Payne, Jr.
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Eddie Bernice Johnson
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Frederica Wilson
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Ami Bera, M.D.
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