

United States Senate

WASHINGTON, DC 20510

July 19, 2017

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 with serious and immediate concern regarding actions taken by the Department of Education (“the Department”) that have the potential to systemically undermine critical protections for students under Title IX specific to the safeguards for victims of campus sexual assault. We are frustrated and appalled by the fact that the Department appears to be abandoning its long-standing commitment to holding educational institutions accountable for protecting students from sexual harassment, including sexual violence. As Senators who are deeply committed to ensuring a safe learning environment for all students, we are seeking an assurance from you that the Department will continue to uphold the Title IX protections related to campus sexual assault. Further, we would welcome a meeting with you to discuss the importance of these protections for all students.

Below is an outline of the Department’s actions that have led us to believe that the Department is stepping back from its commitment to enforcing Title IX related to campus sexual assault. We cannot stress strongly enough how damaging it would be to roll back the protections afforded to students under Title IX.

- **January 17, 2017** – During your Senate confirmation hearing before the Senate Committee on Health, Education, Labor & Pensions, you refused to commit to upholding the guidance set forth in the 2011 Dear Colleague letter by OCR.
- **May 23, 2017** – The Fiscal Year 2018 Budget Request that the Department submitted to Congress included a request for decreased funding for OCR. The Department estimated that this funding cut would result in 46 fewer full-time staff in the Office for Civil Rights. The Department requested this staff cut despite the fact that Congress has recognized the need for increased funding for staff at OCR over the past several years. In addition, the

Department acknowledged in its Budget Request that OCR has an increased workload due to a significant uptick in the number of complaints it receives each year, and that a decreased staff level may lead to longer case-processing times.

June 8, 2017 – Your Acting Assistant for Civil Rights Candice Jackson, who is charged with enforcing Title IX among other civil rights statutes on behalf of the Department of Education, issued an internal staff memo to OCR’s regional directors instructing them to narrow the scope of investigations related to Title IX postsecondary education sexual violence complaints.

- **July 12, 2017** – In an interview published in *The New York Times*, your Acting Assistant Secretary for Civil Rights Candice Jackson cast doubt on the legitimacy of campus sexual assault cases saying, “the accusations – 90 percent of them – 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 decided that our last sleeping together was not quite right.’” Ms. Jackson has since apologized, calling her remarks “flippant.” Despite the apology, we find it deeply disturbing that the Department’s chief civil rights officer would perpetuate the false notion that rape is just a drunken encounter or date gone wrong.

Ms. Jackson also indicated in her interview with *The New York Times* that the Department is considering withholding the list of institutions of higher education that are under investigation by OCR for alleged violations of Title IX related to campus sexual violence. This list is an important mechanism for transparency and consumer information, and we urge you to continue to publish this information on a weekly basis.


- **July 13, 2017** – You held a series of Title IX listening sessions with three distinct groups of stakeholders, which were described by the Department as follows: survivors of sexual violence; students who have been falsely accused and disciplined under Title IX; and representatives of education institutions and subject matter experts. In remarks to reporters after these meetings, while you acknowledged an understanding of why Title IX protections are needed, you indicated that the Department intends to make changes to the way OCR handles complaints of campus sexual violence. You stated that, “There was a time when women were essentially dismissed.” We would like to point out that many survivors of campus sexual violence continue to be dismissed. We implore you to continue to meet with survivors of campus sexual assault and to listen to their stories before you take any further actions that could jeopardize survivors’ rights under Title IX.


Given the seriousness of the July 12, 2017 comments, we are calling on you to remove Ms. Jackson from the position of Acting Assistant Secretary for Civil Rights. The remarks were not just “flippant;” they were ignorant and dangerous. These comments, along with a series of other actions taken by Ms. Jackson to weaken OCR protections for students show that she is


unqualified for the position and should be removed as Acting Assistant Secretary for Civil Rights.

In addition, we look forward to receiving a written response from you that outlines the ways in which you plan to uphold the civil rights protections of survivors of campus sexual assault by August 15, 2017 and we reiterate our offer to meet with you to discuss the importance of Title IX protections related to campus sexual assault.

Sincerely,


Kirsten Gillibrand
United States Senator


Claire McCaskill
United States Senator


Richard Blumenthal
United States Senator