

From: Michele Dauber
Sent: Wed, 9 Jun 2021 15:04:33 -0700
To: T9PublicHearing
Subject: Public Comment

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear OCR:

Below is a transcription of the oral comment I provided today at 6pm EST to the hearing:

My

name is Michele Dauber. I am a law professor at Stanford. I am speaking in agreement with the comments of the National Women's Law Center.

I have two additional requests:

First, the Biden Administration's

revised Title IX regulations should provide standardized definitions of sexual assault, stalking, domestic and dating violence, affirmative consent, and incapacitation to establish a floor below which schools cannot go.

○

At Stanford we had years of highly publicized struggle over Stanford's effort to define sexual assault extremely narrowly.

○

Prior to the DeVos regulations,

Stanford defined sexual assault as penetration through force or while the victim was completely unconscious. Everything else was labeled merely misconduct.

○

At that time, the vast majority

of our peer schools defined sexual assault as sexual contact without affirmative consent.

○

The DeVos standard definitions,
combined with California law, **resulted
in Stanford for the first time defining sexual assault as any sexual
act, or attempted sexual act, directed at the complainant without
affirmative consent.**

○

Based on my experience at Stanford,
it is important that in revising the rule that OCR maintains a
standardized definition
**and that it make affirmative
consent a part of that definition.**

○

There is no justification for having
thousands of schools creating different definitions of sexual assault
and there are many reasons to have a standardized definition.

▪

It
will help with the development of prevention education

▪

It
will ensure that victims do not feel invalidated due to using
definitions that minimize harm

▪

It

will increase the equal treatment of LGBTQ victims by not allowing schools to require penetration as the sine qua non of sexual assault

-

Second, the revised regulations should require transparent data collection and reporting for federally supported colleges and universities

-

We

need a national data collection, similar to the Civil Rights Data Collection for sexual and gender based harassment in higher education

-

Such

a data collection would include collecting and reporting out by each institution, anonymized aggregate data showing the number of complaints, how they were handled, and the sanctions applied.

-

As

part of this data collection, institutions should be required to administer a uniform prescribed sexual harassment climate survey at regular intervals, no less frequently than every 3 years.

-

Transparent

publicly available data will serve many purposes

-

It

will hold schools accountable

- It will aid research on prevention
- It will provide schools with information they need to improve.

From: Michele Dauber
Sent: Wed, 9 Jun 2021 15:16:49 -0700
To: T9PublicHearing;Emma Tsurkov
Subject: Re: Public Comment

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Sorry for the duplicate email but one of my graduate students would like to add her name to this comment so please accept this revised comment on behalf of myself and Emma Tsurkov, Stanford doctoral candidate in Sociology. She asked that add to this comment the highlighted clarifying language at the end in case in my haste to fit this comment within 3 minutes I was not clear. Thank you.

On Wed, Jun 9, 2021 at 3:04 PM Michele Dauber <mldauber@gmail.com> wrote:

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- We
need a national data collection, similar to the Civil Rights Data Collection for sexual and gender based harassment in higher education
- Such
a data collection would include collecting and reporting out by each institution, anonymized aggregate data showing the number of complaints, how they were handled, and the sanctions applied.
- As
part of this data collection, institutions should be required to administer a uniform prescribed sexual harassment climate survey at regular intervals, no less frequently than every 3 years,
and to make those results publicly available on their websites in a manner that appropriately protects student privacy.

○ Transparent publicly available data will serve many purposes

- It will hold schools accountable
- It will aid research on prevention
- It will provide schools with information, including longitudinal climate survey results and comparisons to other schools, that they need to improve.