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June 11, 2021

I submit the below comments on behalf of Ujima Inc: The National Center on Violence Against Women in the Black Community.

Students in the United States have the right to education that is free from discrimination, sexual violence, domestic violence, stalking, and dating violence (gender-based violence). Title IX of the Education Amendments of 1972 (Title IX), codifies those protections, but it should also be considered a living document that continues to evolve in a way that encompasses protections for students that have been traditionally underrepresented and disproportionately impacted by gender-based violence. The current administration must address shortcomings and encourage progress related to how gender-based violence is managed on Historically Black Colleges and Universities (HBCU) campuses as well as ensuring protections for members of the LGBTQIA+ community. Further, special attention to due process is warranted regarding procedures, hearings, and policy definitions to ensure individuals who have experienced gender-based violence on-campus receive equitable treatment.

HBCUs are a cornerstone of Black higher education and continue to develop Black intellectuals, artists, athletes, and individuals contribute to STEM throughout the United States. These institutions have a unique opportunity to address gender-based violence as Black women and girls as well as Black LGBTQIA+ are some of the most marginalized groups impacted by gender-based violence. Unfortunately, HBCUs have historically been underfunded and consequently lack resources (i.e. staffing) to provide students with effective tools related to allegations of gender-based violence. Title IX Coordinators and Investigators are often saddled with the responsibilities of investigating gender-based violence allegations as a collateral duty. They are required to conduct investigations that could be under the scrutiny of the Department of Education, but they are not armed with the requisite funding, and training to ensure appropriate execution of the process. The result is universities being sanctioned for collateral consequences that they may or may not have known about had this necessary administrative task been properly sourced. More resources, training, and personnel should be provided to HBCUs so they are staffed with individuals that have the appropriate skillset to investigate Title IX violations in a trauma informed way. Title IX Coordinators and Investigators need training to execute report writing, ensure consistent processes and procedure, and investigative strategies to conduct impartial investigations.

Gender-based violence is a traumatic experience for a survivor. The requirement for cross-examination in a live hearing mirrors a court-like process for an administrative procedure. The option for a survivor to be cross-examined by respondent or the respondent's representative is harmful and would likely further traumatize the victim. Opportunities to allow for parties to



ask questions of witnesses can be facilitated through the investigative process by having the investigator ask questions that are submitted by the victim or the respondent to the other party. This option is much less traumatic and does not require any interaction between the individuals and mitigates unnecessary trauma. The current policy should be amended to include the opportunity for parties to ask questions of witnesses without inducing harm.

Changes to Title IX policy in 2020 made reporting allegations of sexual harassment unduly burdensome. According to the current regulations, for harassment to exist-the behavior has to be so severe and pervasive that the student is unable to do their schoolwork or attend class. The way the policy is currently written, the student has to wait for the behavior to escalate before it could be considered harassment. Title IX officials are relegated to investigating allegations that occurred while on-campus only, even when both parties are identified as students. Students often socialize, live, and travel together off-campus, and should still have the protections associated with the Student Code of Conduct when socializing with their peers when they are interacting off-campus. The current regulations could allow also for allegations of harassment to be ignored, simply because the student did not report to the Title IX Coordinator or someone that could “institute corrective measures.” Further students should not be penalized for not knowing who to report an incident of sexual harassment to on campus, particularly if they report to a professor or employee of the school.

The changes to the Title IX regulations are particularly harmful to Black women and girls. [Approximately 40% to 60% of Black women report coercive contact of a sexual nature by age 18. Black girls are viewed as more adult-like and less innocent than their white peers, a phenomenon referred to as “adultification.” Black girls are stereotyped as “hypersexualized”; as a result, schools are likely to treat their](#) reports of gender-based dismissively. Racial and gender-based stereotypes as well as the [adultification](#) of Black girls causes administrators to minimize the allegations of Black girls which could foreseeably have a chilling effect on reporting for a group who is already marginalized.

The current Title IX regulation makes it harder to report gender-based violence by providing inadequate resources for Title IX administrators, requiring students to report to specific individuals for redress, subjecting victims to traumatic interaction with respondents, and creating additional barriers for students that are already marginalized. The Biden Administration must work toward strengthening and reforming Title IX regulations to ensure equity and access for redress for all survivors of gender-based violence.

Respectfully,

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