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To: T9PublicHearing
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Subject: Written Comment: Title IX Public Hearing (Comments of Williams College on Regulatory Enforcement of Title IX)

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Williams College Title IX Comments sent on behalf of President Maud S. Mandel

June 11, 2021

I write on behalf of Williams College in response to the Department of Education's call for comments on its enforcement of the regulations implementing Title IX of the Education Amendments of 1972. In January of 2019, Williams College joined thousands of individuals and institutions in raising [concerns](#) that the Department's proposed Title IX regulations would impair the ability of colleges and universities to respond adequately to claims of sexual assault, harassment, and other forms of sex discrimination in their communities. Unfortunately, these concerns have largely come to pass.

Before the current regulations went into effect last year, Williams employed a hybrid investigator and hearing panel process to investigate and adjudicate Title IX complaints. Rather than a hearing with direct questioning, our model allowed complainants, respondents, and the hearing panel to request that the investigator ask specific questions of parties and witnesses. This approach, designed with input from complainants, respondents, advisors, and administrators, reflected the culture and educational mission of the college. It minimized the stress and burden on participants in already challenging circumstances and provided a fundamentally fair process for the resolution of sexual harassment complaints. While not every student who experiences sexual harassment chooses to move forward with a formal complaint, our former grievance process provided a prompt and equitable procedural remedy for those who did.

Last year's regulatory revisions upended this system:

- By prohibiting reasonable restraints on parties' ability to discuss the allegations under investigation, the regulations restricted our ability to protect the privacy and confidentiality of the process for both complainants and respondents. On a small residential campus, this enhances the risk of retaliation, intimidation, harassment or bullying of complainants, respondents, and witnesses.
- By requiring live hearings with cross-examination by parties' chosen advisors, the regulations mandate an adversarial model of adjudication that conflicts with our culture, educational goals, and reasoned determination of how to investigate Title IX complaints

fairly. This makes a fundamentally difficult process worse for all involved.

- By requiring the exclusion of all statements of witnesses unavailable for cross-examination, the regulations actually frustrate the fact-finding process.

Taken together, these mandatory changes effectively nullified our grievance process. We have not formally adjudicated a case under the new guidelines. In recent years, we might investigate or adjudicate five or six cases per year. This year we had a comparable number of students report Title IX misconduct, but when the mandated grievance process was described to them, no one wished to proceed. Without a practicable grievance process, a core component of our Title IX toolkit has been removed. This makes it all the more difficult for Williams to prevent, respond to, and remedy the effects of harassment and discrimination on campus.

Rather than imposing a one-size-fits-all approach, we urge the Department to require schools to develop standards and processes that are fundamentally fair, equitable, and prompt, and then allow them to tailor grievance procedures that fit the contours of their own educational missions and cultures. Williams takes its duties under Title IX seriously—we work hard to ensure that the college is free from harassment and discrimination. And when we find that instances of harassment have occurred, we work equally hard to implement appropriate remedies that restore and preserve access to our educational programs and activities. Unfortunately, the current Title IX regulations impose significant, unnecessary obstacles to our ability to do this challenging work well.

Sincerely,

Maud S. Mandel
President