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UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

January 9, 2015

The Honorable Tim Kaine
United States Senate
Washington, DC 20510

Dear Senator Kaine:

Thank you for your December 12, 2014, letter to Secretary Duncan about the Department's efforts to address the critically important issue of sexual violence on college campuses. Your letter has been forwarded to the Department's Office for Civil Rights (OCR). I am pleased to respond on Secretary Duncan's behalf and will send an identical response to the cosigners of your letter.

I, too, feel a sense of urgency for OCR's investigations, including those related to sexual assault on college campuses. OCR is committed to providing institutions with the necessary tools to effectively prevent, report, and remedy incidents of sexual violence against students and comply with legal obligations. When institutions fail to comply with these legal obligations, the Department, through OCR, vigorously enforces the law, resulting in robust resolution agreements to change institutional policies and practices to better protect students' safety and civil rights.

When OCR receives allegations of noncompliance or initiates a proactive compliance review against an institution, OCR conducts a comprehensive investigation of whether an institution has responded in a prompt and equitable manner to complaints and reports of sexual violence/harassment. The investigations typically involve the examination of extensive data, including the school's written sexual harassment/violence policies and procedures and complaint files for a number of years, and on-site visits where OCR conducts interviews with school officials, students, local law enforcement officials, and providers of support services for victims of sexual violence. OCR also examines the institution's implementation of its sexual harassment/violence policies and procedures; the training provided for administrators, staff and students on recognizing, reporting, and addressing sexual harassment/violence; the overall campus climate; and student awareness of available resources and applicable reporting and complaint policies and procedures. To ensure that our sexual violence investigations are thorough and legally sufficient we do not establish a timeline, but work as efficiently as possible and communicate with the institution throughout the process to manage expectations and assist survivors in the interim.

In recognition of the critical importance to address sexual violence issues as quickly as possible, OCR has urged and continues to urge all colleges and universities to take proactive steps to address, prevent, and respond to sexual violence as soon as possible and not to wait for an OCR investigation to be launched or to conclude. We have broadly publicized our recent letters of findings and resolution agreements so that schools can learn from these documents and improve their policies, procedures, and practices and, most

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importantly, ensure a safe learning environment on their campuses, even without or before an OCR investigation. We have seen schools implement new measures to ensure that students on campus are aware of and that survivors are provided resources for sexual violence to ensure equal access to education programs and activities and to protect survivors as necessary. These resources include the provision of interim measures during an investigation such as housing changes and academic adjustments, and information about the options to file complaints with the school and local law enforcement. Some schools have convened task forces with students, staff, community members, and other stakeholders to assist in this assessment. Many have revised their sexual harassment policies and procedures to bring them into closer alignment with OCR's policy guidance, including by making clear how complaints can be filed and will be processed, the scope of harassment that will be addressed, the availability of interim measures for complainants, that the preponderance evidentiary standard will be used, and that the process used to investigate allegations of sexual violence is adequate, reliable, and impartial. Schools have also expanded the training provided to staff and students about how to recognize, report, address, and prevent sexual violence. Schools are instituting processes to better track complaints of sexual discrimination, including sexual harassment and violence, setting up dedicated website pages with information for complainants, and broadly publicizing how to contact their Title IX coordinators. And finally, schools are conducting climate surveys of their students and staff to assess whether the steps and measures they are taking are effective at improving campus culture and providing safe and open learning environments for their students.

We have repeatedly published guidance to help institutions comply with the law. OCR issued a Dear Colleague (DCL) letter in April 2011 to help schools better understand their obligations under Title IX to prevent and respond to sexual violence, which was the first time that any Administration had issued guidance under Title IX specifically dealing with sexual violence. The DCL is widely credited with having sparked significant changes at schools as they worked to meet Title IX's requirements and resulted in many further questions from the field about how to apply the requirements and recommendations therein. To answer those questions, OCR issued a Question and Answer document on Title IX and sexual violence (Q&A) on April 29, 2014, to give schools and students the information they need to ensure compliance with Title IX and, more importantly to prevent sexual violence and to effectively respond to victims of sexual violence. The Q&A answers questions OCR has received since the release of the 2011 DCL, provides perspective based on OCR's more recent sexual violence investigations and resolutions, and offers recommendations for good policies and practices.

OCR also recently strengthened our enforcement procedures, including instituting time limits for negotiating voluntary resolution agreements. The voluntary resolution process is usually much faster than litigation, but it can still take time and include frustrating delays. To ensure efficient as well as effective resolution of noncompliance findings, and to guard against the risk that a school might extend negotiations to delay enforcement, OCR has placed a 90-day limit on voluntary resolution agreement negotiations where it has found a school in violation of the civil rights laws we enforce, including Title IX.

Your letter expresses concern about the length of OCR's investigations of Harvard University and its Law School and the University of Virginia. I am very pleased that we announced the resolution of the Harvard Law School investigation, concluding with a voluntary resolution agreement with the Law School and

Harvard University, on December 30, 2014.¹ OCR's investigative and resolution activities in the University of Virginia case are ongoing and we are moving expeditiously to bring the case to conclusion.

The Administration understands that combating sexual assault is a collaborative effort that requires assistance from schools, local police, and federal agencies. The President's establishment of the White House Task Force to Protect Students from Sexual Assault is responsible for strengthening federal enforcement efforts and providing schools with additional tools to help combat sexual assault. The Task Force builds on the Department's policy and enforcement work and seeks to streamline and correct the most pressing issues for survivors to better assist schools, local law enforcement, and communities with sexual assault enforcement. The Task Force understands that implementing these policies can be a large undertaking, so the Task Force has released new guidance and tools, published on the website NotAlone.gov, to help schools with these efforts. For example, the Task Force has released sample reporting and confidentiality protocols, a guide to climate surveys, and a checklist for developing a sexual misconduct policy.

Department staff is also available to offer schools technical assistance on how to comply with Title IX and the Clery Act and ensure all students have equal access to a high quality education and a safe learning environment.

Thank you again for your interest in and efforts to reduce sexual assault and harassment on college campuses. I hope that we can continue the conversation about how to improve students' safety and protect their civil rights through the Office of Legislation and Congressional Affairs, which is led by Acting Assistant Secretary Lloyd Horwich who may be reached at (202) 401-0020.

Sincerely,



Catherine E. Lhamon
Assistant Secretary for Civil Rights
U.S. Department of Education

¹ A copy of the resolution letter is available at <http://www2.ed.gov/documents/press-releases/harvard-law-letter.pdf>, and the agreement is available at <http://www2.ed.gov/documents/press-releases/harvard-law-agreement.pdf>.



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

January 9, 2015

The Honorable Amy Klobuchar
United States Senate
Washington, DC 20510

Dear Senator Klobuchar:

Thank you for your December 12, 2014, letter to Secretary Duncan about the Department's efforts to address the critically important issue of sexual violence on college campuses. Your letter has been forwarded to the Department's Office for Civil Rights (OCR). I am pleased to respond on Secretary Duncan's behalf and will send an identical response to the cosigners of your letter.

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Catherine E. Lhamon
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UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

January 9, 2015

The Honorable Dianne Feinstein
United States Senate
Washington, DC 20510

Dear Senator Feinstein:

Thank you for your December 12, 2014, letter to Secretary Duncan about the Department's efforts to address the critically important issue of sexual violence on college campuses. Your letter has been forwarded to the Department's Office for Civil Rights (OCR). I am pleased to respond on Secretary Duncan's behalf and will send an identical response to the cosigners of your letter.

I, too, feel a sense of urgency for OCR's investigations, including those related to sexual assault on college campuses. OCR is committed to providing institutions with the necessary tools to effectively prevent, report, and remedy incidents of sexual violence against students and comply with legal obligations. When institutions fail to comply with these legal obligations, the Department, through OCR, vigorously enforces the law, resulting in robust resolution agreements to change institutional policies and practices to better protect students' safety and civil rights.

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Sincerely,



Catherine E. Lhamon
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UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

January 9, 2015

The Honorable Al Franken
United States Senate
Washington, DC 20510

Dear Senator Franken:

Thank you for your December 12, 2014, letter to Secretary Duncan about the Department's efforts to address the critically important issue of sexual violence on college campuses. Your letter has been forwarded to the Department's Office for Civil Rights (OCR). I am pleased to respond on Secretary Duncan's behalf and will send an identical response to the cosigners of your letter.

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UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

January 9, 2015

The Honorable Mark R. Warner
United States Senate
Washington, DC 20510

Dear Senator Warner:

Thank you for your December 12, 2014, letter to Secretary Duncan about the Department's efforts to address the critically important issue of sexual violence on college campuses. Your letter has been forwarded to the Department's Office for Civil Rights (OCR). I am pleased to respond on Secretary Duncan's behalf and will send an identical response to the cosigners of your letter.

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importantly, ensure a safe learning environment on their campuses, even without or before an OCR investigation. We have seen schools implement new measures to ensure that students on campus are aware of and that survivors are provided resources for sexual violence to ensure equal access to education programs and activities and to protect survivors as necessary. These resources include the provision of interim measures during an investigation such as housing changes and academic adjustments, and information about the options to file complaints with the school and local law enforcement. Some schools have convened task forces with students, staff, community members, and other stakeholders to assist in this assessment. Many have revised their sexual harassment policies and procedures to bring them into closer alignment with OCR's policy guidance, including by making clear how complaints can be filed and will be processed, the scope of harassment that will be addressed, the availability of interim measures for complainants, that the preponderance evidentiary standard will be used, and that the process used to investigate allegations of sexual violence is adequate, reliable, and impartial. Schools have also expanded the training provided to staff and students about how to recognize, report, address, and prevent sexual violence. Schools are instituting processes to better track complaints of sexual discrimination, including sexual harassment and violence, setting up dedicated website pages with information for complainants, and broadly publicizing how to contact their Title IX coordinators. And finally, schools are conducting climate surveys of their students and staff to assess whether the steps and measures they are taking are effective at improving campus culture and providing safe and open learning environments for their students.

We have repeatedly published guidance to help institutions comply with the law. OCR issued a Dear Colleague (DCL) letter in April 2011 to help schools better understand their obligations under Title IX to prevent and respond to sexual violence, which was the first time that any Administration had issued guidance under Title IX specifically dealing with sexual violence. The DCL is widely credited with having sparked significant changes at schools as they worked to meet Title IX's requirements and resulted in many further questions from the field about how to apply the requirements and recommendations therein. To answer those questions, OCR issued a Question and Answer document on Title IX and sexual violence (Q&A) on April 29, 2014, to give schools and students the information they need to ensure compliance with Title IX and, more importantly to prevent sexual violence and to effectively respond to victims of sexual violence. The Q&A answers questions OCR has received since the release of the 2011 DCL, provides perspective based on OCR's more recent sexual violence investigations and resolutions, and offers recommendations for good policies and practices.

OCR also recently strengthened our enforcement procedures, including instituting time limits for negotiating voluntary resolution agreements. The voluntary resolution process is usually much faster than litigation, but it can still take time and include frustrating delays. To ensure efficient as well as effective resolution of noncompliance findings, and to guard against the risk that a school might extend negotiations to delay enforcement, OCR has placed a 90-day limit on voluntary resolution agreement negotiations where it has found a school in violation of the civil rights laws we enforce, including Title IX.

Your letter expresses concern about the length of OCR's investigations of Harvard University and its Law School and the University of Virginia. I am very pleased that we announced the resolution of the Harvard Law School investigation, concluding with a voluntary resolution agreement with the Law School and

Harvard University, on December 30, 2014.¹ OCR's investigative and resolution activities in the University of Virginia case are ongoing and we are moving expeditiously to bring the case to conclusion.

The Administration understands that combating sexual assault is a collaborative effort that requires assistance from schools, local police, and federal agencies. The President's establishment of the White House Task Force to Protect Students from Sexual Assault is responsible for strengthening federal enforcement efforts and providing schools with additional tools to help combat sexual assault. The Task Force builds on the Department's policy and enforcement work and seeks to streamline and correct the most pressing issues for survivors to better assist schools, local law enforcement, and communities with sexual assault enforcement. The Task Force understands that implementing these policies can be a large undertaking, so the Task Force has released new guidance and tools, published on the website NotAlone.gov, to help schools with these efforts. For example, the Task Force has released sample reporting and confidentiality protocols, a guide to climate surveys, and a checklist for developing a sexual misconduct policy.

Department staff is also available to offer schools technical assistance on how to comply with Title IX and the Clery Act and ensure all students have equal access to a high quality education and a safe learning environment.

Thank you again for your interest in and efforts to reduce sexual assault and harassment on college campuses. I hope that we can continue the conversation about how to improve students' safety and protect their civil rights through the Office of Legislation and Congressional Affairs, which is led by Acting Assistant Secretary Lloyd Horwich who may be reached at (202) 401-0020.

Sincerely,



Catherine E. Lhamon
Assistant Secretary for Civil Rights
U.S. Department of Education

¹ A copy of the resolution letter is available at <http://www2.ed.gov/documents/press-releases/harvard-law-letter.pdf>, and the agreement is available at <http://www2.ed.gov/documents/press-releases/harvard-law-agreement.pdf>.