



SYSTEMWIDE TITLE IX OFFICE

OFFICE OF THE PRESIDENT
1111 Franklin Street,
Oakland, California 94607-5200

December 21, 2017

Ms. Candice Jackson
Acting Assistant Secretary for Civil Rights
U.S. Department of Education
400 Maryland Ave SW 4E333
Washington D.C. 20202

Dear Ms. Jackson:

On behalf of University of California, thank you for meeting with me on November 28, 2017 to discuss the Department of Education's proposed regulations relating to sexual assault and other forms of sexual misconduct on university campuses. With ten campuses serving more than 250,000 students, UC takes seriously its commitment to educational equity and student safety, and I hope that came across during our meeting. This letter summarizes some of the important points we discussed, and serves as an opportunity for me to communicate additional thoughts that I was unable to convey during our meeting.

We appreciate your recognition of UC's achievements in preventing and responding to sexual violence on our campuses. Working with our many stakeholders, UC has invested significant resources in order to develop and distribute systemwide prevention education; issue a comprehensive systemwide policy; implement systemwide frameworks for investigating and adjudicating sexual misconduct complaints; institute a confidential advocacy office on every campus staffed with advisors that are given rigorous training, providing confidential support for community members who experience sexual violence and sexual harassment; and create a respondent services coordinator on each campus to assist students going through the process of responding to sexual misconduct complaints. Every campus has increased its prevention education resources, and increased the size and competency of its Title IX offices, and the systemwide office has ensured more consistent training and more consistent interpretation and implementation of policy.

We discussed that California law ("SB 967") dictates certain substantive and procedural requirements, including a definition of affirmative consent, trauma-informed training for investigators and decision-makers, and the application of the preponderance of the evidence standard for deciding complaints of sexual assault, dating/domestic violence and stalking. UC had applied the preponderance of the evidence standard to resolve complaints concerning all forms of student misconduct, not just sexual misconduct, for many years before enactment of SB 967. Accordingly, for UC it is critical that federal regulations do not contradict California law by, for example, mandating a higher "clear and convincing" standard for deciding complaints. We want to be compliant with state and federal law while implementing best practices designed to protect and serve all of our students.

We also discussed UC's model for investigating and deciding sexual misconduct reports. Given how UC ensures a full and fair process in its investigation model, we would not want any regulations to require universities to employ a specific investigation or hearing model. UC is continually improving its processes based on experience, and we hope that any regulations provide flexibility to support such continued improvement.

While I appreciated the discussion regarding how UC implements a fair process for responding to complaints of sexual misconduct, due to time constraints, we did not have an opportunity to discuss why such processes are needed. UC's efforts in this area are grounded in the fundamental tenets that sexual violence and sexual harassment are forms of sex discrimination, and that Title IX guarantees our students the right to an education free of such discrimination. Accordingly, UC strongly believes that any regulations issued under Title IX must focus on protecting students from experiencing sexual misconduct, not just protecting those reported to have committed such misconduct. While proposed regulations may address a school's obligation to develop fair procedures, we believe any proposed rules should fundamentally address a school's obligation to maintain a safe and discrimination-free learning environment for all students.

Thank you again for allowing UC to share its perspectives. I hope I conveyed the strength of UC's commitment toward eliminating sexual violence and sexual harassment on our campuses, and continuing the significant progress we have made. We would welcome the opportunity to give further input, and assist the Department in developing regulations that further these goals, and seek to fulfill the promise of an equal education under Title IX. If you have any further questions, please feel free to contact me at (510) 987-9161 or have your staff contact Crystal Martinez in our Washington, D.C. office at (202) 974-6308.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kathleen Salvaty', with a stylized flourish extending to the right.

Kathleen Salvaty
Systemwide Title IX Coordinator
University of California