

Congress of the United States
Washington, DC 20515

November 29, 2018

The Honorable Betsy DeVos
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Dear Secretary DeVos:

We are writing to express our deep concern with the Department of Education's new proposed rule for Title IX of the Education Amendments Act of 1972 (Title IX). This is a blatant attempt to silence survivors of sexual harassment and violence and force them back into the shadows. A year after the Me Too movement went viral, we will not tolerate a system that shames and blames victims. The epidemic of sexual harassment and violence in our K-12 schools and on college campuses continues to be a threat to students' rights to pursue their education. We cannot condone proposals that will result in fewer survivors coming forward to report their assaults and make it harder for those who do to seek justice. You must do more, not less, to ensure the safety of students across the country, including by immediately withdrawing these proposed policy changes.

In September 2017, during the comment period on deregulation, you received over 16,000 formal comments which showed overwhelming support for the Obama Administration's 2011 and 2014 Title IX guidance documents. Despite this support, you chose to rescind these critical civil rights documents, and released wholly inadequate interim guidance that has left schools and survivors in limbo for over a year. Today's actions make clear that the Department is no longer committed to ensuring vital protections for victims of sexual harassment and violence in our K-12 schools and on college campuses. In fact, the only individuals this proposal will protect are the perpetrators of this misconduct and the institutions themselves, making schools havens for misconduct instead of a safe place for all students to learn.

Since 1972, schools have had a legal responsibility to protect students from sex discrimination, and this proposed rule will allow them to shirk that responsibility. Today's draft regulation includes a narrow definition of sexual harassment that would only require schools to investigate cases that are so severe that they "deny" a student equal access to education. This means that schools will not only be able to ignore thousands of victims of sexual harassment, but students will also have to have their education severely disrupted before they can even file a complaint. Additionally, your proposal only requires schools to investigate complaints if a survivor reports to an individual who has the "authority to institute corrective measures". This is just another hurdle being put in front of survivors who are brave enough to come forward.

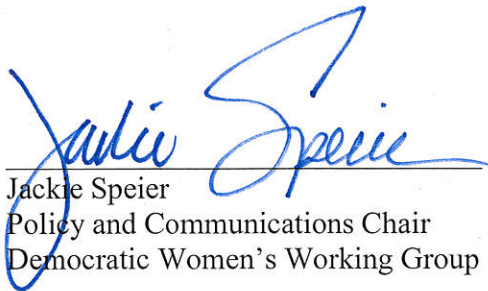
We are also stunned by the removal of protections for students who face sexual harassment and violence in locations adjacent to or nearby college campuses, such as in an off-campus apartment or at an off-campus party, which the Department of Education itself has admitted constitutes 41 percent

of all campus sexual assaults. Additionally, many students, particularly those in elementary and secondary education, are harassed online and then have to see their perpetrators every day at school. In grades 7-12 alone, 30 percent of students experience this kind of harassment and would no longer be protected under your new rule.

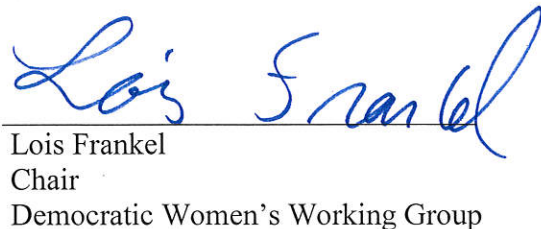
Further, we strongly object to coercing schools into using the "clear and convincing" standard of evidence instead of the "preponderance of the evidence" standard as the standard of proof for student complaints of harassment cases. The preponderance of the evidence standard is the appropriate standard to use for cases involving sexual harassment and violence because it recognizes that both parties have an equal stake in the outcome and an equal right to go to school. It is also the same standard that is used in U.S. civil lawsuits and civil rights proceedings. Allowing schools to use the clear and convincing standard only for complaints involving sexual harassment and violence perpetuates the myth that women and girls "cry rape". It does so by imposing discriminatory procedural hurdles for survivors in campus sexual harassment cases that do not exist for other serious misconduct, such as physical assault or arson. Since Title IX is a civil rights law created to ensure all students have equal access to education, schools should employ the standard of proof that is required in all civil rights proceedings.

Over the last year, the Me Too movement has made it clear that we must take greater steps forward to ensure the safety of students so they can succeed in all aspects of our society. Title IX is critical to this goal by ensuring that all students have equal access to an education free from sex discrimination, including sexual harassment and violence. The changes you have proposed would severely undermine current protections for students across this county and undo decades of progress we have made in combating this systemic issue. For these reasons, we strongly urge you to immediately abandon this misguided proposal and arrange meetings with a broad range of survivors and survivor advocacy organizations to develop meaningful guidance on Title IX that protects all students. We request that you respond within two weeks of receipt of this letter.


Sincerely,



Jackie Speier
Policy and Communications Chair
Democratic Women's Working Group



Lois Frankel
Chair
Democratic Women's Working Group



Brenda L. Lawrence
Vice-Chair
Democratic Women's Working Group



Ann McLane Kuster
Member of Congress

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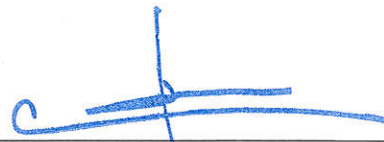
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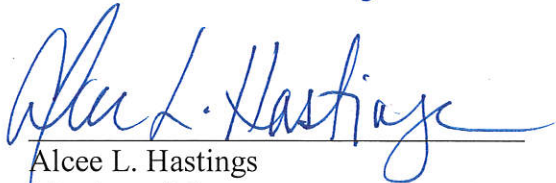
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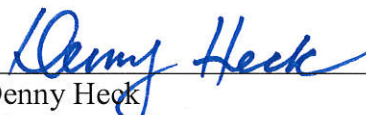
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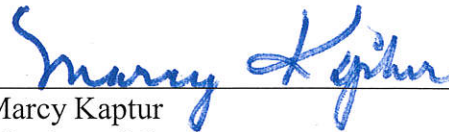
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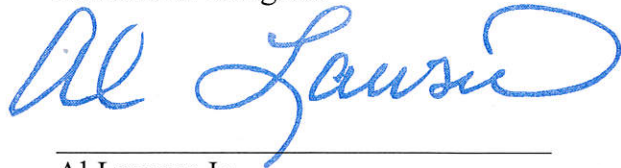
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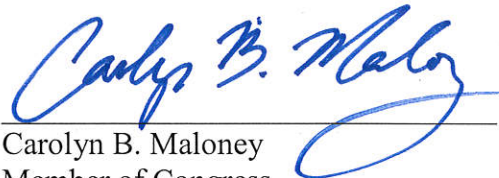
Barbara Lee
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Alan Lowenthal
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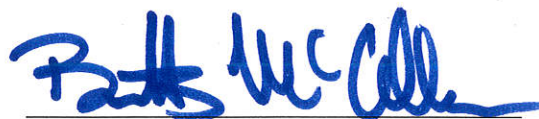
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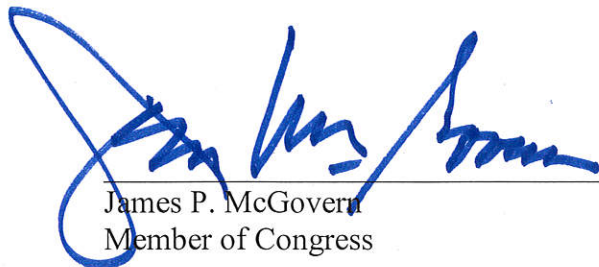
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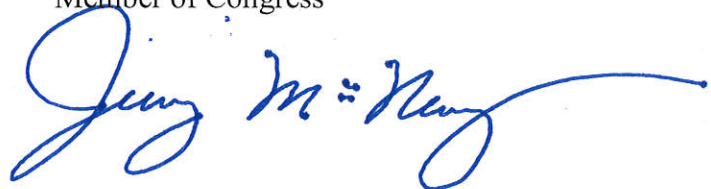
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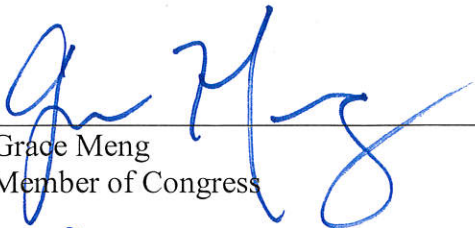
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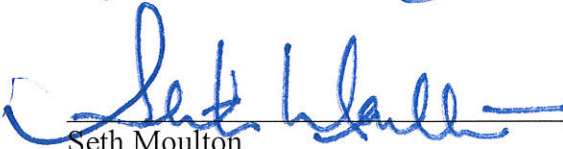
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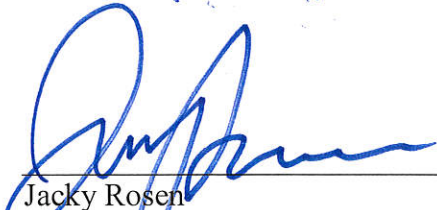
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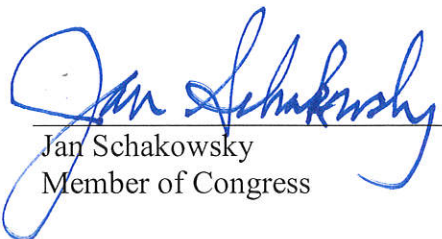
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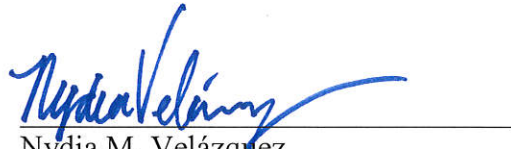
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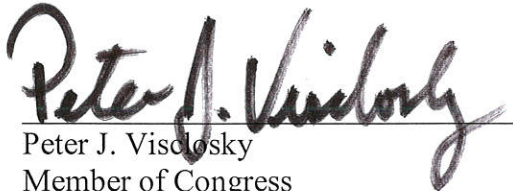
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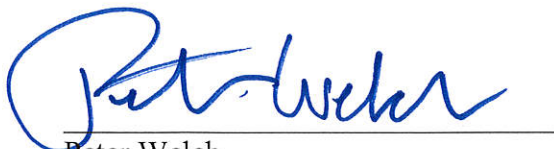
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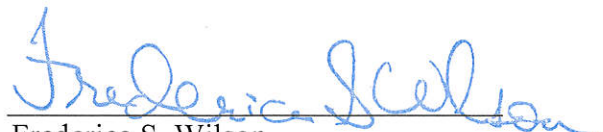
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Peter Welch
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