



January 30, 2019

The Intercultural Development Research Association (IDRA) submits this comment in response to the proposed rule regarding Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, published on November 29, 2018 (83 Fed. Reg. 61462).

IDRA's comment is based on 45 years of working with educators, parents and children in underserved communities in Texas and across the nation. IDRA has a record of utilizing a wide range of services to help school districts respond to equity concerns, including gender discrimination that occurs in K-12. We find that these inequities continue into higher education.

IDRA Background

For 45 years and counting, IDRA has worked to assure equity and educational opportunity for every child, focusing especially on students of color, immigrant students, students who are economically disadvantaged, and English learner students (collectively herein, "underserved students"). For example, we have aided with the design and implementation of many successful programs under grants administered under Titles I, II, III and IV of ESEA. Since the 1970s, IDRA has assisted schools in meeting their civil rights obligations owed to schoolchildren. Among our many services, we help schools improve engagement with diverse communities of learners, increase educators' cultural competence, and reduce bias. IDRA's work in educational research, evaluation and policy advocacy on behalf of underserved students, together with its extensive experience in family and community engagement – among other areas – form a strong basis for its policy perspectives and recommendations at the federal level.

Response to Proposed Rule

IDRA does not support any proposed rule that reduces protection of those vulnerable to physical and sexual abuse and that increases the freedom of abusers.

We are concerned with many of the proposed changes, including the following:

- The proposed changes to the definition of "sexual harassment" will make it harder for the people experiencing real, harmful harassment to seek help and redress. Instead of being able to report unwanted conduct of a sexual nature, students will have to endure harassment until it becomes "severe, pervasive, and objectively offensive," a standard that will likely expose students to significant trauma and effectively deny them access to education in violation of Title IX.
- The trial-like process that has been proposed to address harassment complaints (allowing for cross-examinations, access to evidence for the accused, party advisers, and creating a higher burden of proof) threatens to exacerbate trauma and runs counter to the purpose of Title IX, which was specifically designed to protect students from sex-based discrimination.
- The proposed changes will prevent schools from investigating off-campus harassment and will create strict and unnecessary reporting rules that may limit the ability of student survivors to report abuse.

Our research and fieldwork around gender equity indicate that, overwhelmingly, the experiences and voices of girls and young women are minimized by a patriarchal mainstream culture that negates the contributions of women in education and leadership positions. More than 90 percent of sexual assault cases are already unreported. Creating obstacles for women to safely report grievances will only have a further chilling effect (see http://www.cdc.gov/ViolencePrevention/pdf/NISVS_Report2010-a.pdf).

IDRA proposes several recommendations for creating safe environments for all students.

- Set clear, detailed and visible policies and procedures that systematically and explicitly detail what constitutes sexual harassment, sexual bullying, sexual misconduct, gender-based harassment and sexual abuse.
- Conduct environmental monitoring, creating a safe environment and culture that enlists everyone in assessing risk and identifying locations of potential risks.
- Establish clear, visible steps of where and who students can go to seek help and guidance, such as the Title IX campus coordinator or counselor.
- Create an environment and culture where students and educators alike will not fear retribution for speaking up.
- Train staff to ensure they know what to look for and how to respond.

Accordingly, we respectfully urge the U.S. Department of Education to not amend the Title IX regulations concerning sexual harassment and work to support schools to adopt the above recommendations.

Please let us know if you have any questions by contacting me at paula.johnson@idra.org.

Sincerely,
Paula N. Johnson, Ph.D.
Director, IDRA EAC-South

The Intercultural Development Research Association is an independent, non-profit organization. Our mission is to achieve equal educational opportunity for every child through strong public schools that prepare all students to access and succeed in college. IDRA strengthens and transforms public education by providing dynamic training; useful research, evaluation, and frameworks for action; timely policy analyses; and innovative materials and programs.