



Monday, June 22nd, 2020

Chairman Sachin Shailendra, Mr. Edward Tate, and the Board of Regents of the University System of Georgia  
University System of Georgia  
270 Washington St SW  
Atlanta, GA 30334

To Chairman Sachin Shailendra, Mr. Edward Tate, and the Board of Regents of the University System of Georgia:

The Georgia Network to End Sexual Assault, Georgia Commission on Family Violence, Georgia Coalition Against Domestic Violence, and the Georgia Teen Advocates Network write this letter today to discuss the new regulations implementing Title IX of the Education Amendments of 1972 (“Title IX”) ruled final by the U.S. Department of Education on May 6, 2020. The final rule mandates certain interpretations of Title IX, including, but not limited to: narrowing of the definition of sexual harassment for investigation, dismissing Title IX complaints occurring outside of a school program or activity, and requiring cross-examination of survivors. We come together as Georgia’s experts in domestic and sexual violence advocacy to: (1) highlight the need for the University System of Georgia (USG) to codify a statewide policy surrounding all forms of sexual harassment, (2) continue to protect survivors of sexual and domestic violence on college and university campuses, and (3) cement access, equity, and protection for survivors within higher education.

As advocates and organizations who have worked with young survivors of sexual and domestic violence for decades, we make the following recommendations for USG policy concerning the implementation of Title IX:

1. Explicitly state that school advocates are permitted to advise students and provide supportive services, including attending any and all hearing, meetings, etc.
2. Provide training for advisors that are assigned to students who do not have representation on Title-IX proceedings, cross-examination, and ethical advisement.
3. Allow for respondents and petitioners to submit mutual waivers to cross-examination. This is not “denying” their right, but accepting it and choosing to mutually waive. Any cross can refer to previous processes where the panel will ask questions independently.
4. Advise schools to provide broader access to supportive measures, regardless if their case meets the definition of “sexual harassment” under Title-IX
5. Clearly outline rules surrounding cross-examination that do not show bias against the petitioner, and on what questions will be heard. USG also needs to outline procedural protections if someone wishes to not answer a question. This includes USG recommending schools utilize preponderance of evidence as the proceeding standard, and to obey restrictions that protect traumatization of the petitioner/respondent.
6. Set mandates on the qualifications and training a panelist needs to have in reviewing and approving relevant questions, particularly related to sexual histories.
7. Provide an explicit outline for cases to be heard if they do not fall under Title-IX’s purview, but is not simply under “conduct board”, which tends to be a student-run process. Third party group for investigation of these cases with staff that is explicitly trained in trauma-informed practices, adjudication, and investigation. This group needs to also continue investigations if the respondent/petitioners graduates or transfers. This group will handle cases that do not fall under Title-IX off-campus rules (study abroad/off campus). These policies and procedures need to connect all forms of victim assistance on campuses (police/public safety, academics, housing, etc.) regardless if the victim pursues Title-IX or a conduct hearing.
8. Clearly elaborate where cases of digital harassment and digital stalking behavior fall under Title IX.
9. Petitioners, if they utilize criminal/civil court processes, are allowed to submit a disposition of this to be considered in the Title-IX proceeding, but are not mandated to utilize the criminal/civil court process.
10. Mandate schools have available options for students who wish to engage transformative/restorative justice processes.



Collectively, we have no doubt that the infrastructure already assembled for disciplinary hearings and supportive services by institutions will have the adjustable capacity to support these recommendations. We believe the final rule of the U.S. Department of Education does not reflect the due process system it wishes to emulate; it imposes specific barriers to Title-IX investigations, especially within a definition of sexual harassment that includes other forms of sexual/domestic violence, as well as creates additional burdens on survivors when they exercise their right to equitable education. It is our hope that USG codifies and promotes policies within their domain that continue to rigorously maintain equity and accessibility. We are all more than willing to participate in a follow-up dialogue with USG in order to discuss the specific codification of these recommendations, and develop methods to maintain equity but also reduce the potential re-traumatization of survivors. In conclusion, as experts within the fields of domestic and sexual violence, we sincerely hope and urge USG to impose a sexual harassment policy that not only fosters a culture of respect on campuses, but also provides fair and accessible options for survivors to continue pursuing higher education. Thank you for your consideration in this matter, and we look forward to the potential of future collaboration with your office on this issue.

Regards,

Jan Christiansen, Executive Director, Georgia Coalition Against Domestic Violence

Jennifer Bivins, President/CEO, Georgia Network to End Sexual Assault

Mary Haddon, Co-Founder, Georgia Teen Advocates Network

Georgia Commission on Family Violence