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Brittany Bull
U.S. Department of Education
400 Maryland Avenue SW Room 6E310
Washington, DC 20202

RE: Docket ID ED-2018-OCR-0064

The University of Wisconsin System's Comments Regarding the U.S. Department of Education's Proposed Rule on Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance

Dear Ms. Bull,

I write on behalf of the University of Wisconsin System (UW System) to provide feedback on the U.S. Department of Education's (ED's) proposed rule relating to Title IX. The proposed rule emphasizes the importance of equity, impartiality, and due process in campus investigations and disciplinary proceedings. The UW System shares these important goals and has procedures in place designed to ensure thorough investigations and unbiased decision making.

Several parts of the proposed rule will help colleges and universities combat sexual harassment and assault. However, parts of the proposed rule cause concern, particularly the provisions requiring cross-examination and dismissal of certain Title IX grievances, and parts need clarification to more effectively accomplish our shared goal of protecting the rights of the complainant and the respondent. On behalf of the UW System, I appreciate the opportunity to participate in the formal notice and comment process.

In addition to these comments specifically from the UW System, you will also receive comments from the American Council on Education (ACE) and sister organizations, which share many of our concerns and opinions about the proposed rule. We ask that the final rule reflect the fundamental premise that colleges and universities are educational institutions, not arms or alternatives to the criminal justice system. We urge the ED to be conscious of this distinction. We also caution against a "one-size-fits-all" approach. Requirements on institutions should reflect the differences among institutions and students. Likewise, we ask the ED to be cognizant of the intersection of federal and state law and to respect local control. Finally, campuses may need an extended period of time to adopt new federal requirements and make sure the regulations at the state level take effect in a timely manner.

INTRODUCTION

The UW System is one of the largest systems of public higher education in the country, serving more than 170,000 students each year and employing approximately 39,000 faculty and staff statewide. The UW System is made up of 13 four-year universities, including our two doctoral campuses at UW-Madison and UW-Milwaukee, 13 two-year branch campuses affiliated with seven of the four-year institutions, and UW-Extended Campus, which offers Competency-Based Education programs. The UW System contributes $24 billion to Wisconsin's economy each year with a 23-1 economic return on investment, and it is a major source of research and innovation, with more than $1 billion of sponsored research activity annually.

The UW System takes all allegations of sexual assault and harassment seriously. In our experience, claims are not brought forward frivolously. Yet, cases of sexual assault and harassment are far too prevalent, and we find due to various reasons they are often underreported. This underscores the importance of developing rules and systems that are trusted, so those who come forward with claims know they will be properly investigated, and respondents know their rights will be respected.

The UW System is continuously working to improve our policies and procedures to have a respectful and safe campus climate. Over the past several years, the UW System engaged in substantial work to harmonize policies and procedures with the expectations set by the ED's April 4, 2011, "Dear Colleague Letter" and April 29, 2014, "Questions and Answers on Title IX and Sexual Violence," as well as the procedural due process rights the UW System, as a public institution, must provide.

The UW System's student and employee disciplinary procedures are part of the Wisconsin Administrative Code, so revising those procedures requires engagement with state policymakers through the formal rulemaking process. In addition, the UW System requires all employees and students to complete relevant trainings, and campuses continuously update polices, trainings, websites, and printed materials to educate our campus communities on the most up-to-date rules and regulations. In December of 2016, a UW System Task Force completed a report with recommendations, including, but not limited to, revised policies and enhanced training requirements for students and employees. These recommendations were adopted by the UW System President and Board of Regents, the UW System's governing body, and have been implemented by all the UW institutions.

Most recently, the President's Sexual Violence and Harassment Priorities Working Group has been created to review the current state of sexual harassment and sexual violence claims, compile training completion rates for both employees and students, and begin initial development of advanced training for those staff who are directly involved in this work (for example, investigators, coordinators, intake specialists, etc.). Current institutional policies will be analyzed for both compliance and potential standardization across the UW System, with plans to develop a summary report of findings and recommendations for the UW System's consideration.

Following, I share the UW System comments pertaining to the proposed rule, which highlight: 1) areas of support, 2) areas of concern, 3) areas in need of clarification, and 4) responses to some of the ED's directed questions. In each section, we offer recommendations to help improve the draft rule.

Areas of Support

Recipient's response to sexual harassment: With exceptions noted subsequently, we generally support the proposed adoption of the U.S. Supreme Court's standards for sexual harassment in private litigation under Title IX as the administrative standards for Title IX enforcement by the ED. We agree higher education institutions will benefit from a single, uniform standard for administrative enforcement and for liability in private litigation, both in terms of clarity and because that standard aligns with the Supreme Court's interpretations of Title IX.

Additionally, discrimination on the basis of sex is the cornerstone of prohibited conduct under Title IX. Consistent with the ED interpretations and relevant case law, we encourage the ED to add language to the proposed rule explicitly protecting "gender" as well as sex, as the two are indivisible.

Safe harbors: We support the two "safe harbors" from administrative enforcement action that are included in the proposed rule. We recommend additional language in the rule to explain how the safe harbors would work, and how they would be different from a department finding after receipt of a complaint that the higher education institution had complied with Title IX.

Under the second safe harbor, institutional Title IX officers would be required to file a formal complaint when reports by "multiple" complainants of sexual harassment are made against the same respondent. We recommend clarifying what is meant by "multiple complainants." For example, would reports from two complainants against the same respondent constitute "multiple complaints?"

Role of Title IX "coordinator": The UW System supports the clarification of the role of the Title IX coordinator to make clear that a person designated as the Title IX coordinator is not obligated to handle Title IX investigations or exclusively carry out the institution's Title IX responsibilities. It is necessary in managing almost every Title IX complaint, formal or informal, to delegate many portions of the institution's response to staff other than the Title IX coordinator. Moreover, this clarification still permits flexibility for those institutions that ask the Title IX coordinator to carry out most, if not all, of the institution's responsibilities.

Areas of Concern

Disciplinary Proceedings vs. Criminal Trials: College and university disciplinary proceedings are not criminal trials, do not carry criminal penalties, and intentionally avoid incorporating criminal procedures to reinforce the distinction between campus disciplinary proceedings and criminal trials. While the UW System believes it should play a role in investigating sexual assault and sexual harassment cases and disciplining appropriate parties, we remain concerned with certain requirements that blur the lines between the disciplinary and criminal roles. We urge the ED to be conscious of this distinction as it finalizes the rule to define an institution's role in such cases.

Discrimination on the basis of gender: The proposed rule states a recipient may be found in violation of Title IX for its failure to follow fair procedures before imposing discipline on a respondent. It does not seem that failure to follow fair procedures is necessarily gender discrimination under Title IX unless an institution is consistently unfair toward one gender. As such, we request that the ED clarify that failure to follow procedures before imposing discipline in a Title IX case does not per se constitute discrimination on the basis of gender.

Standard of proof: By giving institutions a choice between the "preponderance of the evidence" standard and "clear and convincing" standard, the ED acknowledges that either standard comports with due process. The UW System applauds the ED for giving campuses the flexibility to select among these constitutionally acceptable standards. However, the UW System recommends providing colleges and universities the flexibility to choose between a "preponderance of the evidence" and "clear and convincing evidence" standard in Title IX cases without tethering that standard to other types of misconduct cases. This will ensure institutions retain the flexibility to balance various important institutional interests.

The proposed rule does not recognize the legal distinction between the rights of students and those of employees by limiting the ability of colleges and universities to use the "preponderance of the evidence" standard only if they use it for all other types of misconduct for students and employees, including faculty, that could result in the "same maximum disciplinary sanction." Moreover, requiring colleges and universities to tether the burden of proof in Title IX disciplinary procedures to the burden used for all other types of misconduct that could lead to separation from the university will necessarily require significant changes to campus procedures that may fall outside the scope of Title IX or sex discrimination. For example, the UW System would be required to use the same burden of proof for dismissals of tenured faculty for concerns about the quality of their teaching or their level of research productivity, an accountant accused of embezzlement, or a student accused of sexual assault.

Many of the UW System's faculty discipline and dismissal proceedings for misconduct other than sexual harassment, sexual assault, dating violence, domestic violence, and stalking use a "clear and convincing evidence standard." Discipline and dismissal proceedings for employees with job security at many of the UW System institutions are evaluated using the "preponderance of the evidence standard," which meets the UW System's legal requirements as a public employer and gives management the ability to swiftly address problematic behavior. The UW

System's at-will employees (largely high-level administrators and student workers) can be dismissed without a hearing, which allows the UW System to quickly address misconduct by its leaders and avoid creating a hearing process for student workers whose employment relationships with the university are temporary. The burden of proof for the UW System student discipline proceedings varies between "clear and convincing" and "preponderance" depending upon the type of conduct at issue and the severity of the sanction imposed.

Prohibiting Title IX Coordinators and investigators from making findings: While we understand the goal of this provision is to guard against potentially biased decision making, we believe our current procedures, together with other aspects of the proposed rule, are effective safeguards. This additional step is unnecessary given the proposed requirement to provide a live hearing. The live hearing requirement provides a check on the "single investigator" model in which the investigator serves as both the fact gatherer and final decision maker. The effect of this prohibition will likely create additional administrative burden, and it precludes highly trained individuals from making findings.

The UW System's student disciplinary procedures and many employee disciplinary procedures already provide for a live hearing, as required by Wisconsin law, after a finding of responsibility has been made. Our Title IX coordinators and investigators, decision makers, and hearing bodies are trained to make unbiased, evidence-based decisions and take seriously their obligation to remain impartial. Considering the UW System hearing examiners and committees as the separate decision maker from the Title IX coordinators or investigators would add administrative burden and expense by requiring hearings in cases for which the Title IX coordinator or investigator does not believe the burden of proof was met during the investigation.

The UW System recommends adding an exception to the separate decision maker requirement when the college or university provides a live hearing following an initial determination of responsible or not responsible.

Informal resolutions: The UW System generally supports the permissibility of alternative methods for addressing sexual misconduct, such as mediation or other restorative justice programs, should the parties consent to it. However, if the term "informal resolution" is meant to include all response options outside of a formal investigation and not simply more structured programs, such as mediation, the requirements listed in the proposed rules (requiring permission from the parties to engage in informal resolutions and requiring that specific allegations/complainant

identity be disclosed) would severely limit the UW System's ability to engage in protective and preventative measures. Frequently, a Title IX program will be presented with a complaint about which there is insufficient information to investigate, the allegations do not rise to the level of a policy violation, or the complainant has requested that a formal investigation not proceed. Because the university still has an obligation to mitigate potential sexual harassment concerns on campus, it is common to address these types of complaints by having a conversation with the respondent regarding expectations and policy obligations. These conversations can serve multiple purposes:

- They allow fears to be addressed even when a complainant does not wish to be identified due to concerns of retaliation.
- They provide the respondent an opportunity to be made aware of concerns and adjust their conduct accordingly.
- In situations in which the respondent does not adjust their conduct and it continues, there is a documented record of behavior to consider when addressing the respondent in the future.

These conversations can be particularly beneficial for situations in which the complainant's main goal in reporting the conduct is to make it stop, such as low-level sexual harassment allegations or conduct that may be considered stalking. These informal resolutions do not include any fact finding and do not have any punitive impact on the respondents.

If formal investigations and informal resolutions such as mediation and restorative justice programs are going to continue to be highly regulated and prescriptive, universities should be allowed the opportunity to otherwise use other effective methods to address concerns of sexual harassment and sexual misconduct that do not implicate any party's due process rights.

Additionally, we recommend that the university not be required to offer an informal resolution when a respondent has previously been found responsible for any prior instance of sexual misconduct or where there are multiple pending allegations against the same respondent. In such a case, an institution should be able to enforce the full extent of its misconduct rules for the protection of the entire institution.

Finally, when an informal resolution does take place, an institution should be permitted to introduce the fact of an informal resolution, including the allegations

and any information obtained as a result, in any subsequent proceeding against the same respondent. This would also appear consistent with the recordkeeping requirements concerning informal resolution.

Requiring cross-examination: The UW System's student disciplinary procedures and many employee disciplinary procedures provide the opportunity for a live hearing, which includes the opportunity for respondents and complainants to cross-examine individuals who testify at the hearing. The UW System does not, however, have the legal authority to compel complainants or witnesses to appear at disciplinary proceedings. U.S. Supreme Court decisions require universities to provide students notice and an opportunity to be heard before imposing discipline. Recent Sixth Circuit court decisions requiring cross-examination create new requirements that are not binding on institutions in other jurisdictions.

The UW System relies upon impartial investigators to gather exculpatory and inculpatory evidence during the investigation, which provides information that hearing panels use to evaluate credibility. Sometimes complainants and witnesses agree to testify at the hearing, but if they do not, the investigative report and/or available witness testimony is used by the committee to make decisions. It is within the hearing committee's discretion to weigh the credibility of any witness statement included in that report or in available witness testimony. In a related proposed rule, the information that is to be used at a hearing must be provided to the parties and hearing committee 10 days prior to the hearing. However, a university will have no way of knowing which parties or witnesses will attend the hearing and therefore witness statements will be included in the pre-released information packet for witnesses that may not testify. This may result in confusion because those statements will not be permitted as evidence at the hearing under the proposed rule.

More importantly, requiring complainants and witnesses to testify at a live hearing will likely reduce the number of individuals who submit formal reports of sexual harassment and sexual assault, as complainants may be reluctant to subject themselves or their friends to cross-examination at a hearing. Alternatively, complainants and witnesses may choose to participate during the investigative process, which may lead to a finding of responsibility for the respondent. If those parties later decline to participate in the subsequent live hearing, the university will have found responsibility based on the available credible evidence, but not be able to present that evidence at a live hearing. This will limit the ability of colleges and

universities to address the important issues of sexual harassment and sexual assault.

For elementary and secondary schools, the ED recognizes that posing written questions to parties and witnesses, through the investigator, after receiving the investigatory report provides an effective opportunity for cross-examination and meets due process requirements. Similarly, indirect cross-examination, through written questions, via a hearing committee, or otherwise, provides the ability to challenge witness testimony while still encouraging witnesses to participate without fear of potentially intimidating cross examination by a party's attorney. In balancing the goals of full participation and a fair and thorough process, we think this balance weighs in favor of continuing to permit indirect cross-examination. The UW System recommends that the ED permit colleges and universities to also use this procedure for complainants and witnesses who do not attend the live hearing.

As we note in response to directed question 3, the cross-examination requirement as applied to employee proceedings may also result in an unintended overhaul of the UW System's existing employee rules. Not all employees are provided the opportunity for a disciplinary hearing, so requiring the availability of cross-examination of witnesses will require the UW System to add such hearings to the disciplinary procedures for all employees. As a result, to the extent live cross-examination remains a requirement, we ask that it be limited to employee processes which already provide for a live hearing. Stated differently, the disciplinary processes for employees should be the same whether the basis for the discipline is sexual misconduct or another form of misconduct.

Requiring an advisor "aligned with that party" at hearing to conduct cross-examination: The UW System currently permits respondents and complaints to be accompanied at investigatory meetings and discipline and dismissal hearings by an advisor of their choosing, including an attorney at their own expense. In student non-academic misconduct cases, in which suspension or expulsion is the recommended sanction or there is concurrent criminal charge, the advisor is permitted to speak at the hearing, including conducting cross-examination. This also generally is the case in employee discipline or dismissal cases pursuant to policies at most of the UW System institutions. Typically, respondents are accompanied by an attorney and complainants are accompanied by a friend, family member, or a victim advocate who provides supportive accompaniment. Because cases only go to a live hearing when there has been a determination of responsibility, an institutional official presents information supporting that

determination and shoulders most of the burden of questioning the respondent and witnesses, although the complainant is permitted to also ask questions directly, through their support person, the hearing examiner, or the hearing committee chair, as applicable.

If colleges and universities are required to provide advisors, they may need to ensure that advisors for complainants and respondents are similarly skilled at conducting cross-examination. Because respondents are typically accompanied by an attorney, that may mean providing an attorney for complainants. Using in-house counsel to essentially represent a university student or employee against another, or against the university's finding is inappropriate, as their role is to advise about institutional process and to defend the outcome. Hiring outside counsel on retainer exposes institutions to legal risk if respondents or complainants are dissatisfied with the services. The UW System faces an additional challenge in this area because our campuses are not permitted to retain outside counsel without approval of the governor's office, which can be a lengthy process.

Dismissal of certain Title IX grievances: As permitted by prior ED guidance, the UW System uses a single student non-academic misconduct code to address sexual assault, sexual harassment, and other types of misconduct. The UW System's student non-academic misconduct code applies to student conduct outside of an institutional program or activity if the behavior implicates an institutional interest or creates a health and safety risk for the student or others. Specifically, the UW System uses its student non-academic misconduct code to address student-on-student sexual harassment that occurs off campus. We assume that the proposed rule does not propose to prohibit the UW System institutions from addressing student-on-student sexual harassment off campus, only to constrain the jurisdictional responsibility of our Title IX compliance. Any other result would be a dramatic overreach outside the scope of the ED's authority under Title IX. Approximately, three-quarters of all students in the UW System live off campus.

The proposed rule states that an institution must dismiss Title IX complaints based upon conduct that does not occur within the course of a university program or activity or does not meet the proposed rule's narrowed definition of sexual harassment. The proposed rule also appears to require colleges and universities to dismiss Title IX complainants for conduct that occurs outside of the U.S., such as study abroad programs. Yet the proposed rule also appears to permit colleges and universities to use their typical employee and student disciplinary procedures to address such conduct.

Conforming to this aspect of the proposed rule is confusing for colleges and universities that have unified disciplinary procedures for sexual harassment, sexual assault, and other types of misconduct. It also may open up colleges and universities to legal challenges if it addresses the same type of behavior (such as sexual harassment and sexual assault) through different procedures based upon where the conduct occurred.

Colleges and universities should be permitted to provide respondents and complainants similar rights regardless of where the conduct occurs. If similar rights are provided, then using different procedures for sexual harassment or sexual assault as opposed to other types of misconduct creates unnecessary complication. Using the same procedures for all misconduct regardless of where it occurs is less administratively burdensome, and it creates clear expectations for our campus communities.

Individuals with whom complainants can file a complaint: Given our understanding that the purpose of the regulations is to clarify the role of Title IX coordinators, the UW System supports limiting the number of people with whom complainants can file a complaint; however, we do not support requiring institutions to have a minimum number of people with whom complaints can be filed. Instead, institutions should have the flexibility to decide how to direct complaints in a manner that makes the most sense at each campus so long as we know there is at least one designated person. Institutions may choose to designate more than one person to receive such complaints, but the organizational structure or size of a particular institution may make it preferable for an institution to direct complainants to one individual so as to minimize confusion whether on the part of complainants or internally.

Supportive measures: While it is a positive that supportive measures for both the complainants and respondents are permitted and encouraged, including when no formal complaint has been filed, it appears the proposed regulations preclude providing accommodations to the complainant that involve disruption to the respondent if no formal complaint has been filed. While the basis for this change is understood, there are circumstances in which it is necessary to make changes to a respondent's academic schedule, living arrangements, etc., to achieve separation between the respondent and the complainant, which is permitted under the proposed regulations irrespective of whether a formal complaint has been filed. For example, a complainant's schedule may not permit moving out of a course shared

with the respondent to another course section because of a direct conflict with a different course. If the respondent's schedule permits such a move, it seems reasonable to change the respondent's schedule rather than be precluded from accommodating the complainant.

The UW System recommends that the ED make it explicit that schedule and housing adjustments are not an unreasonable burden upon the respondent when those accommodations do not otherwise separate the respondent from their educational opportunities.

Areas in Need of Clarification

Definition of "program of activity": We respectfully request the ED consider adding a definition of "program or activity" to the proposed rule to provide guidance beyond that currently contained in 34 CFR 106.31, given the importance of this term when determining an institution's obligations under the proposed rule.

Definition of "sexual harassment": Has the ED fully aligned the definition of "sexual harassment" with the parallel definition under Title VII? The alignment of those definitions is important both for clarity and for the purpose of simplifying enforcement of Title IX and Title VII with respect to the employees of recipients, assuming employees are included within all aspects of the proposed rule.

Employee-on-employee sexual harassment: Is employee-on-employee sexual harassment included within the scope of the proposed rule? Title IX and the proposed rule describe harassment within education programs or activities as the touchstone for application of the law. However, the language in various sections of the proposed rule does not clearly address this question. If employee harassment falls within the rule, this likely will require considerable changes to college and university employee misconduct policies. Additionally, as noted previously, it may require several, distinct processes for employee discipline, which may not be an efficient policy approach.

High school students enrolled in college or university courses: Some higher education institutions enroll high school students in college-level courses that are taught at the high school, at the higher education institution, or online. It would be helpful if the ED addresses in the proposed rule whose program or activity is involved in these circumstances, including where responsibility lies for responding

to a complaint of sexual harassment in this context, and which grievance procedures would control.

Complaints that are outside a program or activity or do not constitute sexual harassment: The proposed rule directs that a higher education institution must not address through its Title IX process and grievance procedures complaints of sexual harassment that are not part of a program or activity or do not fall within the proposed rule's definition of sexual harassment. However, institutions are permitted to address this alleged misconduct through their general student or employee conduct processes. Are institutions required to have two entirely separate grievance procedures for students, and similarly two separate procedures for employees, to comply with the proposed rule? Further guidance in the proposed rule on this point would be beneficial.

Complainant or respondent outside the United States: It is proposed to "add paragraph (d) to 106.8 to clarify that the policy and grievance procedures described in this section need not apply to persons outside the United States." This could be read to limit an institution's ability to pursue a Title IX complaint if a complainant or respondent is not currently in the United States. If the regulations limit applicability to international programs, this provision should still permit institutions to investigate and pursue Title IX complaints regardless of the current location of a complainant or respondent, so long as the basis for the complaint otherwise falls under the scope of the regulations.

Effective date and application of the proposed rule: Because many higher education institutions will likely be required to revise their Title IX policies, we propose the final rule not be effective immediately. Rather, we propose that consideration be given to setting the effective date sufficiently far enough in the future to permit institutions to bring their policies into compliance. We recommend at least eight months from the time of the posted final rule, which is consistent with the Higher Education Act's Master Calendar.

Additionally, it would be helpful if the ED specified in the final rule or through some other means if the rule will be applied only prospectively or if it could be applied retroactively.

Directed Questions

Question 3 - Applicability of the rule to employees: It is the grievance procedures that would be unworkable as applied to employees. Institutions have several different employee types, each with different rules regarding discipline and, in some cases, different rules within employee categories. Any investigatory and disciplinary processes for employees should follow institutions' existing disciplinary rules. Moreover, it would require institutions to investigate and discipline under processes unique to Title IX cases when it appears the proposed regulations are aimed at removing disparities between how Title IX and other misconduct cases are handled. Applying the proposed grievance procedures to employees would create and exacerbate such disparities. Institutions also could not reasonably manage live hearings in all employee Title IX cases; they would require additional resources and could prolong the resolution of such complaints. As a public institution, our employees are guaranteed adequate due process requirements such that additional, and costly, processes are unnecessary.

As noted above, if employees are covered by the regulations, the Title IX and Title VII definitions of "sexual harassment" should align.

Question 4 - Training: The UW System believes this requirement is reasonable.

Question 6 - Standard of Evidence: The UW System supports the ED permitting institutions to choose between a "preponderance of the evidence" or "clear and convincing evidence" standard in disciplinary matters for sexual assault and sexual harassment. As a public institution, the UW System provides a live hearing in student disciplinary proceedings and in many employee disciplinary proceedings and also provides due process protections. This ensures fair proceedings and sound decision making while using the "preponderance of the evidence" standard for Title IX matters.

The UW System opposes the ED tethering the standard of evidence for Title IX matters to the standard of evidence used for all disciplinary proceedings for students and employees that could result in similar outcomes. As explained in the UW System's comments above, requiring colleges and universities to tether the burden of proof in Title IX disciplinary procedures to the burden used for all other types of misconduct that could lead to separation from the university will necessarily require significant changes to campus procedures that may fall outside the scope of Title IX or sex discrimination.

Question 8 - Appropriate time period for record retention: The UW System believes three years is a reasonable requirement for retaining records. Many of the UW System institutions have retention schedules that dictate keeping records longer than this.

Question 9 - Technology needed to grant requests for parties to be in separate rooms at live hearings: This will require additional investment in technology, but the UW System does not oppose this requirement. The UW System is already experimenting with technological ways to permit respondents and complainants to fully participate in hearings from separate rooms while allowing opposing parties and hearing examiners or committees to observe demeanor.

Conclusion

As stated above, the UW System believes parts of the proposed rule will help provide some clarity and improve upon our current procedures. Nevertheless, given the detailed, prescriptive nature of the ED's proposed rule, we anticipate we will need to revise policies and procedures, update related materials, and educate campuses about these new expectations. Given the ED's stated goal to help institutions reduce the cost of compliance with Title IX, please account for the significant investments of staff time and money that it will take to comply if the finalized rule is as detailed and prescriptive as the proposal.

The UW System takes seriously its obligations to provide support to students and employees who allege sexual assault and harassment as well as robust due process protections to students and employees accused of misconduct. We commend the ED for using the rulemaking process to address the important issue of sexual harassment and assault so that the public can offer critiques and recommendations to the proposed rule.

Thank you for the opportunity to comment on this proposed rule.

Sincerely,

Ray Cross
President
University of Wisconsin System