

[Docket ID ED-2018-OCR-0064]

January 29, 2019

The Honorable Betsy DeVos
Secretary
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, DC 20202

Dear Secretary DeVos:

I submit these comments on behalf of the Association of Educational Service Agencies (AESA), in response to the proposed amendments to regulations implementing Title IX of the Education Amendments of 1972. We applaud the Department's intent to simplify and streamline federal regulations on agencies, districts and schools, but are concerned there are elements of the proposal that not only miss that mark, but also achieve the opposite outcome, reducing the flexibility of educational agencies and the districts they serve in handling potential Title IX violations. We are concerned the proposed regulations, as drafted, will derail efforts to ensure each and every child supported and served by our educational service agencies has a safe and healthy learning environment. We oppose any regulatory changes that would compromise the integrity of the 2001 Title IX guidance, which has been of invaluable assistance to school leaders across the country for the better part of two decades.

As a general observation, we are concerned the regulations propose paint with a very broad brush stroke, and in doing so fail to distinguish between the significant differences between the educational and community environments at the K-12 and higher education levels. We understand that both K-12 and higher education institutions have a critical role to play in preventing sexual harassment and discrimination, and to act as good stewards of student safety in responding to incidents and reports when they do occur. However, the 'one-size-fits-all' approach of the proposed regulation fails to recognize significant differences in the intellectual, social and emotional capacities that exist between a second or fourth grader reporting harassment and any related follow up or investigation, and that of a 21-year old college junior.

At a more granular level: AESA is an association of educational service agencies. The day-to-day operations of our agencies vary in terms of the scope of services and supports offered: some ESAs provide services and supports solely to district personnel with limited to no direct interaction with students, while others run academic programs and services in schools with fully staffed classrooms. To the extent that many of our agencies do provide services and supports much like local education agencies we align ourselves with [the comments submitted by AASA](#), The School Superintendents Association. AASA also opposes any regulatory changes that would compromise the integrity of the 2001

Title IX guidance and highlights six explicit ways the proposed regulations have unintended consequences or dramatically change best practices currently used to report and investigate sexual harassment and assault. These concerns vary and would impact how LEAs respond to all reports of harassment and assault from both students and staff on and off-campus to changes to the definition of sexual harassment to the new provision of a 'live hearing' and mediation. We urge you to ensure that the final rule reflect their feedback.

Please direct any follow up questions to Sasha Pudelski at spudelski@aasa.org.

Sincerely,

A handwritten signature in black ink that reads "Joan H Wade". The signature is fluid and cursive, with "Joan" and "H" on the first line and "Wade" on the second line.

Joan Wade
Executive Director