

**ACADEMIC SENATE
OF
THE CALIFORNIA STATE UNIVERSITY**

AS-3426-20/FGA
May 7-8, 2020

OPPOSITION TO CHANGES TO TITLE IX

RESOLVED: That the ASCSU recognize that the changes to Title IX by the United States Department of Education will severely negatively impact the current processes by which the CSU supports students who experience sexual misconduct^{1,2,3}; and be it further

RESOLVED: That the ASCSU adamantly oppose the changes to Title IX by the United States Department of Education and thus call upon the Chancellor's Office and CSU campus presidents to publicly express opposition to those changes; and be it further

RESOLVED: That the ASCSU urge the CSU to maintain its current standards in addressing sexual misconduct whenever possible; and be it further

RESOLVED: That the ASCSU call upon the Chancellor's Office to ensure student representation on the CSU-wide Title IX Committee in the development of any new and future CSU-wide Title IX policy; and be it further

RESOLVED: That the ASCSU distribute this resolution to the CSU Board of Trustees, CSU Chancellor, Governor of California Gavin Newsom, California Legislature, California State Student Association (CSSA), CSU Title IX Officers, CSU campus Provosts, CSU campus Presidents, CSU campus Vice Presidents for Student Affairs, CSU campus Vice Presidents for Business and Finance, CSU campus Vice Presidents for Faculty Affairs and Development, CSU campus Senate Chairs, CSU Emeritus and Retired Faculty & Staff Association (ERFSA), and the Secretary of the United States Department of Education, Ms. Betsy Devos.

RATIONALE: *From San Francisco State University (SFSU) resolution ([RS20-395](#), March 3, 2020): "The U.S. Department of Education has proposed the most consequential changes in decades to Title IX, the federal*

¹ <https://www.titleix.com/ocr/> (see "Federal Register, Proposed Changes;" Federal Register, Vol. 83, No. 230, 61462, 11/29/2018)

² <https://www.insidehighered.com/views/2020/01/15/how-respond-new-federal-title-ix-regulations-being-published-soon-opinion>

³ <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-summary.pdf>

law that governs gender and sex discrimination in educational contexts. These proposed regulations would require major changes in the ways that schools receiving federal funds respond to sex and gender issues, including sexual misconduct. The results would make it likely that schools implement a higher standard of proof for making judgments in cases of sexual harassment or assault, would allow for cross examination of students who put forward complaints, and would allow the use of alternative forms of resolution of disputes, such as mediation. All these changes are strongly opposed by advocates for the rights of students who experience sexual harassment and assault because they are likely to deter students from coming forward or conceal the existence of serious complaints. Because of the gravity and potential harm to individuals and the campus climate more widely, there is an urgent need for the responses put forward in this resolution, adding to the voice of San Francisco State University to widespread public opposition and proposing ways to mitigate the harm that would result from implementation of these proposed changes to Title IX regulations.”

Rule summary (§§ 106.30, 106.45(b)(3)): *Schools “must dismiss” a formal complaint if the alleged conduct “did not occur within the [school’s] program or activity.”*

Rule summary (§§ 106.30, 106.45(b)(3)): *Schools “must dismiss” a formal complaint if it alleges conduct that is not (i) an employee requesting sexual favors in return for good grades or other educational benefits; (ii) “unwelcome conduct on the basis of sex that is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the [school’s] education program or activity”; or (iii) “sexual assault.”*

Rule summary (§ 106.45(b)(1)(iv)): *Schools’ Title IX procedures must include “a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.”*

Rule summary (§ 106.45(b)(3)(vi)-(vii)): *in higher education, the school must conduct a “live hearing,” and parties and witnesses must be available for cross-examination by the other party’s “advisor of choice.” If requested, parties must be allowed to sit in “separate rooms” connected by “technology.” If a student does not submit to cross-examination, ‘the school’ must not rely on any statement of that [student] in reaching a determination.”*

Approved May 7-8, 2020