

United States Senate
WASHINGTON, DC 20510

January 5, 2017

President-Elect Donald J. Trump
Trump Tower
725 5th Ave
New York, NY 10022

Dear President-Elect Trump:

We write to express our concerns about the possibility that the 2011 Dear Colleague Letter from the Office of Civil Rights at the Department of Education may be rescinded. This important guidance to institutions of higher education has been instrumental in providing these schools with the tools they need to address the scourge of campus sexual assault.

Campus sexual assault is a widespread problem affecting millions of college students across the nation, and institutions of higher education have struggled to respond even with the best of intentions. In some egregious cases, schools have systematically treated victims poorly and sought to hide these problems from their communities and the public. Fortunately, we have made some progress in addressing campus sexual assault in the last several years.

Under Title IX, forms of sexual violence are considered an extreme form of hostile environment sexual harassment and institutions are required to take action, which may include conduct proceedings, to remedy any such hostile environment. One of the most important pieces of the 2011 guidance clarified longstanding policy at the Office of Civil Rights, dating back to at least 1995 and explicitly supported by the George W. Bush Administration, that expects institutions to use the preponderance of the evidence standard of proof for conduct proceedings following a report of domestic or sexual violence. The preponderance of the evidence standard is well established for violations of civil rights laws and civil court proceedings, and we believe this is the correct and appropriate standard to use. It is the standard used in civil trials, and in many custody cases; it is used when protective orders are issued; and data available at the time indicated that approximately 80 percent of colleges and universities already used the preponderance of the evidence standard.

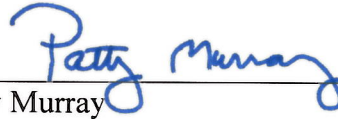
Legislation we sponsored, the Campus Sexual Violence Elimination (SaVE) Act, was signed into law in 2013 as a part of the Violence Against Women Reauthorization Act. The Campus SaVE Act aligns closely with federal policy on Title IX, including the 2011 guidance, and made important updates to the Clery Act, the landmark federal law (originally known as the Campus Security Act) that requires colleges and universities across the United States to disclose information about crime on and around their campuses. The law increases transparency, promotes responsibility, supports victims, requires clear procedures for institutional disciplinary proceedings and provides additional guidance to institutions for implementing these requirements.

It is critically important that these policies remain in effect in order to protect students from sexual violence and promote healthy learning communities. We respectfully urge you to strongly support these efforts to end campus sexual assault.

Sincerely,

Handwritten signature of Bob Casey, Jr. in blue ink.

Robert P. Casey, Jr.
United States Senator

Handwritten signature of Patty Murray in blue ink.

Patty Murray
United States Senator