

September 10, 2017

Chapman Community Members,

Following the remarks Secretary Betsy DeVos of the Department of Education (DOE) made this past Thursday, my office has received questions about Title IX related-compliance efforts at Chapman, and if we anticipated any changes to them. The questions are important ones and I want to address them. It is somewhat hard to comment on forthcoming guidance from DOE, since we don't yet know yet what will be included. However, there are a few things I would want to highlight.

First, Chapman is very committed to addressing sexual misconduct in all forms - that isn't going to change. Chapman does and always will prohibit gender and sex-based harassment and discrimination, which is inclusive of acts of sexual violence. Chapman's [Harassment and Discrimination Policy](#) and the [Student Sexual Misconduct Policy](#) demonstrate this prohibition and the University's commitment to it. Both policies are in place and in force for all students, faculty, and staff.

Further, there are laws that are independent of DOE guidance that all colleges and universities in California must follow. The Violence Against Women Act (VAWA) and California's SB 967 are two of the most important. In particular, some of the concerns that I have seen are worries that the definition of consent and the standard of evidence used in campus investigations and hearings may change. It is important to note that CA SB 967 requires both an affirmative consent and "preponderance of evidence" standards for all colleges and universities. As such, Chapman has both of these standards in place. We were using the "preponderance of the evidence" standard prior to the 2011 DOE Dear Colleague letter. Additionally, Chapman has defined consent as "affirmative, conscious, voluntary agreement by all participants to engage in sexual activity." Again, given our institutional values and applicable laws, I don't see these changing either.

Sec. DeVos stated that the DOE would be issuing new guidance on Title IX enforcement soon; I will be following this closely as I'm sure many others will too. After the DOE issues new guidance, they will enter into a process of notice and comment to create new regulations to govern federal enforcement of Title IX. She did not indicate when this process might begin; once it does, however, finalizing regulations under the federal Administrative Procedure Act could take a year or more. In the interim, even if current DOE guidance documents are rescinded or otherwise nullified, Title IX will remain law, and Chapman will continue to provide the protections it affords in a manner consistent with it, VAWA, CA SB 967, and our own institutional values.

Given all of this, I am focusing on the other comments Sec. Devos made. She emphasized the importance of obtaining input from a wide range of stakeholders in the notice and review process for any new guidance. She also emphasized the need to protect students who have been sexually assaulted

as well as to ensure a fair and impartial process for those that are accused. I know these two guiding principles are already fundamental to Chapman's Title IX compliance-related policies and procedures.

If I were to guess what might be included in the new guidance, I believe there are likely to be additional recommendations to ensure due process during investigations and hearings. Chapman has already taken careful steps to secure fundamental fairness and impartiality in our policies and procedures.

I hope this letter answers many of the questions community members may have. If it would be helpful, I and/or my colleagues would be happy to meet with individuals who may have concerns. I plan to work with university leaders to provide information to the community once new DOE guidance is issued. I may be contacted at gaffney@chapman.edu or 714.997.6721.

Sincerely,

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