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Network for Victim Recovery of DC's Position on the U.S. Department of Education's Issuance of the Finalized Title IX Rule

WASHINGTON, DC (May 12, 2020)—Network for Victim Recovery of DC (NVRDC) joins survivors and fellow advocacy organizations in expressing concerns for the rights of student-survivors in the wake of the changes made by the Department of Education (DOE) to the Title IX regulations.

As an organization that has assisted thousands of crime victims, including providing sexual assault medical forensic exam advocacy to over 500 student-survivors and legal representation to more than 200 student-survivors in Title IX-based grievance proceedings, NVRDC is concerned about the negative impact the Title IX changes could have on reporting cultures on campus. NVRDC encourages collaboration among schools, students, and community organizations to ensure that the new regulations do not become the ceiling, but the floor for sexual violence protections and proceedings under Title IX. The following points address particular concerns NVRDC has regarding the DOE's 2020 regulations and should be addressed by campuses to ensure the safety of campus communities:¹

Standard of Evidence: Schools should continue using preponderance of the evidence standard, rather than using the higher, unclear, and burdensome clear and convincing standard.

Jurisdictional Issues: The DOE requires that schools investigate conduct that falls within its definition of sexual harassment *and* occurs within a school's program or activity. While the DOE requires the dismissal of those claims under Title IX, it does not forbid schools from investigating this "other" conduct outside of Title IX grievance procedures. NVRDC encourages schools to use their discretion to investigate all types of sexual harassment, regardless of whether it meets the thresholds of the new Title IX requirements (for example, investigate conduct that occurs during a school's study abroad program).

Advisors: As the regulations require schools to assign parties an advisor during the cross-examination phase of a grievance procedure (if they do not already have one), schools should seriously consider whether the advisors that are provided are best suited to knowledgeably advise students on a school's grievance process, Title IX, the Clery Act, and effective cross-examination, while also being able to provide privilege or confidentiality under local laws.

"Despite the current tense political climate, NVRDC continues to fight *for* the rights of student-survivors and *against* oppression and discrimination," says NVRDC Executive Director, Bridgette Stumpf, "NVRDC offers our continued legal and advocacy resources to survivors of sexual assault on college and university campuses in DC, including providing free experienced attorneys as advisors during Title IX proceedings and free advocacy services for sexual assault survivors wanting to access medical forensic exams. As always, NVRDC stands with survivors."

About NVRDC: Network for Victim Recovery of DC empowers victims of crime to achieve survivor-defined justice through advocacy, case management, and legal services. For more information, please visit our website (www.nvrdc.org) or call (202) 742-1727. For media inquiries, please e-mail press@nvrdc.org.

¹ For more detailed information and arguments on our positions, please see NVRDC's submitted [comment](#) to the DOE.