

Congress of the United States

Washington, DC 20510

November 8, 2021

The Honorable Miguel Cardona
Secretary of Education
U.S. Department of Education
400 Maryland Ave SW
Washington, DC 20202

Re: Department of Education guidance on campus climate surveys regarding sexual misconduct

Dear Secretary Cardona:

Congratulations on your confirmation earlier this year as Secretary of Education. We're eager to work with you to address long-standing inequities in our schools, and to ensure every student has access to a safe and enriching learning environment. To this end, we write to express our ongoing concerns about the prevalence of sexual violence on college campuses, and the limited data available about such violence.

As you work to reverse the damage done by the previous administration to Title IX regulations and to survivors of sexual violence across the country, we want to call your attention to a recently-issued Government Accountability Office (GAO) report entitled, "Approaches and Strategies Used in College Campus Surveys on Sexual Violence." Through interviews with college administrators and federal officials, the report found that nearly all stakeholders agree that Campus Climate surveys are a useful tool, in large part because these surveys collect data directly from students. This helps to mitigate the limited scope of Clery Act Reports and other data, which rely heavily on underreported information from campus law enforcement and other campus security authorities.

It is our view that lawmakers and college administrators should be able to reference the more accurate data gathered by Campus Climate surveys to better inform policy. We also ask that the Department establish a standardized climate survey on campus safety and suggest looking at language in the recent House reauthorization of the Violence Against Women Act as a starting point. Students, parents, and alumni should be able to see how their schools respond to incidents of sexual violence.

The most recent guidance on this subject, initially issued in October 2016 by the Department of Justice under the Obama Administration, needs to be updated. The draft survey instrument excludes a common type of sexual violence—nonconsensual removal of a condom during sexual intercourse (known colloquially as "stealthing")—and lacks clarity on the affirmative consent standard. Additionally, the terminology regarding gender identity and sexuality is non-inclusive and inaccurate. Our last concern is that, despite the potentially upsetting nature of the survey

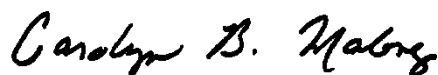
questions, there are no resources provided on the draft instrument for survivors.

We believe that the Department of Education has the jurisdiction to issue updated guidelines for universities, and that any such guidelines should:

1. Require campuses to conduct standardized biennial sexual misconduct climate surveys where at least 40% of the student population has participated, to report Clery Act crimes to the designated crime collection entity at their institution, and to make all their findings easily and freely accessible for current and prospective students and their families by publishing the results of the climate survey and Clery Act data on their website no later than 4 months after the data is completed.
2. Allocate funding for college administrators to use to incentivize student participation in campus climate surveys and provide resources for participating students.
3. Require campuses to implement anonymous and standardized sexual misconduct climate surveys and to prohibit the disclosure of personal identifiable information.
4. Require the Department of Education to include definitions for each type of sexual misconduct discussed in the climate survey.
5. Adjust language in the draft survey instrument to acknowledge the phenomena of nonconsensual condom removal (known colloquially as “stealthing”), a form of sexual violence occurring when an individual removes a condom during sexual intercourse without the consent of their partner and include nonconsensual condom removal in all definitions of unwanted sexual contact.
6. Work with experts and stakeholders as necessary to adjust language in the draft survey instrument to be gender-inclusive and gender-expansive, ensuring that it is accurate, trauma-informed, and inclusive of all LGBTQ+ students, including transgender, nonbinary, two-spirit, genderqueer, lesbian, gay, bisexual, pansexual, asexual, and/or intersex individuals.
7. Adjust the language in the draft survey instrument to include information about accessible and trauma-informed resources for victims and survivors of sexual violence, due to the potentially upsetting nature of the survey questions.

We respectfully ask that you give this request your full and fair consideration, consistent with applicable statutes and regulations. Thank you for your attention to this important matter.

Sincerely,



Carolyn B. Maloney



Ro Khanna

/s/
Alma S. Adams, PhD
Member of Congress

/s/
Karen Bass
Member of Congress

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Earl Blumenauer
Member of Congress

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Jamaal Bowman
Member of Congress

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Cori Bush
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