

August 1, 2018

Chairman Virginia Foxx
Committee on Education & the Workforce
2262 Rayburn House Office Building
Washington, DC 20515-2302

Ranking Member Robert C. Scott
Committee on Education & the Workforce
2101 Rayburn House Office Building
Washington, DC 20515-2302

Chairman Trey Gowdy
Committee on Oversight & Government Reform
2418 Rayburn House Office Building
Washington, DC 20515-2302

Ranking Member Elijah Cummings
Committee on Oversight & Government Reform
2163 Rayburn House Office Building
Washington, DC 20515-2302

Dear Chairman Foxx, Ranking Member Scott, Chairman Gowdy, and Ranking Member Cummings:

On behalf of the National Women's Law Center and the 37 undersigned organizations, we write to urge the Committee on Education & the Workforce and the Committee of Oversight & Government Reform to conduct hearings on the profoundly troubling phenomenon of colleges and universities covering up sexual abuse perpetrated on students by employees. We also write to ask that your Committees conduct hearings on the U.S. Department of Education's (Department) response to this problem through its enforcement and rulemaking functions.

Recently, it has come to light that Ohio State University failed to respond to widely known allegations of sexual abuse of male students by athletic team doctor, Richard Strauss—allegations that spanned approximately two decades. Allegations of sexual abuse by Strauss have been made by more than a hundred former students, including many who were student athletes. A number of these men claim that University administrators, coaches, physicians, and other employees were repeatedly informed about the sexual abuse. At least one former student wrestler alleged that he disclosed the abuse to then-assistant wrestling coach Representative Jim Jordan, and eight former wrestlers have claimed that that Representative Jordan knew about the abuse. Under Title IX of the Education Amendments of 1972, colleges and universities that are recipients of federal funding must respond to sexual harassment on their campus of which they know, or reasonably should know, by taking prompt and effective action to end the harassment and prevent its recurrence.¹ This responsibility is triggered when responsible employees of the school, including coaches and assistant coaches of athletic teams, have knowledge about the sexual harassment.² Such employees have the

¹ *Q&A on Campus Sexual Misconduct*, U.S. Department of Education, Office for Civil Rights (Sep. 2017) at 1; *Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties*, U.S. Department of Education, Office for Civil Rights (Jan. 2001) at 12.

² *Revised Sexual Harassment Guidance* at 13 (“A responsible employee would include any employee who has the authority to take action to redress the harassment, who has the duty to report to appropriate school officials sexual harassment or any other misconduct by student or employees, or an individual who a student could reasonably believe has this authority or responsibility.”).

responsibility to act. A failure to respond to such harassment allows the abuse to continue, imposes profound harm on students, and violates a University's obligations under Title IX.

Sadly, this is only the most recent high-profile event demonstrating how common it is for university employees to use their position, influence, and trust to serially sexually abuse students. The recent conviction of Michigan State University physician Larry Nassar for sexually assaulting at least 165 young women athletes has horrified the nation, as it alerted us once again to how rampant the problem can be if left unchecked. At the University of Southern California, hundreds of students have reported sexual abuse by University gynecologist George Tyndall over many years. In order to prevent the repeat of such incidents, we must understand how the institutions, and individual employees, at Ohio State University facilitated and ignored years of sexual abuse. The role, if any, played by Representative Jordan in allowing the perpetuation of the abuse must also be understood, as complicity in sexual abuse of students would, of course, be unacceptable for a Member of Congress.

These allegations and instances of sexual exploitation of students over many years at Ohio State University, Michigan State University, and the University of Southern California highlight the importance of ensuring that schools no longer ignore sexual abuse, which deprives the students who experience it of equal educational opportunities; they also provide clear reason why it is imperative that Title IX's protections against sexual harassment and assault in schools are not further undermined. As you know, the Department of Education has announced that it will soon engage in rulemaking to seek to amend the Title IX regulations concerning schools' responses to sexual harassment of students. The Department has already sowed confusion and sought to weaken protections for students when it rescinded the 2011 and 2014 guidance documents addressing schools' obligations to address sexual violence and other forms of sexual harassment of students. It threatens to take us back to a time when the sexual violence that plagues our nation's schools was simply swept under the rug, leaving schools less safe for all students. This regulatory context makes it all the more critical that Congress take action now to shine a light on the system breakdowns that can perpetuate sexual abuse on campus and seek to ensure that the Department takes this into account as it addresses schools' Title IX obligations to prevent and address sexual victimization of students.

Sexual violence is vastly underreported, and understandably so. Survivors are often met with systems that are fundamentally unfair, dismiss their concerns, are retraumatizing, and make it nearly impossible to demonstrate to anyone the harm they have experienced. Male survivors often face additional barriers of being disbelieved because of the common misperception that only women and girls can be sexually abused, and fear that coming forward about the abuse will lead to their masculinity or sexuality being questioned. Many student survivors are not aware of their rights under Title IX and how to seek help; many employees would rather look the other way than to acknowledge and deal with the abuse; and many institutions fail to take the steps necessary to ensure student safety.

Your Committees play a critical role in bringing to light how these abuses were perpetuated at Ohio State University in order to ensure that this pattern is not repeated again and in making unequivocally clear that the failure to respond to sexual abuse by a school's employees is not only a violation of Title IX, but is intolerable, and that the Department of Education must end its efforts to seek to weaken Title IX. These actions will help ensure that the egregious incidents at Michigan State University, University of Southern California, and Ohio State University do not occur again.

Thank you for your vigilance in ensuring that schools live up to their obligations under federal civil rights laws and for fighting discrimination in the classroom and on campus. If you have any questions, please contact Emily Martin (emartin@nwlc.org) or Shiwali Patel (spatel@nwlc.org) at the National Women's Law Center at 202.588.5180.

Sincerely,

National Women's Law Center, joined by:

Advocates for Youth

Atlanta Women for Equality

BHS Stop Harassing

California Coalition Against Sexual Assault (CALCASA)

California Women's Law Center

Disability Rights Education & Defense Fund

End Rape on Campus

Equal Rights Advocates

Girls Inc.

Harvard Law School, Gender Violence Program

Healthy and Free Tennessee

Healthy Teen Network

Hutchinson, Black, and Cook, LLC

Iowa Coalition Against Sexual Assault

Jane Doe Inc., the Massachusetts Coalition Against Sexual Assault and Domestic Violence

Jewish Women International

The Kentucky Association of Sexual Assault Programs

Know Your IX, a Project of Advocates for Youth

Louisiana Foundation Against Sexual Assault

Maryland Coalition Against Sexual Assault

National Alliance to End Sexual Violence

National Center for Transgender Equality

National Council of Jewish Women

National Organization for Women

National Women's Political Caucus

National Organization for Women

Nevada Coalition to End Domestic and Sexual Violence
New Hampshire Coalition Against Domestic and Sexual Violence
New Jersey Coalition Against Sexual Assault
New York State Coalition Against Sexual Assault
North Carolina Coalition Against Sexual Assault
Pennsylvania Coalition Against Rape
SurvJustice, Inc.
Texas Association Against Sexual Assault
Wisconsin Coalition Against Sexual Assault
Women's Law Project
Women's Sports Foundation