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UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

February 12, 2016

The Honorable Jackie Speier
U.S. House of Representatives
Washington, DC 20515

Dear Representative Speier:

Thank you for your January 11, 2016, letter in which you ask the U.S. Department of Education's Office for Civil Rights (OCR) to clarify the disclosure requirements when faculty or staff whose conduct is prohibited by Title IX of the Education Amendments of 1972 move to another institution.

OCR remains committed to ensuring that schools receiving federal funding respond promptly and equitably to allegations of sexual harassment and sexual violence by students and employees as required by Title IX. As you know, OCR issued a Dear Colleague letter in April 2011 and follow-up Question and Answer document in April 2014 to help schools better understand their obligations under Title IX to prevent and respond to sexual violence. When OCR receives allegations of noncompliance or initiates a compliance review regarding an institution, OCR conducts a comprehensive investigation of whether the institution has responded in a prompt and equitable manner to complaints and reports of sexual harassment and sexual violence. In recognition of the critical importance to address sexual harassment and sexual violence issues as quickly as possible, OCR has urged and continues to urge all schools to take proactive steps to address, prevent, and respond to sexual harassment and sexual violence as soon as possible and not to wait for an OCR investigation to be launched or to conclude. We have published our letters of findings and resolution agreements on our website to increase transparency in the way we do our enforcement work. OCR has also played a key role in the White House Task Force to Protect Students from Sexual Assault.

Your concern about faculty or staff who have engaged in sexual misconduct being hired for new jobs without their current institution informing the other institution of the misconduct is well founded. As your letter notes, when students found to have violated university policy through the Title IX disciplinary process transfer to another institution, the university that found the violation may inform the other institution, but is not obligated to do so. The same principle applies to faculty or staff. When an employee who has sexually harassed a student moves to another institution, the first institution may, consistent with Title IX, inform the other institution of the employee's misconduct, but it is not obligated under Title IX to do so. State or local laws,

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accreditation requirements, or collective bargaining agreements may either limit the university's ability to disclose this information or impose an obligation to disclose it.

Your letter also asks how the Family Educational Rights and Privacy Act (FERPA) applies to an institution's disclosure of employee records. The Department's Family Policy Compliance Office, which administers FERPA, indicated that FERPA protects the privacy of student education records and does not apply to employee records.

Thank you again for writing. I appreciate the opportunity to respond to your questions and concerns.

Sincerely,



Catherine E. Lhamon
Assistant Secretary for Civil Rights