

August 1, 2018

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

Kenneth Marcus
Assistant Secretary for Civil Rights
U.S. Department of Education
400 Maryland Ave. SW
Washington, DC 20202

Dear Secretary DeVos and Assistant Secretary Marcus:

On behalf of the National Women's Law Center and the 36 undersigned organizations, we write to urge the U.S. Department of Education, Office for Civil Rights (OCR) to initiate an investigation of Ohio State University's failure to respond to a widely known pattern of alleged sexual abuse, spanning approximately two decades, by Richard Strauss, an athletic team doctor, and to conduct a systemic-wide investigation into the University's response to sexual abuse. As part of that investigation, we ask that OCR specifically investigate the role played by University employees who knew or should have known about the harassment in allowing the abuse to continue. 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. 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.¹ This responsibility is triggered when responsible employees of the University, including coaches and assistant coaches of athletic teams, have knowledge about the sexual harassment.² A failure to respond to such harassment allows the sexual abuse to continue 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. Just as OCR has initiated investigations of Michigan State University and the

¹ *Q&A on Campus Sexual Misconduct*, U.S. Department of Education, Office for Civil Rights (Sep. 2017) at 1.

² *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 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.").

University of Southern California, it must also initiate an investigation of Ohio State University's failure to respond to serial sexual abuse affecting large numbers 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

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, including sexual violence, in schools are not further undermined. OCR 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. These changes threaten to take us back to a time when the sexual violence that plagues our nation's schools was simply swept under the rug. We urge you to take steps regarding this matter to ensure that it does not happen and to refrain from undertaking any rulemaking that would seek to weaken Title IX regulations concerning schools' obligations to prevent and address sexual harassment of students.

If you have any questions, please contact Emily Martin (emartin@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
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
NAACP
National Alliance to End Sexual Violence
National Center for Transgender Equality
National Coalition of 100 Black Women, Suffolk County Chapter, Inc.
National Council of Jewish Women
National Organization for Women
National Women's Political Caucus
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
Public Justice
SurvJustice, Inc.
Wisconsin Coalition Against Sexual Assault
Women's Law Project
Women's Sports Foundation