

No. 19-5126

United States Court of Appeals
for the
Sixth Circuit

JANE DOE

Plaintiff-Appellant

– v. –

UNIVERSITY OF KENTUCKY

Defendant-Appellee.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN
DISTRICT OF KENTUCKY AT LEXINGTON, 5:15-CV-00296

**BRIEF OF *AMICI CURIAE* NATIONAL WOMEN’S LAW CENTER
AND OTHER WOMEN’S RIGHTS, CIVIL RIGHTS, AND LEGAL
ORGANIZATIONS IN SUPPORT OF APPELLANT JANE DOE**

Demian A. Ordway
M. Theodore Takougang
HOLWELL SHUSTER & GOLDBERG LLP
425 Lexington Avenue, 14th Floor
New York, NY 10017
Telephone: 646.837.5151
Facsimile: 646.837.5150

Emily Martin
Neena Chaudhry
Sunu Chandy
Shiwali Patel
NATIONAL WOMEN’S LAW CENTER
11 Dupont Circle NW, Suite 800
Washington, DC 20036
Telephone: 202.588.5180
Facsimile: 202.588.5185

Counsel for Amici Curiae

CORPORATE DISCLOSURE STATEMENT

None of each of the *amici curiae* has a corporate parent, is owned in whole or in part by any publicly-held corporation, or is itself a publicly-held company.

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INTEREST OF AMICI CURIAE

The National Women’s Law Center (the “Center”) is a nonprofit legal organization dedicated to the advancement and protection of women’s and girls’ legal rights and the right of all persons to be free from sex discrimination. Since 1972, the Center has worked to secure equal opportunity in education for women and girls through enforcement of the Constitution, Title IX of the Education Amendments of 1972 (“Title IX”), and other laws prohibiting sex discrimination. This work includes a deep commitment to eradicating sexual harassment, including sexual assault, as a barrier to educational success. The Center has participated in numerous cases, including before this Court, other U.S. Courts of Appeal, and the U.S. Supreme Court, to emphasize that the text of Title IX is to be construed broadly and that Title IX’s protections apply to all persons whose access to education has been impacted by sex discrimination. Descriptions of the other *amici* are included in an appendix to this brief.¹

¹ The other *amici* are American Association of University Women; ACLU of Kentucky; American Civil Liberties Union; Atlanta Women for Equality; California Women Lawyers; California Women’s Law Center; Chicago Alliance Against Sexual Exploitation; Chicago Metropolitan Battered Women’s Network Life Span, & Resilience; Clearinghouse on Women’s Issues; Desiree Alliance; Education Law Center; Equal Rights Advocates; Equality California; Feminist Majority Foundation, Gender Justice, Girls Inc., Hutchinson, Black, and Cook, LLC; In Our Own Voice; National Black Women’s Reproductive Justice Agenda; Konidaris Law; KWH Law Center for Social Justice and Change; Legal Aid At Work; Legal Momentum, the

Given *amici's* experience in addressing sex-based discrimination, including through the courts, our perspectives may assist the Court in resolution of this case.²

Women's Legal Defense and Education Fund; Legal Voice; Montana Coalition Against Domestic Violence; Muslim Advocates; National Alliance to End Sexual Violence; National Asian Pacific American Women's Forum; National Crittenton; National LGBTQ Task Force; National Organization for Women Foundation; National Partnership for Women & Families; National Women's Political Caucus; North Carolina Coalition Against Sexual Assault; Planned Parenthood of Indiana and Kentucky; Public Justice; Sexuality Information and Education Council of the United States (SIECUS); SisterSong: National Women of Color Reproductive Justice Collective; SurvJustice; The Women's Law Center of Maryland; Union for Reform Judaism, Central Conference of American Rabbis, Women of Reform Judaism and Men of Reform Judaism; Unite Against Rape; Victim Rights Law Center; Women Lawyers of Sacramento; Women Lawyers On Guard Inc.; Women's Bar Association of the District of Columbia; Women's Bar Association of the State of New York; Women's Law Project; and Women's Media Center.

² Pursuant to Federal Rule of Appellate Procedure 29, *amici* state that no party's counsel authored this brief in whole or in part and that no person other than *amici* or their counsel made a monetary contribution to its preparation or submission. *Amici* may file this brief because all parties have consented to its submission.

INTRODUCTION AND SUMMARY OF THE ARGUMENT

Ignoring Title IX's broad language, legislative history, and purpose, the district court held that the statute's protection against sex-based discrimination by federally-funded educational institutions does not extend to Appellant, a victim of sex-based discrimination perpetrated by the University of Kentucky ("UK") following her rape by a UK student on UK's campus. Notwithstanding the fact that Appellant had been living on UK's campus, attending classes in UK buildings, and studying in UK's libraries, the district court concluded that her relationship with UK was too attenuated to confer standing to sue because Appellant was not a UK student.³ This holding was error. If the district court's decision is not vacated, it will set a dangerous precedent and exclude large classes of people from Title IX's protections, including those who participate meaningfully in the educational communities fostered by colleges and universities.

Title IX prohibits educational institutions, including institutions of higher learning, from discriminating against any "person . . . on the basis of sex." 20 U.S.C. § 1681(a). Any person victimized by such discrimination while enjoying or

³ The district court characterized the question of who is protected by Title IX as a standing issue. Summ. J. Order, R. 98 at Page ID # 998 (Jan. 11, 2019). Therefore, in this brief, *amici* refers to "standing" and "protection" under Title IX interchangeably.

attempting to enjoy an “education program or activity,” 20 U.S.C. § 1681, may bring suit for damages. At institutions of higher learning, these “program[s] and activit[ies]” have long been understood to include housing and extracurricular activities, as well as research and attendance at classes. 34 C.F.R. § 106 et seq.

Appellant was a student at Bluegrass Community and Technical College (“BCTC”) who lived on UK’s campus with access to UK services and facilities—including student government, student services, dining halls and meal plans, athletic facilities, and health centers—based on a partnership between the two schools.⁴ R. 57 at Page ID # 361-62 ¶¶ 7-9; R. 84-1 at Page ID # 656. Within weeks of beginning her first semester, Appellant was raped by a UK student in her UK residence hall. R. 57 at Page ID # 361-62 ¶¶ 7-15. She alleges that, after reporting the rape, UK discriminated against her, thereby depriving her of the benefits she enjoyed through her access to UK services and facilities. *Id.* at Page ID # 374-75 ¶¶ 87-99.

The court below dismissed Appellant’s Title IX claims for lack of standing because: (1) “she was [n]either a UK student [n]or enrolled in a UK education

⁴ Appellant had to pay UK for these offerings and was also required to follow UK’s policies and procedures, including the UK Student Code of Conduct. *See* Exs. to Pl.’s Br., R. 84-1 at Page ID # 799, R. 84-3 at Page ID # 804 and 808, and R. 84-5 at Page ID # 813. Indeed, Appellant was already so ensconced in UK student life that she intended to apply to UK after her first semester through another special partnership between the schools. Third Am. Compl., R. 57 at Page ID # 362 ¶ 8.

program or activity” and (2) by “living on UK’s campus . . . and utilizing UK’s services, such as UK’s libraries and computer labs,” Appellant was enjoying UK’s *non-educational* programs or activities rather than its *educational* programs or activities. R. 98 at Page ID # 998.

Neither the text of Title IX nor any of the traditional sources that aid statutory interpretation—including the statute’s context, legislative history, implementing regulations, and associated administrative guidance—requires a person to be “enrolled” at a university to receive the statute’s protections. And nothing in Title IX’s text or these sources supports the district court’s narrow construction of “education program or activity.” Giving the words their ordinary meaning, “education program[s] and activit[ies]” encompass most of a university’s offerings. Whatever limitation the word “education” may impose on “program[s] or activit[ies]” in other contexts, it encompasses living on campus and enjoying access to the varied facilities provided by colleges and universities.

The district court’s narrow reading of Title IX is also inconsistent with the purpose and policy goals of the statute and would frustrate schools’ obligation to protect all members of the educational community. Appellant alleges that: she suffered from sexual harassment that was so severe, pervasive, and objectively offensive that it deprived her of access to UK’s educational opportunities and benefits; UK was deliberately indifferent to that harassment; and UK ultimately

retaliated against her for making the complaint. Universities are liable under Title IX if they do not implement or enforce policies to protect individuals from sex discrimination that occurs in contexts within the scope of the university's control. Notably, on university campuses, where students occupy the same space as visiting students, prospective students, visiting faculty, parents, and other guests, sexual harassers do not discriminate based on whether the target is a student or enrolled in an education program or activity at the university. If liability turned on whether the victim was "enrolled" at the university, the university could not be held accountable for selectively enforcing its policies and engaging in discrimination against non-enrolled individuals. Further, in a context where living on campus is encouraged and promotes educational goals, distinguishing among individuals who reside side-by-side based on their enrollment status or whether they are students at the university or a partner community college would undermine these educational goals and the goals of Title IX. It would also have undesirable implications based on gender, race, and socioeconomic status.

Thus, the district court's order is at odds with the statutory language, is not good policy, and cannot be the law. This Court should vacate the district court's order and remand.

ARGUMENT

I. THE DISTRICT COURT’S NARROW VIEW OF STANDING UNDER TITLE IX IS AT ODDS WITH THE STATUTE’S TEXT AND EACH TRADITIONAL SOURCE OF STATUTORY INTERPRETATION.

A. Title IX’s Text Does Not Support the District Court’s Narrow Reading.

The starting point of any inquiry into the application of a statute is the plain language of the statute itself. *Michigan Flyer LLC v. Wayne Cnty. Airport Auth.*, 860 F.3d 425, 428 (6th Cir. 2017). Title IX provides that “[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” 20 U.S.C. § 1681(a). The words “program or activity” are separately defined to include “all the operations of” various entities “any part of which is extended Federal financial assistance.” 20 U.S.C. § 1687. Covered entities include “college[s], universit[ies], [and] other postsecondary institution[s]” as well as all state agencies, and all private organizations “principally engaged in the business of providing education, health care, housing, social services, or parks and recreation.” 20 U.S.C. § 1687.

On its face, the statute’s language is broad, and indeed, “[t]he Supreme Court has twice instructed [lower courts] that, to give Title IX the scope its origins dictate, [courts must] accord it a sweep as broad as its language.” *Doe v. Mercy Catholic*

Med. Ctr., 850 F.3d 545, 555 (3d Cir. 2017) (citing *N. Haven Bd. of Educ. v. Bell*, 456 U.S. 512, 521 (1982); accord *Jackson v. Birmingham Bd. of Educ.*, 544 U.S. 167, 175 (2005)). The statute’s text does not limit the class of protected persons to those with a particular relationship to the institution. *Doe v. Brown Univ.*, 896 F.3d 127, 132 n.6 (1st Cir. 2018) (holding that on a plain reading of the text, “a victim does not need to be an enrolled student at the offending institution in order for a Title IX private right of action to exist”). To the contrary, the plain language of the statute directs that “no person” shall suffer the discrimination prohibited by the statute. The group of people protected by Title IX from sex discrimination includes anyone in a position to “participate”, or receive “benefits” from, or simply be “subject[] to” any of the education operations of an entity covered by Title IX. This includes those persons who are either taking part or trying to take part of a funding recipient’s educational program or activity. *Brown Univ.*, 896 F.3d at 132 n.6 (“subject to discrimination under” means that a cause of action may lie where the victim “availed herself of any of [a university’s] educational programs in the past . . . or intended to do so in the future”).

Furthermore, by defining “program or activity” to include “all the operations” of a covered entity “any part of which is extended Federal assistance,” Title IX governs all the actions of a covered entity when any of the entity’s operations receives federal assistance. 20 U.S.C. § 1687; see also *Doe v. Claiborne Cnty.*,

Tenn., 103 F.3d 495, 513 (6th Cir. 1996) (recognizing that Congress expressly intended that Title IX have “broad, institution-wide application” for federally-funded entities (quoting 20 U.S.C. § 1687 (hist. and stat. notes))). Where the covered entity is a university—an entity whose entire mission is educational—an appropriately broad reading of its “education” operations encompasses virtually all its facilities and offerings. *See Brown Univ.*, 896 F.3d at 132 n.6 (participating in an “education program or activity” includes “access[ing] university libraries, computer labs, and vocational resources and attend[ing] campus tours, public lectures, [and] sporting events”); *Armstrong v. James Madison Univ.*, 2017 WL 2390234 at *7 n.14 (W.D. Va. Feb. 23, 2017) (reading “program or activity” broadly to encompass a wide array of university offerings).

That the word “education” is given a broad reading when applied to a university’s operations does not mean that its inclusion in the statute is superfluous. *See Ford Motor Co. v. United States*, 768 F.3d 580, 587 (6th Cir. 2014) (holding that courts “must interpret statutes as a whole, giving effect to each word and making every effort not to interpret a provision in a manner that renders other provisions of the same statute inconsistent, meaningless or superfluous”). Where the covered entity is a state agency or a private health care organization, the adjective “education” narrows the scope of covered activities by those entities dramatically because education is not the principal business in which those entities engage. *See*,

e.g., *Mercy Catholic Med. Ctr.*, 850 F.3d at 553-56 (explaining that “education” limits “program or activity” when applying Title IX to entities “beyond educational institutions”). Further, even for universities, there are operations that may not be educational operations for some participants, *e.g.*, a vendor’s participation in a bid for the university’s landscaping business.

The district court’s constrained reading, therefore, does not square with Title IX’s text. Title IX’s text does not limit the class of protected persons to university “students” or persons “enrolled in a [university] program or activity,” R-98 at Page ID # 998. “Congress easily could have substituted ‘student’ or ‘beneficiary’ for the word ‘person’ if it had wished to restrict the scope of § [1681(a)].” *N. Haven*, 456 U.S. at 521. It did not. Non-students like Appellant who nevertheless reside on-campus and access university facilities such as libraries, computer labs, and athletic facilities, benefit from university operations that are part of the university’s educational mission. If they are deprived of these benefits by reason of sex-based discrimination, they can bring a claim under Title IX.

B. Title IX’s Legislative History, Implementing Regulations, and Administrative Guidance Do Not Support the District Court’s Narrow Reading.

The history of Title IX is replete with references to the breadth of its coverage. In the Civil Rights Restoration Act of 1987 (“CRRA”), where Congress amended Title IX to add the definition of “program or activity,” the Senate Report for the

amendment noted that “[t]he inescapable conclusion is that Congress intended that . . . Title IX . . . be given the broadest interpretation.” S. Rep. No. 100-64, at *7 (1987). “Indeed, the word ‘broad’ is used 35 times in the legislative history of the 1987 amendment alone.” *Fox v. Pittsburg State Univ.*, 257 F. Supp. 3d 1112, 1125 (D. Kan. 2017).

By narrowly construing “education program or activity” and limiting Title IX causes of action to students and enrolled persons, the district court contravened Congress’ stated aim that “institutions of higher learning practice equality or not come to Federal Government for financial support.” 117 Cong. Rec. 39251-52 (1971) (remarks of Rep. Mink). Congress enacted the CRRA partly in response to Supreme Court rulings narrowing the scope of Title IX to only the specific university programs and activities that received federal funds. *See Nat. Collegiate Athletic Ass’n v. Smith*, 525 U.S. 459, 466 n.4 (1999) (“Congress enacted the CRRA in response to Part III of our decision in *Grove City College v. Bell*, 465 U.S. 555, 570–574 (1984), which concluded that Title IX, as originally enacted, covered only the specific program receiving federal funding.”); *Claiborne Cnty.*, 103 F.3d at 513; *see also* Pub. L. 100–259, 102 Stat. 28. Congress thus clarified that “program or activity” means “all of the operations” in a given educational institution including, but not limited to: “traditional educational operations, faculty and student housing,

campus shuttle bus service, campus restaurants, the bookstore, and other commercial activities.” S. Rep. No. 100-64, at *17 (1987).

The district court would nevertheless read Title IX to exclude victims of discrimination if the victim was deprived of the benefits of a litany of university offerings, including “traditional educational operations” such as access to computer labs and libraries, “faculty and student housing,” “campus restaurants,” “commercial activities” such as meal plans and dining hall services, and extracurriculars like gym membership. That cannot be right. It makes no sense for Congress to have expanded the scope of the term “program or activity” to include “faculty and student housing,” “commercial activities,” “campus restaurants,” “the bookstore,” and “traditional educational operations,” only to limit the statute’s coverage by the application of the word “education” to these programs and activities.

Further, what Congress did not do when it enacted the CRRA is at least as telling as what it did do and confirms that the district court erred in its decision below. In 1987, Congress had fifteen years of Title IX enforcement to inform its judgment as to whether the courts and federal agencies understood the class of people protected by the statute. In rendering that judgment, “Congress broadened the coverage of the[] antidiscrimination provisions of [Title IX]” and did so “[w]ithout in any way altering the existing rights of action and corresponding remedies” available to victims of discrimination. *Franklin v. Gwinnett Cnty. Pub.*

Schs., 503 U.S. 60, 73 (1992). In those fifteen years, the courts had concluded that both university applicants and employees could sue for a violation of Title IX. *See Cannon v. Univ. of Chi.*, 441 U.S. 677, 717 (1979); *N. Haven*, 456 U.S. at 535-36. Congress saw no reason to disturb these holdings, which clearly intended the range of people protected by Title IX to include non-students and indeed people that had not “enrolled” in any university programs and activities. The district court here makes no attempt to square its decision with these holdings.

Department of Education (“ED”) regulations implementing Title IX similarly read the statute’s language broadly. They provide that “no person” shall be “subjected to discrimination under any academic, extracurricular, research, occupational training or other education program or activity operated by” a university receiving federal funds. 34 C.F.R. § 106.31. Those regulations include multiple references to protecting against discrimination in university “extracurriculars,” including an entire section on “Athletics” (34 C.F.R. § 106.41), none of which would fit the district court’s narrow reading of what qualifies as an “education program or activity.” Moreover, Title IX’s implementing regulations contain an entire section on “Housing”, which proscribes “apply[ing] different rules or regulations . . . related to housing” “on the basis of sex,” again indicating that Title IX’s mandate for nondiscriminatory access to an “education program or activity,” includes housing. 34 C.F.R. § 106.32.

The district court similarly ignores ED guidance concerning Title IX. ED expressly states that Title IX protection is not limited to students and instead “protects all persons from discrimination, including parents and guardians, students, and employees.”⁵ From 2011 through 2017, ED further specified that:

Title IX also protects third parties from sexual harassment or violence in a school’s education programs and activities. For example, Title IX protects a high school student participating in a college’s recruitment program, a visiting student athlete, and a visitor in a school’s on-campus residence hall. Title IX also protects employees of a recipient from sexual harassment.⁶

There is simply no basis to argue that Appellant should receive less protection than the visitors listed in the guidance, many of whom arguably have an even more attenuated relationship to the university.

⁵ *Sex Discrimination: Frequently Asked Questions*, U.S. Dep’t of Educ. Office for Civil Rights (last modified Sept. 25, 2018), <https://www2.ed.gov/about/offices/list/ocr/frontpage/faq/sex.html>.

⁶ *Dear Colleague Ltr.*, U.S. Dep’t of Educ., Office for Civil Rights at 4 n.11 (Apr. 4, 2011) (“2011 DCL”). ED rescinded its 2011 Dear Colleague Letter, claiming it “impose[d] new mandates related to the procedures by which educational institutions investigate, adjudicate, and resolve allegations of student-on-student sexual misconduct,” and there was no opportunity for notice and comment before the guidance was issued. *Dear Colleague Ltr.*, U.S. Dep’t of Educ., Office for Civil Rights at 1-2 (Sept. 22, 2017) (“2017 DCL”). But the guidance ED issued contemporaneously with the 2017 DCL did not offer a contrary view of the parties protected by Title IX. The Court should thus consider this section of the 2011 DCL as persuasive evidence of the bounds of Title IX’s protections.

II. THE DISTRICT COURT’S NARROW READING OF THE CLASS OF PEOPLE PROTECTED BY TITLE IX WOULD UNDERMINE THE PURPOSE AND POLICIES OF THE STATUTE.

A. It Undermines Title IX’s Goals and Creates Perverse Incentives to Permit Federally Funded Universities to Discriminate Between Victims of Sexual Harassment on the Basis of Whether They Are “Enrolled” at the University.

Enrollment at an educational institution does not and should not delineate the scope of Title IX. The purpose of Title IX is to regulate the behavior of educational institutions receiving federal funds. Consistent with that purpose, the law’s protections should be read to extend to all persons meaningfully impacted by the institution’s behavior, including all persons participating or seeking to participate in its programs or activities.

In a university setting, those participating or seeking to participate in the school’s programs and activities go far beyond university students and other persons “enrolled” at that university. “Colleges and universities anticipate that those from the ‘outside’ will inevitably, and necessarily, make their way in.”⁷ Prospective students and their parents visit to assess whether they want to apply.⁸ Professors and scholars from outside the university visit to conduct research, attend symposia and

⁷ Hannah Brenner, A Title IX Conundrum: Are Campus Visitors Protected from Sexual Assault?, 104 Iowa L. Rev. 93, 137 (2018).

⁸ See, e.g., *Visitor Center*, Univ. of Ky., <http://www.uky.edu/admission/visitor-center> (last accessed Apr. 17, 2019).

lectures, or otherwise access the university's libraries and academic resources.⁹ Programs jointly sponsored with other institutions—including community colleges and vocational schools—bring people on campus for both short-term projects and long-term ventures.¹⁰ Non-students and non-employees regularly participate in the colleges' and universities' programs and activities, and in fact, are invited by the institutions to do so.¹¹

In communities this varied, sexual harassment does not distinguish between classes of people. Harassers might victimize anyone with whom they come into contact, and the wider the circle of interaction, the larger the number of potential victims. It only makes sense that schools would want to take action in response to known harassment in order to contain the damage and protect all members of the school community. In fact, UK attempted to do just that, holding four disciplinary hearings after Appellant reported her rape.¹²

⁹ See, e.g., *Visiting Academics*, Univ. of Chic., <https://provost.uchicago.edu/handbook/academic-appointments/visiting-academics> (last accessed Apr. 17, 2019).

¹⁰ See, e.g., *Office of Industry Collaboration*, Univ. of Colo. Boulder, <https://www.colorado.edu/industry/> (last accessed Apr. 17, 2019).

¹¹ See, e.g., *Tourists and Visitors*, Stanford Univ., <http://visit.stanford.edu/plan/guides/visit.html> (last accessed Apr. 17, 2019).

¹² Appellant alleges that UK nevertheless acted with deliberate indifference in its handling of all four hearings, Third Am. Compl., R. 57 at Page ID # 374-75 ¶¶ 87-

The district court has created a moral hazard by making the question of whether a victim of sexual harassment is protected by Title IX turn on whether that victim is “enrolled” at the university, R. 98 at Page ID # 998.¹³ Take, for example, an admissions officer who regularly conducts admissions interviews and supervises other office personnel, including work-study students. If the admissions officer is a serial harasser, the impact of such harassment will fall on anyone who works in or visits the admissions office, which includes non-students and non-employees of the university. A federally-funded university is required to prohibit sexual harassment in all its operations, but if it is liable under Title IX as to the complaints of only students or university employees, it will have the perverse incentive to allow some harassment to continue unchecked.

Such a rule, if allowed to stand, would permit colleges to discriminate on the basis of sex against a host of individuals who are regularly present on campus and take part in the school’s educational offerings.¹⁴ Indeed, limiting the protections of

94, and as the district court noted, the first three hearings were constitutionally deficient, Mot. to Dismiss Order, R. 12 at Page ID # 154 (Aug. 31, 2016).

¹³ In effect, the district court construed “education program or activity” to encompass offerings reserved for only students and faculty. *See* R. 98 at Page ID # 995.

¹⁴ Title IX protects against sexual harassment and retaliation. *See Jackson*, 544 U.S. at 182-84. In cases of sexual harassment, a federally funded university’s liability is limited “to circumstances wherein the recipient exercises substantial control over

Title IX to “enrolled” students or university employees would encourage schools to *further* ignore sex discrimination, which would foster an environment where individual wrongdoers continue to sexually harass or otherwise engage in sexually discriminatory behavior, to the point that it infects campus life and degrades the experience for everyone, including enrolled students and employees.¹⁵

Of course, rejecting the district court’s view of Title IX does not mean opening universities to a flood of new litigation. As described above, the Supreme Court has long held and the statute is clear that “any person” is not limited to enrolled students, and this has not led to a flood of lawsuits. However, where a university exercises “control over both the harasser and the context in which the known harassment occurs,” *Davis*, 526 U.S. at 645, which is the case in the instant litigation, it is in the

both the harasser and the context in which the known harassment occurs,” and acts with “deliberate indifference” to that harassment. *Davis v. Monroe Cnty. Bd. of Educ.*, 526 U.S. 629, 645 (1999). In cases of retaliation, the discrimination “is easily attributable to the funding recipient, and it is always—by definition—intentional.” *Jackson*, 544 U.S. at 183. Because “retaliation against individuals because they complain of sex discrimination is ‘intentional conduct that violates the clear terms of the statute,’” *id.*, there is no basis to distinguish between students and employees as compared to other third-parties. Foreclosing Title IX liability when a school is deliberately indifferent to sexual harassment of third-parties or retaliates against a third-party that complained of sex discrimination, permits the school to engage in precisely the intentional discrimination that the statute is directed toward eradicating.

¹⁵ See Karen M. Tani, *An Administrative Right to Be Free from Sexual Violence: Title IX Enforcement in Historical and Institutional Perspective*, 66 *Duke L.J.* 1847, 1861-62 (2017).

best position to put in place controls to help ensure that context is free from sexual harassment. If the university is alleged to have been deliberately indifferent, then victims of harassment should be given the opportunity to bring their claims.

B. It Undermines Congressional Goals of Equal Access to Higher Education to Exclude from Title IX’s Protections People Who Live on Campus and Utilize University Facilities.

This Court should recognize what schools themselves admit—on-campus living contributes to the educational experience. Living on campus generally entails participating in a host of traditional university functions including: sharing space with enrolled students; using libraries, computer labs, writing centers, and other resources that are undoubtedly educational; using extracurricular facilities such as gyms, recreational centers, and dining halls; and having a student identification card or library access card. Social science research confirms that educational benefits—including higher levels of engagement with advisors and faculty, a decrease in attrition rates, and an increase in graduation rates—accrue to persons living on campus.¹⁶ Indeed, UK itself emphasizes the educational benefits of living on-

¹⁶ See, e.g., Beth McCuskey, *The Benefits of Living on Campus in College*, (June 22, 2018), <https://www.greatschools.org/gk/articles/the-benefits-of-living-on-campus-in-college/>; Pedro de Araujo and James Murray, *Academic Benefits of Living on Campus* (June 21, 2010), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1628371; Pedro de Araujo and James Murray, *Estimating the Effects of Dormitory Living on Student Performance*

campus, such as a higher likelihood of “academic success” and lower attrition rates.¹⁷ Several other leading universities in this Circuit have reached similar conclusions about the benefits of living on-campus and characterize it as an educational experience.¹⁸

Partnerships across institutions of higher education also contribute meaningfully to the educational experience. Numerous programs exist throughout the country—and in the states within the jurisdiction of this Court—allowing students at community or technical colleges to transfer to or take classes at four-year universities.¹⁹ As with the partnership between UK and BCTC, the school at which

(Feb. 9, 2010), <https://caepr.indiana.edu/RePEc/inu/caeprp/CAEPR2010-002.pdf>; Ray Gasser, *Educational and Retention Benefits of Residence Hall Living* (2008), <https://www.webpages.uidaho.edu/eng207-td/Sources,%20Links/Ed%20and%20Retention%20Gasser%20White%20Paper.htm>.

¹⁷ See Ex. to Pl.’s Br., R. 84-14 at Page ID # 892-93.

¹⁸ See *Live On, Residence Education and Housing Services*, Mich. State Univ., Div. of Residential and Hospitality Servs., <https://liveon.msu.edu/features/why-live> (last accessed May 8, 2019); *Residential Experience at the University of Cincinnati*, Univ. of Cincinnati, Div. of Student Affairs Resident Educ. & Dev., <https://www.uc.edu/resed/Learning.html> (last accessed May 8, 2019); *First Year Live On Policy*, Univ. of Louisville, Student Affairs, Dep’t of Campus Hous., <https://louisville.edu/housing/info/policies/firstyear> (last accessed May 8, 2019); *About Us, University Housing*, The Univ. of Tenn., Knoxville, Div. of Student Life, <https://housing.utk.edu/about/> (last accessed May 8, 2019).

¹⁹ See, e.g., Michelle R. Davis, *Collaboration between Universities and Community Colleges Offer New Educational Opportunities for Students*, Public Purpose Magazine (June/July/August 2009); *Binghamton Advantage Program*, Binghamton

Appellant matriculated, these programs often involve living on university campus, taking classes on both school campuses, and adhering to the policies of both institutions.²⁰ In fact, in this case, Appellant was required to abide by the UK Student Code of Conduct, which mandated that she bring her Title IX complaint to UK. *See* Pl.'s Br., R. 84 at Page ID # 787-88; Ex. to Pl.'s Br., R. 84-3 at Page ID # 808. By subjecting Appellant to its process for adjudicating Title IX claims, UK implicitly conceded that Title IX protects Appellant from UK's discrimination.

The district court's holding below undermines these well-established goals of higher education. Denying people who live on a university campus the protection of Title IX discourages those people from participating in campus life more generally and receiving the attendant educational benefits. In addition, denying the law's protection to students who are enrolled or seeking to enroll in programs

Univ., <https://www.binghamton.edu/programs/binghamton-advantage/> (last accessed May 8, 2019); Community Colleges of Spokane Moves to Pullman Campus, WSU Insider, <https://news.wsu.edu/2017/03/23/community-colleges-of-spokane/> (last accessed May 8, 2019).

²⁰ *See generally* Michelle R. Davis, *Collaboration between Universities and Community Colleges Offer New Educational Opportunities for Students*, Public Purpose Magazine (June/July/August 2009); Binghamton Advantage Program, Binghamton Univ., <https://www.binghamton.edu/programs/binghamton-advantage/> (last accessed May 8, 2019); Community Colleges of Spokane Moves to Pullman Campus, WSU Insider, <https://news.wsu.edu/2017/03/23/community-colleges-of-spokane/> (last accessed May 8, 2019).

between institutions of higher education would discourage prospective students from taking advantage of these productive, joint endeavors that otherwise bring educational opportunities to a wider swath of the population. Indeed, providing one set of rights to enrolled students and a lesser set to students from community colleges who take courses while living on campus will disadvantage the latter, who are more likely to be women, students of color, and from low-income families.²¹ Upholding such a system is bad policy and undermines the university's own goals as well as those of Title IX.

CONCLUSION

For the foregoing reasons, *amici curiae* respectfully request that this Court vacate the decision of the district court and remand for further proceedings.

²¹ See, e.g., Community College Research Center, Teachers College, Columbia Univ., <https://ccrc.tc.columbia.edu/Community-College-FAQs.html> (last accessed May 8, 2019); see generally, Andresse St. Rose and Catherine Hill, *Women in Community Colleges: Access to Success* (May 2013), <https://www.aauw.org/files/2013/05/women-in-community-colleges.pdf>.

Dated: New York, New York
May 8, 2019

HOLWELL SHUSTER & GOLDBERG LLP

By: /s/ M. Theodore Takougang

Demian A. Ordway
M. Theodore Takougang

425 Lexington Avenue, 14th Floor
New York, NY 10017
Telephone: 646.837.5151
Facsimile: 646.837.5150

NATIONAL WOMEN'S LAW CENTER

By: /s/ Emily Martin

Emily Martin
Neena Chaudhry
Sunu Chandy
Shiwali Patel

11 Dupont Circle NW, Suite 800
Washington, DC 20036
Telephone: 202.588.5180
Facsimile: 202.588.5185

Counsel for Amici Curiae

CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(a)(7)(C), we hereby certify that this brief complies with the type-volume limitation of Federal Rules of Appellate Procedure 32(a)(7)(B) and 29(d).

1. In compliance with Federal Rules of Appellate Procedure 32(a)(5) and 32(a)(6), the brief has been prepared in proportionally spaced Times New Roman font with 14-point type using Microsoft Word Office 365.

2. Excluding the exempted portions of the brief, as provided in Federal Rule of Appellate Procedure 32(a)(7)(B) and Sixth Circuit Rule 32(b)(1), the brief contains 5,251 words. As permitted by Federal Rule of Appellate Procedure 32(a)(7)(C), we have relied upon the word count feature of Microsoft Word Office 365 in preparing this certificate.

/s/ M. Theodore Takougang
M. THEODORE TAKOUGANG

May 8, 2019

CERTIFICATE OF SERVICE

We hereby certify that on this 8th day of May, 2019, we electronically filed the foregoing Brief of Amici Curiae National Women's Law Center and Other Women's Rights, Civil Rights and Legal Organizations with the Clerk of the Court for the United States Court of Appeals for the Sixth Circuit using the appellate CM/ECF system. Counsel for all parties to the case are registered CM/ECF users and will be served by the appellate CM/ECF system.

/s/ M. Theodore Takougang
M. THEODORE TAKOUGANG

May 8, 2019

APPENDIX A

List of *Amici Curiae*

American Association of University Women

American Association of University Women (“AAUW”) was founded in 1881 by like-minded women who had challenged society’s conventions by earning college degrees. Since then it has worked to increase women’s access to higher education through research, advocacy, and philanthropy. Today, AAUW has more than 170,000 members and supporters, 1,000 branches, and 800 college and university partners nationwide. AAUW plays a major role in mobilizing advocates nationwide on AAUW’s priority issues to advance gender equity. In adherence with its member-adopted Public Policy Program, AAUW supports equitable educational climates free of harassment, bullying, and sexual assault, and vigorous enforcement of Title IX and all other civil rights laws pertaining to education. AAUW adopted this case through our Legal Advocacy Fund, a legal case support program, which provides financial support for sex discrimination litigation, but has no financial interest in the litigation’s outcome.

ACLU of Kentucky

The American Civil Liberties Union (ACLU) is a nationwide, nonprofit, nonpartisan organization with more than 1.7 million members dedicated to the principles of liberty and equality embodied in the U.S. Constitution. Through its Women's Rights Project, founded in 1972 by Ruth Bader Ginsburg, the ACLU has taken a leading role advocating for the rights of survivors of gender-based violence through litigation, advocacy, and public education. The ACLU has sought to strengthen the responses of governments, employers, schools and housing providers to gender-based violence and the remedies available to victims and survivors. The ACLU of Kentucky is the Kentucky state affiliate of the ACLU.

American Civil Liberties Union

The American Civil Liberties Union (ACLU) is a nationwide, nonprofit, nonpartisan organization with more than 1.7 million members dedicated to the principles of liberty and equality embodied in the U.S. Constitution. Through its Women's Rights Project, founded in 1972 by Ruth Bader Ginsburg, the ACLU has taken a leading role advocating for the rights of survivors of gender-based violence through litigation, advocacy, and public education. The ACLU has sought to strengthen the responses of governments, employers, schools and housing providers to gender-

based violence and the remedies available to victims and survivors. The ACLU of Kentucky is the Kentucky state affiliate of the ACLU.

Atlanta Women for Equality

Atlanta Women for Equality, Inc. is a 501(c)(3) nonprofit legal aid organization dedicated to shaping our schools according to true standards of equality and empowering women and girls to assert their rights to equal treatment. We accomplish this mission by providing free legal advocacy for women and girls facing gender discrimination including sexual harassment and assault at school, and by protecting and expanding educational opportunities through policy advocacy.

California Women Lawyers

California Women Lawyers (“CWL”) is a non-profit organization chartered in 1974. CWL is the only statewide bar association for women in California and maintains a primary focus on advancing women in the legal profession. Since its founding, CWL has worked to improve the administration of justice, to better the position of women in society, to eliminate all inequities based on gender, and to provide an organization for collective action and expression germane to the aforesaid purposes. CWL has also participated as amicus curiae in a wide range of cases to secure the equal treatment of women and other classes of persons under the law.

California Women's Law Center

The California Women's Law Center (CWLC) breaks down barriers and advances the potential of women and girls through transformative litigation, policy advocacy and education. CWLC places particular focus on campus sexual assault, violence against women, gender discrimination, and women's health. CWLC is a leader in the fight to end sexual assault on college campuses and provides resources to students and their advocates to prevent campus sexual assaults and secure justice for survivors.

Chicago Alliance Against Sexual Exploitation, Chicago Metropolitan Battered Women's Network, Life Span, & Resilience

The Chicago Alliance Against Sexual Exploitation (CAASE) is an Illinois-based not-for-profit that opposes sexual harm by directly addressing the culture, institutions and individuals that perpetrate, profit from, or support such harms. CAASE engages in direct legal services, prevention education, community engagement, and policy reform. CAASE's legal department provides direct legal services to survivors of sexual exploitation, including sexual assault and prostitution. On behalf of its individual clients and in support of its overall mission, CAASE is interested in seeing that federal and state laws and precedent related to sexual assault and prostitution are appropriately interpreted and applied so as to further—and not

undermine—efforts to hold perpetrators of sexual assault and trafficking appropriately accountable for their actions.

Clearinghouse on Women’s Issues

The mission of the Clearinghouse on Women’s Issues is to: provide information on issues relating to women, including discrimination on the basis of gender, age, ethnicity, marital status or sexual orientation with particular emphasis on public policies that affect the economic, educational, health and legal status of women; cooperate and ex-change information with organizations working to improve the status of women; and take action and positions compatible with our mission.

In furtherance of CWI’s mission of providing nondiscriminatory educational opportunities that are free of gender bias consistent with statutory and regulatory requirements of Title IX, CWI signs on to the amicus brief of the National Women’s Law Center in the matter of *Jane Doe v. University of Kentucky*.

Desiree Alliance

The Desiree Alliance is a national organization dedicated to the consensual sexual freedoms of every person without government interference. We fully advocate for all women who have experienced sexual violence, sexual misconduct, and sexual assault.

Education Law Center

Education Law Center (“ELC”) is a nonprofit organization that advocates on behalf of public-school children for equal and adequate educational opportunity under state and federal laws through policy initiatives, research and legal action. ELC has worked for decades to enforce anti-discrimination and anti-harassment laws in order to ensure that all students are able to attend safe and supportive schools.

Equal Rights Advocates

Equal Rights Advocates (ERA) is a national non-profit legal organization dedicated to protecting and expanding economic and educational access and opportunities for women and girls. In service of its mission, ERA litigates class actions and other high-impact cases on issues of gender discrimination in employment and education. ERA has a long history of pursuing equality and justice for women and girls under Title IX through advocacy, legislative efforts and litigation. ERA has served as counsel in numerous class and individual cases involving the interpretation of Title IX in the athletics and sexual harassment contexts. ERA also provides advice and counseling to hundreds of individuals each year through a telephone advice and counseling hotline, and has participated as amicus curiae in scores of state and federal cases involving the interpretation and application of procedural and

substantive laws affecting the ability of students to obtain and enforce their equal rights under the law.

Equality California

Equality California is an LGBTQ civil rights organization, representing 800,000 members.

Feminist Majority Foundation

The Feminist Majority Foundation (FMF) is a non-profit organization with offices in Arlington, VA and Los Angeles, CA. FMF is dedicated to eliminating sex discrimination and to the promotion of gender equality and women's empowerment. The FMF programs focus on advancing the legal, social, economic, education, and political equality of women with men, countering the backlash to women's advancement, and recruiting and training young feminists to encourage future leadership for the feminist movement. To carry out these aims, FMF engages in research and public policy development, public education programs, litigation, grassroots organizing efforts, and leadership training programs. The FMF conducts research on and supports the broad coverage and full implementation of Title IX to protect people from sex discrimination.

Gender Justice

Gender Justice is a nonprofit legal and policy advocacy organization based in the Midwest that is committed to the eradication of gender barriers through impact litigation, policy advocacy, and education. As part of its litigation program, Gender Justice represents individuals and provides legal advocacy as amicus curiae in cases involving issues of gender discrimination. Gender Justice has an interest in ensuring that Title IX protections are available to all students and individuals who participate in a school's educational programs or activities.

Girls Inc.

Girls Inc. is a nonprofit organization that inspires all girls to be strong, smart, and bold, through direct service and advocacy. Eighty local Girls Inc. affiliates throughout the U.S. and Canada provide primarily after-school and summer programming to approximately 156,000 girls ages 5-18. Our comprehensive approach to whole girl development equips girls to navigate gender, economic, and social barriers and grow up healthy, educated, and independent. Informed by girls and their families, we also advocate for policies and practices to advance the rights and opportunities of girls and young women. Combatting sexual harassment and assault is a top priority for Girls Inc. because of its prevalence and harmful effect on students' ability to learn and thrive at all levels of education. We work to ensure

schools comply with Title IX so that survivors do not have to confront a discriminatory, hostile environment in violation of their civil rights.

Hutchinson, Black, and Cook, LLC

Hutchinson, Black, and Cook, LLC is a private law firm that represents survivors of sexual violence on campus in all federal circuits. The outcome of this case will directly impact our ability to enforce Title IX for our clients in the Sixth Circuit as well as other federal courts of appeals.

In Our Own Voice: National Black Women's Reproductive Justice Agenda

In Our Own Voice: National Black Women's Reproductive Justice Agenda is a national-state partnership with eight Black women's Reproductive Justice organizations: The Afiya Center, Black Women for Wellness, Black Women's Health Imperative, New Voices for Reproductive Justice, SisterLove, Inc., SisterReach, SPARK Reproductive Justice NOW, and Women with a Vision. In Our Own Voice is a national Reproductive Justice organization focused on lifting up the voices of Black women leaders on national, regional, and state policies that impact the lives of Black women and girls.

Reproductive Justice is a framework rooted in the human right to control our bodies, our sexuality, our gender, and our reproduction. Reproductive Justice will be

achieved when all people, of all immigration statuses, have the economic, social, and political power and resources to define and make decisions about our bodies, health, sexuality, families, and communities in all areas of our lives with dignity and self-determination. Robust Title IX protections are essential to reproductive justice values.

Konidaris Law

Konidaris Law is a civil rights law firm founded in 2017 to address gender-based violence in education, in the workplace, and online. The firm litigates Title IX and related cases on behalf of victims and survivors of sexual assault and frequently represents survivors in administrative proceedings at universities. Through this work, Konidaris Law recognizes that students, particularly female and gender non-conforming students, remain incredibly vulnerable to gender-based violence and discrimination. The firm is committed to protecting the rights of student victims and survivors to access our legal system.

KWH Law Center for Social Justice and Change

KWH Law Center for Social Justice and Change is a non-profit Law Center focused on advancing economic opportunities for women and girls in the South and Southwest. We strongly support the application of Title IX in bridging the gender

equity gap for programs for women and girls at every level of education. We work to ensure that women have equal access to the full range of protections offered by Title IX. Accordingly, the Law Center is uniquely qualified to comment on the decision to be rendered in *Jane Doe v. University of Kentucky* particularly as it may relate to the interpretation, application or implementation of Title IX.

Legal Aid At Work

Legal Aid at Work (LAAW) is a non-profit public interest law firm whose mission is to protect, preserve, and advance the employment and education rights of individuals from traditionally under-represented communities. LAAW has represented plaintiffs in cases of special import to communities of color, women, recent immigrants, individuals with disabilities, the LGBT community, and the working poor. LAAW has litigated a number of cases under Title IX of the Education Amendments of 1972 as well as Title VII of the Civil Rights Act of 1964. LAAW has appeared in discrimination cases on numerous occasions both as counsel for plaintiffs, *see, e.g., National Railroad Passenger Corp. v. Morgan*, 536 U.S. 101 (2002); *U.S. Airways, Inc. v. Barnett*, 535 U.S. 391 (2002); and *California Federal Savings & Loan Ass'n v. Guerra*, 479 U.S. 272 (1987) (counsel for real party in interest), as well as in an amicus curiae capacity, *see, e.g., U.S. v. Virginia*, 518 U.S. 515 (1996); *Harris v. Forklift Systems*, 510 U.S. 17 (1993); *International Union*,

UAW v. Johnson Controls, 499 U.S. 187 (1991); *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989); *Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986). LAAW's interest in preserving the protections afforded to employees and students by this country's antidiscrimination laws is longstanding.

Legal Momentum, the Women's Legal Defense and Education Fund

Legal Momentum, the Women's Legal Defense and Education Fund, is the nation's oldest legal advocacy organization for women, www.legalmomentum.org. Legal Momentum advances the rights of all women and girls by using the power of the law and creating innovative public policy. Among its core priority areas of work, Legal Momentum has long advocated for educational equity for girls and women. For example, we have advocated for sports equity in schools, opposed sex segregation, sexual harassment, bullying, and sexual violence in schools. We also provide resources, referrals, and representation to survivors of sexual violence at school.

Legal Voice

Legal Voice is a regional nonprofit public interest organization that works to advance the legal rights of all women, girls, and LGBTQ communities through litigation, legislation, and education. Legal Voice has participated as counsel and as amicus curiae in cases throughout the Northwest and the country and is currently

involved in numerous legislative and litigation efforts. Legal Voice has been a regional leader in combating sexual violence and sexual harassment against women and LGBTQ communities, as well as advocacy and litigation related to Title IX. Legal Voice has a strong interest in this case because it raises important questions about how educational institutions prevent and respond to sexual harassment and sexual assault.

Montana Coalition Against Domestic Violence

The Montana Coalition Against Domestic Violence is committed to ending sexual violence and standing with survivors. We have a legal services program committed to serving sexual violence survivors.

Muslim Advocates

Muslim Advocates is a national legal advocacy and educational organization founded in 2005 that works on the front lines of civil rights to guarantee freedom and justice for Americans of all faiths. Muslim Advocates works to ensure that all spaces, including schools, colleges, and universities, are free from discrimination of all kinds. Muslim Advocates advances these objectives through litigation and other legal advocacy, policy engagement, and civic education. Muslim Advocates also

serves as a legal resource for the Muslim American community, promoting the full and meaningful participation of Muslims in American public life, including schools.

National Alliance to End Sexual Violence

The National Alliance to End Sexual Violence (NAESV) is the voice in Washington for the 56 state and territorial sexual assault coalitions and 1300 rape crisis centers working to end sexual violence and support survivors. The rape crisis centers in NAESV's network see every day the widespread and devastating impacts of sexual assault upon survivors, especially those in campus communities. We oppose any impediments to survivors feeling safe to come forward, receive services, and seek justice.

National Asian Pacific American Women's Forum

The National Asian Pacific American Women's Forum (NAPAWF) is the only national, multi-issue Asian American and Pacific Islander (AAPI) women's organization in the country. NAPAWF's mission is to build the collective power of all AAPI women and girls to gain full agency over our lives, our families, and our communities. NAPAWF's work is centered in a reproductive justice framework that acknowledges the diversity within our community and ensures that different aspects of our identity – such as ethnicity, immigration status, education, sexual orientation,

gender identity, and access to health – are considered in tandem when addressing our social, economic, and health needs. Our work includes addressing sexual assault and violence against AAPI women and advocating for the adoption of policies and laws that protect AAPI survivors of violence and ensure their dignity, rights, safety and health.

National Crittenton

National Crittenton is pleased to join The National Women’s Law Center and Holwell, Shuster, & Goldberg LLP in the amicus brief in the case, *Jane Doe v. University of Kentucky*, being filed in support of the plaintiff in an appeal of a negative Title IX decision. For more than 125 years National Crittenton has advocated for the rights of all girls, young women and women survivors of violence, abuse and neglect including sexual violence. Our mission is to advance system and social change for girls young women and gender no confirming youth impacted by chronic adversity, violence and injustice. We have done so across a wide variety of settings and fields including higher education, as such, we enthusiastically join this amicus brief.

National LGBTQ Task Force

Since 1973, the National LGBTQ Task Force has worked to build power, take action, and create change to achieve freedom and justice for lesbian, gay, bisexual, transgender, and queer (LGBTQ) people and our families. As a progressive social justice organization, the Task Force works toward a society that values and respects the diversity of human expression and identity and achieves equity for all.

National Organization for Women Foundation

The National Organization for Women (NOW) Foundation is a 501(c)(3) entity affiliated with the National Organization for Women, the largest grassroots feminist activist organization in the United States with chapters in every state and the District of Columbia. NOW Foundation is committed to advancing women's rights and works to assure that women are treated fairly and equally under the law. For more than three decades, the Foundation has advocated for girls' and women's right to equal education opportunity under Title IX of the Education Amendments of 1972. An important part of that advocacy is seeking an end to sex-based discrimination, harassment and violence at educational institutions.

National Partnership for Women & Families

The National Partnership for Women & Families (formerly the Women's Legal Defense Fund) is a national advocacy organization that develops and promotes policies to help achieve fairness in the workplace, reproductive health and rights, quality health care for all, and policies that help women and men meet the demands of work and family. Since its founding in 1971, the National Partnership has worked to advance equal opportunities through several means, including by taking a leading role in the passage of the Pregnancy Discrimination Act of 1978 and the Family and Medical Leave Act of 1993 and by challenging discriminatory practices in the courts.

National Women's Political Caucus

The NWPC believes all perpetrators of sexual violence should be held accountable for their egregious actions and the victims should be fully protected and supported by the related institutions and under the law.

North Carolina Coalition Against Sexual Assault

The North Carolina Coalition Against Sexual Assault is an inclusive, statewide alliance working to end sexual violence through education, advocacy, and legislation. As partners and advocates for those bringing Title IX cases across North

Carolina, it is critically important for survivors to ensure that the law is applied correctly across the United States in these cases.

Planned Parenthood of Indiana and Kentucky

Planned Parenthood of Indiana and Kentucky's (PPINK) mission is to serve persons in Indiana and Kentucky — without bias or judgment, without fear, without fail. PPINK provides access to high-quality health care confidentially and compassionately and age-appropriate and accurate sexual health education and advocates for freedom of individual choice in all matters of sexual health and reproductive justice. PPINK advocates, educates, and provides health care to support sexual health and wellness for all.

Public Justice

Public Justice is a national legal advocacy organization with programs dedicated to protecting civil, consumer and worker's rights, as well as environmental sustainability and access to the courts. Our civil rights program includes a robust practice focused on making sure that educational institutions comply with the Constitution and anti-discrimination laws, including Title IX. Public Justice has long worked to secure educational equity and safe campuses for students through lawsuits designed to enforce Title IX. For example, Public Justice often represents

students denied equal educational opportunities because of gender-based harassment or sexual violence suffered at school. In Public Justice's experience, holding schools accountable under Title IX is critically important to protecting students against discriminatory practices and to ensuring that students are able to obtain their education in a safe environment, free from sexual harassment. Public Justice joins this brief because of its interest in ensuring that all sexual assault survivors entitled to Title IX's protections are able to pursue remedies under Title IX.

Sexuality Information and Education Council of the United States (SIECUS)

SIECUS has served as the national voice for sex education, sexual health, and sexual rights for 55 years. SIECUS asserts that sexuality is a fundamental part of being human, one worthy of dignity and respect. We advocate for the rights of all people to accurate information, comprehensive sexuality education, and the full spectrum of sexual and reproductive health services. SIECUS works to create a world that ensures social justice inclusive of sexual and reproductive rights, and we view sex education as a vehicle for social change. Addressing sexual harassment in schools is vital to the work we do. As part of our advocacy for comprehensive sexuality education, SIECUS has launched campaigns to provide young people with resources so that they can advocate for education about sexual harassment, sexual assault, and consent. As experts in this field, we are well-positioned to understand which laws

and policies can help address our nation's sexual harassment epidemic, and which ones will only cause more harm.

SisterSong: National Women of Color Reproductive Justice Collective

SisterSong is the national women of color Reproductive Justice Collective. We work to amplify the voices and lived experiences of women of color and Indigenous women to leverage our collective power in order to end reproductive oppression and advance reproductive justice. We are committed to ensuring that we are each able to seek education and opportunity, raise our children, create our futures, and to live our daily lives with safety and dignity. This is critical to our bodily autonomy and to our efforts to secure the liberation of women and girls of color.

SurvJustice

SurvJustice is a national not-for-profit organization that increases the prospect of justice for all survivors through effective legal assistance that holds both perpetrators and enablers of sexual violence accountable in campus, criminal and civil systems. At SurvJustice, our attorneys serve as advisors throughout the campus process to advocate for survivor rights and ensure the best possible chance of obtaining a positive outcome and remedy.

The Women's Law Center of Maryland

The Women's Law Center of Maryland, Inc. is a nonprofit, public interest, membership organization of attorneys and community members with a mission of improving and protecting the legal rights of women. Established in 1971, the Women's Law Center achieves its mission through direct legal representation, research, policy analysis, legislative initiatives, education and implementation of innovative legal-services programs to pave the way for systematic change. The Women's Law Center is participating as an amicus in *Doe v. University of Kentucky* because, in particular, the Women's Law Center seeks to ensure the physical safety, economic security, and autonomy of women, and that cannot be achieved unless all parties take responsibility in ending sexual violence against women.

Union for Reform Judaism, Central Conference of American Rabbis, Women of Reform Judaism and Men of Reform Judaism

The Union for Reform Judaism, whose 900 congregations across North America include 1.5 million Reform Jews, the Central Conference of American Rabbis, whose membership includes more than 2,000 Reform rabbis, the Women of Reform Judaism which represents more than 65,000 women in nearly 500 women's groups, and the Men of Reform Judaism come to this issue out of our longstanding

commitment to preventing and addressing sexual violence, rooted in the principle of the holiness present in every human being.

Unite Against Rape

Unite Against Rape is a 501(c)3 non-profit organization with the mission of raising donations to fund the backlog of untested rape kits and raise awareness of rape culture in the U.S.

Victim Rights Law Center

The Victim Rights Law Center (“VRLC”) is a nonprofit organization dedicated to serving the legal needs of sexual assault victims, particularly adolescents and young adults. VRLC represents hundreds of clients each year in the areas of education, immigration, privacy, employment, housing and helping victims of sexual assault obtain protection orders to stabilize their lives and create a safe and healthy environment in which to live, study and work. VRLC understands the importance of helping survivors find their own justice, while at the same time ensuring their own dignity, privacy and safety.

Women Lawyers of Sacramento

Women Lawyers of Sacramento (“WLS”) is a non-profit organization founded on the belief that women deserve equal rights, respect and opportunities in the workplace and in society at large. WLS dedicates itself to (1) promoting the full and equal participation of women lawyers and judges in the legal profession, (2) maintaining the integrity of our legal system by advocating principles of fairness and equal access to justice, (3) improving the status of women in our society, and (4) advocating for equal rights, reproductive choice, and equal opportunity and pay for women.

Women Lawyers On Guard Inc.

Women Lawyers On Guard Inc. (“WLG”) is a national non-profit organization harnessing the power of lawyers and the law in coordination with other organizations to preserve, protect, and defend the democratic values of equality, justice, and opportunity for all.

Women’s Bar Association of the District of Columbia

Founded in 1917, the Women’s Bar Association of the District of Columbia (WBA) is one of the oldest and largest voluntary bar associations in metropolitan Washington, DC. Today, as in 1917, we continue to pursue our mission of

maintaining the honor and integrity of the profession; promoting the administration of justice; advancing and protecting the interests of women lawyers; promoting their mutual improvement; and encouraging a spirit of friendship among our members. The WBA believes that protecting women's rights under Title IX to be free from discrimination by educational institutions is consistent with the WBA's mission.

Women's Bar Association of the State of New York

The Women's Bar Association of the State of New York ("WBASNY") is the second largest statewide bar association in New York and one of the largest women's bar associations in the United States. Its more 4,200 members in its twenty chapters across New York State²² include esteemed jurists, academics, and attorneys who

²² WBASNY's affiliated organizations consist of twenty regional chapters, some of which are separately incorporated, plus nine IRC 501(c)(3) charitable corporations that are foundations and/or legal clinics. Its earliest current chapter was founded in 1918, a year before women's right to vote was ratified in the United States. The current affiliates are: Chapters – Adirondack Women's Bar Association; The Bronx Women's Bar Association, Inc.; Brooklyn Women's Bar Association, Inc.; Capital District Women's Bar Association; Central New York Women's Bar Association; Del-Chen-O Women's Bar Association, Finger Lakes Women's Bar Association; Greater Rochester Association for Women Attorneys; Mid-Hudson Women's Bar Association; Mid- York Women's Bar Association; Nassau County Women's Bar Association; New York Women's Bar Association; Queens County Women's Bar Association; Rockland County Women's Bar Association; Staten Island Women's Bar Association; The Suffolk County Women's Bar Association; Thousand Islands Women's Bar Association; Westchester Women's Bar Association; Western New York Women's Bar Association; and Women's Bar Association of Orange and

practice in every area of the law, including appellate, education, employment, ERISA, health, reproductive rights, constitutional, commercial, criminal, and civil rights. WBASNY is dedicated to fair and equal administration of justice. WBASNY has participated as an amicus curia in state and federal cases at every level, including those involving civil rights, sex discrimination, sexual assault, and sexual harassment, and it stands as a vanguard for the equal rights of women, minorities, LGBT, and all persons.

Women's Law Project

The Women's Law Project (WLP) is a nonprofit public interest law firm with offices in Philadelphia and Pittsburgh, Pennsylvania. The WLP's mission is to create a more just and equitable society by advancing the rights and status of women throughout their lives. WLP is committed to ending violence against women and girls and to safeguarding the legal rights of students who experience sexual abuse,

Sullivan Counties. Charitable Foundations & Legal Clinic – Women's Bar Association of the State of New York Foundation, Inc.; Brooklyn Women's Bar Foundation, Inc.; Capital District Women's Bar Association Legal Project Inc.; Nassau County Women's Bar Association Foundation, Inc.; New York Women's Bar Association Foundation, Inc.; Queens County Women's Bar Foundation; Westchester Women's Bar Association Foundation, Inc.; and The Women's Bar Association of Orange and Sullivan Counties Foundation, Inc. (No members of WBASNY or its affiliates who are judges or court personnel participated in WBASNY's amicus curia vote in this matter.)

including within our schools and universities. To this end, WLP engages in public policy advocacy to improve the response of educational institutions to sexual violence and counsels and represents students who have been subjected to sexual misconduct on our campuses and in our schools. It is essential that schools respond appropriately to sexual harassment and that courts hold them accountable under the applicable law.

Women's Media Center

The Women's Media Center is an inclusive feminist organization that works to level the playing field for women and girls in media and beyond.

The Women's Media Center supports Title IX and its requirement that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance. For women to advance and become equal partners in society, they need full access to educational institutions and opportunity. WMC supports equality under the law and the right of women to attend educational institutions without experiencing sexual harassment, discrimination, and/or violence.