

To whom it may concern,

The American Society for Biochemistry and Molecular Biology represents over 12,000 active research scientists, the majority of whom operate in an academic environment. Our members include undergraduate and graduate students, postdoctoral trainees, faculty and staff. While we strongly support Title IX and codification of protections against sexual harassment at research institutions, we are concerned that the proposed changes to the Title IX guidelines would have a deleterious effect on the full participation of a diverse community of scientists and hinder the progress of research.

Definition of sexual harassment

The proposed rule would severely limit the definition of sexual harassment by adopting the Act definition of sexual harassment and assault, and make the process more difficult for complainants. This change would increase the barriers to reporting and allow evasion of institutional responsibility. The Department of Education itself anticipates fewer investigations under this rule change, which could directly and indirectly preclude provision of supportive measures and result in unequal access to education. These possible outcomes are the antithesis of Title IX. To the contrary, the complaint procedures and supportive measures should be made readily available through a transparent process that encourages appropriate reporting. Institutions should not be able to avoid responsibility for deleterious climate and culture.

Changing levels of evidence

Changes in the level of evidence from “preponderance” to “clear and convincing” standard of evidence will further deter appropriate reporting. Sexual harassment is a serious workplace issue and need not rise to the level of a criminal complaint to be harmful to the education of students and the scientific enterprise. The impediments to reporting raised by these proposed changes should be recognized and regulations modified to encourage reporting and resolution of incidents of sexual harassment.

Cross examination by the accused

Introducing a live adversarial cross examination will also deter reporting. While we realize the proposal to allow the accused to cross examine the accuser is intended to increase due

