

116TH CONGRESS
2D SESSION

H. R. 8193

To require the Secretary of Education to ensure that local educational agencies establish full-time title IX coordinators to improve oversight, data collection on sexual harassment, student survivor support, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 8, 2020

Ms. MENG (for herself, Ms. ESCOBAR, Ms. NORTON, Mr. CASTEN of Illinois, Ms. LEE of California, Mr. SERRANO, Mr. KENNEDY, Mrs. NAPOLITANO, Mr. CUELLAR, Mr. GARCÍA of Illinois, Ms. KUSTER of New Hampshire, Mr. SUOZZI, Mr. COOPER, Mr. HASTINGS, Mr. LYNCH, Mr. KHANNA, Mrs. LAWRENCE, Mr. CARSON of Indiana, Ms. FRANKEL, and Mrs. HAYES) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To require the Secretary of Education to ensure that local educational agencies establish full-time title IX coordinators to improve oversight, data collection on sexual harassment, student survivor support, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Supporting Survivors
5 of Sexual Harassment in Schools Act of 2020”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds the following:

3 (1) Title IX of the Education Amendments of
4 1972 (20 U.S.C. 1681 et seq.) (in this Act referred
5 to as “title IX”) mandates that no individual in the
6 United States shall be excluded on the basis of sex
7 from participation in, be denied the benefits of, or
8 be subjected to discrimination under any education
9 program or activity that receives Federal financial
10 assistance.

11 (2) Although title IX protects against sexual
12 and sex-based harassment and violence, sexual as-
13 saults in K–12 schools and institutions of higher
14 education remain a pervasive problem.

15 (3) Peer sexual harassment is a significant so-
16 cial problem with consequences for both students
17 and schools. Four out of 5 students report experi-
18 encing sexual harassment. These experiences have
19 been linked to poor psychological health and aca-
20 demic withdrawal.

21 (4) Many school districts have only a part-time,
22 single title IX coordinator at the local educational
23 agency level to oversee principals, school-site specific
24 title IX coordinators, staff, and the safety of thou-
25 sands of students.

1 (5) Although educational institutions have a
2 legal responsibility to enforce, monitor, and respond
3 to sexual harassment and assault, far more students
4 experience sexual harassment than schools report.

5 **SEC. 3. DEFINITIONS.**

6 In this Act:

7 (1) SECRETARY.—The term “Secretary” means
8 the Secretary of Education.

9 (2) FULL-TIME LOCAL EDUCATIONAL AGENCY
10 TITLE IX COORDINATOR.—The term “full-time local
11 educational agency title IX coordinator” means an
12 individual who is acting as an employee of the local
13 educational agency, or who is paid by an entity con-
14 tracting with the local educational agency and acting
15 on behalf of the local educational agency—

16 (A) with an average work period of 40
17 hours per week, 160 hours per month, or full
18 time as defined by State regulations; and

19 (B) accountable to fulfill the title IX coor-
20 dinator requirements under Federal, State, and
21 local laws and policy.

22 (3) TITLE IX COORDINATOR.—The term “title
23 IX coordinator” means a responsible employee, as
24 described in section 106.8(a) of title 34, Code of
25 Federal Regulations, designated to coordinate efforts

1 under title IX of the Education Amendments of
2 1972 (20 U.S.C. 1681 et seq.).

3 (4) LOCAL EDUCATIONAL AGENCY.—The term
4 “local educational agency” has the meaning given
5 the term in section 8101(30) of the Elementary and
6 Secondary Education Act of 1965 (20 U.S.C.
7 7801(30)).

8 (5) SEXUAL HARASSMENT.—The term “sexual
9 harassment” means any unwelcome conduct of a
10 sexual nature, regardless of whether it is direct or
11 indirect, or verbal or nonverbal (including conduct
12 that is undertaken in whole or in part, through the
13 use of electronic messaging services, commercial mo-
14 bile services, electronic communications, or other
15 technology), that unreasonably alters an individual’s
16 terms, conditions, benefits, or privileges of an edu-
17 cational program or activity, including by creating
18 an intimidating, hostile, or offensive environment,
19 which takes the form of—

20 (A) a sexual advance;

21 (B) a request for sexual favors;

22 (C) a sexual act, where such submission is
23 made either explicitly or implicitly a term or
24 condition of a program or activity at a school

1 or school activity, regardless of a student's sub-
2 mission to or rejection of such sexual act;

3 (D) a sexual act, where such submission or
4 rejection is used as the basis for a decision af-
5 fecting a term or condition of a program or ac-
6 tivity at a school or school activity, regardless
7 of a student's submission to or rejection of such
8 sexual act;

9 (E) other conduct of a sexual nature; or

10 (F) domestic violence, intimate partner vio-
11 lence (dating violence), and sex-based stalking.

12 **SEC. 4. PURPOSES.**

13 The purposes of this Act are to—

14 (1) support local educational agencies to ensure
15 that title IX coordinators at the local educational
16 agency level and at the school level have the support
17 to fully carry out their roles and responsibilities;

18 (2) identify that sexual harassment, including
19 stalking and dating violence, is a pervasive problem
20 in K–12 schools and requires increased attention;

21 (3) protect students, teachers, and administra-
22 tive staff from inconsistent policies and protocol;

23 (4) identify, implement, and disseminate best
24 practices for reducing and preventing sex discrimina-
25 tion in K–12 schools;

1 (5) increase safety standards in schools to en-
2 sure that sexual harassment does not compromise
3 students' access to education;

4 (6) collect data on prevalence, impact of, and
5 response to sexual harassment in education; and

6 (7) protect students who come forward to re-
7 port sexual harassment.

8 **SEC. 5. SUPPORT FOR TITLE IX COORDINATORS; COLLEC-**
9 **TION OF DATA.**

10 (a) **ISSUANCE OF RULES.**—The Secretary shall issue
11 rules necessary to ensure that there is not less than 1 full-
12 time title IX coordinator for each local educational agency
13 that receives funds under title V of the Elementary and
14 Secondary Education Act of 1965 and that serves 10,000
15 or more students.

16 (b) **CIVIL RIGHTS DATA COLLECTION.**—The Sec-
17 retary shall collect and publish within the Civil Rights
18 Data Collection, in addition to data already collected and
19 in accordance to Family Educational Rights and Privacy
20 Act (FERPA)—

21 (1) the full-time and part-time employment of
22 title IX coordinators for each local educational agen-
23 cy; and

1 (2) specific data under Offenses: Sexual Vio-
2 lence, cross-tabulated and disaggregated by sex, dis-
3 ability, and race, color, or nationality—

4 (A) number of reported incidents of sexual
5 harassment, dating violence, stalking, rape, at-
6 tempted rape, and sexual assault (other than
7 rape), that alleged to have occurred at the
8 school or school activity, committed by a stu-
9 dent;

10 (B) number of reported incidents of sexual
11 harassment, dating violence, stalking, rape, at-
12 tempted rape, and sexual assault (other than
13 rape), that alleged to have occurred at the
14 school or school activity, committed by a school
15 staff member;

16 (C) number of reports of sexual harass-
17 ment, dating violence, stalking, rape, attempted
18 rape, and sexual assault (other than rape) com-
19 mitted by a student that resulted in a finding
20 that a student was responsible for the offense
21 or not responsible for the offense;

22 (D) number of reports of sexual harass-
23 ment, dating violence, stalking, rape, attempted
24 rape, and sexual assault (other than rape),
25 against a school staff member that were fol-

lowed by a resignation or retirement prior to final discipline or termination;

(E) number of reports of sexual harassment, dating violence, stalking, rape, attempted rape, and sexual assault (other than rape), that occurred at the school or school activity, against a school staff member that were followed by a determination that the school staff member was responsible or not responsible for the offense;

(F) number of reports of sexual harassment, dating violence, stalking, rape, attempted rape, and sexual assault (other than rape), that occurred at the school or school activity, against a school staff member that had a determination that remained pending;

(G) number of reports of sexual harassment, dating violence, stalking, rape, attempted rape, and sexual assault (other than rape), that occurred at the school or school activity, against a school staff member that were followed by a duty reassignment prior to final discipline or termination;

(H) the median length of the complaint process from the filing of a report, to the end of the appeals process; and

(I) the number of students who took leaves of absences, transferred schools, or dropped out within a year after reporting sexual harassment, dating violence, stalking, rape, attempted rape, and sexual assault (other than rape) to the school.

(c) CLIMATE SURVEYS.—

(1) Beginning 18 months after the date of enactment of the Supporting Survivors of Sexual Harassment in Schools Act, the full-time local educational agency title IX coordinator shall develop and collect anonymous climate survey data based on paragraph (2), cross-tabulated and disaggregated by sex (including sexual orientation, gender identity, and pregnancy), disability, and race, color or national origin, in accordance to Family Educational Rights and Privacy Act (FERPA) and except in circumstances where small population sizes would mean collection of this data compromises anonymity, from each school community, including students, parents, and staff, and conducted not later than one year after such date of enactment, and conducted, reviewed, and updated annually.

(2) The full-time local educational agency title IX coordinator shall collect and submit to the De-

1 partment anonymous climate survey data cross-tab-
2 ulated and disaggregated by sex (including sexual
3 orientation, gender identity, and pregnancy), dis-
4 ability, and race, color or national origin, in accord-
5 ance to Family Educational Rights and Privacy Act
6 (FERPA) and except in circumstances where small
7 population sizes would mean collection of this data
8 compromises anonymity, that includes—

9 (A) the reported incidence and prevalence
10 of experiences of sexual harassment, sexual vio-
11 lence, dating violence, domestic violence, and
12 stalking;

13 (B) the rate in which the perpetrator was
14 a student, staff, or teacher and other contextual
15 factors;

16 (C) whether students report that they
17 know about institutional policies and proce-
18 dures, such as the identity of the title IX coor-
19 dinator, the location of title IX resources, in-
20 cluding resources on sexual harassment, gender-
21 based harassment and violence, and definitions
22 of sexual misconduct;

23 (D) if students indicate they have reported
24 gender-based harassment and violence, the role
25 of the people to whom they reported;

1 (E) types of disciplinary action and the
2 rate of disciplinary action taken against the
3 complainant and/or the respondent related to
4 the report of gender-based harassment;

5 (F) the types of accommodations and sup-
6 ports students who indicate they have reported
7 gender-based harassment report having re-
8 ceived, such as counseling, medical services, or
9 class scheduling changes;

10 (G) any reported short-term or long-term
11 impacts on physical or mental health from stu-
12 dents who have experienced gender-based vio-
13 lence or harassment;

14 (H) the frequency at which complainants
15 request to drop classes, take a leave of absence
16 from school, or leave the institution perma-
17 nently;

18 (I) school community members' attitudes
19 toward gender-based violence and harassment,
20 including individuals' willingness to intervene as
21 a bystander; and

22 (J) school community members' perception
23 of campus safety and confidence in the institu-
24 tion's ability to appropriately address gender-
25 based violence and harassment.

1 (d) GUIDANCE.—The Secretary must provide guid-
2 ance to LEAs and full-time local educational agency title
3 IX coordinators on how to implement the climate survey.

4 (e) REPORT.—The Department must publish an an-
5 nual report on climate survey data findings from sub-
6 section (b) on the Department website. The annual report
7 shall include national, State, and district-level data, cross-
8 tabulated and disaggregated by sex (including sexual ori-
9 entation, gender identity, and pregnancy), disability, race,
10 color, or national origin in accordance to Family Edu-
11 cational Rights and Privacy Act (FERPA), on the fol-
12 lowing:

13 (1) The incidence and prevalence of sexual har-
14 assment, sexual violence, dating violence, domestic
15 violence, and stalking.

16 (2) The rate of incidences of when the perpe-
17 trator was a student and other contextual factors,
18 such as whether force, incapacitation, or coercion
19 was involved.

20 (3) The percentage of students who know about
21 institutional policies and procedures, such as the
22 identity of the title IX coordinator, the location of
23 title IX resources, and definitions of sexual mis-
24 conduct.

1 (4) The type of roles of the people to whom
2 incidences of sexual harassment were most com-
3 monly reported.

4 (5) The types and prevalence of accommoda-
5 tions and supports provided to survivors, such as
6 counseling, medical services, or class scheduling
7 changes.

8 (6) The estimated cost and/or impact of vio-
9 lence on survivors, such as costs associated with
10 counseling, medical services, or class scheduling
11 changes.

12 (7) The frequency at which complainants re-
13 quest to drop classes, take a leave of absence from
14 school, or leave the institution permanently.

15 (8) Types of long-term impacts on the sur-
16 vivor's health, such as disabilities that may have re-
17 sulted from experiencing gender-based violence or
18 harassment.

19 (9) School community attitudes toward gender-
20 based violence and harassment, including individ-
21 uals' willingness to intervene as a bystander.

22 (10) School community members' perception of
23 campus safety and confidence in the institution's
24 ability to appropriately address gender-based vio-
25 lence and harassment.

1 (f) BEST PRACTICES.—In addition to the data listed
2 in subsection (e), the report shall include information on
3 best practices.

4 **SEC. 6. DISCLOSURE AND USE OF DATA.**

5 The Secretary shall make the data described in sec-
6 tion 6 for each year publicly available on the website of
7 the Department of Education and through any other ap-
8 propriate method, in a timely and user-friendly manner,
9 and accessible and usable by individuals with disabilities.

10 **SEC. 7. SUPPORT FOR STUDENT SURVIVORS.**

11 (a) NOTIFICATION.—The Secretary shall require
12 school-level title IX coordinators and school administra-
13 tors, upon becoming aware of sexual harassment, to notify
14 the complainant in writing and orally, about available as-
15 sistance to support the complainant of sexual harassment
16 and ensure their continued and equal access to education,
17 regardless of the location of the harassment, including—

18 (1) academic adjustment or other accommoda-
19 tions, such as adapting course schedules, assign-
20 ments, or tests, issuing no-contact orders, or taking
21 other measures to separate the complainant and the
22 respondent that minimize the burden on the com-
23 plainant;

24 (2) information about and access to support
25 services for the complainant, such as counseling,

1 mental health and other health services, and dis-
2 ability accommodations;

3 (3) providing increased monitoring or super-
4 vision at locations or activities where the misconduct
5 occurred or may have occurred; and

6 (4) reasonable accommodations for complain-
7 ants and respondents with disabilities, consistent
8 with laws that protect students with disabilities, in-
9 cluding Section 504 of the Rehabilitation Act of
10 1973 (Section 504), the Americans with Disabilities
11 Act (ADA), and the Individuals with Disabilities
12 Education Act (IDEA).

13 (b) GUIDANCE.—Working in collaboration with the
14 full-time coordinator, the local educational agency title IX
15 must issue guidance to schools, students, and parents (in-
16 cluding guardians) to explicitly protect students from pun-
17 ishment or retaliation when making reports of sexual har-
18 assment. Such guidance must apply to all reports of har-
19 assment, including in the context of a same-sex relation-
20 ship or encounter, and ensure that for all reports of sexual
21 harassment—

22 (1) the school will not take disciplinary action
23 against individuals, including witnesses, disclosing
24 code-of-conduct offenses that are related to the as-
25 sault, including, but not limited to, the use of intoxi-

1 cating substances occurring at or around the time of
2 a reported incident, reasonable actions taken to de-
3 fend against harassment, or actions taken to avoid
4 seeing the respondent at school;

5 (2) if a school's code-of-conduct prohibits sexual
6 activity (or certain forms of sexual activity), the
7 school will not take disciplinary action against indi-
8 viduals disclosing in good faith (including witnesses)
9 non-harassing sexual activity related to the reported
10 incident, or for other non-harassing sexual activity
11 discovered during an investigation into the reported
12 incident; and

13 (3) the full-time local educational agency title
14 IX coordinator shall review disciplinary actions re-
15 lated to a complaint of harassment to ensure that
16 disciplinary action was not taken against a com-
17 plainant for engaging in action taken as a result of
18 the sexual harassment.

19 **SEC. 8. RULE OF CONSTRUCTION.**

20 Nothing in this Act shall be construed—

21 (1) to modify any provision of title IX of the
22 Education Amendments of 1972 (20 U.S.C. 1681 et
23 seq.); or

1 (2) to affect the enforcement of such title by
2 the Department of Education, the Department of
3 Justice, or any other Federal entity.

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