Proposed Change to the Student Conduct Code to Standard of Preponderance of Evidence

Number: US13/14-46
Date of Notice: Wed, 05/07/2014
Legislation, Resolution, or Policy Adoption: Legislation
Current Status: Notice Given

Motion:

Section I

1.1 WHEREAS OCR uses a preponderance of evidence standard in its fund termination administrative hearings. Thus, in order for a school’s grievance procedures to be consistent with Title IX standards, the school must use a preponderance of evidence standard (i.e., it is more likely than not that sexual harassment or violence occurred). The “clear and convincing” standard (i.e., it is highly probably or reasonably certain that the sexual harassment or violence occurred), currently used by some schools, is a higher standard of proof. Grievance procedures that use this higher standard are inconsistent with the standard of proof established for violations of the civil rights laws, and are thus not equitable under Title IX. Therefore, preponderance of the evidence is the appropriate standard for investigating allegations of sexual harassment or violence; and

1.2 WHEREAS the Student Conduct and Community Standards Committee has identified a need to revise and update sections 571-021-0140 and 571-021-0210 of the Student Conduct Code;

Section II

2.1 BE IT HEREBY MOVED that the Student Conduct Code be amended to read as follows:

571-021-0140

Student Rights

(5) (h) To be considered not responsible for the alleged conduct until proven responsible by a preponderance of the information.

571-021-0210

University Hearings Panel Hearings

(16) Allegations of violations of the Student Conduct Code must be established by a preponderance of information evidence.