Resolution Number: RS20-395
March, 2020

Whereas:
RATIONALE: The U.S. Department of Education has proposed the most consequential changes in decades to Title IX, the federal law that governs gender and sex discrimination in educational contexts. These proposed regulations would require major changes in the ways that schools receiving federal funds respond to sex and gender issues, including sexual misconduct. The results would make it likely that schools implement a higher standard of proof for making judgements in cases of sexual harassment or assault, would allow for cross examination of students who put forward complaints, and would allow the use of alternative forms of resolution of disputes, such as mediation. All these changes are strongly opposed by advocates for the rights of students who experience sexual harassment and assault because they are likely to deter students from coming forward or conceal the existence of serious complaints. Because of the gravity and potential harm to individuals and the campus climate more widely, there is an urgent need for the responses put forward in this resolution, adding the of voice of SF State to widespread public opposition and proposing ways to mitigate the harm that would result from implementation of these proposed changes to Title IX regulations.

Whereas:
The Department of Education proposed changes to Title IX Federal regulations in November of 2018 which were to be issued Fall of 2019 but have yet to be officially released, and

Whereas:
some of the proposed changes will require schools to: dismiss incidents that have occurred off campus, dismiss harassment until it becomes severe and harmful enough to deny a student educational opportunities, hold investigations with the presumption that no harassment has occurred, and require survivors to submit to live cross-examinations by the respondent’s advisor of choice, and

Whereas:
some of the proposed changes will allow schools to: provide no clear timeline on the outcome of the investigation, use higher standards of proof to further disadvantage survivors, and let religious schools use religious beliefs to justify violating Title IX policy, and

Whereas:
student body presidents at 76 colleges and universities in 32 states, The School Superintendents Association, National Association of Secondary School Principals, American Council on Education, American Association of Community Colleges, National Education Association, American Federation of Teachers, College and University Professional Association for Human Resources, NASPA-Student Affairs Administrators in Higher Education, Association of Title IX Administrators, Association for Student Conduct Administration, American Psychological Association, State legislators from 40 states and the District of Columbia, 36 United States senators, and 19 state attorneys general have publicly opposed the proposed rule, and

Whereas:
a public comment opposing the changes on behalf of the California State University (CSU) Chancellor’s office and all twenty-three CSU presidents, stating, “The safety and well-being of our highly diverse campus community is paramount, and we are deeply committed to ensuring a safe working, learning and living environment at every campus, in compliance with CSU policy and all applicable federal, state and local laws,” and

Whereas:
according to the NCAA, “The U.S. Department of Education also enforces the Clery Act (1990), a consumer protection law that provides transparency around campus crime policy. Title IX and the Clery Act are two separate federal regulations with overlapping concerns that are intended to be complementary,” meaning the Clery Act can be used to support survivors when new Title IX regulations are not equitably serving survivors,

Resolved:
that San Francisco State University shall call upon the University President and Title IX Office to equip themselves with information on the Clery Act as a tool to safeguard protections for survivors, which are no longer supported by the forthcoming Title IX regulations; and be it further

Resolved:
that San Francisco State University shall acknowledge that the forthcoming Title IX regulations add oppressive barriers to already challenging Title IX reporting processes for survivors; and be it further

Resolved:
that in order to grant time for civil rights advocates to challenge the Title IX changes, San Francisco State University demand the Chancellor's Office and SF State President maintain current Title IX policies and procedures in place until implementation of the proposed policy is legally required; and be it further

Resolved:
that San Francisco State University recognizes that 94% of lawsuits challenging the Trump Administration’s rulemaking have been successful and, therefore, call upon the Chancellor's Office to file a lawsuit challenging the forthcoming Title IX policy; and be it further

Resolved:
that San Francisco State University call upon the Chancellor's office to ensure student representation on the CSU-wide Title IX Committee in the development of the new and any future CSU-wide Title IX policy; and be it further

Resolved:
that this resolution shall be distributed to San Francisco State University President, Vice President of Student Affairs and Enrollment Management, AVP for Student Life and Dean of Students, AVP for Student Affairs, Title IX Coordinator and DHR Administrator, UPD Chief of Police, Director of Counseling and Psychological Services, Director of The SAFE Place, AVP for Equity and Community Inclusion, Board of Directors of the Associated Students, California Faculty Association, Academic Senate of the CSU, and CSU Chancellor.