UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

JANE DOE,	:	
	:	
Plaintiff-Appellant,	:	
	:	
v.	:	Case No. 19-5126
	:	
UNIVERSITY OF KENTUCKY,	:	
	:	
Defendant-Appellee.	:	
	:	
	:	
	:	

AMICUS CURIAE BRIEF IN SUPPORT OF APPELLANT

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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]

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

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[1] 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. 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 that 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 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.[2] Within weeks of beginning her first semester, Appellant was raped by a UK student in her UK residence hall. 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.

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 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.[3] 2019 Op. at 30.

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[2] 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* Pl.'s Br. Exs. 3, 5, and 8. 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. Compl. ¶ 8.

[3] The district court characterized the question of who is protected by Title IX as a standing issue. Dkt. No. 12, Op. at 30 (Jan. 11, 2019) ("2019 Op."). Therefore, in

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]" at a university encompass most of the university's offerings. Whatever limitation the word "education" may impose on "program[s] or activit[ies]" in other contexts, it certainly 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 entirely 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, that UK was deliberately indifferent to that harassment,

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this brief, *amici* refers to "standing" and "protection" under Title IX interchangeably.

and that 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, it is widely recognized, including by Appellee, that living on campus furthers the educational goals of universities. Distinguishing among individuals who reside side-by-side on campus and use campus facilities based on their enrollment status at the university would undermine these goals and the goals of Title IX. It would likely have implications based on socioeconomic status too.

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 TEXT AND EACH TRADITIONAL SOURCE OF STATUTORY INTERPRETATION DO NOT SUPPORT THE DISTRICT COURT'S NARROW VIEW OF STANDING UNDER TITLE IX.

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 Cty. 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, the "[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); *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. On its face, this includes those persons who are either taking part or trying to take part of a funding recipient's educational program or activity. *Doe*, 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 Cty., 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) (We "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., Doe v. Mercy Catholic Med. Ctr.*, 850 F.3d 545, 553-56 (3rd Cir. 2017) (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," 2019 Op. at 30. "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, are benefiting 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 Each 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's stated aim that "institutions of higher learning practice equality or not come to Federal Government for financial support." 117 Cong. Rec. 39251-52 (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 ("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 Cty.*, 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 Cty. Public Schools*, 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 Department of Education ("ED") guidance and regulations 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."[4] 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.[5]

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

[5] *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.

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.

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."[6] Prospective students and their parents visit to assess whether they want to apply.[7] Professors and scholars from outside the university visit to conduct research, attend symposia and lectures, or otherwise access the university's libraries and academic resources.[8] 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.[9] 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.[10]

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

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[6] Hannah Brenner, A Title IX Conundrum: Are Campus Visitors Protected from Sexual Assault?, 104 Iowa L. Rev. 93, 138 (2018).

[7] *See, e.g.*, *Visitor Center*, Univ. of Ky., http://www.uky.edu/admission/visitor-center (last visited Apr. 17, 2019).

[8] *See, e.g.*, *Visiting Academics*, Univ. of Chic., https://provost.uchicago.edu/handbook/academic-appointments/visiting-academics (last visited Apr. 17, 2019).

[9] *See, e.g.*, *Office of Industry Collaboration*, Univ. of Colo. Boulder, https://www.colorado.edu/industry/ (last visited Apr. 17, 2019).

[10] *See, e.g.*, *Tourists and Visitors*, Stanford Univ., http://visit.stanford.edu/plan/guides/visit.html (last visited Apr. 17, 2019).

known harassment to contain the damage and protect all members of the school community. In fact, UK attempted to do just that, holding four disciplinary hearings[11] after Appellant reported her rape.

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, 2019 Op. at 30.[12] 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 address some complaints but not others.

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[11] Appellant alleges that UK nevertheless acted with deliberate indifference in its handling of all four hearings, Compl. ¶¶ 87-94, and as the district court noted, the first three hearings were constitutionally deficient, Dkt. No. 12, Op. at 7 (Aug. 31, 2016).

[12] In effect, the district court construed "education program or activity" to encompass offerings reserved for only students and faculty. *See* 2019 Op. at 27.

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.[13] Indeed, limiting the protections of Title IX to "enrolled" residents 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.[14]

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[13] Title IX protects against sexual harassment and retaliation. *See Jackson v. Birmingham Bd. of Educ.*, 544 U.S. 167, 182-84 (2005). In cases of sexual harassment, a federally funded university's liability is limited "to circumstances wherein the recipient exercises substantial control over both the harasser and the context in which the known harassment occurs," and acts with "deliberate indifference" to that harassment. *Davis v. Monroe Cty. 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.

[14] *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).

Of course, rejecting the district court's view of Title IX does not mean opening universities to a flood of new litigation. The contact that non-students and non-employees have with a university can be so transient that they will not be able to make even a *prima facie* showing that they have been "deprived" of educational opportunities or benefits. 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 clearly the case in the instant litigation, it is in the best position to put in place controls to help ensure that context is free from sexual harassment, and 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.[15] Indeed, UK itself emphasizes the educational benefits of living on-campus, such as a higher likelihood of "academic success" and lower attrition rates.[16] 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.[17]

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-

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[15] *See, e.g.*, *The Benefits of Living on Campus in College*, Beth McCuskey (June 22, 2018); Pedro de Araujo and James Murray, *Academic Benefits of Living on Campus* (June 21, 2010); Pedro de Araujo and James Murray, *Estimating the Effects of Dormitory Living on Student Performance* (Feb. 9, 2010); Ray Gasser, *Educational and Retention Benefits of Residence Hall Living* (2008).

[16] *See* Pl.'s Br., Ex. 18 at 3-4.

[17] *See Live On, Residence Education and Housing Services*, Mich. State Univ., Division of Residential and Hospitality Services, https://liveon.msu.edu/features/why-live; *Residential Experience at the University of Cincinnati*, Univ. of Cincinnati, Division of Student Affairs Resident Education & Development https://www.uc.edu/resed/Learning.html; *First Year Live On Policy*, Univ. Louisville, Student Affairs, Department of Campus Housing, https://louisville.edu/housing/info/policies/firstyear; *About Us, University Housing*, The Univ. of Tenn., Knoxville, Division of Student Live https://housing.utk.edu/about/.

year universities.[18] As with the partnership between UK and BCTC, the school at which Appellant matriculated, these programs often involve living on university campus, taking classes on both school campuses, and adhering to the policies of both institutions.[19] 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. at 6, 7. 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. Similarly, denying the law's protection to students who are enrolled or seeking to enroll in programs between institutions of higher education would discourage prospective

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[18] *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 Univ., https://www.binghamton.edu/programs/binghamton-advantage/; Community Colleges of Spokane Moves to Pullman Campus, WSU Insider, https://news.wsu.edu/2017/03/23/community-colleges-of-spokane/.

[19] *See generally id.*

students from taking advantage of these productive, joint endeavors that otherwise bring educational opportunities to a wider swath of the population.

CONCLUSION

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

Dated: New York, New York
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