

Koch Foundation
Officer, a Critic of

Title IX Guidance, Will Join Education Dept.

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By Sarah Brown JUNE 06, 2017

Adam Kissel, a senior program officer at the Charles Koch Foundation, was tapped on Monday to serve as deputy assistant secretary for higher-education programs at the U.S. Department of Education.

The unit he will lead "administers programs that broaden access to higher education and strengthen the capacity of colleges and universities," according to the department's website. Among those programs are efforts to support historically black colleges and other minority-serving institutions, students with disabilities, and students who are single parents. He will also oversee the federal TRiO programs, which aim to help students from disadvantaged backgrounds as they work toward college degrees.

Mr. Kissel's new job, which starts June 19, was [first reported](#) by the subscriber-only *Politico Pro*. The news site noted that he has frequently criticized guidance from the department's Office for Civil Rights on how Title IX, the federal gender-equity law, applies to campus sexual violence.

The 2011 "[Dear Colleague](#)" Letter, as the guidance is known, told colleges that they should use a standard of "preponderance of the evidence" — or more likely than not — to determine whether a student is responsible for sexual misconduct. That provision and others in the letter have prompted significant change in how colleges respond to and investigate sexual-violence cases.

Since President Trump took office, campus officials and Title IX experts have wondered about [what could become](#) of the guidance, which has drawn criticism from Republicans for, in their view, infringing on students' due-process rights.

Education Secretary Betsy DeVos hasn't commented specifically on her plans for the Dear Colleague letter, beyond saying at her confirmation hearing that it would be "premature" to commit to upholding the Title IX guidance. But the hiring of Mr. Kissel has stoked some debate about whether the department is getting the ball rolling on plans to dismantle it. He did not respond to *The Chronicle's* request for comment.

Mr. Kissel took a strong stand against the guidance when he was working at the Foundation for Individual Rights in Education, or FIRE, which advocates for free speech and due-process rights on campuses. FIRE has opposed the guidance in the Dear Colleague letter and is [backing a lawsuit](#) against the department to try to overturn it.

In an [op-ed essay](#) in 2011, published in the Huffington Post, Mr. Kissel wrote, "How does it make sense to trust campus judiciaries with getting serious crimes right under the lowest standards, when students often are not even allowed to have attorneys or to face their accusers and cross-examine them?"

He also wrote blog posts for FIRE about the Office for Civil Rights and due-process concerns at particular colleges, and [commented](#) about such issues in *The Chronicle* and [on Twitter](#).

Mr. Kissel spent five years with FIRE. Asked to comment on his joining the Education Department, the organization said in a written statement that he "moved on from FIRE in 2012. We wish him the best in his new role."

More recently, Mr. Kissel [expressed hope](#) that change may be on the horizon for the civil-rights office and its approach to campus sexual misconduct.

Sen. Patty Murray, Democrat of Washington and a ranking member of the Senate education committee, released a statement on Monday saying, "I am deeply troubled this hire is another concerning sign that President Trump plans to make it more difficult for survivors of campus sexual violence to get justice."

Beyond his public comments, several Title IX experts and advocates for sexual-assault survivors said they didn't know much about Mr. Kissel. But S. Daniel Carter, a longtime campus-safety consultant, suggested that his views on Title IX might not have much influence on what the department decides to do about the guidance.

Title IX enforcement has traditionally fallen to the Office for Civil Rights, Mr. Carter said, while the Office of Postsecondary Education, which oversees the unit that Mr. Kissel will lead, has not in the past been involved with Title IX.

The setting of policy related to the Clery Act, the federal campus-safety law, does fall under the postsecondary-education office, Mr. Carter said. But other people in the department — the assistant secretary for postsecondary education and the deputy assistant secretary for policy, planning, and innovation — have typically been in charge of Clery-related matters, he said. Mr. Trump has yet to fill those two positions.

"Certainly Mr. Kissel has been critical of the preponderance standard, among other things, and would likely prefer to eliminate it," Mr. Carter said. "But I do not see his position affording him that authority directly."

What else do we know about Mr. Kissel? At the Charles Koch Foundation, he has served as senior program officer for university investments for nearly five years. His [LinkedIn page](#) doesn't offer any details on his work at the foundation, but a [job posting](#) for a "program officer, university investments" says the role's primary duties involve "cultivating and managing relationships with university partners."

The foundation has [faced scrutiny](#) in academe for giving millions of dollars to create campus institutes focused on promoting conservative and free-market ideas.

Mr. Kissel has written a number of op-ed pieces and blog posts over the years commenting on academic culture, and he frequently [posts on Twitter](#) about free speech and academic freedom.

In 2015 he wrote a [blog post](#) that explored how "American higher education is smothered in intolerance of diverse ideas."

He encouraged faculty members and administrators who shared his concerns to contact him. "We can change the culture of silencing by demonstrating the virtue of tolerant engagement," he wrote.

Sarah Brown writes about a range of higher-education topics, including sexual assault, race on campus, and Greek life. Follow her on Twitter [@Brown_e_Points](#), or email her at sarah.brown@chronicle.com.