



MOTTO

## How Betsy DeVos Should Strengthen Title IX



Education Secretary Betsy DeVos speaks with the media after a series of listening sessions about campus sexual violence on July 13, 2017. Alex Brandon—AP

BY **NOËL BUSCH-ARMENDARIZ** JULY 20, 2017

**A**s Secretary of Education, Betsy DeVos is tasked with figuring out how the Department of Education should address campus sexual assault, one of the

most provocative issues under Title IX.

Last week, DeVos **signaled** that she would reconsider her Department's guidelines for colleges and universities, set in 2011 by what's called the **Dear Colleague Letter** and expanded upon in another **2014 document**. The letter **directed** college administrators to adopt the **preponderance of evidence** standard, a **lower burden of proof** than the "beyond a reasonable doubt" standard **employed by U.S. criminal courts**. The guidance, among other recommendations, also advised universities to **take steps** to protect the complainant from encountering the alleged perpetrator around campus during the hearing process and allow both the complainant and the alleged perpetrator to **appeal** the outcome.

Essentially, college administrators were advised to balance the needs of all students who are victimized by sexual assault and the liberties of students accused. Many sexual assault survivors say the guidance was **critical and necessary**. But others **criticized** it, arguing that the Obama Administration **overstepped** and took away **due process rights from** alleged perpetrators.

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Now **sexual assault survivors fear** that DeVos might swing the pendulum back and remove protections to keep them and their friends and peers safe, while students

who allege they were falsely accused feel like they finally **have an advocate** at the Department of Education.

That's a lot at stake. I've **worked for nearly 25 years** studying **sexual assault** and **domestic violence**. I've seen what works and what doesn't when it comes to adjudicating campus sexual assault. Here are three pieces of advice that I hope DeVos will keep in mind.

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## Consider a number of perspectives

Sexual assault allegations are highly charged for everyone involved. In order to be a leader who people can trust, DeVos must listen to a wide variety of reasoned voices on both sides, and she must resist being swayed by — or fueling — zealots.

It was encouraging that she **met** with representatives from both **SurvJustice**, which advocates for survivors' rights, and **Stop Abusive and Violent Environments**, an organization that advocates, in part, for those who say they were falsely accused. Unfortunately, DeVos' meetings with these activists were predated by **inflammatory comments** from Candice Jackson, the head of the Department of Education's Office of Civil Rights, who claimed that about 90% of **sexual assault claims** on campuses were due to both parties being drunk or breaking up and deciding six months later a sexual encounter wasn't "quite right." (Jackson didn't cite any research to back up her remarks. According to **a 2010 study published in *Violence Against Women***, the prevalence of false sexual assault accusations is between 2% and 10%). While Jackson **later apologized** for her "flippant" remarks, DeVos and her colleagues need to be careful not to **contribute to the divisiveness**.

But DeVos also needs to cast a wider net. She should speak to campus-based Title IX lawyers, deans of students, researchers and others who handle these issues firsthand. Title IX lawyers and campus administrators deal with these issues daily. They can divulge which campus policies work and which ones don't. Researchers who study this issue can provide DeVos with crucial data points. This will help her base her decisions on facts rather than personal anecdotes.

## Ask new questions

Over the last three decades, scientific advances greatly improved our ability to accurately measure the prevalence of **sexual assault** and understand its impact on victims. It is a pervasive problem. Over 23% of female and 5% of male undergraduates will **experience** rape or sexual assault at some point during their college career. **Transgender** and gender nonconforming students are even **more vulnerable** to sexual assault.

But it's also a complicated, nuanced issue that's notoriously **difficult to adjudicate** and riddled with **myths**. **Alcohol**, **drugs** and other crimes, including **intimate partner violence** and **stalking**, often come into play in these cases, and these layers need to be considered during a college or university's disciplinary process. Survivors often face **debilitating psychological, emotional and physical** trauma that can often lead them to **drop out** of school. And most survivors choose **not to report** their sexual assaults, making it even more difficult for them to get the care they need to recover.



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Given all this, DeVos must use the available statistics and newest research to end conversations that perpetuate myths and misunderstanding about sexual assault survivors and perpetrators. Instead, she should move the national conversation forward to tackle unanswered questions like how do campuses understand personal and **community responsibility** and how are universities handling the how students involved in these proceedings re-enter the community?

### **Address the issues we too often ignore**

Finally, DeVos should be persistent in putting the marginalized Title IX issues on the public's agenda. As sexual assault has come to dominate the national conversation, we've ignored other issues, like **sexual harassment, stalking** and **dating/domestic abuse**. And that's a problem. **One in five students will experience domestic violence**, making it as prevalent as an issue on college campuses as sexual assault. Further, college students **are more likely than any other age demographic to be stalked** — but they're also less likely to report such incidents to the police.

These are serious concerns for college students that can potentially affect their ability to learn and reach their educational goals. There is a moral, ethical and legal responsibility to address these barriers. We need a strong leader to do it.

DeVos is at a turning point. She has the potential to continue an open, honest and useful dialog and to strive toward exemplary responses to this crime on college campuses. But she could also chip away at the progress we've made on addressing campus sexual assault in recent years. She has a duty to implement a thoughtful, balanced system that protects both student victims *and* the liberties of students who are accused. My hope is that she is up for the job.

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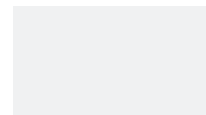
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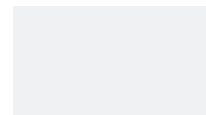
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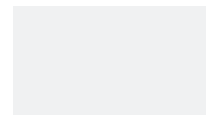
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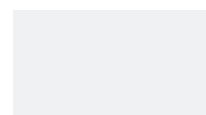
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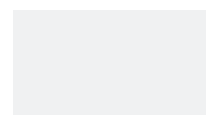
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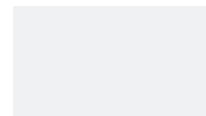
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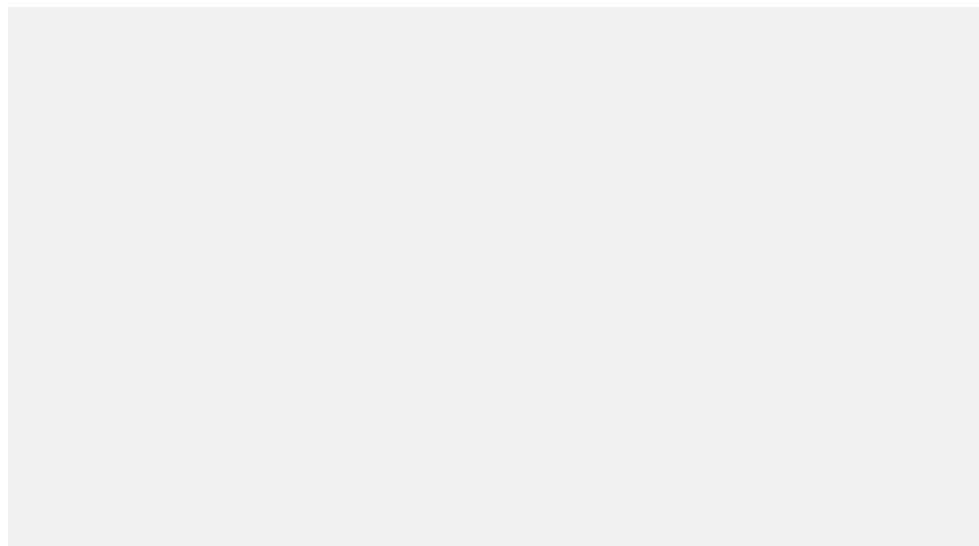
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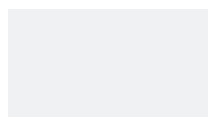
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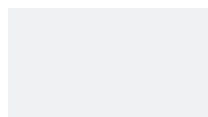
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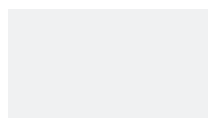
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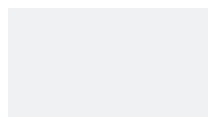
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