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THE TRUMP ADMINISTRATION'S PROPOSED RULE WILL LET SCHOOLS OFF THE HOOK ON CAMPUS SEXUAL ASSAULT

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Washington, D.C. – Know Your IX, the leading national survivor- and youth-led campaign of Advocates for Youth, released the following statement today, after the Department of Education proposed a new regulation on Title IX and sexual violence on campuses:

“The Trump Administration’s proposed rule is designed to let schools off the hook for sexual assault and harassment. The rule would allow schools to ignore sexual assault and harassment that occurs off-campus, even when it interferes with a student’s access to education. The proposed rule would also limit schools’ liability for mishandling students’ claims and allow them to treat survivors of sexual harassment more harshly than other victims of campus offenses.

These proposals signal the Department of Education’s decision to prioritize schools’ bottom line over survivors’ right to an education. If these draft rules become law, more survivors will be forced out of school by harassment, assault, and their schools’ indifference to their complaints. Over the next 60 days, we strongly encourage students and survivors to submit comments expressing their opposition to the proposed rules. Survivors won’t let Betsy DeVos roll back our rights without a fight.

Once the proposed rule is published in the Federal Register, the Department will initiate a 60-day public notice and comment period, during which survivors and their families will have the chance to weigh in on the proposed changes. If the draft rule is finalized, it would impose unique procedural hurdles for sexual assault and harassment cases and put survivors and students at risk by:

- *Requiring schools to only investigate the most serious forms of harassment and assault.* The proposed rule would require schools to act only when the sexual violence or harassment completely denies a student access to education. That means students would be forced to endure repeated and escalating levels of abuse without being able to ask their schools for help. By the time their school would be legally required to intervene, it might be too late—the student might already be ineligible for an important AP course, disqualified from a dream college, or derailed from graduating altogether.
- *Permitting schools to ignore sexual assault that occurs outside of a university program — such as in off-campus apartments.* DeVos’ proposed rules would narrow the definition of sexual harassment to include only conduct within a schools’ program or activity. If such a rule were finalized, Betsy DeVos would strip Title IX rights from survivors who are

assaulted off-campus or in a context outside of a school's educational programs, even when the aftereffects of an assault impair their ability to learn. This rule would have grave consequences for the eighty-seven percent of college students who, live off-campus.

- *Increasing barriers to reporting and shielding schools from liability for ignoring or covering up sexual harassment.* DeVos' proposal would dramatically raise the standard for liability for schools that ignore sexual harassment, excluding cases where schools "reasonably should have" known about sexual harassment. Such a rule risks immunizing schools that turn a blind eye to sexual assault occurring under their noses, when following basic best practices would reveal it. It could also allow schools to sweep sexual harassment under the rug by making the process of reporting sexual assault unnecessarily burdensome, opaque, complex, or traumatic — deterring students from coming forward, and limiting the cases which they have "actual knowledge" about. In other words, schools could ignore best practices and create an environment where survivors were intimidated out of reporting sexual assault — then disclaim responsibility because they chilled reports of harassment.
- *Permitting schools to discriminate against survivors and adopt a "clear and convincing" standard only for sexual harassment complaints.* The Department's rule would allow schools to impose a clear and convincing standard only for sexual harassment complaints. From the start of Secretary DeVos's tenure, she has singled out sexual assault and harassment cases for unique criticism and scrutiny. Now, relying on age-old stereotypes that women and girls "cry rape," the Department has decided to treat survivors of sexual harassment more harshly than other victims of violent or discriminatory campus offenses. Instead of imposing discriminatory procedural hurdles for campus sexual harassment cases, schools should use the same standards that they use for other serious campus wrongdoing, such as physical assault or arson.
- *Allowing schools to use unregulated "mediation" processes instead of investigating.* Before the 2011 Dear Colleague Letter (DCL), schools pushed survivors to "work it out" with their rapists, fostering a climate where students were afraid to come forward. The Department's decision to revert back to a harmful status quo will allow for schools and rapists to intimidate survivors into silence. Furthermore, the Department has thus far offered absolutely no guidance on how schools should conduct these proceedings, making it even more likely that institutions will violate survivors' civil rights.

For decades, schools have failed to create equitable environments on campus and hold individuals accountable for perpetrating assault and harassment. But instead of protecting survivors' civil rights, the the Department of Education has decided to let schools off the hook. Survivors won't let the Department of Education roll back our rights without a fight.