

Dear Acting Assistant Secretary Goldberg,

We write to you on behalf of Know Your IX, It's On Us, End Rape on Campus, the Every Voice Coalition, 24 student groups, and 595 students, survivors, and alumni. Over the past four years, we have watched as the Department of Education turned their back on student survivors and our right to an education free from violence and harassment. As a result of former Secretary DeVos' rollback in enforcement of Title IX, prioritization of men's rights organizations, and reduction in school's liability, survivors' fervent demands for change and support have been swept under the rug by their schools. Former Secretary DeVos' prioritization of respondents and their families contributed to a growing national backlash which has falsely painted Title IX as creating systems that favor survivors across the board. But the reality for student survivors is much bleaker. Survivors have been forced out of school,<sup>1</sup> been punished for being raped<sup>2</sup> or speaking out,<sup>3</sup> lost thousands of dollars,<sup>4</sup> died by suicide,<sup>5</sup> and been killed by intimate partners after their schools refused to take action to keep them safe.<sup>6</sup> Currently, about a third of all student survivors are forced out of school,<sup>7</sup> nearly 40% of student survivors who report to their school are forced out of school,<sup>8</sup> and nearly 10% of survivors who report to their school drop out<sup>9</sup> because of violence against them, coupled with their schools' indifference to their complaints.

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<sup>1</sup> See, e.g., Audrey Chu, I Dropped Out of College Because I Couldn't Bear to See My Rapist on Campus, VICE (Sep. 26, 2017), [https://www.vice.com/en\\_us/article/qvjzpd/i-dropped-out-of-college-because-i-couldnt-bear-to-see-my-rapist-on-campus](https://www.vice.com/en_us/article/qvjzpd/i-dropped-out-of-college-because-i-couldnt-bear-to-see-my-rapist-on-campus) [<https://perma.cc/X9V2-63ZX>].

<sup>2</sup> See, e.g., Nora Caplan-Bricker, "My School Punished Me," SLATE (Sep. 19, 2016), <https://slate.com/human-interest/2016/09/title-ix-sexual-assault-allegations-in-k-12-schools.html> [<https://perma.cc/H9JQ-EQGE>]; Tyler Kingkade, Girl Suspended after Being Sexually Assaulted in School Stairwell, BUZZFEED NEWS (Sep. 22, 2016), <https://www.buzzfeednews.com/article/tylerkingkade/girl-suspended-after-being-sexually-assaulted-in-school-stairwell> [<https://perma.cc/26KE-WB65>].

<sup>3</sup> See, e.g., Alanna Vagianos, A Sexual Assault Survivor at Princeton Tried to Protest. Instead, She Was Fined \$2,700, HUFFPOST (May 16, 2019), [https://www.huffpost.com/entry/sexual-assault-survivor-princeton-protests-titleix\\_n\\_5cdad56ee4b0615b0819c2a2](https://www.huffpost.com/entry/sexual-assault-survivor-princeton-protests-titleix_n_5cdad56ee4b0615b0819c2a2) [<https://perma.cc/AVG3-3UCJ>].

<sup>4</sup> See, e.g., Jenavieve Hatch, First They Told Their Stories. Now They Want Their Money, HUFFPOST (May 12, 2019), [https://www.huffpost.com/entry/usc-msu-financialrestitution\\_n\\_5cc9bd17e4b0913d078b76d9](https://www.huffpost.com/entry/usc-msu-financialrestitution_n_5cc9bd17e4b0913d078b76d9) [<https://perma.cc/MDM6-7KBQ>].

<sup>5</sup> See, e.g., Tyler Kingkade, A 19-Year-Old Killed Herself, and the Family Says Her School Could've Saved Her, BUZZFEED NEWS (Feb. 4, 2017), <https://www.buzzfeednews.com/article/tylerkingkade/a-19-year-old-killed-herself-and-the-family-says-her-school> [<https://perma.cc/8WJX-ZLSC>].

<sup>6</sup> See, e.g., Jeremy Bauer-Wolf, Prejudicial Police Department?, INSIDE HIGHER ED (July 15, 2019), <https://www.insidehighered.com/news/2019/07/15/parents-slain-university-utah-student-sue-under-title-ix> [<https://perma.cc/G232-PXJS>].

<sup>7</sup> See Cecilia Mengo & Beverly M. Black, Violence Victimization on a College Campus: Impact on GPA and School Dropout, 18 J. OF C. STUDENT RETENTION 234, 243 (2015).

<sup>8</sup> Know Your IX, *The Cost of Reporting: Perpetrator Retaliation, Institutional Betrayal, and Student Survivor Pushout* 1 (Mar. 2021), <https://www.knowyourix.org/wpcontent/uploads/2021/03/Know-Your-IX-2021-Report-Final-Copy.pdf>.

<sup>9</sup> *Id.*

As students, survivors, and organizations that advocate for student survivors' civil rights, we welcome the Department of Education's opportunity to provide feedback and share the experiences of student survivors before you begin the rulemaking process. As the Department undertakes its review of federal regulations and other agency actions concerning discrimination on the basis of sex, we urge the Department to replace the Title IX regulations promulgated by former Secretary of Education Betsy DeVos with rules consistent with the spirit and letter of Title IX. In this letter, we outline the urgent changes the Department must make to undo the harm of the DeVos rule, and the further changes ED must make to actualize President Biden's Executive Order on Guaranteeing an Educational Environment Free from Discrimination on the Basis of Sex, Including Sexual Orientation or Gender Identity.

## **1. Restore long-standing protections for student survivors**

For decades, across both Republican and Democratic-led administrations, the Department of Education applied consistent substantive protections to students who experience harassment based on sex, race, national origin, or disability.<sup>10</sup> The DeVos rule was a dramatic and unjustified deviation from long-standing positions the Department had taken to limit discrimination in education. The new regulations inappropriately import to agency enforcement the onerous standards developed for private suits for money damages, and inexplicably treat sexual harassment complaints differently from complaints concerning all other forms of prohibited discrimination. Under the DeVos rule, funding recipients only need to address sexual harassment that is severe, pervasive, *and* objectively offensive<sup>11</sup> and that occurs on campus or during an off campus recipient activity.<sup>12</sup> And if a survivor files a Title IX complaint with OCR, the Department must employ a deliberate indifference and actual knowledge standard in analyzing

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<sup>10</sup> Consistent with Title VII and Title IX case law, and OCR and EEOC guidance, we use the term "sexual harassment" to encompass a wide range of sexual harms, including sexual assault. <sup>2</sup>*See generally* Questions and Answers on Title IX and Sexual Violence (Apr. 29, 2014), <https://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf> [hereinafter "2014 Q&A"]; Dear Colleague Letter on Sexual Violence (Apr. 4, 2011), <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf> [hereinafter "2011 DCL"]; Dear Colleague Letter: Harassment and Bullying (Oct. 26, 2010), <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.html> [hereinafter "Bullying Guidance"]; Dear Colleague Letter (Jan. 25, 2006), <https://www2.ed.gov/about/offices/list/ocr/letters/sexhar-2006.html> [hereinafter "2006 DCL"]; Revised Sexual Harassment Guidance, 66 Fed. Reg. 5,512 (Jan. 19, 2001), <https://www2.ed.gov/about/offices/list/ocr/docs/shguide.html> [hereinafter "Revised Sexual Harassment Guidance"]; Dear Colleague Letter on Prohibited Disability Harassment (July 25, 2000), <https://www2.ed.gov/about/offices/list/ocr/docs/disabharassltr.html> [hereinafter "Disability Harassment Guidance"]; Sexual Harassment Guidance, 62 Fed. Reg. 12,034 (Mar. 13, 1997) [hereinafter "1997 Guidance"]; Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance, 59 Fed. Reg. 11,448 (Mar. 10, 1994), <https://www2.ed.gov/about/offices/list/ocr/docs/race394.html> [hereinafter "Racial Harassment Investigative Guidance"].

<sup>11</sup> 34 C.F.R. § 106.30(a). Some forms of sexual assault and other abuses are also encompassed in the disjointed definition of sexual harassment. *Id.*

<sup>12</sup> *Id.* at § 106.44(a).

the complaint.<sup>13</sup> In deviating from its long-standing position, the Department gutted protections for survivors, reducing recipients' responsibility to address harassment and depriving OCR of critical enforcement power.

In adopting these new rules, the Department inappropriately relied on narrow legal standards that the Supreme Court expressly limited to private damages suits, as the Department had acknowledged for years prior.<sup>11</sup> Administrative civil rights enforcement by the federal government implicates very different considerations than does private litigation for money damages. Most importantly, the Department's administrative enforcement seeks to prevent and correct discrimination through policy change and other injunctive relief. Thus, for years, the Department has required funding recipients to address harassment before such harassment escalates to the point that the recipient is liable for money damages in private litigation. And, as the Supreme Court recognized in choosing an "actual knowledge" standard, the statutorily mandated process the Department of Education uses to enforce Title IX—which includes an opportunity for post-complaint voluntary compliance by the institution—necessarily supplies the very notice to recipients that the Court feared would be absent in a damages lawsuit brought by a private party.<sup>12</sup>

The Department must promulgate regulations that reinstate its decades-old view of recipients' Title IX responsibilities to survivors and the standards by which OCR reviews complaints. Specifically, the Department should:

- Explain the scope of sex-based harassment to limit discrimination against all students to whom Title IX is applicable.
  - To stop sex-based discrimination in education, the Department should make clear to recipients that sex-based harassment includes sexual harassment, intimate partner violence, domestic violence, and sex-based stalking<sup>13</sup> and harassment based on sexual orientation, gender identity, gender expression, parental status, pregnancy, childbirth, termination of pregnancy, or related conditions;
- Enforce a standard of sexual harassment that ensures no student is denied equal access to education.
  - The DeVos rules are an extreme deviation from established norms surrounding sexual harassment. Under DeVos' Title IX, the standard of harassment was inappropriately applied to align with the standards of private lawsuits surrounding money damages. The Department must implement a standard of harassment that will allow students who face sexual violence access to the Title IX process. Specifically, this standard should:
    1. Define sexual harassment as unwelcome sexual behavior or advances, including "quid pro quo" harassment.

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<sup>13</sup> *Id*

2. Define actionable sexual harassment as:
  - a. Quid pro quo harassment
  - b. Sexual harassment that is serious enough to create a hostile environment that limits the student's ability to participate in school activities or programs.
    - i. The level of severity of the harassment will be determined by whether it was severe, pervasive, or persistent and
    - ii. If harassment creates a hostile environment for the student and interferes with the student's education to a point in which the hostile environment itself is grounds for sexual harassment.
- Ensure schools respond to all sexual harassment for any person for whom the harassment creates a hostile environment
  - The Department should require funding recipients to address sex-based harassment that may create a hostile environment in their program or activity (and is therefore actionable sex-based harassment), regardless of where the sex-based harassment occurred, specifying that recipients' non-exhaustive resultant responsibilities include that:
    - Funding recipients must address actionable sex-based harassment that occurs outside its program or activity if the complainant shares a campus, classroom, or other (physical or virtual) space or is otherwise likely to be required to interact with the respondent within the program or activity,<sup>25</sup>
    - Funding recipients must address actionable sex-based harassment that occurs in any program or activity, even if it occurs outside the United States, such as a study abroad program.
- Require schools to handle complaints of sexual harassment within a prompt and equitable timeline
  - DeVos' removal of a 60 day timeline led to schools dragging out survivors' cases—often allowing respondents to run out the clock for years and graduate before the investigation had concluded. By removing a clear timeline, schools were able to drag survivors through investigations that seemed indefinite—forcing survivors to undergo unnecessarily long and burdensome processes that further traumatize survivors. These long waiting periods led to survivors dropping out of an investigation against their abuser, or out of school entirely. One anonymous survivor who reported to Know Your IX shared:

“A prompt timeline would have allowed me to finish my education. My investigation was taking so long that it made it impossible to go to class. The case

was taking over 280 business days, and I couldn't bear to see him on campus any more, so I dropped out<sup>14</sup>”

Lengthy investigations have now become the norm in the Title IX context, and these delays often result in harm to the educational prospects of complainants and respondents. One survivor reported that her university postponed her hearing until after the criminal case was completely closed despite the investigation and evidence collection being completed. As a result, this survivor was forced to spend 519 days sharing a campus with her abuser before her Title IX complaint was processed and resolved.<sup>15</sup> Even without a pending criminal investigation, survivors are still faced with extremely lengthy timelines that further disenfranchise students who have reported sexual violence to their school because sharing an environment with their perpetrators made learning exceedingly difficult and burdensome.

This delay also has detrimental impacts to a survivor's mental health. One survivor shared that they struggled with symptoms of PTSD as a result of delays and the failure to conclude her Title IX investigation.<sup>16</sup> With students being forced to share campuses with their abusers due to schools' failure to create a reasonable timeline, the likelihood of harm towards their education and mental health grows. And, these lengthy timelines and delays make it even less likely that a survivor will feel comfortable and supported when needing to seek help in the future. With interviews of student survivors citing cases lasting between 184 and 519 days, it is clear that these delays have impacted their educational quality and opportunity. With the DeVos regulations allowing schools to disregard a reasonably prompt timeline, recipients—who are already inclined to drag out investigations until the complainant graduates or drops the case—may operate with impunity. In order to prevent students from being burdened with extensive investigation periods with no end in sight, the Department should **adopt a reasonable investigation timeline of 60-90 days with opportunity for reasonable delays.**

- Require funding recipients to respond promptly and effectively to actionable sex-based harassment that they know or should know about, as well as any sex-based harassment by employees when the employee engaged in the harassing conduct in the context of the

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<sup>14</sup> Electronic submission received through <https://www.handsoffix.org/share-your-story/>

<sup>15</sup> Know Your IX, *The Cost of Reporting: Perpetrator Retaliation, Institutional Betrayal, and Student Survivor Pushout* 17-22 (Mar. 2021), <https://www.knowyourix.org/wp-content/uploads/2021/03/Know-Your-IX-2021-Report-Final-Copy.pdf> [hereinafter “*Cost of Reporting*”].

<sup>16</sup> Electronic submission received through <https://www.handsoffix.org/share-your-story/>

employee's responsibilities to provide aid, benefits, or services within the recipient's program or activity,<sup>17</sup> specifying that:

- A recipient is responsible for taking prompt and effective action to eliminate the sex-based harassment, prevent its recurrence, and remedy its effects;<sup>18</sup>
- What constitutes a "prompt" response will depend on the complexity of the investigation and the severity and extent of the alleged conduct, though a "prompt" response will almost always include the provision of supportive services and accommodations as immediately as possible but no later than five school days of a report;
- Effectiveness is measured based on a reasonableness standard;<sup>19</sup>
- An effective response will include reasonable provision of supportive services and accommodations to victims, at no cost to victims, regardless of whether they pursue a disciplinary proceeding, and regardless of whether the respondent is found responsible for the harassment;<sup>20</sup>
- When appropriate, an effective response may include restorative justice or other alternatives to traditional student discipline, so long as the parties' participation is truly voluntary and all parties are able (and aware they are able) to terminate the alternative resolution at any time, and that those conducting the informal processes are adequately trained to do so;<sup>21</sup>
- Implement a standard under which recipients are responsible for addressing harassment of which they knew or should have known, as well as all harassment by an employee when the employee engaged in the harassing conduct in the context of the employee's responsibilities to provide aid, benefits, or services within the recipient's program or activity.<sup>22</sup>

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<sup>17</sup> See, e.g., 2017 Q&A at 1, 4; 2014 Q&A at 2; 2011 DCL at 4; Bullying Guidance at 2; Revised Sexual Harassment Guidance at 10, 13; Disability Harassment Guidance; Racial Harassment Investigative Guidance, 66 Fed. Reg. at 11450, 11453. Under Title VII of the Civil Rights Act of 1964, if an employee is harassed by a coworker, the employer is liable if it knew or should have known about the harassment and failed to take reasonable steps to address the harassment. If an employee is sexually harassed by their supervisor, the employer is ordinarily strictly liable, regardless of whether it had any notice of the harassment. *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998); *Burlington Industries, Inc. v. Ellerth*, 524 U.S. 742 (1998).

<sup>18</sup> See, e.g., 2014 Q&A at 2; 2011 DCL at 2, 16; Bullying Guidance at 2-3; Revised Sexual Harassment Guidance at 14, 15; Disability Harassment Guidance; Racial Harassment Investigative Guidance, 66 Fed. Reg. at 11,450, 11453-54.

<sup>19</sup> Revised Sexual Harassment Guidance at vi; Racial Harassment Investigative Guidance, 59 Fed. Reg. at 11,450.

<sup>20</sup> The DeVos rules required that recipients provide supportive measures to complainants. 34 C.F.R. § 106.44. However, the power of that provision was greatly diminished by the rule's adoption of a deliberate indifference standard, because a funding recipient's choice of which measures to provide, and how, does not need to be effective or reasonable; it must merely not be clearly unreasonable.

<sup>21</sup> Cf. 34 C.F.R. 106.45(b)(9).

<sup>22</sup> See *supra* note 17.

## 2. Protect Against Retaliation

Title IX prohibits retaliation against those who complain of sex discrimination.<sup>23</sup> Yet student survivors—especially survivors of color—continue to face punishment when they turn to their schools for help in the wake of violence.<sup>24</sup> Some are disciplined for rule-breaking, like drinking or drug use at the time of an incident, that they must divulge in order to report.<sup>25</sup> Others are even punished for the sexual contact during their assault, which may be prohibited on school grounds.<sup>26</sup> In addition to retaliation from schools, in recent years, student survivors—primarily those in higher education—have also increasingly faced retaliation from their assailants, who use schools’ reporting mechanisms to dissuade and punish victims.<sup>27</sup> For example, many survivors who report to their colleges are later met with retaliatory cross complaints by their harassers who, after insisting that the sexual contact in question was consensual, now claim the survivor raped them.<sup>28</sup>

In a survey conducted by Know Your IX nearly 10 percent of survivors who completed the survey reported experiencing some sort of retaliatory cross-filing. The survey asked survivors to indicate if either of these statements was true for them with respect to the school reporting process: (1) perpetrator found out I was going to file and so raced to file one against me first; or (2) perpetrator filed a Title IX complaint against me (after mine). **Every single survivor who experienced retaliatory cross-filing reported to their school no earlier than 2016, and 80 percent reported to their school no earlier than 2018.**<sup>29</sup> Moreover, half of survivors who faced retaliatory cross-filing took a leave of absence or transferred schools. This spread of numbers demonstrates that the phenomenon of retaliatory cross-filing by perpetrators is extremely recent, on the rise, and contributes to student survivor attrition.<sup>30</sup>

Survey responses from survivors showed that retaliatory cross-filing through the school was similar in tactic and outcome to perpetrators who abused survivors through litigation by cross-filing for protective orders, filing frivolous complaints, relitigation attempts, and

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<sup>23</sup> Jackson v. Birmingham Bd. of Educ., 544 U.S. 167, 171 (2005).

<sup>24</sup> See, e.g., Tyler Kingkade, Schools Keep Punishing Girls — Especially Students of Color — Who Report Sexual Assaults, and the Trump Administration’s Title IX Reforms Won’t Stop It, The 74 (Aug. 6, 2019), <https://www.the74million.org/article/schools-keep-punishing-girls-especially-students-of-color-who-report-sexual-assaults-and-the-trump-administrations-title-ix-reforms-wont-stop-it/>.

<sup>25</sup> See, e.g., Christina Cauterucci, *BYU’s Honor Code Sometimes Punishes Survivors Who Report Their Rapes*, Slate (Apr. 15, 2016), <https://slate.com/human-interest/2016/04/byu-s-honor-code-sometimes-punishes-survivors-who-report-their-rapes.html>.

<sup>26</sup> See, e.g., *S.M. v. Sealy Ind. Sch. Dist.*, No. CV H-20-705, 2021 WL 1599388, at \*2-\*3 (S.D. Tex. Apr. 23, 2021); Nora Caplan-Bricker, “My School Punished Me,” Slate (Sept. 19, 2016), <https://slate.com/human-interest/2016/09/title-ix-sexual-assault-allegations-in-k-12-schools.html>.

<sup>27</sup> Know Your IX, *The Cost of Reporting: Perpetrator Retaliation, Institutional Betrayal, and Student Survivor Pushout* 17-22 (Mar. 2021), <https://www.knowyourix.org/wp-content/uploads/2021/03/Know-Your-IX-2021-Report-Final-Copy.pdf> [hereinafter “*Cost of Reporting*”].

<sup>28</sup> *Id.* at 19.

<sup>29</sup> Nearly half of survey participants reported to their schools before 2018.

<sup>30</sup> *Cost of Reporting* at 19

prolonging court proceedings. In campus disciplinary systems, as in legal systems, the goal of these tactics was to force survivors and their perpetrators to have to interact through the disciplinary process, drag out the process, control and/or silence the survivor, and drain their time and financial resources.

For example, after one survivor was strangled and raped by a classmate her freshman year, the survivor reported to her school. One month later, after a process through which the rapist maintained that everything had been consensual, he was found responsible and suspended for one year. He exhausted his appeals, and the finding and sanction remained in place. Six months later—during which time he continued to cyber stalk and harass the survivor in violation of the no-contact order—the rapist filed a Title IX complaint against the survivor alleging she had raped him that very night, which he had previously contended was entirely consensual. “I then had to read over ten pages of him describing me as too tall, fat, and ugly to be raped, and basically describing me as a racist caricature of a Black woman,” she explained. Her rapist even nodded to the retaliatory nature of his own claim, requesting in his complaint that the rape finding against him be wiped from his record. The school eventually dismissed the cross-filing as meritless, at which point the rapist messaged her suggesting they sue the school together. She reported this as a violation of the no contact order, but no further action was taken against him. The following semester, the survivor started a petition online to push the school to take basic measures to support survivors—not disclosing or alluding to her rapist’s identity once. In response to her petition for survivor rights on campus, her rapist filed yet another frivolous, retaliatory harassment charge against her through the Title IX office. His attempt to punish her for self-advocacy was so blatant that for the location of the alleged incident, he wrote: change.org.<sup>31</sup>

The aforementioned survivor has now faced over a year of continued stalking and harassment, has been dragged through four frivolous complaints made against her which continue to traumatize her, her social media presence has been monitored by her assailant’s attorney for a year, and her mental health has crumbled. She will be transferring schools in the Fall to avoid the continued harassment from her abuser through the campus process. Not once did the school consider any of his actions, including the meritless complaints, retaliatory or harassing.<sup>32</sup>

Additionally, institutions who claim exemptions from Title IX have retaliated against students for disclosing information about their dating history, sexuality, or gender identity following a report of sexual harassment. Know Your IX interviewed survivors who attended schools with exemptions from Title IX and found that schools would often refer queer and trans students to conversion therapy programs following a disclosure of ‘prohibited conduct’ at the time of filing a complaint of sexual harassment—such as dating violence within a queer relationship. Survivors

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<sup>31</sup> *Cost of Reporting* at 19

<sup>32</sup> *Id.*



shared that referrals to these programs curtailed the amount—and types—of survivors who were able to seek help for sexual harassment, as students would be punished at the end of the program if they did not conform to the expectations of the university surrounding their sexuality or gender identity.<sup>33</sup> In short, survivors are being punished by their school for seeking help following sexual violence and this punishment is, in turn, limiting survivors' access to education.

The Department must promulgate regulations that explicitly prohibit these common forms of retaliation. Specifically, the Department should:

- Define prohibited retaliation to include:
  - Discipline of a complainant for minor student conduct violations or collateral conduct that must be disclosed in order to lodge a report of sex discrimination or that is disclosed in an ensuing investigation (e.g., alcohol or drug use, consensual sexual contact, reasonable self-defense, or presence in restricted parts of campus) or that occurs as a result of the reported harassment (e.g., nonattendance);
  - Discipline of a complainant for a false report based solely on a funding recipient's conclusion that there was not sufficient evidence to support a finding of a respondent's responsibility or that the respondent is found not responsible;<sup>34</sup>
  - Discipline of a complainant for violating the recipient's prohibition against consensual sexual conduct if the putative violation is the sexual contact that is part of the subject of their complaint (e.g., a school's discipline of a student who reports they were raped for prohibited sexual conduct on school grounds based on the school's conclusion that the reported sexual contact was welcome);
  - Discipline of a complainant for discussing the events that gave rise to a sexual harassment report;
  - Discipline for charges the recipient knew or should have known were brought by a third party for the purpose of using the recipient's disciplinary process to retaliate against a victim of sexual harassment or other sex discrimination.<sup>35</sup>
  - Referrals to programs that could result in punishment of the complainant following the disclosure of sexual harassment—such as performance improvement plans, 'therapy' or education programs focused on altering a student's sexuality or gender identity, or a educational programs.
- Permit recipients to dismiss without a full investigation any complaints of sexual harassment that are patently retaliatory (e.g., where a student is reported for sexually assaulting a classmate, insists the contact was consensual, and then, after being found

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<sup>33</sup> Tristan Campbell, How Title IX Exemptions Force LGBT Students to Suffer in Silence, Religious News Services (July 14, 2016),

<https://religionnews.com/2016/07/14/how-title-ix-exemptions-force-lgbt-students-to-suffer-in-silence/>

<sup>34</sup> *Cf.* 34 C.F.R. § 106.71(b)(2); 85 Fed. Reg. 30026, 30537 (May 19, 2020). A valid reason for disciplining a student for making a false report would be if a complainant's demonstrable motivation in filing the report was to retaliate against a person they had sexually harassed.

<sup>35</sup> *Contra Bose v. Bea*, 947 F.3d 983 (6th Cir. 2020), *cert. denied*, 141 S. Ct. 1051 (2021).

responsible, files a counter-complaint that their victim in fact sexually assaulted them. [looking for removal of punishment as conclusion of investigation)].<sup>36</sup>

### 3. Ensure Fair Discipline Processes

As the Department has long made clear, school discipline for harassment, including sexual harassment, must be fair to all involved parties.<sup>35</sup> It is uncontroversial that while protecting student survivors, schools must also respect the rights of those accused of harassment, which derive from a range of sources, including schools' own policies and (in public schools) federal and state constitutions. The Department and courts, however, have long recognized that schools must retain discretion in designing disciplinary systems that fulfill their various, and varying, legal commitments and fit their unique institutional needs and characteristics.<sup>36</sup> There is no one-size-fits-all model that is necessary, or even appropriate, for every school regardless of its type, size, location, and resources.

The DeVos rule is not only overly prescriptive; the procedures it requires are also riddled with serious problems, and appear designed to promote impunity for sexual harassers rather than fairness. For example, the rules require institutions of higher education (IHEs) to ignore evidence that would be admissible in any other student conduct or legal proceeding if parties or witnesses refuse to submit to cross-examination or do not answer every question posed.<sup>37</sup> Had the Department included that requirement in its proposed rule, commenters might have had the opportunity to point out the truly absurd results that inevitably follow, such as a student admitting to sexually assaulting a classmate but administrators being barred from considering that dispositive evidence because they refused to be cross-examined.<sup>38</sup> The rule's requirement that IHEs provide opportunities for direct cross-examination discourages survivors from reporting at all<sup>39</sup> and ignores the consensus among appellate courts that an inquisitorial model,

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<sup>36</sup> Both the regulations and recipients must take care to ensure this provision is not used to dismiss meritorious complaints, given the risk that abusers may file pre-emptive complaints, much like they learn to call the police first. See Susan L Miller, *The Paradox of Women Arrested for Domestic Violence: Criminal Justice Professionals and Service Providers Respond*, 7 Violence Against Women 1339, 1355 (2001). Toward that end, the Department should make clear that a complaint is not retaliatory simply because it was filed second in time.

<sup>37</sup> 34 C.F.R. § 106.45(m); 85 Fed. Reg. at 30346, 30347, 30349 (May 19, 2020).

<sup>38</sup> See, e.g., Tyler Kingkade, *Activists increase pressure on Biden to scrap Betsy DeVos' Title IX Rules*, NBC News (Mar. 15, 2021), <https://www.nbcnews.com/news/us-news/activists-increase-pressure-biden-scrap-betsy-devos-title-ix-rules-n1261017>. By the plain text of the regulation, a funding recipient may also not consider as evidence the very harassing statements at issue in a report if the harasser will not submit to cross-examination. 34 C.F.R. § 106.45(m). After commenters pointed out this absurd result, the Department issued a blog post of questionable force that "clarified" a funding recipient could consider such statements. Office for Civil Rights, *The New Title IX Rule: Excluding Reliance on a Party's "Statements" When the Sexual Harassment at Issue Consists of Verbal Conduct* (May 22, 2020), <https://www2.ed.gov/about/offices/list/ocr/blog/20200522.html>; see also Nicole Bedera, Seth Galanter, and Sage Carson, *A New Title IX Rule Essentially Allows Accused Assailants to Hide Evidence Against Them*, TIME (Aug. 14, 2020), <https://time.com/5879262/devos-title-ix-rule/>.

<sup>39</sup> 34 C.F.R. § 106.45(m); Suzannah Dowling, *(Un)due Process: Adversarial Cross-Examination in Title IX Adjudications*, 73 Me. L. Rev. 123, 159 (2021); see also University of Michigan Annual Report Regarding Student

which allows parties to submit questions through a neutral intermediary, satisfies due process in student discipline cases.<sup>40</sup>

Separate and apart from the specifics of the required procedures, the regulation's singling out of sexual harassment allegations for unique procedural requirements is discriminatory in nature. As a matter of law and policy, there is simply no reason for the Department to provide special protections to people accused of sexual harassment unavailable to others who face similar sanctions for analogous forms of misconduct. And such exceptional treatment of sexual allegations is both rooted in and reinforces exactly the sort of sex stereotyping Title IX forbids. For centuries, criminal law imposed exceptional obstacles to rape convictions—which were explicitly rooted in rape myths and stereotypes about how women behave when they are sexually assaulted. Fortunately, courts and legislators abandoned these rules—but DeVos's rules resuscitate that shameful exceptionalist history by imposing unique procedural requirements on complaints of sexual harassment.<sup>43</sup> In doing so, the rule sends a clear message that complaints of sexual harassment are uniquely suspect.

Additionally, survivors report that their campus proceedings are unfair, biased, and inequitable.<sup>41</sup> School's often prioritize respondents' education over survivors', and in some cases, bend over backwards to ensure respondents' face little to no academic penalty for their sexual misconduct. At some schools, campus administrators make unilateral decisions to overturn the outcome of sexual misconduct cases to prevent respondents from facing any accountability for their actions.<sup>42</sup> This general dismissal of student survivors' complaints, coupled with the discriminatory process implemented through the DeVos regulation has created an inaccessible and unfair process for student survivors.

We wholly believe it is essential that schools provide a fair process to both complaints and respondents. As advocates and survivors, we know firsthand that disruptions in education have lasting consequences for survivors who are forced to leave school because they don't feel safe

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Sexual & Gender-Based Misconduct & Other Forms of Interpersonal Violence, July 2018-June 2019 at 1 (Nov. 11, 2018),

<https://studentsexualmisconductpolicy.umich.edu/files/smp/FY-2019.pdf> (demonstrating decrease in reporting during year school implemented direct cross-examination).

<sup>40</sup> *E.g.*, *Walsh v. Hodge*, 975 F.3d 475, 485 (5th Cir. 2020); *Doe v. Univ. of Arkansas Fayetteville*, 974 F.3d 858, 867–78 (8th Cir. 2020); *Doe v. Colgate Univ.*, 760 F. App'x 22, 33 (2d Cir. 2019); *Haidak v. University of Massachusetts*, 933 F.3d 56, 68–70 (1st Cir. 2018); *Butler v. Rector & Bd. of Visitors of Coll. of William & Mary*, 121 F. App'x 515, 520 (4th Cir. 2005); *Nash v. Auburn Univ.*, 812 F.2d 655, 664 (11th Cir. 1987); *Doe v. Westmont Coll.*, 34 Cal. App. 5th 622, 635 (Cal. Ct. App. 2019). The Sixth Circuit has held that, where “credibility is in dispute and material to the outcome,” a public university must allow an accused student to cross-examine witnesses either directly or through a representative. *Doe v. Baum*, 903 F.3d 575, 583-84 & n.3 (6th Cir. 2018). In doing so, it did not explain its departure from past precedent allowing “indirect” cross-examination. *Id.* at 588-89 (Gilman, J., concurring).

<sup>41</sup> *The Cost of Reporting* at 26-27

<sup>42</sup> *Doe v. Morgan State University* 1:19-cv-03125 (Maryland District Court 2019)

staying on campus with their perpetrators, but also in the case of a respondent unfairly facing suspension. Moreover, bare bones procedural protections harm all students and leaves room for discrimination against all students on the basis of race, ability, and/or financial means. Additionally, survivors have reported that perpetrators weaponize the reporting process against their victims—ensuring a fair process for all students is also essential for survivor respondents.

While these recommendations developed by Know Your IX were created in response to gender-based violence on campus, we believe that educational institutions should respond to and investigate reports of gender-based violence in a manner consistent with their response to reports of other serious student code-of-conduct violations.

**In student conduct cases, schools must ensure proceedings are prompt, equitable, and governed by consistent procedures. The department should require schools to provide robust procedural protections to both alleged perpetrators and victims, including but not limited to:**

- Timely and clear notice of both parties rights and responsibilities under school policy and applicable law, factual allegations, and procedural developments;
- Receive written and/or electronic notice, provided in advance and reasonable under the circumstances, of any meeting or hearing they are required or are eligible to attend;
- Review available evidence in a case file, with adequate time to consider and respond;
- Access to counsel who may assist and advise each party throughout the disciplinary process, in compliance with applicable law. If students are financially unable to independently access counsel, schools should be responsible for securing free legal consultation for them;
- Have a personal supporter of their choice, in addition to an attorney or representative, who may assist and advise any party throughout the disciplinary process, including all meetings and hearings related to such process, in compliance with the applicable federal and state laws;
- Have complaint investigated in impartial, timely, thorough, and trauma-informed manner by appropriately trained investigators;
- Provide testimony without encountering the opposing party and to view testimony provided by the other party. The school may use a range of options to provide for testimony, including videoconferencing or CCTV;
- Have findings of responsibility or non-responsibility for an incident of gender-based violence determined by a panel of 3-5 impartial and regularly and thoroughly trained decision-makers using a preponderance of the evidence standard;
- Reasonable opportunity, provided equally among the parties, to submit evidence, recommend witnesses, provide testimony at a hearing, and recommend for the other party and witnesses to investigators, hearing panelists, and other decision makers;
- Fair and proportionate sanctions;

- A written explanation of any outcomes, including but not limited to a finding of (non-) responsibility, sanction, or granting of an appeal;
- The opportunity to appeal in appropriate circumstances. The institution must review requests for an appeal in the same manner regardless of which party files the appeal and the appeals process must be prompt and equitable for both parties. Appeals should only be approved through a panel decision, ensuring case outcomes are not overturned by a single administrator.

If a school utilizes cross-examination, questions should be submitted to a neutral third party, in writing, for the panel to review for materiality and appropriateness, before questioning is conducted through the neutral third party. If questions are considered important for materiality, but are worded in a manner that may be inappropriate or harassing, the panel should reword the question for appropriateness.

#### **4. Increase Protection and Enforcement of K-12 Students' Rights**

Historically, little attention has been paid to the Title IX rights of K-12 students, despite the high rates of violence and discrimination in K-12 schools. One in three teens<sup>43</sup> have been victims of dating violence, and almost half of rape victims were assaulted before the age of 18. This violence and the ensuing trauma can have devastating impacts on survivors' education and lifetime success. But very few students—and even schools—are aware of survivors' rights under Title IX.<sup>44</sup>

Many K-12 schools have not ensured that all their students have access to an educational environment free from gender violence. In fact, since 2018, at least 330 lawsuits have been filed against K-12 school districts for mishandling incidents of sexual misconduct and denying students adequate protection. And navigating Title IX as a K-12 survivor can be difficult as schools often have unclear policies which fail to inform students of their Title IX rights. Further, survivors often hesitate to reach out for help due to fear of punishment or retaliation. Unfortunately, their fears are not unfounded. Schools have blatantly ignored survivors' reports of sexual violence, expelled them for asking for help, or denied them basic protections that would

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<sup>43</sup> “National Rates of Adolescent Physical, Psychological, and Sexual Teen-Dating Violence,” Michele Ybarra PhD, MPH, Center for Innovative Public Health Research; Dorothy L. Espelage, PhD University of Illinois at Urbana-Champaign; Jennifer Langhinrichsen-Rohling, PhD, University of South Alabama; Josephine D. Korchmaros, PhD, University of Arizona; Danah Boyd, PhD, New York University; and Kathleen Basile, PhD, Centers for Disease Control and Prevention.

<sup>44</sup> See, e.g., Tyler Kingkade, K-12 Schools Keep Mishandling Sexual Assault Complaints. Will New Title IX Regulations Help?, NBC News (25 May, 2020), <https://www.nbcnews.com/news/us-news/k-12-schools-keep-mishandling-sexual-assault-complaints-will-new-n1212156>

help them stay safe in school. These actions often force survivors to transfer<sup>45</sup> to another institution or begin homeschooling.<sup>46</sup>

To ensure that all K-12 students can access an education free from sex-based discrimination the Department should:

- Require school districts to hire someone from the explicit role of a Title IX Coordinator.

K-12 school districts often fail to hire an individual whose sole position is as Title IX Coordinator. Rather, school districts often appoint a Title IX coordinator who holds various positions in addition to that of Title IX coordinator, sometimes even ranging from superintendent to lower administrator roles.<sup>47</sup> Holding multiple positions within the school district can increase bias in the process and place extensive and incompatible responsibilities and job requirements on one individual. As a result, Title IX cases and the students engaging in them will not receive the attentiveness that is necessary to the process. In order for students to be best served, Title IX coordinators must be able to give their complete attention to the Title IX cases presented to them. Thus, the Department must require that each Title IX coordinator does not hold other positions or have their responsibility extend outside those outlined through Title IX.

- Confidential mental health care including counseling should be offered free of charge to K-12 student survivors.

Survivors of sexual violence often experience Post Traumatic Stress (PTS) and are at increased risk for depression, anxiety, addiction, and eating disorders.<sup>48</sup> Without proper mental healthcare to manage trauma, survivors may be pushed out of the education system. The Department should require schools to provide confidential, free mental health care to student survivors. Title IX ensures that survivors continue to have equitable access to education after experiencing sexual harassment, regardless of their ability to afford mental healthcare on the private market. In order to comply with federal law, then, school districts must ensure student survivors can access such confidential care free of charge. If a school district lacks capacity or space to provide these services directly through its own staff, the Department should require the district to arrange services with a local mental health provider or telemental health provider. Any ancillary costs, such as

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<sup>45</sup> See, e.g., Rebecca Grant, After Reporting Her Rape, a Teen Girl Says She Was Pushed Out of High School, VICE (22 Nov, 2017),

<https://www.vice.com/en/article/gyj7y7/after-reporting-her-rape-a-teen-girl-says-she-was-pushed-out-of-high-school>

<sup>46</sup> See, e.g., Mahroh Jahangiri, Activist and Sexual Assault Survivor Mahroh Jahangiri Wants Betsy DeVos to Know Why Title IX is So Important, Teen Vogue (18 Jan, 2017),

<https://www.teenvogue.com/story/know-your-ix-dear-betsy-devos-sexual-assault-survivor>.

<sup>47</sup> *Id.*

<sup>48</sup> See Sian Oran, *Sexual Violence and Mental Health*, Epidemiol Psychiatric Science 592-593 (2019), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6998874>.

transportation or copays, should be covered by the district. Moreover, the Department should prohibit school districts from restricting the number of free, confidential mental health sessions a student survivor may access. All survivors process trauma differently, and the timeline of that processing should not impair a student's Title IX rights.

Additionally, mental healthcare resources at the K-12 level must be separated from academic counseling. In many schools, school-based counselors tend to both students' academic and socio-emotional needs. However, as academic counselors, these providers may not be fully trained in comprehensive, trauma-informed responses to sexual violence. Additionally, survivors may be uncomfortable receiving psychological counseling from their academic resource, who may be the same person charged with writing their college recommendation letters. Therefore, schools must provide independent, comprehensive counseling for survivors.

- Improve academic accommodations for student survivors.

Many student survivors struggle to keep up academically after experiencing sexual harassment, as it can be hard to learn when you share a classroom, a campus, or a friend group with your abuser. Studies show that student survivors' GPAs drop in the wake of violence,<sup>49</sup> which can have enduring consequences for their educations<sup>50</sup> and their futures.<sup>51</sup> In order to effectuate Title IX's promise of educational equity, the Department must ensure that schools provide free academic accommodations to student survivors. These accommodations should include, but not be limited to: extensions on deadlines; excusing non-essential assignments; allowing for absences without penalty; tutoring; virtual or distance learning; the taking of incompletes in order to finish courses after the traditional semester's end; and adjusted class schedules or credit enrollment requirements. All of these accommodations should remain accessible to student survivors throughout their tenure and should not require reapplication, documentation, or strenuous renewal processes.

- Prohibit punishment of survivors for conduct related to the sexual harassment.

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<sup>49</sup>Cecilia Mengo & Beverly M. Black, *Violence Victimization on a College Campus: Impact on GPA and School Dropout*, 18 J. OF COLLEGE STUDENT RETENTION: RES., THEORY & PRAC. 243 (2015).

<sup>50</sup> Carol E. Jordan, Jessica L. Combs, & Gregory T. Smith, *An Exploration of Sexual Victimization and Academic Performance Among College Women*, 15 J. ON TRAUMA, VIOLENCE, AND ABUSE 191, 195-96 (2014).

<sup>51</sup>See Ross Macmillan, *Adolescent Victimization and Income Deficits in Adulthood: Rethinking the Costs of Criminal Violence from a Life-Course Perspective*, 38 CRIMINOLOGY 553, 570 (2000), summarized in NAT'L SEXUAL VIOLENCE RESOURCE CTR. (2013), [https://www.nsvrc.org/sites/default/files/publications\\_nsvrc\\_research-brief\\_sexual-violence-workplace.pdf](https://www.nsvrc.org/sites/default/files/publications_nsvrc_research-brief_sexual-violence-workplace.pdf) [https://perma.cc/3HM3-PYMY].

Schools disciplining survivors for reporting sexual violence and harassment can reduce reporting, and stop survivors from seeking further help. No survivor should be punished for looking to their school for help in the wake of violence, or for doing their best to survive. To ensure that survivors' access to education isn't interrupted, ED should prioritize stopping the punishment of student survivors, especially survivors in K-12 by:

- All K-12 schools should be required to have and enforce amnesty policies.

All K-12 schools and districts must implement, advertise, and enforce amnesty policies. Students reporting sexual violence or serving as witnesses in an investigation should never face punishment for alcohol or drug use, consensual sexual conduct, or other conduct violations that do not involve harassment, discrimination, or violence. The fear of such repercussions deters student survivors and bystanders from coming forward to report sexual harassment, reducing the likelihood that survivors will get the support and safety measures they need to continue accessing their education. Recognizing this reality, the Department must mandate that school districts—like colleges and universities—meaningfully advertise and adhere to amnesty policies in order to comply with Title IX.

- Students reporting sexual violence or assisting in its investigation should not be punished for drug or alcohol use.

Students reporting or serving as witnesses in sexual harassment investigations must have amnesty from drug or alcohol policy violations. This means schools should neither engage police regarding drug or alcohol issue nor enforce their own drug or alcohol use policies against those alleging they have experienced or witnessed sexual harassment. Where alleged sexual harassment is drug- or alcohol-facilitated, schools may consider this as part of the sexual harassment allegation itself in both the responsibility and sanction phases, as doing so is not likely to deter survivors or witnesses from coming forward. Additionally, alcohol or drug use— including past usage— alone should not serve as grounds for investigators to form an adverse inference regarding a party's credibility. Finally, the Department should require schools to publicize and educate their students on the existence of this policy. This holistic amnesty policy will reduce barriers to reporting sexual harassment in schools.

- K-12 schools should not punish students for engaging in sexual activity barred by the conduct code when they report sexual misconduct.



Students should not fear punishment for consensual sexual activity when reporting sexual harassment. Many K-12 schools and school districts enforce student conduct policies against even consensual sexual activity on school grounds or at school-sponsored activities. These policies are the province of local and state authorities but should not be used to curtail any student's rights under Title IX. Schools with these policies have used them against survivors by punishing students who come forward alleging sexual harassment for participating in sexual activity.<sup>52</sup> This sort of discipline compounds victim-blaming and can have massive chilling effects for other student survivors. In order to prevent these adverse impacts, the Department should bar schools from investigating students for or otherwise disciplining students who come forward with allegations of sexual harassment for consensual sexual conduct. This amnesty should extend to student witnesses as well as student complainants whose claims, after investigation, are deemed unsubstantiated. Amnesty from sexual conduct charges linked to reports of sexual harassment must be widely publicized and meaningfully enforced to promote help-seeking and bolster equitable educational access.

- Students reporting sexual misconduct should not be punished for related student conduct violations that do not involve harassment, discrimination, or violence.

Students should not fear any other minor conduct violations when deciding whether to come forward with or serve as a witness to allegations of sexual harassment. Schools' interest in punishing, for example, an incident of drug use or of plagiarism is outweighed by students' civil right to an education unencumbered by sex discrimination. The Department should require schools to provide amnesty to students who disclose ancillary conduct violations when reporting or cooperating in the investigation of sexual harassment because doing so ensures compliance with Title IX. Schools should, however, retain the ability to punish other harassment, discrimination, or violence—including any conduct that, if unremedied, would jeopardize a student's civil rights under state or federal law—that comes to light in the course of a sexual harassment investigation. For example, if a student witness to an incident of sexual harassment admits to calling a peer a racial slur when witnessing the sexual harassment, and failure to address that incident of racism would jeopardize the other student's rights under Title VI, the amnesty policy should not bar the school from taking disciplinary measures to remedy the hostile racial environment.

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<sup>52</sup>Caroline Kitchener, She Reported Her Sexual Assault. Her High School Suspended Her for 'Sexual Impropriety', LILY (Aug. 26, 2019), <https://www.thelily.com/shereported-her-sexual-assault-her-high-school-suspended-her-for-sexual-impropriety/> [https://perma.cc/P8LX-CY7H]

- Student survivors should not be unnecessarily punished for behavior or misconduct linked to their trauma.

Student survivors contending with trauma may act out or violate codes of conduct for reasons linked to their experience of sexual harassment, and they should not face unnecessary punishment for that conduct. Young people who experience trauma may act out in school, withdraw, create distractions, have public outbursts, or engage in other behavior viewed as misconduct. But when such behavior is linked to a student's experience of sexual harassment in school, discipline is unlikely to address the underlying circumstances motivating that behavior. The Department should instruct schools to assess conduct infractions and any disciplinary actions against a student who has formally *or informally* disclosed an experience with sexual harassment to the school. If that behavior may be linked to the traumatic experience, the school should avoid marking the student's record or penalizing them and should instead take supportive measures to remedy any harm and create a plan to support the student in a way that is likely to prevent subsequent behaviors of this kind. This process should mirror—or be merged with—the school's equivalent processes pursuant to section 504 of the Rehabilitation Act and the Individuals with Disabilities in Education Act (IDEA).

## **5. Expand Access to Supportive Measures and Accommodations**

The Department should require schools to support a survivor's continued access to education by providing them with reasonable supportive measures and accommodations. These should include, but are not limited to: housing/residential accommodations, campus escorts, academic accommodations such as tutoring, and transportation arrangements, and campus employment accommodations. In appropriate circumstances, the school should promptly provide these services as support measures pending the conclusion of a school's investigation. To do this the Department should require schools to provide:

- **No Contact Orders/Directives:** When the accused and/or respondent is a member of the campus community (including students, faculty, and staff), schools should issue a “no contact order,” or “directive” stipulating that continued contact with a victim constitutes a violation of school policy and is subject to additional conduct charges and sanctions (including interim suspension pending a disciplinary hearing). No contact orders should also prohibit a respondent from contacting a survivor through third parties, including friends, acquaintances, and family members. Both parties should receive a copy of the no contact order and have the opportunity to speak with a school official who can answer questions regarding its operation and scope and the consequences of violating it. Unless decided through an informal resolution, no-contact orders should not be mutual.

No contact orders should apply to contact via all technological means and social media sites. If a student is being contacted through social media or email accounts—which may include fake accounts created by the respondent or a third party—the school has the responsibility to investigate the conduct to determine if the no contact order has been violated.

If the respondent violates a no contact order, schools should guarantee a protected party assistance from campus security, and university officials in removing the respondent from the protected party's environment at the complainant's request. Additionally, the school should take disciplinary action against the respondent for violating the no-contact order.

- **Persona Non Grata Letter:** When the respondent is not a member of the school community, the Department should require school officials to serve them a persona non grata letter prohibiting them from entering school property, subject to applicable legal requirements.
- **Orders of Protection:** The Department should require school officials to facilitate an individual's access to orders of protection or an equivalent protective/restraining order. School assistance should include connecting an individual to victim services providers and arranging any necessary transportation to court at no cost to the victim. The Department should require that individuals not be penalized for missing class, work, or other school obligations to attend protective order hearings or other legal hearings.
- **Mental Health and Disability Services:** Schools should be required to ensure victims have access to mental health services (at no cost) and other reasonable disability accommodations required by relevant federal and state law, including Section 504 and Title II of the Americans with Disabilities Act. Additionally, to ensure survivors' continued access to education, survivors should be exempt from caps placed on campus-based therapists and other mental health services.
- **Confidential Crisis Advocates:** Survivors should have access to 24/7 crisis support. To provide these services, ED should require schools to either have a confidential Rape Crisis Center on campus, or a Memorandum of Understanding (MOU) with a local rape crisis center and domestic violence service provider. These services must have qualified victim advocates on staff who are available to assist student survivors in: reporting to their school, accessing on- and off-campus resources, hospital visits following violence, crisis planning, as well as individual counseling for survivors. Schools must provide information to students on how to contact the confidential advocates and 24/7 victims' hotline.

## **6. Implement Solutions to Curb the Financial Impact of Sexual Violence**

Because of gender-based violence, many student survivors suffer financial costs that undermine their ability to access an education. As this report shows, sexual violence and school pushout has

severe and long-lasting financial impacts on survivors, whether or not they continue with their education. Survivors report losing scholarships, taking on additional debt for delayed graduation and unemployment, and being penalized for breaking leases. To limit the financial burden that can inhibit a survivor from accessing their education, ED and Congress should work to limit the financial consequences of sexual violence and schools' failures to respond to students' complaints.

- The Department should require schools to allow students to retake courses without financial penalty. As a result of gender-based violence, student survivors' academic lives are often disrupted. Tuition remission, or tuition waivers, would substantially benefit student survivors who take an absence from school in the aftermath of sexual harassment or assault. Student survivors should be able to access these tuition waivers throughout the semester and while on a leave of absence or period of unenrollment from the school. The tuition waivers should apply retroactively to previous academic terms if needed. The application process for tuition waiver should be accessible for all student survivors. The application process should be available on the school's website and the school's Title IX office.
- Colleges and universities should allow student survivors to break residential leases without penalization. In order to prevent undue financial burden on survivors, ED should mandate that schools allow students to break these leases.

As discussed earlier, student survivors' housing situations are often disrupted because of gender-based violence. Student survivors may incur financial costs in attempts to change their housing because of an assault. Allowing student survivors to break residential leases would lessen some of the economic impact of sexual violence. The school should subsume any fees that might be triggered by breaking a lease.

- ED should require schools to waive scholarship requirements, such as maintaining a certain grade point average or remaining in a certain academic department or program, for student survivors whose education has been negatively impacted by violence.

When a survivor's grades have dropped in the wake of violence, GPA requirements can prohibit a survivor from accessing scholarships, educational activities, and other educational opportunities. Additionally, no survivor should be faced with the possibility that they may have to drop out of school because their scholarship was revoked because of a drop in their grades in relation to violence. To ensure no survivor is denied the same educational opportunities as their peers, student survivors should be able to request waivers for GPA requirements to school programs and activities. Survivors should have the opportunity to seek these waivers without going through the formal Title IX process.

- Schools should be required to provide student loan counseling for student survivors considering temporary withdrawal, permanent withdrawal, or half-time enrollment to help them access loan deferment, forbearance, income-based repayment plans, or other student loan programs.

## 7. Increase Protections for Survivors of Intimate Partner Violence and Stalking

Survivors of intimate partner violence and stalking have reported that their school was unprepared to respond to and investigate cases of IPV and stalking. Their failures to properly respond to cases of IPV and stalking have forced survivors to face dangerous realities. As a result, the Department must:

- Issue a Definition of Intimate Partner Violence that is Reflective of the Scope of Abuse
  - The Department should make it clear that dating violence, relationship violence (including relationships of an exclusively sexual or exclusively emotional nature), and domestic violence all constitute intimate partner violence.
  - The Department should clarify that intimate partner violence can occur in many diverse forms. IPV includes, but is not limited to, psychological and emotional abuse (e.g. depriving survivor of sleep, interfering with survivor’s academics, perpetrator threatening self-harm or suicide), verbal abuse, physical abuse, sexual abuse, stalking, and cyber abuse (e.g. texting the survivor constantly to “check in” or controlling survivor social media accounts). Multiple forms of abuse often occur in tandem in IPV situations.<sup>53</sup>
  - Historically, recipients have struggled to understand the dynamics of power and control which undergird intimate partner violence. In defining IPV, the Department should make it clear that intimate partner violence is characterized by an individual’s pattern of controlling or dominating their partner through intimidation, coercion/threats, economic abuse, emotional abuse including gaslighting, denial and blame, isolation, physical and sexual violence, and/or abuse of social privilege.
    - The Department should make it clear to recipients that “mutual violence” is a myth and cannot exist in instances of IPV because one party is consistently exercising power and control over the other. The Department should encourage recipients to review complaints of intimate partner violence with a lens towards power and control instead of viewing complaints as single instances of violence.

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<sup>53</sup> Centers for Disease Control and Prevention. The National Intimate Partner and Sexual Violence Survey: 2015 Data Brief—Updated Release. Available at <https://www.cdc.gov/violenceprevention/pdf/2015data-brief508.pdf>; Luana Marques, *Intimate Partner Violence – What Is It and What Does It Look Like?*, Anxiety and Depression Association of America (March 12, 2018), <https://adaa.org/learn-from-us/from-the-experts/blog-posts/consumer/intimate-partner-violence-what-it-and-what-does>.

- As seeking help can be especially dangerous—and possibly lethal—for victims of sex-based stalking, the Department should ensure that schools work with survivors of stalking and intimate partner violence to determine the safest way for the school to contact them regarding their case or accommodations.
- The Department should ensure supportive measures meet the needs of IPV survivors
  - The Department should require that recipients provide housing and transportation accommodations to survivors of IPV who have been living with their abusers without requiring a formal investigation and finding of responsibility:
    - Alternative housing should be provided at no additional cost to the survivor.
    - Recipients should logistically and financially support survivors to be released from leases which trap them in the same home as their abuser.
      - Recipients should waive fees for release from on-campus leases.
      - Recipients should assist with fees for release from off-campus leases.
    - Transportation between new housing and essential destinations such as healthcare providers, classes and other educational activities, and court appointments should be provided at no cost to the survivor.
  - The Department should require that recipients retroactively investigate how intimate partner violence may have impacted a survivor’s academic performance and release guidance detailing how to conduct such an investigation, and how to respond to findings.

## **8. Address Other Forms of Harassment and Discrimination**

In addition to sexual harassment, too many students face harassment based on other protected characteristics, including race, color, national origin, disability, sexual orientation, gender identity or expression, and pregnancy or parenting status. Many students are targeted for harassment based on their particular intersection of identities. For example, Black girls may be harassed based on specific stereotypes about Black women and girls’ sexual practices and preferences. Fortunately, civil rights laws that the Department enforces require funding recipients to address these forms of harassment. We encourage the Department to enforce these protections meaningfully and consistently and to return to its long-standing practice of employing uniform standards for different forms of harassment.<sup>52</sup>

Additionally, we believe it is essential that the Department take action to curb discrimination in student discipline. We urge the Department to re-issue a revised version of the 2014 Discipline Guidance Package<sup>54</sup> and take other steps to ensure schools use fair procedures in student

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<sup>54</sup> U.S. Department of Education, “U.S. Departments of Education and Justice Release School Discipline Guidance Package to Enhance School Climate and Improve School Discipline Policies/Practices” (Jan. 8, 2014), <https://www.ed.gov/news/press-releases/us-departments-education-and-justice-release-school-discipline-guidance-package->.

discipline for all forms of misconduct, rather than only for sexual harassment allegations. The Department should issue guidance providing schools with an array of models that are consistent with schools' civil rights obligations to victims of discrimination (including but not limited to sexual harassment) and with respondents' legal rights. Such solutions have the benefit of ensuring fair process in student discipline for all students, not just those accused of one particular type of harm, and avoiding sex stereotypes.

We find it important to note that throughout the listening sessions hosted by the Department, many commentators pointed to concerns about discriminatory discipline of Black men and disabled men as a result of sexual misconduct accusations. We too share concerns about discriminatory discipline, as numerous survivors have been punished for seeking help from their school following sexual violence.<sup>55</sup> This punishment has often rested on racist and ableist ideologies about their sexuality, particularly regarding young Black and Brown girls.<sup>56</sup> We recognize that this discrimination is not the fault of Title IX, but with how individuals apply policies in a racist or ableist manner. While we choose to approach the comments raised in the listening session in good faith, as we additionally share concerns about discriminatory discipline, these concerns have been historically used in bad faith to undermine efforts to curb gender discrimination.<sup>57</sup> As scholar and lawyer Antuan Johnson has noted, many individuals raising concerns about the impact of enforcement of Title IX on Black men approach this concern with a "damning gender bias." Commenters overlooked the high rates of violence that Black women face, which can limit their access to education. He says, "there is a history of race being used as a political tool to shut down conversations about sexual assault, even when it directly affects black women. For these critics, it is as if the question of race settles the question of gender. But race does not work alone; race can be used either to illuminate or to obscure the reality of sexual assault for women of color. Despite their apparent concern for racial minorities, many critics of the new Title IX enforcement fall prey to the latter. Without considering the implications their arguments have for women of color, they contend that the prevalence of racial bias is a reason to halt progress on Title IX reform."<sup>58</sup> To this end, we believe the Department can both undo the harms created by the DeVos regulation and create

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<sup>55</sup> See, e.g., Nora Caplan-Bricker, "My School Punished Me," SLATE (Sep. 19, 2016), <https://slate.com/human-interest/2016/09/title-ix-sexual-assault-allegations-in-k-12-schools.html> [<https://perma.cc/H9JQ-EQGE>]; Tyler Kingkade, Girl Suspended after Being Sexually Assaulted in School Stairwell, BUZZFEED NEWS (Sep. 22, 2016), <https://www.buzzfeednews.com/article/tylerkingkade/girl-suspended-after-being-sexually-assaulted-in-school-stairwell> [<https://perma.cc/26KE-WB65>].

<sup>56</sup> See e.g., Arlinda Smith Broady, Gwinnett Schools Lose Bid to Dismiss Suit Over Sex Assault Case, ATL. J. CONST. (Aug. 27, 2019), <https://www.ajc.com/news/local/gwinnett-schools-lose-bid-dismiss-suit-over-sex-assault-case/t5BivX6m4Mnx4A361srrEL/>, ("A federal court has denied Gwinnett County Public Schools' motion to dismiss a lawsuit claiming that its handling of a 2015 sexual assault complaint violated a female student's civil rights. Gwinnett officials said they can't comment on active lawsuits. But the school district has denied any wrongdoing").

<sup>57</sup> See e.g. Antuan Johnson, Title IX Narratives, Intersectionality, and Male-Biased Conceptions of Racism, 9 GEO. J. L. & MOD. CRITICAL RACE PERSP. (2017).

<sup>58</sup> *Id.* at 57, 59.

fair and balanced processes that aim to reduce discriminatory discipline.

## **8. Provide Transparency to Students at Institutions Claiming Exemption(s) from Title IX**

Devos' Title IX rule, and RIN 1840-AD45, provided schools with more opportunities to shirk their responsibilities to students and discriminate against their community members on the basis of sex. Further, the rules are an unwarranted expansion of Title IX's religious exemption. Prior to DeVos' changes, Title IX sufficiently allowed for religious exemptions. For more than three decades, the Department had applied a consistent test to determine whether a school qualified for Title IX's religious exemption.<sup>59</sup> The rules disposed of that long-standing test in order to provide schools that engage in discrimination, or wish to avoid liability for future discriminatory actions, with an escape valve from the federal civil rights guaranteed to students under Title IX. The rule turned Title IX on its head by interpreting the opportunity for schools to claim religious exemption more broadly than the statutory text actually allows. This ran contrary to the courts' typical practice of interpreting unambiguous text according to its plain meaning,<sup>60</sup> a rule that exists to prevent agencies from legislating according to a political agenda as through the DeVos regulations.

Not only were these regulations an improper expansion of Title IX's religious exemption, they reduced transparency for students and other community members about their opportunities to access their civil rights. To ensure that all students can access education—even those an institutions who claim exemptions from Title IX—the Department must:

- Restore long-standing policies on religious exemptions

The Department should only allow schools to claim a religious exemption if the school:

- (1) is a divinity school; or
- (2) requires employees or students to subscribe to the religion of the controlling organization; or
- (3) its official documents say it's controlled by a religious organization or is committed to the doctrines of a religion, and the members of its governing board are appointed by the controlling religious organization, and it gets

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<sup>59</sup> Under its long-standing policy, the Department of Education would typically find that a school is controlled by a religious organization when one of the following is true:

- (4) it is a divinity school; or
- (5) it requires employees or students to subscribe to the religion of the controlling organization; or
- (6) its official documents say it's controlled by a religious organization or is committed to the doctrines of a religion, and the members of its governing board are appointed by the controlling religious organization, and it gets "a significant amount of financial support" from the controlling religious organization.

See, e.g., Office for Civil Rights, "Exemptions from Title IX," U.S. DEPARTMENT OF EDUCATION, <https://www2.ed.gov/about/offices/list/ocr/docs/t9-rel-exempt/index.html> (last modified Jan. 15, 2020).

<sup>60</sup> See *Harbison v. Bell*, 556 U.S. 180, 198 (2009) (Thomas, J., concurring) ("Congress' intent is found in the words it has chosen to use.").



“a significant amount of financial support” from the controlling religious organization.

Additionally, the Department should not allow schools to retroactively claim a religious exemption. Instead, if an educational institution wishes to claim an exemption, the highest ranking official of the institution must submit a written statement to the Assistant Secretary for Civil Rights, identifying the provisions of Title IX that conflict with a specific tenet of the religious organization.

- **Increase Transparency on Title IX exemptions**

The Department of Education should publish a list of schools who claim an exemption from Title IX on their website. This list should include why the school is requested an exemption and what Title IX provisions they are explicitly exempt from. For religious exemption, this list should be featured on its own religious exemptions subpage on the Department of Education’s website so that it is easily accessible and discoverable for students. The Department of Education should mandate that schools that have claimed an exemption report that they have an exemption on their school’s Title IX webpage in an accessible location. The Department of Education should also provide better transparency about which religious and nonreligious private K-12 schools receive federal funding and thus are subject to Title IX.

## **9. Prohibit Conflicts of Interest for Title IX Coordinators**

When DeVos assumed office, she quickly worked to rescind the 2014 Q&A document on Title IX, which made clear that Title IX Coordinators should serve in additional roles that could create a conflict of interest. Now, schools have assigned the role of Title IX Coordinator to individuals with clear conflicts of interest, and survivors are paying the price. For example, at the College of Idaho the Title IX Coordinator’s primary role is as the Vice President of Athletics, and the investigations and accommodations are often handled by campus safety officers. And at Delaware State University, the interim Title IX Coordinator also serves as the Chief Enterprise Risk Officer and supervision of the Coordinator has been moved to the General Counsel office. To ensure Title IX Coordinators can best serve students facing sex discrimination, the Department should:

- **Prohibit Title IX Coordinators from serving in roles which create a conflict of interest**  
The Department should clarify that Title IX coordinators should not have other job responsibilities that may create a conflict of interest. Such as serving as the general counsel, Directors of Athletics, Deans of Students, and any employee who serves on the judicial/hearing board or to whom an appeal might be made.

## **10. Increase Prevention Efforts**

The Department should require every institution of higher education to adopt a comprehensive prevention education program designed to educate community members on an ongoing basis about gender-based violence and their rights under school policy and relevant laws. A comprehensive prevention education program should be required for all incoming community members during orientation/onboarding. All community members should be required to attend a follow-up program at least once every six months.

Effective prevention programming should:

- Be provided to all school community members, including first-year, transfer, and graduate students, faculty, and staff;
- Be evidence-informed, medically accurate, and regularly evaluated to ensure consistency with contemporary best practices;
- Be conducted in-person at all residential colleges and universities, and conducted in-person to the extent possible at all other institutions;
- Be inclusive of LGBTQ and disabled people's particular experiences and needs and clearly explain that all community members, including LGBTQ and disabled students, who experience and/or report gender violence have the same rights under school policy and applicable laws as other survivors;
- Include programming that helps students identify behavior that constitutes gender-based harassment, including sexual violence, dating and domestic abuse, and stalking. This curriculum should include clear, evidence-informed information about relevant topics, including: Conduct that constitutes gender-based harassment and violence under the school's policies and relevant law, including concrete examples;
- Unwelcome sexual conduct that creates a hostile environment, and is therefore prohibited, including examples;
- The effects of trauma, including neurobiological changes and the variety of responses common for victims of violence;
- The role intoxicating substances can play in facilitating incidents of gender-based violence, including the deliberate use of alcohol and/or other drugs to perpetrate sexual violence;
- Include training on healthy relationship behavior;
- Include bystander engagement training that teaches campus community members to support survivors who come forward;, intervene to prevent or disrupt sexual harassment and misconduct;, and challenge peers' behavior, language, or attitudes that may create a hostile environment;
- Include clear information about Title IX, the Clery Act, school policies and procedures about gender-based harassment (including sexual and dating violence), and other relevant law and policies, including: How students can confidentially access accommodations, if they choose to do so;
  - Relevant mandatory reporting laws and policies;

- How students can report an incident to their educational institution if they so choose;
- The interim safety measures, accommodations, and on and off campus resources available to a survivor;
- Disciplinary code provisions relating to sexual violence and the consequences of violating those provisions;
- The roles of an institution's Title IX coordinator, campus security officials, sexual assault response coordinators, and other campus offices that address gender-based violence;
- An individual's right to pursue a Title IX grievance process regardless of whether law enforcement proceedings are also underway;
- Federal and state law protections against retaliation, including those provided by Title IX.

## **11. Limit Police Involvement in Campus Cases**

A 2006 study found that 80% of survivors who engaged with police after violence felt reluctant to continue with their investigation due to retraumatization. Outside of the education system, over 80% of survivors never report their experiences to police, citing fears that no one will believe them. Police act as a symbol of authority and criminality, which often have negative connotations for marginalized survivors who have negative personal and community experiences with the criminal legal system. As many survivors do not feel safe engaging in a process with police, police presence within a Title IX investigation impedes the ability of a school to create a safe educational environment outside of the legal system. To ensure all students can participate in the Title IX process, the Department should:

- Prohibit schools from tasking campus safety or school resource officers with conducting sexual harassment investigations.
- Instruct schools not wait for the conclusion of a criminal investigation or criminal proceeding to begin their own Title IX investigation and, if needed, must take immediate steps to protect the student in the educational setting

## **12. Ensure Title IX Protections for Queer and Transgender Students**

The Department should define “on the basis of sex” to encompass discrimination based on sexual orientation, gender identity, or transgender status. This would mirror the Justice Department’s move to rightly adopted the position that because Title IX prohibits sex discrimination in language “sufficiently similar to... Title VII as to be considered interchangeable,” the Bostock ruling applies fully to Title IX.<sup>61</sup> The Justice Department’s interpretation of Bostock rightly

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<sup>61</sup> Memorandum of Principal Deputy Assistant Attorney General Pamela S. Karlan, Civil Rights Division, “Application of Bostock v. Clayton County to Title IX of the Education Amendments of 1972” (March 26, 2021).

recognizes that the decision equally applies whether a classification is viewed as one based on gender identity or the status of being transgender or cisgender.<sup>62</sup>

Additionally, the Department should clarify that provisions permitting single-sex programs or activities are not a safe harbor for anti-LGBTQ+ discrimination. Through the Title IX statute, Congress and the Department of Education have created exemptions that permit single-sex and/or sex-segregated programs and activities. But these exemptions have been widely interpreted to allow, or even require, that transgender, non-binary, and gender non-conforming students be excluded from schools programs and activities.<sup>63</sup> The Department should align with numerous decisions rejecting this<sup>64</sup>, and should make clear beyond all doubt that these provisions do not create any safe harbor for excluding LGBTQ+ students.

Signed,

Know Your IX

It's On Us

End Rape on Campus

The Every Voice Coalition

Aggies Without Fear, North Carolina A&T State University

Albright Survivors, Albright College

ESA, Penn State

ESA, Penn State - University Park

Hope Here Hope Now, Pennsylvania State University

Irish 4 Reproductive Health

It's On Us, Connecticut College

It's On Us, Kutztown College

It's On Us, Lake Forest College

#MeToo WashU, Washington University in St. Louis

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<sup>62</sup> Memorandum of Principal Deputy Assistant Attorney General Pamela S. Karlan, Civil Rights Division, "Application of Bostock v. Clayton County to Title IX of the Education Amendments of 1972" (March 26, 2021).

<sup>63</sup> Memorandum of Acting Assistant Attorney General John B. Daukas, Civil Rights Division, "Application of Bostock v. Clayton County" (January 17, 2021) (rescinded).

Memorandum of Acting Assistant Secretary Kimberly M. Richey, Office for Civil Rights, "Re: Bostock v. Clayton Cty., 140 S. Ct. 1731 (2020)" (January 8, 2021) (archived). Statement of Interest of the United States, Soule v. Connecticut Association of Schools, No. 3:20-cv-00201(D. Conn. March 24, 2020) (withdrawn).

<sup>64</sup> Parents for Privacy v. Barr, 949 F.3d 1210 (9th Cir. 2020); Doe ex rel. Doe v. Boyertown Area School District, 897 F.3d 518 (3d Cir. 2018); Cruzan v. Special School District No. 1, 294 F.3d 981 (8th Cir. 2002).

MIT Student Advocates for Survivors, Massachusetts Institute of Technology  
NAACP, Texas A&M  
North Survivors Alliance  
PFLAG Sarasota  
Piedmont for Consent, Piedmont University  
Pitzer College Advocates, Pitzer College  
Sexual Violence Free Los Gatos, Los Gatos High School  
Share Your Story Colgate, Colgate University  
Spartan Solidarity Network  
UCLA RJHC, University of California, Los Angeles  
University of California Student Association  
University Survivors Movement  
Voices of Brooklyn Latin, The Brooklyn Latin School  
Young Idealists, LaGuardia High School

A. Brenner, MIT, 2021  
A. Haviland  
A. Quimby, Mount Holyoke College, 2018  
A. Tombros  
A.Hesse, SUNY POTSDAM, 2022  
AB, Penn State, 2023  
Al Martin  
Alanna M. ,Johns Hopkins Bloomberg School of Public Health, 2023  
Alex Dahlem, 2020  
Alex McGreavey  
Alex Weathersby, James Madison University , 2017  
Alexa Kupor, Los Gatos High School, 2021  
Alexandra Manos, SUNY Binghamton, 2022  
Alexandra Menna  
Alexia Hernandez, Texas A&M University, 2022  
Alexis L. Trillas, University of the Pacific  
Ali Watkins  
Alison Frost, University of Chicago Law School, 2018  
Alison Turkos  
Alissa Abbott, University at Albany '19, Elmira College '17  
Alissa Kono, Rice University, 2022

Aliya Webermann, University of Maryland Baltimore County, PhD, 2021  
 Allison Cipriano, University of Nebraska-Lincoln, 2023  
 Allison Fradkin, SUNY Purchase, 2007  
 Allison Jasso, Doane University, 2021  
 Allison M Ruvidich, UNC-Chapel Hill, 2022  
 Alyssa Good, James Madison University  
 Amber Eby  
 Amelie Meyers, University of Wisconsin - La Crosse, 2021  
 Amina Sehic, Southern Illinois University-Edwardsville , 2024  
 Amy Ellis  
 Amy Martin, George Washington University, 2021  
 Anastasia Walczyk, University of Alaska Anchorage  
 Andrea Antony-Morr  
 Andrea Hinojosa, George Washington University , 2022  
 Andrew Echols, New Mexico State University , 2022  
 Andrew Nixon, American Public University System, 2024  
 Angel  
 Angela DeCristofano, Rutgers University , 2021  
 Angela McClendon  
 Angelica Ocasio, Rutgers University - Newark, 2022  
 Anika Drees, Moorhead High School, 2022  
 Anissa Cartagena , Delaware State University , 2022  
 Ann C McGill  
 Anna, Texas A&M  
 Anna Bones, University of Tennessee, Knoxville , 2023  
 Anna Chua, University of Hawai‘i at Mānoa, 2021  
 Anna Elmer, Towson University, 2019  
 Ansophie Pagani, Edward R Murrow HS, 2022  
 Antoinette Bonsignore  
 Ari Fromm, University of Pennsylvania, 2022  
 Ariane Litalien, Harvard University, 2014  
 Ariella Neckritz, George Washington University , 2016  
 Arun Raja Pookote, Lake Forest College, 2018  
 Ashanta M Smith, Simmons University, 2022  
 Ashley Garcia, University of New Mexico, 2017  
 Audrey, Howard Community College, 2023  
 Avalon Roche, Virginia Tech/American University, 2018/2021  
 Aya Shibahara  
 Bailey Plaman, Harvard University  
 Barbara Stone, University of Colorado,Boulder, 1972

Barby  
BC Shelby  
BC Shelby  
Becca Haist, Penn State, 2022  
Becca Holt, UC Berkeley School of Law, 2023  
Bechberger, 2011  
Bella Fong, Boston University  
Bella Kwok, Princeton High School, 2022  
Benjamin Butler, University of Tennessee, Knoxville, 2024  
Bennett Fischthal , 1985  
Bethaney W. Ferguson  
Bethany T., University of Northern Colorado, 2021  
Bettina  
Bianca Hernandez, 2020  
Brandon Juhl  
Brandon Kozak  
Brea Kaye, University of Puget Sound , 2019  
Breann N. Fisher  
Breanna Doss , Indiana University Southeast , 2022  
Brendan Erwin, Penn State University, 2023  
Brenna Moran, William Paterson University, 2022  
Bret Polish  
Brian  
Brian de Castro  
Brianna Stone, University of Southern Indiana, 2024  
Bridget Hanley  
Brittany Archer, UT Austin  
Brooke Bastinelli  
Buddy Delegal, University of Florida, 2019  
C P Saul  
C. Nandagiri  
C.M., Edward R. Murrow High School, 2021  
Caitlyn Caruso, University of Nevada at Las Vegas, 2018  
Callie Nguyen, Ithaca College, 2021  
Cara Mackler, Western Connecticut State University  
Cara Tuttle Bell  
Carl C Prellwitz  
Carl Prellwitz  
Carly Guy  
Carly Heider

Carmen Allison, Barnard College, 2025  
Carol Miller  
Caroline Watson, Pennsylvania State University, 2024  
Carolyn G. Curtis  
Carson Brimm, Southern Illinois University Edwardsville , 2021  
Casey Pittman, University of North Texas, 2019  
Cassandra Gearhart, University of Texas at Austin, BA in 2014; MA in 2016; PhD anticipated 2023  
Cassandra Marie Rivera, TAMU, 2023  
Catherine Fitzgerald, Binghamton University , 2024  
Catherine West  
Cathy Campbell  
cece lobin  
Ceciel Zhong, University of Michigan  
Celeste Iroha, Chamberlain University College of Nursing , 2024  
Celeste Pope, UNC CH, 2022  
Charles (CJ Metheny, Southern Illinois University Edwardsville, 2021  
Charles Fry  
Charlotte Smith  
Chelsea Gray, George Mason  
Cheryl Robison  
Chester Payne, 1963  
Christine B. Price, Kutztown University  
Christine M Smith  
Claire Shaw  
clarence Krygsheld  
Colleen Harris, Carroll College, 2001  
Connie Raper  
Constance Newman  
Corbin A. Johannpeter, Southern Illinois University-Edwardsville, Spring of 2022  
Corina Silverstein, Woodbridge High, 2021  
Courtney, Yale University  
Courtney Steinwinder, Colorado State University  
Craig Anderson, Thomas Jefferson High School, 1969  
Cristina  
Cyndi Addison  
D. Carr  
D Mortenson, Western Washington University  
D. Wu, UNC Chapel Hill, 2022  
D.Z., Santa Fe College, 2022



Dallas Windham  
Dani Blaise, St. Lawrence University, 2011  
Dani Miller-Holmes  
Danielle Pease, University of Montana, J.D. Candidate 2023  
Danielle St. Pierre, University of Massachusetts Dartmouth, 2015  
Darice Fowler, 2020  
Dave Whipple  
David Clark, Stony Brook University, 2019  
David Roche  
Deb Josiger-Holzem  
Deborah Collins  
Deborah Devers  
Debra Barbour Davies  
Debra K. Stokes  
Debra Wontor  
Deidra Ritchhart, Oklahoma State University, 2021  
Dharma Koffer, The College of Idaho, 2021  
Diego Monroy, Massachusetts Institute of Technology, 2022  
Dmitry Landa  
Dolores Ann Lozano, Baylor University, 2014  
Dominique Byrd, University of Utah  
Dominique R, The College of William and Mary, 2017  
Donald Raymond Goppert, College Of Environmental Science and Forestry S.U.N.Y..., 1994  
Donna L. Potts  
Dorothy Lynn Brooks  
Dorothy Miller, Boston College  
Dr. Diane Balin  
Mr. Jerry Balin, Univeristy of Illinois  
Dr. Judy G. McCook  
Dr. Kate Lockwood Harris, University of Minnesota  
E O Milton  
Ela Alster, LaGuardia, 2023  
Elaine Fischer, Jefferson High, O.U. , 2000  
Elena Griffin, Pennsylvania State University , 2023  
Elina Rubuliak, 2008  
Elira Mavraj, SUNY Potsdam, 2022  
Elise Margulis  
Elise Siemering, High Point University , 2013  
Elizabeth B.  
Elizabeth Clark, Elon University, 2022

Elizabeth Cook, Augustana College, 2021  
Elizabeth Enright  
Elizabeth Giardina, UC Davis  
Elizabeth Watson, Penn State, 2024  
Ellis A. Avallone, University of Hawai'i at Mānoa  
Emily C Blank  
Emily Campanelli, Delaware State University , 2022  
Emily Harrison , George Washington University , 2018  
Emily Kane, University of Notre Dame, 2023  
Emily Metzler  
Emily O'Malley, Rollins College, Dec. 2021  
Emma Ackerman  
Emma Engel, University of Delaware, B.M., 2020; M.M., expected 2022  
Emma Hyndman, UC Hastings College of the Law, 2022  
Emma Levine, NYU, 2020  
Emma Ross, University of Utah, 2024  
Eric Gaskill  
Erica A Lane, Rensselaer Polytechnic institute, 2018  
Erika Miller  
Erin Bergen, University of Pittsburgh, 2021  
Erin Coogan  
Erin O'Donnell, Penn State, 2023  
Eva, University on the East Coast  
Evan Ingle  
Ève Marie Rochelemagne  
Faith Ferber, Rutgers University , 2021  
Faye Marcus  
Finley Anna-Dmitry Muratova, New York University, May 2022  
Frances Blair  
Frances Kendrick, North Carolina A&T State University , 2023  
Francisco a Vaca, Lansing Community College , 2017  
Frank Belcastro  
G Lim, 2023  
G Walker, Wagner College, 2021  
Gabiella Cabrera , University of Oregon, 2022  
Geoffrey Landers-Nolan, Penn State, 2012  
George Bond  
Georgia Broitman, University of North Carolina at Chapel Hill, 2023  
Gerald Moore  
Gianna Milan, University of Miami, 2023

Gillian Cutshaw  
 Gina  
 Gina Bates  
 Grace  
 Grace Colbert , Westminster College  
 Grace Cunningham, University of Cincinnati, 2018  
 Grace Pezzella, Georgetown Law, 2021  
 Gwendolyn Mink, PhD  
 H Killian, Penn State  
 Haley Murphy  
 Haley S, Butler University, 2019  
 Hallie Butterfield, University of Notre Dame, 2022  
 Hankyeol Song, Grinnell College, 2017  
 Hannah  
 Hannah B  
 Hannah C, Florida State University, 2015 and 2018  
 Hannah J Butler  
 Hannah Knerr  
 Hannah Merrow, Rensselaer Polytechnic Institute, 2018  
 Hannah Oltman , UCLA , 2022  
 Hannah Rose, University of Denver, 2018  
 Hasson Harris Wilcher , Worcester Polytechnic Institute , 2017  
 Haylee, siue, 2025  
 Hayleigh Lutz, SIUE, December 2021  
 Heather Davis  
 Heather M. Turcotte, PhD, University of Massachusetts Dartmouth  
 Heavyn Harris, St. Cloud State University , 2021  
 Helmi Henkin, The University of Alabama, 2018  
 Hope N, American University 2023, 2023  
 I Tufaro, Penn State - University Park, 2023  
 I. Engle  
 Ibn-Umar Abbasparker, Rutgers University - New Brunswick, 2023  
 Isabel Rooper, Yale University, 2020  
 Isabella Smith, Walla Walla University, 2022  
 J Clark, Widefield High School, 1974  
 J Wiant  
 J. Cunningham, University of Minnesota, 2020  
 J.C., Western Connecticut State University, 2021  
 Jack Jomarron, George Washington University, 2017  
 Jacqueline Urtez

James Keenan  
James Keenan  
James R Robinson, Norfolk State University  
Jamila Hinton  
Janet Robinson  
Jaslin Kaur, CUNY Hunter College, 2019  
Jason Crawford  
Jason W  
Jay Yencich, University of Illinois at Chicago, Delayed  
Jeanne Boone  
Jeannie R Finlay-Kochanowski  
Jeff DeLuca, University of North Carolina at Chapel Hill, 2012  
Jeffrey Tyler Dhedouville  
Jemie Fofanah, NYU School of Law, 2022  
Jen K, Saint Vincent College, 2009  
Jennifer MacMartin, California Polytechnic State University, San Luis Obispo  
Jennifer Post, Merrimack College, 2015  
Jennifer R., WCCC and PSU, 2022  
Jennifer Scott, Louisiana State University, 2006  
Jenny Larios, Ithaca College, 2021  
Jesseca L Manson  
Jessica, Western Connecticut State University, 2022  
Jessica Gray, University of California at Davis  
Jessica Hubbard  
Jill Bailey  
Jo Ann McGreevy  
Jo M, Portland State University, 2018  
John Conner  
John J. Dervin, 1966  
John McKenzie  
Jordan Briskin  
Joshua Weissman, Florida Institute of Technology, 2023  
Josie, Heidelberg University, 2019  
Josquin, University of Rhode Island, 2022  
Joyce  
JT, William Penn , 2022  
Juan Sepulveda , Cornell University , 2021  
Jude, University of Louisville  
Judith Sandeen  
Judith Stone

Julia Goren, Southern Illinois University Edwardsville, 2022  
Julia Scott, George Washington University, 2020  
Julie Elen Krasin  
Julie mumford, Pennsylvania State University , 2022  
Justina, Fiorello H. LaGuardia High School of Music & Art and Performing Arts, 2022  
JW  
K Husiak, Eckerd College, Florida, 2017  
K. Bollman, Southern Illinois University Edwardsville, 2024  
Kaile Kefi  
Kaitlyn Herbst, Penn state university, 2023  
Kaitlyn Kyle , Southern Illinois University Edwardsville, 2021  
Kalynda K. Gonzales, PhD, 2013  
Karen Lozow Cleary, Butler University, 1997  
Will Lozow Cleary, Butler University, 1997  
Karen McCaw  
Karina H, Harvard  
Katalina S., UNT  
Kate Chisholm, University of Arizona  
Kate Harder, 2006  
Kate K  
Katharine Curtis, Stephen F. Austin State University, 2021  
Katherine Hutchins  
Katherine Kempf, Depauw University , 2022  
Kathryn Burns, 1986  
Kathryn Stahl  
Kathryn Sullivan  
Katie Ahlstedt  
Katie Hunter-Lowrey, Graduated 2019  
Katie Vinci , University of Southern Indiana , 2023  
Kay Reinfried  
Kayla Marie Bissell, Penn State University , 2023  
Kayla Wilson, Clark Atlanta University  
Kaylee Gray Wiczorek, University of Denver, 2020  
KD Williams, University of Central Oklahoma  
Keegan G.  
Kellie, 2019  
Kellie Moore, Clemson University, 2022  
Kendall LaVine  
Kerry H, Penn State University, 2023  
Kerry Knott

Kevin K Walsh  
Kimberly Albert  
Kimberly Morrill  
Kiran Prabhakar, Penn State, 2023  
Kirsten Svane  
Kory Haywoof, Southern Methodist University, 2017  
Kris, 2011  
Kristen Hanley Cardozo, UC Davis, 2022  
Kristianna Lapierre, Brandeis University, 2024  
Kristyn Reid  
KRJ, University of Delaware , 2020  
Krysta Workman  
L A W  
L Adams  
L Ching, 2022  
L Winter  
L. Gonzalez , 2021  
Lan Anh Dinh, 2021  
Laura Horowitz, University of Pittsburgh, 1980  
Laura Osterndorf  
Lauren A. Ramires, University of Arizona, 2012  
Lauren Kofsky , 2013  
Lauren Murdock  
Laurent Ross, American University, 1976  
Lauryn P., Georgetown University, 2023  
Lawanna Bean  
Leo Anthony Kucewicz  
Lia M.  
Liam Powers, Edward R. Murrow High School, 2022  
Lilia Kilburn, Harvard University  
Lilli Emily Ross  
Lillian Blakely, University of Georgia, 2023  
Lillian Horvitz, Elon University, May 2022  
Lilly Bhatia, Arizona State University, 2022  
Linda Evinger  
Linda Howie  
Linda Quinet  
Lindsay E Holeman  
Lindsey S. Z. , Rhode Island School of Design , 2016  
Lisa A. Kort-Butler, Ph.D., University of Nebraska - Lincoln

Lisa Cubeiro  
Lisa Schievelbein, University of Virginia, 2001  
Lisa Stone, Yale, 1978  
Liz Daingerfield , Emerson College  
Lomasi Marshall, 2018  
Lonnie Sheinart  
Loren Denker  
Lori Olcott  
Lorraine D. Johnson  
Lucy Low, University of Waterloo  
Lydia Mendoza, Loyola University New Orleans  
Lynn C. Lang  
M. Colleen McDaniel, Wayne State University, 2022  
M. Goldsmith  
Macie Robertson, Texas A&M University, 2022  
Mackenzie Flynn, The George Washington University, 2021  
Mackenzie Minard, CSUEB, 2021  
Mackenzie Varieur , University of Massachusetts Amherst , 2021  
Maddie Grotewiel, Washington University in St. Louis , 2021  
Maddy Moore, Washington University in St. Louis, 2022  
Madeline Comer, Columbia University, 2020  
Madison Abelson , Pennsylvania State University , 2023  
Magill Schumm, St. Olaf College, 2016  
Mandy Magalhaes, Bridgewater State University  
Margaret Eells  
Margaret Goodman  
Margaret Powell, retired educator  
Maria Hernandez Pinto, Pitzer College, 2022  
Marilyn Elaine Stachenfeld  
Mario Golden, Stanford University, 1993  
Marisa Borreggine, Harvard University  
Marley Pemberton, Arizona State University, 2020  
Martin Horwitz, 1980-High School  
Marvin J. Ward, U Albany (NY) & UNC-CH (NC), 1962 & 1972, & 1984  
Mary A, Florida State University , 2023  
Maryellen Redish  
Matthew, University of Tennessee Knoxville, 2023  
Matthew B. Francis Jr., Texas A&M University, 2022  
Maya, Harvard, 2022  
Maya L., MIT, 2021

Meagan Espinoza, Virginia Tech, 2022  
Meagan Lesser, 2025  
Megan Conlon, Stanford University, 2018  
Megan Tracy, Connecticut College, 2022  
Meghan E, 2016  
Meghan Juszczak, University of Delaware, 2017  
Meghan Warner, Stanford University  
Melanie P, Rensselaer Polytechnic Institute  
Melissa D Tooker  
Melissa Smith  
Melissa W Fleming  
Meredith Kent-Beman  
Mg, Texas A&M University College Station, 2020  
Michelle E.  
Michelle Tenney, Kent State University, 2019  
Mikala, Edward R Murrow, 2022  
Mikala Leath, University of Tennessee, Knoxville  
Milo, Penn State, 2023  
Miriam Eackloff, Virginia Tech, 2017  
Mitzi  
ML Sage  
Monica Marcial Gutierrez  
Monica Timmins, University of Delaware, 2019  
Morgan Helfman, Northeastern University; Cardozo School of Law, 2017; 2021  
Morgan Zipfel, Penn State University, 2023  
Ms Shirley  
Ms. Linda A. Heath  
Ms. Shawn Troxell  
N.J. Stevenson, 1991  
Nancy Belansky  
Nancy Hauer  
Natalie Van Leekwijck, 2007  
Nataliya Yakovleva , Brandeis University , 2019  
Navya Kotha, Penn State University, 2021  
Nazifa Sumaita  
Nicholette Stachowiak  
Nicole  
Nicole Bedera, University of Michigan, 2021  
Nikhitha Balijepalli, Clarksburg High School, 2022  
Nona Gronert, UW-Madison



OA, Merrimack College , 2019  
P P  
P S, University of Chicago  
Patrice D. DeLeon  
Patricia  
Patricia A  
Patricia Blackwell-Marchant, UC Berkeley, 1972  
Patricia DeLuca  
Patricia McHugh, retired teacher, MA English 1966  
Patricia Randazzo  
Patrick Miller, University of Oregon, 2016  
Paul Ghenoiu  
Paul Mooney, University of Delaware, 2017  
Philippa Villalobos, University of California Santa Barbara, 2022  
Phoebe Suva  
Phyllis K Lerner, 1971  
Phyllis W Benjamin  
Prof. Mark Schmidt, County College of Morris  
Rachel A. Hillhouse, 2016  
Rachel Bailey, Virginia Tech, 2021  
Rachel Barkley, Albright College, 2017  
Rachel Dows, Towson University, 2017  
Rachel P., University of North Georgia  
Rachel Stewart  
Rae, University of Louisville, 2016  
Raina Parikh  
Rebecca Ar., Harvard  
Rebecca Schwartz, 2024  
Rebekah, Clemson University, 2019  
Reid Herreid  
Richard Bartkowicz  
Richard Stephenson, Jefferson College  
Richard Stern  
Rick Schulte , Michigan State University , 1960  
Rita Meuer  
Robert Fingerman  
Robert McManus, University at Buffalo, 2022  
Robert Oberdorf  
Robyn Swirling, Would have been 2008 if I hadn't had to leave school after being raped  
Rory Corcoran, Binghamton University, 2023

Rory Decker, University of Vermont, 2021  
Rose Levine, Head-Royce School, 2026  
Rose T.M., New York University, 2021  
Roshni, UIUC  
Russell Wolf  
S Necessary, University of Tennessee , 2024  
Sabine Goldberg , Edward R. Murrow, 2022  
Sage Carson, University of Delaware, 2017  
Saloni Gauniyal, Penn State , 2024  
Sam Skaller  
Samantha Z., UC Berkeley, 2017  
Sanjana Rajesh  
Sara, George Mason University, 2019  
Sara Flynn, Northeastern University , 2021  
Sara Katz, 2010  
Sara Lazarus  
Sarah Bernstein, University of Delaware, 2020  
Sarah Kurian, 2021  
Sarah Nesbitt, Georgetown Law, 2021  
Sarah Simmons, Merrimack college, 2021  
Serena L Bergstrom  
Shae  
Shari Johnson  
Shari Stenberg  
Sharon Baker  
Sheena Thunderchild  
Sheila Humphries  
Shelby Salyer, UC Davis, 2021  
Sherlyn Nunez , Fiorello H. LaGuardia  
Sherrill Futrell, UC Berkeley, 1964!  
Shreya Pokhrel, Emory University  
Shreya Rao  
SJS, Duquesne University  
SKP  
Sonia Ghura, Emory University, Yale Law School  
Sophia Miller, Dartmouth College, 2022  
Sophie Adams, University of Colorado, Boulder & Masconomet Regional High School, 2021  
Sophie Macaluso, American University, 2021  
Stephan Foley  
Stephanie C

Stephanie Ichniowski  
Stephen Carrillo  
Steve Kennedy, University of Connecticut School of Law, 2023  
Student Trustee Walters, Southern Illinois University Edwardsville , 2022  
Susan Babbitt  
Susan Castelli-Hill, Hofstra University, 1990  
Susie E Norris  
Suzanne Saco  
T, WashU, 2024  
Tamara Hennes-Vix  
Tania Malven  
Tara Kerr  
Taylor Falotico, Windsor High School  
Teresa Walle  
Tessa Bravata, State College of Florida  
Tessa Wilson, Indiana University  
Thalia Charles, Lafayette College, 2022  
Theo, University of Louisville  
Thomas  
Tiffany M. Rapplean, University of Colorado at Denver, 1995  
Timothy Lennon  
TJTS, 2020  
Tobey Thatcher  
Toleda Russell, Missouri Western State University , 2024  
Travis McCown, The George Washington University , 2016  
Trevor D Harvey, State College of Florida  
Tsee Lee, Cornell University, 2002  
TW, Saint Mary's College/University of Texas at Austin, 2021/2024  
Tyler Win , University of Illinois at Chicago, 2022  
Vail Kohnert-Yount, Harvard Law School, 2020  
Vannia Natalia Miranda Yupanqui, Harvard University -FAS - Faculty of Arts & Sciences,  
Extension School, Science Campus, BioTechnology graduate course, 2013/2014  
Vincenza Mazzeo, JHU  
Vishruti  
Will, Harvard University, 2022  
William Welkowitz  
Yael Massen, Indiana University Maurer School of Law, 2022  
Yolanda Samaniego, Miami Dade College, 2025  
Yvette M Dominguez  
Zach Lucas, Syracuse University , 2017

Zed Millette, The New School  
Zoe Bertone , Connecticut College, 2022  
Zoe Braunstein, Oberlin College, 2016  
Zoe Levitt, MIT, 2022  
Zoe Strassfield, New York University , 2019  
Zoë Warczak, University of Rochester, 2020  
Zoey Brewer, University of Tennessee, Knoxville, 2023  
Anonymous  
Anonymous, 2014  
Anonymous  
Anonymous, University of Pennsylvania, 2020  
Anonymous, University of Oregon, 2011  
Anonymous, 2023  
Anonymous, Humboldt State Univ., 1987