The stakes are extremely high for everybody in campus disciplinary proceedings. When a college sweeps an allegation of sexual misconduct under the rug, it has not only behaviorally engaged in or violation of Title IX. It is similarly unethical and unlawful when an institution punishes a student for alleged sexual misconduct without a fair process. We must not, therefore, not concede that either situation is acceptable.

The attention focused on this issue in recent years by student activists and the Department of Education has shed light on an institution. Examinations of institutions have been adequately addressing sexual violence. Unfortunately, however, some of the particular strategies implemented have had a pernicious effect.Campus sexual misconduct must continue to be a priority. We believe that, in this regard, we can, you should, and all parties should do a better job of protecting the rights of victims and accused students alike. That is why we are pleased that the Department of Education has committed itself to engaging in formal notice and comment to craft a new policy with both those goals in mind.

So, today, I’d like to set forth a few principles that we hope will guide you and the Department of Education in your collective efforts to ensure that campuses are free from sex discrimination. First, we must not, under any circumstances, return to the days when allegations of sexual violence on campus were swept under the rug. At a minimum this will require insisting that institutions have clear, accessible, and fair procedures in which everyone can express concerns for the campus community. And we must ensure that this occurs fairly but unequivocally when necessary.

Second, we must recognize that government officials and institutions cannot solve this problem alone. We will all need to work in partnership with each other and many committed activists, practitioners, and experts to address this issue. We are undertaking the necessary work of listening to a broader range of stakeholders affected by campus sexual assault. If we want our nation's colleges to employ clear, equitable, and fair procedures in which everyone can trust—and I believe we all do—we must hear from everyone affected and everyone committed to addressing these issues.

That is why FIRE is adamant that at the regulatory level, government agencies engage in formal notice and comment rule-making to hear insight from all parties.

Through this process, the Department of Education can combine institutional knowledge, professional expertise, and the experiences of students to create a workable, fair, and effective set of Title IX regulations. Crafting a policy on campus sexual assault without input from complainants, the accused, the institutions themselves, medical professionals, victim’s rights advocates, civil rights advocates, parents, and the many law enforcement professionals who have dedicated their careers to ending sexual violence, is bound to be inadequate.

Third, our policy must be careful to assign only those responsibilities to institutions that we are confident they can perform. Consulting with professional experts only goes so far if the resulting policy delegates tasks that require particular expertise to those without the sufficient background, training, and tools to perform those functions properly. Colleges and universities have a vital role to play in addressing campus sexual assault. They cannot simply refer complainants to law enforcement and wash their hands of the problem. Likewise, we must not allow ourselves to continue under the dubious assumption that with a few hours of annual training, colleges are equipped to handle these challenging investigations and adjudications. They are not well suited to adjudicating these complex cases. This gap between what we demand of institutions and what they are well-suited to perform has been one of the significant causes of the injustices—which flow in both directions—with which we are all too familiar.

The final broad principle is that the only way our solutions will be sustainable is if they are mindful of the interests of students. No one benefits from a system that does not have the public’s trust—not victims, not accused students, not institutions, and not the public.

FIRE wants every institution to know how to assist when a student calls for help in the middle of the night. We want institutions to dedicate enough resources to ensure that the well-being of victims is a top priority. We want every student to know that their case will be handled fairly. Due process—equal justice under law—is not an abstract principle; it is the foundation of any system of justice worthy of the name, whether on campus or off. We agree with your Secretary that every student’s case is handled with the care that we would expect if one of our loved ones were a party, regardless of which side of the table they are sitting on.

The status quo is unacceptable. It isn’t working for anyone. It isn’t working for victims. It isn’t working for institutions of higher education. And it isn’t ensuring that every student’s case is handled with the care that we would expect if one of our loved ones were a party, regardless of which side of the table they are sitting on.

I thank you for the opportunity to address you today, and look forward to working with you on this important mission.