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Mr. Adam Schott  
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U.S. Department of Education  
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Washington, DC 20202

**Re: Response to the Task Force on Sexual Violence in Education’s Request for  
Information on Sexual Violence at Educational Institutions**  
**Docket ID: ED-2023-OPE-0207**  
**Document Number: 2024-01323**

Dear Dr. Paydar and Mr. Schott:

The Defense of Freedom Institute for Policy Studies (“DFI”) is a 501(c)(3) nonprofit, nonpartisan organization dedicated to defending and advancing freedom and opportunity for every American family, student, entrepreneur, and worker and to protecting civil and constitutional rights at schools and in the workplace. DFI includes former U.S. Department of Education (“Department”) and other federal agency officials who are experts in education law and policy, including the Department’s statutory jurisdiction and authority to address sexual violence in elementary and secondary schools (“K-12 schools”) and institutions of higher education.

In its reauthorization of the Violence Against Women Act in 2022, Congress required the Secretary of Education (“Secretary”), Secretary of Health and Human Services, and Attorney General to form an interagency task force, called the “Task Force on Sexual Violence in Education” (“Task Force”).<sup>1</sup> Congress charged this Task Force with “provid[ing] pertinent information to the Secretary of Education, the Attorney General, Congress, and the public with respect to campus sexual violence prevention, investigations, and responses,” as well as developing

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<sup>1</sup> Pub. L. No. 117-103, 136 Stat. 840, 936-938 (2022) (codified at 20 U.S.C. § 1689(a)).



recommendations for educational institutions, defined to include both K–12 schools and IHEs,<sup>2</sup> related to the prevention and investigation of and response to sexual violence.<sup>3</sup>

On January 24, 2024, the Task Force issued a request for information soliciting comments from the public “that include information, research, and suggestions regarding the prevention and response to sexual violence on campuses of educational institutions” (“RFI”).<sup>4</sup> According to the Task Force, the goal of the RFI “is to ensure the Task Force is receiving feedback and input from a diverse group of stakeholders.”<sup>5</sup>

DFI’s experts possess deep knowledge of the Department’s enforcement authority pursuant to Title IX of the Education Amendments of 1972 (“Title IX”)<sup>6</sup> and other laws to require educational institutions receiving federal financial assistance to address sexual violence in their education programs and activities. We have engaged in extensive research documenting the Department’s failure to exercise its statutory authority to require K–12 schools and school districts to comply with the law in addressing sexual violence—in particular, sexual violence committed by staff members against students—in their programs or activities. We believe the Task Force will benefit from this expertise as it provides information to government officials, Congress, and the public and offers recommendations to educational institutions relating to sexual violence.

Therefore, DFI submits this comment to address question (7) in the RFI: “In what ways can the Federal Government support educational institutions in improving the prevention of, and response to, sexual violence and dating violence, including online threats, harassment and intimidation, and other forms of technological abuse?”<sup>7</sup> This comment focuses on the settings where the Department’s apparent abdication of its statutory responsibility to address sexual violence is most pronounced: elementary and secondary schools.

For a more comprehensive review of the failure of K–12 public schools and school districts to address sexual violence—especially committed by employees against minor students—and the Department’s recent inaction on the issue, we direct the Task Force’s attention to DFI’s report published in May 2023 entitled *Catching the Trash: Holding Teacher Unions, School Districts, and the U.S. Department of Education Accountable for the Epidemic of Sexual Abuse in Public Schools*, available on our website at <https://dfipolicy.org/wp-content/uploads/2023/05/Catching-the-Trash-FNL.pdf>.

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<sup>2</sup> 20 U.S.C. § 1689(e)(1).

<sup>3</sup> 20 U.S.C. § 1689(a).

<sup>4</sup> U.S. Dep’t of Educ., *Request for Information on Sexual Violence at Educational Institutions*, 89 FED. REG. 4598, 4598 (Jan. 24, 2024) (“RFI”).

<sup>5</sup> *Id.*

<sup>6</sup> 20 U.S.C. §§ 1681 *et seq.*

<sup>7</sup> RFI, *supra* note 4, at 4599.



## Statutory Authority

Title IX provides: “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance . . . .”<sup>8</sup> The law directs all federal agencies that extend federal funds to educational institutions—including the Department—to issue regulations implementing Title IX and empowers federal agencies to enforce these rules and regulations through “the termination of or refusal to grant or to continue assistance” or “by any other means authorized by law.”<sup>9</sup>

In 2015, Senator Pat Toomey of Pennsylvania introduced an amendment to the Every Student Succeeds Act (“ESSA”) providing that states must pass laws prohibiting school employees from helping a staff member obtain a new job at a different school or district if they have probable cause to believe that the staff member sexually abused a student. Research indicates that the abhorrent practice targeted by this provision, commonly known as “passing the trash,” is a disturbingly frequent phenomenon in K–12 public schools.<sup>10</sup> The provision, included in ESSA as passed later that year, requires as follows: “A State, State educational agency, or local educational agency . . . shall have laws, regulations, or policies that prohibit any . . . school employee . . . from assisting a school employee, contractor, or agent in obtaining a new job, apart from the routine transmission of administrative and personnel files, if the individual or agency knows, or has probable cause to believe, that such school employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of the law.”<sup>11</sup>

## The Department’s Implementation of These Statutory Mandates

The Department’s Title IX implementing regulations—issued by the Department of Health, Education, and Welfare in 1975 and adopted and recodified without substantive changes by the Department of Education when it began operations in 1980<sup>12</sup>—have always required that, in the case of a finding by the Assistant Secretary for Civil Rights that an institution covered by the

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<sup>8</sup> 20 U.S.C. § 1681(a).

<sup>9</sup> 20 U.S.C. § 1682.

<sup>10</sup> See PAUL ZIMMERMAN, CATCHING THE TRASH 3 (2023), <https://dfipolicy.org/wp-content/uploads/2023/05/Catching-the-Trash-FNL.pdf> (citing a 2018 study finding that a teacher who sexually abuses children is, on average, transferred to three different school districts and can have as many as 73 victims) (citing Billie-Jo Grant et al., *Passing the Trash: Absence of State Laws Allows for Continued Sexual Abuse of K–12 Students by School Employees*, J. CHILD SEXUAL ABUSE 28, no. 1, at 7 (2019)).

<sup>11</sup> Pub. L. No. 114-95, 129 Stat. 2120 (Dec. 10, 2015) (codified at 20 U.S.C. § 7926).

<sup>12</sup> 45 Fed. Reg. 30,802, 30,955–30,965 (May 9, 1980) (codified at 34 C.F.R. pt. 106).



statute has discriminated on the basis of sex, the institution “shall take such remedial action as the Assistant Secretary deems necessary to overcome the effects of such discrimination . . . .”<sup>13</sup> The Assistant Secretary’s Office for Civil Rights (“OCR”) exercises the Department’s enforcement authority with regard to educational institutions’ compliance with federal civil rights laws, including Title IX.<sup>14</sup>

OCR has recognized since the 1980s that sexual harassment is a form of discrimination on the basis of sex prohibited by Title IX.<sup>15</sup> It has also explicitly recognized in sub-regulatory guidance for decades that sexual assault and other forms of sexual violence are prohibited forms of sexual harassment under Title IX.<sup>16</sup>

In its 2020 Title IX regulations, which for the first time codified in its implementing regulations a requirement for educational institutions to respond to sexual harassment as a form of sex-based discrimination, the Department mandated that an educational institution with “actual knowledge” of sexual harassment—including sexual violence—in its education program or activity “must respond promptly in a manner that is not deliberately indifferent,” including by offering support to the alleged victim of the harassment and by following a grievance process before imposing any discipline on the individual or individuals accused of the harassment.<sup>17</sup>

As for the ESSA mandate requiring policies to deter administrators from passing school staff who have sexually abused children from school to school or district to district, the Department has done little to implement the requirement or push states and other jurisdictions bound by the law to comply with its mandate, despite the Department’s enforcement authority to withhold federal funds from those that refuse to comply. In 2018, the Department issued a letter to state governors warning that “[f]ailure to meet [the law’s] requirements may result in the Department taking

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<sup>13</sup> 34 C.F.R. § 106.3(a).

<sup>14</sup> See U.S. Dep’t of Educ., About OCR, <https://www2.ed.gov/about/offices/list/ocr/aboutocr.html> (last visited Mar. 7, 2024).

<sup>15</sup> See, e.g., U.S. Dep’t of Educ., Office for Civil Rights, Policy Mem., Antonio J. Califa, Director for Litigation Enforcement and Policy Services (Aug. 31, 1981) (“Sexual harassment consists of verbal or physical conduct of a sexual nature, imposed on the basis of sex . . . that denies, limits, provides different, or conditions the provision of aids, benefits, services, or treatment protected under Title IX.”).

<sup>16</sup> See, e.g., U.S. Dep’t of Educ., *Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties*, 62 FED. REG. 12,034, 12,043 (Mar. 13, 1997) (discussing an appropriate response by a school to allegations of sexual assault as a form of sexual harassment); *id.* at 12,045 (referring to alleged sexual assaults as a type of sexual harassment for which mediation would not be appropriate).

<sup>17</sup> U.S. Dep’t of Educ., *Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance*, 85 FED. REG. 30,026, 30,574 (May 19, 2020) (codified at 34 C.F.R. § 106.44(a)).



appropriate enforcement action.”<sup>18</sup> In June 2022, a Department blog post offered support to states to meet the ESSA mandate and, like the 2018 letter, referred to potential “enforcement actions” in cases of noncompliance.<sup>19</sup> Despite the fact that only a handful of states and the District of Columbia have laws on the books that implement this ESSA mandate,<sup>20</sup> the Department has demonstrated little appetite for pursuing enforcement of that law.

### **Secretary DeVos’s Initiative Against K–12 Sexual Violence**

In 2018, under the leadership of Secretary of Education Betsy DeVos, the Department withheld \$4 million in grant funding from Chicago Public Schools (“CPS”) due to its failure to properly investigate and respond to sexual abuse in its schools as required by Title IX.<sup>21</sup> Leading up to this penalty, OCR investigators found that CPS had neglected to support students who had filed complaints alleging that they had been attacked by their peers, had not disciplined staff members who had sexually harassed or abused students, and even failed to abide by the Title IX regulations’ most basic requirements—like appointing a coordinator to handle complaints of sex-based discrimination.<sup>22</sup>

The OCR investigation and financial penalty led to a 2019 resolution agreement between the Department and CPS requiring comprehensive reform in the way school district officials address sexual violence and other harassment as required by Title IX, including policies ensuring that all final Title IX determinations against staff, faculty, or administrators are noted in their personnel file; providing for prompt and equitable resolution of complaints alleging sexual harassment; and

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<sup>18</sup> Letter from Jason Botel, Principal Deputy Assistant Secretary, Office of Elementary and Secondary Education, U.S. Department of Education, to Governors, Jun. 27, 2018, at 2, <https://www2.ed.gov/policy/elsec/leg/essa/section8546dearcolleagueletter.pdf>.

<sup>19</sup> Ruth Ryder, *New ED-Commissioned Study on ESEA Provisions that Protect Students*, HOMEROOM, Jun. 3, 2022, <https://blog.ed.gov/2022/06/new-ed-commissioned-study-on-esea-provisions-that-protect-students/>.

<sup>20</sup> See ZIMMERMAN, *supra* note 10, at 9 (explaining that, as of 2023, only eight states and the District of Columbia prohibited staff members from helping sexually abusive employees obtain a new job and that only three states prevent such assistance *and* outlaw confidentiality agreements that would prevent the sharing of information about an employee’s sexual misconduct with prospective employers).

<sup>21</sup> See Sasha Ingber, *Chicago Schools Lose Millions for Allegedly Not Shielding Students from Sexual Abuse*, NPR, Sep. 28, 2018, <https://www.npr.org/2018/09/28/652802708/chicago-schools-lose-millions-for-allegedly-not-shielding-students-from-sexual-a>.

<sup>22</sup> Erica L. Green, *Chicago Public Schools Ordered to Toughen Sexual Misconduct Policies*, N.Y. TIMES, Sep. 12, 2019, <https://www.nytimes.com/2019/09/12/us/politics/chicago-schools-sexual-misconduct.html>.



reviewing the conduct of staff who failed to respond properly to complaints of sexual harassment to determine what response was warranted.<sup>23</sup>

In February 2020, Secretary DeVos announced an initiative to use OCR’s authority to force K–12 schools and school districts to carry out their Title IX-based duties to investigate and respond to allegations of sexual violence in their programs and activities. OCR announced, as part of the initiative, that it would “focus on ensuring that school districts understand how to effectively respond, under Title IX, to complaints of sexual harassment and assault, including sexual acts perpetrated upon students by teachers, school staff, and personnel.”<sup>24</sup>

Further OCR action would include compliance reviews to ensure schools and school districts were responding to Title IX sexual assault complaints in accordance with law, data quality reviews to ensure that OCR had accurate information regarding the extent of the problem of K–12 sexual violence, and new questions on OCR’s Civil Rights Data Collection (“CRDC”)—a biennial survey of almost all local education agencies and schools in the country through which OCR collects data in furtherance of its enforcement responsibilities—related to K–12 sexual assault and investigations and discipline of staff members.<sup>25</sup>

### **Ongoing Sexual Violence in K–12 and OCR’s Failure to Respond**

Between 2010 and 2019, the number of complaints OCR received against K–12 schools alleging sexual assault more than tripled. For 2015–16, the CRDC reported 9,649 incidents of sexual violence; of that number, 394 constituted instances of rape or attempted rape. For 2017–18, the numbers were 13,799 and 685, respectively—an increase of 43 percent and 74 percent.<sup>26</sup>

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<sup>23</sup> Resolution Agreement: Chicago Public Schools District 299, OCR Complaint Nos. 05-15-1178 and 05-17-1062, at 2, 3, 10 (2019),

<https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/05171062-b.pdf>.

<sup>24</sup> See Letter from Kenneth L. Marcus, Assistant Secretary for Civil Rights, U.S. Department of Education, to Superintendents, Feb. 26, 2020,

<https://content.govdelivery.com/accounts/USED/bulletins/27debd7>.

<sup>25</sup> *Id.*

<sup>26</sup> U.S. Department of Education Office for Civil Rights, Errata Sheet Explainer for 2017–18 Civil Rights Data Collection Sexual Violence in K–12 Schools Issue Brief 3–5 (2022), [https://ocrdata.ed.gov/assets/downloads/sexual-violence\\_updated-December-2022.pdf](https://ocrdata.ed.gov/assets/downloads/sexual-violence_updated-December-2022.pdf). The Department published the most recent CRDC—covering the 2020–21 school year—in November 2023. Due to the ongoing or periodic closure of schools across the country during that time frame and consequent limitation of in-person contact, any comparison between the data regarding sexual violence from the 2020–21 CRDC and previous CRDCs is inherently unreliable.



The example of CPS is illustrative. Even after the Department-imposed penalty and subsequent resolution agreement described previously, CPS continues to suffer from a sexual violence epidemic, only now without accountability under federal law. In its annual report for fiscal year 2023, the Chicago Board of Education’s Office of Inspector General reported that, since its inception in 2018, its Sexual Allegations Unit (“SAU”) had opened 2188 cases as a result of allegations of adult-on-student sexual misconduct, closed 1768 of those cases, and substantiated the allegations in 363 of those investigations.<sup>27</sup> Following SAU’s initiation of an investigation in these cases, as of the end of 2022, prosecuting agencies had filed at least 16 criminal charges against adults affiliated with CPS.<sup>28</sup> In spite of these alarming numbers, there has been no indication that OCR plans to take action to ensure that CPS is upholding its end of the 2019 resolution agreement by appropriately investigating and responding to allegations of sexual violence in its education programs and activities.

In fact, with the sole exception of its settlement agreement with CPS in 2019, the Department has failed, whether through its authority to enforce its implementing regulations under Title IX or the ESSA mandate to prohibit passing the trash, to engage in any comprehensive effort to investigate school districts that fail to abide by their responsibilities to respond to sexual assault under federal law and penalize those that fail to live up to their legal duties to their students. Since the appointees of the Biden Administration took the reins of the Department in 2021, all evidence on OCR’s website of its intent to carry out Secretary DeVos’s initiative to combat sexual violence in K–12 schools has vanished.<sup>29</sup> The disappearance of this information from the Department’s online resources is alarming, especially in light of an exploding number of sexual violence cases in K–12 settings across the country and the failure of school districts to follow Title IX requirements.

One glaring case in point is the New York City Department of Education (“NYDOE”), which has failed to abide by Title IX’s requirements with regard to reports of sexual assault but faces no financial consequences from the Department. In August 2021, NYDOE settled for \$700,000 a lawsuit brought by four female students alleging that school employees had violated Title IX by ignoring their complaints of sexual assault and harassment by classmates. Under the terms of the

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<sup>27</sup> CHICAGO BOARD OF EDUCATION OFFICE OF INSPECTOR GENERAL, FISCAL YEAR 2023 ANNUAL REPORT (2024),

[https://cpsoig.org/uploads/3/5/5/6/35562484/cps\\_oig\\_fy\\_2023\\_annual\\_report.pdf](https://cpsoig.org/uploads/3/5/5/6/35562484/cps_oig_fy_2023_annual_report.pdf).

<sup>28</sup> CHICAGO BOARD OF EDUCATION OFFICE OF INSPECTOR GENERAL, FISCAL YEAR 2022 ANNUAL REPORT (2023), [https://cdn.vox-cdn.com/uploads/chorus\\_asset/file/24336832/CPS\\_OIG\\_FY\\_2022\\_Annual\\_Report.pdf](https://cdn.vox-cdn.com/uploads/chorus_asset/file/24336832/CPS_OIG_FY_2022_Annual_Report.pdf). This number of criminal charges filed by prosecuting agencies appears to have been excluded from the SAU’s portion of the Office of Inspector General’s 2023 annual report.

<sup>29</sup> U.S. Dep’t of Educ. Office for Civil Rights, Sex-based Harassment, <https://www2.ed.gov/about/offices/list/ocr/frontpage/pro-students/issues/sex-issue01.html> (last visited May 11, 2023).



settlement, NYDOE agreed to help parents escalate sexual abuse complaints when school staff refuse to respond and to grant supportive measures (as required by the Department’s Title IX regulations) to students who file sexual harassment complaints.<sup>30</sup> In spite of its promises pursuant to this settlement agreement, NYDOE seems to have no intention of instilling a culture of compliance among its employees; the New York government reported last year that NYDOE had one of the lowest participation rates by any agency in the city’s mandatory sexual harassment training, with only 62 percent of employees participating in the training compared to an average of 79 percent citywide.<sup>31</sup>

Department resistance to pursuing K–12 schools and school districts that demonstrate no intention of complying with Title IX when it comes to sexual assault allegations was also on display with regard to a 2021 case in Loudoun County where a boy (dressed as a girl) sexually assaulted a girl inside a women’s restroom. Following his transfer to a different high school, he “snatched an unassuming female out of the hallway, abducted her into an empty classroom, nearly asphyxiated her, and sexually assaulted her.”<sup>32</sup> OCR waited for 18 months and pressure from the House Education and Workforce Committee to open a probe into whether Loudoun County Public Schools failed to abide by Title IX requirements in its handling of the case.<sup>33</sup>

### **The Department’s Troubling Proposals Regarding Employee-on-Student Violence**

Aside from this troubling lack of enforcement of federal civil rights law, other developments since President Biden took office point to a disturbing lack of interest from the Department in addressing employee-on-student sexual violence in K–12 schools. In November 2021, the Department announced that it intended to remove from the 2021–22 all questions regarding sexual misconduct by school employees and the disposition of investigations into such conduct—questions added by

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<sup>30</sup> Mark Keierleber, *NYC Schools Reaches \$700K Court Settlement with Student Sex Assault Survivors as Biden Administration Rewrites Title IX Rules*, THE 74, Aug. 25, 2021, <https://www.the74million.org/article/new-yorkcity-settlement-four-students-sexual-assault/>.

<sup>31</sup> Madina Touré, *New York Education Department Got One of Worst Completion Rates for Sexual Harassment Training Course*, POLITICO, Mar. 3, 2023, <https://www.politico.com/news/2023/03/03/doe-sexual-harassment-training-00084962>.

<sup>32</sup> REPORT OF THE SPECIAL GRAND JURY ON THE INVESTIGATION OF LOUDOUN COUNTY PUBLIC SCHOOLS, CL-22-3129, at 4 (2022), [https://www.loudoun.gov/specialgrandjury?fbclid=IwAR3U3UlxEzy5m7KG\\_rmn5r5Yehv01c2FR359iKIWQSEPOm6fe2Ikrt1I4-w](https://www.loudoun.gov/specialgrandjury?fbclid=IwAR3U3UlxEzy5m7KG_rmn5r5Yehv01c2FR359iKIWQSEPOm6fe2Ikrt1I4-w).

<sup>33</sup> Landon Mion, *US Department of Education Launches Probe into Loudoun County Public Schools over Handling of Sexual Assaults*, FOXNEWS.COM, Apr. 11, 2023, <https://www.foxnews.com/us/us-department-education-launches-probe-loudoun-county-public-schools-over-handling-sexual-assaults>.





the Department under the leadership of Secretary DeVos.<sup>34</sup> Facing intense pressure to reverse this decision, the Department did so a month later, issuing notice that it intended to retain these questions and offering no explanation for its reversal.<sup>35</sup>

Similarly, in its July 2022 notice of proposed rulemaking describing its plans to misinterpret Title IX to prohibit discrimination on the basis of “gender identity” and undo the due process safeguards the Department had established in the regulations two years earlier, the Department proposed to allow educational institutions to use a higher standard of proof in sex discrimination grievance procedures—including for allegations of sexual violence—for employees than for students,<sup>36</sup> which would constitute an egregious violation of the principle of the rule of law and miscarriage of justice.

## Recommendations

DFI is extremely concerned that the Department’s posture with regard to employee-on-student sexual violence in K–12 public schools appears to be one of obsequious deference to public school bureaucracies and teacher unions that jeopardizes the safety of millions of students. As outlined above with the rising numbers of reports of sexual violence in K–12 schools and the failure of some of the country’s largest school districts to address this urgent problem, the Department must once again be proactive in investigating these school districts and ensuring that they are fulfilling their responsibilities under Title IX.

In light of this dire situation, DFI makes the following recommendations:

1. **Reinstate the Title IX initiative of the previous administration.** The Department should revive Secretary DeVos’s Title IX initiative to combat sexual assault in public schools, including by charging OCR with the vigorous and proactive enforcement of its Title IX regulations. OCR must urgently review the policies of local education agencies across the country to ensure that their schools offer the appropriate support to individuals who allege sexual violence in their education programs and activities, promptly investigate allegations of sexual violence, and follow equitable grievance procedures in determining responsibility for such sexual violence. For those schools and local education agencies that are not

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<sup>34</sup> Andrew Ujifusa, *In Reversal, Feds Seek to Revive DeVos-Era Questions About Sexual Misconduct by Educators*, EDUCATIONWEEK, Dec. 14, 2021, <https://www.edweek.org/policy-politics/in-reversal-feds-seek-to-revive-devos-era-questions-about-sexual-misconduct-by-educators/2021/12>.

<sup>35</sup> *Id.*

<sup>36</sup> U.S. Dep’t of Educ., *Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance*, 87 FED. REG. 41,390, 41,486–41,487 (Jul. 12, 2022).



currently in compliance with Title IX regulations, the Department should notify the appropriate officials that they must come into compliance with the law or lose funding for their education program and activities issued by the Department until they adopt policies and procedures that comply with Title IX mandates.

2. **Review state policies for compliance with ESSA.** The Department should immediately review the laws and policies of all 50 states and other jurisdictions required under ESSA to prohibit school personnel from helping sex abusers obtain new positions to determine whether they are fulfilling the law’s requirements. For those that are not following the law, the Department should notify the appropriate officials in those states that they must adopt a law or policy pursuant to the ESSA mandate or lose funding for their education programs and activities issued by the Department until they come into compliance.
3. **Enforce Title IX and ESSA.** The Department must withdraw funding from states, local education agencies, and K–12 schools that fail to comply with the requirements of Title IX and ESSA relating to addressing sexual assault and engaging in the proper investigation of school employees accused of sexual abuse.
4. **Withdraw Title IX proposal offering school employees greater protections than students.** The Department should not include in its final rule revising its implementing regulations for Title IX any provision allowing schools to use a higher standard of proof for employees than for students when determining responsibility for allegations of sex-based discrimination, including sexual violence. Holding students to a stricter standard than teachers and other school staff when it comes to evaluating complaints of sexual assault ignores the disturbing frequency of employee-on-student sexual violence and serves the interest of no one but the teacher unions.

DFI appreciates the opportunity to provide input on this important issue and the Task Force’s consideration of these recommendations.

Sincerely,

/s/ Paul Zimmerman

Paul Zimmerman

Policy Counsel

Defense of Freedom Institute for Policy Studies