

The End of the Campus Crusade

Devos's new Title IX guidance is a win for America's rule of law tradition



[Washington Free Beacon Editors](#) - MAY 7, 2020

Hats off to Secretary of Education Betsy DeVos, who earlier this week officially reformed the rules governing sexual misconduct claims on America's college campuses.

The move made Joe Biden unhappy; he [immediately promised](#) to reverse Devos's reversal. Odd, given that the [misconduct charge](#) he faces would see him booted from most universities under the old rules, which were implemented when he was vice president.

It's been hard, however, for Biden's media allies to find fault with Devos's plan. She has carefully designed a program grounded in principle and subjected to rigorous public comment—a sharp departure from the *status quo ante*.

President Obama's changes, issued in an unreviewed "[dear colleague](#)" letter in 2011, were swift, revolutionary, and based on shoddy evidence of a campus rape crisis—in particular the claim, parroted by the president at the time, that one in five college-aged women had been raped.

The message to colleges was clear: churn out guilty verdicts or lose your federal funding. Universities responded with draconian policies, preemptively removing accused students from campus and routinely denying them details about the accusations they faced. The effect was to legally solemnize the academic notion of "rape culture," the idea that every man is a rapist, some just haven't acted yet.

Inevitably, that hurt students, like the young man [relentlessly hounded](#) by his college simply because another student said he reminded her of a man who raped her. He was not alone: Since 2011, over [600](#) students have sued their universities for denial of due process.

Devos, by contrast, preferred a slow, transparent rulemaking process: As [she put it](#), "the era of rule by letters is over." The result is an effective corrective for the previous regime's worst excesses.

The new changes do not mandate a higher standard of evidence but require colleges to use the same standards for students and faculty; the Obama guidance universally imposed a "more likely than not" standard for students that they were free to ignore when charges were leveled against their faculty members. Devos has also restored the right of the accused to, through an adviser, confront their accusers—a right, Antonin Scalia [once wrote](#), designed to preclude inquisitorial justice.

Devos also limited some of the dangerous innovations in campus investigations. Schools must now let accused students see evidence against them, stopping the suppression of exculpatory facts. The rules also prohibit the use of "single investigators," officials who act as judge, jury, and executioner in proceedings.

These changes do not tilt the scales of justice against victims; they balance them, giving accuser and accused alike a fair shot. That's an important corrective, giving aid to colleges which for years had to bend to the show-trial demands of the radical left—a state of affairs that DeVos was [right to say](#), was distinctly un-American.

Source: https://freebeacon.com/latest-news/the-end-of-the-campus-crusade/?utm_source=actengage&utm_campaign=conservative_test&utm_medium=email