

KNOW THE FACTS ABOUT THE SAFE CAMPUS AND FAIR CAMPUS ACTS

THE TOP 11 MYTHS ABOUT THE SAFE CAMPUS AND FAIR CAMPUS ACTS

Myth #1: Under the Safe Campus Act, the school has no role to play in a criminal allegation of sexual assault until the law enforcement process is over.

The Facts:

- From the moment a student reports an allegation of sexual violence, they have access to all the campus/community resources for victims of sexual violence. These support services are confidential and continue even if the student chooses not to report the alleged criminal activity to law enforcement.
- A student who does not report allegation to law enforcement can still utilize some interim measures, such as moving their own classes or residence assignment to avoid another student.
- Under the Safe Campus Act, a student reporting the alleged crime to law enforcement is able to access interim measures against the alleged perpetrator, such as adjusting class schedules, moving residence assignments and instituting no-contact orders.
- The Safe Campus Act also gives the school an unprecedented new interim measure to protect students who are using law enforcement to investigate allegations.
 - ▶ Schools may immediately suspend the accused student for 15 days without a hearing if they find the student poses a threat to the safety of other students.
 - ▶ While the law enforcement investigation continues, the school may extend this suspension for safety reasons for periods of 30 days so long as, at each interval, they have a hearing to determine whether the accused student continues to pose a threat to the safety of other students.
 - ▶ If a student is indicted for criminal sexual violence, the school may continue their suspension until the conclusion of the law enforcement case.
- The Safe Campus Act gives law enforcement a 30-day period to begin its investigation of a criminal sexual assault before a campus disciplinary proceeding can start.
- A recent nationwide poll found that 87% of likely voters support giving law enforcement a short exclusive window of jurisdiction to conduct a sexual assault investigation before a school begins its own investigation and disciplinary proceeding.¹
- In EVERY case, the school can convene a disciplinary proceeding, but in criminal cases law enforcement would begin their investigation first.

¹ http://www.fspac.org/images/uploads/PSB_Fraternity_and_Sorority_Action_Fund_Poll_on_Campus_Sexual_Assault_Policy_Issues.pdf

- The Safe Campus Act does NOT result in forcing the school to wait until the completion of the entire law enforcement process, but the 30 days is generally going to be enough time for law enforcement to collect evidence in the case.
- Allowing law enforcement to investigate first means better evidence is gathered and allows for the possibility that law enforcement will share that evidence for the school to use in its own proceedings.
- "[U]ntil we find a way to engage and partner with law enforcement, to bring these crimes out of the shadows of dorm rooms and administrators' offices, and to treat them as the felonies that they are, we will not make the progress we hope."²
- Position of the Rape and Incest National Network (RAINN) February 2014
- "Survivors are choosing not to report to law enforcement because of their lack of faith and confidence in the criminal justice system ... Law enforcement has the tools to effectively investigate these crimes. The criminal justice process has the authority to impose serious punishments on offenders, including incarceration. The most serious sanction that a college can impose is dismissal, which is wholly inadequate where a crime has been committed. Having law enforcement conduct investigations ensures, if properly done, that effective investigations will be conducted and that there will be appropriate punishments that have a strong deterrent effect, all to the ultimate benefit of the survivors and the safety of the university community as a whole." University of California President Janet Napolitano, October 2015.³

Myth #2: The Safe Campus and Fair Campus Acts don't reflect what most voters think Congress should do to address the problem of campus sexual assault.

The Facts:

- The Safe Campus Act addresses real flaws in the way existing federal law requires universities to handle campus sexual assault cases.
- A recent nationwide poll⁴ asked a number of questions about legislative elements of the Safe Campus Act and found the following:
 - ▶ 91% of likely voters stated that law enforcement, not colleges and universities should be primarily in charge of investigating alleged sexual assaults on campus.
 - ▶ 90% of likely voters supported allowing students involved in sexual assault cases to use attorneys in the campus disciplinary process.
 - ▶ 87% of likely voters supported giving law enforcement a short exclusive window of jurisdiction to conduct a sexual assault investigation before a school begins its own investigation and disciplinary proceeding.

² <https://rainn.org/news-room/rainn-urges-white-house-task-force-to-overhaul-colleges-treatment-of-rape>

³ Janet Napolitano "Only Yes Means Yes": An Essay on University Policies Regarding Sexual Violence and Sexual Assault, , 33 YALE L. & POL'Y REV. 387 (2015).

⁴ http://www.fspac.org/images/uploads/PSB_Fraternity_and_Sorority_Action_Fund_Poll_on_Campus_Sexual_Assault_Policy_Issues.pdf

- ▶ 80% of likely voters supported the right for students to cross-examine witnesses against them in campus sexual assault disciplinary proceedings.
- ▶ 81% of likely voters supported allowing schools to select an evidentiary standard for campus sexual assault cases higher than "preponderance of the evidence."
- ▶ 81% of likely voters opposed allowing universities to suspend student organizations without due process and for incidents that did not involve the entire organization.
- ▶ **77% of likely voters supported passage of the Safe Campus Act.**
- The legislative details of the Safe Campus Act are based on the principles and public statements made by a wide variety of higher education and victims' rights associations. In fact, many of these groups have publicly urged Congress to adopt policies that are now in the bill, including:
 - ▶ More law enforcement involvement in campus sexual assault cases.
 - ▶ Solutions to the problems caused when local law enforcement and schools have overlapping and concurrent jurisdiction in these cases.
 - ▶ Expansion of due process rights for all students involved in these cases.
 - ▶ Reversal of a controversial 2011 guidance from the Department of Education that did not follow the proper rule making process and did not allow input from schools regarding major changes in campus sexual assault policy.

Myth #3: The Safe Campus Act and the Fair Campus Act will make campus *less* safe.

The Facts:

- Schools have an obligation to ensure the safety of their students and the residents of the community in which the school is located.
- Law enforcement must be involved in investigating all criminal campus sexual assaults because the biggest penalty a school can administer is expulsion or suspension.
- Sexual predators deserve more than just suspension or expulsion—they deserve imprisonment.
- Expelling a student for criminal sexual assault without involving law enforcement simply turns a potential criminal loose in a population that is *more susceptible* to sexual assault than the college community. From 1995 to 2013, college-aged women (18-24) were **25% less likely** to be sexually assaulted and **50% less likely** to be the victim of a completed rape than women of the same age who did not attend college.⁵
- "I think a crime of rape off campus or a crime of rape on campus ought to be treated the same way ... It's high time to make sure that a crime is a crime wherever

⁵ *Rape and Sexual Assault Victimization Among College Age Females, 1995-2013*, Sinozich and Langton, Bureau of Justice Statistics, United States Department of Justice, <http://www.bjs.gov/content/pub/pdf/rsavcaf9513.pdf>

it is committed and treated the same way. And when it is treated universally the same way we will have less rape on campuses." - Senator Chuck Grassley (R-IA), Chairman of Senate Judiciary Committee, December 2014.

- "[T]he federal government's expectations, especially related to investigations and adjudication, seem better-suited to a law enforcement model rather than the complex, diversely populated academic community found on a modern American campus." University of California President Janet Napolitano, October 2015.⁶
- "It would never occur to anyone to leave the adjudication of a murder in the hands of a school's internal judicial process. Why, then, is it not only common, but expected, for them to do so when it comes to sexual assault?" Position of the Rape and Incest National Network (RAINN) February 2014.⁷

Myth #4: Rape and sexual assault is already a seriously underreported crime on campus and the Safe Campus Act will make it worse by discouraging students from reporting assaults.

The Facts:

- It is the goal of Safe Campus and Fair Campus to ensure more crimes are reported and more perpetrators are punished and removed from campus.
- Students do NOT have to report their assault to law enforcement if they only wish to access support and survivor resources on campus.
- Reporting is required only when the student seeks to hold their attacker accountable for the sexual assault and the assault is described as a crime.
- The only way to reduce the number of sexual predators is: (1) apprehend and punish those who commit these crimes and (2) educate students to help prevent the conditions that allow such crimes to occur.
- There is no other situation where we would expect to reduce criminal activity without encouraging victims to engage law enforcement to investigate the crime.
- When students must report sexual assault to law enforcement first, schools cannot be wrongfully accused of discouraging reporting as a way to preserve the school's reputation and public image.
- When students who are alleged victims of a sexual assault choose not to cooperate with a law enforcement investigation, the criminal case does not move forward and the school will be the only entity that can handle the case.
- "When a rape victim is steered away from law enforcement, based on uninformed choices on proceeding or because the relationship between the university and law enforcement is so weak that contacting law enforcement is a step into a dark unknown, and the victim later loses the chance for justice, she has been victimized all over again. The student has the right to know that delays in opening an

⁶ Janet Napolitano "Only Yes Means Yes": An Essay on University Policies Regarding Sexual Violence and Sexual Assault, , 33 YALE L. & POL'Y REV. 387 (2015).

⁷ <https://rainn.org/news-room/rainn-urges-white-house-task-force-to-overhaul-colleges-treatment-of-rape>

investigation and collecting evidence could mean the disappearance of evidence all together and could end up opening up devastating questioning by a future defense attorney. Until we are willing to put more information and control right away in the hands of victims they simply will not trust the system enough to report sexual assaults in the first place. We know this sadly from experience." Senator Sheldon Whitehouse (D-RI), December 2014.

- "[T]he federal government should work with the law enforcement community to enhance its response to sexual violence cases and its coordination with colleges and universities. [M]any of these cases involve allegations of criminal conduct. If victims have more confidence that their cases will be fairly and sensitively handled and prosecuted, they may be more likely to report them to law enforcement." University of California President Janet Napolitano, October 2015.⁸

Myth #5: The current process that allows schools and law enforcement to conduct concurrent investigations of criminal allegations is working well for the students affected by sexual violence.

The Facts:

- Allowing schools and local law enforcement to investigate these crimes at the same time is a bad idea.
- For more than a year before the Safe Campus Act was introduced in Congress, higher education associations were writing Congress asking them to fix the problem of concurrent investigations by campus officials and local law enforcement.
- In a recent letter to Congress, the American Council of Education said, "Proceeding with a Title IX investigation against an express request from law enforcement could not only jeopardize the investigation and prosecution of the criminal case, but could also violate state laws prohibiting interference with an ongoing criminal investigation."⁹
- You can only fix overlapping jurisdiction by either allowing law enforcement to go first or excluding law enforcement from handling crimes of sexual violence that involve students. No "third path" has been identified.
- Long before the Safe Campus Act was introduced in Congress, the Association for Student Conduct Administration (ASCA), whose members handle campus disciplinary proceedings in sexual assault cases, counseled its members to defer campus investigations to criminal investigations in some cases.
- The Safe Campus Act takes the ASCA's own guidance and extends the recommendation to pause the campus judicial process for 30 days in ALL cases involving criminal allegations of sexual violence.
- The Safe Campus Act also creates a "safe harbor" that prevents the Department

⁸ Janet Napolitano "Only Yes Means Yes": An Essay on University Policies Regarding Sexual Violence and Sexual Assault, , 33 YALE L. & POL'Y REV. 387 (2015).

⁹ https://valenciacollege.edu/generalcounsel/documents/CommentsCASAHarkinFinal_9-9-14.pdf

of Education from penalizing schools for allowing law enforcement to investigate before they begin their own 60-day disciplinary process.

- **Position of the Rape and Incest National Network (RAINN) February 2014** - "We urge the federal government to explore ways to ensure that college and universities treat allegations of sexual assault as they would murder and other violent felonies. The fact that the criminal justice process is difficult and imperfect, while true, is not sufficient justification for bypassing it in favor of an internal system that will never be up to the challenge."¹⁰
- **Position of the American Council of Trustees and Alumni** - "Rape and sexual assault are felonies and they are matters for the police and criminal justice system—not universities. The higher education community simply is not equipped to play judge, jury and executioner in matters that require the careful eye of police and jurists. Both accusers and the accused are given short shrift when due process and the Constitutional safeguards of the criminal justice system are swapped for amateur investigators and ad hoc college tribunals."¹¹
- **American Council on Education (ACE)** - "We believe that current federal requirements that may undermine an institution's ability to work with local law enforcement agencies—such as the requirement that campuses investigate and resolve sexual assaults in 60 days or less—ought to be carefully reconsidered. When law enforcement specifically requests that an institution suspend its campus investigation, institutions should be permitted to comply with that request without fear of Title IX repercussions."¹²
- **ACE Letter to Congress (June 2014)** - "Because colleges and universities may lack the expertise and resources needed in these areas, we believe it is essential to work closely with local law enforcement agencies when sexual assault cases arise. Unfortunately, current federal policy can undermine our ability to do this. OCR requires that campuses resolve sexual assault reports within 60 days. But such a hard and fast deadline is often incompatible with the timetable used by local law enforcement agencies."¹³
- **ACE Letter to Congress (June 2014)** - "For example, in one recent case, highly relevant forensic evidence will not be available in time to inform campus disciplinary proceedings. In another, a prosecutor instructed an institution not to say or do anything about a reported sexual assault, lest it undermine the prosecutor's ongoing investigation. This put the institution in an untenable situation—anxious to comply with a request from the local prosecutor but at risk of violating the deadlines imposed by OCR."¹⁴

10 <https://rainn.org/news-room/rainn-urges-white-house-task-force-to-overhaul-colleges-treatment-of-rape>

11 http://www.goacta.org/images/download/Sexual_Assault_Statement.pdf

12 <http://www.nacubo.org/Documents/BusinessPolicyAreas/CommentsonMcCaskills2692FINAL.pdf>

13 <http://www.acenet.edu/news-room/Documents/Letter-Senate-HELP-Sexual-Assault-Hearing.pdf>

14 <http://www.acenet.edu/news-room/Documents/Letter-Senate-HELP-Sexual-Assault-Hearing.pdf>

- **ACE Letter to Congress (September 2014), signed by numerous higher education groups including NASPA**¹⁵ - "We reiterate our strong desire for local law enforcement to assist campuses in addressing sexual assault. We believe that current federal requirements that may undermine an institution's ability to work with local law enforcement agencies – such as the requirement that campuses investigate and resolve sexual assaults in 60 days or less – ought to be carefully reconsidered. When law enforcement specifically requests that an institution suspend its campus investigation, institutions should be permitted to comply with that request without fear of Title IX repercussions. Proceeding with a Title IX investigation against an express request from law enforcement could not only jeopardize the investigation and prosecution of the criminal case, but could also violate state laws prohibiting interference with an ongoing criminal investigation."¹⁶

Myth #6: Schools should use their disciplinary systems to take the place of the criminal justice system because they are best situated to remedy campus sexual violence allegations under their established codes of conduct and anti-discrimination policies.

The Facts:

- Schools and the American public already agree – schools are not and should not be in the business of imposing criminal punishment. A recent nationwide poll found that 91% of likely voters stated that law enforcement, not colleges and universities should be primarily in charge of investigating alleged sexual assaults on campus.¹⁷
- Sexual assault is a crime and perpetrators should be removed from campus and prosecuted to the fullest extent of the law.
- Only law enforcement professionals have the forensic, evidentiary, and investigative expertise to perform this role.
- Schools lack subpoena power, sophisticated tools for gathering evidence, trained investigators, rigorous due process protections for all students, and other important procedural and professional safeguards of the law enforcement system.
- The most powerful remedy at a school's disposal is expulsion, and expulsion fails

¹⁵ *American Association of Community Colleges, American Association of State Colleges and Universities, American Council on Education, American Indian Higher Education Consortium, Association of American Colleges and Universities, Association of American Universities, Association of Governing Boards of Universities and Colleges, Association of Jesuit Colleges and Universities, Association of Public and Land-grant Universities, College and University Professional Association for Human Resources, Council of Independent Colleges, Hispanic Association of Colleges and Universities, NASPA – Student Affairs Administrators in Higher Education, National Association of College and University Business Officers, National Association of Independent Colleges and Universities, University Professional & Continuing Education Association.*

¹⁶ https://valenciacollege.edu/generalcounsel/documents/CommentsCASAHarkinFinal_9-9-14.pdf

¹⁷ http://www.fspac.org/images/uploads/PSB_Fraternity_and_Sorority_Action_Fund_Poll_on_Campus_Sexual_Assault_Policy_Issues.pdf

- to remove a student from a community. While expulsion is a serious penalty that carries life-long implications, it doesn't put a sexual predator in prison, it doesn't take him/her off the streets, and doesn't protect other students on campus (or off) from repeated acts of sexual violence.
- However, there is an important role for schools and their disciplinary systems in doing what they do best—ensuring students have access to a safe housing and educational environment and ensuring that students affected by sexual violence can remain in school.
 - "As a former United States Attorney and Attorney General for my state, I am concerned that law enforcement is being marginalized when it comes to the crime of campus sexual assault ... Anything can be done badly. But law enforcement done right makes sure forensic and electronic evidence is properly collected and preserved. It empowers the victim. It informs her of her continuing power through the stages of investigation and prosecution. It brings professionalism and tools like subpoenas and grand jury in the place of amateur university investigations. It eludes the built in conflict of interest of a university that wants the sexual assault problem minimized or hushed. And it sends an important societal signal when after a rape the crime scene has police tape up, and evidence vans, and officers taking statements—a signal that what happened was serious. At its best, law enforcement response is victim-centered and well-coordinated with both medical and mental health and advocacy professionals." -Senator Sheldon Whitehouse (D-RI), December 2014.
 - "University student conduct processes may be inadequate if they end up supplanting the criminal justice system." University of California President Janet Napolitano, October 2015.¹⁸
 - "Student conduct processes do have a role to play in addressing incidents of sexual violence and sexual assault, but they pose considerable limitations - from a lack of subpoena power to a lack of clarity over authority regarding off-campus incidents, and from restricted investigative abilities to limitations on what sanctions they can impose." -University of California President Janet Napolitano, October 2015.¹⁹
 - "[T]he simple fact is that these internal boards were designed to adjudicate charges like plagiarism, not violent felonies. The crime of rape just does not fit the capabilities of such boards. They often offer the worst of both worlds: they lack protections for the accused while often tormenting victims." -Position of the Rape and Incest National Network (RAINN) February 2014.²⁰

18 Janet Napolitano "Only Yes Means Yes": An Essay on University Policies Regarding Sexual Violence and Sexual Assault, , 33 YALE L. & POL'Y REV. 387 (2015).

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20 <https://rainn.org/news-room/rainn-urges-white-house-task-force-to-overhaul-colleges-treatment-of-rape>

Myth #7: The reporting requirement of the Safe Campus Act limits options for students affected by sexual violence.

The Facts:

- Many campus sexual assault allegations are not criminal in nature and thus would not be reported to law enforcement before a campus disciplinary proceeding begins.
- The Department of Education is telling schools they must investigate allegations over the objections of the complaining student if campus safety concerns outweigh the confidentiality concerns of the individual student.
 - ▶ In cases where sexual violence presents a danger to other students, the Department of Justice has ordered schools to investigate those cases even over the objection of the reported victim who does not want disciplinary action taken.
- If the Department of Education is going to force schools to investigate cases against the will of the student victim because of the risk other students will be harmed in the future, doesn't it make sense to have local law enforcement look at those cases for criminal prosecution?
- The Safe Campus Act and the Fair Campus Act do NOT change a survivor's existing rights to:
 - ▶ Remain confidential on campus if he/she only wants access to support and recovery services.
 - ▶ Pursue campus adjudication if the action in question does not rise to the level of a crime of sexual violence.
 - ▶ Seek a civil court remedy for any allegation of criminal sexual assault or sexual misconduct that is not a violation of the law.

Myth #8: Punishing groups of students for sexual assaults committed by individuals is OK.

The Facts:

- The trend of punishing student groups because a member has been involved in an allegation of sexual violence is antithetical to a student's due process and freedom of association rights.
- Individuals are accountable for their actions. Blanket bans and punishments by association are manifestly unjust and fail to address the need for appropriate investigation and prosecution of alleged crimes.
- Broad suspensions or collective punishments have the potential to create a chilling effect and discourage victims from coming forward.
- One shocking example was the blanket suspension of all sororities at the University of Virginia as part of the Rolling Stone debacle. In response, the National Panhellenic Conference stated: "We remain gravely concerned that these [system-wide suspensions] may prevent women from stepping forward to report sexual assaults because of the impact to others in the university community. Women should not be victims twice because of the sexual assaults and then again because of potential concerns with reporting."²¹
- Schools are taking unilateral actions against fraternities and sororities that they do not apply uniformly to other student organizations in similar situations. For example, in the 2014-15 school year, athletic teams in the Final Four of men's college basketball and the college football playoff both had prominent players accused of campus sexual assault. The schools involved did not impose team-based punishments in those cases, and they certainly did not choose to suspend the activities of the entire athletic department simply because an athlete on one team was accused of a crime of sexual violence.

²¹ [https://npcwomen.org/resources/articles/NPC%20Press%20Release%20re%20UVA%20\(5\).pdf](https://npcwomen.org/resources/articles/NPC%20Press%20Release%20re%20UVA%20(5).pdf)

Myth #9: Allowing attorneys to be involved in campus sexual assault cases and allowing cross-examination of witnesses is bad for the students and the process itself.

The Facts:

- A recent nationwide poll found that 90% of likely voters supported allowing students involved in sexual assault cases to use attorneys in the campus disciplinary process.²²
- The same poll found that 80% of likely voters supported the right for students to cross-examine witnesses against them in campus sexual assault disciplinary proceedings.²³
- The campus adjudication process for sexual misconduct cases must be fair and transparent to every student so that there can be greater confidence that the final result is the correct one.
- The current process used by some schools to investigate and adjudicate a rape or sexual violence allegations short-changes due process protections for the involved students, raising the risk of legal action against the school and undermining public confidence among students, faculty, parents, and the public that the process is fair and transparent to all.
- Involved students are often prohibited from hiring an attorney who may act on their behalf in the campus judicial process even though they essentially are facing an educational penalty that could bar them from attending any school.
- In many cases, students lack the ability to question witnesses or introduce evidence on their own behalf.
- Campus adjudication boards often include individuals who are not adequately prepared to handle complex legal and factual questions inherent in rape and sexual violence cases.
- Due process is a fundamental concept of the American justice system. Students don't forfeit those rights because they are in college.

²² http://www.fspac.org/images/uploads/PSB_Fraternity_and_Sorority_Action_Fund_Poll_on_Campus_Sexual_Assault_Policy_Issues.pdf

²³ http://www.fspac.org/images/uploads/PSB_Fraternity_and_Sorority_Action_Fund_Poll_on_Campus_Sexual_Assault_Policy_Issues.pdf

Myth #10: Changing the evidentiary standard from "preponderance of the evidence" harms the victims of sexual violence.

The Facts:

- A recent nationwide poll found 81% of likely voters supported allowing schools to select an evidentiary standard for campus sexual assault cases higher than "preponderance of the evidence."²⁴
- Allowing schools to pick the evidentiary standard that works best for their campus is simply returning the law to where it was in 2011, before the Department of Education changed the rules without following the legal process to do so.
- The preponderance of the evidence standard is used in American civil court cases, but in those cases parties are entitled to have attorneys, see all the evidence in the case, and cross-examine the witnesses against them. Those are due process rights that students don't have in campus sexual assault cases today.
- The lack of those due process rights, along with the lower evidentiary standard, undermines public confidence in the campus disciplinary process in these cases and exposes schools to legal liability no matter what happens in these cases.
- It is unfair to all parties involved when you have a low evidentiary standard and no due process protections for students to understand how the process will play out.
- Allowing both the accusing student and the accused student to have representation will ensure a fair process for all students.
- "And, we know first-hand, the success of these [campus adjudications] will depend on their fairness to all parties involved...First, many of the same procedures criticized by accused students hurt the students making the claims as well. Second, the authorities to which students turn to for support in the wake of violence will only be effective if they are perceived as even-handed and legitimate by all. Third, we understand our fight as part of a broader struggle for equality in education, and worry that barebones procedural protections leave room for discrimination, including on the basis of race and class, in investigation and sanctioning."²⁵
- "What is required is fundamental fairness, including (1) the right to the assistance of counsel in preparation for and conduct of the hearing, (2) the right to cross-examine witnesses against the accused student and to present defense witnesses and evidence, and (3) the right to a fair and unbiased hearing panel."²⁶
- "Due process of law is not window dressing; it is the distillation of centuries of experience, and we ignore the lessons of history at our peril."²⁷

24 http://www.fspac.org/images/uploads/PSB_Fraternity_and_Sorority_Action_Fund_Poll_on_Campus_Sexual_Assault_Policy_Issues.pdf

25 April 15, 2015 Open Letter to University President from a number of victims rights groups led by Know Your IX. <http://knowyourix.org/fair-process/>

26 <http://www.bostonglobe.com/opinion/2014/10/14/rethink-harvard-sexual-harassment-policy/HFDDiZN7nU2UwuUuWMnqbM/story.html>, signed by 28 members of the Harvard Law School faculty.

27 <http://media.philly.com/documents/OpenLetter.pdf>, signed by 16 members of the Penn Law School faculty.

- In a spring 2015 letter to state legislators in all 50 states, a coalition of higher education associations (including NASPA and ASCA) opposed state-level legislation allowing students and organizations accused of misconduct to have attorneys represent them in campus proceedings, arguing that such legislation would be appropriate only if it extended the same rights to students affected by sexual violence. **The Safe Campus Act and the Fair Campus Act ensure both the accuser and the accused have the right to an attorney in campus proceedings.**
- Under the Safe Campus Act, attorney engagement is appropriate given the stakes involved. These proceedings include the potential of expulsion or suspension from the school, which could prevent an accused student from transferring to any other school to resume his/her education.

Myth #11: The Safe Campus and Fair Campus Acts would shield sexual offenders while schools can still investigate and discipline drug dealers, robbers, thieves and harassers.

The Facts:

- Sexual Assault is the only campus crime where, because of Title IX, the federal government has exercised jurisdiction over the offense. So it's the only campus crime Congress will consider in legislation unless it defines other crimes of interest at the federal level.
- Those who criticize the Safe Campus and Fair Campus Acts for not mentioning theft, burglary, drug dealing, or auto theft are actually marginalizing the true impact of sexual assault on victims by equating that crime with property and drug crimes.
- No one is alleging a similar nationwide epidemic on campus as they are with sexual assault. No one is alleging schools are ill equipped to handle cases of stolen laptops and wallets.
- "The FBI, for purposes of its Uniform Crime Reports, has a hierarchy of crimes — a ranking of violent crimes in order of seriousness. Murder, of course, ranks first. Second is rape. It would never occur to anyone to leave the adjudication of a murder in the hands of a school's internal judicial process. Why, then, is it not only common, but expected, for them to do so when it comes to sexual assault," the letter asked. "The simple fact is that these internal boards were designed to adjudicate charges like plagiarism, not violent felonies. The crime of rape just does not fit the capabilities of such boards." -Position of the Rape and Incest National Network (RAINN) February 2014