Families Advocating for Campus Equality

White Paper

August 2014

In our quest to achieve equality, fairness, and due process of law on our college campuses, FACE has committed to the achievement of the following reforms:

1. We seek, above all else, to address the problem of sexual assault on our college campuses;
2. We urge the articulation of appropriate and specific definitions for ‘sexual assault,’ sexual misconduct,’ ‘sexual abuse,’ and other such euphemisms that are presently used and too frequently misused, to the confusion and jeopardy of all parties;
3. We urge, likewise, that the definition of “incapacity” be made clear and not be erroneously conflated with the mere consumption of an intoxicant;
4. We believe that any and every charge of rape must be immediately reported to the police and to other appropriate criminal justice authorities;
5. We believe that like every American citizen, a student who stands accused of misconduct is entitled to a presumption of innocence until proven guilty of wrongdoing;
6. We seek to restore the right to due process of law and of basic constitutional protections and guarantees to the college campus, including the standard of proof that requires ‘clear and convincing’ evidence before rushing to judgment on a mere preponderance of the evidence;
7. We believe that all those who are enrolled – regardless of gender – must be treated by the administration of their colleges or universities as the students that they are, mostly young people into whose care they have been entrusted;
8. We believe that the respondent as well as the claimant is entitled to support during this ordeal, including access to psychological, medical and counseling services;
9. We urge that each college and university promulgate and disseminate information as to the Rights of the Respondent, just as they do the Rights of the Claimant;
10. We believe that among the rights that must be extended to the respondent are that of a both proper 'notice' and of a reasonable and appropriate ‘review period;’ Notice must be in writing, be specific as to any and all allegations, and must be adequate and sufficient to properly inform the respondent. Following a notice of allegations, a respondent must be entitled to a review period of no less than 2 weeks before being required to issue any response, whether verbal or in writing.
11. We seek to ensure that both the claimant and the respondent in matters of sexual misconduct be guaranteed the right to counsel of his/her choice, and that counsel, rather than being limited to a passive or silent by-stander role, be afforded full and active participation in all proceedings, including all campus tribunals, meetings and discussions with any representative of the school.
12. We urge that consideration be given to both the claimant and the respondent with regard to scheduling of meetings, inquiries and hearings to avoid undue interference with the student's ability to attend classes, participate in campus activities and otherwise pursue a schedule as close to 'normal' as is practicable under the circumstances.
13. We believe that the identity of the respondent like that of the claimant should be protected and that all investigations and hearings be conducted with the utmost discretion so as to protect each participant’s right of privacy while at the same time, affording both the claimant and the respondent full transparency with regard to all accusations;

1. We believe that any student who is accused of sexual misconduct must be advised by the college or university, prior to any questioning, that he/she has the right to remain silent and that any statements that are made in connection with any campus proceedings may be introduced in any criminal proceedings that might ensue;
2. We believe, as part of an respondent’s constitutional rights, that the exercise of the right to remain silent cannot and will not be used against him or her nor be the basis for any inference of guilt;
3. We urge that any investigation be conducted in a manner that is fair and unbiased, with full transparency and accountability, and that as an essential element of that transparency and accountability, the school disclose to the respondent all relevant information regarding the qualifications, training and certification for any and all of the investigators it has involved in the investigation;

1. We further call upon all colleges and universities to appoint independent and well-trained professionals from outside of the campus setting to conduct investigations without the inherent bias/conflict of interest that is unavoidable when investigators are members of the campus community;
2. We believe that those who are charged with the responsibility of gathering information about or investigating an allegation -- including every individual in the school administration who has met with or interviewed either the claimant or the respondent -- must be barred from also serving in an adjudicatory capacity with regard to those allegations.
3. We believe that those appointed to serve on a campus tribunal be fully qualified to do so, be required to undergo thorough and exhaustive training beforehand, and that their qualifications and the nature of their training be fully disclosed to both parties;
4. We urge that any fellow student who is enrolled in the school at the time of the alleged incident and/or during the course of any investigatory procedures relating to that incident must be specifically disqualified from service on any campus tribunal;
5. We call for the provision of appropriate sanctions for anyone who purposely, knowingly and intentionally brings false charges of sexual misconduct against a fellow student, and urge colleges and universities to make these specific consequences known to its student body as part of its 'sexual misconduct' guidelines contained within its handbook and as part of student orientation and training sessions;
6. We believe that anyone who is accused of wrongdoing has a fundamental right to confront, question and challenge the evidence against him/her, including the credibility of his/her claimant and all witnesses against him/her;

1. We call upon all colleges and universities to discourage excessive and/or under-age drinking and drug usage, not merely on campus and in dorms but by students who live in off-campus housing and in fraternities and sororities.
2. We urge all campus administrators and officers to address this important and timely issue with clarity, sensibility and fairness.