

Prepared Statement by

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On

Combatting Sexual Assault on College and University Campuses

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Thank you Chairwoman Foxx, ranking member Hinojosa, and honorable committee members for the opportunity to testify about the critically important issue of combatting sexual assault on our nation's college and university campuses. The focus of my testimony will be on identifying areas of concern in the existing legislative and regulatory landscape as well as to share a few snapshots of a larger national picture of college and university efforts to reduce incidents of sexual assault and other forms of gender-based violence on campus.

I think we would all agree that it is a national priority to develop strategies that reduce incidents of sexual violence in our colleges and universities. The effect of sexual assault and gender-based violence is devastating to a student's personal and academic life. Once a man or woman is a victim of a sexual assault, it can affect all aspects of their life. As a result, I think we would also agree that solutions, and strategies that address sexual assault allow the victim to decide how when and if they report the sexual assault and provide support throughout the process. It is also vitally important that the processes to resolve and respond to a reported sexual assault be fair and equitable for both the victim and the accused. Unfortunately, the higher education community is in the untenable position of trying to accomplish these priorities in the midst of often conflicting and confusing legislative and regulatory

requirements from a wide range of federal, state, and local stakeholders.

Currently, colleges and universities in the United States must address compliance responsibilities under FERPA, the Clery Act, the Campus SaVE Act provisions of VAWA, regulatory guidance on Title IX from the Department of Education Office of Civil Rights, and recommendations from the White House Task Force on Sexual Assault, to name just a few. The problem is that legislative and regulatory developments too often ignore best practice, enact a one-size-fits-all approach to what is a very complex issue, and create real resource challenges that impede our efforts to prevent and respond to sexual assault. Added to these challenges are state legislatures that increasingly insert complexity to our task by enacting statutes that interfere with the Title IX rights of victims.

The good news is that the higher education community takes the problem of campus sexual assault very seriously, and we are working diligently to establish systems that are both victim-centered and fair to all students. This is not a new issue for colleges and universities. I established my first Sexual Assault Working Group at Georgetown University over 20 years ago. Effectively addressing sexual assault and gender-based violence has been a priority for decades. The professionals who do my work, who serve in student affairs, do this work because of a genuine care for the health, safety and well-being of our students. It is also important to acknowledge that sexual assault is a societal issue that has root causes that go well beyond the college campus. We fully understand our obligations to support our students who experience sexual assault, but our firmest goal is to prevent incidents of sexual assault, so that far fewer students would have to experience that trauma while enrolled in college.

One recent poll conducted by the Washington Post and Kaiser Family Foundation of current and very recent college students provides great insight into the landscape of sexual assault on campus. I'm going to highlight just a few findings that combat the current media hype that colleges just don't get it.

71% of students say the university administration is doing enough to prevent sexual assault on campus

73% say that students take the school's sexual assault prevention programs seriously or somewhat seriously

84% say they are very or somewhat confident in the school administration's ability to address complaints of sexual assault fairly

First Prevention is the Key

Prevention and educational efforts will be critical to reduce incidents of sexual violence on college campus. Virtually all campuses are employing some range of educational program as part of their prevention efforts. Many campuses employ online education modules that reach all students, and others require new students to participate in programming at orientation. Online training programs are also available to faculty and staff to provide education on their sexual assault reporting obligations under Title IX. The CDC studied over 140 program evaluations of sexual assault prevention programs in a study

published in January 2014. They found that using rigorous control group-study design, no college program had been proven effective, but two had been found promising using less rigorous methods—Bystander intervention training and social norms training. More support is needed to conduct evaluation research in this growing field.

Bystander intervention is a strategy to provide students, faculty, staff, and other members of the campus community with the awareness, skills, and ability to speak out against rape myths and intervene in a moment of potential sexual violence. Bystander intervention teaches skills that help peers intervene in situations that might lead to an incident of sexual violence and encourages students to confront statements and actions that normalize or trivialize sexual assault. In the Post/Kaiser Foundation poll, 91% of students affirmed the likely effectiveness of this strategy. Social Norms refer to the acceptability of an action or belief, and that training challenges misperceptions that affect behavior.

At Wake Forest, we use PREPARE peer educators to deliver highly interactive, situational programs to put incoming student's attitudes to the test and really get them to think. A highly engaging peer theatre program reinforces those messages and is followed by an on line curriculum that uses scenarios that are highly relevant to students. Our on line training program, Haven, will give us benchmark student attitudes that will be used to help assess the effectiveness of our programs. Mid-semester, after they have had time to navigate the social scene, they will participate in a program on Bystander Intervention Training using the Step-Up model co-developed by the NCAA and the University of Arizona.

Campus Climate surveys are another growing practice, and these are used to assess students' perceptions of and experiences with sexual assault or other forms of gender-based violence on campus. Since such a small number of sexual assaults are actually reported, it is important for each campus to understand, through an anonymous survey, the number of students who have experienced a sexual assault, sexual harassment, stalking or other forms of gender-based violence, as well as providing data on attitudes that can be used to shape prevention efforts. Through these campus climate surveys will campuses be able to both understand the scope of the problem on their campus and to measure over time the effectiveness of their prevention efforts. These surveys are designed to provide an institution-specific picture that, in turn, enables leaders to coordinate with the campus community to strengthen prevention efforts in strategic and proactive ways.

What is less helpful is the notion that one standardized survey would be imposed on all institutions by the federal government. This approach does not accommodate the wide array of campus environments or recognize the diligent work of the institutional community to address their own unique needs and challenges. Each institution should have the autonomy to develop the best survey for their campuses and their students. American higher education is fortunate to have a wide range of colleges and universities that range from four-year residential, to community colleges to primarily on-line colleges. One mandatory campus climate survey will not meet the needs of each college or university, and the regulatory burden will siphon resources away from prevention and support initiatives.

Although prevention strategies are in place, we must also face the reality that sexual violence will still occur on our campuses. Student Affairs administrators have consistently taken seriously the need to be

fair and balanced to all of our students engaged in the conduct process. When sexual violence occurs, and the survivor reports the incident to begin the campus' conduct process, we start off with the common understanding that the process needs to be fair and equitable for all parties involved. Critical to this process is the widely established practice of confidentiality for the victim and the accused. It is also important to note that both the victim and the accused are provided with impartial advisors to help them understand options and navigate the campus judicial system.

To uphold a fair and balanced system that also supports our responsibilities under federal law, we first and foremost want to affirm the right of the victim to determine the path she or he wants to pursue with a report of sexual violence. Some may only want to report on campus, whereas others may want to report either or also to the police. But let's not forget that some victims may only want support. Whatever she or he chooses as the preferred course of action, the institution needs to respect the victim's choice. Not doing so, or, worse, taking the decision out of the victim's hands by mandating that a report of sexual violence to a campus official automatically be turned over to local law enforcement inserts the very real threat that victims may be coerced out of seeking the support or protection they may need. Mandatory reporting will create a chilling effect on the willingness of victims to come forward - exactly the opposite of what we hope happens. The Post/Kaiser Foundation poll included many interviews with victims. Many chose not to come forward because of the perceived social costs of doing so.

Increasingly, the public has expressed concern for the rights of the accused. It is important to reiterate that campus processes are carefully structured to be fair and equitable for all parties. The bottom line, however, is that these cases are often very difficult and almost never clear cut. In a perfect world, we would not have to address sexual violence. But the higher education community does have to address sexual violence, and it is clear that our commitment to addressing sexual violence is shared by government leaders and the public. To this end, I wish to offer suggestions for combatting campus sexual violence fairly and equitably.

It is imperative that campuses maintain control of the conduct process. This responsibility enables trained campus professionals to uphold our duty under federal law to ensure equal educational opportunity for all students. Often, this means that we must have the capability to employ remedies that allow the victim to continue her or his study without encountering the accused in the classroom, residential communities, or other campus facilities.

The student conduct process is not a court of law. The campus conduct system has never been a replication of the court system because the aims of each are vastly different. Ours is an educational process intended to arrive at a fair and equitable outcome for all parties. At the core of this distinction is our obligation under Title IX to use preponderance of the evidence as the standard of scrutiny in determining responsibility for accusations of sexual assault – not the more rigorous standard to prove guilt beyond a reasonable doubt. Campuses should not be held accountable for the failures of the judicial system to achieve justice in criminal sexual assault cases.

In addition, I think I would be speaking for most college and university representatives by sharing that we

do not need more regulation, particularly if these actions are imposed upon the higher education community without warning or consultation. Too often, guidance from the Department of Education Office for Civil Rights comes without notice or the opportunity to comment on its merits, and their guidance is often administered by the department as if it had the force of law. A more positive example is the negotiated rulemaking that took place for the implementation of the Violence Against Women Act reauthorization, where key stakeholder groups came together to ensure that provisions were appropriately suited for campus environments. The Campus SaVE Act provisions have been very helpful to the higher education community in clarifying the roles of victim advocates.

Should government officials seek to issue new regulations or guidance, I strongly believe it is important to provide appropriate opportunities for public comment and discussion. To this end, I think I would also be speaking for college and university representatives by stating that we do not need one-size-fits-all policy solutions to what, in reality, is a very complex issue on our campuses. Instead, prevention strategies that accommodate diverse institutional characteristics will have a greater likelihood of delivering on their intent.

Lastly, as someone who has worked in higher education for 40 years, and who has worked alongside numerous colleagues who share an unwavering commitment to all students, I must express deep concern about the narrative from the media and federal agencies that colleges and universities care more about their institution's reputation than the rights and experiences of victims. I cannot stress more vehemently how wrong that assertion is. Instead, those of us who handle incidents of sexual violence on campus are professionals who share an overwhelming commitment to strike the delicate balance in today's legislative and regulatory environment to preserve the educational rights of victims, to manage fair and equitable conduct systems, and above all to prevent sexual violence.

Respectfully submitted,

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