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CAMPUS SEXUAL MISCONDUCT: WE CAN DO BETTER

Controversial and Ineffective Policies

Sexual assault, on or off campus, is a heinous crime and those found responsible should be severely punished. However, enacting effective sexual assault prevention measures which protect victims and judiciously determine guilt cannot be accomplished in a vacuum. The creation of an effective strategy requires extensive research and consultation with those who possess expertise in the fields of higher education, sexual violence and the law. After all, it has taken centuries and immeasurable input for our judicial system to evolve into what it has become today.

In a well-intentioned but imprudent attempt to resolve these issues, on April 4, 2011 the Department of Education Office for Civil Rights' (OCR) issued a "Dear Colleague Letter" (DCL). The DCL, however, was merely advisory, never subjected to mandatory public notice and comment and is therefore not legally enforceable. Furthermore, the DCL neglected to provide campuses with tangible tools to accomplish the broad policy goals it seeks to achieve. These omissions are particularly troublesome given the fact-specific nature of most campus sexual misconduct disputes and the importance and extreme difficulty of accurately assessing credibility in "he said/she said" cases, particularly when alcohol is a factor. As such, the policies and procedures identified in the DCL are not adequate to help campus administrators negotiate the extremely complex issues inherent in investigating and adjudicating campus sexual misconduct disputes.[1]

The difficulty of reaching reliable decisions by campus tribunals is further exacerbated by the absence of adequate professional training and the institution's inherent conflict of interest in protecting its reputation. The National Association of College and University Attorneys (NAS), a group comprised of professors, graduate students and administrators, has expressed concerns that the "increasingly complex rules sometime[s] go well beyond" the "capacity" of those charged with their implementation.[2] Peter Wood, NAS President, wrote to members of Congress that "The creation of these college tribunals in response to pressure from OCR has alarmed faculty members across the country."[3] Another report quoted a campus administrator's opinion that the DCL has "'imposed on entities ill-

[1] Response of Catherine Lhamon, Assistant Secretary for Civil Rights, to Senator James Lankford, Chair of the Committee on Homeland Security, Sub committee on Regulatory Affairs and Federal management, February 16, 2017, http://www.chronicle.com/items/biz/pdf/DEPT.%20of%20EDUCATION%20RESPONSE%20TO%20LANKFORD%20LETTER%202-17-16.pdf. Not only did OCR neglect to consult interested parties, according to twenty-six law professors OCR also "ignored constitutional law, judicial precedent and Administrative Procedure Act requirements and "brazenly nullified the Supreme Court definition of campus sexual harassment." "Law Professors' Open Letter Regarding Campus Free Speech and Sexual Assault," May 16, 2016, posted by U.S. Senator Lankford (Law Professors' Open Letter), https://www.lankford.senate.gov/imo/media/doc/Law-Professor-Open-Letter-May-16-2016.pdf; Jacob Gersen & Jeannie Suk, *The Sex Bureaucracy*, 104 Cal. L. Rev. , p.18 (forthcoming August 2016) http://web.law.columbia.edu/sites/default/files/microsites/law-theory-workshop/files/the_sex_bureaucracy_21.pdf

[2] Kelderman, Eric, "In Context, Sexual Assault; College Lawyers Confront a Thicket of Rules on Sexual Assault," *Chronicle of Higher Education,* Fall 2014, http://www.chronicle.com/items/biz/pdf/sex_assault_brief_fall2014.pdf
National Assn. of Scholars Letter to Members of Congress: "Rein in the DoED's Office for Civil Rights," March 4, 2015, discussed in Richardson, Valerie, "Civil rights commissioners: Rein in education administration on 'unlawful' bullying, sexual assault policies," *The Washington Times*, March 4, 2015, http://www.washingtontimes.com/news/2015/mar/4/civil-rights-commissioners-rein-admin-unlawful-bul/?page=all.

[3] Wood, Peter, "Letter to Members of Congress: Rein in the DoED's Office for Civil Rights," March 4, 2015, https://www.nas.org/articles/letter_to_senators_dont_expand_the_does_office_for_civil_rights

trained or equipped for the task, a quasi-judicial role, with the implication that 'justice,' however defined, can be satisfactorily rendered through processes that cannot possibly replicate a genuine legal proceeding.'"[4]

Failure to Allow Notice & Comment

Widespread public notice-and-comment rulemaking as required by the federal Administrative Procedure Act (APA) provides the architecture for American citizens' right to influence rules and regulations that will affect themselves and their livelihoods. It is a method by which agencies are held accountable, and compliance provides assurance that agency decisions are fact-based and objective, and not the result of a particular political or social agenda.

The fact that the DCL was issued by unelected government officials seeking to change sexual behavior through public policy without consultation with higher education authorities undoubtedly has lead to the DCL's many shortcomings and sometimes devastating unintended consequences.

Discussing the detrimental effects of OCR's failure to comply with APA procedures in issuing the DCL, Harvard Law Professors Jacob Gersen and Jeannie Suk explained "[i]n the sex bureaucracy context, this avoidance of administrative law norms has two important consequences. The first is the partial insulation of the sex bureaucracy from public or judicial scrutiny;" but more worrisome here,

> The second consequence of the sex bureaucracy's policymaking by agency threat has to do with the subject matter of sex … The lack of openness to public comment and judicial review enables the slide—from regulating sexual violence and discrimination to regulating ordinary sex—to go unnoticed … To the extent that the bureaucracy is regulating sex, it should be seen for what it so that it can be publicly known and challenged.[5]

University administrators have been among those expressing frustration at OCR's failure to allow their input into the creation of DCL policies. One protested that the DCL "strategies" were "imposed by a group of people who don't understand what we deal with every day, led by someone who has, according to her online bio, never done a job like mine," and which "undermine[] my judgment and my ability to make good decisions for my institution and my students."[6]

"Everyone Loses" Under DCL Policies

DCL policies are shortchanging victims as well as accused students, and leaving potential rapists to roam our streets and prey upon nonstudent victims who are even more vulnerable to rape than their student counterparts.[7] The American College of Trial Lawyers' (ACTL) recent White Paper on current practices in campus sexual assault investigations determined that "*[u]nder the current system, everyone loses*."[8]

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[4] SAVE "Six-Year Experiment in Campus Jurisprudence Fails to Make the Grade," 201, (SAVE Special Report), quoting John McCardle, Vice Chancellor of the University of the South at Sewanee, Tennessee, in a letter to SAVE's President, "Threat of Litigation as a Constraint," *Personal communication*, 2017, http://www.saveservices.org/wp-content/uploads/Six-Year-Experiment-in-Campus-Jurisprudence.pdf

[5] Jacob Gersen & Jeannie Suk, "The Sex Bureaucracy," note 1, *supra*. http://web.law.columbia.edu/sites/default/files/microsites/law-theory-workshop/files/the_sex_bureaucracy_21.pdf

[6] Anonymous, *An Open Letter to OCR*, October 28, 2011, Inside Higher Education, https://www.insidehighered.com/views/2011/10/28/essay-ocr-guidelines-sexual-assault-hurt-colleges-and-students

[7] Rape, Incest & Abuse National Network (RAINN), "Campus Sexual Violence: Statistics," https://www.rainn.org/statistics/campus-sexual-violence ("Female college-aged students (18-24) are 20% less likely than non-students of the same age to be a victim of rape or sexual assault.")

[8] American College of Trial Lawyers "White Paper on Campus Sexual Assault Investigations," March 2017, p. 18, emphasis added (ACTL White Paper) http://files.constantcontact.com/dbc236ec501/9b906384-177d-42df-9e1a-bcb6f62d9340.pdf

Nevertheless, legislators are being urged to support and expand DCL policies without any consideration of their effectiveness. Even more distressing, there are indications that DCL policies are undermining rather than aiding campus sexual assault prevention and reporting efforts. Victims advocates have complained that the DCL is "harming those it purports to protect,"[9] and a frustrated Stanford rape survivor criticized her school's OCR-enforced policies as contributing "*to a greater culture of disbelief and anger*" toward victims.[10]

"The burgeoning number of [OCR] complaints and investigations points to a system of campus-based investigations and adjudications that are increasingly viewed as ineffective, even antithetical, to the national effort to end campus rape."[11]

> In fact, feminists should be especially concerned, not just about creating enforcement proceedings, but about their fairness. If there is a widespread perception that the balance has tilted from no rights for victims to no due process for the accused, we risk a backlash. Benighted attitudes about rape and skepticism about women victims die hard. It takes only a few celebrated false accusations of rape to turn the clock back.[12]

The confidence in campus determinations of guilt is further eroded by the reality that in the hands of campus officials, the preponderance of evidence standard of proof reduces to nothing more than an exercise in weighing irrelevant, prejudicial, and/or hearsay evidence without any regard to its probative value or the credibility of its presenters, and then estimating where the last feather falls. Whatever standard is required, campus adjudicators must be instructed to evaluate the quality, not just the quantity of the evidence, and "weigh" only evidence they believe is most likely true. In other words, it should not be a matter of "either-or" one party or the other, the question should be "whether" there is sufficient evidence that the incident did or did not occur.

In addressing the growing sentiment that campus adjudications are biased and unreliable, the ACTL concluded that increased procedural protections would "*enhance public confidence in [campus] adjudicative procedures and the broader goal of prevention.*" [13]

Widespread Criticism of DCL Policies

A recent Special Report evaluating how campus disciplinary policies have fared in the six years since the DCL quotes courts, civil rights advocates, law and university professors and campus administrators, all of whom have expressed deep reservations concerning the prohibitive cost,[14] ineffectiveness, inequality, bias and disparity between application of DCL policies across institutions.[15]

Unquestionably, institutions have been forced into a Catch-22:

> The schools in these cases must feel themselves to be in an impossible position ... Not doing enough means risking a federal Title IX investigation, with the threat of

[9] Anonymous, *A Survivor Speaks Out Against Stanford's Sexual Assault Proposal,* Stanford Daily, April 7, 2015, https://stanfordreview.org/a-survivor-speaks-out-against-stanfords-sexual-assault-proposal-9012b9a330b

[10] SAVE Special Report, note 3 *supra*, quoting Janet Napolitano, '"Only Yes Means Yes:" An Essay on University Policies Regarding Sexual Violence and Sexual Assault.' *Yale Law and Policy Review*, pp. 396-397, emphasis added, http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1684&context=ylpr

[11] SAVE Special Report, note 3 *supra*, at p. 4.

[12] Nancy Gertner, "Sex, Lies, and Justice: Can We Reconcile the Belated Attention to Rape on Campus with Due Process?," *The American Prospect* at p. 3 (Winter 2011).

[13] ACTL White Paper, note 6, *supra*, at p. 15, emphasis added.

[14] Colleges are reportedly spending millions of dollars just defending lawsuits. Piper, Greg, "Colleges have spent $60 million to resolve sexual-assault complaints, says insurance survey," *The College Fix*, April 11, 2017, https://www.thecollegefix.com/post/32098/

[15] SAVE Special Report, note 3 *supra*.

> losing federal funding … But, when schools do too much, they face potential lawsuits from accused students for violating, among other things, Title IX.[16]

An Open Letter signed by twenty-three law professors throughout the country cited "OCR's relentless pressure on institutions to respond aggressively to sexual assault allegations" as a factor which "has undermined the neutrality of many campus investigators and adjudicators by forcing them to consider the broader financial impact of their actions."[17] A campus administrator echoed these concerns in an anonymous essay to OCR:

> For six months, my (real) colleagues, here and on other campuses, have been talking about the Dear Colleague Letter, about the problems it creates for us, about the apparent lack of understanding of student culture it demonstrates. But we never say these things too publicly. We worry about being branded "soft" on sexual assault by victims' rights groups and by the media, and we worry about attracting your attention. Our voice has been missing from this debate, just as it seems our input was missing from your letter … And that's the difference between you and my real colleagues: I value their feedback and criticism. [18]

President of California's University system Janet Napolitano echoed the confusion surrounding application of DCL policies, complaining that "OCR investigations often take years to complete, leaving institutions under a cloud of suspicion and in limbo regarding the legal sufficiency of their policies and practices."[19] And recently, the NCHERM Group, providers of Title IX training throughout the country warned "Some pockets in higher education have twisted the 2011 Office for Civil Rights (OCR) Dear Colleague Letter (DCL) and Title IX into a license to subvert due process and to become the sex police."[20]

Consider the criticism of the DCL directives from a wide variety of other sources:

- Elizabeth Bartholet, veteran Harvard professor of civil rights, described OCR's policies restricting the due process provided to accused students as "*madness*."[21]
- ACTL found that OCR's "investigative and disciplinary procedures … are in many cases fundamentally unfair to students accused of sexual misconduct." [22]
- Twenty-eight Harvard Law professors protested that OCR's directives "lack the most basic elements of fairness and due process, are overwhelmingly stacked against the accused, and are in no way required by Title IX law or regulation."[23]
- University of Pennsylvania law professors similarly expressed "outrage" at the fact that campus sexual assault has become "a justification for shortcuts in our adjudicatory processes."[24]

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[16] Jeannie Suk Gersen, "College Students Go to Court Over Sexual Assault," *The New Yorker* (Aug. 5, 2016), http://www.newyorker.com/news/news-desk/colleges-go-to-court-over-sexual-assault.

[17] Law Professors Open Letter, note 1, *supra*.

[18] Anonymous, *An Open Letter to OCR*, October 28, 2011, Inside Higher Education, https://www.insidehighered.com/views/2011/10/28/essay-ocr-guidelines-sexual-assault-hurt-colleges-and-students

[19] SAVE Special Report, note 2 *supra*, quoting Janet Napolitano. *"Only Yes Means Yes:" An Essay on University Policies Regarding Sexual Violence and Sexual Assault.* Yale Law and Policy Review. Pages 396-397. Available at http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1684&context=ylpr

[20] The 2017 NCHERM Group White Paper: Due Process and the Sex Police, https://www.ncherm.org/wordpress/wp-content/uploads/2017/04/TNG-Whitepaper-Final-Electronic-Version.pdf

[21] Palazzolo, Joe, "Harvard Law Professor: Feds' Position on Sexual-Assault Policies Is 'Madness,'" *Wall Street Journal*, December 31, 2014, http://blogs.wsj.com/law/2014/12/31/harvard-law-professor-feds-position-on-sexual-assault-policies-is-madness/.

[22] ACTL White Paper note 6 *supra,* at, p. 15.

[23] Opinion, "Rethink Harvard's sexual harassment policy," *The Boston Globe*, October 15, 2014, http://www.bostonglobe.com/opinion/2014/10/14/rethink-harvard-sexual-harassment-policy/HFDDiZN7nU2UwuUuWMnqbM/story.html.

[24] Schow, Ashe, "UPenn law professors speak out against new campus sexual assault policy," *Washington Examiner,* February

- Members of the U.S. Commission on Civil Rights criticized OCR's "disturbing pattern of disregard for the rule of law" in addressing campus sexual violence.[25]
- The National Association of Scholars urged Congress to "[r]ein in education administration on 'unlawful' bullying, sexual assault policies;" [26]
- The American Association of University Professors warned OCR policies would "erode the due-process protections for academic freedom."[27]

More Courts Finding DCL Policies Inequitable

OCR's "unlawful actions have led to pervasive and severe infringements of free speech rights and due process protections at colleges and universities across the country,"[28] and courts across the United States are beginning to agree that DCL-mandated disciplinary procedures lead to biased and often predetermined results. A few of the more egregious examples:

- A Massachusetts federal district court judge refused to dismiss an expelled student's Title IX discrimination claims, finding Amherst acted with "deliberate indifference" when it refused to investigate and ignored evidence supporting the student's claim that he was in reality the victim.[29]
- The Second Circuit Court of Appeal reversed a lower court's dismissal of an accused student's Title IX gender discrimination claim, holding he has sufficiently alleged that he was the victim of gender bias.[30]
- A federal court in Rhode Island allowed an accused student's Title IX claim to proceed based on allegations that Brown had banned him from campus without an investigation or hearing, refused him access to evidence and prevented him from defending himself.[31]
- A New York appellate court reversed a lower court dismissal of an accused student's claim against the State University of New York and criticized the school's reliance on weak hearsay evidence. [32]
- A Virginia district court granted an accused student summary judgment, finding the school's "accumulation of mistakes" violated the student's liberty interest by 'plainly call[ing] into question plaintiffs "good name, reputation, honor, or integrity."' [33]

18, 2015, http://www.washingtonexaminer.com/upenn-law-professors-speak-out-against-new-campus-sexual-assault-policy/article/2560365.

[25] Schow, Ashe, "Members of civil rights commission oppose 'disregard for rule of law' over campus sexual assault rules," *Washington Examiner*, March 2, 2014, http://m.washingtonexaminer.com/members-of-civil-rights-commission-oppose-disregard-for-rule-of-law-over-campus-sexual-assault-rules/article/2560906.

[26] National Assn. of Scholars Letter to Members of Congress: "Rein in the DoED's Office for Civil Rights," March 4, 2015, discussed in Richardson, Valerie, "Civil rights commissioners: Rein in education administration on 'unlawful' bullying, sexual assault policies," *The Washington Times*, March 4, 2015, http://www.washingtontimes.com/news/2015/mar/4/civil-rights-commissioners-rein-admin-unlawful-bul/?page=all.

[27] Ann E. Green, Chair of the Committee on Women in the Academic Profession American Association of University Professors, August 18, 2011 letter to Russlynn Ali, OCR's Assistant Secretary for Civil Rights, (quoting Gregory Scholtz, Associate Secretary and Director of AAUP's Department of Academic Freedom, Tenure, and Governance, in a June 27, 2011, letter to Ali), https://portfolio.du.edu/downloadItem/192847; May, Caroline, "American Association of University Professors Expresses Concern over Dept. of Education's New Mandates," *The Daily Caller*, Aug. 18, 2011, http://dailycaller.com/2011/08/18/the-american-association-of-university-professors-expresses- concern-over-dept-of-educations-new-mandates/ (faculty union objecting to OCR's "new [preponderance] standard").

[28] Law Professors' Open Letter, note 1, *supra.*

[29] *Doe v. Amherst College*, Civil Action No. 15-30097-MGM, (US Dist Court MA., Feb. 27, 2017.) (blacked-out male student given oral sex by his girlfriend's roommate who later accused him of rape. However text messages the accuser sent later that evening revealed she knew he was too intoxicated to lie for her.)

[30] *Doe v. Columbia Univ.,* 831 F.3d 46 (2d Cir. 2016)*;* for other decisions upholding accused student claims *see Doe v. Rectors and Visitors of George Mason Univ.*, 132 F.Supp.3d 712 (E.D.Va 2015) (student deprived of property interest through an "accumulation of mistakes"); *Doe v. Washington & Lee Univ.*, No. 6:14-CV-00052, 2015 WL 4647996 (W.D. Va. Aug. 5, 2015); *Prasad v. Cornell Univ.*, No. 5:15-cv-322, 2016 WL 3212079 (N.D.N.Y. Feb. 24, 2016); *Doe v. Middlebury Coll.*, No.1:15-cv-192-jgm, 2015 WL 5488109 (D. Vt. Sept. 16, 2015); *Doe v. Brandeis Univ.*, 177 F.Supp.3d 561 (D. Mass. 2016).

[31] *Doe v Brown,* C.A. No. 1:15-cv-00144-S-LDA (D. R.I., Feb. 22, 2016)

[32] *Haug v State University of New York*, No. 522632, (State of New York, Appellate Division, Third Judicial Dept., Apr. 6, 2017).

- A Massachusetts district court criticized Brandeis' failure to provide an accused student "a variety of procedural protections . . . many of which, in the criminal context, are the most basic and fundamental components of due process of law," [34]
- In Virginia a court found there was potential gender bias because the Title IX officer had opined "sexual assault occurs whenever a woman has consensual sex with a man and regrets it because she had internal reservations."[35]
- The Second Circuit Court of Appeal found an accused student had sufficiently pled gender bias based on "pro-female, anti-male bias . . . adopted to refute criticisms circulating in the student body and in the public press that Columbia was turning a blind eye to female students' charges of sexual assaults by male students."[36]
- A California Superior Court Judge found San Diego State University's disciplinary process "*enough to shock the Court's conscience.*"[37]
- Another Superior Court Judge found that due process had "completely been obliterated" by UC Davis.[38]
- A California Court of Appeal reversed a dismissal of the student's claim, concluding that USC denied the student "a fair hearing … and substantial evidence does not support: the findings"[39]
- In a second USC case, the same Court of Appeal found the university had violated the student's due process rights by not giving him a chance to defend himself.[40]
- The Riverside County Superior Court granted a student's stay of his expulsion and criticized LaSierra University administrators for seeking to expel the student without a hearing, identifying witnesses or disclosing evidence.[41]

Although OCR recently and for the first time issued a determination letter which found a college had subjected its student to "an inequitable grievance and appeal process,"[42] there is still a long road to improving the track record of DCL policies, and congress should exercise caution in approving any bill that does not take these considerations into account.

The Underserved: Sacrificed to Political Agenda?

Our legislators should be especially troubled that those most severely impacted by OCR's flawed "guidance" have been and continue to be students without financial resources to retain legal assistance, including *first generation, minority, scholarship and other underserved student populations.* In fact, these students may even be targeted due to the the Center for Disease Control's "risk factors" incorporated by reference into "[e]very federal policy statement describing prevention programs of which we are aware" are "that individuals from communities with poverty, unemployment, or a lack of institutional support from police -- poor black and Latino men -- are more likely to be perpetrators of sexual violence…" [43]

The tragedy is that these ambitious students, in whom our state has invested significant time and money to ensure them opportunities for success equal to their more fortunate peers, are expected to face sophisticated lawyers and

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[33] *Doe v. Rectors and Visitors of George Mason University,* 149 F.Supp. 3d 602, 613-14 (E.D. Va. 2016) (quotation omitted).
[34] *Doe v. Brandeis Univ*., 177 F.Supp. 3d 561, 603 (D. Mass. 2016)
[35] *Doe v. Washington & Lee University,* No. 6:14-cv-00052, 2015 WL 4647996 at *10 (W.D. Va. Aug. 5, 2015)
[36] *Doe v. Columbia Univ*., 831 F.3d 46, 56 (2d Cir. 2016).
[37] *John Doe v. Rivera (SDSU),* No: 37-2015-00029558-CU-WM-CTL (San Diego County Sup. Court, Feb. 1, 2017 Minute Order)(emphasis added).
[38] *John Doe. v. Donald Dudley, Director of Student Judicial Affairs, et al.*, No. PT 15-1253 (Yolo County Sup. Court, Sept. 22, 2015.)
[39] *Dixon v. Kegan Allee et al*, Case No. BS157112 (Los Angeles Sup. Court, Aug. 12, 2015)
[40] *John Doe v University of Southern California*, 246 Cal. App. 4th 221 (2016).
[41] *John Doe v Marnie Straine, Interim Title IX Coordinator, et al.,* Case Case No. RIC 1606115 (Riverside County Sup. Court, July 15, 2016) (Student was denied "factual basis of the charges against him," "access[to] any evidence," and "opportunity to appear directly before the decision-making panel to rebut the evidence presented against him.")
[42] Letter from Beth Gellman-Beer, Supervisory Attorney of OCR Philadelphia to Robert E. Clark III, President of Wesley College at 1 (Oct. 12, 2016), https://www.documentcloud.org/documents/2671380-Wesley-College-Clery-Act-Determination.html
[43] Jacob Gersen & Jeannie Suk, "The Sex Bureaucracy," note 1, *supra*.

campus administrators who stand opposite them in disciplinary proceedings. They are denied access to the evidence, investigative reports and witness statements used against them, refused active assistance of an attorney or advocate, and their ability to ask questions is severely curtailed. Most have said they naively trusted their school to uncover the truth only to discover that the investigator sought only to establish their guilt. Outgunned, disillusioned and thwarted in their ability to clear their names, these traumatized and often suicidal students are left with the unimaginable burden to repay enormous college loans for which they have no diploma to show.

We Can Do Better; Wholesale Adoption of Controversial Policies is Not the Answer

Curbing campus sexual assault is too important of an issue to be addressed in a cursory manner or by failed policies with their often devastating consequences. If our legislators are genuinely interested in effective sexual assault prevention on campuses, they must put aside their political agendas and welcome open discussion with those who possess the expertise to appraise the playing field,[44] and help create policies that will achieve their worthy goals.[45]

Respectfully Submitted,

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[44] The author of this Statement serves on an American Bar Association Task Force on campus sexual misconduct procedures which has proven that a consensus can be reached between victims advocates and those who believe additional procedural protections for students should be included in campus proceedings.

[45] For an example of a well-crafted bill recognizing the rights of all parties in campus disciplinary processes, see the 'Campus Equality, Fairness, and Transparency Act' (CEFTA) http://www.saveservices.org/sexual-assault/cefta/