August 12, 2015

The Honorable Matt Salmon
2349 Rayburn House Office Building
Washington, DC 20515

The Honorable Pete Sessions
2233 Rayburn House Office Building
Washington, DC 20515

The Honorable Kay Granger
1026 Longworth House Office Building
Washington, DC 20515

Dear Representatives Salmon, Sessions, and Granger:

The National Alliance to End Sexual Violence (NAESV) is the voice in Washington for the 56 state and territorial sexual assault coalitions and 1300 rape crisis centers working to end sexual violence and support survivors. The Arizona Coalition to End Sexual and Domestic Violence is the statewide coalition representing sexual and domestic violence programs across the state of Arizona. The Texas Association Against Sexual Assault represents 82 rape crisis programs at 116 locations across Texas, which served more than 20,000 Texas victims last year. The local rape crisis centers in our networks see every day the widespread and devastating impacts of campus sexual assault upon survivors. College sexual assault survivors suffer high rates of PTSD, depression, and drug or alcohol abuse, which can hamper both their ability to succeed in school and future employment. At the same time, only a small percentage of these cases are reported, sanctioned by campus judicial boards, or prosecuted, allowing offenders to go without punishment as well as creating an unsafe environment for students.

We write to express our grave concern about *The Safe Campus Act of 2015*, H.R. 3403, and to apprise you of our opposition to this legislation. H.R. 3403 threatens to undermine the protections of Title IX and the critical progress policy makers, universities, advocates, students and survivors are making to end the scourge of sexual assault on campus.

Public policy responses to campus sexual violence must keep sight of supporting survivors and improving institutional climates so students can grow, learn and thrive. Every student has a right to an education free from sexual violence. In order to encourage educational attainment, we must expand options for survivors, rather than limit them. Sadly, some responsible for creating safe environments for students and responding to sexual assault claim they struggle to distinguish between assault and drunken, regrettable sex. We ask you to see this claim for the distraction that it is. In truth, the vast majority of sexual violence incidents are never reported to anyone in authority, either through the university or criminal justice systems. Furthermore, false reporting rates for sexual assault are low and consistent with other crimes.

Unfortunately, H.R. 3403 undermines the protections of Title IX and the Clery Act; puts students at risk of harm; and fails to hold institutions accountable for creating safe environments for young people. The Department of Education's Title IX sexual assault guidance and the Clery Act with Campus SaVE amendments are critically important tools to support survivors, increase institutional transparency, hold individual offenders accountable

and improve community safety. Recognizing that individual survivors find themselves in unique circumstances with varying and changing needs, Title IX requirements have developed to expand options and methods of support for survivors on campus. For many survivors, that includes a criminal justice response, and for many others it does not. In the same spirit of survivor trust and empowerment, the recent Campus SaVE amendments to the Clery Act require schools to inform survivors of their option to report to police, or not to report, and provide assistance and access to interim measures in either case. NAESV surveyed student survivors with Know Your IX in March 2015. Almost 90% of survivors responded "yes," they should retain the choice whether and to whom to report. When asked their concerns if reporting to police were mandatory, 79% said, "this could have a chilling effect on reporting," while 72% were concerned that "survivors would be forced to participate in the criminal justice system/go to trial."

Recently, much has been made of schools' authority to sanction students up to expulsion for sexual misconduct violations, based on a preponderance of the evidence presented in internal administrative hearings. We find this concern and conclusion unwarranted, question why the concern is raised specifically related to sexual assault determinations, and oppose provisions in H.R. 3403 to allow institutions to determine their own burden of proof and make the campus disciplinary process overly onerous. These are not criminal trials, and the preponderance standard is in keeping with other similar civil and administrative proceedings. Long before Title IX, colleges and universities exercised authority to sanction their students for policy violations, regardless of whether the conduct also constitutes a crime. Schools can suspend, expel, or impose a myriad of other sanctions for violations ranging from theft to drug use to physical assaults. But, unlike sexual misconduct, due process concerns are rarely raised in these cases. There is also ample legal precedent for administrative responses to sexual misconduct in non-educational settings. Under Title VII, employers—including colleges and universities— must conduct their own investigations of sexual harassment complaints and take remedial actions, often including terminating an employee found responsible for harassment.

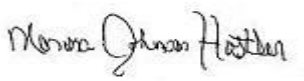
Survivors must be informed of the avenues and procedures for reporting as well as advocacy assistance in making and following through with reports. Even so, some survivors will choose not to report to law enforcement, and we oppose provisions in your legislation that prevent institutions from responding appropriately when survivors choose not to engage the criminal justice process.

For those survivors who choose to report to law enforcement, we must acknowledge the fact that 5% or less of reported sexual assaults will be brought to trial. Yet your legislation suggests that this process be complete before institutions may act to protect students. Waiting for a case to go to trial will mean that perpetrators graduate without consequences, while survivors drop out of school to avoid contact with perpetrators. Again, criminal justice and campus proceedings are fundamentally different processes designed to address different problems and accomplish different goals. Campuses are obligated to determine whether or not a student violated school policy and to protect the civil rights of the victim. There is no reason to conflate the two responses or suggest that either fulfills the purpose of the other**.** It is dangerous to require that a trial occur before campuses contemplate disciplinary proceedings against those accused of sexual assault. Such a policy only places greater safety risks on the campus community, by failing to address harmful behaviors and policy violations perpetrated by fellow students.

END SEXUAL VIOLENCE

Ultimately, we hope we all share the same goal: to make campuses safer and to support students on campus with a fair process that adequately addresses policy violations. It is essential for campuses to provide a safe environment for learning for all students by rigorously investigating reported sexual assaults and proactively looking for patterns of perpetration. Your legislation seeks to undo many of the tools developed to help institutions fulfill this responsibility. For these reasons, we must respectfully oppose H.R. 3403. We would be happy to discuss our concerns with you.

Sincerely,



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