

Due Process/Freedom of Association Game Plan

Our proposed work would come in three stages: (1) addressing the urgent nature of the UVA situation; (2) providing the legal framework and action plan for national fraternities/sororities to have an immediate response to a future situation where a university suspends fraternity/sorority operations without due process or just cause; and (3) an action plan for using the legislative and legal process to begin to fix the fundamental flaws in the sexual assault dispute resolution process on campus.

The NPC has now asked us to provide them just with an action plan for the third stage, legislative action in Congress.

Stage 3: Leading the Fight to Improve the Process for Handling Sexual Assault Claims

We understand that the public relations aspect of this situation is a serious problem, especially for fraternities. We would work closely with your public relations team to explain the legal and policy positions needed to educate various constituencies about your rights. We favor a more aggressive outreach than the fraternity system has shown to date.

The evidence exists to show federal policymakers the campus sexual assault judicial process can be improved in ways that improve campus safety, enhance the opportunity for victims to hold perpetrators accountable, and preserve the due process rights of the accused.

The work fraternities and sororities have done in Congress over the last 15 years makes you the largest and loudest voice for the collective rights of college students today. You are well-positioned to offer solutions to this problem. The visible cooperation of fraternity men/sorority women working together on these solutions is very powerful.

- SPB's legal and policy team should meet with relevant national fraternity/sorority leaders to design a 2015 legislative strategy that considers potential objectives such as:
 - Reinforce Title IX's single-sex protections, including clarification on gender identity issues as it pertains to single-sex organizations.
 - Prohibit universities from suspending organizations or systems for the actions of individuals.
 - Protect organizations such as fraternities/sororities from being suspended from operations on campus in instances where charges have been filed against an individual member but have not yet been adjudicated.
 - Develop a law enforcement "safe harbor," where universities may opt out of campus judicial proceedings for sexual assault if they have a defined process for referring all campus sexual assault claims to the police for investigation.
 - Require universities to offer the full range of due process protections for students in sexual assault cases handled on campus where the potential penalty includes suspension for one or more academic periods or expulsion.
 - Congressional nullification of the 2011 Department of Education Dear Colleague letter requiring a "preponderance of evidence standard" for campus judicial proceedings for sexual assault and sexual harassment.

- Seek collaborations and coalitions with organizations who have similar concerns about the problems caused by the Department of Education's mandated changes in procedures for sexual assault claims.
- Monitor and coordinate response in all 50 states to expected legislative activity on sexual assault, due process rights for the accused and protections for fraternal organizations.
 - Develop a model bill for introduction in state legislatures.
 - Seek champions in state legislatures.
 - Seek pro bono/reduced rate legislative assistance in state capitals from fraternity/sorority alumni who lobby at the state level.

Former Senate Majority Leader Trent Lott (R-MS/Sigma Nu) has agreed to be the leader of a new legislative team on these issues. Senator Lott is the Co-Chairman of the Squire Patton Boggs Public Policy Department. Kevin O'Neill, the firm's Deputy Global Managing Partner for Public Policy and the long-time leader of the firm's pro bono efforts for fraternities and sororities, will also be on the team. The remainder of the team will be a mixture of firm professionals and many will be NPC or NIC alumnae/alumni.

In appreciation of his fraternal experience at Sigma Nu, Senator Lott and the Squire Patton Boggs team would work at a reduced rate of \$25,000 a month with a guaranteed contract for all of 2015 (\$325,000 from December 1 2014 – December 31, 2015). It should be noted that while these issues are high priority items in the new Congress, it is possible they will not pass in 2015 and may require an advocacy effort into 2016. The firm would continue to provide pro bono legislative support on items outside of the sexual assault/freedom of association effort (hazing legislation, charitable giving, college affordability, fire safety, and the Collegiate Housing and Infrastructure Act).

As of December 6, Squire Patton Boggs has been hired by several national fraternal organizations. These groups have, in turn, asked the NIC and NPC to assume this financial responsibility on behalf of all fraternities and sororities. If the NIC and/or NPC choose not to participate financially in the cost, the coalition of groups that has hired the firm will continue its work. In that case, they will seek to expand the coalition to include a wider mix of sororities and fraternities who wish to contribute. In either instance, only organizations and individuals that have contributed financially to the advocacy campaign will have a voice in determining the goals, objectives and execution of the campaign.