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## **Testimony regarding HB 6890**

### **An Act Requiring Best Practices by Institutions of Higher Education in Response to Reports of Sexual Assault, Stalking, or Intimate Partner Violence February 14, 2019**

Senator Haskell, Rep. Haddad, and members of the Higher Education and Employment Advancement Committee:

My concerns regarding Title IX emanate from my experience as a male survivor of sexual assault. I was molested by my first grade teacher and my sixth grade gym teacher, both women. For nearly an entire school year, my first grade teacher would put her hand in my crotch in front of the whole class if she suspected I had wet my pants. The worst part, however, was not the physical molestation, awful as that was, but what she did next. If she detected I was wet, she would say, "CLASS, LAUGH!" She did this to a number of other boys in the class, as well as to one African-American girl.

One might think that as a survivor I would be supportive of efforts to make it easier to expel accused students and to shield accusers from the ostensible trauma of having to testify against those whom they have accused of sexual assault. You would be gravely mistaken. Our nation was founded on basic principles, including fundamental fairness, due process, the presumption of innocence, and the right to cross-examine one's accusers. The Constitution and Bill of Rights reflect true best practices—in comparison to the misguided laws we have already passed as Public Acts 14-11 (mandating the preponderance standard) and 16-106 (mandating affirmative consent). If the purpose of HB 6890 is to further assault due process and to enshrine the controversial US Department of Education Office of Civil Rights 2011 and 2014 "Dear Colleague Letters" with mandates issued in violation of the Administrative Procedures Act—as I suspect is the likely intent of its sponsors—then I must voice my vigorous opposition.

Genuine best practices entails taking these sexual assault cases to court for criminal prosecution, and ensuring campus proceedings are fair to all parties and seek truth rather than radical feminist identity politics. Sexual assault is both a serious crime and a serious charge. If the accused is guilty, than mere expulsion from campus is an insufficient punishment, enabling rapists to commit the same crime off campus, where college-age women are in greater danger. And if the accused is not guilty, the criminal justice system is far better equipped to find out the facts and ensure that innocent people are not deprived of an education they have worked hard for and paid for, and that lying accusers are held accountable for damaging innocent lives and good names.

As one prominent example of the injustice of our current laws and policies pushing colleges

to expel innocent students, I cite the case of Nikki Yovino, who was recently found guilty and sentenced to one year in jail for falsely claiming that she was raped in a bathroom by two black male students at Sacred Heart University in Bridgeport. Because our campus kangaroo courts mandated by the DOE/OCR “Dear Colleague Letters” along with Public Acts 14-11 and 16-106 make it impossible for falsely accused students to defend themselves, both of these innocent students were expelled. According to the Connecticut Post:

Malik St. Hilaire had been content to remain in the background during the nearly 18 months the case has been pending in the Golden Hill Street courthouse. He didn’t want his name to get out, he said, or to be pursued by the media the case had attracted.

But Thursday morning, he told his lawyer, Frank Riccio II, he wanted to finally confront Yovino for what she had done to him.

“I went from being a college student to sitting at home being expelled, with no way to clear my name,” St. Hilaire told the judge, as Yovino smirked just a few feet away. “I just hope she knows what she has done to me. My life will never be the same. I did nothing wrong, but everything has been altered because of this.”

Riccio then read a statement from the second young man, who is not being identified.

“The last almost two years have been definitely my most difficult of my life,” the statement read. “The roller-coaster of emotions: fear, anger, sadness, embarrassment, depression, anxiety and the list goes on. She accused me of what I believe to be a horrendous, horrific crime out of her own selfish concerns. I lost my scholarship, my dream of continuing to play football and now I am in debt \$30,000 and I’m simply trying to get ahead as best as I can.”

We also need to deal openly with the racism, ableism, and misandry of campus kangaroo courts. Disproportionately, minority and disabled men are being expelled on flimsy and unsubstantiated charges, and in at least one case, a disabled man who was sexually assaulted was expelled instead of the woman who assaulted him.

This is the end product of the #MeToo campaign to always “believe women” when it comes to accusations of sexual assault. I would respond to the “believe women” slogan of campus and other feminists: **Don’t believe a gender. Believe evidence.**

We need to remember that neither the perpetrators nor the victims of sexual assault are limited to a particular gender, sexual orientation, or gender identity. In particular, female-on-male sexual assault happens far more frequently on and off campus than most people are willing to admit, and sexual assault is also an issue within the LGBT community. The intense stigma faced by female-on-male rape survivors who have to battle multiple sexist assumptions regarding male perpetration and female victimhood is described in detail in a news story titled “College Women Rape College Men But Few Men Tell”:

Few male survivors of female assaults tell their stories online, and few of those males identify themselves as college men raped by college women. The [Washington Post](#) published some of those rarely told stories in an article about college sexual assault.

Male survivors who tell of their encounters say common responses from their friends and others around them are often along the lines of what health-care workers describe as myths. Those myths, all false, include “[You’re lucky](#),” a [woman can’t rape an unwilling man](#), a real man is too strong for a woman to rape him, and an erection [equals consent](#).

Relatively few resources exist for men sexually coerced by women. "Male victims in their 20s and 30s ... often don't feel right contacting a female-oriented sexual assault center," [University of South Dakota psychology professor Cindy] Struckman-Johnson said. "There needs to be staff who men feel comfortable reporting to. This is a source not readily available in many places in the country."

The Title IX approach to campus sexual assault, diverting adjudication from the criminal justice system toward secret campus tribunals, is based on this sexist myth that views **all** men as predators collectively responsible for sexually assaulting the ostensibly helpless female gender. It treats sexual assault, which is both a serious crime and a serious charge against individual perpetrators, as a collective act of male-on-female sex discrimination. It emanates from the radical gender feminist—actually female chauvinist and misandrist—ideology of Andrea Dworkin (“Violence is male; the male is the penis; violence is the penis”), Catharine MacKinnon (“I call it rape when a woman has sex and feels violated”; men are a “group sexually trained to woman-hating aggression”), Susan Brownmiller (“Rape is nothing more or less than a conscious process of intimidation by which *all men* keep *all women* in a state of fear”), and Catherine Comins (falsely accused male students “have a lot of pain, but it is not a pain that I would necessarily have spared them. I think it ideally initiates a process of self-exploration. 'How do I see women?' 'If I didn't violate her, could I have?' 'Do I have the potential to do to her what they say I did?'”), to name a few of the more prominent leaders and their bigoted statements. It takes the collectivist ethic of Marxism and applies it to gender, where women are the new proletariat and men are the oppressor bourgeoisie.

Three years ago, this misandrist ideology stigmatizing college men as a class of sexual predators was promulgated by supporters of the Title IX approach at this committee’s March 1, 2016 public hearing on affirmative consent. “[T]here clearly are scores of men on college campuses who are ready to assault [women].... That is a fact,” asserted Senator Mae Flexer in a heated exchange with Shelley Dempsey. By Senator Flexer’s standard, not merely scores but hundreds if not thousands of female teachers have sexually assaulted underage male students, with at least a few of these women becoming pregnant and courts compelling their boy victims to pay child support to their adult female rapists (e.g, *Hermesman v. Seyer*). World Net Daily has an extensive 13-page list of female teachers who have sexually assaulted students at <http://www.wnd.com/2014/08/39783/>. But just as it would be wrong for me to stereotype all female teachers as sexual predators, it is equally wrong for Senator Flexer or anyone else to do likewise to college men. We should condemn the myth of college male rapists under every bed as we condemn Joseph McCarthy’s demagogic claims of Communists under every bed.

This sexism profoundly affects how Title IX campus tribunals are conducted. Perhaps the most clear example of these sexist attitudes is the infamous “Jake and Josie” poster put out by Coastal Carolina University, pictured at the end of this testimony. The poster attempts to

portray a typical campus drunken hookup. It reads as follows: “JAKE was drunk. JOSIE was drunk. Jake and Josie HOOKED UP. Josie could NOT consent. The next day JAKE was charged with RAPE. A woman who is intoxicated cannot give her legal consent for sex, so proceeding under these circumstances is a crime.”

The obvious question here is that if both Jake and Josie were equally drunk to the point of intoxication, BOTH should be incapable of giving consent, especially under an affirmative consent standard. Why then was Josie not also charged with raping Jake? The unstated assumption here is one of “guilty by reason of penis.” Indeed, we know of only two cases, one in Washington state and the other at the University of Cincinnati, where a female student was expelled for allegedly sexually assaulting a male student in a he said–she said case, and as one who believes in gender equality, I would no more presume the fairness of these cases than the ones where male students have been expelled without a shred of due process. Sadly, Title IX, a law intended to eliminate sex discrimination in education, is now being used to foster such discrimination.

The stigmatization of entire groups of men as rapists has a long and ugly history. This is particularly true for racial/ethnic minority and disabled men. Writing in *Spiked*, Brendan O’Neill reminds all of us that “[w]ars on rape have been declared before, and often for deeply reactionary reasons, having the effect of harming society rather than helping women.” He focuses on how the Ku Klux Klan promulgated the myth of the dangerous black male rapist who menaced Southern white womanhood, and compares it in multiple ways to our current “rape culture” panic, especially on campus. More recently, Donald Trump has made divisive claims about minority men and rape, from demanding the death penalty for the falsely accused Central Park Five to his claims about Mexican immigrants.

My experience as a sexual assault survivor also teaches me the horror of public shaming, which can also result when someone is falsely accused and tarred as a sexual predator, often for life. The worst part of what happened to me was not the fact that the teacher repeatedly physically molested me in my crotch, awful as that was, but the public shaming that followed when she shouted, “CLASS, LAUGH!” The Talmud (Bava Metzia 58b) compares such public shaming to murder, a crime even worse than rape.

I am not here to suggest that false claims of sexual assault are widespread, particularly those that get reported to police. However, they can become more common in a place that incentivizes false claims. The claim made to me three years ago by a representative of the Connecticut Alliance to End Sexual Violence that women **never** lie is simply not true. Those of us who remember the history of Jim Crow remember the false rape allegations of Ruby Bates (who later recanted) and Victoria Price which terrorized the innocent Scottsboro Boys in an age where KKK lynch mobs reigned supreme. O’Neill emphasizes “always believe the accuser” (at least in regard to white women) was as much a central principle of the KKK’s “war on rape” as it is with contemporary feminists.

Regarding false allegations of campus sexual assault, in addition to the case of Nikki Yovino, we remember Crystal Mangum raping the good names of three members of the Duke lacrosse team, who had their reputations dragged through the mud, with self-righteous “anti-rape” crusaders banging pots and calling for the men to be castrated, promoting sexual violence in the name of opposing it. Because Mangum was never held accountable for her

false allegations, she remained free until she murdered her boyfriend. In 2016, Rolling Stone magazine was found guilty of libel in the “Jackie” rape hoax at the University of Virginia.

As a survivor, I wish to emphasize that false accusations seriously harm those of us, women and men, who have been violated and are telling the truth—as noted by both the prosecutor and judge in the Yovino case.

Campus sexual assault tribunals—correctly perceived as campus kangaroo courts—serve no one’s interest. The system oppresses accused and accuser alike. One obvious problem is the single-investigator model, where one Title IX officer not trained in law or sexual assault issues can act as investigator, prosecutor, judge, jury, and executioner. Additionally, there is a lack of basic due process protections denying students the basics of fair and impartial procedure, from the right to counsel, to cross-examination, to a low standard of evidence for suspension or expulsion where guilt rather than innocence is presumed. Our criminal justice system is certainly not perfect, but it is well worth remembering that even with the overly lenient jail sentence Brock Turner received, it is still more than any campus tribunal can mete out.

Attorney Naomi Shatz explains in the *Huffington Post* how the swing from historically ignoring sexual assault allegations to the current unjust Title IX system harms us all:

We as feminists are failing if we make our victories dependent on eschewing the fundamental rights and principles our legal system was founded on — fairness, due process, a presumption of innocence — in order to obtain findings of guilt in sexual assault cases without regard to the facts of individual cases. A system that is as unfair to accused students as the one currently employed by U.S. colleges and universities lacks legitimacy, and the more people learn about the fundamental unfairness of these systems the more skeptical they will become of accounts of campus sexual assault and any resulting actions by the schools. While the federal government and universities’ new approach to sexual assault cases may feel like much-deserved justice for the years of turning a blind eye to sexual assaults of university students, celebrating this trend is shortsighted. If we hang winning or losing this battle on simply increasing the number of students expelled for sexual assault, then we’ve already lost. As feminists, we should demand better than knee-jerk reactions from the government intended to appease anti-sexual assault activists without truly addressing their demands, and poorly designed university policies intended merely to protect the school’s federal funding at the expense of our core democratic values of fairness, due process, and the presumption of innocence. We should be advocating systems that both address the actual needs and rights of sexual assault victims and respect due process and fairness for the accused. The current Title IX system does neither.

We can do better than the Title IX system. Let us use this opportunity to amend HB 6890 to implement a workable system of genuine best practices that is fair to all parties, respects due process, and that encourages the reporting of criminal behavior to proper authorities so that those who commit sexual assault on campus are prosecuted, and if found guilty, punished to the full extent of the law.

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**JAKE and JOSIE HOOKED UP.**

JOSIE COULD **NOT** CONSENT.

**The next day JAKE was charged with RAPE.**

A woman who is intoxicated cannot give her legal consent for sex, so proceeding under these circumstances is a crime.

**It only takes a single day to ruin your life.**

Think About It!  
**Be responsible.**

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