

February 28, 2014

White House Task Force to Protect Students from Sexual Assault
c/o Office on Violence Against Women
U.S. Department of Justice
145 N St., NE, Suite 10W.121
Washington, DC 20530

RE: White House Task Force to Protect Students from Sexual Assault Call for Comments

Dear Task Force to Protect Students from Sexual Assault:

On behalf of the American Council on Education¹ and the other higher education associations identified below, I write in response to the White House Task Force to Protect Students from Sexual Assault's request for input on an issue that is critically important to college and university presidents -- sexual assault prevention and response. College and university leaders are acutely aware of the problem of sexual assault in our society and on campus, and they are working to answer the President's call to action. The higher education community welcomes the opportunity to work with the Task Force to ensure safe, secure environments for our nation's students.

We are steadfast in our commitment to keep college and university campuses safe by preventing sexual assault and responding to instances of sexual assault through actions that support survivors and hold offenders accountable. Colleges and universities are dedicated to fostering safe and inclusive campuses, and they are doing so through a range of practices designed to prevent and respond to sexual assault on their campuses. Personal, constructive collaboration among on-campus constituencies promotes a positive campus climate and strengthens efforts to address sexual assault.

Colleges and universities believe that in order to protect students from sexual assault, efforts must address both prevention of sexual assault and supportive, prompt, and equitable response to instances of sexual assault. Our member institutions care deeply about the safety and wellbeing of our students, and we are well positioned to implement prevention programs such as pre-orientation education programs, workshops on bystander intervention and healthy relationships, and informational campaigns. We also know the critical importance of responsive and fair procedures to address sexual assault on campus, when it occurs. Many

¹ ACE represents the presidents of U.S. accredited, degree-granting institutions, which include two- and four-year colleges, private and public universities, and nonprofit and for-profit entities. ACE has more than 1,800 member institutions.

colleges and universities have crafted their institutional policies and procedures in a manner that is non-threatening and easily comprehensible to students and builds in flexibility to address complaints effectively.

When an institution becomes aware of an instance of sexual assault, its response is guided by a core principle: protect the accuser and be fair to the accuser and the accused. This means that we react expeditiously to assist survivors of sexual assault by providing them with information on how to access the support and services they need and by making those resources easily accessible. It also means that we adopt and publish grievance procedures, thoroughly investigate reports of sexual assault, and otherwise provide for the prompt and equitable resolution of complaints in a way that is fair to all parties involved and upholds students' due process rights.

As the Task Force works with various federal agencies to develop a coordinated response to campus sexual assault and submits proposals and recommendations to the President, we encourage the Task Force to keep in mind the following considerations:

- Colleges and universities can be a valuable resource to the federal government. Institutional personnel -- whether a campus safety officer, a resident advisor, a Title IX coordinator, or another trusted administrator -- are often the first responders to sexual assaults reported on campus. We can share our field expertise and provide input about the types of initiatives that would best support campus efforts to prevent and respond to sexual assault. We encourage the Task Force, and federal agencies generally, to consult proactively the higher education community before proposing major changes in enforcement policy, so as to benefit from our unique position on campus alongside our students. Institutions are eager to share information about their innovative practices and efforts for continuous self-improvement and the practical aspects of legal compliance.
- There are over 4,500 higher education institutions in the United States, which differ in many ways. Some are public, others are independent; some are large urban universities, some are two-year community colleges, and still others are small rural campuses. Some are residential with students who are recent high school graduates; some serve commuter students who are primarily working adults. Institutional officials recognize that what may be effective for one campus may not be appropriate for another and what may be appropriate in one case may not be optimal in another. At many institutions, innovative training modules, prevention programs, crisis intervention and advocacy services, and institutional policies and protocols have been redesigned or created anew by students, faculty, and administrators working together to develop prevention and response efforts that are tailored to an institution's particular needs and circumstances. Flexible standards that allow institutions to develop strategies for their particular circumstances will strengthen efforts to protect against and address campus sexual assault. For example, with respect to any federal action to measure success of prevention and response efforts at institutions, a one-size-fits-all philosophy would stifle innovation and devalue institutional approaches that are customized for a campus community's circumstances.
- Clarification regarding compliance requirements and expectations, both existing and in the future, is essential to an effective response to sexual assault on campus. Unnecessary delay

and confusion results when institutions must attempt to navigate seemingly conflicting guidance from various sources or when they seek clarification from federal officials and receive no response. For example, university and college counsel through their professional association sought guidance from the Department of Education regarding numerous thoughtful questions prompted by the Department's April 4, 2011 Dear Colleague Letter on Sexual Violence; the association has yet to receive a response to its members' questions, which has caused a great deal of uncertainty about institutions' compliance obligations and students' rights. Colleges and universities are left to do their best to address these important issues so as to maintain safe campuses, support survivors, and hold perpetrators accountable while using processes that are fair to all involved, but without comfort that their best efforts will be found compliant by the Department and will not generate liability under lawsuits brought by one or both parties. Moreover, institutions receive advice from Department regional offices involved in particular investigations and the national office then provides a conflicting response. Consistency among the Department's offices would be extremely helpful.

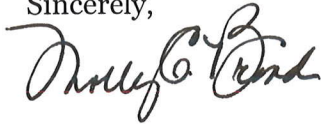
- Colleges and universities, students, and the public would benefit from a single, clear set of procedures, guidelines, or other requirements with which institutions must comply, and a unified federal enforcement approach. At present, colleges and universities are subject to a variety of applicable federal laws, including Title IX and the Clery Act and its implementing regulations, which address incidents of sexual assault. Institutions have also actively examined and adapted their policies and procedures in response to the U.S. Department of Education's April 4, 2011 Dear Colleague Letter, and they are now working to comply with new requirements of the Violence Against Women Reauthorization Act. Institutions may be subject to review by multiple federal offices over the same set of facts. We encourage the Task Force, in close consultation with the higher education community, to issue recommendations to streamline federal law, guidance, and enforcement relevant to incidents of sexual assault.
- Colleges and universities seek to work side-by-side with the federal government to combat sexual assault on campus. We encourage the Task Force, in its recommendations, to support the existing efforts of our member institutions. Every day, institutions make good-faith efforts to act promptly and fairly on the information made available to them by accusers and in the course of investigations. The issues surrounding many charges of sexual assault are not simple. Most often, cases involve tough issues with conflicting accounts of one-on-one encounters, limited or vague evidence, and a lack of witnesses. Although universities and colleges are not surrogate courts, and many institutions have no in-house legal counsel, they are dedicated to objective fact finding and fair resolution of sexual assault incidents, and we ask the Task Force to give due regard to the ability of institutions to apply their expertise to evaluate the facts of a sexual assault report. Universities and colleges of course have pertinent legal obligations, but they also understand that sexual assault can disrupt a student's education and alter a person's life, and as such a vigorous response to sexual assault incidents is our obligation to the nation.

We look forward to continued conversation with members of the Task Force about these important issues and reiterate our belief that colleges and universities play a pivotal role in protecting students from sexual assault. We take seriously our responsibility to care for all of

our students, to protect them from sexual assault, and when sexual assault occurs, to provide accountability to students and the broader public.

Thank you for your attention to these comments. We welcome the opportunity to expand upon them at the in-person meeting among Task Force representatives, ACE representatives, and other interested parties. If you have any questions or would like to discuss these comments further, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Molly Corbett Broad". The signature is fluid and cursive, with the first name "Molly" being the most prominent.

Molly Corbett Broad
President

MCB/ldw

On behalf of:

American Association of Community Colleges

American Association of State Colleges and Universities

American Council on Education

Association of American Universities

Association of Governing Boards of Universities and Colleges

Association of Public and Land-grant Universities

National Association of Independent Colleges and Universities

cc: Bea Hanson, Principal Deputy Director, Office on Violence Against Women