



Testimony of Lisa M. Maatz, Vice President of Government Relations
American Association of University Women (AAUW)

House Committee on Education and the Workforce
Subcommittee on Higher Education and Workforce Training

Hearing on Preventing and Responding to Sexual Assault on College Campuses
September 10, 2015

On behalf of the more than 170,000 bipartisan members and supporters, over 1,000 branches, and almost 900 college and university partners of the American Association of University Women (AAUW), I want to thank you for inviting me to testify at today's hearing on the topic of "Preventing and Responding to Sexual Assault on College Campuses." AAUW is the nation's leading voice promoting equity and education for women and girls. Since our founding in 1881, AAUW members have examined and taken positions on the fundamental issues of the day — educational, social, economic, and political. As early as 1945, AAUW was studying the impact of sex discrimination on college campuses. In 1972, we were instrumental not only in winning passage of Title IX but also in securing the subsequent regulations to aid compliance with the law. Today AAUW continues to fight for gender equity in education through research, legal case support, fellowships and grants, and advocacy.

My remarks today are informed by my 12 years working at AAUW, and several years at the NOW Legal Defense and Education Fund (now called Legal Momentum) and the Older Women's League (OWL). My remarks are also informed by my tenure as Executive Director of Turning Point, a domestic violence program recognized for excellence by the Ohio Supreme Court, and at Wittenberg University, where I was a hall director and ran a campus-based women's center that responded to incidences of campus sexual violence. Despite our current and welcome national conversation on this issue, I can attest to the fact that this is not a new problem.

When campus environments are hostile because of sexual harassment and violence, students cannot learn – and they miss out on full educational opportunities as a result. It's that simple, and that devastating. Colleges and universities have an important and necessary role to play in addressing this epidemic. Schools' role in responding to campus sexual assault is essential because students' civil rights – the opportunity to pursue their educations free of sex discrimination – are on the line.

Reauthorizing the Higher Education Act (HEA) provides an opportunity to help stem the tide of campus violence by further updating federal policies. Congress can not only guide colleges and universities in supporting students, but also provide strong incentives for these institutions to improve their campus climates for all.

Today I hope to provide you with information about the current laws that shape schools' responses to sexual violence as well as additional steps Congress can take to help end sexual violence. Smart schools understand that laws like Title IX, successfully implemented, provide the very tools they need to improve campus climates for everyone. It's on all of us to keep the spotlight bright to help ensure that all schools have the information and assistance they need to follow the law and protect students' civil rights.

AAUW has long identified the need to end sexual harassment and violence on college campuses. Our own research revealed that nearly two-thirds of college students experience sexual harassment.¹ A 2007 campus sexual-assault study by the U.S. Department of Justice found that around 28 percent of women are targets of attempted or completed sexual assault while they are college students.² And just this year, a national poll found that one in five women said they have been sexually assaulted in college.³ This issue impacts men and women, students from all walks of life, and students at all types of schools.

Title IX

Title IX of the Education Amendments of 1972 is the federal law that prohibits sex discrimination in federally funded education programs. It covers all aspects of sex discrimination from the well-known inclusion of women in athletics programs, to the rights of pregnant and parenting students, and to the topic of this hearing: sexual harassment and violence. Title IX applies to students throughout their time in school – from elementary school through their postsecondary education. Since Title IX's passage in 1972, all federal agencies with educational programs have developed and issued regulations to implement and support the statute. In addition, the U.S. Department of Education has regularly provided technical assistance and guidance to support schools in their compliance with the law.

Title IX protects students from sex discrimination in all of a school's programs or activities, whether they take place in the facilities of the school, at a class or training program sponsored by the school at another location, or elsewhere. Sex discrimination includes the continuum of sexual harassment and violence. Title IX is a gender-neutral law, protecting both female and male students from sexual harassment regardless of who the harasser may be.⁴ Title IX requires schools to evaluate their current practices, adopt and publish a policy against sex discrimination, and implement grievance procedures providing for prompt and equitable resolutions of student and employee discrimination complaints. Under Title IX, schools are required to take steps to eliminate sexual harassment and sexual violence, prevent their recurrence, and address their impacts not only on individual students but the campus community as a whole.⁵ This requirement is not new. Further, these rules have been reiterated time and time again to schools through guidance, regulations, and technical

assistance.

Title IX and its guidance require schools to do several commonsense things. Schools must have and distribute a policy that defines sex discrimination (which includes sexual harassment and violence) and states that the school does not discriminate.⁶ In addition, schools must develop, implement and publicize procedures for students to file complaints when sex discrimination (including sexual harassment and violence) takes place. Both federal law and good conscience require schools to take action to remedy harassment when it occurs and to prevent its recurrence. This includes accommodations for students to adjust housing arrangements, rearrange class schedules, and receive academic support – key actions that schools are uniquely and best suited to provide. This also includes administrative and disciplinary action according to the school’s anti-discrimination policies where appropriate. Also, schools must appoint a Title IX coordinator to oversee these activities, review complaints, and consistently address patterns or systemic problems – even when there are not formal complaints. Schools must regularly notify students of the coordinator’s name and contact information, as well the non-discrimination policy itself.⁷

In order to ensure schools understand their responsibilities under Title IX, the federal government has developed supporting regulations and guidance. In recent years, the U.S. Department of Education has provided technical assistance to schools in the form of Dear Colleague letters, an extensive “questions and answers” document, and a resource guide to support and inform Title IX coordinators.⁸ These documents have been developed throughout the years, over the course of Republican and Democratic administrations, to reflect and answer the variety of questions from schools across the country. In addition, the White House Task Force to Protect Students from Sexual Assault, which includes the U.S. Departments of Education and Justice as well as other relevant agencies, has recently developed an excellent hub of resources and best practices at the web site NotAlone.gov. The U.S. Department of Education’s Office for Civil Rights also initiates proactive compliance reviews and responds to complaints –from students on both sides of campus proceedings – when schools may be failing to meet their Title IX obligations.

The Clery Act

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) requires colleges and universities that participate in federal financial aid programs to disclose campus crime statistics and security information.⁹ Every school must provide this information publicly. Currently, sexual assaults that are reported to campus security and local law enforcement are included in these disclosures.¹⁰

In 2013, Congress reauthorized the Violence Against Women Act (VAWA) and included AAUW-supported provisions to improve campus safety. Schools are now required to report additional crime statistics (on domestic violence, dating violence, and stalking), review and update procedures following an incident of sexual violence, and provide prevention and bystander intervention training to all students and employees. The statistics and policy disclosures required by the Clery Act all serve an important purpose – they are a public

compilation of the efforts the school is making on all safety issues, not just sexual violence. Such information is not only of critical interest to students and parents, but also serves as a regular check-up the school can use to fine tune their policies and practices. The new prevention and awareness education programs required by the Clery Act have the potential to shift campus culture and change attitudes regarding sexual violence.

Congress passed the Violence Against Women Reauthorization Act of 2013 with updates to the Clery Act by large bipartisan margins in both chambers. Following passage, the regulations for the Clery Act provisions were developed and adopted through a negotiated rulemaking of a diverse group of stakeholders who worked through complex issues and came to consensus in support of the final rule.¹¹ These new campus provisions are only just being implemented (as of July 1, 2015), and AAUW is looking forward to both their positive impact as well as the lessons of implementation that could lead to future improvements to the law.

The Clery Act requirements are in addition to the longstanding obligations that schools have under Title IX. These laws work together to ensure that students have the information they need regarding campus safety, as well as a clear course of action when sexual violence occurs. They also provide school administrations with critical information that allows them to continually monitor and inform their campus safety policies, procedures, and practices.

Equity and Fairness During Disciplinary Proceedings

Existing laws and court precedents spell out clear requirements for colleges and universities to be fair during disciplinary proceedings on campus. These requirements are not just about proceedings following an incident of sexual harassment or violence – they reflect the rights of students in all disciplinary proceedings.

In *Goss v Lopez*, the U.S. Supreme Court made it clear that students must receive notice of disciplinary charges and that there must be a hearing where both sides are heard.¹² In *Dixon v Alabama State Board of Education*, the 5th Circuit Court of Appeals held that in a situation where the possible punishment included expulsion from a public institution of education, students must receive notice of the disciplinary charges and grounds for possible expulsion, the names of witnesses and a report of the facts to which each witness testifies, and a hearing where both sides are heard in detail and the accused student can present his or her own defense. *Dixon* does not require the right to cross-examine, nor secure counsel, confront and cross-examine witnesses, or call witnesses.

It is important to recognize that the due process rights of all parties are strictly enforced in any administrative proceeding. Just as important, Congress should reject any attempts to contravene established court precedent on the weight of evidence required to maintain a civil claim of sex discrimination. Such interference could have the perverse result of making it more difficult for rape survivors to obtain relief than other types of claims in administrative proceedings. Schools should never be excused of their Title IX obligations by simply making these claims more difficult for survivors.

The Clery Act reflects these requirements, restating that whatever disciplinary proceedings occur following a campus incident of sexual assault, domestic violence, dating violence, and stalking must be “prompt, fair, and impartial,” and that both parties receive timely notice regarding the outcomes of proceedings.¹³ In addition, Title IX ensures that – whatever process is used to resolve complaints of sexual harassment and violence – it must be “adequate, reliable, impartial, and prompt and include the opportunity for both parties to present witnesses and other evidence.”¹⁴

Current law requires schools to respond to campus sexual assault because students' civil rights are on the line. But, schools also have a role in addressing sexual harassment and violence on campus because they are best equipped to provide interim measures and accommodations. Accommodations such as class schedule or housing changes are necessary to survivors' ability to complete their education. Schools are also best situated to assess and remedy such incidents, in an administrative setting and according to their established student codes of conduct and anti-discrimination policies. Appropriately, schools are not in the business of imposing criminal punishments. Those decisions are best left to the authorities in charge of criminal investigation and prosecution, if a survivor chooses to pursue that course. The school's civil rights investigation and any law enforcement criminal investigation represent parallel and equally necessary paths.

Current laws that outline these requirements, such as Title IX and the Clery Act, must be protected. Such provisions serve as an important backbone that supports survivors who simply seek to complete their educations.

Next Steps to End Sexual Harassment and Violence

There are improvements Congress can make to help guide and assist colleges and universities in their efforts to end sexual harassment and violence on campus. We know that the time immediately following an incident is critical for survivors – they need access to a safe space, to medical and/or counseling care, and would benefit from knowing where they can seek additional support and resources. Schools should follow a best practice that ensures there is an advisor or liaison available to connect survivors to all of these important resources. The AAUW-supported Survivor Outreach and Support Campus Act (SOS Campus Act) would require this of colleges and universities. Schools would establish an independent, on-campus advocate to support survivors of sexual assault. Advocates would connect survivors with resources including emergency and follow-up medical and counseling care, how to report to law enforcement if they so choose, and information about legal rights on campus and off.

In addition, we know that state sexual assault coalitions and community-based rape crisis centers stand ready to work with colleges and universities using the best practices they have developed through years of experience. Formalizing partnerships with these groups to ensure crisis intervention, services, education, and training would be a smart move for any school seeking to support survivors on campus while not reinventing the wheel.

Resources to do so are available at the White House Task Force to Protect Students from Sexual Assault's website [NotAlone.gov](https://www.notalone.gov).¹⁵

Implementing a climate survey would provide schools with a better understanding of both reported and unreported incidents, as well as contributing cultural factors on campus. Very simply, schools need information in order to effectively combat this epidemic. Climate surveys also provide a counterbalance to incentives to hide reported incidents in low annual crime statistics to avoid looking "unsafe." By demonstrating that a campus is coming closer to having all incidents reported, asking why some incidents aren't, and working to reduce the overall number of incidents, schools provide additional transparency that is crucial for student safety and wellbeing and, quite frankly, an excellent good faith move to show student and parents that the school is facing this nationwide problem head on. For the information to be useful beyond a single campus, surveys must ask some of the same questions and have similar methodologies. This is why coordination of such a survey on the federal level is important to its success. Such coordination also ensures that both good actors and bad actors participate. The AAUW-supported Hold Accountable and Lend Transparency on Campus Sexual Violence Act would require such a survey. AAUW encourages the committee to continue to collaborate with stakeholders regarding the best approach to requiring climate surveys on campus.

Finally, AAUW urges Congress to provide additional appropriations that support schools in educating students, faculty, and staff – particularly Title IX coordinators, as well as training the appropriate administrators on the relevant laws and best practices. Not all schools are bad actors and resources and technical assistance can help them make real change. For the first time ever, this coming year, the U.S. Department of Education will have access to the names and email addresses of Title IX coordinators at every school. This means improved opportunities for communication and technical assistance. But, we have also seen that with more attention to the issue there has also come an increase in the need for enforcement action by the Department.¹⁶ While many schools are working diligently to respond to incidents of sexual violence, as of August 19, 131 schools were under investigation by the U.S. Department of Education's Office for Civil Rights regarding their compliance with Title IX.¹⁷ These investigations stem from complaints as well as proactive compliance reviews. Unfortunately, the U.S. Department of Education's Office for Civil Rights has staffing levels today that are almost 15 percent below levels 10 years ago and more than 50 percent below levels over 30 years ago. The Office for Civil Rights needs additional funding to be able to provide ongoing technical assistance to schools and to hold bad actors accountable.

A single incident of sexual violence is unacceptable. When it interferes with students' education, it adds insult to injury. We must do everything we can to stop it, and we have tools to make a real difference. Thank you again for the opportunity to testify during today's hearing. AAUW looks forward to continuing to work with you to tackle the issue of campus sexual violence during the process of reauthorizing the Higher Education Act.

-
- ¹ AAUW. (2005). Drawing the Line: Sexual Harassment on Campus. history.aauw.org/aauw-research/2006-drawing-the-line
- ² Christopher P. Krebs, Ph.D. ; Christine H. Lindquist, Ph.D. ; Tara D. Warner, M.A. ; Bonnie S. Fisher, Ph.D. ; Sandra L. Martin, Ph.D. (December 2007). The Campus Sexual Assault (CSA) Study, Final Report. NIJ Grant No. 2004-WG-BX-0010. www.ncjrs.gov/pdffiles1/nij/grants/221153.pdf.
- ³ Washington Post. (2015). *Poll: One in 5 women say they have been sexually assaulted in college.* www.washingtonpost.com/graphics/local/sexual-assault-poll/
- ⁴ U.S. Department of Education. (September 2008). Sexual Harassment. www2.ed.gov/about/offices/list/ocr/docs/ocrshpam.pdf
- ⁵ U.S. Department of Education. (2011). Know Your Rights: Title IX Prohibits Sexual Harassment and Sexual Violence Where You Go to School. www2.ed.gov/about/offices/list/ocr/docs/title-ix-rights-201104.html
- ⁶ U.S. Department of Education. (April 2011). Dear Colleague Letter. www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf
- ⁷ U.S. Department of Education. (April 2015). Title IX Resource Guide. www2.ed.gov/about/offices/list/ocr/docs/dcl-title-ix-coordinators-guide-201504.pdf
- ⁸ AAUW members and activists have taken action to deliver these resources to over 700 schools across the country. AAUW. (2015). Deliver New Title IX Resources to Your Local Schools. www.aauw.org/resource/titleixdelivery/
- ⁹ Clery Center for Security on Campus. *Summary of the Jeanne Clery Act.* clerycenter.org/summary-jeanne-clery-act
- ¹⁰ U.S. Department of Education. *Campus Safety and Security Data Analysis Cutting Tool.* ope.ed.gov/security/
- ¹¹ Negotiators included communities of interest such as: Students, Legal assistance organizations that represent students, Consumer advocacy organizations, Campus safety advocates, Mental Health Services, Institutional campus safety officials, Institutional student affairs/disciplinary divisions, Institutional centers for women, lesbian, gay, bisexual, and transgendered individuals, Institutional attorneys, Minority serving institutions and other Title III institutions, Two-year public institutions, Four-year public institutions, Private, non-profit institutions, Private, for-profit institutions. U.S. Department of Education. (2014). List of negotiators. www2.ed.gov/policy/highered/reg/hearulemaking/2012/vawa-negotiators2014.pdf
- ¹² Goss v. Lopez (1975) 419 U.S. 565
- ¹³ 20 U.S.C. 1092 (f)(8)(B)(iv)
- ¹⁴ U.S. Department of Education. (April 2014). www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf
- ¹⁵ White House Task Force to Protect Students from Sexual Assault. Building Partnerships with Local Rape Crisis Centers: Developing a Memorandum of Understanding www.notalone.gov/assets/mou-rape-crisis-centers.pdf
- ¹⁶ U.S. Department of Education. (April 2015). Protecting Civil Rights, Advancing Equity: Report to the President and Secretary of Education, Under Section 203(b)(1) of the Department of Education Organization Act, FY 13–14. www2.ed.gov/about/reports/annual/ocr/report-to-president-and-secretary-of-education-2013-14.pdf
- ¹⁷ Richmond Times Dispatch. (August 19, 2015). *VCU under federal scrutiny for sexual assault handling.* http://www.richmond.com/news/local/education/article_71d9f8b3-72d9-562f-a0e6-39e011c41a50.html