

STATEMENT IN SUPPORT OF DUE PROCESS SAFEGUARDS FOR NORTH CAROLINA UNIVERSITY STUDENTS¹

April 28, 2019

University disciplinary proceedings regarding student misconduct must provide due process safeguards. A majority of Americans agree. Today in North Carolina, K-12 students facing a disciplinary proceeding where a suspension is at stake are properly provided due process rights by statute (§115C-390.8). University students do not enjoy these same fundamental protections.

The General Assembly must address this issue. Universities in our state have already proven themselves unwilling to provide fair, equitable, and, unbiased treatment for students facing disciplinary proceedings. A rising number of lawsuits filed by student plaintiffs show how badly broken the UNC system's disciplinary processes are. A recent newspaper headline is illustrative of the problem, "**ASU paid \$100K to settle with former athlete**"². Many more examples exist.

Just how bad has it gotten? A recent report by the Foundation for Individual Rights (FIRE)³ showed:

- Nearly three quarters (73.6%) of America's top 53 universities do not guarantee students that they will be presumed innocent until proven guilty.
- Only slightly more than half of schools (52.8%) require that fact-finders—the institution's version of judge and/or jury—be impartial.
- Fewer than one third of institutions (30.2%) guarantee a meaningful hearing, where each party may see and hear the evidence being presented to fact-finders by the opposing party.

FIRE included our state's flagship public institution, the University of Carolina at Chapel Hill, in its report. Here are some disturbing details of how UNC-Chapel Hill rated for due process protections for Title IX related disciplinary proceedings⁴:

- A clearly stated presumption of innocence – 0 points for UNC-CH
- Timely & adequate written notice of allegations - 0 points for UNC-CH
- Adequate time to prepare for a hearing - 0 points for UNC-CH
- Requirement that disciplinary findings leading to expulsion be agreed upon by a unanimous panel or determined by clear and convincing evidence – 0 points for UNC-CH

Across the UNC System, students have been denied basic due process rights, including the right to have an attorney *meaningfully* participate in hearings, the right to present evidence, the right to call witnesses, the right to face their accuser, and the right to question or cross-examine their accuser. Students are not permitted to obtain or make a copy of the Title IX investigator's report. Moreover, they are denied the fundamental American right to be presumed of innocent until proven guilty.

¹ This Statement is being coordinated by NCFM Carolinas at www.ncfmc Carolinas.com For inquiries please contact: ncfmc Carolinas@yahoo.com

² https://www.wataugademocrat.com/news/asu-paid-k-to-settle-with-former-athlete/article_7cb5f959-e0fd-5188-b245-748e0ba6ae03.html

³ [FIRE Spotlight on Due Process 2018](#)

⁴ Ibid

This isn't merely a matter of school policy; students' lives are at stake. College students have taken their lives or have contemplated doing so because of unfounded allegations of sexual misconduct.⁵ Accused college students face other harmful, and often irreparable, outcomes such as:

- Suspension without a hearing
- Removal from campus under threat of trespassing charges
- Becoming the target of a criminal investigation
- Becoming the target of a university Title IX investigation
- Summary expulsion or long-term suspension
- Denial of the ability to transfer
- Denial of entrance into another university
- Denial of a diploma
- Lost opportunity of a future career
- Branding as a rapist for life

Due process protections are popular across the political spectrum. A 2017 YouGov poll⁶ found strong bipartisan public support for due process in Title IX cases on college campuses:

- 81% of respondents believed the accused should have the right to be informed of the charges against him.
- 61% said accused students should have the right to cross-examine their accusers.
- 67% agreed that students accused of crimes on campus should enjoy the same legal protections that they would receive in a court of law.

The crossover deadline of May 9th adds urgency to our plea. Legislation protecting due process must be heard by committee, debated, and sent to the floor for a vote. With the lives of future leaders of our state and country hanging in the balance, your sincere consideration of this issue is vital.

The undersigned urge members of the North Carolina General Assembly to consider this issue and help provide due process rights for students enrolled and attending a public university in North Carolina.

Respectfully,

Gregory J. Josefchuk
President
National Coalition For Men Carolinas (NCFMC)

Jonathan Taylor
Founder
Title IX for All

Jenna A Robinson, Ph.D.
President
The James G. Martin Center for Academic Renewal

Magdalene Horzempa
Chairwoman Emeritus
UNC-Chapel Hill College Republicans

John Staddon
Professor Emeritus of Psychology and Neuroscience
Duke University

Peter W. Wood
President
National Association of Scholars

⁵ <https://www.insidehighered.com/news/2017/05/02/title-ix-cases-resulted-suicide-suicide-attempt-two-colleges-prompt-fresh-debate>

⁶ <http://bipp.blogs.bucknell.edu/files/2017/09/BIPP-Higher-Ed-Toplines.pdf>

Maj. Kit Martin (U.S. Army)
Veteran Support Liaison
Save Our Heroes

George Leef
Director of Editorial Content
The James G. Martin Center for Academic Renewal

Dr. Mike Adams
Professor of Criminology
University of North Carolina- Wilmington

C.D. Mock
UNC-Chapel Hill Wrestling Coach (2003-2015)
NCFMC Advisory Board Member

Denise McAllister
Author and Cultural Commentator
Charlotte, NC

Ramona Wescott
Concerned Citizen
Manteo, NC

Sheryl J. Josefchuk
Concerned Citizen
Catawba, NC

Tim Goldich
Author, *Loving Men, Respecting Women: The Future
of Gender Politics*

Anthony Hennen
Writer/Editor
The James G. Martin Center for Academic Renewal

Shannon Watkins
Program Associate
The James G. Martin Center for Academic Renewal

Gordon E. Finley, Ph.D.
Professor of Psychology Emeritus
Florida International University

Jay Schalin
Director of Policy Analysis
The James G. Martin Center for Academic Renewal

Chief Warrant Officer Clinton Boneschans
Assistant Detachment Commander (U.S. Army)
Fayetteville, NC

James Paul (Teacher)
Lisa Paul (School Counselor)
Lexington, NC

Sheila Peltzer
President
KidsNeed2Parents (KN2P)

Lolita Turner
Concerned Citizen
Elizabeth City, NC

Linda LeFauve
Contributor, Reason and Real Clear Politics
Huntersville NC

Sarah Hupp
Concerned Citizen
Shiloh, NC

John and Debra Keenan
Concerned Citizens
Southern Shores, NC

Dr. Warren Farrell, Ph.D.
Author, *The Boy Crisis*

Dr. Jordan B. Peterson
Professor of Psychology
University of Toronto

Meg Heinz
NCFMC Advisory Board Member
Western Springs, IL

Clay McEldowney
Board Member - American Sports Council
Williamsburg, VA

Harry Crouch
President
National Coalition For Men

John W. Gresham, Esq.
Tin Fulton Walker & Owen, PLLC
Charlotte, NC

Norman Zalkind, Esq.
Criminal Defense Attorney
Zalkind Duncan and Bernstein LLP

Veronica N. Norris, J.D., R.N., P.H.N.
Education Rights Attorney
Tustin, California

Marc E. Angelucci
Attorney at Law
Crestline, CA

Matthew P. Josefchuk
Concerned Citizen & Alumni
University of North Carolina at Chapel Hill

Philip D. Josefchuk
Concerned Citizen & Student
Central Piedmont Community College

Peter Aftosmos
NCFMC Advisory Board Member
Palmyra ,PA

Kate Heinz
Concerned Citizen
Western Springs, IL

Michael Reiss
Concerned Citizen
Burr Ridge, IL

Sharon & Rick Alvis
Concerned Citizens
Orland Park, IL

Marv & Amy Baldwin
Concerned Citizens
Western Springs, IL

Jim & Pat O'Kelley
Concerned Citizens
North Redington Beach, FL

Andrew T. Miltenberg
Education Rights Attorney
Nesenoff & Miltenberg LLP

Cynthia P. Garrett
Attorney
San Diego, CA

Kimberly C. Lau
Education Rights Attorney
New York City, NY

Margaret C. Valois
Attorney at Law
James River Legal Associates

Bryan and Jessica Josefchuk
Concerned Citizen & Alumni
University of North Carolina at Chapel Hill

J. Drew Keenan
Concerned Citizen & Alumni
Wake Forest University

Tiffany Hunt
NCFMC Advisory Board Member
Loveland, OH

Meredith Onion
Concerned Citizen
LaGrange, IL

Matthew Alvis
Concerned Citizen
Orland Park, IL

Cathy Heinz
Concerned Citizen
Orland Park, IL

Ann Rohaly
Concerned Citizen
Western Springs, IL

Mike & Mary Lee Gosz
Concerned Citizens
Chicago, IL

Laurence & Ann Wilson
Concerned Citizens
Western Springs, IL

Lisa Piskule
Concerned Citizen
Hungry, IL

Donald & Sharon Poljak
Concerned Citizens
Oak Lawn, IL

Raymond & Therese O'Brien
Concerned Citizens
Orland Park, IL

Charles H. & Judith A. Alvis
Concerned Citizens
Worth, IL

James, Cheryl Ann, James & Jacob Close
Concerned Citizens
Shorewood, IL

Christopher, Susan, Kenneth & Alissa Schmidt
Concerned Citizens
Tinley Park, IL

Debra Walker
Concerned Citizen
Orland Park, IL