



## National Coalition For Men Carolinas (NCFMC)

January 16, 2017

The Honorable Lamar Alexander  
The Honorable Patty Murray  
Committee on Health, Education, Labor & Pensions  
428 Senate Dirksen Office Building  
Washington, DC 20510

RE: Statement for the Record by the National Coalition For Men Carolinas (NCFMC) for U.S. Senate Health, Education, Labor and Pensions Committee Hearing, "Nomination of Betsy DeVos to serve as Secretary of Education"

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Dear Senator Alexander and Senator Murray:

I represent college students and their families in North and South Carolina in my role as president of the Carolinas chapter of the National Coalition For Men (NCFM) which is a non-partisan nonprofit civil rights organization.

While our education system faces many challenges today, the issue of how to handle sexual misconduct on college campuses is firmly planted in the national spotlight. No one denies that sexual assault on college campuses is a serious matter yet the prescribed cure by the Department of Education under the Obama administration is worse than the disease inasmuch as it has done violence to the concept of the presumption of innocence, fair and equal treatment and eviscerates due process for any student facing a Title IX university disciplinary hearing.

Have we so quickly forgotten the painful lessons learned at the expense of so many college men falsely accused of rape? If so, perhaps the following cases can serve as a reminder:

- Duke Lacrosse case – gang rape hoax; college men ultimately were declared innocent by the Attorney General but not until well after their young lives were irreparably destroyed
- Hofstra Five case – five young men arrested, their names and photos splashed across the media & days later released from jail after the accuser woman admitted to making a gang rape story up
- UVa case – the recent infamous Rolling Stone gang rape hoax story that resulted in vandalism and threats of violence made against fraternity members.

These cases represent just a small sampling of the approximately 130 lawsuits filed against universities in which plaintiffs allege being denied due process, subjected to what can only be described as a kangaroo court process and summarily expelled as a direct result of flawed directives issued and enforced by the Office of Civil Rights (OCR) within the Department of Education.

Universities are not the proper institution to prosecute a rape case. In that regard, I would remind this institution of the testimony provided to this committee previously by Molly Corbett Broad, President of the American Council on Education, who stated:



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*“Conducting education and providing information is an area where college officials have vast experience. We must redouble our education efforts on sexual assault, and as I noted earlier, institutions are moving aggressively to do this. But performing investigations and adjudicating cases is a far more difficult challenge. We lack the authority to subpoena witnesses, control evidence and impose legal standards. **Our disciplinary and grievance procedures were designed to provide appropriate resolution of institutional standards for student conduct, especially with respect to academic matters. They were never meant for misdemeanors, let alone felonies. While we take our obligations to the victims/survivors of sexual assault very seriously and are fully aware of our responsibilities with respect to sexual assaults, our on-campus disciplinary processes are not proxies for the criminal justice system, nor should they be.**”*

We would ask that during the confirmation of Betsy DeVos, you solicit a commitment from Mrs. DeVos for the following:

- Immediate repeal of the deeply flawed Dear Colleague Letter issued on April 4, 2011 by the Office of Civil Rights (OCR).
- Restoration of due process and fundamental civil rights for any student facing a Title IX investigation. If colleges are going to be required to adjudicate sexual assault allegations, then schools must provide accused students basic due process rights including but not limited to: the right to have counsel present during the hearing; the right to effectively cross-examine; timely access to written complaints and evidence; timely and adequate notice of actual charges; elimination of gag orders impeding the ability to talk to witnesses and gather evidence; the exclusion of hearsay evidence and hearing panels composed of thoroughly trained objective triers of fact.
- Requirement of clear and convincing as the evidentiary standard in all Title IX related cases.

In closing, I want to express my appreciation for the work of this committee and for holding a hearing to examine the views of Betsy DeVos as the next Secretary of Education. To the degree that Mrs. DeVos commits herself to repealing OCR's biased 2011 Dear Colleague directive and restores due process for college students, our organization will fully support her nomination and ask for your support as well.

Universities need to provide and enforce policies that enable victims of sexual assault to feel safe and secure in their reporting while providing a presumption of innocence to all accused students. Ensuring that these fundamental protections are present on our nation's university campuses needs to be championed by the incoming Secretary of Education

Respectfully,

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