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October 28, 2019

The Honorable Robert C. “Bobby” Scott
Chairman
Education & Labor Committee
U.S. House of Representatives
2176 Rayburn House Office Building
Washington, DC 20515

The Honorable Virginia Foxx
Ranking Member
Education & Labor Committee
U.S. House of Representatives
2101 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Scott and Ranking Member Foxx:

The National Women’s Law Center (the Center) writes to offer our input regarding the reauthorization of the Higher Education Act (HEA). The Center fights for gender justice—in the courts, in public policy, and in our society—working across the issues that are central to the lives of women and girls. We use the law in all its forms to change culture and drive solutions to the gender inequity that shapes our society and to break down the barriers that harm all of us—especially those who face multiple forms of discrimination, including women of color, LGBTQ people, and low-income women and families. For more than 45 years, we have been on the leading edge of every major legal and policy victory for women and girls. This work includes a deep commitment to eradicating sexual harassment and sexual violence as barriers to educational success and promoting policies that support expectant and parenting students in school. HEA reauthorization provides an opportunity to increase supports for these students and boost completion rates for student parents and survivors of sexual assault—who are more likely to be women and belong to populations that have been underserved by our nation’s higher education system for too long.

The College Affordability Act (H.R. 4674) (CAA), a bill to reauthorize HEA, contains some measures that advance campus safety and begin to address the barriers expectant and parenting students face in higher education. We strongly support the CAA provisions that:

- Require that schools develop and publish a policy that provides information on resources available to expectant and parenting students, such as adjustments to financial aid, accommodations for pregnancy-related medical conditions and parental responsibilities, housing, and additional supports, and that provides information concerning the federal rights and protections guaranteed to expectant and parenting students under Title IX of the Education Amendments of 1972 (Title IX);
- Increase funding and support for on-campus childcare through the Child Care Access Means Parents in School program (CCAMPIS), as well as investments in the GEAR UP and TRIO programs, which connect disconnected students to college;
- Clarify that federal prohibitions against discrimination bar discrimination based on actual or perceived race, color, religion, national origin, disability, and sex (including sexual orientation, gender identity, pregnancy, childbirth, a medical condition related to pregnancy or childbirth, and sex stereotype);

- Require institutions of higher education to develop and disseminate policies addressing, and to disclose incidents of, harassment, including sexual harassment;
- Require that schools develop a biennial standardized online survey tool regarding students’ experiences with dating violence, domestic violence, sexual assault, sexual harassment and stalking;
- Increase penalties for institutional violations of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act); and
- Prohibit the Education Secretary from implementing or enforcing proposed regulatory changes to Title IX that would weaken civil rights protections for student survivors.

While these are important measures that increase transparency and respond to Secretary DeVos’s efforts to make campuses less safe and inclusive for student survivors and parents, the bill does little to affirmatively ensure that schools act to provide a fair grievance process or supportive measures for student survivors or to promote and support expectant and parenting students. We urge the Committee to adopt the following recommendations to strengthen the CAA and fulfill HEA’s promise of increasing access to higher education to underserved students.

1. Expectant and Parenting Students

Student parents, in particular, face challenges to accessing and completing postsecondary education programs. Parents of dependent children make up 4.3 million college students, representing 22 percent of all college students.¹ Women—who constitute 70 percent of all student parents—are disproportionately more likely to be balancing college and parenthood, without the support of a spouse or partner – 61% of mothers in college are single parents.² In addition, mothers make up a large share of female students of color on college campuses: 40% of Black women students, 36% of Native American women students, and 35% of Native Hawaiian or Pacific Islander women students are mothers.³ More than half (53%) of student parents have children under the age of 6.⁴ And more than two in five (44%) student parents work full-time while enrolled, on top of their caregiving responsibilities, which can be a lot to juggle—particularly for the 23% of students who are both single parents and working full-time while enrolled.⁵ And although student parents tend to have higher GPAs than students without children,⁶ being a student parent is associated with higher levels of unmet financial need, lower levels of college completion, and higher levels of debt upon graduation.⁷

But parenting does not have to be in conflict with receiving an education. Higher education institutions should respect and support the caregiving responsibilities of expectant and parenting

¹United States Government Accountability Office, *Higher Education: More Information Could Help Student Parents Access Additional Federal Student Aid* 9 (Aug. 2019) [hereinafter “GAO Report”], [gao.gov/products/GAO-19-522](https://www.gao.gov/products/GAO-19-522).

²Institute for Women’s Pol’y Research & Ascend at the Aspen Institute, *Parents in College: By the Numbers* 1 (Apr. 2019) [hereinafter “*Parents in College*”], [iwpr.org/publications/parents-college-numbers/](https://www.iwpr.org/publications/parents-college-numbers/).

³*Id.* at 3-4. Twenty-six percent of white women students, 26% of Hispanic women students, 15% of Asian women students, and 25% of women students who identify as more than one race are mothers. *Id.*

⁴*Id.* at 5.

⁵GAO Report, *supra* note 1 at 9.

⁶*Parents in College*, *supra* note 2 at 6.

⁷*Parents in College*, *supra* note 2 at 5-6; GAO report, *supra* note 1 at 11-13.

students. The CAA should be amended to ensure schools maintain sensible, supportive policies that will help expectant and parenting students thrive throughout their postsecondary education.

a. Create a Standard for Leave Policies Available to Expectant and Parenting Students

Studies have long shown that supportive parental leave policies in the workplace matter—parental leave to care for newborns is associated with lower infant and child mortality rates, increased rates of breastfeeding, positive effects on child development, increased paternal involvement, and lower rates of maternal depression or anxiety.⁸ Studies have also shown that allowing longer periods of leave, providing financial support during leave, and ensuring job protections upon a parent’s return increase the positive effects of parental leave.⁹ Congress has previously acknowledged the importance of parental leave by guaranteeing up to twelve weeks of leave for many employees through the Family and Medical Leave Act (“FMLA”)¹⁰ and some states have gone further to fully support working parents by providing paid family leave to their employees.¹¹ Student parents deserve the same opportunity to spend time with their newborns, strengthen family bonds, and practice being a parent.

However, no federal law currently guarantees a set time for parental leave, resulting in inconsistency for student parents depending on what school they attend. The CAA should be amended to create a federal standard for granting new student parents leave to spend time with their children without jeopardizing their academic careers. Specifically, we urge Congress to ensure any reauthorization of HEA guarantees at least 12 weeks of leave to students for the birth or adoption of a child without being penalized. Such a provision must also make clear that students are not *required* to take leave, and that students are entitled to reasonable accommodations and time to make up any missed work or examinations. Doing so will allow new parents to determine what is best for their families, without fear of being pushed out of school for having a child or taking leave.

b. Guarantee Lactation Accommodations at School

Breastfeeding benefits the health of both parent and child, but too often there is a gap between parents’ desire to breastfeed their children and the support they need to successfully breastfeed while continuing their education.¹² Although a majority of women plan to breastfeed, a much lower proportion actually do when they are discharged from the hospital or other facility after delivery.¹³ Colleges and universities should accommodate students’ individualized lactation needs to enable new parents to continue attending school and support the health and well-being

⁸ Deanna S. Gomby and Dow-Jane Pei, David and Lucille Packard Foundation, *Newborn Family Leave: Effects on Children, Parents, and Businesses 2* (2009), paidfamilyleave.org/pdf/NewbornFamilyLeave.pdf

⁹ *Id.*

¹⁰ 29 U.S.C. § 2612(a)(1).

¹¹ See National Conference of State Legislatures, *Paid Family Leave Resources*, nclsl.org/research/labor-and-employment/paid-family-leave-resources.aspx.

¹² American Academy of Pediatrics, *Policy Statement: Breastfeeding and the Use of Human Milk* (2012), pediatrics.aappublications.org/content/pediatrics/129/3/e827/full.pdf.

¹³ Maya Bunik, *The Pediatrician’s Role in Encouraging Exclusive Breastfeeding*, *Pediatrics in Review* (Aug. 2017), pedsinreview.aappublications.org/content/38/8/353; E.C. Odom, et al., *Reasons for earlier than desired cessation of breastfeeding*, *Pediatrics* (Mar. 2013), ncbi.nlm.nih.gov/pubmed/223420922.

of parenting students and their children. Such accommodations are required by federal law for most employers through the Fair Labor Standards Act, which requires employers to provide a reasonable break time for an employee to express breast milk for their nursing child for one year after the child's birth each time such employee has the need to express breast milk.¹⁴ Employers are also required to provide a clean space, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which an employee may use to express breast milk.¹⁵ Some colleges and universities are already providing lactation accommodations to students to varying degrees,¹⁶ but accommodations should be available no matter where a breastfeeding student goes to school.

We recommend that any reauthorization of HEA include lactation accommodation protections for college and university students. Such accommodations should ensure excused break time from class and a reasonable number of spaces throughout campuses for a nursing student to express breast milk. Doing so would not only benefit new parents and their children, but also send the important message that parenting an infant is wholly compatible with success in higher education.

c. Expand GEAR UP

Overall, roughly one in four girls in the U.S. become pregnant at least once before age 20, and for girls of color the rates are higher: one in three Latinas and four in ten Black girls are pregnant at least once by age 20.¹⁷ And because of the barriers young expectant and parenting students face in enrolling, attending, and succeeding in school—including illegal discrimination against them by their schools, in violation of Title IX—pregnancy and parenting responsibilities are significant risk factors for dropout. Only 51 percent of women who have children as teenagers get a high school diploma by age 22, compared to 89 percent of women who do not give birth as teens.¹⁸ Yet without a high school diploma, the prospects for young mothers of finding a job, earning a living wage, and achieving economic security are dim.

Significantly, many students who become pregnant as teenagers are highly motivated to succeed—indeed, many describe a renewed sense of determination to finish school and find a career once they learn they will be having a child—but they fall through the cracks because schools either disregard their very real needs or harbor low expectations of them and even push them out.¹⁹ Only a fraction of school districts undertake serious efforts to help these vulnerable students and improve their chances of success and those of their children.

Because of the gap in existing programs combined with the potential of young parents to succeed if given the adequate supports and counseling, any reauthorization of HEA should encourage

¹⁴ 29 U.S.C. § 207(r).

¹⁵ *Id.*

¹⁶ See Dare Henry-Moss, et al., *An Exploration of Lactation Facilities and Planning in U.S. Higher Education Campuses*, Journal of Breastfeeding Medicine (Mar. 2019), <https://www.liebertpub.com/doi/full/10.1089/bfm.2018.0198>.

¹⁷ Power to Decide, *Teen Pregnancy in the United States* (Apr. 2016), powertodecide.org/what-we-do/information/resource-library/fast-facts-teen-pregnancy-united-states.

¹⁸ Kate Perper, M.P.P., Kristen Peterson, B.A., and Jennifer Manlove, PhD, Child Trends Fact Sheet: *Diploma Attainment Among Teen Mothers* (Child Trends, 2010), at http://www.childtrends.org/Files//Child_Trends-2010_01_22_FS_DiplomaAttainment.pdf.

¹⁹ National Women's Law Center, *Let Her Learn: Stopping School Pushout for Girls Who Are Pregnant or Parenting* 15 (2017), nwlc.org/resources/stopping-school-pushout-for-girls-who-are-pregnant-or-parenting.

states, universities, and school districts to invest their efforts in helping student parents obtain a high school diploma and prepare for postsecondary education. We recommend that the Committee update the Gaining Early Awareness and Readiness for Undergraduate Programs (“GEAR UP”)—a grant program authorized by HEA that was designed to increase the number of low-income and disconnected students who are prepared to enter and succeed in postsecondary education—to explicitly include expectant and parenting students in the definition of “disconnected students” and encourage schools to recruit expectant and parenting students to participate in GEAR UP programs.

2. Sexual Harassment and Assault

Sexual violence poses a serious threat to the safety of students in higher education and interferes with their ability to learn. Sixty-two percent of women and 61 percent of men experience sexual harassment while in college.²⁰ About one in four women is sexually assaulted while in college, and almost one in four transgender or gender non-conforming students is sexually assaulted.²¹ Further, 6.8 percent of undergraduate men are sexually assaulted.²² According to a recent study by the American Association of Universities, only 9.4 percent of students who experience sexual assault contact local police following an assault, and only 11.2 percent of students who experience sexual assault contact campus police.²³ The criminal justice system poorly addresses the needs of survivors, making it all the more important that educational institutions provide meaningful responses to sexual assault that address these needs. While strides have been made to address campus sexual assault, many college and school officials still fail to make efforts to support survivors’ opportunity to learn in the wake of sexual violence. Often, survivors are discouraged from formally reporting assault,²⁴ are denied crucial accommodations to restore their equal access to education,²⁵ and face inequitable grievance procedures steeped in myths about rape.²⁶ HEA reauthorization presents the opportunity to curb the epidemic of campus sexual assault that has such devastating consequences for students. Students need additional protections from sexual violence at schools, as well as more robust responses from schools to sexual violence complaints. To that end, we urge the Committee to include provisions in its HEA reauthorization bill that support and reaffirm the principles of the Clery Act, requiring schools to take the necessary steps to make their campuses safer and ensure that student survivors have access to fair, impartial, and prompt investigations and hearings.

²⁰ AAUW, *Drawing the Line: Sexual Harassment on Campus* 17, 19 (2005), available at <https://history.aauw.org/files/2013/01/DTLFinal.pdf>.

²¹ AAU, *Report on the AAU Campus Climate Survey on Sexual Assault and Misconduct*, ix (Oct. 15, 2019), available at https://www.aau.edu/sites/default/files/AAU-Files/Key-Issues/Campus-Safety/FULL_2019_Campus_Climate_Survey.pdf.

²² *Id.*

²³ *Id.* at xv.

²⁴ Anonymous, *On Assault Narratives*, Yale Daily News (Feb. 1, 2010), available at <http://yaledailynews.com/blog/2012/02/01/anonymous-on-assault-narratives/>.

²⁵ Angie Epifano, *An Account of Sexual Assault at Amherst College*, Amherst Student (Oct. 17, 2012), available at <http://amherststudent.amherst.edu/?q=article/2012/10/17/account-sexual-assault-amherst-college>.

²⁶ See generally Michelle J. Anderson, *The Legacy of the Prompt Complaint Requirement, Corroboration Requirement, and Cautionary Instructions on Campus Sexual Assault*, 84 B.U. L. Rev. 945 (2004) (describing onerous university requirements for rape victims not imposed on students reporting other forms of harm).

- a. *Remove Barriers to Reporting Harassment and Promote Accessibility*
 - i. Address the Needs of Students with Disabilities

More than one fourth of students with disabilities experiences sexual violence while in college.²⁷ When students with disabilities do experience abuse or violence, they often face barriers in accessing resources to assist them in the aftermath of an assault. As a result, students with disabilities who are victims of sexual violence and other forms of sexual harassment too often do not receive the support and accommodations they need to continue their education.

HEA reauthorization presents the opportunity to ensure that students with disabilities receive sufficient support from schools if they experience harassment. This can be accomplished by ensuring that the Clery Act reporting requirements include reporting disability demographics in order to accurately reflect the number of students with disabilities who experience sexual assault and harassment. We also recommend that the CAA be amended to require that institutions' policies prohibiting harassment, grievance procedures, interim measures and accommodations are accessible and inclusive of students with disabilities by incorporating provisions from the Safe Equitable Campus Resources and Education Act (H.R. 2026).²⁸

- ii. Prohibit Mandatory Reporting

Survivors of sexual assault are less likely report incidents of assault to their schools if their schools have a policy of reporting all assaults to law enforcement, regardless of a survivor's wishes.²⁹ Criminal law enforcement and criminal investigatory processes often do not serve survivors' best interests or address their most pressing needs. Police officers are concerned with investigating crimes and catching perpetrators; they are not in the business of providing supportive measures to survivors and making sure that they feel safe at school. Survivors may also choose not to report to law enforcement due to the emotional and educational toll of being involved in a criminal trial, deep mistrust of police among communities of color and LGBTQ communities stemming from police violence and harassment, and law enforcement officers' frequent skepticism of rape survivors.³⁰

The CAA should be amended to explicitly prohibit educational institutions from adopting mandatory reporting policies in matters involving sexual harassment, sexual assault, domestic violence, dating violence, and stalking. Doing so will allow survivors to report to their schools so they can access the crucial support they need to keep learning, such as accessing accommodations for classes, housing changes, and receiving mental health care, without the fear

²⁷ *Report on the AAU Campus Climate Survey on Sexual Assault and Misconduct*, *supra* note 21, at 33.

²⁸ <https://www.casey.senate.gov/newsroom/releases/casey-dingell-hassan-continue-fight-against-campus-sexual-assault>.

²⁹ Nat'l Women's Law Center, *Forcing Students to Report Sexual Assault to the Police Makes Them Feel Less Safe: What You Should know About Mandatory Referral Bills (citing Resisting State-Level Mandatory Police Referral Efforts, Know Your IX, <http://knowyourix.org/ask-survivors>)* (2017) (A March 2015 survey conducted by Know Your IX and the National Alliance to End Sexual Violence, 88% of survivors said that if schools were forced to report sexual assaults to the police against the victim's wishes, fewer students would report incidents to their schools).

³⁰ *Id.*

of police involvement. Avoiding the chilling effect created by mandatory reporting policies will better enable schools to address safety concerns on campus.³¹

iii. Provide Interim Measures and Financial Support

Campuses should afford complainants non-punitive interim measures that preserve and restore their access to educational programs while a school investigates a complaint. These interim measures can range from medical and mental health services, to disability services, academic accommodations, or changes in housing or on-campus jobs if the respondent lives in the same dorm or works in the same location as a survivor.

While interim measures are an essential component of ensuring access to education, their costs can be a significant barrier to accessing them. We recommend that the CAA amend the Clery Act to require that interim measures be provided at *no cost* to a survivor, including mental health and substance abuse services, or other medical services, that are needed as a result of the student's victimization. This would ensure a student's education is not put on hold while trying to access resources, and that students are not forced by finances to choose between continuing their education and seeking support following harassment or assault.

Finally, while we appreciate that the CAA as introduced includes language that would amend the Clery Act to require schools to provide students written notification of institutional policies regarding reimbursement of lost tuition and costs associated with student loan interest related to domestic violence, sexual assault, domestic violence, stalking and (as amended by CAA) sexual harassment, we urge that this provision be strengthened to also require that institutions reimburse survivors for such lost tuition and student loan interest. This would prevent survivors who must withdraw from or retake a course from incurring significant financial penalties because of their assaults, which has led to some survivors being unable to complete their college education.

b. *Mandate Responses to Off-Campus Incidents*

The CAA should clarify that institutions' procedures must require resolution of a report of Clery-covered incident of dating violence, domestic violence, sexual assault, stalking, and (as amended by CAA) sexual harassment "regardless of where it occurred." This would be consistent with other provisions in the Clery Act and would create greater clarity as to schools' responsibilities with respect to off-campus conduct. The Clery Act already requires institutions of higher education to notify all students who report sexual assault, stalking, dating violence, domestic violence (and pursuant to CAA, sexual harassment) of their rights, regardless of "whether the offense occurred on or off campus."³² It also requires institutions of higher education to report all such conduct that occur on "Clery geography," which includes all property controlled by a school-recognized student organization (such as an off-campus fraternity); nearby "public property"; and "areas within the patrol jurisdiction of the campus police or the campus security department."³³

This clarification is also needed to ensure that Department of Education amendments to the Title IX rules and the current Office for Civil Rights' 2017 Q&A on Campus Sexual Misconduct do

³¹ *Id.*

³² 20 U.S.C. § 1092(f)(8)(C).

³³ 20 U.S.C. § 1092(f)(6)(iii); 20 U.S.C § 1092(f)(6)(iv); 34 C.F.R. § 668.46(a).

not undermine the Clery Act and create a perverse system in which schools are required to report instances of sexual assault that occur off-campus to the Department, yet are allowed or— depending on the outcome of the Department’s proposed Title IX rule — even required by the Department’s Office for Civil Rights to dismiss these complaints instead of investigating them.

c. Ensure Prompt, Fair, and Impartial Procedures and Practices

The Clery Act mandates that institutional procedures responding to sexual assault, domestic violence, dating violence, stalking, and (as amended by the CAA) sexual harassment, be prompt, impartial, and fair, and the CAA should clarify how a school’s procedures must meet these requirements. For example, the CAA should specify that schools must apply a “preponderance of the evidence” standard in resolving these matters, as this is the only standard of evidence that ensures that all parties equally share the risk allocation inherent in an erroneous decision and does not create an unfair advantage for either party. A higher standard also allows schools to have inequitable processes, is not consistent with the standard of evidence used in civil rights litigation and violates Title IX’s mandate for “equitable” grievance procedures and the Clery Act’s mandate that schools have policies specifying “fair and impartial” investigations and resolutions.

The CAA should also specify that under the Clery Act each party has equal appeal rights, which is a critical component to the Clery Act’s requirement of “fair and impartial” resolutions, recognizes that complainants are also impacted by sanction decisions, and is consistent with the preamble to the Department of Education’s Clery Act regulations, which states that institutions of higher education are required to provide “an equal right to appeal if appeals are available.”³⁴ Such clarification is particularly important given the Department’s Office for Civil Rights’ 2017 Q&A on Campus Sexual Misconduct, which permits schools to provide unequal appeal rights, and the Department’s proposed Title IX rules, which would allow schools to provide only respondents the right to appeal a sanction decision.³⁵

The CAA should also prohibit cross-examination by parties and their representatives in school investigations of these matters, given that schools are not well positioned to administer courtroom-like procedures or ensure that procedural protections against traumatizing, confusing, and misleading cross-examination are applied in school proceedings. Schools should also be prohibited from allowing evidence of a complainant’s sexual history to be introduced in such proceedings, as allowing such evidence deters reporting and improperly allows reliance on victim-blaming and “slut-shaming” myths to prove consent. The Clery Act already requires that investigations and resolutions “protect[] the safety of victims and promote accountability,”³⁶ and the CAA as introduced would further require that such proceedings be “trauma-informed.” However, it is still necessary to clarify that cross-examination personally or through a party’s representative is not permitted in matters covered by the Clery Act.

³⁴ U.S. Dep’t of Educ., Violence Against Women Act; Final Rule, 79 Fed. Reg. at 62752, 62778 (Oct. 20, 2014) (codified at 36 C.F.R. Pt. 668), <https://www.gpo.gov/fdsys/pkg/FR-2014-10-20/pdf/2014-24284.pdf>.

³⁵ U.S. Dep’t of Educ. Office for Civil Rights, Questions and Answers on Campus Sexual Misconduct at 7 (Sept. 2017), <https://www2.ed.gov/about/offices/list/ocr/docs/qa-title-ix-201709.pdf>.

³⁶ 20 U.S.C. § 1092(f)(8)(B)(iv)(I)(bb).

Schools should also be prohibited from utilizing practices and policies that deter survivors from reporting sexual violence and obtaining needed accommodations, including punishing survivors who make a report for drug or alcohol use or for engaging in sexual conduct³⁷ and requiring or permitting mediation of sexual assault complaints, which implies that both parties share responsibility for the assault. In addition, if an informal resolution mechanism is used to resolve a sexual assault complaint, the complainant must be allowed to end the informal process and elect to move to a formal process at any time.

HEA reauthorization offers an opportunity to ensure that all schools truly have disciplinary proceedings that are prompt, fair, and impartial at their schools, as already required by the Clery Act, that institutions do not deter reporting, and that survivors can get the support they need to stay in schools. To that end, we recommend that the CAA be amended to include the provisions described in this letter.

d. Provide a Private Right of Action for Clery Act Violations

Survivors should be afforded a private right of action under the Clery Act, especially if the prohibitions on cross-examination, irrelevant evidence, and other inequitable procedures were adopted.

The CAA should be amended to provide for a private right of action to enforce the provisions of the Clery Act. A private right of action is especially important as survivors must be provided an avenue to hold institutions accountable if their Clery rights are violated. This route to ensure accountability will become even more necessary if the proposed Title IX rules are enacted, as survivors' options for relief and institutional accountability would become even more limited under these rules.

e. Require Comprehensive Climate Surveys

Finally, while we appreciate that the CAA would require schools to develop a biennial standardized online survey tool about students' experiences with various forms of gender-based violence, the CAA should also require that such surveys be comprehensive to consider the specific experiences of *all* survivors. These surveys should specifically address whether a school's complaint processes and outreach and prevention programs are inclusive of LGBTQ students, students with disabilities, students of color, and pregnant and parenting students, as these students are at heightened risk of experiencing harassment and assault, as well as inadequate responses from their schools. These surveys would generate needed data so a school can understand how to improve their processes and programs to ensure that no survivor is ignored.

* * * * *

³⁷ This would recognize that many survivors are assaulted while incapacitated by drugs or alcohol and that "sex codes" against premarital sex unfairly punish survivors who are unable to prove they did not give consent. See Washington Post-Kaiser Family Foundation Survey, available at <https://www.washingtonpost.com/graphics/local/sexual-assault-poll> (finding that 14% of college women and 4% of college men report being sexually assaulted while incapacitated, and that an additional 8% and 3%, respectively, suspect they have been sexually assaulted while incapacitated).

Thank you for considering our comments on what should be included in an HEA reauthorization bill to improve campus safety and provide supports for expectant and parenting students. We would be happy to discuss these recommendations with you at your convenience. If you have any questions or wish to discuss, please contact Shiwali Patel or Adaku Onyeka-Crawford of the National Women's Law Center at (202) 588-5180 or spatel@nwlc.org or aonyeka-crawford@nwlc.org.

Sincerely,



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