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**Testimony regarding HB 7233**  
**An Act Codifying Title IX Protections**  
**March 9, 2017**

Senator Bye, Senator Linares, Rep. Haddad, and members of the Higher Education and Employment Advancement Committee:

I appreciate the opportunity to appear before you today to express my thoughts about how this committee can fulfill its responsibility to address the issue of sexual assault, harassment and stalking on college and university campuses across the state of Connecticut.

Raised bill HB 7233, does nothing to reduce the incidents of sexual misconduct on campus whether committed by students, faculty, staff or athletic coaches. It is merely a “feel good” bill that purveyors of campus rape culture myths can promote under the guise of standing up for the rights of “victims” and “survivors”.

This legislation as written is superfluous since it merely restates Section 1. Subsection (f) of section 10a-55m of the general statutes with a new implementation date of July 1, 2017. The only change is the addition of subsection 9 that simply adds an additional reporting requirement that schools analyze any changes to campus reporting due to changes in state or federal guidance or changes in state or federal statutes, regulations, court decisions or executive orders.

Such language leaves in question what this bill is actually trying to accomplish.

Instead, it appears to be political theatre trying to convince taxpayers that dollars are being well spent to tackle a problem that has been described by Senator Flexer as protecting college age women from predatory young men.

One year ago, I sat before this committee requesting that HB 5376, otherwise known as “yes means yes”, be tabled until bipartisan comprehensive legislation could be crafted to address the myriad and complex issues that Title IX presents for our colleges and universities and until such legislation effectively addressed protecting the rights of all students regardless of gender.

Unfortunately, and despite rigorous debate, there was not the political will for many representatives to vote their conscience lest they be labelled rape apologists or worse.

Today, I sit here with the same request: That the Committee take the high road and be one of the first states, to enact legislation that acknowledges the rights of all students, faculty, and staff who might personally face this issue. Such legislation should include due process as promised under the Constitution, the right to active participation of counsel, the right to cross-examine witnesses, the right to confront one's accuser, and the right to fair and impartial investigatory procedures and hearing panels. Sanctions for misconduct should be commensurate with the severity of the violation of campus Codes of Conduct.

Current practices are not serving either the accusers or the accused and the status quo equally harms true victims as well as those wrongfully accused.

This fact is borne out by the plethora of lawsuits against colleges and universities throughout the United States including Yale University, as well as myriad open investigations by the Department of Education Office of Civil Rights by both accusers and those who have been accused. No one is happy with the current system and yet no one seems willing to tackle the hard task of actually solving the underlying issues that have given rise to this alleged crisis.

We need to start dealing in facts and not dubious statistics and acknowledge that the culture on our campuses entails risky behaviors that can and do lead to unwanted consequences. We need to enact legislation that requires colleges and universities to include binge drinking and hook-up culture as a part of risk reduction prevention and awareness programs. Political correctness run amok has led to a campus culture that both promotes rampant risk taking and then metes out punishment for the very behaviors that the campus has tacitly condoned.

None of this excuses for a moment actual cases of assault, harassment or stalking that can have lifelong consequences and should not for one minute be condoned or excused by any college or university. One assault is too many and there should be zero tolerance for actual cases of abuse. However, this is not merely an issue of protecting the rights of women survivors on campus because sexual assault, harassment and stalking can affect anyone regardless of age, gender, sexual orientation, or racial identity. As such, the need for constitutional protections and basic fairness must be paramount.

As a member of Families Advocating Campus Equality or “FACE”, I can tell you that cases of wrongful accusation are increasing at an alarming rate and the consequences are devastating and not unlike those suffered by undisputed victims of sexual assault. As a point of reference, 187 families of wrongfully accused students came to FACE in 2016 who faced either long term suspension or expulsion that derailed their educations. Since January 1<sup>st</sup> of this year 42 families have reached out to FACE. Wrongfully accused students experience many of the same life altering effects as do victims of assault, including anxiety, depression, PTSD and suicidal thoughts or actions. For most, their academic careers are derailed and their prospect of future employment uncertain. Before subjecting any of these students to the current kangaroo court systems on campus, this committee should ensure through comprehensive legislation that they are all treated with fairness, justice and compassion.

Current federal guidance as contained in the April 4, 2011 Dear Colleague Letter and follow up guidance issued in 2014 actually encourages unconstitutional and unfair processes including: victim centered instead of justice centered investigations; single investigator models that allow campus bureaucrats to act as judge, jury and executioner; lack of opportunity to cross examine witnesses; appeals of not responsible findings that subject the accused to double jeopardy; sanctions including no contact orders, long term suspensions and expulsions that effectively deny the accused their property rights in loss of tuition paid and impede freedom of association and movement on campus and finally denial of educational opportunity once transcripts are stamped with a scarlet letter indicating violations of sexual misconduct.

Therefore, I again urge this committee to take a step back and instead of merely codifying supposed federal Title IX protections that are not working, commit to undertaking the hard work of tackling the real problems facing those who live and work on our college campuses regarding sexual assault, harassment, and stalking. The committee should take this opportunity to amend HB 7233 to implement workable comprehensive legislation. This will take time and bipartisan cooperation, but is what our Constitution requires and it is the right thing to do.

Respectfully submitted,

Shelley Sternad Dempsey, Esq.