

April 8, 2015

The Honorable Lamar Alexander, Chairman
The Honorable Patty Murray, Ranking Member
United States Senate Committee on Health, Education, Labor, and Pensions
428 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Alexander and Senator Murray:

On behalf of the American College Health Association (ACHA), I write in response to the introduction of S. 590, the *Campus Accountability and Safety Act*. Specifically, I write with regard to aspects in the proposed legislation affecting the provision and delivery of health services and prevention programs to students at institutions of higher education. ACHA is a non-profit national health association that represents multidisciplinary college and university health professionals whose principal collective interest is to advance the health of the nation's 20 million college students. Comprised of more than 2,800 physicians, nurses, and other clinical providers, mental health providers, health promotion professionals, health administrators, pharmacists and support staff in nearly 900 student health centers, ACHA has long promoted and supported the provision of high quality health services to the nation's college students, hence we comment in furtherance of that aim.

We first commend your work in addressing sexual victimization and its impact on the health and well-being of our students through federal law and policy. We offer the following constructive input regarding 1) the surveying requirements within the legislation; and, 2) the designation and role of the confidential advisor as set forth in the bill. We do so from our unique perspectives of an association that has 15 years of experience in conducting campus health surveys (the ACHA-National College Health Assessment¹); and, our daily roles as providers of health care, prevention programs, and victim advocacy services, bound by both confidentiality and privacy laws/regulations, and certain reporting requirements within the 50 states.

Section 2 - Amendments to the Clery Act
Paragraph 19: Standardized Online Surveying

ACHA and its members are pleased to see revisions regarding the requirement of the Secretary of Education to “develop, design, and administer through an online portal, a standardized online survey of students regarding their experiences with sexual violence and harassment.” We are generally supportive of changes in the proposed bill which: 1) change the frequency of administration of a survey to every two years; and, 2) provide an option for campuses to use an approved third party survey other than the federal tool. However, in paragraph 19(C), we view the requirement of each institution “to ensure that an adequate, random, and representative sample size of students (as determined by the Secretary) enrolled at the institution complete the survey” as very problematic. Informed by our years of surveying experience, we know that no institution of higher education can compel students to complete a survey, and that student participation in such online surveys has been steadily declining in recent years. Furthermore, it is extremely unlikely that any institutional review board would approve a survey that compelled students to complete it rather than encouraging students to participate of their own free will. To do so would be unethical. Thus, mandating a representative sample is not feasible. Instead, we suggest that the language should be revised to clarify the intent and reflect a realistic requirement. For example, the language could be revised to read “to ensure that an adequate, random, and representative sample size of students enrolled at the institution are invited to complete the survey using standard and appropriate recruitment techniques.”

Section 125 - University Support for Survivors of Sexual Violence
Paragraph (b) (1): Confidential Advisors

Generally, we have concerns about the use of the term “confidential advisor” in that the more commonly accepted term across the victim services field is “**victim advocate**”. Hence, we propose a substitution of that term throughout the legislation.

Regarding paragraph 125(b)(1)(A), we have concerns about the prohibition that “responsible employees” (and confidential advisors) cannot be graduate students. Our professionals and their victim services colleagues fear that this is too prohibitive. For institutions that operate 24-hour crisis support for victims, graduate students, under close supervision are often relied upon to help staff victim support services and provide appropriate and high-quality services.

Regarding paragraph 125(b)(1)(B), the bill establishes that “the Secretary shall designate categories of employees that may serve as confidential employees such as health care staff...”. We assert that health care staff are probably inappropriate to serve as confidential advisors as they cannot provide care anonymously and are subject to other state laws such as mandated reporting which may conflict with their responsibilities as confidential advisors.

Regarding paragraph 125(b)(1)(K), we suggest more clarity regarding this provision: “The institution shall designate as a confidential advisor an individual who has protection under State law to provide privileged communication.” It is unclear whether this provision means that: a) any person with privileged status is automatically a confidential advisor in addition to anyone else the institution has so named; or, b) that someone must have State privileged status in order to be a confidential advisor. In the latter case, it is problematic since many states do not legislate privileged status to victim advocates who are most likely to serve and best trained to fulfill the role as defined by confidential advisor.

Regarding paragraph 125(b)(1)(L), the proposed statute indicates that confidential advisors will collect and report statistics in accordance with the Clery Act. However, health care staff and clergy are explicitly exempt from Clery reporting as campus security authorities (CSAs), so it would not make sense to have them serve as confidential advisors, who would function as CSAs. As permitted in 125(b)(1)(B), if an institution designates local Rape Crisis Center staff as a confidential advisor would this obligate non-campus victim advocates as CSAs for a respective campus?

We hope the foregoing comments will be helpful as the *Campus Accountability and Safety Act* is considered and further refined in your Committee. As with our other campus colleagues, we remain committed to protecting students from sexual assault through appropriate prevention programs and providing victim-centered care and services to the fullest extent possible. We thank you for reviewing our comments, and are eager to assist further in any way possible.

Sincerely,



Sarah Van Orman, MD, MMM, FACHA
President
American College Health Association

cc: The Honorable Claire McCaskill
The Honorable Dean Heller
The Honorable Kirsten Gillibrand

ⁱ American College Health Association-National College Health Assessment, <http://www.achancha.org/>.