



ATIXA POSITION STATEMENT ON THE FIVE CAMPUS SAFETY BILLS NOW BEFORE CONGRESS

Founded in 2011, ATIXA is the nation's only membership association dedicated solely to compliance with Title IX and the support of our more than 4,000 administrator members who hold Title IX responsibilities in schools and colleges. ATIXA is the leading provider of Title IX training and certification, having certified more than 2,500 Title IX Coordinators and more than 5,000 Title IX investigators since 2011. ATIXA releases position statements on matters of import to our members and the field, as authorized by the ATIXA Board of Advisors. For more information, visit www.atixa.org.

This position statement addresses the five bills now before Congress that seek to regulate campus safety, specifically addressing issues of gender-based violence: the SOS Campus Act, the CASA bill, the HALT bill, the Fair Campus Act and the Safe Campus Act. This is a somewhat unorthodox format for an ATIXA position statement. Rather than taking a position for or against a bill, we have created a comprehensive list of the provisions of each bill, and have taken a position on each provision. The reason for this approach is that these bills will likely be consolidated together into an omnibus campus safety bill, and there are merits and demerits to each one.

Prior to addressing the individual portions of each bill, we wish to draw special attention to ATIXA's overall stance regarding the Fair Campus and Safe Campus Acts. ATIXA is strongly opposed to many of the provisions in the Fair Campus and Safe Campus Acts. The practical application of some portions of these bills would entrench inequitable processes that disempower victims/survivors, provide improperly skewed rights for those accused of sexual violence, and provide fraternities with special protections from accountability and college regulation. Title IX has dramatically aided institutions in creating fair, equitable, and impartial processes at campuses across the nation. These bills would unravel much of that progress.

Some of the positions taken in the Fair Campus Act and the Safe Campus Act are predicated on the idea that colleges should not be handling rape cases, which are more properly addressed by the criminal justice system. This fallacy must be called out, on two levels. First, colleges don't address rapes. They never have, do not currently, and never will. Rape is a crime. No college has the authority to

determine that a crime occurred. Instead, colleges address (and are mandated by Title IX to address) all forms of sex discrimination, including sex discrimination that occurs in physical form. Sexual violence may constitute the crime of rape, but these bills ignore the fact that it is also a type of discrimination in physical form. Why would you want a college to address all forms of discrimination but sexual violence, just because it has a parallel to a crime? It is not a zero sum game, where a victim's/survivor's choice to resolve an allegation of discrimination internally to a college forecloses the option to also report that incident to the criminal justice authorities *when and if the victim/survivor so wishes*. Second, we must understand that criminal convictions for non-stranger rapes that occur on college campuses are so rare that anyone arguing for a criminal prosecution as the only response to campus sexual violence is really arguing to let the perpetrator get away with it. Turning these cases over to a criminal justice system that is actually less effective at addressing sexual violence than college campuses are is not the answer.

ATIXA will be working diligently on behalf of its members to communicate these positions to Congress, the White House, and the Department of Education.

What follows is a digest of the provisions of each law, what bill or bills contain(s) the provision, and then ATIXA's position on each provision in its current form as of October of 2015.

PROVISION	BILL	ATIXA POSITION
Requires designation of an independent advocate for campus sexual assault prevention and response to represent the interests of a student victim even when in conflict with the interests of the institution, and who may not be disciplined, penalized, or otherwise retaliated against by the institution for doing so.	Survivor Outreach and Support on Campus Act (S.O.S. Campus Act)	In Favor, as long as the requirement of independence does not require an external advocate. We recommend allowing for an internal and/or external advocate, though a campus-based advocate is preferred, for their familiarity with campus systems, processes, and personnel.
Each employee of an institution who receives a report of sexual assault shall notify the victim of the existence of, contact information for, and services provided by the advocate.	Survivor Outreach and Support on Campus Act (S.O.S. Campus Act)	In Favor

The advocate would report to an individual outside the body responsible for investigating and adjudicating sexual assault complaints at the institution.	Survivor Outreach and Support on Campus Act (S.O.S. Campus Act)	In Favor
The advocate would submit an annual report summarizing how the resources supplied by the advocate were used, including the number of male and female sexual assault victims assisted.	Survivor Outreach and Support on Campus Act (S.O.S. Campus Act)	In Favor, with the caveat that not all victims identify as male or female.
The advocate would be responsible for ensuring that victims of sexual assault have 24/7 access to: emergency and follow-up medical care, guidance on reporting assaults to law enforcement, and medical forensic or evidentiary exams, regardless of whether they decide to report a crime.	Survivor Outreach and Support on Campus Act (S.O.S. Campus Act)	In Favor
The advocate would be responsible for ensuring that victims of sexual assault have access to crisis intervention, ongoing counseling and assistance, and information on their legal rights regardless of whether they decide to report a crime.	Survivor Outreach and Support on Campus Act (S.O.S. Campus Act)	In Favor
The advocate would guide victims of sexual assault who request assistance through the reporting, counseling, administrative, medical and health, academic accommodations, and legal processes of the institution.	Survivor Outreach and Support on Campus Act (S.O.S. Campus Act)	In Favor
At a victim's request, the advocate would attend any administrative or institution-based adjudication proceedings as an advocate for the victim.	Survivor Outreach and Support on Campus Act (S.O.S. Campus Act)	In Favor
The advocate would maintain the privacy and confidentiality of the victim of, and any witness to, a sexual assault, and would not disclose their identity to the school, except with consent or as required by state law.	Survivor Outreach and Support on Campus Act (S.O.S. Campus Act)	In Favor
Requires that universities either consult with or partner with local rape crisis centers and other community-based organizations to ensure that victims receive needed services.	Survivor Outreach and Support on Campus Act (S.O.S. Campus Act)	In Favor
The advocate would conduct a public information campaign on the campus about their role.	Survivor Outreach and Support on Campus Act (S.O.S. Campus Act)	In Favor
Provides that victims may not be disciplined, penalized, or	Survivor Outreach and	In Favor

otherwise retaliated against for reporting an assault to the advocate.	Support on Campus Act (S.O.S. Campus Act)	
Annual Security Report must include statistical information on reports made to the school's Title IX coordinator or other responsible employee, including a description of sanctions imposed.	Campus Accountability and Safety Act	In Favor, assuming this information will be anonymous. To avoid confusion with the crimes listed in the ASR, ATIXA prefers that the Title IX office issues a separate report on its activities, many of which are not criminal in nature.
Designates that each individual at an institution of higher education who is designated as a responsible employee shall be considered a Campus Security Authority.	Campus Accountability and Safety Act	In Favor
Requires the use of trauma-informed interviewing of victims and provides that the victim be given the option to have the interview recorded and to receive a copy of the recorded interview.	Campus Accountability and Safety Act	In Favor, but the recording will have to be equitably offered to the responding party as well.
Colleges and universities will be required to designate Confidential Advisor(s) to assist victims of sexual harassment, domestic violence, dating violence, sexual assault and stalking. Confidential Advisors will coordinate support services and accommodations for victims, provide information about options for reporting, and provide guidance or assistance—at the direction of the victim—in reporting the crime to campus authorities and/or local law enforcement.	Campus Accountability and Safety Act	Opposed as written. This provision confuses roles and really can't be done fully confidentially while also satisfying Title IX. ATIXA prefers the SOS bill's provisions on advocates, and/or suggests some clarity around terms, as this position also seems to parallel the Case Manager role on many campuses.
A Confidential Advisor shall be an individual who has protection under State law to provide privileged communication.	Campus Accountability and Safety Act	Opposed in current form. This needs work to be feasible, as most states lack this structure at present.
The Confidential Advisor shall be authorized by the institution to liaise with appropriate staff at the institution to arrange	Campus Accountability and Safety Act	Opposed in current form. This provision confuses roles and

reasonable accommodations through the institution to allow the victim to change living arrangements or class schedules, obtain accessibility services, or arrange other accommodations.		really can't be done with full confidentiality under existing Title IX Guidance. ATIXA prefers the SOS provisions on advocates, and/or suggests some clarity around terms, as this position also seems to parallel the Case Manager role on many campuses.
Provides that any requests for accommodations, made by a Confidential Advisor shall not trigger an investigation by the institution.	Campus Accountability and Safety Act	In Favor
Provides that schools may not sanction students who report sexual violence, but reveal a non-violent student conduct violation in good faith.	Campus Accountability and Safety Act	In Favor
Requires schools to use one uniform process for student disciplinary proceedings relating to any claims of sexual violence against a student who attends the institution. Specifies that school may not allow athletic departments or other subgroups to handle complaints.	Campus Accountability and Safety Act	In Favor
Requires schools to annually submit name of Title IX Coordinator to OCR and DOJ and provide updates to this information.	Campus Accountability and Safety Act	In Favor
Schools must provide written notification to the accused and the victim of any decision to move forward with a campus disciplinary proceeding within 24 hours of that decision. The notice must include details of the complaint, a summary of the disciplinary proceeding, and the rights and due process protections available to both parties.	Campus Accountability and Safety Act	Opposed in current form. Unclear and may conflict with Title IX investigation best practices. Could be supportable if revised to clarify that "disciplinary" does not refer to the initiation of an investigation, but to the decision to charge the responding party with a policy violation.

The institution shall provide the accuser and the accused student with written notification of the determination of responsibility that is made by the disciplinary board, and any sanctions, within 24 hours of such determination. Such notification shall include information about the processes for appealing the determination.	Campus Accountability and Safety Act	In Favor, but 24 hours is impractical. ATIXA supports 3-5 days.
Provides for the development of a training program for on-campus personnel involved in a school's resolution process; the school must ensure involved personnel receive this training.	Campus Accountability and Safety Act	In Favor
Requires biennial survey of students about their experience with sexual violence and campus reporting. Survey will be standardized and anonymous, with the results published online.	Campus Accountability and Safety Act	In Favor of surveys, but ATIXA recommends a set of templates that allow schools to choose their own surveys from a pool of validated instruments or add to/supplement the standardized version to meet specific campus climate needs. ATIXA does not support a one-size-fits-all standardization, given the wide variations between types of campuses, and specific question needs one campus may have versus another.
The Department of Education will be required to publish the names of all schools with pending investigations, final resolutions, and voluntary resolution agreements related to Title IX with respect to sexual violence.	Campus Accountability and Safety Act	In Favor
Requires colleges and universities to enter into memoranda of understanding with each local law enforcement agency that has jurisdiction to report to a campus as a first responder to clearly delineate responsibilities and share information.	Campus Accountability and Safety Act	In Favor, on the assumption there will be no penalty for the school if the local agency refuses.
Schools that do not comply with certain requirements under the bill may face a penalty of up to 1 percent of the institution's operating budget.	Campus Accountability and Safety Act	ATIXA opposes, unless the fines are funneled back into some form of prevention and/or

		compliance fund for colleges. ATIXA is also concerned that the amount of the potential fines exceeds what is necessary to achieve compliance, and may in fact hinder compliance by confiscating funds needed for compliance efforts.
Increases penalties for Clery Act violations to up to \$150,000 per violation, from the current penalty of \$35,000.	Campus Accountability and Safety Act	ATIXA opposes as unnecessary. The Department of Education now compromises on existing fines in almost every case, rendering an increased fine scheme a mostly symbolic gesture.
Provides that complaints filed with OCR with regards to sexual violence shall be considered timely when they are filed not later than 180 days after the date of graduation or disaffiliation with the institution.	Campus Accountability and Safety Act	In Favor, but with the understanding that this will expand OCR's case load, and that Congress will need to expand OCR's staffing levels and training accordingly. Current practice is 180 days from the harassment or discrimination.
Requires the Department of Education to issue penalties for noncompliance with civil rights requirements under its authority, including Title IX.	Hold Accountable and Lend Transparency (HALT) Campus Sexual Violence Act	Opposed. The Department should have discretion to issue penalties, not a mandate.
Increases penalties for violating the Clery Act from \$35,000 to \$100,000.	Hold Accountable and Lend Transparency (HALT) Campus Sexual Violence Act	ATIXA opposes as unnecessary. The Department of Education now compromises on existing fines in almost every case, rendering an increased fine scheme a mostly symbolic gesture.

<p>Creates a private right of action under Section 485(f)(14) of the Higher Education Act for students when institutions fail to meet campus safety requirements.</p>	<p>Hold Accountable and Lend Transparency (HALT) Campus Sexual Violence Act</p>	<p>In Favor, with amendments. While this may be a controversial position, ATIXA believes that existing agency enforcement of these provisions is too slow to afford those covered by the act with meaningful intervention if their rights are denied. There is no value to these rights if they cannot be timely enforced. Thus, ATIXA supports a private right of action for injunctive and/or declaratory relief only, and not for monetary damages.</p>
<p>Institutes biennial climate surveys.</p>	<p>Hold Accountable and Lend Transparency (HALT) Campus Sexual Violence Act</p>	<p>In Favor, as long as institutions are able to develop their own, perhaps with general subject area guidance or validated templates from which to choose.</p>
<p>Requires the Assistant Secretary for Civil Rights to publicly disclose of a list of institutions under investigation, the sanctions (if any) or findings issued pursuant to such investigations, copies of all program reviews and resolution agreements entered into between higher education institutions and the Education and Justice Departments under Title IX and the Clery Act, and any letter of termination of monitoring agreements, to be provided on the Department of Education website.</p>	<p>Hold Accountable and Lend Transparency (HALT) Campus Sexual Violence Act</p>	<p>In Favor</p>
<p>Designates that the Campus Sexual Violence Task Force submit to Congress a plan for recruiting, retaining, and training a highly-qualified workforce employed by the Department of Education to carry out investigation of complaints, and increases funding for Title IX and Clery investigators by \$5 million.</p>	<p>Hold Accountable and Lend Transparency (HALT) Campus Sexual Violence Act</p>	<p>In Favor, assuming this provision refers to complaints to OCR, not complaints by victims/survivors to colleges.</p>

Expands institutional requirements to notify and publicly post a school's policy statement including students' legal rights and institutions' obligations under Title IX by requiring that the policy be posted on the institution's public website, and in conspicuous places where students congregate and are likely to see it, and provided on an annual basis to each student group, student team, or student organization, which must distribute a copy to each of its members as well as each of its applicants for membership, including plebes, pledges, or similar applicants.	Hold Accountable and Lend Transparency (HALT) Campus Sexual Violence Act	In Favor
Creates an interagency Campus Sexual Violence Task Force to solicit input from victims, advocates from national, state, and local anti-sexual violence advocacy organizations, institutions of higher education, and other public stakeholders and to develop recommendations for best practices for educational institutions, and which reports to Congress on an annual basis.	Hold Accountable and Lend Transparency (HALT) Campus Sexual Violence Act	In Favor
Provides that a college may not designate an adult volunteer advisor to a student organization, or any employee of a student organization who is not also an employee of the institution, as a Campus Security Authority; and may not deny recognition to a student organization because an advisor or employee does not register or serve as a Campus Security Authority.	Safe Campus Act of 2015 Fair Campus Act	In Favor
Provides that a college must provide appropriate annual training to campus security personnel, campus disciplinary committee members, and other relevant institutional personnel. At a minimum, school must require students who serve as RAs in housing facilities owned or supervised by the institution to participate in this training.	Safe Campus Act of 2015 Fair Campus Act	In Favor
RAs must demonstrate knowledge of the requirements of the Safe Campus Act regarding the reporting of allegations to law enforcement agencies and the effects of the confidentiality exception.	Safe Campus Act of 2015	Oppose as impractical, unenforceable, and without precedent.
If an institution receives an allegation that student committed an act of sexual violence, or that members of a student organization	Safe Campus Act of 2015	Oppose, but would be in favor of the opposite, where notification

<p>or the organization itself committed or were involved in creating a hostile environment resulting in an act of sexual violence, along with written consent to proceed from the alleged victim, the institution shall report and refer the allegation to the local law enforcement agency immediately, but not later than 48 hours after receiving written consent from the alleged victim.</p> <p>Provides that it does not violate FERPA to do so.</p> <p>This does not apply if the individual who is the alleged victim of an act of sexual violence provides a written notification to the institution that the individual does not want the allegation to be investigated by a law enforcement agency.</p>		<p>is not made unless the victim consents in writing or there is an emergency health/safety threat, which is how it is done on most campuses currently. A push to report an incident that is unlikely to result in prosecution, and even more unlikely to result in conviction, will just create a chilling effect on the willingness of victims/survivors to report incidents to campus officials at all. Also ignores issues of third party reports.</p>
<p>If the student declines to allow the school to notify law enforcement, campus officials may not launch an internal investigation, provided that the notification given by the student includes a statement that they understand this. Exception for campus law enforcement investigation.</p>	<p>Safe Campus Act of 2015</p>	<p>Oppose. This will create equal protection and equity issues for schools with respect to the resolution of all other forms of discrimination, including other forms of sex/gender discrimination. This will also leave alleged perpetrators at large on campus, with enhanced risk to members of the community, and exposure to liability in negligence for the college.</p>
<p>If the student declines to allow the school to notify law enforcement, campus officials may not issue certain interim measures (including temporary suspensions, no contact orders, adjustments of class schedules, or changes in housing assignments), provided that the notification given by the student</p>	<p>Safe Campus Act of 2015</p>	<p>Oppose. Any bill entitled the Safe Campus Act cannot fail this abjectly to protect the safety of those who are at risk, for whom interim measures are essential,</p>

includes a statement that they understand this.		and required by existing Title IX guidance.
During the period in which a law enforcement agency is investigating an allegation reported by an institution, the institution may not initiate or otherwise carry out any institutional disciplinary proceeding with respect to the allegation. The delay for law enforcement investigations is issued in 30-day increments.	Safe Campus Act of 2015	Oppose. This potentially leaves a criminal perpetrator at large on campus, but outside the reach of the college in which the perpetrator is enrolled, while police may undertake their investigation over a long period of time without making an arrest.
During the period in which a law enforcement agency is investigating an allegation reported by an institution, the institution may issue certain interim measures (including temporary suspensions, no contact orders, adjustments of class schedules, or changes in housing assignments) and carry out investigations and adjudications with respect to the imposition of such sanctions, but only if the institution determines that the imposition of such a sanction is a reasonable measure to promote campus safety and student well-being.	Safe Campus Act of 2015	In Favor, but Title IX already creates this obligation on colleges. Well-being is a fuzzy standard that will cause regulatory issues in rulemaking.
During the period in which a law enforcement agency is investigating, if the subject of an allegation is a student, an institution may impose a temporary suspension for a period of not more than 15 days as an interim sanction, and may extend the suspension for additional periods of not more than 30 days per period if, pursuant to a hearing (as designated below, with allowance for active attorneys etc.) for each such additional period, the institution finds that extension is necessary because the student poses an immediate threat to campus safety and student well-being.	Safe Campus Act of 2015	Oppose. This level of federal interference in the minutiae of suspension practices by colleges is dangerous, meddlesome, and a solution to a problem that doesn't exist. ATIXA opposes the conditioning of any interim actions on a mandate to involve law enforcement.
During the period in which a law enforcement agency is investigating, if the subject of an allegation is a student organization, an institution may impose a temporary suspension	Safe Campus Act of 2015	Oppose. ATIXA opposes the conditioning of any interim actions on a mandate to involve

<p>for a period of not more than 10 days on the operations of the organization as an interim sanction, but only if the institution determines that the organization has engaged in activity that presents a significant risk to the health and physical safety of campus community members, and that the imposition of the suspension is not done merely for punitive purposes.</p>		<p>law enforcement, and any limitation on the rights of colleges to police student organization misconduct. This is obviously part of the quid pro quo necessary to get the fraternity/sorority lobby to support this bill, and seeks to place student organizations dangerously beyond the reach of campus discipline at a time when fraternities/sororities have shown they need more regulation and supervision, not less.</p>
<p>An interim sanction imposed will terminate upon the expiration of the period in which a law enforcement agency is investigating the allegation, except that if an indictment has been issued and the subject of the allegations is a student, the institution may continue the sanction, including a temporary suspension, until the completion of the case or the completion of any sentence imposed.</p>	<p>Safe Campus Act of 2015</p>	<p>Oppose. This gives an outside law enforcement entity improper control over internal campus processes.</p>
<p>An institution may not impose an interim sanction during any period for which the alleged victim and the investigating law enforcement agency submit a joint request to the institution to not impose such an interim sanction.</p>	<p>Safe Campus Act of 2015 Fair Campus Act</p>	<p>In Favor, subject to approval by the institution's Title IX Coordinator.</p>
<p>Tolls federally-prescribed time period for completion of institution adjudication (the time period begins when the law enforcement agency investigation ends).</p>	<p>Safe Campus Act of 2015</p>	<p>In Favor, to the extent this allows campuses flexibility when a law enforcement investigation intervenes, but not to the extent that it would allow campuses to heel drag a resolution.</p>
<p>Provides that a school cannot be held accountable for violating</p>	<p>Safe Campus Act of 2015</p>	<p>Oppose as unnecessary if the Act</p>

<p>Title IX for not investigating/adjudicating or imposing sanctions because it acted in accordance with this Act.</p>		<p>is not enacted into law, but in favor if the bill is enacted.</p>
<p>Provides that a school cannot be held accountable for violating Title IX on the grounds that the institution deferred to a law enforcement investigation at the request of law enforcement personnel, to the extent that the institution was prohibited under the Fair Campus Act from initiating or carrying out any institutional disciplinary proceeding with respect to the allegation.</p>	<p>Fair Campus Act</p>	<p>Oppose as unnecessary if the Act is not enacted into law, but in favor if the bill is enacted. This provision is contrary to appeals court rulings, such as the 11th Circuit decision in <i>Tiffany Williams v. Univ. of Georgia</i>, which was based on the Supreme Court decision in <i>Davis v. Monroe County</i>.</p>
<p>College may not impose any sanction on any person, including a student organization, unless the sanction is imposed under a formal hearing or similar adjudicatory proceeding, in accordance with institutional disciplinary proceedings that meet 1-8 below.</p>	<p>Safe Campus Act of 2015 Fair Campus Act</p>	<p>Oppose. Some organizations and individuals prefer informal resolution. Formal due process has never been required in campus discipline, and ATIXA does not support doing so now. This provision is very poorly constructed, in that it grants full due process rights to all at-will employees on college campuses, contravening the employment law of most states. This concern about at-will employees extends to 1-8 below.</p>
<p>The institution shall provide all parties to the proceeding with adequate written notice of the allegation not later than 2 weeks prior to the start of any formal hearing or similar adjudicatory proceeding, including a description of all rights and responsibilities under the proceeding, a statement of all relevant details of the allegation, and a specific statement of the sanctions which may be imposed.</p>	<p>Safe Campus Act of 2015 Fair Campus Act</p>	<p>Oppose. One week is sufficient notice. Two weeks could unnecessarily delay the prompt resolution required under Title IX.</p>

<p>The institution shall provide each person against whom the allegation is made with a meaningful opportunity to admit or contest the allegation.</p>	<p>Safe Campus Act of 2015 Fair Campus Act</p>	<p>In Favor.</p>
<p>The institution shall ensure that all parties to the proceeding have access to all material evidence, including both inculpatory and exculpatory evidence, not later than one week prior to the start of any formal hearing or similar adjudicatory proceeding. Such evidence includes but is not limited to complainant statements, third-party witness statements, electronically stored information, written communications, social media posts, and demonstrative evidence.</p>	<p>Safe Campus Act of 2015 Fair Campus Act</p>	<p>In Favor, as long as receipt of information in a shorter time period can be requested by the parties.</p>
<p>The institution shall permit each party to the proceeding to be represented, at the sole expense of the party, by an attorney or other advocate for the duration of the proceeding, including during the investigation of the allegation and other preliminary stages prior to a formal hearing or similar adjudicatory proceeding.</p>	<p>Safe Campus Act of 2015 Fair Campus Act</p>	<p>Oppose. ATIXA opposes this attempt to turn the campus process into a courtroom, and favors any party having the right to legal counsel and legal advice, but not to full adversarial representation by such counsel.</p>
<p>The attorney or other advocate may ask questions in the proceeding, file relevant papers, examine evidence, and examine witnesses.</p>	<p>Safe Campus Act of 2015 Fair Campus Act</p>	<p>Oppose. ATIXA opposes this attempt to turn the campus process into a courtroom, and favors any party having the right to legal counsel and legal advice, but not to full adversarial representation by such counsel.</p>
<p>The institution shall permit each party to safely confront witnesses, including the complainant, in an appropriate manner, including by submitting written questions to be asked by the person serving as the adjudicator in any formal hearing or similar adjudicatory proceeding.</p>	<p>Safe Campus Act of 2015 Fair Campus Act</p>	<p>Oppose. For any campus with a hearing process, ATIXA supports the right to question all present witnesses (rather than “confront”), but also wants campuses to have the latitude to</p>

		use civil rights-based resolutions that allow a responding party to fully understand and respond to allegations without any level of in-person confrontation or adversarial proceeding.
It shall be presumptively improper for any person to make any inquiry about the sexual history of the individual reporting the allegation (other than an inquiry made by the individual against whom the allegation is made, or such individual's counsel or advocate, about the sexual history between such individual and the individual reporting the covered allegation).	Safe Campus Act of 2015 Fair Campus Act	Oppose. The exception to this provision swallows the rule. ATIXA supports exploration of the sexual history of the parties when a high showing of relevance is made, and not for purposes of character assassination or re-traumatizing the reporting party.
No individual may serve multiple roles in the investigatory and adjudicatory process (May not serve as any two or more of: Victim counselor and victim advocate/Investigator/Prosecutor/Adjudicator/Appellate adjudicator).	Safe Campus Act of 2015 Fair Campus Act	Oppose. These terms are not applicable to most campus proceedings, but ATIXA supports the need for all those in the decision-making chain to be impartial and free from conflicts-of-interest such as those caused by performing multiple roles. ATIXA also supports the need for Title IX Coordinators to also serve as investigators on some campuses.
Colleges could choose what standard of evidence to use.	Safe Campus Act of 2015 Fair Campus Act	Oppose. The only lawful and equitable standard under Title IX is preponderance of the

		evidence.
The institution may issue interim measures (including temporary suspensions, no contact orders, adjustments of class schedules, or changes in housing assignments) and carry out investigations and adjudications with respect to the imposition of such sanctions, but only if the institution determines that the imposition of such a sanction is a reasonable measure to promote campus safety and student well-being (not tied to a law enforcement investigation).	Fair Campus Act	Oppose. ATIXA believes this provision is too narrow, and confuses interim disciplinary actions with interim remedial actions. Interim action to prevent the destruction of evidence and to prevent interference with an investigation are also proper.
If the subject of an allegation is a student, an institution may impose a temporary suspension for a period of not more than 15 days as an interim sanction, and may extend the suspension for additional periods of not more than 30 days per period if, pursuant to a hearing (with allowance for active attorneys etc.) for each such additional period, the institution finds that extension is necessary because the student poses an immediate threat to campus safety and student well-being (not tied to a law enforcement investigation).	Fair Campus Act	Oppose. This level of federal interference in the minutiae of suspension practices by colleges is dangerous, meddlesome, and a solution to a problem that doesn't exist.
If the subject of an allegation is a student organization, an institution may impose a temporary suspension for a period of not more than 10 days on the operations of the organization as an interim sanction, but only if the institution determines that the organization has engaged in activity that presents a significant risk to the health and physical safety of campus community members, and that the imposition of the suspension is not done merely for punitive purposes (not tied to a law enforcement investigation).	Fair Campus Act	Oppose. This level of federal interference in the minutiae of suspension practices by colleges is dangerous, meddlesome, and a solution to a problem that doesn't exist.
An interim sanction imposed shall terminate no later than the conclusion of the school's formal hearing or similar adjudicatory proceeding.	Fair Campus Act	Oppose. This level of federal interference in the minutiae of suspension practices by colleges is dangerous, meddlesome, and a solution to a problem that doesn't exist.

<p>A school may not impose a sanction on a student who is a victim of, or a bystander witness to, an act of sexual violence on the grounds that the student engaged in conduct prohibited under the institution's code of conduct (other than violent conduct) if the institution learned that the student engaged in such conduct as part of a report of a covered allegation which was made in good faith by the student to an agent of the institution.</p>	<p>Safe Campus Act of 2015 Fair Campus Act</p>	<p>Oppose as written. Conceptually, ATIXA supports amnesty for victims/survivors and assisting third parties, but the verbiage of this provision is not clear enough to support as written.</p>
<p>Any individual aggrieved by a decision to impose a sanction under an institutional disciplinary proceeding has a private right of action in district court brought within 1 year of final notice of sanctions. The court may find for the plaintiff only if the court finds that the imposition of the sanction was arbitrary, capricious, or contrary to law. The court may award the prevailing party (other than the institution of higher education) compensatory damages, reasonable court costs, attorney fees, including expert fees, and any other relief in equity or law that the court deems appropriate.</p>	<p>Safe Campus Act of 2015 Fair Campus Act</p>	<p>Oppose. This provision will subject every college disciplinary decision to the oversight of the courts, and will in effect paralyze and render the campus disciplinary process useless as an appropriate enforcement and educational tool. It would also unnecessarily clog the already overworked court system.</p>
<p>When a private right of action is brought as described above, the institution of higher education involved shall forward the administrative record of the institutional disciplinary proceeding to the court.</p>	<p>Safe Campus Act of 2015 Fair Campus Act</p>	<p>Oppose.</p>
<p>School shall publish annually in the institution's Student Handbook (or equivalent publication) a statement of the procedures applicable to institutional disciplinary proceedings, and shall publish such statement in the form of a contract between the institution and its students and student organizations.</p>	<p>Safe Campus Act of 2015 Fair Campus Act</p>	<p>Oppose. States have the right to determine whether codes and handbooks form contractual agreements. If enacted, this provision will have the practical impact of forcing colleges to resort to extremely vague codes of conduct.</p>

<p>A school may not require single sex organizations covered by section 901(a)(6)(A) of the Education Amendments of 1972 to: limit its membership to individuals of one sex to admit individuals as members who do not meet the organization’s membership requirements; compel a student organization or the governing body of a student organization that is itself comprised of single-sex organizations to accept organizations or individuals that do not meet the organization’s or governing body’s membership qualifications; or require an organization which is covered to waive its coverage under such section as a disciplinary or punitive measure.</p>	<p>Safe Campus Act of 2015 Fair Campus Act</p>	<p>Oppose. The Supreme Court has addressed this issue in <i>Christian Legal Society v. Martinez</i>. This provision would overturn <i>Martinez</i>, as it applies to student organizations and provides expansive protections to fraternities and sororities out of fear that Congress will remove the protections afforded under Title IX regulations that presently permit fraternities and sororities to discriminate on the basis of sex in their memberships.</p>
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This statement has been ratified by the ATIXA Advisory Board on November 9th, 2015.

Read [The NCHERM Group, LLC Statement on the 2015 Fair Campus Act and 2015 SAFE Campus Act.](#)

Read [the ATIXA Open Letter to the North American Interfraternity Conference and National Panhellenic Conference.](#)

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