



Angie Fiese
Acting Director

Senate Research Office
204 Coverdell Legislative Office Building
18 Capitol Square
Atlanta, Georgia 30334

404.656.0015 (P)
404.657.0929 (F)

FINAL REPORT OF THE SENATE STUDY COMMITTEE ON SEXUAL ASSAULT

COMMITTEE MEMBERS

Honorable Renee Unterman
Chair
Senator, District 45

Honorable Dean Burke
Senator, District 11

Honorable Lester Jackson
Senator, District 2

Honorable Harold Jones
Senator, District 22

Honorable Fran Millar
Senator, District 40

Honorable Nan Orrock
Senator, District 36

Honorable Jesse Stone
Senator, District 23

TABLE OF CONTENTS

Committee Creation, Duties, and Focus	2
Background	3
Meeting Testimony	4
Meeting 1, December 7, 2015.....	4
Meeting 2, January 6, 2016.....	5
Conclusions and Recommendations.....	7
Signature Page.....	8
Selected Meeting Materials.....	Appendix
2011 Dear Colleague Letter	Exhibit A
GBI Handout 1	Exhibit B
GBI Handout 2 (Packet)	Exhibit C
GICA Letter to Senator Johnny Isakson	Exhibit D
GICA Memo on Confidentiality and Allegations of Sexual Misconduct	Exhibit E

COMMITTEE CREATION, DUTIES, AND FOCUS

The Senate Study Committee on Sexual Assault (the “Committee”) was appointed during the interim by Lieutenant Governor Casey Cagle pursuant to Senate Resolution 4 for the purpose of studying issues surrounding the oversight and procedures for handling sexual assault incidents on school campuses in Georgia.

The Committee was comprised of the following Senate members:

- Senator Dean Burke of the 11th;
- Senator Lester Jackson of the 2nd;
- Senator Harold Jones of the 22nd;
- Senator Fran Millar of the 40th;
- Senator Nan Orrock of the 36th;
- Senator Jesse Stone of the 23rd; and
- Senator Renee Unterman of the 45th.

Senator Unterman, Chair of the standing Senate Health and Human Services Committee, served as the Chair of the Committee.

The following legislative staff members were assigned to this Committee: Ms. Jennifer Yarber and Mr. Adam Sweat of the Senate Press Office; Ms. Elizabeth Holcomb of the Senate Research Office; Ms. Lynn Whitten of the Office of Legislative Counsel; and Ms. Avi’el Bland, Senate Health and Human Services Committee Secretary and Legislative Assistant to Senator Unterman.

BACKGROUND

Overview of Title IX

Title IX of the Education Amendments of 1972 (Title IX) provides in paragraph (a) of 20 U.S.C. § 1681:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

Title IX and its implementing regulations, 34 C.F.R. Part 106, essentially prohibit sex-based discrimination in educational institutions that receive federal funding. While it is commonly known for prohibiting gender discrimination in university athletic programs, Title IX also prohibits sexual harassment of students, which includes acts of sexual violence. Title IX's scope and application have been shaped by Supreme Court decisions and guidance issued by the Office for Civil Rights (OCR) within the U.S. Department of Education (ED). The OCR has issued numerous guidance documents to provide the principles that a school should use to recognize and effectively respond to sexual harassment of students in its program as a condition of receiving federal funding.

The OCR issued guidance documents in 1997 and 2001 and most recently issued a "Dear Colleague Letter" (DCL) on April 4, 2011, outlining the obligations of a school in addressing sexual violence on campus. Even though it is not law, the 2011 DCL is of significant importance because it explains the manner in which the OCR will review and enforce Title IX complaints against schools.

Compliance with Requirements of Title IX and Regulations

According to the 2011 DCL, schools must comply with the procedural requirements outlined in the Title IX implementing regulations by:

- Disseminating a notice of nondiscrimination (34 C.F.R. § 106.9);
- Designating at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title IX (34 C.F.R. §106.8(a); and
- Adopting and publishing grievance procedures providing for prompt and equitable resolution of student and employee sex discrimination complaints (C.F.R. § 106.9(b)).

The 2011 DCL in its entirety is attached in Exhibit A of the Appendix.

MEETING TESTIMONY

This section provides a brief summary of each meeting, including the names and affiliations of individuals who were asked to provide testimony to the Committee. Although testimony has been condensed to ensure the report could be timely submitted, copies of all presentations and materials submitted to the Committee are kept on file in the Senate Research Office.

A significant portion of the testimony heard by the Committee pertained to initiatives that have been put in place following the identification of various issues such as: the procedures and guidelines for addressing an incident of sexual assault on a college campus within the University System of Georgia (USG) and the Georgia Independent College Association (GICA); the coordination between a university and local law enforcement; and the collection and proper storage of rape kits to preserve evidence obtained following an alleged incident of sexual assault.

Meeting 1

The Committee held its first hearing at the State Capitol on Monday, December 7, 2015. Background information and an overview of the issues to be studied were provided by:

- The Board of Regents of the University System of Georgia (USG): Mr. Nels Peterson, Vice Chancellor for Legal Affairs; and Ms. Kimberly Ballard-Washington, Assistant Vice Chancellor for Legal Affairs and Title IX Administrator.
- The Georgia College and State University: Ms. Qiana Wilson, Interim General Counsel.
- The Georgia Bureau of Investigation: Mr. Vernon Keenan, Director; and Dr. George Herrin, Deputy Director.
- Grady Health System: Mr. Tim Jefferson, General Counsel; and Ms. Lindsay Caulfield, Senior Vice President of Public Affairs.
- Georgia Network to End Sexual Assault (GNESA): Ms. Jennifer Bivins, President and CEO.
- Georgia Coalition Against Domestic Violence: Ms. Allison Smith-Burk, Director of Public Policy.

Mr. Nels Peterson of USG emphasized to the Committee that addressing sex discrimination issues is considered a high priority for USG not only because it is required under Title IX but because “it is the right thing to do.” In August 2014, Chancellor Hank Huckaby called for the University System to take a serious and thorough look at what the system is doing across campuses regarding safety and security. The Chancellor established the University System Campus Safety and Security Committee with the following stakeholders representing the campus community: presidents, police chiefs, student affairs professionals, medical and mental health professionals, faculty and students. The University System Campus Safety and Security Committee issued a report of recommendations that, according to Mr. Peterson, prompted a fundamental change in the way USG has been operating across its system of institutions.¹ With these recommendations, Mr. Peterson explained that USG has mandated system-led training and centralized the implementation and oversight of campus safety policies, procedures and requirements.

USG also continues to apply best practices at each of its campuses, which include: (1) requiring education and training for the campus community; (2) developing clear and consistent policies and

¹ USG provided the Committee with copies of the Campus Safety and Security Committee’s report.

procedures for responding to incidents; and (3) balancing law enforcement and victim resources on campuses and in communities.

USG emphasized to the Committee that a rigorous implementation of the University System Campus Safety Committee's recommendations over a clear timeline will improve and strengthen campus safety efforts across its 30 institutions.

The Committee also heard testimony from Mr. Vernon Keenan and Dr. George Herrin of the Georgia Bureau of Investigation (GBI). Mr. Keenan explained to the Committee that the GBI uses the same uniform procedure for investigating all cases of sexual assault. However, he acknowledged the immense public interest in preventing sexual violence on school campuses and understands the priority to treat campus incidents with great sensitivity.

Dr. Herrin of the GBI Crime Lab submitted two handouts to the Committee. The first handout, which is attached in Exhibit B of the Appendix, provides an overview of the GBI Crime Lab's casework reports and backlog. The second packet includes data on sexual assault kits processed by the GBI Crime Lab, the December 2015 Operations Bulletin on the "Sexual Assault Kit Initiative," and the March 2015 Operations Bulletin on the "DNA Analysis Update Operation," attached in Exhibit C of the Appendix.

Next, the Committee received a brief update from Grady Health System on how it works with law enforcement in storing rape kits and ensuring these kits are properly handled and then picked up by law enforcement. The Committee agreed that they have made a lot of headway in addressing the issue of backlogged rape kits discovered in early 2015 and supports their ongoing work with law enforcement.

Finally, Ms. Bivens and Ms. Smith-Burk teamed up to shed light on the issues faced by sexual assault victims in consenting to a rape kit. Discussion covered cases where the evidence obtained from the kit is used to prosecute a defendant and the victim is faced with having to confront the defendant in court. Ms. Bivens and Ms. Smith-Burk agreed that there is work to be done to prevent "victim blaming" and to address cases where a victim does not want to have a rape kit done.

Meeting 2

On Wednesday, January 6, 2016, the Committee held a second and final meeting at the State Capitol. Testimony was provided by the following individuals:

- Dr. Susanna L. Baxter, President of the Georgia Independent College Association.
- Dr. Marc Shook, Associate Provost & Dean of Student Engagement, LaGrange College.

Dr. Baxter shared with the Committee that the Georgia Independent College Association (GICA) has 26 members and is located all over Georgia with more than 78,000 students. They believe that all students should be treated equally and take the issue of sexual violence on campus very seriously. The Committee also learned that in June 2015, GICA and USG signed a joint agreement for an on-line best-in-breed sexual assault prevention/training system for faculty, staff, and students. Part of this agreement between GICA and USG includes a campus climate survey that will be administered in early 2016.

Dr. Baxter and Dr. Shook explained to the Committee the significance of accommodating requests for confidentiality by complainants and quoted the following statement from the 2011 DCL: "A school should be aware that disregarding requests for confidentiality can have a chilling effect and discourage

other students from reporting sexual violence.” They shared multiple documents with the Committee including: a memo outlining the requirements and effect of Title IX, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the Clery Act)², and the Family Educational Rights and Privacy Act (FERPA)³; and a letter to Senator Johnny Isakson regarding examples of existing Title IX-oriented efforts by GICA. In the Appendix, the memo is attached Exhibit D and the letter is attached in Exhibit E.

² See 20 U.S.C. § 1092(f). *See also* the implementing regulations in 34 C.F.R. Part 668, as revised by the Violence Against Women Reauthorization Act of 2013 (VAWA).

³ See 20 U.S.C. § 1232(g). *See also* the implementing regulations in 34 C.F.R. Part 99, restricting disclosure of educational records.

CONCLUSIONS AND RECOMMENDATIONS

The Committee was encouraged to hear testimony on the multiple initiatives in place and supports the ongoing efforts to address and improve the handling of sexual violence on Georgia campuses. Recognizing the complexity of the issue at hand, the Committee would like to continue to actively study and monitor this issue in 2016. The Committee agrees that it is imperative for Georgia to not fall behind other states in addressing sexual violence in schools. The Committee would like to research what other states are doing and is specifically interested to learn more about the concept of a state oversight body. Finally, the Committee plans to share this report with the Senate Higher Education Committee and hold a joint meeting during the 2016 Legislative Session for the purpose of hearing additional testimony on this issue.

Respectfully Submitted,

FINAL REPORT OF THE SENATE STUDY COMMITTEE ON SEXUAL ASSAULT

Renee S. Unterman

Honorable Renee Unterman, Chair
Senator, District 45