

**NEVADA STUDENT ALLIANCE (NSA)**

**Agenda**

**December 3, 2015**

**7:15 a.m.-8:15 a.m.**

**Student Union, Room 211**

**University of Nevada, Las Vegas**

**4505 S. Maryland Parkway**

**Las Vegas, NV 89154**

**ROLL CALL:**

- Mr. Caden Fabbi, University of Nevada, Reno, ASUN (NSA Chair)**
- Ms. Andrea Senda, Western Nevada College, ASWN (NSA Vice Chair)**
- Ms. Kylie Rowe, University of Nevada, Reno, GSA (NSA Secretary)**
- Ms. Yesenia Cuevas, Nevada State College, NSSA**
- Ms. Kanani Espinoza, University of Nevada, Las Vegas, CSUN**
- Ms. Jessica Connolly, Desert Research Institute, GRAD**
- Ms. Brenda Romero, College of Southern Nevada, ASCSN**
- Ms. DeMarynee Sali, Great Basin College, SGA**
- Mr. Spencer Schultz, Truckee Meadows Community College, SGA**
- Ms. Surbhi Sharma, University of Nevada, Las Vegas, GPSA**

**IMPORTANT INFORMATION ABOUT THE AGENDA AND PUBLIC MEETING**

NOTE: Below is an agenda of all items scheduled to be considered. Notification is hereby provided that items on the agenda may be taken out of the order presented, two or more agenda items may be combined for consideration, and an agenda item may be removed from the agenda or discussion relating to an item on the agenda may be delayed at any time.

In accordance with NRS 241.020(6), supporting materials that are submitted to the Nevada System of Higher Education (NSHE) Office of Academic and Student Affairs will be made available in advance of the meeting as follows: 1) from the NSHE Office of Academic and Student Affairs by calling Sally Jackson at (775) 784-3443 or emailing her at [Sally\\_Jackson@nshe.nevada.edu](mailto:Sally_Jackson@nshe.nevada.edu); or, 2) by accessing the electronic version of the agenda posted on the NSA page of the NSHE website:

<http://www.nevada.edu/studentgov/>

In addition, a limited number of copies of any such supporting materials will be available at the meeting site.

Reasonable efforts will be made to assist and accommodate physically disabled persons attending the meeting. Please call the Academic & Student Affairs Office in advance at (775) 784-3443 or (775) 784-3447 so that arrangements may be made.

**1. ROLL CALL**

NSA Secretary Kylie Rowe will take roll call of members and circulate a sign-in sheet for guests so their names may be recorded in the minutes.

**2. PUBLIC COMMENT****INFORMATION**

Public comment will be taken during this agenda item. No action may be taken on a matter raised under this item until the matter is included on an agenda as an item on which action may be taken. Comments will be limited to three minutes per person. Persons making comment will be asked to begin by stating their name for the record and to spell their last name. The NSA Chair may elect to allow additional public comment on a specific agenda item when that agenda item is being considered.

In accordance with Attorney General Opinion No. 00-047, as restated in the Attorney General's Open Meeting Law Manual, the NSA Chair may prohibit comment if the content of that comment is a topic that is not relevant to, or within the authority of, the NSA, or if the content is willfully disruptive of the meeting by being irrelevant, repetitious, slanderous, offensive, inflammatory, irrational or amounting to personal attacks or interfering with the rights of other speakers.

**3. APPROVAL OF MINUTES****FOR POSSIBLE ACTION**

Request is made for approval of the minutes for the NSA meetings held on November 9, 2015.

**4. STATE OF STUDENT ADVISING****INFORMATION**

At the September 11, 2015 NSA meeting with Chancellor Daniel J. Klaich and Board of Regents Chair Rick Trachok and Vice Chair Michael Wixom, Alliance members expressed concerns regarding both the quality and quantity of student advising on some of the NSHE campuses. Regent Wixom requested that the Student Body Presidents research the state of student advising on each of their campuses and to provide a factual report back to the Chancellor, Chair and Vice Chair at the December 4, 2015 meeting. Members will provide updates regarding conversations they have had on their campuses regarding academic advising and continue discussion from prior meetings on how this research will be compiled for reporting.

**5. ELECTION OF SECRETARY****FOR POSSIBLE ACTION**

At the November 9, 2015 NSA meeting Secretary Kyle Rowe announced her resignation from the position of NSA Secretary effective January 1, 2016. In order for members to select a replacement, NSA Chair Caden Fabbi will open up the floor for nominations for NSA Secretary. The individual elected will serve for the period of January 2, 2016 through the end of their elected institutional term of office. According to the NSA constitution, no member organization shall hold consecutive terms as the secretary, and the secretary shall be elected by at least two thirds of the Alliance's voting representatives present at the meeting.

**6. PROFESSIONALISM CAMPAIGN FOR POSSIBLE ACTION**

NSA Chair Caden Fabbi will continue the discussion from prior meetings regarding a possible Alliance-sponsored professionalism campaign to be held during Spring 2015. Possible elements of the campaign may include providing students with professional photos and LinkedIn workshops on the various NSHE campuses, or other efforts to assist students in preparing to enter careers in the professional world after graduation.

**7. RESOLUTION IN OPPOSITION TO H.R. 3403 FOR POSSIBLE ACTION**

NSA Chair Caden Fabbi requests approval of a resolution to encourage members of Congress to oppose passage of House Resolution 3403. Congressman Matt Salmon introduced H.R. 3403 on July 29, 2015 to amend the Higher Education Act of 1965 to protect victims of sexual violence, to improve the adjudication of allegations related to sexual violence, and for other purposes. The proposed resolution opposes H.R. 3403 on the grounds that it would prevent campuses from investigating allegations of sexual assault if the alleged victim does not agree to have the allegations investigated by the local law enforcement agency.

**8. PROPOSED UNR/TMCC/DRI POLICE CONSOLIDATION INFORMATION**

On Friday, December 4, 2015 Chancellor Daniel J. Klaich will present a proposed implementation plan for consolidation of police and security services between UNR, TMCC and DRI. SGA President Spencer Schultz will provide a summary of concerns of the TMCC student body regarding the consolidation proposal.

**9. NSA NEWSLETTER INFORMATION**

NSA Chair Caden Fabbi will update the group on progress made toward publishing a Fall 2015 NSA newsletter.

**10. IT'S ON US CAMPAIGN INFORMATION**

NSA members will provide a summary to the group of activities held on their campuses to date and any future plans in support of the Alliance-sponsored "It's On Us" campaign to stop sexual assault.

**11. CHANCELLOR'S FACULTY PAY WORKING GROUP INFORMATION**

Chancellor Daniel J. Klaich convened a Faculty Pay Working Group on November 24, 2015 to review salary policies of the System and its institutions to determine if those policies are proper to advance the interests of NSHE. NSA members Spencer Schultz and Surbhi Sharma serve on this working group along with a third student representative (James Puccinelli, UNR), and will provide a report to NSA members on the working group's first meeting.

**12. NSA CHAIR'S REPORT****INFORMATION**

NSA Chair Caden Fabbi will report to the Board of Regents on NSHE related issues or events of importance to the students at the December 3, 2015, meeting of the Board. NSA members will discuss topics for potential inclusion in the Chair's report, including but not limited, a summary of NSA activities since the September meeting of the Board.

**13. NEW BUSINESS****INFORMATION**

Items for consideration at future meetings may be suggested. Any discussion of an item under "New Business" is limited to description and clarification of the subject matter of the item, which may include the reasons for the request.

**14. PUBLIC COMMENT****INFORMATION**

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Posted in accordance with Nevada Open Meeting Law (NRS Ch. 241) at the following locations:

CSN, Building D, 1<sup>st</sup> Floor, 6375 W. Charleston Blvd., Las Vegas, NV 89146-1124

DRI, Maxey Building, 2215 Raggio Parkway, Reno, NV 89512-1095

DRI, Southern Nevada Science Center, 755 E. Flamingo Road, Las Vegas, NV 89119-7363

GBC, Berg Hall, 1500 College Parkway, Elko, NV 89801

NSC, Great Hall, 1125 Nevada State Drive, Henderson, NV 89015

TMCC, Red Mountain Building (RDMT 200) 7000 Dandini Blvd. Reno, NV 89512

UNLV, Flora Dungan Humanities 9 (FDH), 1<sup>st</sup> and 7<sup>th</sup> Floors, 4505 Maryland Parkway, Las Vegas, NV 89154-1001

UNR, Clark Administration, University of Nevada, Reno, Reno, NV 89557

WNC, Bristlecone Building Lobby, 2201 W. College Parkway, Carson City, NV 89703

System Administration, 4300 S. Maryland Parkway, Las Vegas, NV 89119-7530

System Administration, 2601 Enterprise Road, Reno, NV 89512

Nevada Public Notice Website - <https://notice.nv.gov>

114TH CONGRESS  
1ST SESSION

# H. R. 3403

To amend the Higher Education Act of 1965 to protect victims of sexual violence, to improve the adjudication of allegations related to sexual violence, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 29, 2015

Mr. SALMON (for himself, Mr. SESSIONS, and Ms. GRANGER) introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To amend the Higher Education Act of 1965 to protect victims of sexual violence, to improve the adjudication of allegations related to sexual violence, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Safe Campus Act of  
5 2015”.

1 **SEC. 2. INSTITUTION OF HIGHER EDUCATION REQUIRE-**  
2 **MENTS FOR PROTECTING VICTIMS OF SEX-**  
3 **UAL VIOLENCE AND INVESTIGATING AND AD-**  
4 **JUDICATING ALLEGATIONS OF SEXUAL VIO-**  
5 **LENCE.**

6 (a) IN GENERAL.—Title I of the Higher Education  
7 Act of 1965 (20 U.S.C. 1001 et seq.) is amended by add-  
8 ing at the end the following new part:

9 **“PART F—TREATMENT OF ALLEGATIONS OF**  
10 **SEXUAL VIOLENCE**

11 **“SEC. 161. APPLICATION; DEFINITION.**

12 “(a) APPLICATION.—The requirements of this part  
13 shall apply to any institution of higher education receiving  
14 Federal financial assistance under this Act, including fi-  
15 nancial assistance provided to students under title IV,  
16 other than a foreign institution of higher education.

17 “(b) DEFINITIONS.—In this part, the following defi-  
18 nitions shall apply:

19 “(1) COVERED ALLEGATION.—The term ‘cov-  
20 ered allegation’ means, with respect to an institution  
21 of higher education, an allegation that a student of  
22 the institution committed an act of sexual violence,  
23 or that members of a student organization of the in-  
24 stitution or the organization itself committed or were  
25 involved in creating a hostile environment resulting  
26 in an act of sexual violence.

1           “(2) INSTITUTIONAL DISCIPLINARY PRO-  
2           CEEDING.—The term ‘institutional disciplinary pro-  
3           ceeding’ means the process by which an institution  
4           of higher education investigates and adjudicates a  
5           covered allegation and imposes a sanction with re-  
6           spect to the allegation, in accordance with the insti-  
7           tution’s own code of conduct or similar internal  
8           rules.

9           “(3) SEXUAL VIOLENCE.—The term ‘sexual vio-  
10          lence’ means, with respect to an institution of higher  
11          education—

12                 “(A) aggravated sexual abuse under sec-  
13                 tion 2241 of title 18, United States Code;

14                 “(B) assault resulting in substantial bodily  
15                 injury under section 113(a)(7) of title 18,  
16                 United States Code;

17                 “(C) battery, as defined under the applica-  
18                 ble criminal law of the jurisdiction in which the  
19                 institution is located;

20                 “(D) rape, as defined under the applicable  
21                 criminal law of the jurisdiction in which the in-  
22                 stitution is located;

23                 “(E) sexual abuse under section 2242 of  
24                 title 18, United States Code; and

1           “(F) sexual assault, as defined under the  
2           applicable criminal law of the jurisdiction in  
3           which the institution is located.

4 **“SEC. 162. EDUCATION, REPORTING, AND STUDENT CARE**  
5           **STRATEGIES FOR PREVENTING SEXUAL VIO-**  
6           **LENCE.**

7           “(a) EDUCATION PROGRAMS.—

8           “(1) IN GENERAL.—Each institution of higher  
9           education which is subject to this part is encouraged  
10          to provide education programs designed to address  
11          sexual violence that, at a minimum, provide training  
12          for reporting covered allegations, intervening as a  
13          bystander, and fostering development of healthy re-  
14          lationships.

15          “(2) ACCESS TO PROGRAMS.—The institution is  
16          encouraged—

17                 “(A) to provide access to the programs re-  
18                 quired under this subsection for each student  
19                 during each academic year; and

20                 “(B) to ensure new students are made  
21                 aware of the programs and can access them as  
22                 soon as possible after beginning the course of  
23                 study at the institution.

24          “(b) SUPPORT SERVICES.—Each institution of higher  
25          education which is subject to this part shall devote appro-

1 p r i a t e resources for the care, support, and guidance for  
2 students affected by sexual violence.

3 “(c) **ROLE OF VOLUNTEER ADVISORS TO STUDENT**  
4 **ORGANIZATIONS.**—An institution of higher education  
5 which is subject to this part—

6 “(1) may not designate an adult volunteer advi-  
7 sor to a student organization, or any employee of a  
8 student organization who is not also an employee of  
9 the institution, as a campus security authority under  
10 section 485 or regulations implementing that sec-  
11 tion; and

12 “(2) may not deny recognition to a student or-  
13 ganization because an advisor or employee described  
14 in paragraph (1) does not register or serve as a  
15 campus security authority under section 485 or reg-  
16 ulations implementing that section.

17 “(d) **TRAINING.**—Each institution of higher edu-  
18 cation which is subject to this part shall provide appro-  
19 p r i a t e annual training to campus security personnel, cam-  
20 p u s disciplinary committee members, and other relevant  
21 institutional personnel regarding the requirements of this  
22 part, and shall at a minimum require each student who  
23 serves as a resident advisor in housing facilities which are  
24 owned or supervised by the institution to participate in  
25 this training and demonstrate knowledge of the require-

1 ments of this section regarding the reporting of allegations  
2 to law enforcement agencies and the effects of the con-  
3 fidentiality exception under section 163(a)(2).

4 **“SEC. 163. ROLE OF LAW ENFORCEMENT AGENCIES IN IN-**  
5 **VESTIGATION OF ALLEGATIONS OF SEXUAL**  
6 **VIOLENCE.**

7 “(a) REFERRAL OF ALLEGATIONS.—

8 “(1) REFERRAL.—Except as provided in para-  
9 graph (2), if an institution of higher education which  
10 is subject to this part receives a covered allegation,  
11 along with written consent to proceed from the al-  
12 leged victim, the institution shall report and refer  
13 the allegation to the law enforcement agency of the  
14 unit of local government with jurisdiction to respond  
15 to such allegations in the location of the institution  
16 immediately, but not later than 48 hours after re-  
17 ceiving written consent from the alleged victim.

18 “(2) CONFIDENTIALITY EXCEPTION.—

19 “(A) IN GENERAL.—Paragraph (1) does  
20 not apply if the individual who is the alleged  
21 victim of an act of sexual violence included in  
22 the covered allegation provides a written notifi-  
23 cation to the institution that the individual does  
24 not want the allegation to be investigated by a  
25 law enforcement agency.

1           “(B) EFFECT OF NOTIFICATION OF CON-  
2 FIDENTIALITY.—If an individual provides a no-  
3 tification to the institution under this para-  
4 graph with respect to an allegation, the institu-  
5 tion may not initiate or otherwise carry out any  
6 institutional disciplinary proceeding with re-  
7 spect to the allegation, including imposing in-  
8 terim measures described in subsection (c), but  
9 only if the individual includes in the notification  
10 a statement that the individual understands the  
11 effect under this subparagraph of providing the  
12 notification.

13           “(b) RESTRICTIONS ON INSTITUTIONAL DISCIPLI-  
14 NARY PROCEEDINGS DURING PERIOD OF LAW ENFORCE-  
15 MENT INVESTIGATION.—

16           “(1) IN GENERAL.—During the period in which  
17 a law enforcement agency is investigating a covered  
18 allegation reported by an institution under sub-  
19 section (a), the institution may not initiate or other-  
20 wise carry out any institutional disciplinary pro-  
21 ceeding with respect to the allegation, except to the  
22 extent that the institution may impose interim sanc-  
23 tions under subsection (c).

24           “(2) PERIOD OF LAW ENFORCEMENT INVES-  
25 TIGATION DESCRIBED.—For purposes of this sub-

1 section and subsection (c), the period in which a law  
2 enforcement agency is investigating an allegation re-  
3 ported under subsection (a) shall be considered—

4 “(A) the 30-day period beginning on the  
5 date on which the institution reported the alle-  
6 gation to the agency, together with

7 “(B) any subsequent 30-day period for  
8 which the agency notifies the institution that it  
9 is continuing to investigate the allegation and  
10 that the public interest is best served by pre-  
11 venting the institution from beginning its own  
12 investigation and disciplinary proceeding.

13 “(3) TOLLING.—For purposes of satisfying any  
14 federally prescribed time period for an institution to  
15 complete an adjudication of an allegation to which  
16 this subsection applies, the time period shall be  
17 deemed to begin upon the expiration of the period in  
18 which the law enforcement agency is investigating  
19 the allegation, in accordance with this subsection.

20 “(4) PERMITTING INVOLVEMENT OF ACCRED-  
21 ITED CAMPUS PUBLIC SAFETY DEPARTMENTS.—Not-  
22 withstanding paragraph (1), if an institution of  
23 higher education operates an accredited public safety  
24 department that employs sworn officers, such de-  
25 partment may carry out investigative functions with

1 respect to an allegation provided to a law enforce-  
2 ment agency under subsection (a) if authorized to do  
3 so by the law enforcement agency.

4 “(c) PERMITTING INSTITUTION TO IMPOSE INTERIM  
5 SANCTIONS.—

6 “(1) IN GENERAL.—During the period in which  
7 a law enforcement agency is investigating a covered  
8 allegation reported by an institution under sub-  
9 section (a), the institution may impose interim sanc-  
10 tions against the subject of the allegation with re-  
11 spect to the allegation (including temporary suspen-  
12 sions, no contact orders, adjustments of class sched-  
13 ules, or changes in housing assignments) and carry  
14 out investigations and adjudications with respect to  
15 the imposition of such sanctions, but only if the in-  
16 stitution determines that the imposition of such a  
17 sanction is a reasonable measure to promote campus  
18 safety and student well-being.

19 “(2) SPECIAL RULES FOR DURATION OF PERI-  
20 ODS OF TEMPORARY SUSPENSIONS.—

21 “(A) STUDENTS.—Subject to paragraph  
22 (3), if the subject of an allegation is a student,  
23 an institution may impose a temporary suspen-  
24 sion for a period of not more than 15 days as  
25 an interim sanction under this subsection, and

1           may extend the suspension for additional peri-  
2           ods of not more than 30 days per period if, pur-  
3           suant to a hearing held in accordance with the  
4           requirements of section 164 for each such addi-  
5           tional period, the institution finds that exten-  
6           sion is necessary because the student poses an  
7           immediate threat to campus safety and student  
8           well-being.

9           “(B) STUDENT ORGANIZATIONS.—If the  
10          subject of an allegation is a student organiza-  
11          tion, an institution may impose a temporary  
12          suspension for a period of not more than 10  
13          days on the operations of the organization as  
14          an interim sanction under this subsection, but  
15          only if the institution determines that the orga-  
16          nization has engaged in activity that presents a  
17          significant risk to the health and physical safety  
18          of campus community members, and that the  
19          imposition of the suspension is not done merely  
20          for punitive purposes.

21          “(3) PERIOD IN WHICH INTERIM SANCTION IS  
22          IN EFFECT.—An interim sanction imposed under  
23          this subsection with respect to an allegation shall  
24          terminate upon the expiration of the period in which  
25          a law enforcement agency is investigating the allega-

1 tion (as described in subsection (b)), except that if  
2 an indictment has been issued with respect to the al-  
3 legation and the subject of the allegation is a stu-  
4 dent, the institution may continue the sanction, in-  
5 cluding a temporary suspension the duration of  
6 which would otherwise be limited under paragraph  
7 (2)(A), until the completion of the case or the com-  
8 pletion of any sentence imposed.

9 “(4) PROHIBITING IMPOSITION OF INTERIM  
10 SANCTIONS UPON JOINT REQUEST OF ALLEGED VIC-  
11 TIM AND LAW ENFORCEMENT.—In addition to the  
12 period described in subsection (b)(2), an institution  
13 may not impose an interim sanction under this sub-  
14 section with respect to a covered allegation during  
15 any period for which the alleged victim and the law  
16 enforcement agency which is investigating the allega-  
17 tion submit a joint request to the institution to not  
18 impose such an interim sanction.

19 “(d) SAFE HARBORS.—

20 “(1) INSTITUTIONS.—No institution of higher  
21 education which is subject to this part shall be con-  
22 sidered to have violated any provision of title IX of  
23 the Education Amendments of 1972 (20 U.S.C.  
24 1681 et seq.) or any policy or regulation imple-  
25 menting any such provision on the grounds that the

1 institution did not investigate or adjudicate a covered  
2 allegation, or did not impose any sanction with  
3 respect to a covered allegation, to the extent that the  
4 institution was prohibited under this section from  
5 initiating or carrying out any institutional disciplinary  
6 proceeding with respect to the allegation.

7 “(2) STUDENTS.—An institution of higher edu-  
8 cation which is subject to this part may not impose  
9 a sanction on a student who is a victim of, or a by-  
10 stander witness to, an act of sexual violence on the  
11 grounds that the student engaged in conduct prohib-  
12 ited under the institution’s code of conduct (other  
13 than violent conduct) if the institution learned that  
14 the student engaged in such conduct as part of a re-  
15 port of a covered allegation which was made in good  
16 faith by the student to an agent of the institution.

17 “(e) PRIVACY.—It shall not be a violation of section  
18 444 of the General Education Provisions Act (commonly  
19 known as the ‘Family Educational Rights and Privacy Act  
20 of 1974’) (20 U.S.C. 1232g) for an institution of higher  
21 education to report an allegation to a law enforcement  
22 agency under subsection (a).

23 “(f) NO EFFECT ON CIVIL REMEDIES.—Nothing in  
24 this section may be construed to limit the authority of any

1 person to seek a civil remedy in a court of competent juris-  
2 diction with respect to any covered allegation.

3 **“SEC. 164. DUE PROCESS REQUIREMENTS FOR INSTITU-**  
4 **TIONAL DISCIPLINARY PROCEEDINGS.**

5 “(a) DUE PROCESS RIGHTS.—Each institution of  
6 higher education which is subject to this part may not im-  
7 pose any sanction on any person, including a student orga-  
8 nization, in response to a covered allegation unless the  
9 sanction is imposed under a formal hearing or similar ad-  
10 judicatory proceeding, in accordance with institutional dis-  
11 ciplinary proceedings that meet each of the following re-  
12 quirements:

13 “(1) The institution shall provide all parties to  
14 the proceeding with adequate written notice of the  
15 allegation not later than 2 weeks prior to the start  
16 of any formal hearing or similar adjudicatory pro-  
17 ceeding, and shall include in such notice a descrip-  
18 tion of all rights and responsibilities under the pro-  
19 ceeding, a statement of all relevant details of the al-  
20 legation, and a specific statement of the sanctions  
21 which may be imposed.

22 “(2) The institution shall provide each person  
23 against whom the allegation is made with a mean-  
24 ingful opportunity to admit or contest the allegation.

1           “(3) The institution shall ensure that all parties  
2           to the proceeding have access to all material evi-  
3           dence, including both inculpatory and exculpatory  
4           evidence, not later than one week prior to the start  
5           of any formal hearing or similar adjudicatory pro-  
6           ceeding. Such evidence may include but is not lim-  
7           ited to complainant statements, third-party witness  
8           statements, electronically stored information, written  
9           communications, social media posts, and demonstra-  
10          tive evidence.

11           “(4) The institution shall permit each party to  
12          the proceeding to be represented, at the sole expense  
13          of the party, by an attorney or other advocate for  
14          the duration of the proceeding, including during the  
15          investigation of the allegation and other preliminary  
16          stages prior to a formal hearing or similar adjudica-  
17          tory proceeding, and shall permit the attorney or  
18          other advocate to ask questions in the proceeding,  
19          file relevant papers, examine evidence, and examine  
20          witnesses (subject to paragraph (5)).

21           “(5) The institution shall permit each party to  
22          the proceeding to safely confront witnesses, includ-  
23          ing the complainant, in an appropriate manner, in-  
24          cluding by submitting written questions to be asked  
25          by the person serving as the adjudicator in any for-

1 mal hearing or similar adjudicatory proceeding, ex-  
2 cept that it shall be presumptively improper for any  
3 person to make any inquiry about the sexual history  
4 of the individual reporting the covered allegation  
5 (other than an inquiry made by the individual  
6 against whom the allegation is made, or such indi-  
7 vidual’s counsel or advocate, about the sexual history  
8 between such individual and the individual reporting  
9 the covered allegation).

10 “(6) The institution shall ensure that the pro-  
11 ceeding is carried out free from conflicts of interest  
12 by ensuring that there is no commingling of admin-  
13 istrative or adjudicative roles. For purposes of this  
14 paragraph, an institution shall be considered to com-  
15 mingle such roles if any individual carries out more  
16 than one of the following roles with respect to the  
17 proceeding:

18 “(A) Victim counselor and victim advocate.

19 “(B) Investigator.

20 “(C) Prosecutor.

21 “(D) Adjudicator.

22 “(E) Appellate adjudicator.

23 “(b) STANDARD OF PROOF.—An institution of higher  
24 education may establish and apply such standard of proof  
25 as it considers appropriate for purposes of any adjudica-

1 tion carried out as part of an institutional disciplinary pro-  
2 ceeding under this section.

3 “(c) JUDICIAL REVIEW.—

4 “(1) PRIVATE RIGHT OF ACTION.—Any indi-  
5 vidual who is aggrieved by a decision to impose a  
6 sanction under an institutional disciplinary pro-  
7 ceeding under this section may bring a civil action  
8 in an appropriate district court of the United States,  
9 but only if the action is brought not later than 1  
10 year after the date on which the individual received  
11 final notice of the sanction imposed on the individual  
12 under the proceeding.

13 “(2) STANDARD FOR REVIEW.—In any action  
14 brought under this subsection, the court may find  
15 for the plaintiff only if the court finds that the im-  
16 position of the sanction was arbitrary, capricious, or  
17 contrary to law.

18 “(3) RECORDS.—As soon as practicable after a  
19 civil action is filed under this subsection, the institu-  
20 tion of higher education involved shall forward the  
21 administrative record of the institutional disciplinary  
22 proceeding to the court.

23 “(4) DAMAGES AND PREVAILING PARTY  
24 FEES.—In any civil action under this subsection, the  
25 court may award the prevailing party (other than

1 the institution of higher education) compensatory  
2 damages, reasonable court costs, attorney fees, in-  
3 cluding expert fees, and any other relief in equity or  
4 law that the court deems appropriate.

5 “(d) PUBLICATION IN STUDENT HANDBOOK.—Each  
6 institution of higher education which is subject to this part  
7 shall publish annually in the institution’s Student Hand-  
8 book (or equivalent publication) a statement of the proce-  
9 dures applicable to institutional disciplinary proceedings  
10 under this section, and shall publish such statement in the  
11 form of a contract between the institution and its students  
12 and student organizations.

13 “(e) NO RIGHT TO PAID ADVOCATE.—Nothing in  
14 this section shall be construed to create a right for any  
15 individual to be represented by an attorney or other advo-  
16 cate at an institution of higher education’s expense.

17 **“SEC. 165. PRESERVATION OF SINGLE-SEX EXEMPTION FOR**  
18 **STUDENT ORGANIZATIONS.**

19 “(a) RESTATEMENT OF CONGRESSIONAL POSITION  
20 ON TITLE IX AND SINGLE-SEX ORGANIZATIONS.—Con-  
21 gress finds as follows:

22 “(1) The enactment of title IX of the Education  
23 Amendments of 1972 (commonly known as ‘title  
24 IX’) continues to be a vital element of ensuring all  
25 Americans have equal access to higher education.

1           “(2) The exemption under title IX that allows  
2           single-sex organizations to continue to flourish at in-  
3           stitutions of higher education is still essential to de-  
4           veloping a wide range of enrichment opportunities  
5           for students to learn and grow.

6           “(3) While title IX has done much to provide  
7           opportunities for women and men alike, the single-  
8           sex exemption is a part of that tapestry of opportu-  
9           nities, and institutions of higher education may not  
10          take actions that undermine this single-sex exemp-  
11          tion.

12          “(b) PROHIBITING INSTITUTIONS FROM REQUIRING  
13          SINGLE-SEX STUDENT ORGANIZATIONS TO WAIVE TITLE  
14          IX PROTECTIONS.—An institution of higher education  
15          which is subject to this part may not—

16                 “(1) require a student organization which is au-  
17                 thorized under section 901(a)(6)(A) of the Edu-  
18                 cation Amendments of 1972 (20 U.S.C.  
19                 1681(a)(6)(A)) to limit its membership to individ-  
20                 uals of one sex to admit individuals as members who  
21                 do not meet the organization’s membership require-  
22                 ments;

23                 “(2) compel a student organization or the gov-  
24                 erning body of a student organization that is itself  
25                 comprised of single-sex organizations to accept orga-

1 nizations or individuals that do not meet the organi-  
2 zation's or governing body's membership qualifica-  
3 tions; or

4 “(3) require an organization which is covered  
5 by section 901(a)(6)(A) of the Education Amend-  
6 ments of 1972 (20 U.S.C. 1681(a)(6)(A)) to waive  
7 its coverage under such section as a disciplinary or  
8 punitive measure.”.

9 (b) EFFECTIVE DATE.—The amendments made by  
10 this Act shall apply with respect to allegations made on  
11 or after the expiration of the 1-year period that begins  
12 on the date of the enactment of this Act.

○



THE NEVADA STUDENT ALLIANCE  
OF THE NEVADA SYSTEM OF HIGHER EDUCATION  
December 3, 2015

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A Resolution in Opposition of House Resolution 3403 of the 114<sup>th</sup> Congress,  
The Safe Campus Act

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The Nevada Student Alliance is made up of the Student Body Presidents of each of the undergraduate and graduate student governments in the Nevada System of Higher Education, and

WHEREAS, Approximately 1 in 4 female students and 1 in 10 male students have reported being sexually assaulted nationwide according to a new study done by the Association of American Universities; and

WHEREAS, Only 18% of reported rapes result in conviction; and

WHEREAS, Going through a potential public sexual assault trial in a criminal justice system with a very low rate of conviction deters many victims from reporting to the police, resulting in less than 5% of completed or attempted rapes against college women actually reported to law enforcement; and

WHEREAS, Many universities, advocacy organizations, and fraternity and sorority groups openly oppose House Resolution 3403; and

WHEREAS, House Resolution 3403, also known as the Safe Campus Act of 2015, prevents a university from investigating a sexual assault allegation against a student or student organization unless the accuser agrees to report the incident to the police; and

WHEREAS, Under the provisions outlined in House Resolution 3403, if an institution receives an allegation that a student or student organization committed an act of sexual violence, along with written consent to proceed from the alleged victim, the institution must report the allegation to a law enforcement agency; and

WHEREAS, If the alleged victim notifies the institution that the victim does not want the allegation investigated by the local law enforcement agency, the institution cannot initiate investigations, institutional disciplinary proceedings or impose interim sanctions against the alleged assailant; and

WHEREAS, Victims of sexual assault at schools or institutions of higher learning often do not desire to report the crime to law enforcement, and instead simply wish to not see or interact with the perpetrator; and be it

RESOLVED, That We, the Students of the Nevada Student Alliance, declare our opposition to House Resolution 3403; and be it further

RESOLVED, The Nevada Student Alliance supports the empowerment of survivors of sexual assault to have the ability to select their preferred method of reporting after the incident; and be it further

RESOLVED, A copy of this resolution will be sent to Nevada's Congressional Delegation, the Board of Regents, and the Chancellor of the Nevada System of Higher Education.

DATED & SIGNED this 3<sup>rd</sup> day of December 2015

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Caden Fabbi  
Nevada Student Alliance Chair