Response to Governor Cuomo's Proposed Legislation on Sexual and Dating Violence

Posted by Allie Rickard on January 17, 2015

We are glad to see Governor Cuomo taking concrete action today to support students and create safer campuses across New York State. Sexual and dating violence on college campuses is a serious and urgent issue in our state: Out of the 95 colleges and universities around the nation currently being investigated by the Department of Education for failing to meet the basic requirements of Title IX, twelve are from New York State. Students at every college in the state are affected by sexual and dating violence and continue to be failed by their schools. It is imperative that our schools be held to higher standards of prevention and response.

Students and survivors have worked tirelessly to bring this issue to light and pressure our schools to do more to protect and support students. We are fighting for all students to receive comprehensive consent and prevention education, increased resources for survivors of violence, and fair and transparent adjudication processes that hold perpetrators accountable. Here at the Carry That Weight Campaign, we work to train and support a national
network of student survivors and activists working to improve their campuses' policies, including students at eight colleges in New York. But we cannot do this work alone. We welcome Governor Cuomo's commitment to addressing campus sexual and dating violence as a powerful addition to the ongoing grassroots activism of students and survivors around the state.

The Governor has laid out a plan for a uniform, statewide approach to sexual violence policy on college campuses. Some elements of this plan are excellent. An immunity policy for students would ensure that students can get help without fearing that they will be punished for drinking or using drugs at the time of their assault. Mandatory prevention programs would help students understand what affirmative consent and healthy relationships look like, and be aware of campus policies and resources. Standardized policies for adjudicating sexual and dating violence cases would help prevent schools from sweeping this violence under the rug, as they continue to do across New York State. The Confidentiality and Reporting Protocol will give colleges that currently lack a framework to be compliant with the Clery Act a means to do resolve this, and ensure that all students have the ability to confidentially disclose acts of sexual violence. And the Sexual Assault Victims' Bill of Rights, a model our campaign has adopted and is pushing for on campuses across the country, would help protect students who seek to report their assault.

However, this proposal needs to be revised and strengthened significantly before it addresses the issues students are facing on college campuses. In order to do this, it is imperative that the Governor work to include student voices in the ongoing development of this legislation. To do otherwise is a major omission of the stakeholders who are most affected by—and who most acutely need—this legislation. Students have propelled this issue to national attention by sharing our personal, painful stories, and by dedicating ourselves to improving campus policies. We know intimately what our
campuses need and how our schools are currently failing. For this legislation to be effective, it must be developed in collaboration with the diverse students and student advocacy organizations that have led this movement, including the Carry That Weight campaign and our New York member schools. We strongly urge Governor Cuomo to meaningfully engage with survivors, student activists, and national student advocacy organizations to improve his existing proposals and advance the strongest possible legislation.

There are a number of issues in the current proposal that must be addressed. For example, it currently lacks a viable mechanism for ensuring compliance with the new regulations and holding schools accountable if they fail to comply. The potential consequence for failure to comply is a revocation of funding; however, the State of New York is unlikely to ever strip a school of financial support. This would primarily harm students and is not an effective way to hold colleges accountable. (For comparison, the same consequence is built in to Title IX legislation and has never once been applied. This essentially means that schools are allowed to violate these laws with impunity. This proposal seems to replicate that already failing approach.) It is not enough to simply enumerate the rights of survivors, mandate orientation training, and create uniform guidelines. The statewide policy will be meaningless should it fail to include a compliance mechanism. There must be a viable procedure that works to ensure these standards are met and enforces consequences for colleges and college officials that fail to uphold their responsibility to their own students.

The prevention programs mandated must be more comprehensive than currently proposed; research indicates that short, singular workshops do little or nothing to actually change student attitudes and prevent violence on campuses. Schools should be required to publicly release the results of the required climate survey so that students, parents, and state officials can
assess schools’ commitment to safety and hold schools accountable for improving based on the results of the surveys. The Bill of Rights and standardized reporting procedures must be more specific about how to investigate cases, conduct hearings, and punish students found responsible for sexual assault or dating violence.

Additionally, we are concerned about this proposal expanding the role of law enforcement on campuses. Many students do not trust the NYPD or criminal justice system to sensitively, competently, or effectively handle sexual assault cases. This lack of confidence is particularly severe for many LGBTQ and minority students. We are deeply concerned that increasing the NYPD’s involvement in campus reporting protocols would deter survivors from reporting or coming forward to seek help. Al Jazeera reports that when a Columbia student tried to report her rape to the NYPD last year, she was harassed and mistreated, and told by an officer “For every single rape I’ve had, I’ve had 20 that are total bullshit.” He accused her of lying about being raped. Many other survivors have reported similarly horrific experiences. Law enforcement agencies are not the appropriate bodies to train college staff on responding to sexual violence until they improve their own protocols. The options available to survivors through their colleges and universities must continue to exist as a separate option, and should not take a subordinate position to criminal justice options.

At every college and university in New York State, students urgently need safer campuses, increased resources, and more responsive administrations. Governor Cuomo’s proposed legislation is an important opportunity to meet these needs in New York State—for survivors and for all college students. It must not be missed. We have the chance to be a nationwide leader in ending sexual and dating violence on college campuses, but this will only happen if powerful public officials work hand in hand with student activists and survivors. We call on Governor Cuomo to work with us and to ensure that the
voices of survivors are centralized in this new proposal.

The Carry That Weight Campaign

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Tonight's drive home includes #AbbeyRoad & not thinking about the pilonidal cyst that put me on overtime #carrythatweight #theend

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