March 18, 2014

Despite the snow, and a resultant late opening at the White House on Monday, we were able to complete our meeting about President Obama’s Campus Sexual Violence Task Force. At 10:30am, after being processed through the security protocols, ATIXA’s emissaries, W. Scott Lewis, Saundra K. Schuster, Daniel C. Swinton and Brett A. Sokolow met with the General Counsel to Vice President Biden and the Director of the White House Office of Violence Against Women. They were gracious hosts, and we enjoyed the tour of the Vice President’s offices. We were not blasé about the experience, and it was really thrilling to have this opportunity. Vice President Biden is in Ukraine, which is certainly a more pressing subject than ours, though no less a priority for him. Our hosts were generous with their time. Our one hour scheduled meeting ran more than two hours and twenty minutes. The Vice President’s advisors to the Task Force want to become as knowledgeable as they can be, so that the recommendations of the Task Force are as well-informed as possible. Our discussion was, in retrospect, remarkably wide-ranging in breadth and significant in depth. They posed thoughtful questions, follow-ups, and follow-ups to the follow-ups. We think they left with the impression that addressing sexual violence is even more challenging for those on the front lines of campuses than those in the White House. We were asked to identify our top five priorities to include within the upcoming FAQs from the Office for Civil Rights on the April 2011 Title IX Dear Colleague Letter (DCL). We were asked to weigh in on the SaVE regulations and rulemaking process. We were asked how OCR could be more effective at not just enforcing, but empowering compliance with Title IX. We were asked to suggest priorities for the Task Force, from our vantage points. In the course of this dialogue, we addressed:

- The need to assure that campus Title IX Coordinators have the authority necessary to achieve compliance; Dotted lines to presidents, more than Coordinator-level authority;
- The need to brief campus presidents and trustees so that they better understand the role and responsibilities of the Title IX Coordinator, deputies and investigators;
- Separating the coordination and investigation functions;
- Having more than one coordinator;
- Mandated reporting, responsible employees, the convergence of Title IX, Title VII and the Clery Act to define reporting responsibilities, the need to clarify
the confidentiality of advocates and provide clear policy and training (this was the most discussed subject);
• The need to institutionalize the advocacy role on every campus;
• The necessity of a prevention education professional (who may or may not also be a sexual assault victim's advocate – but access to victim's services is also a necessity) on every campus;
• Resourcing compliance (federal fiscal assistance is a governmental budget priority for 2015);
• The need to invest in, develop and promulgate effective prevention methodologies and technologies;
• The lack of clarity in the Dear Colleague Letter regarding reluctant victims; Jane/John Doe reporting options;
• The need to clarify FERPA/Title IX about the sharing of outcomes with complainants;
• The desire for OCR to better explain other reasons to delay investigations beyond law enforcement evidence gathering (such as a request by a victim);
• The vital importance of codifying OCR guidance as part of the Campus SaVE Act's compliance standards (a major topic priority for us);
• The role of attorneys as advisors (versus representatives) in campus resolution proceedings;
• The evolution from due process based hearings to the investigation-based civil rights resolution model occurring now on college campuses;
• The need for fundamental reform of the campus appeals process, and the danger of an open-ended exemption of appeals from the 60-day resolution goal as a license for campuses to drag the process out indefinitely;
• The desire to see campuses implement sanctions even when an appeal is pending;
• Offender profiles;
• Protecting due process rights;
• Changes of housing/classes and equity;
• Remedies and conflict of interest;
• Common compliance challenges for our members;
• Frustration with uneven OCR enforcement actions; pressure OCR is feeling to find violations based on the Task Force mandate (and a clear statement from OVW that no such instruction has gone out to OCR);
• Creating a Title IX OCR Help Desk, regular provision of guidance to higher education;
• Clarifying that the standards elaborated in the DCL apply to all areas of sex/gender discrimination, not just to sexual violence and sexual harassment;
• Helping higher education to see that to comply with Title IX, you need to look beyond the DCL;
• The desire of college and university administrators for bright line rules;
• The challenges of Title IX compliance in the community college setting; and
• The value of regular climate surveys;
• The danger of defaulting to orientation as the sole venue for prevention education for incoming students.

In addition to discussing these topics, we provided them with copies of the ATIXA Campus Sexual Misconduct Model Policy and Grievance Procedures, and the ATIXA One Policy, One Process Model – A Model Policy and Procedure for Civil Rights Equity Grievance Resolution for all Faculty, Students and Employees. They had questions about each, and seemed impressed with their comprehensive treatment of the subject. We also shared copies of the ATIXA Title IX/SaVE Prevention and Training Checklist, the ATIXA Mandated Reporting Model Policy and several Title IX climate survey templates. We were impressed that they are not rushing to meet a 90-day deadline for the Task Force to report to the President. They intend to make interim recommendations to be pursued in greater depth by the Task Force over the course of a year. We offered ourselves as needed by the Task Force for technical assistance and subject matter expertise. We are looking forward to further follow-up with the Task Force and another possible visit. We are so pleased that we had the chance to carry these important messages from the ATIXA membership to the White House, and we thank our members for the diligence and energy they devote to continued compliance.

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