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April 10, 2019

### **Memorandum of Opposition**

A.3639 (Paulin)/ S.3459 (Biaggi)

The Commission on Independent Colleges and Universities (CICU) opposes A.3639/ S.3459 which singles out colleges and universities for disparate treatment while complicating existing state-mandated procedures that protect students and campus communities. CICU represents more than 100 private, not-for-profit colleges and universities in New York State who educate almost 500,000 students annually.

Policies intended to protect the public from those found to be responsible for sexual violence or harassment deserve the full attention of New York lawmakers. However, this legislation is aimed at a single sector when it has become increasingly and disturbingly clear that sexual harassment and abuse crosses almost every walk of life and employment sector. Private, not-for-profit colleges and universities across New York remain deeply committed to providing safe and healthy learning and work environments, but should not be held to different standards than other employers.

This proposal singles out employees of colleges and universities while excluding employees who have perpetrated sexual assault and harassment in other industries. Colleges and universities already provide the protections entailed in federal law including Title IX, the Clery Act, the Violence Against Women Act, and state law, especially Article 129-B of the Education Law. These efforts have been further supplemented by the comprehensive sexual harassment laws enacted with the FY 2018-19 State Budget.

In the proposed legislation, the penalties to those individuals found responsible for an offense present multiple concerns for campuses as they look to use Title IX investigations and similar procedures to identify offenders and hold them accountable for their actions. Those who have received a complaint against them could become less likely to cooperate with an investigation or may seek to delay or derail them entirely if the penalty includes public disclosure. These delays could complicate efforts to hold offenders responsible. Victims may also be less likely to come forward if they know that parts of the proceedings may become a part of public record. This legislation would create a list analogous to the sex offender registry, but without any of the supporting information, due process, or length of sentencing that New York's Megan Law provides. While the Legislature has supported efforts to "ban the box" to allow individuals a second chance, this legislation could put employees who behaved inappropriately in a single instance on a public list, for an unspecified amount of time, next to serial sex offenders with no explanation or differentiation.

For these reasons CICU opposes this legislation, but reaffirms our commitment to working with policymakers to support funding for sexual assault education and prevention training programs and to ensure that government expectations, requirements, and enforcement are clear, consistent, and applied uniformly.